

BOARD of ADJUSTMENT



Joe Bazzoli
Commission Chair

~Meeting Minutes~
May 22, 2019

Leah Carlson
Staff Liaison

boa@ci.moscow.id.us

208.883.7095

<http://www.ci.moscow.id.us/354/Board-of-Adjustment>

The meeting was called to order at 5:35 PM

MEMBERS PRESENT: Joe Bazzoli, Chair; Mark Monson, Tim Thomson

MEMBERS ABSENT: Annette Bieghler, Steve Bush, Marshall Comstock, Laurene Sorensen

STAFF IN ATTENDANCE: Leah Carlson, Anne Peterson

1. Approval of Minutes from May 15, 2019.

Thomson moved acceptance of the minutes as corrected.

RESULT:	ACCEPTED BY ACCLAMATION [UNANIMOUS]
MOVER:	Thomson
SECONDER:	Monson

2. Approval of Relevant Criteria and Standards for a Conditional Use Permit at 1021 Harold Street – LUP2019-0012

Monson moved approval of the RCS as presented.

RESULT:	APPROVED BY ACCLAMATION [UNANIMOUS]
MOVER:	Monson
SECONDER:	Thomson

3. Approval of Relevant Criteria and Standards for a Variance at 1021 Harold Street – LUP2019-0013

Monson moved approval of the RCS as presented.

RESULT:	APPROVED BY ACCLAMATION [UNANIMOUS]
MOVER:	Monson
SECONDER:	Thomson

4. Board Communications

None.

Adjournment

The meeting adjourned at 5:41 pm.


Joe Bazzoli, Chair

6/18/2019
Date

**BEFORE THE BOARD OF ADJUSTMENT
OF THE CITY OF MOSCOW, COUNTY
OF LATAH, STATE OF IDAHO**

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS REGARDING A VARIANCE REQUEST TO WAIVE THE PAVING REQUIREMENTS FOR THE OFF-STREET PARKING LOT SERVING THE TEMPORARY PALOUSE ICE RINK FACILITY LOCATED AT 1021 HAROLD STREET WITHIN THE MEDIUM DENSITY RESIDENTIAL (R-3) ZONING DISTRICT PER MOSCOW CITY CODE 4-6-2(A)(3).

WHEREAS, the applicant filed an application for a variance on April 8, 2016; and

WHEREAS, this matter came before the Moscow Board of Adjustment during a duly noticed public hearing on May 15, 2019; and

WHEREAS, having reviewed the application, including all exhibits entered, and having considered the issues presented:

THE MOSCOW BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW, IDAHO, AFTER DUE DELIBERATION AND CONSIDERATION, HEREBY CONCLUDES:

I. RELEVANT FACTS AND CONCLUSIONS

1. The Board of Adjustment considered the request pursuant to the City of Moscow Zoning Code, Comprehensive Plan, and Moscow City Code.
2. The subject property is located within the Medium Density Residential (R-3) Zoning District, where public service and utility facilities, specifically fairgrounds use is a specially permitted use.
3. Properties immediately adjacent to the subject property to the north, south and west are mostly zoned R-3 with the majority of the parcels consisting of residential uses. To the northeast, across Mountain View Road are residential uses located in the Low Density Single Family Residential (R-1) Zone. Further south across White Avenue are commercial uses located within the Motor Business (MB) Zone.
4. Similar public service and utility facilities are located adjacent to the subject property and in the R-3 Zone, the National Guard Armory to the northwest, the Latah County Highway District and Fire Station II Training Facility to the south.
5. The subject property is approximately 14.5 acres, with approximately 1,100 feet of frontage on Harold Street, 427 feet of frontage on Mountain View Road, and the property is partially bounded by South Blaine Street and White Avenue on the southwest corner.
6. Primary access to the subject property and the ice rink use is off of White Avenue, with a service road providing access from Mountain View Road and another vehicle access point off of Harold Street which has been restricted to vehicle access to the ice rink by previous SUP conditions of approval.
7. The Palouse Ice Rink has been operating under a SUP approved in 2016, a condition of approval in 2016 required the applicant to initiate construction of a permanent ice rink facility within three (3)

years. The condition stated that failure to initiate construction within three (3) years would result in termination of the SUP and the subject ice rink facility use would be required to cease. The approval date was June 28, 2016.

8. The Palouse Ice Rink received approval for a variance from the requirement to pave the off-street parking lot which serves the use also in 2016. The variance was approved for as long as the SUP was valid and for the temporary facility only. The Palouse Ice Rink has requested renewal of the CUP in conjunction with this variance application.
9. The Palouse Ice Rink leases the property from Latah County and the current lease is valid through July 2062.
10. The Board of Adjustment considered the request for renewal of the ice rink CUP and Variance after a thorough review of the history of land use actions and permits that the Ice Rink has received since the initial SUP for the temporary facility was approved in December 2000.
11. The applicant indicated that another two (2) years of ice rink operations in the temporary facility would allow for enough time for the organization to generate necessary funds to construct a permanent facility.
12. The Board heard public testimony in opposition of the noise that the ice rink generates.

BASED ON THE ABOVE RELEVANT FACTS AND CONCLUSIONS, THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW HEREBY FINDS THE FOLLOWING RELEVANT CRITERIA AND STANDARDS:

II. RELEVANT CRITERIA AND STANDARDS

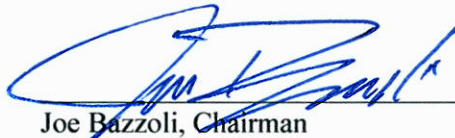
1. **Are there special conditions or circumstances that exist which are peculiar to the property (such as size, shape, topography or location) which are not applicable to other properties similarly situated in the same Zoning District?** The unique arrangement for use of the subject property for the Palouse Ice Rink, the temporary nature of the facility use, and the Rotary Veteran's Memorial Pavilion, Inc. intentions of constructing a permanent ice rink facility within three (3) years are special conditions of the property.
2. **Because of the aforementioned special conditions of the property, would application of the provisions of the Zoning Code impose undue hardship and deprive the property owner of rights commonly enjoyed by owners of other property similarly situated in the same Zoning District?** The applicant states that the Rotary Veteran's Memorial Pavilion, Inc. is working with various donors to raise the capital to build a permanent facility. The applicant indicates that strides have been made towards the objective of a permanent facility. Application of the Zoning Code, specifically, the requirement to pave the parking lot for a temporary facility, while plans are being developed for construction of a new facility, which may involve substantial modifications to the layout of the site, would impose undue hardship on the organization.
3. **Will the granting of the Variance be in conflict with the public interest or injurious to the property or persons in the vicinity of the subject property?** No. As required by the original Variance approval for waiver of the parking lot paving requirement, the temporary surfaced parking lot serving the ice rink facility has been maintained with a minimum of four (4) inches of three-quarter (3/4) inch minus crushed basalt rock gravel and has been maintained reasonably dust free and free of ruts and holes, also as required by the Zoning Code.

III. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City of Moscow Board of Adjustment approves the application for a Variance to waive the paving requirements for the off-street parking lot serving the temporary Palouse Ice Rink facility at 1021 Harold Street, with the following conditions:

1. The Variance approval shall be extinguished concurrently with the Palouse Ice Rink CUP approval, three (3) years from the date of approval;
2. The Variance shall not be applicable when the applicant constructs a permanent enclosed facility, at which time paving and all other standards for a parking lot shall be imposed according to the Zoning Code; and
3. For the duration of this Variance approval, the temporary gravel parking lot must be maintained with a minimum of four (4) inches of three-quarter (3/4) inch minus crushed basalt rock gravel and shall be maintained reasonably dust free and free of ruts and holes as required by the Zoning Code.

PASSED BY THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW THE 22 OF MAY, 2019.



Joe Bazzoli, Chairman
Board of Adjustment

**BEFORE THE BOARD OF ADJUSTMENT
OF THE CITY OF MOSCOW, COUNTY
OF LATAH, STATE OF IDAHO**

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS REGARDING A CONDITIONAL USE PERMIT APPLICATION TO ALLOW FOR THE CONTINUED OPERATION OF THE ROTARY VETERAN'S MEMORIAL PAVILION ICE RINK LOCATED AT 1021 HAROLD STREET WITHIN THE MEDIUM DENSITY RESIDENTIAL (R-3) ZONING DISTRICT PER MOSCOW CITY CODE 4-2-4(F).

WHEREAS, the applicant filed an application for a conditional use permit on April 8, 2019; and

WHEREAS, this matter came before the Moscow Board of Adjustment during a duly noticed public hearing on May 15, 2019; and

WHEREAS, having reviewed the application, including all exhibits entered, and having considered the issues presented:

THE MOSCOW BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW, IDAHO, AFTER DUE DELIBERATION AND CONSIDERATION, HEREBY CONCLUDES:

I. RELEVANT FACTS AND CONCLUSIONS

1. The Board of Adjustment considered the request pursuant to the City of Moscow Zoning Code, Comprehensive Plan, and Moscow City Code.
2. The subject property is located within the Medium Density Residential (R-3) Zoning District, where public service and utility facilities, specifically fairgrounds use is a conditionally permitted use.
3. Since the approval of the previous SUP in June 2016, the City of Moscow's Use Table has changed the term Special Use Permit (SUP) to Conditional Use Permit (CUP).
4. Properties immediately adjacent to the subject property to the north, south and west are mostly zoned R-3 with the majority of the parcels consisting of residential uses. To the northeast, across Mountain View Road are residential uses located in the Low Density Single Family Residential (R-1) Zone. Further south across White Avenue are commercial uses located within the Motor Business (MB) Zone.
5. Similar public service and utility facilities are located adjacent to the subject property and in the R-3 Zone, the National Guard Armory to the northwest, the Latah County Highway District and Fire Station II Training Facility to the south.
6. The subject property is approximately 14.5 acres, with approximately 1,100 feet of frontage on Harold Street, 427 feet of frontage on Mountain View Road, and the property is partially bounded by South Blaine Street and White Avenue on the southwest corner.
7. Primary access to the subject property and the ice rink use is from White Avenue, with a service road providing access from Mountain View Road and another vehicle access point off of Harold Street which has been restricted to vehicle access to the ice rink by previous SUP conditions of approval.

8. The Palouse Ice Rink has been operating under a SUP approved in 2016, a condition of approval in 2016 required the applicant to initiate construction of a permanent ice rink facility within three (3) years. The approval date was June 28, 2016.
9. The Palouse Ice Rink received approval for a variance from the requirement to pave the off-street parking lot which serves the use also in 2016. The variance was approved for as long as the SUP was valid and for the temporary facility only. The Palouse Ice Rink has requested an extension of the variance approval in conjunction with this SUP application.
10. The Palouse Ice Rink leases the property from Latah County and the current lease is valid through July 2062.
11. The Board of Adjustment considered the request for renewal of the ice rink SUP and Variance after a thorough review of the history of land use actions and permits that the Ice Rink has received since the initial SUP for the temporary facility was approved in December 2000.
12. The Board heard public testimony in opposition of the noise that the ice rink generates.

BASED ON THE ABOVE RELEVANT FACTS AND CONCLUSIONS, THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW HEREBY FINDS THE FOLLOWING RELEVANT CRITERIA AND STANDARDS:

II. RELEVANT CRITERIA AND STANDARDS

1. **Is the proposed use a conditionally permitted use within the Zoning District?** The Palouse Ice Rink is a conditionally permitted use within the R-3 Zone. It is conditionally permitted as a public service and utility facility as it is connected with the Latah County Fairgrounds.
2. **Is the proposed use in harmony with the neighborhood and surrounding land uses?** The proposed use is in harmony with the neighborhood and surrounding land uses. The use has existed on the subject property since 2001 and is in harmony with the other nearby public service and utility facilities, including the Fairgrounds buildings and exhibit halls, the National Guard Armory, Latah County Highway District and Fire Station II Training Facility.
3. **Will the proposed use as approved, or as approved with conditions, generate nuisances that would be injurious or detrimental to the adjoining properties or the neighborhood (including but not limited to, noise, dust, glare, vibrations, odors, and the like)?** The proposed use, as approved with conditions, will not generate nuisances that would be injurious or detrimental to the adjoining properties or the neighborhood. Since the temporary ice rink facility was first constructed, modifications have been made to the structure to reduce noise disturbances for nearby residences. In addition, the hours of operation, specifically the hours for playing hockey with sticks and pucks and the hours for playing music over the public address system have been restricted in order to prevent excessive noise generated by the facilities use. Conditions of the previous SUP approval which are recommended to remain with this CUP renewal, including a Type C buffer requirement adjacent to Harold Street and no direct vehicle access from Harold Street to the permanent parking areas, are intended to further prevent any possible nuisances from facility noise, traffic flow, and vehicle noise and/or lights.
4. **Will the location, design, and size of the proposed use be adequately served by existing streets, public facilities and services?** The location, design, and size of the temporary ice rink facility, as it has existed since the approval of the SUP in 2016 has been adequately served by existing streets, public facilities, and services. A permanent ice rink facility on the subject property will also be adequately served by existing streets, public facilities, and services.

5. **Will the proposed use endanger the public health or safety if located where proposed?** The Palouse Ice Rink will not endanger the public health or safety if allowed to continue to operate on the subject property as it has been permitted to operate since December 2000.
6. **Does the proposed use meet all applicable development standards of the Zoning Code?** With approval of the Variance application accompanying this CUP application, the proposed use meets all applicable development standards of the Zoning Code. When a new facility is constructed, the Palouse Ice Rink will meet all applicable development standards of the Zoning Code.
7. **Will the proposed use be in conflict with the Comprehensive Plan?** The proposed use is not in conflict with the Comprehensive Plan.

III. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City of Moscow Board of Adjustment approves the application for a Conditional Use Permit to allow for the continued operation of the Palouse Ice Rink at 1021 Harold Street, with the following conditions:

1. The CUP shall allow for the continued operation of the existing temporary facility so long as the applicant maintains a valid lease from Latah County to operate said ice rink facility subject to the limitations of condition #2 below;
2. The applicant shall initiate construction of a permanent ice rink facility within three (3) years of approval of this CUP. Upon completion of the permanent ice rink facility, this CUP for the operation of the ice rink facility shall become perpetual and shall not expire. Should the applicant fail to initiate construction within three (3) years of this approval, this CUP shall be immediately terminated and all use of the subject ice rink facility shall cease;
3. Hours of operation shall remain 6:15 a.m. to 11:00 p.m., Sunday through Thursday; 6:15 a.m. to 12:00 a.m., Friday and Saturday and prior to recognized holidays. This condition shall apply to the temporary facility only;
4. Hours for practicing or playing hockey, with pucks and/or sticks, and broomball shall be limited to the hours of 8:00 a.m. to 10:00 p.m. daily, with the exception of the four weekends each season that the facility hosts youth hockey tournaments beginning at 7:00 a.m. This condition shall apply to the temporary facility only;
5. Hours for broadcast music over the facility's PA system shall be limited from 9:00 a.m. to 9:00 p.m. daily. This condition shall apply to the temporary facility only;
6. At the time of construction of the permanent facility the applicant shall install a Type 'C' buffer, including a four foot (4') solid fence along the northern boundary of the property adjacent to Harold Street to extend the full length of the parking area and facility development;
7. There shall be no direct access from the proposed permanent parking areas to Harold Street except for limited emergency vehicle access if deemed necessary;
8. Upon construction of the permanent facility, no off-street parking shall be located between the permanent facility and Harold Street; and

9. The proposed permanent facility shall meet all other applicable City Code requirements, including, but not limited to parking lot development standards.

PASSED BY THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW THE 22 DAY OF May, 2019.



Joe Bazzoli, Chairman
Board of Adjustment