

BOARD of ADJUSTMENT



Joe Bazzoli
Commission Chair

~Meeting Minutes~
August 8, 2019

Mike Ray
Staff Liaison

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

The meeting was called to order at 7:00 PM

MEMBERS PRESENT: Mark Monson, Vice Chair; Annette Bieghler, Steve Bush, Marshall Comstock, Tim Thomson

MEMBERS ABSENT: Joe Bazzoli, Laurene Sorensen

STAFF IN ATTENDANCE: Mike Ray

1. Approval of Minutes from July 18, 2019. (Heard as Item 2)

Bush moved approval of the minutes as presented.

RESULT:	ACCEPTED BY ACCLAMATION
MOVER:	Bush
SECONDER:	Bieghler
AYES:	Bieghler, Bush, Comstock, Monson
ABSTENTIONS:	Thomson

2. Approval of Relevant Criteria and Standards: (Heard as Item 3)

a. Proposal for a Variance at 102 North Lilly Street – LUP2019-0022

b. Proposal for a Conditional Use Permit at 1428 South Blaine Street – LUP2019-0018

Comstock moved approval of both RCS documents.

RESULT:	APPROVED BY ROLL CALL
MOVER:	Comstock
SECONDER:	Bush
AYES:	Bieghler, Bush, Comstock, Monson
ABSTENTIONS:	Thomson

3. Public Hearing: Proposal for a Variance 412 E Third Street - LUP2019-0026

Variance application to waive additional off-street parking requirements for the renovation of the remaining floors of the 1912 Center, located at 412 E Third Street.

Ray presented the proposal by explaining the subject property is approximately one acre in size, surrounded by First, Third, Van Buren and Adams Street, and neighbors include the Methodist and Unitarian Churches, Moscow High School, and single- and multi-family housing. Existing parking surrounding much of the building is adequate for the already-occupied ground and first floors. Ray outlined the history of the building's use from its dedication in 1912 to present day. It was placed on the National Register of Historic Places in 1992 and the City acquired it in 1998 to serve as a community center. A 2000 CUP allowed a portion of the required parking to be located in the Jefferson lot between Second and Third Streets. A concurrent Variance allowed additional parking in the street right-of-way and the front and side yard setbacks, and to reduce the required landscaping. In 2003, several institutional buildings near downtown were rezoned from R-4 (multi-family) and RO to GB, with the primary goal being to promote the retention

of these institutional uses in their current locations as permitted uses, with the belief that such retention promoted downtown area activity and sense of community centralization. The Comprehensive Plan designation of the subject property is Civic/Institutional and other adjacent properties are designated Urban Residential. The 1912 Center currently has 37 parking spaces on-site and 30 off-site spaces at the Jefferson Street lot which are limited to evenings and weekends. Ray displayed an illustration of the proposed layout of the second and third floors, and a chart outlining the required parking calculations for uses designated "Neighborhood and Community Center." At full building occupancy, 180 parking spaces would be required if all rooms are in use at the same time. Staff remained neutral on the Variance request.

Comstock asked if it wasn't true that Moscow High School obtained parking variances in conjunction with their two most recent renovations, and Ray said yes. Thomson asked if the City Hall lot could be considered an option during nights and weekends. Ray said it's further than 500 feet away so couldn't receive designated credit, but agreed it is an open public parking lot after hours.

Monson opened the public hearing at 7:16 p.m.

Dwight Curtis, City Parks & Recreation Director, said he is the City Liaison for this project because the 1912 Center falls under his department as a city facility.

Jenny Kostroff, 416 N Lincoln Street, is the Executive Director of Heart of the Arts which is the company selected by the City to run, maintain and grow the 1912 Center. She provided additional explanation of the anticipated uses for the renovated space. The Auditorium and Reception Hall might often be used concurrently for the same attendees, thereby reducing the parking impact. For example, a wedding could be held in the Auditorium and the reception in the Great Room, but the parking impact would be equivalent to only one of those uses because it would involve the same people. Kostroff said they would manage their programming to prevent competing events from overloading the parking demand. She added that they look at "the big picture" to see how activities work within the whole neighborhood, and as a good neighbor they allow nearby churches and schools to use their parking lots when the 1912 Center is closed.

Comstock inquired about the typical schedule of current programming. Kostroff said many of the activities are on evenings and weekends except for Senior Meals on Tuesday/Thursdays and other occasional weekday uses such as KinderMusic, karate and home school groups. She mentioned partnering with local hospitality locations in the future to provide shuttle service for daytime conference needs. Monson asked her timeframe for occupancy of the second floor and Kostroff replied August 2021 if bids come in within budget. If not, they will renovate room-by-room. Bush asked for more details about the Flex Classrooms. Kostroff said her desire is to design with the greatest flexibility possible to serve whatever needs arise by the time the space is actually built. The Flex Classrooms could be used for meetings but also overflow space for the card-playing groups. Thomson asked about the building's current staffing. Kostroff is the only full-time staff and there are two part-time janitors. Four to five part-time event coordinators are scheduled based on specific events, and are paid directly from event income.

Stephanie Clarkson, 110 S Van Buren Street, is a board member for Heart of the Arts but wished to speak as a neighbor and community member. She supported the application even though she is affected by all the high school activities, church gatherings and 1912 Center events. She felt that was all part of living on the edge of the urban center of an active community.

The public hearing closed at 7:38 p.m.

Comstock was involved in development of the building at its inception and said the parking limitation was acknowledged even during early stages of building renovation. The City Engineering Department conducted a parking evaluation at that time, including the surrounding streets and other nearby parking. They considered making Second Street one-way and installing perpendicular parking, but that would only

have created two additional spaces. He said even though the City Hall parking lot is greater than 500 feet from the subject property, the analysis concluded that people would likely use that lot as well as the County Courthouse parking lot. Thomson was excited about Kostroff's plans for the building. He said as a relative newcomer to Moscow, he gave the City tremendous credit for having the vision for full use of the building. He didn't think it was a major issue if people had to walk a bit to get there. Bush said the building was a real asset to the community. Monson acknowledged that parking requests near the downtown area typically generate a roomful of people, but he surmised from tonight's small attendance that people weren't concerned about this application. Bieghler said it was a well thought-out vision for the building and the benefit to the community will far outweigh the need to walk further. Monson appreciated Kostroff's explanation of how they plan to use the rooms efficiently to minimize the parking impact.

Comstock moved approval of the Variance with no conditions and directed staff to prepare the Reasoned Statement of Relevant Criteria and Standards.

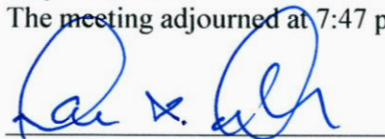
RESULT:	APPROVED BY ROLL CALL [UNANIMOUS]
MOVER:	Comstock
SECONDER:	Thomson

4. Board Communications

Ray will communicate with the Board via email to schedule the next meeting to approve the RCS from tonight's hearing.

Adjournment

The meeting adjourned at 7:47 pm.


Mark Monson, Vice Chair

8-20-19
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 REDUCE THE SIDE YARD SETBACKS ON A NONCONFORMING LOT LOCATED AT 102 N LILLY STREET WITHIN THE MULTIPLE FAMILY RESIDENTIAL (R-4) ZONING DISTRICT PER MOSCOW CITY CODE 4-4-2.

WHEREAS, the applicant filed an application for a variance on June 6, 2019; and

WHEREAS, this matter came before the Moscow Board of Adjustment during a duly noticed public hearing on July 18, 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 applicant, Wilf Costello, is requesting a Variance to reduce side yard setbacks on a nonconforming lot located at 102 North Lilly Street within the Multiple Family Residential Zoning District (R-4).
3. The applicant plans to demolish the existing house and rebuild a new single-family home on the lot. Specifically, the applicant is proposing to reduce the side yard setbacks to three-feet (3') on the northern side of the property with overhangs encroaching eighteen inches (18") into the side yard setback and one-foot (1') on the southern side of the property with no encroaching overhang.
4. Lots under 50' wide within the R-4 Zoning District would require a minimum five-foot (5') side setback on both sides of a dwelling, creating a minimum ten-foot (10') combined side yard setback.
5. The existing house on the subject property has no side setbacks, even slightly encroaching upon the adjacent parkland to the south.
6. Lots within the R-4 Zoning District require a minimum width of fifty feet (50') with an area of 5,000 sf for a single-family house.
7. The lot is nonconforming because it is only twenty feet (20') wide with an area of 2,505 square feet.

8. The subject property is located within the Multiple Family Residential (R-4) Zoning District. According to the Zoning Code 4-2-4(G): *"The R-4 zoning district provides for the most intense residential land uses permitted in the community. It is to be applied where activity levels are high and adequate public facilities are available, especially near the University of Idaho campus or the City Central Business Zoning District. Adequate transportation access should be given high priority in determining the appropriate location for the R-4 zoning districts."*
9. Adjacent properties to the north, south, east and west are all residential uses and also reside within the R-4 Zone.
10. Chapter 2 of the Comprehensive Plan, Land Use and Community Character, designates the subject property as Urban Mixed (UM). UM designated areas are,
"intended to provide for the infill development and adaptive re-use of areas that surround downtown. Within these areas, a mix of residential and limited commercial uses should be promoted through the development of small urban apartments, townhomes, and two- to three-story vertically mixed-use buildings. The urban mixed area should provide a pedestrian connection between the University of Idaho and downtown, and provide space for a variety of housing alternatives, niche retail, restaurants, artist studios, and personal and professional services. Off-street parking should be required, but the requirements should be reduced in this area due to the likely number of non-motorized travel the uses will attract."
11. The City of Moscow has adopted building code requirements that prohibit eaves from extending closer than two-feet (2') to any property line, and building walls that are closer than three-feet (3') from a property line are required to be constructed to a 1-hour fire-rated construction.
12. The Board finds that the applicant should be allowed to construct a sixteen-foot (16') wide dwelling and because of building code requirements should have the flexibility of shifting the building upon the lot so long as there is no less than one-foot (1') to any side property line.

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 subject property is currently only twenty feet (20') wide and 2,505 square feet in size, which is substantially less than existing properties in the area and the minimum lot width and size of the R-4 Zoning District. Therefore, the Board finds that the existing size of the subject property is a special condition upon the property.

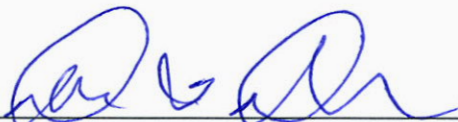
2. **Because of the aforementioned special conditions of the property, would application of the provisions of the Zoning Code impose undue hardship and deprive the property owner of rights commonly enjoyed by owners of other property similarly situated in the same Zoning District?** If the application of the Zoning Code were applied for setbacks, the applicant would be limited to a house that is ten-feet (10') in width, which is substantially smaller than other dwellings in the R-4 Zone and surrounding area.
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, the existing house on the property is currently twenty-feet (20') wide and encroaching upon the Lillian Woodworth Otness Park to the south. The proposed Variance will allow a new dwelling to be constructed that is entirely on the subject property. Additionally, there will still be minimal setbacks required to allow for exterior maintenance of the dwelling.

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 reduce the side yard setbacks on a nonconforming lot located at 102 N Lilly Street, with the following conditions.

1. The applicant shall be allowed to construct a sixteen-foot (16') wide dwelling, so long as there is no less than a one-foot (1') side yard setback on either side.

PASSED BY THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW THE 8th day
OF August 2019.



Joe Bazzoli, Chairman
Board of Adjustment



Mark Monson

**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 FOR A LARGE CHILD
CARE FACILITY LOCATED AT 1428 SOUTH BLAINE STREET IN THE CITY OF
MOSCOW, IDAHO, WITHIN THE MOTOR BUSINESS (MB) ZONING DISTRICT PER
MCC 4-3-4.**

WHEREAS, the applicant filed an application for a Conditional Use Permit on June 28, 2019; and

WHEREAS, this matter came before the Moscow Board of Adjustment during a duly noticed public hearing on July 18, 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, State Statutes, and Moscow City Code.
2. The applicant, Happy Horizons Inc., is requesting a Conditional Use Permit (CUP) to operate a large daycare facility within the Motor Business (MB) Zoning District. According to Moscow City Code 4-3-4, large day care services require a CUP within the MB Zoning District.
3. The facility would operate between 7:00 am through 6:00 pm, Monday through Friday and would serve 21 or more newborn to kindergarten-aged children. The proposed daycare would be located in a classroom within the Real Life Ministries. The day care would also have between 10-20 employees overall.
4. The subject property is 2.31 acres in size and currently used for general retail purposes. The lot is relatively flat and currently has five (5) structures on the site including the Eastside Marketplace, U.S. Bank Branch, Taco Bell, KFC, and Wingers Restaurant. Other stores within the Eastside Marketplace include Safeway, Sears, Lavender & Thyme, Dollar Tree, Mongolian BBQ Express, and Pro Nails.
5. The Health & Welfare Department as well as Les Schwab is directly to the east of the subject property. Northwest River Supplies occupies the property directly south of the subject property across Troy Highway. Latah County Fairgrounds is located directly to the north of

the subject property across White Avenue. Wells Fargo Bank is located directly to the west of the subject property across Blaine Street.

6. Within Chapter 2 of the Comprehensive Plan, Future Land Use and Growth Plan, designates the subject property as Auto-Urban Commercial.
7. The subject property is located within the Motor Business (MB) Zoning District which requires a Conditional Use Permit (CUP) for Large Child Care Facilities per MCC 4-3-4.
8. Properties to the north, east, and west of the subject property are also located within the MB Zoning District. Latah County Fairgrounds sits to the north of the subject property across White Avenue and is located with the Medium Density Residential (R-3) Zoning District. The property located directly to the south of the subject property is located within the Farm, Ranch, and Outdoor Recreation (FR) Zoning District.
9. There is no minimum or maximum lot area or lot width within the MB Zoning District.
10. The purpose of the MB Zoning District is to, *“provide for the location and grouping of compatible uses having similar operation as they involve enterprises which depend primarily on the transient motor vehicle-based trade. By concentrating such uses the City intends to increase public convenience when utilizing such services and with the regulation, to allow such activities to render the maximum service.”*
11. The property is located within the Eastside Marketplace, which is bounded by Troy Highway to the south, White Avenue to the north, and Blaine Street to the west. There are primary access points from all three streets.
12. A large Child Care Facility is defined as a facility providing child care for 21 or more children.
13. The Zoning Code has specific use standards for large Child Care Facilities within MCC 4-3-5(C).
14. Per Moscow City Code 4-3-5(C)(2) requires large child care facilities to have two (2) on site loading spaces. The spaces must be located on the same side of the street as the child care facility and must be at least thirty feet (30') from any street intersection. The applicant is proposing to locate the two loading zone spaces parallel to the sidewalk directly in front of the child care facility.
15. Per Moscow City Code 4-6-2, large childcare facilities require four (4) parking spaces on-site. There is a large parking lot that currently exists on the subject property that serves the entirety of the Eastside Marketplace. Overall, the parking lot contains 799 parking spaces. The total number of required parking spaces for the tenants within Eastside Marketplace place is 574. This leaves a surplus of 225 parking spaces than what is required. Therefore, there is sufficient parking to provide for the operation of the proposed Child Care Facility.
16. Child Care Facilities are required to provide a contained or fenced outdoor play area sufficient to comply with the spatial standards required by City Code. Sight-proof fencing or sight-proof landscaping shall be provided on perimeters of such outdoor play areas where necessary to protect the privacy of neighbors' yards.
17. On April 29, 2019, Connie Salisbury on behalf of Happy Horizons Childcare, applied for a license to operate a daycare business at the subject property. Upon review of the daycare

application and regulations, it was determined by City staff that Happy Horizons Childcare does not meet the requirements of Moscow City Code Title 9, Section 10-19.A.2.a which states, in part: "The Day Care Facility shall provide open space for outdoor play. A minimum of one hundred (100) square feet per child is required. This area shall be adjacent to the Day Care Facility and shall provide a safe area that can be easily maintained and is accessible for use by children."

18. Because the proposed play area was not directly adjacent to the Day Care Facility, the application was denied.
19. On May 6, 2019, Moscow City Council heard an appeal for a license denial for Happy Horizons Childcare. Upon review and the appeal, Council members approved the motion unanimously, issuing a license for the child care facility to operate on the subject property using an adjacent outdoor play area to meet the play area requirements.
20. The Board heard testimony regarding safety measures that will be taken to ensure the safety of children crossing the driveway to the play area and concurs with the Council to allow the proposed location.

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. **The proposed use is a conditionally permitted use within the Zoning District:** All large Child Care Facilities are conditionally permitted in the Motor Business (MB) Zoning District per MCC 4-3-4.
2. **The character of the proposed use will be in harmony with the neighborhood and surrounding land uses:** The proposed large Child Care Facility is consistent with the existing activity levels of the Eastside Marketplace and the surrounding area. The child care facility will be utilizing an existing tenant space within the Eastside Marketplace and the only exterior change will be the outdoor play area which utilizes green space already on the property.
3. **The proposed use as approved, or as approved with conditions, will not 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 will not generate nuisances to the adjoining properties or the neighborhood through noise, dust, glare, vibrations, or odors. The Eastside Marketplace already is intended to accommodate large amounts of vehicle and pedestrian traffic and currently contains approximately 799 parking spaces.
4. **The location, design, and size of the proposed use will be adequately served by existing streets, public facilities and services:** The property is located within the Eastside Marketplace, which is bounded by Troy Highway to the south, White Avenue to the north, and Blaine Street to the west. There are primary access points from all three streets and adequate existing utilities to serve the proposed use.
5. **The proposed use will not endanger the public health or safety if located where proposed:** The proposed use will not endanger the public health or safety on the proposed site since proper

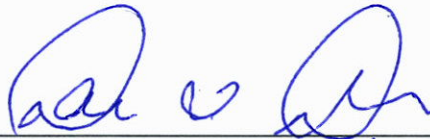
safety measures are being taken to ensure children's safety. Loading zone spaces are being designated where the children will be dropped off on the sidewalk in front of the facility, and crosswalks, staff, and a fence will ensure safe access to the outdoor play area.

6. **Proposed use meets all applicable development standards of the Zoning Code:** The use meets all applicable development standards of the zoning code including but not limited to the outdoor play area, off-street parking, and loading zones requirements.
7. **The proposed use will not be in conflict with the Comprehensive Plan:** The use is consistent with the Comprehensive Plan as it supports the goals and strategies of multiple chapters and does not conflict with other sections of the 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 for a Large Child Facility at 1428 S Blaine Street with no conditions.

PASSED BY THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW THE 8 DAY
OF August, 2019.



~~Joe Bazzoli~~, Chair
Board of Adjustment

Mark Monson