

BOARD of ADJUSTMENT



Joe Bazzoli
Commission Chair

~ Meeting Agenda ~

Aimee Hennrich
Staff Liaison

boa@ci.moscow.id.us

208.883.7095

<http://www.ci.moscow.id.us/agendacenter>

**Wednesday
October 14, 2020**

5:30 PM

**City Hall, Council Chambers
221 E 2nd Street**

Call to order

1. **Approval of Minutes from September 29, 2020 [ACTION ITEM]**

ACTION: Approve minutes as presented; approve minutes with amendments; or provide staff further direction.

2. **Approval of Relevant Criteria and Standards [ACTION ITEM]**

Conditional Use Permit Application to expand an existing Church (Unitarian Universalist Church of the Palouse) located at 420 E. Second Street in the Multiple Family Residential (R4) Zoning District per MCC 4-3-4.

ACTION: Review the draft Relevant Criteria and Standards document and approve the document; or approve the document with modifications; or provide Staff further direction as deemed necessary.

3. **Approval of Relevant Criteria and Standards [ACTION ITEM]**

Variance Application to waive a portion of the additional off-street parking requirement for the proposed expansion of the Unitarian Universalist Church of the Palouse, located at 420 E Second Street.

ACTION: Review the draft Relevant Criteria and Standards document and approve the document; or approve the document with modifications; or provide Staff further direction as deemed necessary.

4. **Board Communications**

5. **Other Business**

Adjourn

NOTICE: Moscow City Council Commission meetings can be televised, videotaped and/or recorded. Individuals attending the meeting who require special assistance to accommodate physical, hearing, or other impairments, please contact the City Clerk, at (208) 883-7015 or TDD 883-7019, as soon as possible so that arrangements may be made.

BOARD of ADJUSTMENT



Joe Bazzoli
Commission Chair

~Meeting Minutes~
September 29, 2020

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

Bazzoli called the meeting to order at 7:00 PM

MEMBERS PRESENT: Joe Bazzoli, Chair; Annette Beighler, Steve Bush, Marshall Comstock, Mark Monson, Laurene Sorenson (virtual), Tim Thomson

STAFF IN ATTENDANCE: Jennifer Fleischman, Aimee Hennrich, Mike Ray

1. Approval of Minutes from September 17, 2020

Monson moved to approve the minutes as corrected, seconded by Comstock. Vote by Acclamation: Ayes: Six (6). Nays: None. Abstentions: One (Thompson). Motion carried.

2. Public Hearing: Proposal for a Conditional Use Permit and Variance Request at 420 E. Second Street – LUP2020-0020 and LUP2020-0022

Conditional Use Permit application to expand an existing Church (Unitarian Universalist Church of the Palouse) located at 420 E. Second Street in the Multiple Family Residential (R4) Zoning District per MCC 4-3-4. Variance Application to waive a portion of the additional off-street parking requirements for the proposed expansion of the Unitarian Universalist Church of the Palouse, located at 420 E Second Street.

Hennrich presented the Conditional Use Permit proposal and Variance request applications to expand an existing church by 5,917 square feet and waive a portion of the additional parking requirements for the proposal. Background on the property was covered, including the timeline of the purchase of the small house behind the church in 1988, which is set to be demolished if the CUP is approved. The church addition is proposed to be built to the west and adjacent to the current building, and house administration offices and classrooms while including more seating in the mezzanine and the sanctuary. The church building does not currently have any on-site parking and has requested a Variance for 11 of the 18 parking spaces that are required with the proposed addition application. UUCP (Unitarian Universalist Church of the Palouse) has a recorded shared parking agreement with the McConnell Mansion, owned by Latah County, to utilize the travel aisle and the two parallel parking spaces on the adjacent property. City Staff will draft a joint use agreement for the shared parking in accordance with City Code. Staff recommends approval of the Conditional Use Permit proposal, with the condition that they enter into a joint use parking agreement, as well as the parking Variance to waive the 11 parking spaces.

Bazzoli asked what is the basis for the City's stance for waiving the 11 parking spaces. Hennrich referred to the Board's approval of the 1912 Center's proposal to waive 113 parking spaces in 2019 as an example of an already approved exception. She also pointed out that the property's proximity to the City core where citizens frequently walk, and also next to the 1912 Center which doesn't have as much activity on Sundays. Comstock asked Staff for information regarding past Variance requests by the Unitarian church and Ray responded that the church was constructed prior to zoning codes that required off-street parking. There was some discussion between Comstock and Staff about ADA parking spaces, both on the street and in the proposed new parking lot. Hennrich reminded the Board that the ADA requirement is based on the number

of parking spaces provided, not on building occupancy. Bazzoli and Ray clarified that the ADA requirement and parking space requirement is only for the added expansion occupancy and not for the full building occupancy.

Thompson asked about the historic value of the yellow house that would be demolished if this CUP was approved. The building is within the Fort Russell Historic District, but Ray couldn't recall whether it was listed as non-contributing or contributing to the historical character of the Fort Russell Historical District. However, there is no local ordinance in place that would prohibit the demolition of such a structure, even though it is on the National Register. Clarification that the parking agreement between McConnell Mansion (Latah County) and UUCP is currently just between the private parties and not a legal document. If this was to be approved, then the City would facilitate a formal joint use agreement between the two parties, recorded by Latah County.

Ray added that members of the Historic Preservation Commission gave approval to the current proposed plan to demolish the smaller building to expand the church. Bazzoli mentioned that the addition doesn't appear to honor the older architectural style of the current structure. Ray went over some of the considerations that the Historic Preservation Commission discussed when they reviewed the proposal.

Bazzoli opened the public hearing at 7:24 PM

Nils Peterson (Applicant), Moscow

UUCP is attempting to be sensitive to the opinions and desires of the surrounding community. He expressed gratitude for the formal agreement with McConnell Mansion for the shared parking spaces, and addressed the Commissioners concerns about the one off-site ADA parking space on the east side of the church that is staged by the ADA ramp. The ADA parking space that would be added to the proposed parking lot if the CUP was approved would be in addition to this already designated spot. Peterson mentioned that the small house on the property, set to be demolished, is no longer considered historical because of the various modifications that have been done over the years.

Bazzoli brought up the reasonableness of the proposed addition in regards to the sq. feet, and requested more information about the need for such a substantial expansion. Peterson said that the needs of the church have outgrown the current building space, especially in relation to educational classrooms for children. There is also the plan to add an elevator so that the historic building could become more accessible to those who have ADA limitations. Peterson spoke of the decision to expand the church instead of moving to a different, bigger building so that foot traffic could continue to utilize it as a hub for the community. Bazzoli brought up the bid-alternate of the mezzanine, which necessitates the Variance request, and wanted to know the value of the balcony in place of the third-floor addition. The church congregation wanted the extra space and asked Staff how long the Variance would be valid if approved. Ray said that the Variance would be applicable for up to two years from approval with a one-year extension if requested, or indefinitely once construction starts. Some discussion followed about the strategies behind just repairing the balcony versus expanding the church with an addition.

Comstock requested information on the proposed activities and uses of the newly expanded space, if approved, and Peterson outlined a normal week in the larger space. The Board also asked about the possibility of creating a shared parking agreement with Latah County for the Courthouse parking lot during the weekend hours. Staff corrected that the Courthouse parking lot is not within 500 feet of the property and therefore not close enough to be a valid option. There was more discussion about other parking options in the Fort Russell District.

Victoria Seever (Church member), Moscow

Brought attention to the the new ADA parking space that would be directly accessible to the new elevator if the CUP proposal was accepted. Seever spoke to the Relevant Criteria and Standards (attached), stating that is her opinion that Criteria 1, 5 and 7 were satisfied, and Criteria 6 in regards to the mezzanine repair would offer no change to the day to day operations of the building. Criteria 2, addressing demolishing the small house and creating the addition, would be in standing with the general uses of the neighborhood. Seever spoke to the 3rd Criteria about UUCP actively reducing their carbon footprint. She also mentioned that the balcony will be most likely vacant but can offer additional options for meeting spaces as well as seating for special services. She clarified that the Variance request is about increasing the community service space and updating the capacity for Church work.

Al Poplawski (Chair of the Building Committee for UUCP), Moscow

Addressed the difficulty for ADA access to the Fellowship Hall and the small house set to be demolished. The proposed new addition would house classrooms and the administration offices on the first and second floors.

Anne Marshall (Neighbor), Moscow

Spoke about the small house as a contributing property of the Fort Russell Historical District and that the proposed new addition is out of scale in regards to the size of the neighboring houses. Some concerns with the proposed addition were the possibility of it blocking sunlight to other community residents, as well as adding a parking lot directly adjacent to the neighbor's property line. The construction and parking excavation would be disruptive, to possibly damaging, to the soil of the neighbor's yard, as well as damaging two mature trees including a Sequoia. Marshall acknowledges the need to have an elevator and ADA access, but does not agree with this solution. Discussion about the size of the buildings surrounding UUCP as well as the accuracy of the site plans followed between Marshall, the Board members, and Staff.

Nils Peterson, Moscow

Applicants rebuttal brings attention to the retaining wall and lack of grade in the site plans, which is because the church intends to create a level patio next to the building. He assured the Board that the height of the building will meet City standards before construction starts. There was continued clarification of the location of parking spaces in regards to property line as well as the effect of the building addition in relation to the neighbors. Bush asked how tall the small house was and applicant indicated it is less than 2 stories now, which would be approximately 26-28 feet tall.

Anne Marshall, Moscow

Speaks again about the excavation next to the alley to make the parking space and how that would affect the fences and trees in the neighboring yards. Anne distributed her drawings and pictures of the property, and mentioned the current playground that would need to be moved close to the street if the CUP was approved.

Nils Peterson, Moscow, and Al Poplawski, Moscow

Brought up the trees and the possibility of inadvertently negatively affecting the growth and health. Poplawski assured the board that UUCP would be considerate of the Sequoia tree while under construction.

Comstock asked if there are any public improvements that will also be done in conjunction with the proposed addition. Ray said that all public infrastructure would be put into compliance during construction and the Board discussed other improvements that would possibly need to be made on the adjacent streets.

Bazzoli closed the public hearing at 8:14 PM

Board decided to discuss the Variance request first and then the Conditional Use Permit proposal after, being sure to address the criteria for each separately. Comstock brought up the concern of adding additional parking in this particular area with a Variance when several other large buildings are currently under a variance in that same areas, such as the 1912 Center, Moscow Library, and the Moscow High School. Staff mentioned that the Moscow Library did construct a parking lot for the addition that satisfied the parking requirements.

Some discussion followed about when street parking was in use for each different establishment that has requested parking Variances, which falls under Criteria 3 (see attachment). Bazzoli read out the other two criteria that will also need to be addressed in order to approve or deny the Variance request. The Board discussed how the key criteria to address is 1 and 3, and the Commissioners began discussing how this property would differ from the other properties around it.

Nils Peterson, Moscow

Applicant spoke again about how this property should be considered compared only with the adjoining institutional properties, such as the McConnell Mansion and Moscow Library, as opposed to the residential properties.

Comstock brought up the greater width of the public right-a-way streets, as well as it is located on a corner lot, as the special conditions for this particular property. Monson mentioned the recent Variance approval for the 1912 Center in concern for parking limitations and Thompson agreed that this is becoming a problem for the whole neighborhood. Discussion about the possible growth of the church for future parking needs and more conversation about the shared parking in the whole Fort Russell District. Bazzoli mentioned that the Zoning District also changes from one side of the block to the next, which would be a special condition.

Bazzoli is not concerned about the sunlight blocking the neighbor's properties, but is concerned about the amount of grade work that needs to be done for the parking lot in the alley to make an ADA compliant parking space in relation to surrounding vegetation. Staff addressed the ADA parking space as far as City Code, and there was more discussion about the size of the parking spaces and the alleyway.

Comstock moved for approval of the Variance request with the condition that the applicant enters into a joint use agreement which satisfies the provisions of the Joint Use Parking Section of City Code, on the basis that the application meets all three Relevant Criteria and Standards. The motion died for the lack of a second.

There was discussion about why and how this property meets the criteria and the particulars of the motion. Staff responded to address the need for the joint use agreement and how that is part of the CUP application and not the variance application.

Comstock moved for approval of the Variance request with no conditions, as recommended by Staff, on the basis of size, topography, and right-a-way width. Thompson seconded the motion and discussion continued.

Discussion followed on how much parking the church community currently utilizes and would need in the near future. Bazzoli is not partial to adding a parking lot to the area and likes the idea of restoring the balcony in the sanctuary. He made the point that if the balcony was not converted to an office in the first place, it would be exempt from parking requirements anyways. General consensus is that by allowing a variance for 11 spaces, the Church is unlikely to grow above and beyond what parking is already provided on the streets. Some deliberation of who would use the seven new parking spaces during the week when UUCP does not use them.

Vote by Acclamation: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

Comstock moved approval to direct Staff to prepare the Reasoned Statement of Relevant Criteria and Standards. Beighler seconded the motion. Vote by Acclamation: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

Bazzoli suggested approval of the CUP with the condition that a site plan be provided that demonstrates protection to trees and neighboring properties. Discourse followed about what sort of plan would be sufficient to show protection of neighboring trees and Staff brought up that would be more of a civil issue between the two property owners and not under the City's purview. Dialogue persisted about a protection plan, possibly utilizing a certified Arborist to review any site plans that are proposed to City Planning. Bazzoli argued that City Code is the minimum standard to be met, but going above and beyond to preserve the neighboring property should be the standard a builder strives for.

Beighler mentioned the sewage problems that one of the citizens complained about whenever construction is done in the neighborhood. Thompson also brought up the concern of the compatibility of the new additions' architecture to the structure and integrity of the existing church building. The Board agreed that the architectural design of the new addition is not within their scope of control and not applicable to any of the Criteria to be addressed. There continued to be examination of the site plans and property lines, and clarification that Public Hearing Notices were sent out notifying all property owners within 600ft of the proposed construction site.

The Board consulted the RCS, agreeing that Criteria 3 is the one that is the most cause for concern and should be addressed in the motion for approval. Bazzoli sustained that Criteria 1, 4, 5, 6 and 7 have all been addressed and have been found as satisfactory and that Criteria 2 is subjective to the users and community around the proposed facility. There was some debate about the usage of the term 'nuisance' in regards to Criteria 3.

Sorenson moved for approval of the Conditional Use Permit with the conditions as proposed by the City about the joint use parking agreement, as well as a detailed site plan filed by the Applicant that includes certifications by all appropriate disciplines that the site plan would not be injurious or detrimental to all adjoining properties. Beighler seconded the motion and discussion continued.

Staff inquired about the specifics of how that the Boards' proposed condition would be met. Then followed a verbal analysis of the terms of the condition and clarification as to how the City and Applicant would meet the requirements. It was proposed that maybe it should be required to have a licensed arborist or landscape architect review the site plans in order to recommend a way to prevent injurious or detrimental damage to adjoining properties. Staff suggested that a Tree Protection Plan by a licensed arborist be submitted with the site plans.

Anne Marshall, 419 E First Street

Clarified the location of the trees that could possibly be damaged while excavating for the parking lot area, specifically the mature Sequoia tree.

The Commissioners agreed that a licensed arborist would be able to establish whether any proposed site plans would pose a risk to surrounding trees and properties. Staff and the Board continued discussing the details of where, and who owns, the Sequoia tree in question is located to verify the feasibility of utilizing an arborist.

Anne Marshall, 419 E First Street

Suggested that removing the parking space that is located furthest north on the lot would allow for the tree roots to be undisturbed and unharmed.

There continued to be a debate between Staff and the Board about how the proposed condition would be met and whether it would fall under Criteria 3. The motion and conditions were stated again by Sorenson for clarification to the Staff. Monson brought up the just approved Variance request for the waiver of the 11 parking stalls and initiated an inquiry as to whether another Variance could be provided to expand it to waive 12 parking spots, in total, in order to limit the number of spaces near the alley and adjoining property.

Comstock asked Staff if a Conditional Use Permit proposal condition could be considered to accommodate a waiver for a parking space so that the Applicant could have the latitude to reevaluate the site plan for possibly reimagining the parking lot on the alley so as to prevent as much damage to the neighboring tree as possible. Staff indicated that is possible.

Sorenson withdrew the motion on the floor.

Bazzoli analyzed the proposed parking site plan. There was some discussion between Staff and the Board about the specifics of the private drive and proposed parking lot dimensions. They considered the idea to submit a new Variance to reduce the required parking spaces from 7 to 6 stalls.

Comstock moved for approval of the Conditional Use Permit, with the conditions that there be 7 parking spaces provided and that the Applicant considers some flexibility in altering the site plans in order to protect the neighbors fence and tree. The motion died for the lack of a second.

The Commissioners discussed whether it was the parking stall or the retaining wall that would cause the damage to the neighbor's tree. Continued consideration of how the parking lot could be reconfigured to accommodate 7 parking stalls but not detrimental to the adjoining properties. The Board decided that they were ultimately not concerned about the number of parking stalls that are waived and asked Staff if they had the leeway to reduce the number of parking spots from 7 to 6 required stalls in preparation for reconsidering the Variance approval to adjust the waiver from 11 to 12 parking spaces.

Comstock moved to rescind the previously approved Variance request and adjust it from 11 waived parking spots to 12 parking spots. Thompson seconded the motion and discussion continued.

Board conferred on the decision to reverse a previously made decision and whether that was the best choice. They reiterated the reasoning behind decreasing the number of parking spaces required by waiving more than the 11 originally required.

Vote by Acclamation: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

Comstock moved for approval the Variance request for the 11 parking spaces associated with the mezzanine restoration, as well as an additional waiver for 1 of the 7 parking spots necessary for the expanded sanctuary occupancy, and directed Staff to prepare the Reasoned Statement of Relevant Criteria and Standards. The motion died for lack of a second.

The Board continued deliberating on the basis of waiving one additional space as opposed to two additional spaces. They pointed out that the mezzanine/balcony restoration is a bid-alternate and may not even be built, so that would make the 11-parking-space waiver irrelevant. Staff pointed out that regardless of the timeframe for the balcony restoration, the Variance request would still apply and not expire so long as

construction of some sort begins within the next two years. Discussion continued around the allocation of parking spaces and for which use they are designated for.

Comstock moved for approval the Variance request for 12 parking spaces, and directed Staff to prepare the Reasoned Statement of Relevant Criteria and Standards. Thompson seconded the motion. Vote by Acclamation: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

Comstock moved for approval of the Conditional Use Permit with the conditions that the site plan be redesigned to protect the neighbor's property, including the tree; in that redesign of the site plan, accommodate the ADA space where it works best, with the requirements of 6 parking stalls, as well as direct Staff to prepare the Reasoned Statement of Relevant Criteria and Standards. Discussion continued.

Staff debated Comstock's decision of saying 'protection' of the tree and property versus using other language. Board debated using other verbiage specifically found in the criteria and talked about re-submitting the motion with updated vocabulary. Ultimately it was decided to continue the motion as it was presented.

Sorenson seconded the motion. Vote by Acclamation: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

3. Board Communications

The next meeting was originally scheduled for Monday, October 5th for the RCS Approval, but will be postponed until a future determined date.

4. Other Business

None.

The meeting adjourned at 9:51 PM

Joe Bazzoli, Chair

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
CONDITIONAL USE PERMIT FOR THE EXPANSION OF AN EXISTING CHURCH (THE
UNITARIAN UNIVERSALIST CHURCH OF THE PALOUSE), LOCATED AT 414 AND 420 E
SECOND STREET, PER MOSCOW CITY CODE 4-6-2.**

WHEREAS, the applicant filed an application for a Condition Use Permit on August 18, 2020; and

WHEREAS, this matter came before the Moscow Board of Adjustment during a duly noticed public hearing on September 29, 2020; 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, Nils Peterson, is requesting a Conditional Use Permit (CUP) to expand the Unitarian Universalist Church of the Palouse located at 420 E. Second Street.
3. The applicant is proposing to construct a 5,917 square foot addition on to the existing church located at 420 East Second Street. The project will include the demolition of an existing building owned and used by the Unitarian Church located at 414 E. Second Street. The removal of the building will facilitate the addition and renovations to the main church building including the addition of new balcony seating.
4. The applicant proposes seven (7) new parking spaces to satisfy a portion of the parking required for the expansion, and has concurrently applied for a Variance to waive the eleven (11) additional off-street parking spaces still required as part of the proposed expansion.
5. The existing church building on the property dates back to the early 1900s. It was acquired by the Unitarian Universalist Church of the Palouse in 1985.
6. The small house to the west, located at 414 E Second Street, was purchased by the Church in 1988.
7. In September of 2008, the Unitarian Church applied and was approved for a Variance to allow a reduction in the front and street side yard setbacks in order to expand an existing accessibility ramp to meet required ADA standards.
8. The subject property is located within the Multiple Family Residential Zoning District (R-4).
9. The maximum building height in the R-4 Zone is forty (40) feet.

10. Adjacent properties to the north and west are also within the R-4 Zoning District. The adjacent properties to the east are located within the Medium Density Residential Zoning District (R-3). The adjacent property to the south is located within the General Business Zoning District (GB).
11. The subject property currently consists of two separate parcels, to be combined into one parcel upon development. The larger parcel, which contains the current church is approximately 6,705 square feet. The smaller parcel which contains the existing administrative building is approximately 5,756 square feet. The approximate size of both lots combined totals 12,461 square feet (.286 acres).
12. The parcel to the west of the subject property is the McConnell Mansion which is managed by Latah County Historical Society. The 1912 Center occupies the parcel to the south across Second Street. Parcels to the north and east are both occupied by two-family and single-family dwellings.
13. The subject property has 146 feet of frontage along Second Street. Second Street is a local neighborhood street and has an 80-foot right-of-way with a tree lawn, curb, gutter, and sidewalk. The subject property has 90 feet of frontage along Van Buren Street which is also designated as a local neighborhood street and has an 80 foot right of way with a tree lawn, curb, gutter, and sidewalk.
14. The subject property can be accessed via one existing vehicular approach on Second Street. This driveway has been used jointly between the McConnell Mansion to the west and the subject property 414 E. Second for many years.
15. The proposed addition contains three stories and is forty (40) feet in height. The ground floor contains the lobby, administrative offices, restrooms, elevator, and stairs. The second floor contains a foyer, nursery, religious education rooms, restrooms, and access to the main sanctuary. The third floor contains the library classroom, a restroom, and hallway access to a future mezzanine above the main sanctuary.
16. Religious Facilities require one parking space per four seats, plus one per 100 square feet of open assembly area (i.e. gymnasiums, auditoriums, etc.).
17. The existing church does not provide any on-site parking. MCC 4-6-2(3)(d) states in part, in the case of enlargements or expansions triggering requirements for additional parking, additional off-street parking spaces are required only to serve the enlarged or expanded area, not the entire building or use.
18. With the remodel and expansion of the existing church, current plans include an additional twenty-eight (28) seats in the sanctuary and forty-three (43) new seats in the balcony level, resulting in a requirement of seven (7) parking spaces for the sanctuary and eleven (11) parking spaces for the mezzanine.
19. The applicant indicated that the mezzanine level seating is to be constructed at a date yet to be determined, and the applicant wishes to phase in that portion of the project in the future.
20. The applicant has proposed a site plan showing five (5) new parking spaces located on the west side of the subject property adjacent to the north/south access drive that is shared between the Unitarian Church and the McConnell Mansion.
21. On the west side of the north/south access drive are two (2) existing parallel parking spaces that are proposed to be entirely on the McConnell Mansion property.
22. The applicant has provided a recorded shared parking agreement between the Unitarian Church and Latah County (owner of the McConnell Mansion). The agreement details the shared use of the seven parking spaces and also allows for rights of access.
23. Subject to approval by the Zoning Administrator, deviation from parking standards may be allowed with a joint use agreement provided that:

1. The applicant demonstrates that there is no substantial conflict between the principal operating hours of the building, structure or use for which the joint use of parking spaces and/or lots is proposed.
 2. The parking spaces and/or lots for such proposed joint use is not farther than five hundred feet from any building it is to serve.
 3. Up to one hundred percent of the parking spaces and/or lots required by this section for a church or for an auditorium incidental to a public or parochial school, may be supplied by the off-street parking spaces and/or lots provided by uses primarily of a “daytime” nature.
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24. The Zoning Code requires that the parties concerned in the joint use of off-street parking spaces and/or lots shall submit a written agreement for such joint use in a form to be recorded, which shall be approved by the City Attorney as to form and content. Such agreement, when approved by the Zoning Administrator as conforming to the provisions of this Section, shall be recorded in the office of the Latah County Recorder and copies thereof filed with the Clerk.
 25. Per the joint use provision of the Zoning Code above, the Zoning Administrator is required to review and determine whether there is a substantial conflict between the principal operating hours of the two uses and the parking spaces that are proposed to be shared. Based upon the operating hours that have been submitted for the McConnell Mansion and the Unitarian Church, it is Staff’s determination that there isn’t a substantial conflict between the hours of operation of the two uses. Per the Zoning Code, the City will draft a joint use agreement that documents the decision, which will be signed and recorded at the Latah County Recorder.
 26. The proposed parking lot provides seven (7) parking spaces, with a total of eleven (11) spaces that are still required as part of the proposal. With no area on the property to create additional parking spaces, the applicant has applied for a Variance to waive the requirement for the remaining eleven (11) parking spaces required as a result of the mezzanine seating.
 27. The 1912 Center to the south of the subject property applied for a Variance to waive one-hundred and thirteen (113) additional off-street parking spaces for the renovation and future occupancy of the remaining floors of the 1912 Center, which was approved by the Board of Adjustment on August 8, 2019.
 28. The Board heard public testimony in opposition of the proposal due to the topography of the lot and the adverse effects a retaining wall could have on an adjoining property owners existing tree.
 29. The Board determined that it was appropriate to expand the Variance request to waive twelve (12) parking spaces rather than eleven (11). Consequently, six (6) off street parking spaces need to be provided as a result of the proposal rather than seven (7).
 30. The Board concluded that the reduction in required parking allows the applicant to redesign the parking lot to shift the parking spaces to the south to allow for greater protection of the adjacent property to the north, including established trees.

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/is not) a conditionally permitted use within the Zoning District.

Religious Facilities are a conditionally permitted use in the Multiple Family Residential (R-4) Zoning District.

2. The character of the proposed use (will/will not) be in harmony with the neighborhood and surrounding land uses. The proposed use is in harmony with the neighborhood and surrounding land uses. Previous to the ownership of the Unitarian Universalist Church, and since original construction, the subject property has always been used as a religious facility. The character of the proposed use will remain in harmony as the use of the subject property is not changing. The Unitarian Universalist Church has occupied the original church since 1985 and the house at 414 E Second St since 1988 and will continue with similar operations. The subject property is located in an area that is close to the City core which contains many institutional buildings including the 1912 Center, Methodist Church, Carnegie Library, and Presbyterian Church.

3. The proposed use as approved, or as approved with conditions, (will/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, as approved with conditions, will not generate nuisances that would be injurious or detrimental to the adjoining properties or the neighborhood. The Board determined that an increase in the number of parking spaces waived by the Variance proposal was warranted in order to reduce the impact to the adjacent properties to the north.

4. The location, design, and size of the proposed use (will/will not) be adequately served by existing streets, public facilities and services. The location, design, and size of the proposed use will be adequately served by existing streets, public facilities, and services. The streets adjacent to the subject property, Second Street and Van Buren Street, have an 80-foot right-of-way and are developed with tree lawns, curb, gutter, and sidewalks. The private driveway which access the proposed off-street parking area currently exists and will be improved to parking lot standards as part of the proposal.

5. The proposed use (will/will not) endanger the public health or safety if located where proposed. The expansion of the Unitarian Universalist Church will not endanger the public health or safety if located where proposed.

6. Proposed use (meets/does not meet) all applicable development standards of the Zoning Code. The proposed use meets all applicable development standards of the Zoning Code including maximum building height, setbacks, off-street parking standards, building and fire code requirements, and ADA standards. With the approved Variance request, the proposal will also meet all off-street parking requirements.

7. The proposed use (will/will not) be in conflict with the Comprehensive Plan. The proposed use will not be in conflict with the Comprehensive Plan. The preservation and expansion of the existing church building is consistent with a Goal of *Section 2.7.1 - General Land Use and Community Character* to preserve and enhance special areas of the community to celebrate the community's identity, character, and heritage.

III. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City of Moscow Board of Adjustment approves the application for the Conditional Use Permit to expand an existing Church (Unitarian Universalist Church of the Palouse) located at 420 East Second Street with the following two conditions:

1. The site plan shall be redesigned to reduce the number of parking spaces to six (6) in order to protect the neighbor's property, including any trees. In the redesign of the site plan, the ADA parking space shall be located where it can be accommodated the best.
2. The applicant enter into a joint use agreement which satisfies the provisions of the Joint Use Parking Section of the City Code.

PASSED BY THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW THE _____ OF _____, 2020.

Joe Bazzoli, Chair
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 VARIANCE REQUEST TO WAIVE A PORTION OF THE ADDITIONAL OFF-STREET PARKING REQUIREMENTS FOR THE EXPANSION OF A CHURCH (UNITARIAN UNIVERSALIST CHURCH OF THE PALOUSE), LOCATED AT 414 AND 420 E. SECOND STREET, PER MOSCOW CITY CODE 4-6-2.

WHEREAS, the applicant filed an application for a variance on September 04, 2020; and

WHEREAS, this matter came before the Moscow Board of Adjustment during a duly noticed public hearing on September 29, 2020; 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, Nils Peterson, is requesting a Variance to waive eleven (11) off-street parking spots required for the expansion of the Unitarian Universalist Church of the Palouse.
3. The applicant is concurrently requesting a Conditional Use Permit to expand the Church located at 420 E. Second Street.
4. The applicant proposes seven (7) new parking spaces to satisfy a portion of the parking required for the expansion.
5. The applicant is proposing to construct a 5,917 square foot addition on to the existing church located at 420 East Second Street. The project will include the demolition of an existing building owned and used by the Unitarian Church located at 414 E. Second Street. The removal of the building will facilitate the addition and renovations to the main church building including the addition of new balcony seating.
6. The existing church building on the property dates back to the early 1900s. It was acquired by the Unitarian Universalist Church of the Palouse in 1985.
7. The small house to the west, located at 414 E Second Street was purchased by the Church in 1988 and is currently used for administrative purposes.
8. In September of 2008, the Unitarian Church applied and was approved for a Variance to allow a reduction in the front and street side yard setbacks in order to expand an existing accessibility ramp to meet required ADA standards.

9. The subject property is located within the Multiple Family Residential Zoning District (R-4).
10. The maximum building height in the R-4 Zone is forty (40) feet.
11. Adjacent properties to the north and west are also within the R-4 Zoning District. The adjacent properties to the east are located within the Medium Density Residential Zoning District (R-3). The adjacent property to the south is located within the General Business Zoning District (GB).
12. The subject property currently consists of two separate parcels, to be combined into one parcel upon development. The larger parcel, which contains the current church is approximately 6,705 square feet. The smaller parcel which contains the existing administrative building is approximately 5,756 square feet. The approximate size of both lots combined totals 12,461 square feet (.286 acres).
13. The parcel to the west of the subject property is the McConnell Mansion which is managed by Latah County Historical Society. The 1912 Center occupies the parcel to the south across Second Street. Parcels to the north and east are both occupied by two-family and single-family dwellings.
14. The subject property has 146 feet of frontage along Second Street. Second Street is a local neighborhood street and has an 80-foot right-of-way with a tree lawn, curb, gutter, and sidewalk. The subject property has 90 feet of frontage along Van Buren Street which is also designated as a local neighborhood street and has an 80 foot right of way with a tree lawn, curb, gutter, and sidewalk.
15. The subject property can be accessed via one existing vehicular approach on Second Street. This driveway has been used jointly between the McConnell Mansion to the west and the subject property 414 E. Second for many years.
16. Religious Facilities require one parking space per four seats, plus one per 100 square feet of open assembly area (i.e. gymnasiums, auditoriums, etc.).
17. The existing church does not provide any on-site parking. MCC 4-6-2(3)(d) states in part, in the case of enlargements or expansions triggering requirements for additional parking, additional off-street parking spaces are required only to serve the enlarged or expanded area, not the entire building or use.
18. With the remodel and expansion of the existing church, current plans include an additional twenty-eight (28) seats in the sanctuary and forty-three (43) new seats in the balcony level, resulting in a requirement of seven (7) parking spaces for the sanctuary and eleven (11) parking spaces for the mezzanine.
19. The applicant indicated that the mezzanine level seating is to be constructed at a date yet to be determined, and the applicant wishes to phase in that portion of the project in the future.
20. The applicant has proposed a site plan showing five (5) new parking spaces located on the west side of the subject property adjacent to the north/south access drive that is shared between the Unitarian Church and the McConnell Mansion.
21. On the west side of the north/south access drive are two (2) existing parallel parking spaces that are proposed to be entirely on the McConnell Mansion property.
22. The applicant has provided a recorded shared parking agreement between the Unitarian Church and Latah County (owner of the McConnell Mansion). The agreement details the shared use of the seven parking spaces and also allows for rights of access.
23. Subject to approval by the Zoning Administrator, deviation from parking standards may be allowed with a joint use agreement provided that:

1. The applicant demonstrates that there is no substantial conflict between the principal operating hours of the building, structure or use for which the joint use of parking spaces and/or lots is proposed.
 2. The parking spaces and/or lots for such proposed joint use is not farther than five hundred feet from any building it is to serve.
 3. Up to one hundred percent of the parking spaces and/or lots required by this section for a church or for an auditorium incidental to a public or parochial school, may be supplied by the off-street parking spaces and/or lots provided by uses primarily of a “daytime” nature.
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24. The Zoning Code requires that the parties concerned in the joint use of off-street parking spaces and/or lots shall submit a written agreement for such joint use in a form to be recorded, which shall be approved by the City Attorney as to form and content. Such agreement, when approved by the Zoning Administrator as conforming to the provisions of this Section, shall be recorded in the office of the Latah County Recorder and copies thereof filed with the Clerk.
 25. Per the joint use provision of the Zoning Code above, the Zoning Administrator is required to review and determine whether there is a substantial conflict between the principal operating hours of the two uses and the parking spaces that are proposed to be shared. Based upon the operating hours that have been submitted for the McConnell Mansion and the Unitarian Church, it is Staff’s determination that there isn’t a substantial conflict between the hours of operation of the two uses. Per the Zoning Code, the City will draft a joint use agreement that documents the decision, which will be signed and recorded at the Latah County Recorder.
 26. The proposed parking lot provides seven (7) parking spaces, with a total of eleven (11) spaces that are still required as part of the proposal. With no area on the property to create additional parking spaces, the applicant has applied for a Variance to waive the requirement for the remaining eleven (11) parking spaces required as a result of the mezzanine seating.
 27. The 1912 Center to the south of the subject property applied for a Variance to waive one-hundred and thirteen (113) additional off-street parking spaces for the renovation and future occupancy of the remaining floors of the 1912 Center, which was approved by the Board of Adjustment on August 8, 2019.
 28. The Board heard public testimony in opposition of the proposal due to the topography of the lot and the adverse effects a retaining wall could have on an adjoining property owners existing tree.
 29. The Board determined that it was appropriate to expand the Variance request to waive twelve (12) parking spaces rather than eleven (11). Consequently, six (6) off street parking spaces need to be provided as a result of the proposal rather than seven (7).
 30. The Board concluded that the reduction in required parking allows the applicant to redesign the parking lot to shift the parking spaces to the south to allow for greater protection of the adjacent property to the north, including established trees.

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 Unitarian Universalist Church has been functioning as a church at this location for many years and has never provided off-street parking. The applicant has proposed a site plan showing five new parking spaces located on the west side of the subject property adjacent to the north/south access drive that is shared between the Unitarian Church and the McConnell Mansion. On the west side of the north/south access drive are two parallel parking spaces that are proposed to be entirely on the McConnell Mansion property. The proposal includes as much parking as can fit within the parameters of the City's parking lot development standards, while allowing for a moderate addition to accommodate the growth of the Church located in a historic building. The size of the subject property is much smaller than other institutional use properties in the surrounding area such as the 1912 Center, Methodist Church, Carnegie Library, and Presbyterian Church. The smaller size of the property is compounded by the fact that it is a corner lot which reduces the buildable area 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 building on the property dates back to the early 1900s and has always served as a church. The house located at 414 E Second Street was purchased by the Church in 1988. The applicant has developed as much parking on-site as is possible, while proposing a moderate addition to the existing building. Other institutional use properties in the surrounding area such as the 1912 Center, Methodist Church, Carnegie Library, and Presbyterian Church all have limited parking and are larger than the proposed addition to the Unitarian Church. Additionally, the 1912 Center to the south of the subject property applied for a Variance to waive one-hundred and thirteen (113) additional off-street parking spaces for the renovation and future occupancy of the remaining floors of the 1912 Center, which was approved by the Board of Adjustment on August 8, 2019. Therefore, it would be an undue hardship to prohibit an expansion to accommodate the growing congregation, while so many other institutional uses in the area enjoy larger properties and buildings with minimal off-street parking.
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?** The Board finds that it is in the public's interest to approve the Variance for twelve (12) parking spaces in order allow the applicant to redesign the site plan to allow greater protection of the adjacent property to the north. The Unitarian Universalist Church is located in an area close to the core of town amongst other institutional buildings, which provides a centralized location that is accessible by multiple modes of transportation. The building is also located within the Fort Russell Historic District and it is in the public's interest to preserve the district as much as possible and not demolish historic buildings in order to construct off-street parking lots.

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 twelve (12) off-street parking spaces for the expansion of the Unitarian Universalist Church at 420 East Second Street with no conditions.

PASSED BY THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW THE _____ OF _____, 2020.

Joe Bazzoli, Chair
Board of Adjustment