

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 (Thomson). 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.

Thomson 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 Thomson 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. Thomson 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. Thomson 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. Thomson 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. Thomson 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

10/14/2020
Date