

BOARD of ADJUSTMENT



Joe Bazzoli
Commission Chair

~Meeting Minutes~
December 10, 2018

Leah Carlson
Staff Liaison

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

The meeting was called to order at 5:33 PM

MEMBERS PRESENT: Joe Bazzoli, Chair; Annette Bieghler, Steve Bush, Marshall Comstock, Mark Monson

MEMBERS ABSENT: Laurene Sorenson, Tim Thomson

STAFF IN ATTENDANCE: Mike Ray, Anne Peterson

1. Approval of Minutes from December 4, 2018.

Monson moved approval of the minutes as presented.

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Monson
SECONDER:	Bush

Motion carried by acclamation.

2. Approval of Relevant Criteria and Standards for Property Located at 951 S Meadow – LUP2018-0033

Comstock moved approval of the Relevant Criteria and Standards with one spelling correction.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Comstock
SECONDER:	Bieghler

Motion carried by acclamation.

3. Board Communications

There was brief discussion about the appeal process for the cell tower CUP denial which will be heard by City Council on January 7, 2019. Bazzoli suggested that prior to the Board needing to address the Ice Rink CUP issue again, that the City convene a meeting of all pertinent parties to get everyone on the same page so the Board isn't left in such an awkward decision-making position.

Adjournment

The meeting adjourned at 5:51.


Joe Bazzoli, Chair

Mark Monson

1-15-19
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 REQUIRED FIVE FOOT SIDE YARD SETBACK TO ZERO FEET FOR AN EXISTING GARAGE LOCATED AT 951 S MEADOW STREET WITHIN THE MODERATE DENSITY RESIDENTIAL (R-2) ZONING DISTRICT PER MOSCOW CITY CODE 4-2-4(2)(E).

WHEREAS, the applicant filed an application for a variance on November 16, 2018; and

WHEREAS, this matter came before the Moscow Board of Adjustment during a duly noticed public hearing on December 4, 2018; and

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

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

I. RELEVANT FACTS AND CONCLUSIONS

1. The Board of Adjustment considered the request pursuant to the City of Moscow Zoning Code, Comprehensive Plan, and Moscow City Code.
2. The subject property is located within the Moderate Density Residential (R-2) Zoning District, where required side yard setbacks are a minimum of five feet (5'), where both side yards total fifteen feet (15').
3. Properties immediately adjacent to the subject property to the north, east, and west are in the Moderate Density Residential (R-2) Zoning District. To the south, residential properties adjacent to the subject property are in the Medium Density Residential (R-3) Zoning District.
4. The subject property is approximately 0.25 acre, with approximately 105 feet of frontage on Meadow Street and 93 feet of frontage on Joseph Street.
5. On May 15, 2017, a lot line adjustment was approved by Moscow City Council, which allowed the applicant to move their northern property line five feet (5') to the north in order to have sufficient space to construct a garage addition.
6. On May 30, 2017, the applicant was issued a building permit to construct the garage addition with the understanding that the lot line adjustment would provide for the required five-foot (5') setback from the northern property line.

7. Following the approved lot line adjustment, the applicant's neighbor quit claimed the 5-foot (5') strip of land to the applicant. In exchange for the land, the applicant paid for and constructed a new fence on his neighbor's property along the new property line and around the rest of his yard. The applicant presumed that the cost of the fence and construction would be equal to the cost of the five-foot (5') strip of land quit claimed to him.
8. In 2018, the applicant listed his house for sale. Upon finding a buyer and completing a title search, the applicant found that the lot line adjustment was never recorded. Additionally, the applicant's neighbor did not approve the lot line adjustment with his mortgage company prior to quit claiming the five foot (5') strip of land to the applicant.
9. Upon learning about the transaction, the neighbor's mortgage company requested he recast his mortgage. This process is typically takes about 30-60 days, however there is no guarantee that the recasting process will be approved.
10. The waiting period of the recasting of the neighbor's mortgage is compromising the closing of the sale on the applicant's house.

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?** Yes. The subject property is located on a corner lot, making his required setbacks wider than non-corner lots. Additionally, Meadow Street cuts diagonally through the subject property making the parcel oddly shaped in comparison to other properties in the neighborhood. The neighbor's house is required to be set back a minimum of five feet (5') from the property line, but is setback fifteen feet (15'), leaving a greater distance than is required between buildings on the two separate properties.
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?** Yes. It could be an undue hardship to require the applicant to remove part of his garage addition in order to bring his property into compliance. Additionally, the applicant has approached all stages of the process in good faith.
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 nearest neighbor to the applicant is in favor of the request and testified that the approval of the variance would not unduly affect his property.

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 required five-foot (5') side yard setback to zero feet (0') for an existing garage located at 951 S Meadow Street.

PASSED BY THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW THE 10th DAY
OF DECEMBER, 2018.



Joe Bazzoli, Chairman
Board of Adjustment