

BOARD of ADJUSTMENT



Joe Bazzoli
Board Chair
BOA@ci.moscow.id.us

Public Hearing
~ Minutes ~

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

Monday
May 13, 2024

7:00 PM

Council Chambers
206 E Third Street

Comstock called the meeting to order at 6:59 PM

MEMBERS PRESENT: Marshall Comstock, Vice Chair; Steve Bush, Ivy Dickinson, Jerry Schutz, Tim Thomson
MEMBERS ABSENT: Joe Bazzoli, Tim Kinkeade
STAFF: Jennifer Fleischman, Aimee Hennrich

REGULAR AGENDA

1. Approval of May 6, 2024 Minutes (ACTION ITEM)

Thomson moved for approval of the minutes as written, seconded by Bush. Roll Call Vote; Ayes: Unanimous (5) Nays: None. Abstentions: None. Motion carried.

2. Public Comment

Time limit 15 minutes. Members of the Public may speak to the Board regarding matters NOT on the Agenda nor currently pending before the Board of Adjustment. Please state your name and resident city for the record and limit your remarks to three (3) minutes.

None.

3. Public Hearing: Conditional Use Permit for 2375 North Highway 95, in the Area of City of Impact per MCC 4-3-4. Permit Application LUP2024-0016 (ACTION ITEM)

Conditional Use Permit for a proposed Private Garage in excess of 1,000 square feet located at 2375 North Highway 95 within the Suburban Residential (SR) Zoning District in the Area of City Impact per Moscow City Code 4-3-4.

Hennrich presented the Conditional Use Permit (CUP) and Variance (VAR) requests together, as described above and in Agenda Item No. 4, and recommended approval of both with no conditions. An accessory structure over 1,500 square feet is not allowable, according to Moscow City Code (MCC). The City notifies all property owners within 600 feet of the subject site for a CUP hearing and the County notifies property owners within 300 feet.

The Public Hearing for both the CUP and VAR opened at 7:10 PM

Maggie Scott (applicant), Moscow, reiterated the request for a variance and conditional use permit. The proposed side yard setback would be 12 ft from the southern property line, which would not encroach on the pine trees that are on the neighboring property. If, during construction, it would appear that there may be damage to the trees, the applicant would work with the neighbors for a solution.

The Public Hearing for both the CUP and VAR closed at 7:14 PM

The Board agreed that the parcel appears to be large enough to accommodate a larger accessory structure with a reduction in setbacks to the south and west.

Schutz moved to put forth a recommendation of approval of the CUP to exceed the maximum garage size with no conditions as recommended by Staff, and directed Staff to prepare the draft Relevant Criteria and Standards document. The motion was seconded by Thomson. Roll Call Vote; Ayes: Unanimous (5). Nays: None. Abstentions: None. Motion carried.

4. Public Hearing: Variance Application for 2375 North Highway 95, in the Area of City Impact per MCC 4-4-5. Permit Application LUP2024-0010 (ACTION ITEM)

Variance application to reduce the rear and side yard setbacks for a proposed new single-family dwelling located at 2375 North Highway 95 within the Suburban Residential (SR) Zoning District in the Area of City Impact per Moscow City Code 4-4-2.

Hennrich presented the Variance (VAR) request with Agenda Item No. 3.

Schutz moved to put forth a recommendation of approval of the VAR to allow a reduction of the rear and side yard setbacks with no conditions as recommended by Staff, and directed Staff to prepare the draft Relevant Criteria and Standards document. The motion was seconded by Thomson. Roll Call Vote; Ayes: Unanimous (5). Nays: None. Abstentions: None. Motion carried.

There was a brief discussion about the process of a recommendation going to the Latah County Board of Commissioners.

REPORTS

ANNOUNCEMENTS

UPCOMING EVENTS/MEETINGS

The next Board of Adjustment meeting is scheduled for 5:30 PM on May 22, 2024.

The meeting will be held in Council Chambers of City Hall.

The meeting adjourned at 7:18 PM



Joe Bazzoli, Chair

5/24/2024
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 APPLICATION FOR AN ACCESSORY
STRUCTURE EXCEEDING 1,000 SQUARE FEET LOCATED AT 2375 N HIGHWAY 95
WITHIN THE AREA OF CITY IMPACT OF THE CITY OF MOSCOW, IDAHO.**

WHEREAS, the applicant filed an application for a Conditional Use Permit on April 5, 2024; and

WHEREAS, this matter came before the Moscow Board of Adjustment during a duly noticed public hearing on May 13, 2024; 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, City of Moscow 2019 Comprehensive Plan, the Moscow Area of City Impact Agreement, and other applicable development regulations.
2. Per the Moscow Area of City Impact Agreement with Latah County, the Moscow Board of Adjustment is to conduct one hearing and forward a recommendation on to Latah County.
3. The site is 147,610 square feet (3.39 acres) of land. The applicant is proposing to construct a single-family home with an attached 1,174 square foot garage, accessory structure on the east side of the house.
4. The subject property is located within the Suburban Residential (SR) Zoning District in the Area of City Impact where accessory structures above 1,000 square feet but 1,500 square feet or less require a Conditional Use Permit, per Moscow City Code 4-3-4.
5. The applicant is also seeking a Variance to reduce the rear and south side setback by eight (8') feet in each direction for the proposed dwelling.
6. The parcel has 213 feet of frontage along Highway 95 and is roughly 646 feet in depth.
7. The parcel currently contains two (2) accessory structures, one (1) is approximately 5,000 square feet and is used for lumber grading equipment. The other accessory structure is 1,500 square feet and will be torn down in order to construct the new home.

8. The adjacent property to the north contains a single-family home, accessory structure and a pasture. The parcel to the east across Highway 95 contains a manufactured home park. The parcel to the south contains a single-family home and the parcel to the west is vacant land.
9. Within the Area of City Impact, Latah County has adopted the City of Moscow SR Zoning Code. According to the City of Moscow Zoning Code, the purpose of the SR Zoning District is,

“to create and protect a permanent single-family residential neighborhood at a very low density. Where properly located and controlled, specified rural uses, including pasturage of livestock, may be allowed. Because large areas are contained within lots in this zoning district, the demand for parking is to be satisfied by spaces located entirely on private property. Public improvements are to be designed to serve the rural, low intensity uses permitted in this zoning district; for this reason and because some uses permitted in the SR zoning district may not be compatible with more intensive zoning districts, the following conditions shall apply to the designation of land in the SR zoning district.

- 1. Local streets developed to a reduced standard especially applicable in the SR zoning district shall not provide primary access to development with a higher density than permitted in the SR zoning district.*
 - 2. The minimum size of an SR zoning district shall be ten (10) acres.*
 - 3. The SR zoning district shall be located only in areas specifically designated A or A/LR on the Comprehensive Plan Map. Because the SR zoning district may interfere with higher density, more efficient land use, it should be applied where such interference would be unlikely, such as in areas primarily rural in character and not close to schools, public facilities and shopping areas. The SR zoning district should not be applied where the reduced street standards permitted would interfere with present or future transportation needs for the area in which the SR zoning district is proposed.*
 - 4. After zoning and development of land in the SR zoning district occurs, changes from this zoning district can only take place concurrently with or after redevelopment of streets and utilities to standards applicable in the proposed zoning district for which the person is applying.”*
10. The 2019 City of Moscow Comprehensive Plan Land Future Use and Growth Plan Map designates the subject property and surrounding properties as Suburban Residential.
 11. According to Chapter 2 of the Comprehensive Plan, Community Character and Land Use, Suburban Residential designated areas are,

“areas appropriate for larger lots and fringe area development at gross densities ranging from 0.85 to 1.55 dwelling units per acre. These areas are generally located within the northern reaches of the City along north Polk Road and Almon/Mix Road where public services are limited, topography is

somewhat challenging, and streets are currently developed to a lesser standard. Clustered development with preservation of open spaces and sensitive areas or steep topography should be promoted within these areas. The use of this designation should be limited to areas that will not impede more intense development in the future where such more intense development can be accommodated. The appropriate current zoning to be applied to Suburban Residential designated areas is Suburban Residential (SR)."

12. The subject property is accessed via Highway 95 which is a 24-foot-wide paved road with two travel lanes, minimal gravel shoulders, no sidewalks, curbs, or gutters.
13. The proposed development meets all applicable zoning requirements. Latah County to verify for compliance of building requirements.
14. Water is currently available to the subject property via a private well and sewer is available via a private septic system. The applicant has an approved permit from Idaho Department of Public Health for Subsurface Sewage Disposal.

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:** Accessory Structures in excess of 1,000 square feet are conditionally permitted in the Suburban Residential, Zoning District per City of Moscow Zoning Code and the Area of City Impact Agreement.
2. **The character of the proposed use will be in harmony with the neighborhood and surrounding land uses:** The proposed accessory structure is consistent with the existing character of the uses within the surrounding area. The subject property is primarily surrounded by agricultural lands and rural single-family dwellings that are within the Area of City Impact.
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.
4. **The location, design, and size of the proposed use will be adequately served by existing streets, public facilities and services:** The proposed accessory structure will adequately be served by existing streets, and private well and septic.
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.

6. **Proposed use meets all applicable development standards of the Zoning Code:** With the recommendation for approval of the Variance the proposed use meets pertinent applicable development standards of the zoning code. Latah County to verify remaining requirements at the time of permitting.
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 recommends approval of the proposed Conditional Use Permit for an accessory structure in excess of 1,000 square feet located at 2375 N Highway 95 to Latah County.

PASSED BY THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW THE 24 DAY
OF MAY, 2024.



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 APPLICATION TO REDUCE THE REAR AND SIDE
YARD SETBACKS FOR A PROPOSED NEW SINGLE FAMILY DWELLING LOCATED
AT 2375 N HIGHWAY 95 WITHIN THE AREA OF CITY IMPACT OF THE CITY OF
MOSCOW, IDAHO.**

WHEREAS, the applicant filed an application for a Variance on April 5, 2024; and

WHEREAS, this matter came before the Moscow Board of Adjustment during a duly noticed public hearing on May 13, 2024; 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, City of Moscow 2019 Comprehensive Plan, the Moscow Area of City Impact Agreement, and other applicable development regulations.
2. Per the Moscow Area of City Impact Agreement with Latah County, the Moscow Board of Adjustment is to conduct one hearing and forward a recommendation on to Latah County.
3. The site is 147,610 square feet (3.39 acres) of land. The applicant is proposing to construct a single-family home.
4. The subject property is located within the Suburban Residential (SR) Zoning District in the Area of City Impact where the required setbacks for the SR Zoning District are 25' in the front, 30' in the rear and 20' on the sides.
5. The applicant is seeking a Variance to reduce the rear and south side setback by eight (8') feet in each direction for the proposed dwelling.
6. The parcel has 213 feet of frontage along Highway 95 and is roughly 646 feet in depth.
7. The parcel currently contains two (2) accessory structures, one (1) is approximately 5,000 square feet and is used for lumber grading equipment. The other accessory structure is 1,500 square feet and will be torn down in order to construct the new home.

8. The adjacent property to the north contains a single-family home, accessory structure and a pasture. The parcel to the east across Highway 95 contains a manufactured home park. The parcel to the south contains a single-family home and the parcel to the west is vacant land.
9. Within the Area of City Impact, Latah County has adopted the City of Moscow SR Zoning Code. According to the City of Moscow Zoning Code, the purpose of the SR Zoning District is,

“to create and protect a permanent single-family residential neighborhood at a very low density. Where properly located and controlled, specified rural uses, including pasturage of livestock, may be allowed. Because large areas are contained within lots in this zoning district, the demand for parking is to be satisfied by spaces located entirely on private property. Public improvements are to be designed to serve the rural, low intensity uses permitted in this zoning district; for this reason and because some uses permitted in the SR zoning district may not be compatible with more intensive zoning districts, the following conditions shall apply to the designation of land in the SR zoning district.

- 1. Local streets developed to a reduced standard especially applicable in the SR zoning district shall not provide primary access to development with a higher density than permitted in the SR zoning district.*
 - 2. The minimum size of an SR zoning district shall be ten (10) acres.*
 - 3. The SR zoning district shall be located only in areas specifically designated A or A/LR on the Comprehensive Plan Map. Because the SR zoning district may interfere with higher density, more efficient land use, it should be applied where such interference would be unlikely, such as in areas primarily rural in character and not close to schools, public facilities and shopping areas. The SR zoning district should not be applied where the reduced street standards permitted would interfere with present or future transportation needs for the area in which the SR zoning district is proposed.*
 - 4. After zoning and development of land in the SR zoning district occurs, changes from this zoning district can only take place concurrently with or after redevelopment of streets and utilities to standards applicable in the proposed zoning district for which the person is applying.”*
10. The 2019 City of Moscow Comprehensive Plan Land Future Use and Growth Plan Map designates the subject property as Suburban Residential.
 11. According to Chapter 2 of the Comprehensive Plan, Community Character and Land Use, Suburban Residential designated areas are,

“areas appropriate for larger lots and fringe area development at gross densities ranging from 0.85 to 1.55 dwelling units per acre. These areas are generally located within the northern reaches of the City along north Polk Road and Almon/Mix Road where public services are limited, topography is

somewhat challenging, and streets are currently developed to a lesser standard. Clustered development with preservation of open spaces and sensitive areas or steep topography should be promoted within these areas. The use of this designation should be limited to areas that will not impede more intense development in the future where such more intense development can be accommodated. The appropriate current zoning to be applied to Suburban Residential designated areas is Suburban Residential (SR). ”

12. The subject property is accessed via Highway 95 which is a 24-foot-wide paved road with two travel lanes, minimal gravel shoulders, no sidewalks, curbs, or gutters.
13. The proposed development meets all applicable zoning requirements. Latah County to verify for compliance of building requirements.
14. Water is currently available to the subject property via a private well and sewer is available via a private septic system. The applicant has an approved permit from Idaho Department of Public Health for Subsurface Sewage Disposal.
15. Conditions of the permit issued by the Department of Public Health for water and sewer require five (5') setbacks for the water and sewer lines between existing and proposed building foundations and six (6') of separation between each trench line. This prevents the proposed building from being shifted further to the northeast to meet the required setbacks.

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 applicant has demonstrated that special conditions and/or circumstances exist which are peculiar to the property (such as size, shape, topography or location) which are not applicable to other property similarly situated in the same zoning district.** Conditions of the permit issued by the Department of Public Health for water and sewer require five (5') setbacks for the water and sewer lines between existing and proposed building foundations and six (6') of separation between each trench line. This prevents the proposed building from being shifted further to the northeast to meet the required setbacks.
2. **The applicant has demonstrated that, because of the aforementioned special conditions of the property, application of the provisions of this Zoning Code would impose undue hardship and would deprive the property owner of rights commonly enjoyed by owners of other property similarly situated in the same zoning district under the terms of this Zoning Code.** It has been determined to be an undue hardship to require the applicant to relocate an existing building and reroute water and sewer lines to meet the setbacks and conditions of the Department of Public Health conditions.

3. **Granting of the variance will not be in conflict with the public interest or injurious to property or persons in the vicinity of the subject property.** Granting of the variance will not be in conflict with the public interest and the proposal is not injurious to the property or persons in the vicinity of the subject property. Additionally, no testimony was received in opposition to the proposal.

III. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City of Moscow Board of Adjustment recommends approval of the proposed Variance application to reduce the rear and side yard setbacks for a proposed new single-family dwelling located at 2375 N Highway 95 to Latah County.

PASSED BY THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW THE 24 DAY
OF May, 2024.



Joe Bazzoli, Chair
Board of Adjustment