

BOARD of ADJUSTMENT



Joe Bazzoli
Board Chair
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Public Hearing
~ Minutes ~

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

Tuesday
October 22, 2024

7:00 PM

Council Chambers
206 E Third Street

Bazzoli called the meeting to order at 7:00 PM

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

REGULAR AGENDA

1. Approval of June 26, 2024, Minutes (ACTION ITEM)

Schutz moved for approval of the minutes as written, seconded by Comstock. Vote by Acclamation; Ayes: Bush, Comstock, Kinkeade, Schutz, Thomson (5) Nays: None. Abstentions: Bazzoli, Dickinson (2). 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: Proposal for a Variance at 1906 Nursery Street. Permit Application LUP2024-0033 (ACTION ITEM)

Variance application to reduce rear yard setback for a single-family dwelling within the Multiple Family Residential Zoning District (R-4) located at 1906 Nursery Street, per Moscow City Code 4-4-2.

Hennrich presented the Variance (VAR) request as described above, and recommended approval with no conditions. Staff explained how they review site plans to determine what is the front, back, and side yards of any given property. The subject property is in a subdivision that was originally platted as a Planned Unit Development (PUD) by Moscow Affordable Housing Trust (MAHT), but they have agreed to let Palouse Habitat for Humanity develop one of the lots. The alley through the subdivision, and behind the subject property, is 24-feet wide. Hennrich explained about the different requirements for front and back yard setbacks and how those change depending on the zoning district. There was a short discussion about landscaping in the street sight-triangle. There would not be a landscape buffer requirement based on the zoning of the surrounding property.

The Public Hearing opened at 7:12 PM

Jennifer Wallace (applicant), Moscow, introduced herself as the Executive Director of Palouse Habitat for Humanity, describing the mission statement and work that the nonprofit does. They are proposing building a single-level home because of their focus on creating ADA accessible houses.

The Public Hearing closed at 7:15 PM

There was a discussion about the difficult shape of the subject property and how the applicant designed a site plan that provides single-floor accommodations. The Board appreciated the work that Habitat for Humanity does for the community and agreed that the proposed variance meets the relevant criteria and standards.

Comstock moved for approval of the VAR to reduce the rear yard setback to 10-feet with no conditions and directed Staff to prepare the draft Relevant Criteria and Standards document. The motion was seconded by Schutz. Roll Call Vote; Ayes: Unanimous (7). Nays: None. Abstentions: None. Motion carried.

4. Public Hearing: Proposal for a Conditional Use Permit at 110 S Jackson Street. Permit Application LUP2024-0029 (ACTION ITEM)

Conditional Use Permit application for a proposed large daycare located at 110 S Jackson Street within the Central Business (CB) Zoning District, per Moscow City Code 4-3-4.

Hennrich presented the Conditional Use Permit (CUP) request as described above, and recommended approval with no conditions. Staff could not recall which of the previously approved CUPs, from 2012 or 2016, were for large daycares but at least one was. The proposed daycare would operate in two areas of the property: the church basement and on the main floor of the blue house. The proposed loading and unloading vehicle spaces are sufficient for daycare requirements. There are no zoning restrictions for a daycare to operate close to a business serving alcohol, however the applicants would need to pursue a daycare license, for which they have their own requirements. The maximum number of children allowed would be clarified under the daycare license requirements, which would most likely be set based on the square footage of the building and play area.

The Public Hearing opened at 7:29 PM

Jessie Davis (applicant), Hollis NH, talked about the intensive process of getting licensed to be an intervention center and that they now want to offer childcare, primarily for their current clients. The second floor of the blue house would not be used for the daycare and the church would be the primary area.

Janice O'Toole, Colton WA, spoke in favor of the proposed daycare and providing more services to the current early learning intervention center clients.

The Public Hearing closed at 7:33 PM

The Board talked about the urgent need for more daycare options in the community and how this building used to be a daycare in the recent past. It would also offer opportunities for the University of Idaho students to get work experience before graduation.

Thomson moved for approval of the CUP for a large daycare with no conditions and directed Staff to prepare the draft Relevant Criteria and Standards document. The motion was seconded by Dickinson. Roll Call Vote; Ayes: Unanimous (7). Nays: None. Abstentions: None. Motion carried.

REPORTS

ANNOUNCEMENTS

UPCOMING EVENTS/MEETINGS

The next Board of Adjustment meeting is scheduled for 7:00 PM on October 28, 2024.

The meeting adjourned at 7:38 PM



Joe Bazzoli, Chair

10/28/2024
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 VARIANCE REQUEST TO REDUCE THE REAR YARD SETBACK ON A LOT LOCATED AT 1906 NURSERY STREET WITHIN THE MULTIPLE FAMILY RESIDENTIAL (R-4) ZONING DISTRICT PER MOSCOW CITY CODE 4-4-2.

WHEREAS, the applicant filed an application for a variance on September 17, 2024; and

WHEREAS, this matter came before the Moscow Board of Adjustment during a duly noticed public hearing on October 22, 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, Comprehensive Plan, and Moscow City Code.
2. The applicant, Habitat for Humanity, is requesting a Variance to reduce the rear yard setback located at 1906 Nursery Street within the Multiple Family Residential Zoning District (R-4).
3. Habitat for Humanity has proposed to build a single level, zero-step entrance single family dwelling with an ADA accessible bathroom, hallway, doorways, and bedrooms all on one level.
4. Lots within the R-4 Zoning District require a minimum width of fifty feet (50') with an area of 5,000 sf for a single-family house. Setbacks on a conforming R-4 zoned parcel containing a single-family home are 15 feet in the front, 20 feet in the rear, a street side setback of 13 feet and all other sides require a combined total of 15 feet with no side being less than 5 feet.
5. The applicant has requested the rear yard setback on the southwest portion of the site be reduced from the required 20 feet to a 10-foot setback. All other required setbacks are to be met.
6. The subject property is located within the Multiple Family Residential (R-4) Zoning District. According to the Zoning Code 4-2-4(G):

“The R-4 zoning district provides for the most intense residential land uses permitted in the community. It is to be applied where activity levels are high and adequate public facilities are available, especially near the University of Idaho campus or the City Central Business Zoning District. Adequate transportation

access should be given high priority in determining the appropriate location for the R-4 zoning districts.”

7. Adjacent properties to the south, east and west are all also within the R-4 Zone. The property to the north across Powers Ave is zoned Farm Ranch Outdoor Recreational (FR).
8. The subject property is approximately 5,049 square feet in size and is bound by Nursery Street to the west, Powers Ave to the north and an alley directly to the south. The parcel adjacent to the west is currently vacant land and owned by the Moscow Affordable Housing Trust.
9. According to the Comprehensive Plan, an objective of Chapter 2 is to, “provide a mix of housing that meets the economic and lifestyle needs of the diverse population of Moscow.”
10. According to the Land Use and Community Character section of the Plan, the subject property is designated as High Density Residential. These areas are,
“intended to allow the highest density residential development at common densities between 15 and 26 units per acre. Areas appropriate for this designation include those located adjacent to areas of higher activity where there is a range of uses.”
11. Based upon the abnormal shape and topography of the lot, and the fact that Habitat for Humanity is seeking to build a single level home with ADA compliant features, the Board concludes that it is appropriate to grant a variance to the rear yard setback.

BASED ON THE ABOVE RELEVANT FACTS AND CONCLUSIONS, THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW HEREBY FINDS THE FOLLOWING RELEVANT CRITERIA AND STANDARDS:

II. RELEVANT CRITERIA AND STANDARDS

1. **Are there special conditions or circumstances that exist which are peculiar to the property (such as size, shape, topography or location) which are not applicable to other properties similarly situated in the same Zoning District?** The subject property is a conforming lot and is 5,049 square feet in size, however the shape of the lot renders a portion of the south side of the parcel relatively unusable as it is elongated with varying distances as the southern property line curves. Therefore, the Board finds that the existing shape of the subject property is a special condition upon the property.
2. **Because of the aforementioned special conditions of the property, would application of the provisions of the Zoning Code impose undue hardship and deprive the property owner of rights commonly enjoyed by owners of other property similarly situated in the same Zoning District?** If the application of the Zoning Code were applied for setbacks the applicant would be limited in the design flexibility to build an accessible single-story home.

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 proposed Variance will allow a new single level accessible dwelling to be constructed that supports the need for affordable housing in the area.

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 rear yard setback located at 1906 Nursery Street with no conditions.

PASSED BY THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW THE 28
OF OCTOBER, 2024.



Joe Bazzoli, Chairman
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 CONDITIONAL USE PERMIT APPLICATION FOR A LARGE CHILD CARE FACILITY LOCATED AT 110 S JACKSON STREET IN THE CITY OF MOSCOW, IDAHO, WITHIN THE CENTRAL BUSINESS (CB) ZONING DISTRICT PER MCC 4-3-4.

WHEREAS, the applicant filed an application for a Conditional Use Permit on August 27, 2024; and

WHEREAS, this matter came before the Moscow Board of Adjustment during a duly noticed public hearing on October 22, 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, Comprehensive Plan, State Statutes, and Moscow City Code.
2. The applicant is proposing to operate a Large Child Care Facility at 110 S Jackson Street. The subject property is located within the Central Business (CB) Zoning District which requires a Conditional Use Permit (CUP) for Large Child Care Facilities per MCC 4-3-4.
3. A large Child Care Facility is defined as a facility providing childcare for 21 or more children.
4. The subject property is a church building, a 1963 daycare/school addition, and a former residential building also used as a daycare.
5. The subject property has been the location for daycare facilities such as Success by 6, New Discovery's Playschool, and Learning Garden.
6. Historical records show that New Discovery's Playschool and Learning Garden were approved for Conditional Use Permits in 2012 and 2016 respectfully.

7. The subject property has more recently been occupied by Lotus Early Learning, Behavior Intervention Program, which is an allowed use by right. Lotus Early Learning would like to become licensed as a large daycare facility.
8. Since the subject property has not been used as a daycare facility for over two years, the existing CUP is null and void and the applicant must acquire a Conditional Use Permit.
9. The facility is proposing to operate at the new location from 8:00 a.m. to 5:00 p.m. local time, Monday through Friday.
10. The subject property is 0.36 acres in size. located at the southwest corner of First Street and Jackson Street.
11. Adjacent property uses include an apartment complex to the north, Zions Bank to the east, a planning and architecture firm with residential uses above to the south, and residential office uses across Jackson Street to the west.
12. Adjacent properties to the north, south and east are all within the CB Zoning District. The Residential Office (RO) Zone is located to the west across Jackson Street
13. Chapter 2, Community Character and Land Use, designates the subject property as Urban Commercial (UC). Urban Commercial designated areas are intended to provide for the most intensive mix of commercial and residential uses in a pedestrian orientated manner. This is appropriately applied within the City's downtown urban core and the immediate surrounding area where it is deemed appropriate.
14. The Zoning Code has specific use standards for large Child Care Facilities within MCC 4-3-5(C).
15. Permitted uses in the CB Zone are not required to provide off-street parking. Additional parking is available on a first-come, first served manor on First Street.
16. A large daycare facility is required to provide loading space for at least two (2) vehicles provided in a manner that will not result in a safety hazard and can be provided on-street where the space is reserved or generally available and located on the same side of the street; off-street where ingress and egress does not require backing movements; or other loading space as determined safe by the City Engineer considering exiting street and traffic conditions
17. The applicant has proposed using two conventional parking spaces located behind the property via alley access to satisfy the loading zone requirement.
18. Child Care Facilities are required to provide a contained or fenced outdoor play area sufficient to comply with the spatial standards required by City Code. Sight-proof fencing

or sight-proof landscaping shall be provided on perimeters of such outdoor play areas where necessary to protect the privacy of neighbors' yards.

19. The applicant has provided a sufficient fenced outdoor play area on the site plan that complies with City Code requirements.

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:** Large Child Care Facilities are conditionally permitted in the Central Business (CB) Zoning District per MCC 4-3-4.
2. **The character of the proposed use will be in harmony with the neighborhood and surrounding land uses:** The proposed large Child Care Facility is consistent with the existing activity levels in the surrounding area. The site has historically been the location of several daycare facilities.
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 property is located on the corner of First and Jackson Street. The facility will be served by the existing public facilities. Parking spaces are not required of uses in the Central Business District. The site provides the required loading spaces at the rear of the subject property accessed via the public alley. Additional parking is available along First Street for the surrounding uses.
5. **The proposed use will not endanger the public health or safety if located where proposed:** The proposed use will not endanger the public health or safety on the proposed site since proper safety measures are being taken to ensure children's safety. Loading zone spaces are being designated where the children will be dropped off at the rear and access to the facility is from the rear gate. This does not require crossing of the vehicle maneuvering and travel areas.
6. **Proposed use meets all applicable development standards of the Zoning Code:** The use meets all applicable development standards of the zoning code including but not limited to the outdoor play area and loading zones requirements.
7. **The proposed use will not be in conflict with the Comprehensive Plan:** The use is consistent with the Comprehensive Plan as it supports the goals and strategies of multiple chapters and does not conflict with other sections of the Plan.

III. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City of Moscow Board of Adjustment approves the application for a Conditional Use Permit for a Large Child Facility at 110 S Jackson Street with no conditions.

PASSED BY THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW THE 28 DAY
OF OCTOBER, 2024.



Joe Bazzoli, Chair
Board of Adjustment