

BOARD of ADJUSTMENT



Jerry Schutz
Board Chair
BOA@ci.moscow.id.us

Public Meeting
~ Agenda ~

Lucy Falcy
Staff Liaison
208.883.7095

<https://www.ci.moscow.id.us/581/Agendas-and-Minutes>

Monday
November 10, 2025

5:30 PM

Council Chambers
206 E Third Street

WELCOME AND ATTENDANCE

REGULAR AGENDA

1. **Approval of Minutes from November 4, 2025 (ACTION ITEM)**

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

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.

3. **Approval of Reasoned Statement of Relevant Criteria and Standards (ACTION ITEM)**

Variance application to reduce the required 20-foot rear yard setback by 3 feet for a proposed addition to an existing single-family dwelling at 403 N Polk St within the Medium Density Residential (R-3) Zoning District, per Moscow City Code 4-4-2. Permit Application LUP2025-0024.

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

REPORTS

ANNOUNCEMENTS

UPCOMING EVENTS/MEETINGS

ADJOURN

NOTICE: It is the policy of the City of Moscow that all City-sponsored public meetings and events are accessible to all people. If you need assistance in participating in this meeting or event due to a disability under the ADA, please contact the City's ADA Coordinator by phone at (208) 883-7600, TDD (208) 883-7019, or by email at adacoordinator@ci.moscow.id.us at least 48 hours prior to the scheduled meeting or event to request an accommodation. The City of Moscow is committed to ensuring that all reasonable accommodation requests are fulfilled.

BOARD of ADJUSTMENT



Jerry Schutz
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Public Hearing
~ Minutes~

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

Tuesday
November 4, 2025

7:00 PM

Council Chambers
206 E Third Street

Schutz called the meeting to order at 7:00 PM

MEMBERS PRESENT: Jerry Schutz, Chair; Marshall Comstock, Ivy Dickinson, Tim Kinkeade, Tim Thomson, Laura Weldon
MEMBERS ABSENT: Steve Bush
STAFF: Lucy Falcy, Jennifer Fleischman, Mike Ray

REGULAR AGENDA

1. Approval of Minutes from June 24, 2024 (ACTION ITEM)

Comstock moved for approval of the minutes as written, seconded by Thomson. Vote by Acclamation; Ayes: Comstock, Dickinson, Schutz, Thomson, Weldon (5) Nays: None. Abstentions: Kinkeade (1). 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 offered.

Kinkeade arrived at 7:02 PM

3. Public Hearing: Proposal for a Variance at 403 North Polk Street. Permit Application LUP2025-0024 (ACTION ITEM)

Variance application to reduce the required 20-foot rear yard setback by 3 feet for a proposed addition to an existing single-family dwelling at 403 N Polk St within the Medium Density Residential (R-3) Zoning District, per Moscow City Code 4-4-2.

Falcy presented the Variance (VAR) request as described above and explained the proposed differences between the current application and the previous application that was seen by the Board in April, 2025. The Moscow Zoning Code has a provision regarding accessory structures being no more than 50% of the backyard. The public right-of-way on both Polk Street and "C" Street is 80-feet. Both streets' physical width is between 20- to 22-ft.

The Public Hearing opened at 7:13 PM

Lincoln Wilson (applicant), Moscow, provided a brief presentation (see attached) for the Board and offered to answer any questions. The applicants did not conduct a survey for the property.

Manisha Wilson (applicant), Moscow, talked about meeting the criteria for a VAR and asked that the letters that were submitted late be allowed into the record.

Christine Cohen, Moscow, spoke in favor of the VAR as a character witness of the applicants, and encouraged the Board to approve the request.

Kenton Bird, Moscow, spoke against the application regarding the historical aspects of the subject house.

Cajus Rommens, Moscow, opposed the VAR on the grounds that the criteria have not been met, and that the expansion would have a negative impact on the neighborhood because the proposed garage is too large. He also had concerns that the western property line, which is currently delineated by a fence, would be ignored without a proper survey being completed. He reiterated some of the written concerns about increased drainage onto the property to the west.

Tara Hudiburg, Moscow, mentioned that only two of the neighbors were invited to a meeting with the owners for a discussion about the proposed changes to the project.

Julie Thomas, Moscow, explained that she did not give approval of the proposed garage plans which would be built 12-feet from her property line. She said that she still has concerns about the height of the proposed construction and the potential drainage issues onto her property. She was also worried about the property line being moved closer to her home without a survey. She requested the Board deny the proposed VAR.

Alexis Bailey, Moscow, does not support the proposed project and argued that the application does not meet the criteria of a VAR. She said that it is part of the character of the Fort Russell neighborhood to have large spaces between each building.

Kristopher Waynant, Moscow, spoke in general that the neighborhood does not disagree with the applicants having a garage, but does not want it to be built at the expense of the neighbors.

Manisha Wilson (applicant), Moscow, briefly responded to one of the comments regarding their proposed project.

Lincoln Wilson (applicant), Moscow, talked about the neighborhood meeting invitation that was sent out via email to discuss changes to the project and addressed a question about where the front door would be or what the address would be if the designated front changed. He responded to some of the other comments made and emphasized the ability to build a detached two-car garage closer to the western property line by right. The applicants encouraged the Board to issue conditional approval with a permanent 12-foot side yard setback.

Staff reiterated that the application the Board is reviewing is for a Variance to allow a reduction of the rear yard setback by 3-feet so that the applicants can build a garage, and the criterion for a Variance needs to be demonstrated before approval. An attached single car garage could be built by right, but the applicants want to be able to park both cars in the garage. The applicant has surveyed the one-block area around the subject property to see how many other homes had attached garages.

The Chair read into the hearing record two (2) other written comments that were submitted after the public hearing comment deadline, one in opposition and one in favor of the application (see attached).

The Public Hearing closed at 8:07 PM

The Board confirmed that the Public Hearing was posted and published according to Idaho State code. There was an extensive discussion about VAR criteria and whether the application meets or does not meet it. A detached accessory structure could be built with a 5-foot setback and be up to 1000-sq feet but could not take up more than 50% of the rear back yard. The Board concluded that the applicant would build a garage regardless of whether a VAR is approved or not.

Thomson moved to deny the VAR to reduce the required 20-foot rear yard setback by 3 feet at 403 N Polk St and directed Staff to prepare the draft Relevant Criteria and Standards document. The motion was seconded by Weldon. Roll Call Vote; Ayes: Dickinson, Kinkeade, Thomson, Weldon (4). Nays: Comstock, Schutz (2). Abstentions: None. Motion carried.

REPORTS

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UPCOMING EVENTS/MEETINGS

The next Board of Adjustment meeting is scheduled for 5:30 PM on November 10, 2025.

The Relevant Criteria and Standards will be reviewed at the meeting on Monday, November 10th.

The meeting adjourned at 8:27 PM

Jerry Schutz, Chair

Date

DRAFT

**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
FOR A PROPOSED ADDITION TO A SINGLE-FAMILY DWELLING AT 403 NORTH
POLK STREET WITHIN THE MEDIUM DENSITY RESIDENTIAL (R-3) ZONING
DISTRICT PER MOSCOW CITY CODE 4-4-2.**

WHEREAS, the applicant filed an application for a variance on September 2, 2025; and

WHEREAS, this matter came before the Moscow Board of Adjustment during a duly noticed public hearing on November 4, 2025; 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 applicants, Lincoln and Manisha Wilson, are requesting a variance to reduce the rear yard setback for a proposed building addition on a lot located at 403 North Polk Street within the Medium Density Residential (R-3) Zoning District.
3. The applicants are proposing to reduce the required twenty-foot (20') rear yard setback to seventeen feet (17') to accommodate a proposed 912 sf addition to their single-family home.
4. The proposed addition includes a two-car garage, mudroom, and bonus room above the garage.
5. The existing lot is located on the corner of Polk Street and 'C' Street. Since corner lots have two street frontages, property owners are able to choose which street frontage to designate as the front property line and which to designate as the street side property line. The rear property line is always the opposite of the designated front property line.
6. The subject property has historically designated the front property line along Polk Street and the rear property line as the west property line. The current setbacks are fifteen feet (15') for the front setback measured from the back edge of the sidewalk closest to the lot on Polk Street, thirteen feet (13') for the street side setback measured from the back edge

of the sidewalk closest to the lot on 'C' Street, five feet (5') for the side property line to the north, and twenty feet (20') for the rear property line to the west.

7. In order to accommodate the proposed addition, the applicants wish to declare the front property line along 'C' Street and the rear property line as the north property line. The existing house is currently seventeen feet (17') from the north property line, which does not meet the twenty-foot (20') rear yard setback requirement.
8. The applicants have requested a three-foot (3') variance in order to designate the north property line as the rear property line. The minimum side yard setback is five feet (5'), which would allow the proposed addition to be constructed five feet (5') from the west property line if the variance is approved, though the applicants suggested that the side yard setback be increased to twelve (12) feet to reflect the proposed addition as a condition of approval. The fifteen foot (15') front setback would be measured from the back edge of the sidewalk closest to the lot on 'C' Street and the thirteen foot (13') street side setback would be measured from the back edge of the sidewalk closest to the lot on Polk Street.
9. The subject property is located within the Medium Density Residential (R-3) Zoning District.
10. The R-3 Zone provides for an increase over the density allowed by the R-2 zoning district by permitting different types of housing construction. It is appropriate where activity levels are moderate, terrain permits construction of somewhat larger structures, and where public systems and neighborhood facilities can accommodate a greater intensity of land use as guided by the Comprehensive Plan.
11. Uses permitted within the R-3 Zone include single-family dwellings, two family dwellings, twinhomes, townhouses, market and community gardens, group and small childcare facilities, and public parks and recreation facilities. All surrounding properties are also located within the R-3 Zone.
12. The subject property is approximately 11,050 square feet in size and is bound by 'C' Street to the south and Polk Street to the east.
13. The subject property is within the Fort Russell Historic District and is listed as a contributing building. Surrounding properties are primarily single-family dwellings which are also located within the Fort Russell Historic District.
14. The subject property is adjacent to 'C' Street and Polk Street which are both local neighborhood streets.
15. Chapter 2 of the Comprehensive Plan, Land Use and Community Character, designates the subject property as Urban Residential.
16. Urban Residential designated areas are,

“comprised of more compact residential development at densities of five to 15 units per net acre. This designation encompasses many of the older and historic residential neighborhoods of town which are located in close proximity to the City core and are developed in a traditional grid street pattern with alley access. Prevailing lot sizes within existing neighborhoods generally range between 5,000 to 7,000 square feet in size. Lands designated as Urban Residential are generally

appropriately zoned Medium Density Residential (R-3) or Multiple Family Residential (R-4).”

17. During the public testimony portion of the public hearing there were five (5) neighbors who submitted verbal testimony which was generally opposed to the proposed project and variance, one (1) neighbor who submitted verbal testimony which was general in nature, and one (1) resident who submitted verbal testimony which was supportive of the proposed project and variance.
18. There were four (4) written comments which were submitted prior to the meeting, three (3) of which were all generally opposed to the proposed project and variance and one (1) which was in support of the request.
19. There were two (2) written comments which were submitted outside of the testimony submittal period and which were read into and included in the record. One (1) comment was in support of and one (1) was opposed to the proposed project and variance.
20. The Board took into consideration all of the public testimony that was received on the proposal and also the applicant’s testimony and determined that the proposal would be detrimental to the surrounding area.
21. The Board finds that there are similarly sized lots within the surrounding area and the subject property contains no special circumstances or conditions.

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.**

The Board finds that the property is comparable in size to other lots within the surrounding neighborhood and is larger than many. The Board finds that there is nothing peculiar about the size, shape, and topography of the subject property which would warrant a variance. There are options within the existing code to construct a similarly sized detached garage five (5) feet from the west property line, and also options outside the current setback requirements to construct a single-car garage onto the existing house.

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.**

The Board finds that there are no special conditions or hardships that have been identified on the property. There are currently options for a garage addition outside of required setbacks and

options within the existing setback requirements which would allow for the construction of a detached garage. Detached garages are common within the Fort Russell Historic District.

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.**

The Board finds that there has been a substantial amount of public testimony in opposition to the variance which indicates that granting of the variance would be in conflict with the public interest in the surrounding area.

III. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City of Moscow Board of Adjustment denies the application for a Variance to reduce the rear yard setback for a proposed building addition on a lot located at 403 N Polk Street.

DENIED BY THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW THE _____
OF _____, 2025.

Jerry Schutz, Chair
Board of Adjustment

* In accordance with Moscow City Code Section 4-6-5, any applicant, City representative or affected person, may appeal a final decision of the Board of Adjustment or of the Planning and Zoning Commission to the Council within ten (10) calendar days following a final decision of such Board or Commission regarding an interpretation of or administration of the Zoning Code by the Zoning Administrator, which includes: a variance application, conditional use permit, or PUD, by filing written notice of appeal specifying the grounds therefor with the City Clerk, or their designee. Grounds upon which an appeal to the City Council may be made following a final decision of the Board of Adjustment or of the Planning and Zoning Commission includes the following:

1. Decision violates statutory or constitutional provisions;
2. Decision exceeds statutory authority;
3. Decision was made upon unlawful procedure;
4. Decision was unsupported by substantial evidence in the records or as a whole; or
5. Decision was arbitrary, capricious, or an abuse of discretion.