

# BOARD of ADJUSTMENT



Jerry Schutz  
Board Chair  
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**Public Hearing**  
~ Minutes~

Lucy Falcy  
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**Tuesday**  
**December 16, 2025**

**7:00 PM**

**Council Chambers**  
**206 E Third Street**

**Schutz called the meeting to order at 6:59 PM**

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

## REGULAR AGENDA

### 1. Approval of Minutes from December 9, 2025 (ACTION ITEM)

Comstock moved for approval of the minutes as written, seconded by Thomson. Vote by Acclamation; Ayes: Unanimous (6) 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 offered.

### 3. Public Hearing: Proposal for a Variance at 939 North Mountain View Road. Permit Application LUP2025-0023 (ACTION ITEM)

*Variance application to reduce combined and street side yard setbacks on a nonconforming lot located at 939 N Mountain View Rd within the Single-Family Residential (R-1) Zoning District, per Moscow City Code 4-4-2.*

Comstock declared a conflict of interest and sat in the audience for Agenda Item No.3.

Falcy presented the Variance (VAR) request as described above and recommended approval with no conditions, noting challenges posed by site topography, dimensions, and access limitations. If Thatuna Ave was to be developed by the City along the northside of the property, it would include a large construction project to create a 14-foot retaining wall or wide slope because of how steep the hill is. The Thatuna Ave right-of-way (ROW) is currently being used as a walking path for the neighboring community. The proposed development on the subject property has planned a driveway to accommodate a turn-around for the applicant to avoid backing out onto Mountain View Road.

The Public Hearing opened at 7:12 PM

Alison Tompkins (applicant), Moscow, explained that the purchase of the property is conditional of an approved Variance. The applicant received an Engineering ROW improvement waiver from City Council earlier in the year, but declined to request a vacation of the Thatuna Ave ROW so the neighbors could

continue to use the walking path as they have been. Tompkins talked about the proposed development and working with the topography of the steep parcel.

Nancy Chaney, Moscow, spoke in favor of the proposed Variance and recommended the City of Moscow Comprehensive Plan be updated to address the stretch of Thatuna Ave along the north side of the subject parcel. There is a City of Moscow official sign indicating the ROW as a pedestrian pathway. She agreed that the topography of the property offers significant and unique challenges but suggested the Board consider adding a condition to include landscaping to prevent erosion and run-off into the wetland on the west side.

Alison Tompkins (applicant), Moscow, offered to provide a landscape plan as a condition of approval, stating her experience as a professional landscape architect with experience working around wetlands.

The Public Hearing closed at 7:21 PM

The Board discussed the VAR criteria and how the subject property in combination with the application met those. There was a conversation about encouraging the in-fill of empty City parcels and that the application would be a good use of a property that has been vacant for many years. The applicant has received a ROW improvement waiver for Thatuna Ave from Engineering, and the proposed Mountain View Road improvements have been already funded with a grant application for construction next year. There was an extended discussion about the possibility of requiring a landscape plan as a condition of approval to preserve the wetlands to the west of the subject property.

Bush moved to approve the VAR at 939 N Mountain View Rd with a recommendation to the applicant that they work to preserve the wetlands to the west with landscaping and directed Staff to prepare the draft Relevant Criteria and Standards document. The motion was seconded by Weldon. Roll Call Vote; Ayes: Bush, Dickinson, Schutz, Thomson, Weldon (5). Nays: None. Abstentions: Comstock (1). Motion carried.

Comstock left the meeting at 7:33 PM

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

*Conditional Use Permit application to establish a sign at 2010 South Main Street as historically significant to allow its continued use and face change within the Motor Business (MB) Zoning District, per Moscow City Code 4-6-7-I. Permit Application LUP2025-0027.*

Dickinson moved for approval of the Reasoned Statement of Relevant Criteria and Standards for the Variance as written, seconded by Weldon. Roll Call Vote; Ayes: Bush, Dickinson, Schutz, Thomson, Weldon (5). Nays: None. Abstentions: Comstock (1). Motion carried.

## **REPORTS**

## **ANNOUNCEMENTS**

## **UPCOMING EVENTS/MEETINGS**

*The next Board of Adjustment meeting is scheduled for 5:30 PM on December 23, 2025.*

The next meeting will have Election of Officers for 2026 on the agenda.

**The meeting adjourned at 7:35 PM**

  
\_\_\_\_\_  
Jerry Schutz, Chair

12/23/2025  
\_\_\_\_\_  
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 STREET SIDE YARD SETBACK ON A LOT LOCATED AT 939 NORTH MOUNTAIN VIEW ROAD WITHIN THE LOW DENSITY SINGLE-FAMILY RESIDENTIAL (R-1) ZONING DISTRICT PER MOSCOW CITY CODE 4-4-2.**

**WHEREAS**, the applicant filed an application for a variance on July 31, 2025; and

**WHEREAS**, this matter came before the Moscow Board of Adjustment during a duly noticed public hearing on December 16, 2025; and

**WHEREAS**, during the public hearing and having considered the matter including all testimony presented, the Moscow Zoning Board of Adjustment approved the proposed Zoning Permit and instructed Staff to prepare the Reasoned Statement of Relevant Criteria for the Board’s review and approval; and

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

**THE 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, Alison Tompkins, is requesting a Variance to reduce the street side yard setback located at 939 North Mountain View Road within the Low Density Single-Family Residential (R-1) Zoning District.
3. Alison Tompkins has proposed to build a single-family dwelling with a two-car garage.
4. 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.”
5. North Mountain View Road is a designated Minor Arterial in the Moscow Comprehensive Plan.

6. According to the Land Use and Community Character section of the Plan, the subject property is designated as Auto-Urban Residential. These areas:  
*“contain predominantly single-family detached homes on lots ranging from 7,000 to 11,000 square feet in size and are more isolated from surrounding uses which may require residents to rely more on automobile transportation. This designation includes those areas generally anticipated to be developed for low- to moderate-density residential uses at densities between three to six units per acre which could include a mix of detached single-family, twinhome, and townhome residential dwellings. Appropriate current zoning for Auto-Urban Residential designated areas includes Low Density Residential (R-1), Moderate Density Single Family Residential (R-2) and Medium Density Residential (R-3) in order to include a mixture of attached and detached dwellings where appropriate.”*
7. The subject property is located within the Low Density Single-Family Residential (R-1) Zoning District. According to the Zoning Code 4-2-4-D:  
*“Low Density, Single Family Residential Zoning District (R-1). Purpose: The R-1 zoning district is a low-density residential zone appropriate where the following circumstances are present:*
  1. *Single family dwellings predominate in the area.*
  2. *The physical character of the area does not lend it to more intense development, either by virtue of irregular topography, restricted access, division of the land into subdivision lots of a size greater than the minimum lot size required by this zoning district, or the application of the Plan policies to the land in question”*
8. Adjacent properties to the south, east and west are all also within the R-1 Zone.
9. Lots within the R-1 Zoning District require a minimum width of eighty (80) feet with an area of 9,600 sf for a single-family house. The subject lot is nonconforming for both lot width, sixty (60) feet, and area, 8,100 sf.
10. The subject site was originally recorded as 14,580 square feet with a ninety (90) foot width and a depth of 165 feet. It became nonconforming through right-of-way dedications to the City. This included a thirty (30) foot dedication along the north side of the site along Thatuna Avenue and a thirty (30) foot dedication along North Mountain View Road along the property’s east edge.
11. Setbacks on a conforming R-1 zoned parcel containing a single-family home are twenty-five (25) feet in the front, twenty (20) feet in the rear, a street side setback of seventeen (17) feet and interior side yard of five (5) feet.
12. The applicant has requested the street side yard setback on the north edge of the site be reduced from the required seventeen (17) feet to five (5) feet. All other required setbacks are to be met.
13. The subject property is bound by North Mountain View Road to the east and a City-owned potential future extension of Thatuna Avenue to the north. The parcel immediately to the south is nonconforming and vacant and the property due west of the site is 1415 Thatuna Avenue.

14. The City has no immediate plans to develop Thatuna Avenue. Right-of-way improvements have been waived for the subject site on this undeveloped portion of Thatuna. The steep slope on this portion of Thatuna Avenue make its development costly.
15. The subject site gains access off of North Mountain View Road.
16. As an arterial, traffic is not permitted to back onto North Mountain View Road. The subject site is required to be designed with a vehicle turn-around.
17. A street development project to be completed summer 2026 anticipates building a guard rail along the western edge of the N. Mountain View Road turn that will block access to the northern portion of the subject site, limiting access to the southern portion.
18. The subject property loses approximately twenty-eight (28) feet in elevation from east to west. The proposed site design shows the proposed dwelling located closer to the access point on North Mountain View Road.
19. One (1) public testimony was received in favor of the variance request.
20. Based upon the size, width, topography, and access challenges of the lot, the Board concludes that it is appropriate to grant a variance to the street side yard setback.
21. The Board recommends that the applicant install landscaping below the house and driveway to slow and mitigate any water runoff onto the adjacent low-lying area to the west.

**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 subject site is a nonconforming lot in that it does not meet the minimum width and area for a single-family lot in the R-1 Zone. Additional special conditions on the site include steep topography and the site's location adjacent to a 90-degree turn in Mountain View Road requiring a guard rail to be installed along the northern portion of the site's developed street frontage. These conditions, combined with the site's restrictions on backing vehicles onto North Mountain View Road, create special conditions which are particular to the property.

- 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 applicant has adequately demonstrated that the site's dimension, slope, need for on-site vehicular turnaround utilizing a garage, and access restrictions would make a narrow house floorplan impractical and would significantly limit building options on the site in a way that would deprive the applicant to rights commonly enjoyed by other properties. This is a unique site and there are not many similarly situated properties.

**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 setback requirement that the applicant is requesting a variance from is for a street-side setback abutting a street that the City has no immediate plans to develop due to the slope of the right-of-way and its cost-prohibitive development requirements. Permitting a five (5) foot northern setback will not be in conflict with the public interest or persons in the vicinity of the subject property as the private properties to the north are sixty (60) feet away.

**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 street side yard setback located at 939 Mountain View Road with no conditions.

PASSED BY THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW THE 23<sup>rd</sup> OF December, 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.