



1. **ROLL CALL**

The Board of Zoning Appeals meeting was called to order at 5:30 p.m. with the following members present: Jon Richardson (1/1), Terry Bisbee (1/1), Darryl Peterson (1/1), Janet Hamilton (1/1), Valerie Roberts-Ropp (0/1), Brock Wells (1/1), Jackson Swearer (1/1), and Todd Carr (1/1).

Staff present were: Jim Seitnater, Interim Director of Planning & Development; Amy Allison, Senior Planner; Aaron Barlow, Associate Planner; and Charlene Mosier, Planning Technician.

2. **APPROVAL OF MINUTES**

The minutes of the December 11, 2018 meeting were approved on a motion by Bisbee, seconded by Richardson, passed unanimously.

3. **CORRESPONDENCE & STAFF REPORTS**

The documents and staff reports were accepted into the official record on a motion by Swearer, seconded by Peterson, passed unanimously.

4. **PUBLIC HEARING**

a. ZV18-000006 – Request to build a second detached garage for the property located at 3900 North Lakeview Road.

Request for a variance from Sec.27-314.G.4 (one garage per single-family residential lot) for the property located at 3900 North lakeview Road.

Carr asked if there were any outside contacts or conflicts of interest; there were none.

Barlow provided the staff presentation. He explained the current regulations allow only one detached garage per residential lot and he showed a drawing of the proposed site plan. The applicant would like to store agricultural implements that he uses to maintain the property in the proposed building. Photos of the existing detached garage and property were also shown.

Barlow reviewed the findings of fact required for variance request:

ANALYSIS OF FINDINGS OF FACT REQUIRED FOR VARIANCE REQUESTS:

Finding	Analysis	Met Not Met
<p>1. The request for a variance must arise from a condition which is unique to the property in question, is not commonly found on other parcels in the same zone or district and is not created by an action or actions of the property owner or applicant.</p>	<p>The property's relatively large size (20.6 acres) is not a unique enough condition to necessitate a second detached garage. There are several lots of equal or greater size within City Limits. The applicant intends to use the proposed garage to store agricultural implements needed to maintain the property to the east (which the applicant also owns). Staff provided several approvable alternatives that were not satisfactory for the applicant's needs. The applicant could attach the proposed garage to either of the existing structures on the lot or place the proposed structure on the adjacent lot. This variance request is a result of applicant preference and not from any unique conditions.</p>	<p><input type="checkbox"/> Not met</p>
<p>2. Granting of the variance must not adversely affect the rights of adjacent property owners or residents.</p>	<p>The proposed garage would be located near the center of the subject property. Because of the size of the lot, the amount of trees screening the lot, and the distance of the proposed structure from any adjacent properties, granting this variance request would not affect the rights of adjacent property owners or residents.</p>	<p><input checked="" type="checkbox"/> Met</p>
<p>3. Strict application of the zoning regulations must cause an unnecessary hardship for the property owner. The variance must not merely serve as a convenience to the applicant but must alleviate some demonstrable or unusual hardship or difficulty.</p>	<p>The applicant could conform to regulations if the proposed garage were attached to one of the two existing buildings on the subject property. Or, as stated above, move the proposed garage to the agricultural lot that the applicant has recently purchased. Strict application of the zoning regulations will not cause unnecessary hardship since feasible design alternatives are possible.</p>	<p><input type="checkbox"/> Not met</p>
<p>4. Granting of the variance must not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.</p>	<p>Permitting construction of the proposed garage would not adversely affect the public health, safety, morals, convenience or prosperity. However, granting the variance would impact the public order, changing how staff would have to interpret §27-314.G.4 and when a second garage would be permitted. If the Board of Zoning Appeals approves the requested variance, the Planning Commission will need to advise staff to revisit the regulations and make revisions that conform with the Board's determination.</p>	<p><input checked="" type="checkbox"/> <input type="checkbox"/> Mixed</p>
<p>5. Granting of the variance must not be contrary to the general spirit and intent of the Zoning Regulations.</p>	<p>The intent of §27-314.G.4 in the <i>Hutchinson Zoning Regulations</i> is to maintain a consistent and orderly development pattern in residential districts. Allowing a second garage on this lot would go against the intent of this regulation and the community's public order. The Board will need to advise staff to revisit the regulations and make revisions that conform with the Board's determination if they approve this request.</p>	<p><input type="checkbox"/> Not met</p>

Barlow said there are 23 residential parcels in the city larger than ten acres. The applicant owns an adjacent lot that is approximately 22 acres. The proposed building could be constructed on this vacant lot because the use of the structure is for storing agricultural equipment to maintain the property. This issue arose from applicant preference and not lack of an alternate building location. The reasoning behind only allowing one detached garage on residential lots is to keep the development residential and avoid commercial uses and unsightly clutter.

Bisbee asked what the difference is between a storage building and a garage. Barlow explained a storage building must have a door less than eight feet in width where a vehicle cannot be stored.

Hamilton asked if surrounding property owners were notified. Staff said they were notified and no comments were received.

Barlow said the vacant parcel of land cannot be combined with the parcel that has a house on it if he were to build a garage on that lot. In a residential zone, a house must be built before a garage. In the TA zone that does not apply and a barn can be in place prior to a house.

Carr said a precedent would be set if this variance is approved. Barlow said approval of this request should result in changes being made to the regulations. Seitnater said there are similar cases pending based on the outcome of this case.

Carr asked the applicant to address the Board.

Jerry McGonigle, 3900 Lakeview Rd, said his request is for a 44 x 64 sq. ft. building to store his tractors, mowers and equipment used to maintain the property. This property has been in legal issues in the past regarding the dam and lake. He is currently maintaining the drainage, flood canals and the dam on this property and has removed at least 200 trees and limbs.

He said there are many more trees to thin out. McGonigle said if he locates the proposed building on the other lot there will be extra cost to get utilities to that lot as well as removing a huge cottonwood tree that he is hoping to keep. He may want to sell the adjacent 22 acres at some point and does not want to sell the building with it.

Swearer asked if he could build onto the existing garage. McGonigle said the surrounding terrain is much higher than where the existing garage sits which makes adding to it very difficult especially with the drainage.

Carr asked for Staff to provide the recommendation. Barlow said staff recommends denial of the variance request based on not meeting factors 1, 3, and 5 included in the report.

McGonigle said in reference to Factor 1 he needs the equipment to maintain the land. Connecting a building to the house is not a good option due to safety and devaluing the house. In reference to Factor 3, if the property is sold the building would be on the wrong property for his house. He would

need to run utilities several hundred feet costing close to ten thousand dollars and remove many more trees. On Factor 5 if he builds a structure on the adjacent parcel property it would be a metal building and more economical than the structure he is proposing that would nicely match the house.

Carr closed the public hearing and asked for a motion.

Motion by Richardson, seconded by Peterson to deny variance request #ZV18-000006 from the requirements of the Hutchinson Zoning regulations, Sec.27-314.G.4. (Detached one garage per single-family residential lot), to build a second detached garage at the property located at 3900 Lakeview Road based upon a finding that the factors required are not met. The commission would like to amend the code for larger acreage properties to have a secondary garage with required setbacks. The motion passed with the following vote: Yes – Richardson, Wells, Peterson, Bisbee, Swearer, Carr. No – Hamilton.

Allison said the Planning Commission will have draft language to review at the next meeting, a public hearing will be scheduled and the amendment could go to City Council by mid March.

5. **UPCOMING CASES**

a. None

6. **CITY COUNCIL UPDATE**

- a. SDF18-000002 – Navarro Replat – Approved.
- b. SDF18-000003 – Sims Replat – Approved.

7. **OPEN COMMENTS FROM THE AUDIENCE**

a. There were no comments from the audience.

8. **ANNOUNCEMENTS**

a. None

9. **ADJOURNMENT** – The meeting adjourned at 6:30 p.m.

Respectfully Submitted,
Charlene Mosier
Planning Technician

Approved this 7th day of June 2019

Attest:  _____

