

AGENDA REPORT

DATE September 2, 2003

ITEM Variance Request 2015 3<sup>rd</sup> Avenue SW, L 2, B 4, Community Hall Addition

INITIATED BY John Rummel, Property Owner

ACTION REQUESTED Approve the Variance

PREPARED & PRESENTED BY Joe LaForest, Parking & Zoning Supervisor

REVIEWED & APPROVED BY Mike Rattray, Community Development Director

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**RECOMMENDATION:**

The Board of Adjustment recommends that the City Commission approve the variance.

**MOTION:**

I move that the City Commission approve the variance as recommended by the Board.

**SYNOPSIS:**

John Rummel, owner of the property located at 2015 3<sup>rd</sup> Avenue SW, and legally described as L 2, B 4, Community Hall Addition, has requested a variance to Sections 17.45.030 and 17.57.010. **The variance reduces the required 6’ side setback to 3’ and the required 30’ front setback to 7’.** **The applicant wants to leave an existing structure (boxcar) setback 7’ from the front lot line and position it so that there is a 3’ side setback.**

**BACKGROUND:**

Section 17.45.030 requires two 6’ side yards in “A” Area districts. Section 17.57.010 requires a 30’ front setback for any property located within an "A" Area district. Mr. Rummel wants to leave the boxcar at the existing 7’ front setback and reposition it so that there is a 3’ side setback. A review of the historical variance file found several sideyard setback variances in the immediate area. Additionally, there was one similar variance allowing a detached garage to within 15’ of a front lot line and within 3’ of a side lot line (2020 3<sup>rd</sup> Ave SW).

- 10/69 – Variance at 2016 2<sup>nd</sup> Avenue SW – boat storage building to w/in 0’ of a side lot line
- 8/72 – Variance at 14 20<sup>th</sup> Street SW – carport to w/in 3’ of a side lot line
- 4/85 – Variance at 2020 3<sup>rd</sup> Avenue SW – garage w/in 15’ of the front lot line & 3’ side setback
- 6/90 – Variance at 201 20<sup>th</sup> Street SW - garage to w/in 0’ of a side lot line

The Board reviewed the variance application on Thursday, July 31, 2003. Staff reviewed the application and reported that two neighbors (Jeff Browden of 2021 4<sup>th</sup> Ave SW and Roland Martin of 2035 4<sup>th</sup> Ave SW) called to register their support of the variance. John Rummel (represented by his attorney, Jon McCarty) presented his application. Before making comments, he presented a package of photographs and notes to the Board. The photographs depict the current layout of the buildings on the property and the view from the lot to the east of the Rummel lot. The notes explain the photographs and offer the salient points of his variance application. Mr. Rummel stated that his preference is to keep the boxcar at the current 7’ front setback and reposition it so that there is a 3’ side setback. Accepting his explanation as to why he did not initially seek a variance allowing a 7’

front setback, the Board allowed Mr. Rummel to amend his application to reflect a 7' front setback and a 3' side setback. Mr. Rummel's attorney (Jon McCarty) then asked him several questions concerning the use of the boxcar, his knowledge of any setback issues at the time he purchased the property, the length of time the boxcar has been positioned as it is, and the impact (visual and functional) produced if the boxcar was moved to meet required setbacks. In closing, Mr. McCarty reviewed the four stated criteria a petitioner must demonstrate before a variance can be granted and expressed his belief that all four were met, thereby justifying the variance. Gladys Smith (2020 3<sup>rd</sup> Ave SW) was present and spoke in favor of the variance. Mrs. Smith stated that she specifically recalled the previous property owner's efforts prior to placing the boxcar on the property. According to Mrs. Smith, the previous owner contacted the City and was required to get neighbor approval before locating the boxcar on the lot. She remembers signing the neighbor approval letter and several other neighbors signing it, but she did not keep a copy of the letter (the property file did not contain a copy of the letter). Frank Smith (2020 3<sup>rd</sup> Ave SW) was present and spoke in support of the variance. Mr. Smith stated that he lives just across the street from Mr. Rummel and that he is not bothered by the boxcar that he looks at everyday. Renee Burnett (her son owns the newly platted parcel immediately to the east of Mr. Rummel's property) spoke in opposition of the variance. The setback encroachment issue first came up when the surveyor was registering the lot lines for the new parcel. The surveyor recommended that the owner check on the boxcar's setbacks, because it appeared to him that the boxcar was too close to the side lot line. Mrs. Burnett's mother lives on the lot to the east of Mr. Rummel and, according to Mrs. Burnett, has never liked the boxcar where it is. As explained by Mrs. Burnett, her mother did not recall the previous owner asking her to sign a neighbor approval letter and, if asked, she would not have signed it. Mrs. Burnett contends that the boxcar will obstruct her son's view from the front of the house (when built) and devalues the property. Furthermore, since there is no indication that a permit to place the boxcar on the lot was ever applied for, the initial placement was contrary to City Code and is sufficient reason to require the relocation of the boxcar. The Board then entered into discussion. As a result of the Board's discussion, the variance was amended to reflect a 7' front setback and a 3' side setback. Discussion focused on leaving the boxcar where it is or on requiring some repositioning. Some Board members felt that repositioning a boxcar, in place for approximately twenty-some years, is an undue hardship for Mr. Rummel and denies him property rights enjoyed by others in the neighborhood (existing setback variance(s)). Other Board members were concerned with establishing a more lenient 7' front setback and wanted to see Mr. Rummel held to the 15' front setback originally asked for. Following discussion, a motion to recommend approval of a 7' front setback (current location of boxcar) and a 3' side setback, was made and seconded. The motion was approved by a vote of three yeas (Darcy Crum, Kathleen Jensen, and Jeff Witte) and two nays (Ed Venetz and Wade Bitz). There being no further business before the Board, the meeting adjourned at approximately 5:25 p.m.

Mr. Rummel's application and site plan are available in the City Clerk's Office.