



**Board of Adjustment / Appeals
January 4, 2024 Agenda
Civic Center 2 Park Drive South, Great Falls, MT
Commission Chambers, Civic Center
3:00 PM**

The agenda packet material is available on the City's website: <https://greatfallsmt.net/meetings>.

The Public may view and listen to the meeting on government access channel City-190, cable channel 190; or online at <https://greatfallsmt.net/livestream>.

Public participation is welcome in the following ways:

- Attend in person.
- Provide public comments in writing by 12:00 PM the day of the meeting: Mail to Planning & Community Development, PO Box 5021, Great Falls, MT 59403, or via email to: jnygard@greatfallsmt.net. Include the agenda item or agenda item number in the subject line, and include the name of the commenter and either an address or whether the commenter is a city resident. Written communication received by that time will be shared with the Board Members and appropriate City staff for consideration during the agenda item and before final vote on the matter; and, will be so noted in the official record of the meeting.

OPEN MEETING

1. Call to Order - 3:00 P.M.
2. Roll Call - Board Introductions
Joe McMillen - Chair
Aspen Northerner - Vice Chair
Antoinette Collins
Pete Fontana
Christian Stone
3. Recognition of Staff
4. Approval of Meeting Minutes - July 20, 2023

CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS

BOARD ACTIONS REQUIRING PUBLIC HEARING

BOARD ACTIONS NOT REQUIRING PUBLIC HEARING

5. Reappointment to Board of Adjustment/Appeals for Antoinette Collins and Christian Stone
6. Election of Officers for 2024

COMMUNICATIONS

PUBLIC COMMENT

Public Comment on any matter and that is within the jurisdiction of the Board of Adjustment/Appeals. Please keep your remarks to a maximum of five (5) minutes. Speak into the microphone, and state your name and address for the record.

ADJOURNMENT

(Please exit the chambers as quickly as possible. Chamber doors will be closed 5 minutes after adjournment of the meeting.)

Assistive listening devices are available for the hard of hearing, please arrive a few minutes early for set up, or contact the City Clerk's Office in advance at 455-8451. Wi-Fi is available during the meetings for viewing of the online meeting documents.

Board of Adjustment/Appeals meetings are televised on cable channel 190 and streamed live at <https://greatfallsmt.net>. Meetings are re-aired on cable channel 190 the following Friday morning at 10 a.m.

MINUTES OF THE MEETING
OF THE
GREAT FALLS BOARD OF ADJUSTMENT/APPEALS
July 20, 2023

CALL TO ORDER

The meeting of the Great Falls Board of Adjustment/Appeals was called to order by Chair Joe McMillen at 3:09 p.m.

UPDATES CONCERNING PROCESS OF MEETINGS

In order to honor the Right of Participation and the Right to Know (Article II, Sections 8 and 9 of the Montana Constitution), the City of Great Falls and Planning Advisory Board/Zoning Commission are making every effort to meet the requirements of open meeting laws:

- The agenda packet material is available on the City's website: <https://greatfallsmt.net/meetings>. The Public may view and listen to the meeting on government access channel City-190, cable channel 190; or online at <https://greatfallsmt.net/livestream>.
- Public participation is welcome in the following ways:
 - Attend in person. Please refrain from attending in person if you are not feeling well.
 - Provide public comments via email. Comments may be sent via email before 12:00 PM on Thursday, July 20, 2023 to: jnygard@greatfallsmt.net. Include the agenda item or agenda item number in the subject line, and include the name of the commenter and either an address or whether the commenter is a city resident. Written communication received by that time will be shared with the City Commission and appropriate City staff for consideration during the agenda item and before final vote on the matter; and, will be so noted in the official record of the meeting.

ROLL CALL & ATTENDANCE

Great Falls Board of Adjustment/Appeals members present:

Joe McMillen, Chair
Aspen Northerner, Vice Chair
Antoinette Collins
Christian Stone

Great Falls Board of Adjustment/Appeals members absent:

Pete Fontana

Planning Staff members present:

Thomas Micuda, Interim Director Planning & Community Development
Sara Doermann, Planner I
Lonnie Hill, Planner III
Jamie Nygard, Sr. Admin Assistant

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Others present:

None

Mr. Micuda affirmed a quorum of the Board was present.

MINUTES

Chair McMillen asked if there was a motion to approve the meeting minutes as stated for March 2, 2023. Ms. Northerner moved to approve the minutes, seconded by Ms. Collins. All in favor, the minutes were approved.

CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS

None.

BOARD ACTIONS REQUIRING PUBLIC HEARING

920 11th Street North – Variance to Section 17.44.3.030 of the Official Code of the City of Great Falls (OCCGF) to allow a reduced landscape buffer where a non-residential use abuts a residential use

Ms. Doermann presented to the Board. She stated that the applicant, Joshua Gosney with Gosney Shop, is requesting a reduced landscape buffer from 15 feet to 5 feet, on the west side of the property located at 921 11th Street North. The proposed site plan does meet the 15 foot requirement on the South side of the property. Ms. Doermann stated that the zoning is I-1, Light Industrial, on approximately 0.13 acres. The proposed future use is a marijuana dispensary. She stated that adjacent property included Multi-Family units to the West, Single-Family to the South and Commercial Businesses to the North and East.

Ms. Doermann presented an Aerial Map, Zoning Map, Site Photos, and Proposed Site Plan.

Ms. Doermann stated that the landscape buffer variance from 15 feet to 5 feet is requested for the west side of the property, bordering a multi-family residence, to retain a larger building footprint and to provide more off-street parking. The building footprint would be 1,600 square feet versus 1,500 square feet and the applicant proposes to provide six off-street parking spaces instead of four off-street parking spaces.

Ms. Doermann stated that the applicant presented to Neighborhood Council #7 on July 10, 2023 and that the council was in favor of the variance request, as it provided more off-street parking. She also stated that staff had not received inquiries or comment from the public.

Ms. Doermann presented the Findings for the Basis of Decision - Staff Findings:

1. Granting the variance would be contrary to the public interest.

- A landscape buffer is required to minimize negative effects associated with a commercial use next to a residential use. There will be increased foot and vehicle traffic, more noise and lights.
 - Variances run with property in perpetuity and the proposed building can change uses in the future.
2. A literal enforcement does not create unnecessary hardship.
- The site is small (5,619 square feet) and two landscape buffers are required.
 - Desired off-street parking spaces and the increased building footprint exceed the required amount. The conditions are self-imposed and small building footprints are common with dispensaries.
3. The spirit of the Title would not be observed and substantial justice done by granting the variance.
- Minimum standards have been set and should be complied with to the greatest extent possible.
 - Variances run with the property and are not specific to the proposed use. The property is zoned I-1, Light industrial.

Ms. Doermann stated that based on the findings for the Basis of Decision, Staff recommends denial of the requested variance.

Ms. Doermann stated that the BOA could choose to approve the variance request, if the Board determines the request meets each of the basis of decision criteria. For such action, the Board must provide separate Basis of Decision findings to support the approval.

PETITIONER'S PRESENTATION

Joshua Gosney, owner of Infinity Wellness Inc., presented to the Board. He gave some background on himself. He stated that he is asking for a setback variance, on the west end of the subject property, from 15 feet to 5 feet for the purposes of obtaining more parking. He believes that as a precedent, it would be in the best interest of the city to grant the variance because, in I-1, Light Industrial zones, properties that can be developed are surrounded by houses that already lack minimum off-street parking.

Mr. Gosney presented a current design slide, a slide with the proposed variance request, examples of limited off-street parking for residences in similar areas, off-street parking in the area being requested, other potential uses of the building based on I-1, Light Industrial zoning, and photos of how much parking is needed from his other store on 52nd Street North.

Mr. Gosney presented a slide on why his company, Infinity Wellness, thinks that the proposal is good for the City:

- There is minimal parking for the residences in the zone. Multiple multi-family units are in the area.

- The landscaping requirements can be achieved without any additional setbacks.
- The back of the building has no window or doors, so there will be no activities that will negatively impact the neighbors.
- The lot would not be developable for other light industrial uses without approval of the variance.
- There is a risk that the landscaping buffer area will turn into a junk pile for other uses down the road.
- They have requested a mitigated approach, as they are only seeking a variance on the west property line and complying with the requirement on the south property line.

Mr. Gosney presented a slide on the Precedent:

- The code was not designed for this particular industrial zone, as 50% of the area is inhabited by residences.
- Multi-family/single-family residences are not a current permissible use in the I-1 zone. Neighboring properties are grandfathered in for residential use.
- All older light-industrial neighborhoods are going to lack off-street parking in Great Falls. Areas next to the train tracks offer minimal off-street parking.
- The lot size is smaller than the smallest lot allowed by roughly 2500 square feet and due to that, the landscaping requirement is a major challenge to properly develop.
- Cameras would be more effective at accounting for activity that is an interest to the public safety, if there was more parking.

BOARD QUESTIONS

Mr. McMillen asked how many customers usually come into the existing business monthly. Mr. Gosney responded that the existing dispensary receives 500 medical customers and 1100 recreational customers a month. Mr. McMillan wanted to know what the average is per day of customers, and what the maximum would be at any given time. Mr. Gosney responded 120 customers per day, with a maximum of forty at one time.

Mr. McMillan asked how the footprint of the proposed project would compare with the picture that was presented in Mr. Gosney's slide show. Mr. Gosney responded that the current property in the County has two dispensaries on the lot and has six spots on the side and seven in the front.

PUBLIC QUESTIONS

None.

PROPONENTS

Troy Lane, 1200 8th Avenue North, stated that he owns the Multi-family property that is right next door to the subject property. He stated that he spoke with about a dozen of the neighbors in the

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direct area and the primary concern was parking. He stated that he was in favor of the variance being granted.

Tyson Craft, Nelson Architects, 621 2nd Avenue North, stated that the lot is 75x75 and that even if the building was smaller, they would only be able to put about 4 parking spots. The variance is really needed to slightly increase parking.

OPPONENTS

None.

BOARD DISCUSSION AND ACTION

MOTION: That the Board of Adjustment, based on the Alternative Findings for the Basis of Decision approve the variance request from OCCGF Title 17, Chapter 44, Article 3, Landscaping requirements; Buffer between uses.

MADE BY: Ms. Northerner

SECOND BY: Ms. Stone

Ms. Stone stated that hearing the neighbor speak about reducing traffic by adding parking spots, benefits the public.

Mr. McMillan stated that the variance would be a benefit to the neighborhood.

VOTE: Motion fails, 3-1 (Ms. Collins voted No)

MOTION: That the Board of Adjustment, based on the Findings for the Basis of Decision deny the variance request from OCCGF Title 17, Chapter 44, Article 3, Landscaping requirements; Buffer between uses.

MADE BY: Ms. Collins

SECOND BY: Mr. McMillan

Ms. Collins stated that the increase of six parking spaces compared to four was not significant enough based on the numbers that Mr. Gosney gave for traffic counts.

Mr. McMillan stated that the business is going to move forward, no matter what the outcome is of the variance request, and the extra parking spots will help the neighbors.

Ms. Northerner stated that the hardship is that dispensaries are so limited to where they can be located based on the zoning limitation. She stated that the short time frame that people will actually be in the business, will make a huge difference if there are two more parking spots added.

VOTE: Motion fails, 0-4

Mr. Micuda indicated that if the Board wanted to vote Yes it needed to develop alternative findings and presented the alternative Findings of Fact on the slide. Ms. Northerner indicated that the findings were acceptable, and Ms. Collins indicated that she was willing to change her vote.

MOTION: That the Board of Adjustment, based on the Alternative Findings for the Basis of Decision, approve the variance request from OCCGF Title 17, Chapter 44, Article 3, Landscaping requirements; Buffer between uses.

MADE BY: Ms. Northerner
SECOND BY: Mr. McMillan

VOTE: All in favor, the motion passed 4-0

COMMUNICATIONS

Mr. Micuda stated that the new Director for Planning and Community Development, Brock Cherry, will be starting with the City of Great Falls on August 7, 2023. He is coming from Mountain Home, ID, where he is the Director of that department.

PUBLIC COMMENT

None.

ADJOURNMENT

There being no further business, Chair McMillen adjourned the meeting at 3:53 p.m.