



Middleton Planning & Zoning Commission

Findings of Facts, Conclusions of Law, and Order

In the Matter of the application of Hunter Ostrom for variance to MCC 5-4-4, Table 2 with respect to a parcel located at 10 E. 2nd Street, Middleton, Idaho (Parcel No. R186120):

A. Findings of Fact:

1. Hearing Facts: See Staff Report for the hearing date of April 8, 2024, which Report is attached hereto as Exhibit "A" and incorporated herein by this reference. The Commission further found:
 - i. The structures on the parcels on each side of Mr. Ostrom's lot were far enough from the side property boundary lines to create a sufficient space on both sides for safety and privacy.
 - ii. That any issues with irrigation or water lines will be the responsibility of the Applicant, not the City, and the Applicant will be the party responsible for remedying such issues during construction.
2. Process Facts: See Staff Report for the hearing date of April 8, 2024, Exhibit "A".
3. Application and Property Facts: See Staff Report for the hearing date of April 8, 2024, Exhibit "A".
4. Required Findings per Middleton City Code Title 1, Chapter 4, MCC 1-15-6 and 5-4-7(3), and 5-4-4, see Staff Report for the hearing date of April 8, 2024, Exhibit "A".

B. Conclusions of Law:


1. That the City of Middleton has exercised the powers conferred upon it by the "Local Land Use Planning Act of 1975," codified at Chapter 65, Title 67, Idaho Code (I.C. §67-6503).
2. That due consideration has been given to the comments received from the governmental subdivisions providing services in the City of Middleton planning jurisdiction, comments received from individuals of the public, and comments from City Planning Staff.
3. That notice of the application and public hearing was given according to law.
4. That Planning and Zoning Commission's public hearing was conducted according to law, and the City has kept a record of the application and related documents.

5. That codes and standards pertinent to the application are Middleton City Code Title 1, Chapter 14, MCC 1-15-6, 5-4-4 and 5-4-7(3).


C. Decision and Order:

Pursuant to the Planning & Zoning Commission's authority as provided in Middleton City Code 1-5-5 and based upon the above Findings of Facts and Conclusions of Law, it is hereby ordered that the application of Hunter Ostrom for variance to MCC 5-4-4, Table 2 is approved subject to the conditions of approval set forth in the staff report for the hearing.

WRITTEN ORDER APPROVED ON: May 13, 2024.


Heidi Summers, Chairwoman
Planning and Zoning Commission

Attest:



Roberta Stewart
Planning and Zoning Department

Please take notice that pursuant to MCC 1-15-7(E), applicant shall have 15 days after a final decision to appeal the decision and order of the Planning & Zoning Commission. Additionally, please take notice that Applicant has a right to request a regulatory taking analysis pursuant to Idaho State Statute section [67-8003](#).

EXHIBIT A

Staff Report



STAFF REVIEW AND REPORT Middleton Planning and Zoning Commission

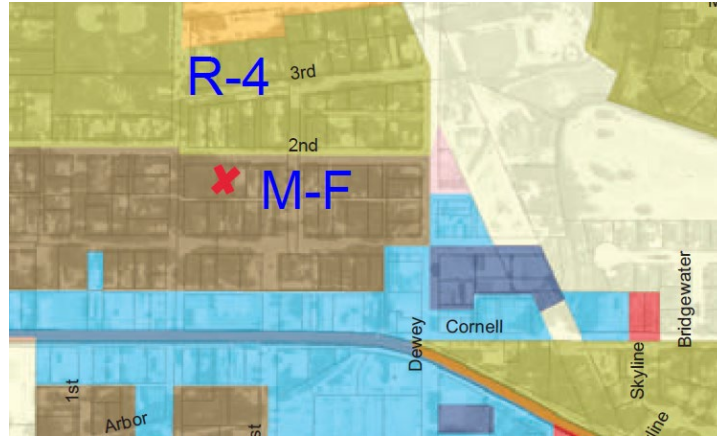
Hunter Ostrom Variance Application to Reduce Setbacks (10 E. 2nd Street – Tax Parcel No. R186120)



- A. **Planning & Zoning Commission Hearing Date:** April 8, 2024
- B. **Project Description & Application Request:** Hunter Ostrom recently purchased a vacant lot located at 10 E. 2nd Street, Middleton. He intends to construct a new duplex on the lot, but the lot is only 50' wide. Lowering the side setbacks from 12' to 5' will allow sufficient space to construct a duplex.

City had rezoned lots along 1st and 2nd Street to Multi-Family (“M-F”) for the purpose of encouraging multi-family structures like townhomes, duplexes and apartments. However, many of the lots were created decades ago to accommodate small single family homes with large backyards for a vegetable garden, clotheslines...etc., things a family in the 1920s, 30s, and 40s would need. Those lots, however, do not comfortably accommodate a typical single family home today nor a multi-family structure.

- C. Current Zoning & Property Condition:** The property is a vacant lot within city limits zoned M-F (Multi-Family). The parcel is bordered on the north by property zoned R-4. It is surrounded on the other three sides with M-F zoning.



- D. City Services:** City sewer and water are adjacent to the site and readily available. There may be an issue regarding whether the 2" water line in 2nd Street can adequately handle another connection that would be required for this new duplex. Therefore, Staff recommends that as a condition of approval Owner shall ensure that the tap into the existing line is water-tight by making any repairs to the 2" line for defects that are exposed during excavation.



Additional conditions should be (1) Owner will acknowledge that water flow quantity may be compromised to some degree during peak use hours, (2) until the water line is brought up to current standards, Owner will be limited to a single ¾" residential water service to serve only the domestic needs of the duplex unit, and (3) Owner cannot use City water for landscape irrigation or fire suppression.

E. Variance Request: Per MCC 5-4-4, Table 2, the setbacks for a structure in the M-F zone are:

- Front - 20'
- Rear – 20'
- Interior side - 12'

The minimum size of a M-F zoned lot is 10,000 s.f. Mr. Ostrom's lot is only 5660 sf.

MCC 1-15-6 sets forth the procedures and standards for variance requests. A variance allows an adjustment or special exception to the code in those circumstances where an owner would be deprived of a privilege commonly enjoyed by other lot owners because of some special circumstance on the owner's lot. The Planning & Zoning Commission is the governing body that approves the variance request. The request does not go to City Council for consideration.

Pursuant to MCC 1-16-6, Planning & Zoning may approve a variance request after considering the following standards and findings:

1. Are there extraordinary site characteristics applicable to the property that do not generally apply to other similar properties in the zone.
2. Would a literal interpretation of the code result in a hardship to applicant or result in an inability to enjoy privileges enjoyed by owners of similar properties in the zone.
3. Would granting the variance constitute a special privilege to the owner inconsistent with the privileges enjoyed by owners of similarly zoned properties.
4. Would granting the variance be detrimental to the public health, safety and welfare or injure any other property or improvements in the vicinity.

Staff Findings:

Staff recommends approval of Hunter Ostrom's variance request. City intended to encourage the development of duplexes and other multi-family structures when it rezoned this parcel to Multi-Family. But because some of the lots in the zone were designed for homes built in the early 1900s, they simply cannot accommodate a multi-family structure. If City intends to fulfill its goal, City will need to grant variances for side setbacks on the abnormally narrow lots in the zone.

Without a variance, the owners of these lots will not have the ability to build multi-family structures like other owners in the same zone. Granting a variance will not confer a special privilege on Mr. Ostrom; it will just allow him to build a multi-family structure like other lot owners in the same zone. Finally, granting the variance will not be a detriment to the health and welfare of the City. In fact, it will help the City in its goal to provide affordable housing in the M-F zone.

- F. **Comments Received from Surrounding Landowners:** None
- G. **Comments from Agencies:** None
- H. **Comments from City Engineer and Planning Staff:** None.
- I. **Applicant Information:** Hunter Ostrom, Eagle, Idaho (hostrom@TKOBoise.com). The application was accepted on March 19, 2024.

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| J. Notices & Neighborhood Meeting: | Dates: |
| Newspaper Notification | 03/24/2024 |
| Radius notification to landowners | 03/21/2024 |
| Circulation to Agencies | 03/21/2024 |
| Sign Posting property | 03/20/2024 |
| Neighborhood Meeting | 03/12/2024 |

K. Pertinent Codes and Standards:
 Idaho Standards for Public Works Construction, the Middleton Supplement to the Idaho standards for Public Works Construction, Middleton City Code 1-3, 1-14, 1-15, 5-1, 5-2, 5-3 and 5-4 and Idaho Code Title 67, Chapter 65.

L. Conclusions and Recommended Conditions of Approval: Per State law and the Middleton City Code, any final order must be based upon findings of facts and conclusions of law.

As to Findings of Facts, Planning Staff has set forth findings of facts in parentheses.

As to Conclusions of Law, Planning Staff finds that the Planning & Zoning Commission has the authority to hear this application and to approve or deny the Variance application, with or without conditions. Additionally, Planning Staff notes that all public notice requirements were met. Planning Staff further set forth the portions of the Idaho State Code and Middleton City Code to be considered in making an order on the application.

If the Commission is inclined to approve the Variance Application, Staff recommends the following conditions of approval:

1. Applicant must comply with all dimensional standards and setbacks in the Middleton City Code for the M-F zone except for the side setback requirement of MCC 5-4-4, Table 2.
2. Owner shall ensure that the connection into the existing water line is water-tight by making any repairs to the 2" line for defects that are exposed during excavation.

3. Owner acknowledges that water flow quantity may be compromised to some degree during peak use hours.
4. Until the water line is brought up to current standards, Owner will be limited to a single $\frac{3}{4}$ " residential water service to serve only the domestic needs of the duplex unit.
5. Owner cannot use City water for landscape irrigation or fire suppression.
6. Owner must contact the Middleton Mill Ditch Company to ensure that irrigation facilities adjacent to the property are protected. (Email Irrigation.mm.mi@gmail.com)

If the Commission denies the application, the Commission must state what steps the applicant can take to obtain approval. (MCC 1-15-6(C))