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MEMO

Date: August 13, 2014

Re: Planning Commission/Board of Adjustment Report

Dear Mayor and City Council,

The Planning Commission/Board of Adjustment held its regular meeting on August 11, 2014. There were two public hearings – one of which was tabled for more discussion and revisions (amendments to the ordinances regulating fences) and the other for which the Commission is giving you their recommendation (variance to construct within a river setback).

Action by the City Council regarding the Planning Commission and Board of Adjustment recommendation is now necessary.

PUBLIC HEARING #1

Application: Variance request to construct an 18 ft x 20 ft enclosed porch addition (to an existing dwelling) approximately 90 feet from the Mississippi River (minimum 100 ft required).

Applicant: Floyd Richmond (Lynne Richmond Revocable Trust)

Background Information:

- Proposal:** The applicant is proposing to construct an 18' x 20' enclosed three-season porch addition to the river side of the existing dwelling on the property. A portion of this addition would be enclosing the existing covered porch area of the existing house. The porch would therefore extend out 14 ft from the existing foundation of the home.

The property is zoned R-2.M, which allows for porches/dwelling additions as a permitted use. The variance is required due to the proposed river setback for the addition of 90 feet (min. 100 ft required).

The existing house on this property was constructed in 1989 after the granting of a variance by the Belle Prairie Town Board to be 108 feet from the river.

- Location:**
 - o Property address: 17171 Riverwood Drive
 - o Legal Description: N 99.4 FT OF S 2071.7 FT OF LOT 1 WHICH LIES W OF COUNTY AID ROAD #76, Section 27, Township 41, Range 32.
 - o Parcel number(s): 48.6907.000
- Property Owner:** Lynne Richmond Revocable Trust

Public Input:

1. Staff received an e-mail from Helen McLennan, Morrison County SWCD on August 4 stating "I looked at the home requesting the variance and even though it seems the elevation is quite high, I did note that it's right next door to the Grace Covenant Church. A few years ago, the church filled in their basement and abandoned its use due to annual flooding problems. They filled in approximately 4 feet of the whole basement and only have a crawl space available to them now. Just an FYI."
2. Staff received a phone call from a neighboring property owner on August 5 in support of the variance being granted.
3. Two members of the public gave comments at the public hearing on August 11 - both in support of the variance being granted.

Planning Commission/Board of Adjustment Action: The Planning Commission has recommended approval of the request with the following conditions:

1. Consistent with the requirements of the City Code, a natural landscape protection plan shall be submitted to and approved by the city. Part of this plan is the requirement that the landowner "maintain a minimum twenty five foot (25') chemically untreated vegetative buffer zone at the water's edge". The plan should also generally discuss how the landowner plans to limit the disturbance of soil and re-vegetate or otherwise stabilize disturbed areas.
 - a. NOTE: No specific timeline was set by the Planning Commission for when this would be required to be completed. The Council may set one, or Staff would otherwise default to requiring submittal of the plan at the time of permit application and implementation of the plan by September 30, 2014 (to allow time for vegetation to be planted or allowed to begin growing.

Findings of Fact: The following findings of fact are presented by the Planning Commission/Board of Adjustment for consideration by the City Council:**1) Current Zoning:**

- o Subject Property: Mississippi headwaters corridor - one- and two-family residential district, R-2.M
- o Surrounding Properties: Mississippi headwaters corridor - one- and two-family residential district (R-2.M) to the north and south along the river. Country homes, one- and two-family residential district (R-1C) across Riverwood Drive to the east. The Mississippi River is immediately to the west.

2) Current Land Use:

- o Subject Property: Residential dwelling
- o Surrounding Properties: Residential uses, with the exception of a church to the south.

- 3) **Lot size:** Approx. 99.4' x 420' (0.95 acres)
- 4) **Sewer/Water:** The property is connected to City sewer/water.
- 5) **Natural Features:**

Floodplain: The property is not within an identified floodplain according to the best available information (Base Flood Elevation 1114.0 according to DNR staff; proposed dwelling at approximately 1118-1122 according to contour maps on Beacon website). However, the property to the south (church) has flooded in the recent past and being located outside of the floodplain is no guarantee against flood damage. Floods at lower elevations can also affect soil stability in some cases, and the applicant should be aware that any construction closer to potential floodwaters poses some risk.

Bluff/Steep Slopes: The property is relatively flat at the construction area, but begins to drop off steeply near the river (about a 12 ft drop in the last 50-55 feet - 22% slope). The Morrison County SWCD has received notification of this meeting and has made comments regarding the potential for flooding and damage to structures.

Wetlands: There do not appear to be any wetlands on the property except possibly in the last few feet before the river. The Morrison County SWCD has received notification of this meeting and not made any comments regarding wetlands.

6) Will the granting of the variance be in harmony with the general purposes and intent of the City of Little Falls' Zoning and/or Subdivision Ordinance?

The spirit and intent of the 100 ft river setback requirement, as with other regulations outlined in the Mississippi Headwater's Board Management Plan upon which the City's ordinance is partly based, is to protect the scientific, natural, historic, cultural and recreational values of the Mississippi River.

The spirit and intent of the ordinance, according to the DNRs SONAR statement in 1989, is:

"In general, structure setbacks are needed to provide an adequate distance between the development of a shoreland area and the adjacent waterbody or near bluffs to control the resource damaging effects of non-point source pollution. Soil erosion and subsequent sedimentation in water bodies and the loading of nutrients, toxics and other pollutants to the water body from shoreland area surface water runoff are examples of non-point source pollution."

The same SONAR statement, specifically in relation to river setbacks, later states as reasoning for the setbacks:

"...an adequate distance will remain between development and the river to enable installation or preservation and maintenance of vegetation which can intercept and filter surface water runoff from developed areas. On many transition, agricultural and tributary river and stream systems, the proposed structure setbacks will provide for a minimum of protection from the natural meandering and channel shifting characteristics of watercourses found in these areas"

The applicant is requesting the reduced river setback so as to allow for an enclosed porch on the river side of the existing dwelling, which was constructed in 1989 as per a variance granted by the Belle Prairie Town Board (to be 108 feet from the river). Due to the angled shoreline on this property, the existing house becomes further from the river the further south it goes. While the nearest point of the proposed addition will be approximately 90 feet from the river, other portions will exceed the minimum required setback.

7) Will the granting of the variance be consistent with the City of Little Falls' Comprehensive Plan?

The Comprehensive Plan has several sections and identified programs that relate to the proposal:

Residential:

- Policies: The policies which follow are based on the housing needs, inventory information and community goals.
 1. Rehabilitation - Promote rehabilitation and upgrading of single family and multiple family housing.
 2. Diversity - Provide a variety of housing types and sizes including affordable quality townhouses and condominiums.
 3. Neighborhoods - Preserve and protect the housing values and improve neighborhood by planning for adequate park, trails and open space.
- Plan: The property is located in an area identified for "Country & Suburban" development at a density of 1-3 units/acre. The existing property is 0.95 acres and contains one dwelling unit.
- Program: The program consists of the following:
 2. Improve Neighborhoods - Improve neighborhoods by: 1) preserving and protecting neighborhood amenities, 2) improving and expanding, where appropriate, infrastructure and community facilities such as parks and trails, 3) promoting better housing, and 4) using conservation subdivision design principles.
 6. Zoning Changes- Consider revisions to the Zoning Ordinance covering the following:
 - Neighborhoods and the Environment- By 2008 amend the Zoning Ordinance to improve planning and design of neighborhoods in environmentally sensitive areas.
 - Conservation Subdivision- By 2008 amend the Zoning Ordinance to permit (and encourage at some locations) conservation subdivision design.
 - River View Protection- Amend the Zoning Ordinance to share and protect views along the Mississippi River while allowing mixed use of housing over commercial and

condominium developments at certain locations along the river.

- Two-Family- Initiate a study to determine if two family dwellings should continue to be allowed in zoning districts thought of as single family districts.

Comment: The proposed addition may have some limited impact on the river view for neighboring properties and from the opposite side of the river, although this will not be significant as homes on properties nearby to the north along Riverwood Drive become closer to the river than the proposal.

8) Is the proposed use of the property reasonable?

The requested variance would allow for the construction of a three-season porch (approx. 360 sq ft in size - 252 of which would be beyond the existing house foundation) on to a house that is currently about 2,700 sq ft in size. This is a reasonable addition given that some of that addition will exceed the required setback and the remainder will not primarily due to the angling of the river.

9) Is the plight of the landowner due to circumstances unique to the property not created by the landowner?

The request for the variance mostly has to do with the existing location of the house (built in 1989 by variance), the layout of the existing house and how it would connect to an addition and the way the river runs alongside the lot at an angle.

10) Will the variance, if granted, alter the essential character of the locality?

No. The use of the property would remain residential in character.

11) Are economic considerations the only reason the applicant cannot meet the strict requirements of the ordinance?

See #9 above for non-economic considerations.

12) Could the practical difficulty be alleviated by a feasible method other than a variance (taking into account economic considerations)?

While theoretically possible to construct an addition on the south corner of the home, this would present practical difficulties given the interior layout of the existing home and other construction considerations.

13) Will the granting of the variance adversely affect the environmental quality of the area?

Environmental impacts from the proposal could come from the increased impervious surfaces closer to the river and the associated runoff that could result, the potential for floodwaters rising and impacting the addition either directly or indirectly (the property appears to be at least 4-8 feet above the base 1% chance flood elevation) and the potential for erosion of disturbed soil during or after construction. The runoff and erosion potential can be adequately managed with the requirements for a natural landscape protection plan and temporary erosion controls. The flood damage potential is minimized due to the addition being constructed above the regulatory flood protection elevation required by floodplain regulations.

City Council Direction: The City Council may approve the request, deny the request, or table the request if the Council should need additional information from the applicant. If the Council should approve or deny the request, it should state the findings which support either of these actions. If the application is tabled, the Council should provide specific direction as to what additional information is needed.

PUBLIC HEARING #2

Application: Ordinance amendment to Chapter 11, entitled “Land Use Regulations (Zoning)”, Sections 11.02 (Definitions), 11.03.E (Required Yards and Open Space) and 11.03.Q (Fences). The proposed amendment will amend and add to existing language in the above-mentioned sections in order to clarify regulations and permitting procedures related to fences in both residential and non-residential zoning districts.

Applicant: City of Little Falls

Background Information:

- **Proposal:** The existing language regarding the regulation of fences within the City of Little Falls is somewhat confusing and possibly contradictory in terms of how fences are permitted and regulated. The proposed ordinance amendments are intended to clarify these regulations so that they can be applied uniformly without need for significant interpretation.

Public Input: No written comments were received by the City prior to the hearing or at the hearing itself.

The Commission heard several concerns from the public in attendance at the meeting. In addition to statements reiterating those made at the July public hearing, there was another concern expressed that there should be greater clarity as to what constitutes the “good” side of a fence (which is required to face the neighboring property). The Commission generally agreed with this concern and directed Staff to redraft this portion of the ordinance so as to better define the face of a fence that must face a neighboring property.

Planning Commission/Board of Adjustment Action: The Commission closed the public hearing related to this item and then tabled it to allow Staff to redraft certain portions and bring it back for further discussion. Ultimately, the Commission would plan to make a recommendation to the City Council.

City Council Direction: No action is required at this time.

If you have any questions, please feel free to contact me. I can be reached by phone at (888) 439-9793 or by email at oleson@hometownplanning.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ben Oleson', with a stylized flourish at the end.

Ben Oleson, AICP
Hometown Planning
City of Little Falls Zoning Official