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MEMO

Date: December 13, 2017
Re: Planning Commission/Board of Adjustment Report
From: Ben Oleson, Zoning Administrator

Dear Mayor and City Council,

The Planning Commission/Board of Adjustment held its regular meeting on December 11, 2017. The Commission held three public hearings - a variance request, an after-the-fact variance request and a proposed amendment to city code.

The Planning Commission/Board of Adjustment has recommended approval of both variance requests and the proposed amendment.

AGENDA ITEM #1

Application: Variance to construct an approximate 19' x 16' dwelling addition to the rear (south) of the existing dwelling approx. 4 feet from the east side lot line (min. 10 ft setback required) and 17 feet from the rear lot line (min. 35 ft required). Variance to construct an approximate 5' x 7' and 2' x 7' dwelling addition to the front (north) of the existing dwelling approx. 11 ft from the front lot line (min. 30 ft required).

Applicant: Aaron and Becky Olson

Background Information:

Proposal: The applicant is proposing to construct an addition to the north and south sides of their existing dwelling that would be located approximately 11 feet from the front property line (min. 30 ft required) and 17 ft from the rear lot line (min. 35 ft required). The addition to the south side would also be approx. 4 ft from the east lot line (min. 10 ft required), but in line with the existing attached garage. The existing dwelling on the property was originally constructed in 1892 according to Assessor's records and is considered a legal nonconformity due it not currently meeting existing setback requirements.

Location:

- Property address: 601 2nd St SE, Little Falls
- Legal Description: Lot 1, Block 25, Original Plat of Little Falls
- Parcel number(s): 48.0205.000

) **Zoning:** R1 – One and Two Family District

Planning Commission Recommendation: The Planning Commission has recommended approval of the variance request as presented on a unanimous 4-0 vote with no conditions.

Findings of Fact: The following findings of fact are presented by Staff for consideration by the Planning Commission:

1) **Current Zoning:**

- Subject Property: R-1 One- and Two-Family Residential Zoning District
- Surrounding Properties: R-1 One- and Two-Family Residential Zoning District

2) **Current Land Use:**

- Subject Property: Single-family dwelling
- Surrounding Properties: Single-family dwellings

3) **Lot size:** Approx. 75 ft. x 80 ft. (6,000 sq ft)

- Existing impervious surface: Approx. 1,609 sq. ft. (26.8%)
- Proposed impervious surface: Approx. 1,730 sq. ft. (28.8%)
- Maximum allowed impervious surface: 33%

4) **Sewer/Water:** The property is served with City sewer/water.

5) **Natural Features:**

- Floodplain: The location of the proposed garage does not appear to be within an identified floodplain.
- Bluff/Steep Slopes: The property does not contain any bluffs or steep slopes in the location of the proposed garage.
- Wetlands: There do not appear to be any wetlands on the property that would impact the proposed garage.

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

The general intent of a front yard setback for structures is to help ensure adequate space for road maintenance activities (i.e. snowplowing, etc...), to prevent damage to property and promote public safety should a vehicle drive off the road and to allow adequate space for parking of vehicles on driveways without endangering public safety.

In this case, the lot is a corner lot, which allows for a min. front yard setback of 30 feet and a min. corner side lot setback of 15 feet. The addition would be in the front yard, by definition, and would not meet either the 30 ft or 15 ft setbacks. It would, however, replace an existing overhang such that the setback of structures within the front lot line setback would be reduced by about 2 feet, but there would be more structure within the setback than existed before.

Given that the existing dwelling was already located approximately 12 feet from the front lot line, and has been since the late 1800s according to Assessor's records, the home has not impeded maintenance of the road or had any history of accidents with vehicles going off the road as far as Staff is aware. The addition would put more structure within the required setback than what exists now, but the setback would be improved by about two feet.

The general intent of the required 35 ft rear yard setback is to allow for rear yard areas that are free of principal structures and uniformity in setbacks from one lot to the next.

The subject lot is a corner lot, which is also very narrow. This leaves little room for building on the lot in a way that meets all required setbacks. On this particular lot, the building area that meets all setback requirements is 15' x 50', which would not allow for even the minimum width required for dwellings of 24 feet.

The general intent of the side yard setback is to maintain adequate space between buildings for air, light and to prevent the spread of structure fires, and also to maintain uniformity in setbacks from one lot to the next.

In this case, the addition to the south side of the home would be in line with the garage that has existed on the property since prior to zoning requirements (4 ft setback instead of 10 feet). Thus, while the addition will clearly not meet the setback requirements, it will not make things significantly worse than existed before except that there will be more structure within the setback. There is about 12-14 feet between the attached garage on the subject lot and the dwelling on the adjoining lot right now.

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

The Comprehensive Plan does not directly address applications such as these.

8) Is the proposed use of the property reasonable?

The requested variance is reasonable in that the reasoning for the addition is to make the home more livable - particularly for persons having difficulty navigating stairs. The request also represents a resubmittal of a previously denied variance, partly because an addition to the south was deemed more reasonable than the previous proposed addition to the north. The revised proposal reduces the proposed addition to the north and instead places more of it to the south.

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

The need for the variance would appear to primarily be related to the existing layout of the home on the lot and the lot dimensions.

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

The use of the property (single-family residential) would remain the same in character to what already exists, with the only difference being the size of the home. The resulting home would not be significantly larger than other homes in the area.

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

Economic considerations do not appear to play a significant factor in the requested variance. It has more to do with the fact that an addition to the west side of the home to avoid the need for the side yard setback variance and reduce the need for a rear yard setback variance would not work as well with the interior layout of the dwelling.

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

To applicant has no way to avoid the need for a variance as an addition on any side of the existing dwelling (whether an outward or upward expansion) would need either a front yard, side yard or rear yard setback variance.

AGENDA ITEM #2

Application: After-the-fact variance to allow for a 6 ft tall fence (max 2.5 ft allowed) within approx. 6 feet of intersecting street right-of-way lines (min. 10 ft required).

Applicant: Aaron and Becky Olson

Background Information:

Proposal: *This application represents a revised submittal of a variance application heard at the September 2017 meeting of the Board of Adjustment. The applicants were denied that variance request to leave the fence with a 4-6 ft height at approx. 0-1 feet from the intersecting street right-of-way lines. The new proposal is to move the fence back to a setback of 6 feet from the intersecting right-of-way lines instead of the required 10 feet. This request is based on a review of the intersection by the City Engineer, which indicates that a 6-foot setback could be sufficient to allow for reasonable site lines at the corner after consideration of a variety of factors specific to this intersection.*

The applicant constructed a fence in the Spring of 2016 to enclose their front and corner side yards. They applied for a fence that was to be 6 ft tall along the side (west) property line and 4 ft tall along the front (north) property line. These height limits were as allowed by ordinance, except that the area of the yard near where the two streets meet was - by ordinance - not to be taller than 2.5 feet (30 inches) so as not to impede vision for approaching vehicles. The permit was incorrectly issued by the Zoning Administrator in that it was not compliant with this requirement. The applicants are now asking for an after-the-fact variance to allow the fence height to exceed 2.5 ft (30") in the "site triangle" area.

Note: At the time of the fence construction, the requirement was that the fence height be limited to 30" 25 feet from the street intersecting right of way lines. This would require that it be no more than 30 inches approximately back to their sidewalk on the west side. Since that time, the City has finalized proposed amendments to that section of the City Code and adopted new, less restrictive regulations that would require the 30" maximum height only for a distance of 10 feet back from the street intersecting right of way lines. The existing fence would not meet either of these setbacks.

) **Location:**

- o Property address: 601 2nd St SE, Little Falls
- o Legal Description: Lot 1, Block 25, Original Plat of Little Falls
- o Parcel number(s): 48.0205.000

) **Zoning:** R1 - One and Two Family District

Planning Commission Recommendation: The Planning Commission has recommended approval of the after-the-fact variance request as presented on a 3-1 vote (Esse opposed) with no conditions.

Findings of Fact: The following findings of fact are presented by Staff for consideration by the Planning Commission:

1) **Current Zoning:**

- o SubjectProperty: R-1 One- and Two-Family Residential Zoning District
- o SurroundingProperties: R-1 One- and Two-Family Residential Zoning District

2) **Current Land Use:**

- o SubjectProperty: Single-family dwelling
- o SurroundingProperties: Single-family dwellings

3) **Lot size:** Approx. 75 ft. x 80 ft. (6,000 sq ft)

4) **Will the granting of the variance be in harmony with the general purposes and intent of the Zoning and/or Subdivision Ordinance?** The general intent of the height limit in close proximity to intersecting streets is to ensure that sight-lines are not obstructed as cars approach an intersection. This is intended to prevent accidents between vehicles or between vehicles and pedestrians. The existing fence has been in place for more than a year and as far as Staff is aware, no accidents have occurred. The intersection is a controlled intersection with a four- way stop required by vehicles, bicyclists and pedestrians. So long as vehicles are stopping at the intersection, the site lines of all corners is not significantly obstructed. The largest potential for an accident would come from either drivers or bicyclists or pedestrians not stopping at the stop sign and there being an accident as a result.

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

The Comprehensive Plan does not directly address applications such as these.

6) **Is the proposed use of the property reasonable?**

The requested variance is reasonable in that the fence was erected in good faith after the applicants applied for, and were approved for a permit. The applicants have indicated that they are seeking privacy on their busy corner lot and that a 30" tall fence in that location would eliminate their privacy and that moving the taller fence further back would eliminate most of their yard area that they would otherwise use.

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

The need for the variance would appear to primarily be related to the existing layout of the home on the lot, the lot size, and the desire to have privacy in their yard while at the same time maximizing the area that can be used inside the fence.

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

The use of the property would remain very similar in character to what already exists.

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

Economic considerations do not appear to play a significant factor in the requested variance, as the applicants indicate it has more to do with maximizing use of their yard and achieving more privacy than the cost of moving the fence.

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

To avoid the need for a variance, the applicant would have to move the existing fence further back into the yard and/or reduce the height of the fence in its existing location.

AGENDA ITEM #3

Application: Amendment to City Code, Chapters 7.18 (Skateboards, Scooters, Bicycles, In-Line Skates [Rollerblades] and Roller Skates, 11.02 (Definitions), 11.05 (Zoning Districts and Map), 11.30 (Communications Towers), 11.31 (Wind Energy Conversion Systems), and 11.50 through 11.63 (Floodplain Management). The purpose of the amendments are to address errors or conflicting language indicated during codification review and to replace existing regulations regarding development and land use within floodplain areas with updated ordinances consistent with state law.

Applicant: City of Little Falls Planning Commission

Background Information:

Proposal: The proposal is to amend a number of ordinances where errors or conflicting/confusing language was found by the City's codifiers as they were codifying recently adopted ordinances. The changes generally don't represent significant changes to policy as much as attempts to eliminate confusion.

The changes proposed to the Floodplain section of the City Code represent changes intended to ensure that the City's floodplain regulations refer to the correct FEMA (Federal Emergency Management Agency) "map panels" - particularly for those parts of the City that have been annexed more recently.

Planning Commission Recommendation: The Planning Commission has recommended approval of the proposed amendments as presented on a unanimous 4-0 vote.

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.