



Established in 1849
"Where Minnesota History Begins"

MEMO

Date: November 12, 2014

Re: Planning Commission/Board of Adjustment Report

Dear Mayor and City Council,

The Planning Commission/Board of Adjustment held its regular meeting on November 10, 2014. There was one public hearing, for which the Commission is giving you their recommendation.

PUBLIC HEARING #1

Application: Variance request to place a sign within the required side yard setback and to place up to two off-premise signs in a B-3 Noncentral Business District.

Applicant: Riitters Thompson & Olson, PA/Seven Gables Properties LLC

Background Information:

- **Proposal:** Riitters Thompson & Olson, PA has a property whose only public road frontage is US Highway 10 (to which it has no direct access). They currently access their property from Haven Road (County Road 76) via an easement through the property owned by Seven Gables Properties LLC (Little Falls Radio). Riitters Thompson & Olson has received approval from Seven Gables Properties to place up to two signs advertising Riitters Thompson & Olson on the Seven Gables property - one near the entrance from Haven Road and one at the rear of the property adjacent to their own property line that would help direct motorists to the correct building. Both of these signs would be considered "off-premise" signs in that they are located on a different property than the business they are advertising.

This second of these proposed signs would be located about 0-2 feet from the east property line - whether it were placed on the Seven Gables or the Riitters Thomspson property (i.e. if the request for an off-premise sign were denied, Riitters Thompson & Olson would still be requesting a side yard setback variance to place a sign within the required side yard setback).

- **Location:**
 - Property Address: 16403/16405 Haven Road
 - Brief Legal Description: Part of the South Half of the Southwest Quarter, Section 26, Township 41, Range 32.
 - Parcel number(s): 486871000 and 486872000

Public Input:

1. One verbal comment was received expressing that they felt the City's ban on off-premise signs is too restrictive and concern with uneven enforcement.

Planning Commission/Board of Adjustment Action: The Board of Adjustment has made a recommendation on the side yard setback variance and tabled the request for a variance to allow up to two off-premise signs, as follows:

1. Side yard setback variance: Recommendation for approval of a sign to be no closer than zero (0) feet from the side (north) lot line.
2. Off-premise sign variance: This portion of the application was tabled, with concerns expressed about the legality of issuing what may be considered an illegal "use variance" and questions whether such a variance would be appropriate and/or supported by the City Council. The Commission is seeking input from the Council as to whether they feel such a variance would supported, with possible additional input from the City Attorney.

*Note: Comments on this application in the Staff Report presented to the Board of Adjustment included the following:

1. This application could arguably be considered a request for a "use variance". A use variance is a request to allow a use that is not otherwise permitted within a zoning district and these are prohibited in state law (although recent MN Supreme Court decisions have arguably clouded this a bit). The City could either view this as a request for a sign that is otherwise allowed, but is simply requesting a variance from the locational requirements (i.e. not a "use variance") or it could view it as a request for a type of sign that is not permitted anywhere in the city (i.e. it is a prohibited use that would constitute a "use variance").
2. Staff has discussed with the applicants that a potentially better way of addressing this issue in the long-run is via an amendment to the ordinance that would allow for off-premise signs in certain limited circumstances such as theirs (where they are putting such sign within a short distance of their own property). However, it was also discussed that such an amendment would need to be reviewed by the Planning Commission and City Council and requires consideration of public input. The applicants (Riitters Thompson & Olson) had requested such a change at the July 7 meeting of the City Council and after discussion involving the City Attorney, the Council indicated it did not want to amend the ordinance at that time. The minutes from that meeting read:
 - a. **Off Premises Sign Ordinance Amendment Request, Riitters Thompson & Olson CPA** – Public Works Director Kimman and Rocky Thompson of Riitters Thompson & Olson CPA, reviewed a request that the City Council reconsider an off premise amendment to the sign ordinance so that their business may place a sign on along Haven Road to direct traffic to their building located at 16403 Haven Road. Following discussions between the applicant, Council and City Attorney, it was the consensus of the City Council to not amend the sign ordinance.

Findings of Fact: The following findings of fact are presented by Staff based on the discussion by the Planning Commission at the public hearing and the particulars of this application. The Council should either confirm these or amend them as deemed appropriate.

1) Current Zoning:

- Subject Property: B-3 Noncentral Business District
- Surrounding Properties: B-3 Noncentral Business District for all immediately adjacent properties. Properties located across Haven Road to the east are zoned I-2 Industrial District (Heavy). The nearest residentially-zoned property is about 700 feet to the west across Riverwood Drive.

2) Current Land Use:

- Subject Property: Commercial (office)
- Surrounding Properties: An office building to the east, a bowling alley to the west, a vacant commercial lot to the north and Highway 10 to the south.

3) Lot size: Approx. 145' x 180' (0.62 acres)

4) Sewer/Water: The property is served with stubs for City sewer/water but neither property is currently connected. There is a private well and septic system on the property that is shared by both buildings (the sewer was found compliant in 2013 when the property was transferred).

5) Natural Features:

Floodplain: The property is not within an identified floodplain.

Bluff/Steep Slopes: The property is relatively flat and does not contain any bluffs or steep slopes.

Wetlands: There do not appear to be any wetlands on the property.

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

The City's subdivision ordinance does not apply to this application.

Side yard setback request: The general purposes and intent of the Zoning Ordinance, as it relates to side yard setbacks, is to ensure adequate space to maintain a structure, to provide spacing between structures on adjacent properties, and to prevent property line/trespassing disputes. The proposed zero (0) foot setback for a sign generally meets these purposes in that the sign as proposed would allow for maintenance of weeds, grass, etc... underneath the signage without trespassing and the property has been surveyed which should help reduce potential for dispute over the location of the sign.

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

The Comprehensive Plan does not directly address signage.

8) Is the proposed use of the property reasonable?

Side yard setback request: The requested variance is reasonable in that in order to make a sign visible that would direct people to the Riitters Thompson & Olson building, it would need to be placed on the east side of the existing driveway leading to that building, which only has about 6-8 feet of space before the east property line (minimum setback required is 10 feet). A sign on the west side would be at least partially blocked by parked cars and various equipment already located on the west side.

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

The lot on which the Riitters Thompson & Olson building sits appears to have been created in or before 2000 – prior to the annexation of the property into the City of Little Falls. At the time it was created, it became essentially land-locked in that it does not have direct access to a public road (it abuts Highway 10, but is not accessible from Highway 10). If the lot had been created in such a way that additional was provided between the driveway and the north property line, a variance to the side yard setback requirement may not have been necessary. The layout of the driveway and buildings on these lots – all constructed prior to ownership by Riitters Thompson & Olson – have contributed to the need for all requested variances.

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

The use of the property would remain commercial in character and would not change anything in that regard. The presence of an sign within the normally required 10 foot setback will not change that 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)?

Side yard setback request: It does not appear that a sign that would be close to the ground and easily visible to motorists that have come off of Haven Road could be placed that would avoid the need for a side yard setback variance. There is a parking area, a power pole, a satellite dish and other obstructions on the west side of the driveway.

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 application is tabled, the Council should provide specific direction as to what additional information is needed.

Other Items:

- The City Engineer informed the Planning Commission regarding the recent passing of an interim ordinance (“moratorium”) on certain development while the City codes relating to stormwater management are updated. A public hearing regarding the proposed changes to the City Code in this regard is anticipated for the December meeting of the Planning Commission.

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