
CITY OF LITTLE FALLS

BOARD OF ADJUSTMENT/ PLANNING COMMISSION

May 9, 2016



AGENDA
PLANNING COMMISSION
 Conference Room, City Hall
 May 9, 2016, 6:30 p.m.

P	A	Member	P	A	Member
		Kleinschmidt, James			Schilling, Kara
		Esse, Robert			Schulte, Ray
		Gosiak, Frank			Silbernick, Keith
		Hanfler, Jeremy			Oleson, Ben (Zoning Official)
					Kimman, Greg (City Engineer)

CALL TO ORDER: Planning Commission Chairperson

ADOPT THE AGENDA: May 9, 2016

APPROVAL OF MINUTES: April 11, 2016

PUBLIC HEARINGS:

- 1) Variance application to construct a 15'6" x 20' addition to the existing dwelling approximately 3 feet from a side lot line (min. 5 feet required). Applicant: Jeff Waldvogel. Property Owner: Jim and Donna Waldvogel. Partial Legal Description: South 10 feet of Lot 6 and North 35 feet of Lot 7, Block 9, Morrill's Addition No. 1 to Little Falls. Property Address: 710 4th Street SE. Parcel number(s): 48.1138.000 and 48.1137.000.
- 2) Amendment to City Code, Sections 11.03.L (Dwelling Units Prohibited). The purpose of the amendment is to clarify the existing prohibition on the use of recreational vehicles as a dwelling unit and set a limitation on the length of time that they may be used as such. Applicant: City of Little Falls Planning Commission.

OLD BUSINESS:

- 1) (Sent back to Planning Commission by the City Council) Amendment to City Code, Sections 11.05.D (R-1 One- And Two-Family Residential District), 11.05.F (R-1 One- And Two-Family Residential District), 11.05.G (R-3 Multiple-Family Residential District), 11.05.I (B-1 Limited Business District), 11.05.J (B-2 General Business District), 11.05.L (I-1 Industrial District (Light), 11.05.M (I-2 Industrial District (Heavy)), 11.05.N (Planned Unit Development District (PUD District)). The purpose of the amendments is to allow for certain uses deemed compatible with the relevant zoning districts as a conditional use if they are not otherwise listed. Applicant: City of Little Falls Planning Commission.
- 2) Discussion – Micro Cell Towers
- 3) Comprehensive Plan – Draft Public Survey

NEW BUSINESS:

NEXT REGULAR MEETING: Monday, June 13, 2016

ADJOURNMENT:

MINUTES
PLANNING COMMISSION
 Conference Room, City Hall
 April 11, 2016, 6:30 p.m.

P	A	Member	P	A	Member
X		Kleinschmidt, James	X		Schilling, Kara
X		Esse, Robert	X		Schulte, Ray
	X	Gosiak, Frank	X		Silbernack, Keith
X		Hanfler, Jeremy	X		Oleson, Ben (Zoning Official)
			X		Kimman, Greg (City Engineer)

CALL TO ORDER: The meeting was called to order by Hanfler at 6:30

ADOPT THE AGENDA: motion was made by Silbernack and seconded by Esse to adopt the agenda as presented. Motion carried

APPROVAL OF MINUTES: Motion was made by Kleinschmidt and seconded by Schilling to approve minutes as presented. Motion carried

PUBLIC HEARINGS:

- 1) Conditional use permit application to attach wireless communications equipment to two separate light poles in a B-3 Noncentral Business District. Light poles and equipment to be less than 40 ft in height. Applicant: SSC, agent for Verizon Wireless. Property Owner: Independent School District No. 482. Partial Legal Description: Part of Blocks 5, 6 and 7, Highland Out lots. Property Address: 1101 5th Avenue SE. Parcel number(s): 48.1973.000. Public hearing was opened at 6:31 and Steve Fester from SSC 7803 Glenjoy Road, Suite 250, Bloomington, MN 55439 spoke for the company doing the installation. Janel Voltin, 1113 5th Avenue SE asked questions about the attachments from the public, and Bill Smith, 115 8th St SE Little Falls asked about the coverage area from these antennas. The public hearing was closed at 6:41 and after discussion by the board, Silbernack made a motion to approve and was seconded by Schulte. Motion carried.

- 2) Amendment to City Code, Sections 11.05.D (R-1 One- And Two-Family Residential District), 11.05.F (R-1 One- And Two-Family Residential District), 11.05.G (R-3 Multiple-Family Residential District), 11.05.I (B-1 Limited Business District), 11.05.J (B-2 General Business District), 11.05.L (I-1 Industrial District (Light), 11.05.M (I-2 Industrial District (Heavy)), 11.05.N (Planned Unit Development District (PUD District)). The purpose of the amendments is to allow for certain uses deemed compatible with the relevant zoning districts as a conditional use if they are not otherwise listed. Applicant: City of Little Falls Planning Commission. Public hearing was opened at 6:43 and there was no public input. There was discussion by the board and the public hearing was closed at 7:01. Motion was made by Silbernack to approve and seconded by Esse. Motion Carried

OLD BUSINESS:

- 1) Discussion – Regulation of Land Uses

- a. Parking and use of recreational vehicles. There was discussion about this and it was decided by the board to hold a public hearing on this at the next meeting.
 - b. Outdoor sale of items on residential properties. There was discussion on this but was sent back to staff for more research.
- 2) Comprehensive Plan update was looked at with a few changes for the next meeting.

NEW BUSINESS:

NEXT REGULAR MEETING: Monday, May 9, 2016

ADJOURNMENT: Motion by Silbernack to adjourn at 8:13 seconded by Schilling. Motion carried.

STAFF REPORT

Application: Variance application to construct a 15'6" x 20' addition to the existing dwelling approximately 3 feet from a side lot line (min. 5 feet required).

Applicant: Jeff Waldvogel

Background Information:

-) **Proposal:** The applicant is proposing to construct a 15'6" x 20' addition to the south side of the existing dwelling for additional living space. The proposed addition would be in line with the south edge of the existing dwelling and be located approximately 3 feet from the south property line (min. 5 feet required).
-) **Location:**
 - o Partial Legal Description: South 10 feet of Lot 6 and North 35 feet of Lot 7, Block 9, Morrill's Addition No. 1 to Little Falls.
 - o Property Address: 710 4th Street SE.
 - o Parcel number(s): 48.1138.000 and 48.1137.000.
-) **Property Owner:** Jim and Donna Waldvogel

Applicable Statutes/Ordinances:

Minnesota Statutes

462.357 (2011) OFFICIAL CONTROLS: ZONING ORDINANCE.

Subd. 6. Appeals and adjustments.

Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the zoning ordinance. The board of appeals and adjustments has the following powers with respect to the zoning ordinance:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.

(2) To hear requests for variances from the requirements of the zoning ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to

circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section [216C.06, subdivision 14](#), when in harmony with the ordinance. The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

Little Falls City Code

11.04: ADMINISTRATION AND ENFORCEMENT

C. Variances:

1. The timelines for variance requests shall be governed by Minnesota Statute 15.99, as amended from time to time.
2. The processing of variances shall be governed by Minnesota Statute 462.357, as amended from time to time.
3. No variance permitting the erection or alteration of a building shall be valid for a period longer than six [6] months, unless a building permit is issued and the construction actually begun within that period, and is thereafter diligently pursued to completion.
4. A variance shall lapse and become void if the variance for which a permit has been granted is discontinued for a period of one year, or if a variance is no longer required by the provisions of this chapter.
4. Revocation: A variance may be revoked by following the requirements and procedures in Section 11.04.H of the City Code.

11.03: GENERAL PROVISIONS:

B. Nonconforming Uses And Structures:

1. Any structure or use lawfully existing upon the effective date hereof may be continued at the size and in a manner of operation existing upon such date, except as hereinafter specified.
9. As of the date of adoption hereof, onetime alterations and additions may be made to a building located on a nonconforming lot that contains lawful residential units when it will improve the livability thereof. A conditional use permit may be issued, provided the alterations/additions meet all of the

following items, and the property owner applies for and is granted a conditional use permit:

- a. No other owner has previously used the onetime addition. Nonconforming structures are only allowed one occasion to expand during the lifetime of the structure and not one occasion per owner.
- b. Any alteration or addition must meet the setback requirements of the zoning district that the nonconforming lot is located in.
- c. The nonimpervious surface percentage must be equal to or greater than the abutting property's nonimpervious surface percentage average after the completion of the addition. Abutting properties are those properties that are zoned as residential and are within a one hundred foot (100') radius of the property in question.
- d. The size of the addition is less than fifty percent (50%) of the principal structure, as measured in square feet of the outside dimensions of the principal structure.
- e. Any alteration or addition cannot create new nonconformities or increase the parking requirements.

10. In addition to the onetime addition or alteration of the principal structure, an accessory structure may be added. A conditional use permit may be issued, provided the accessory structure meets the following items and the property owner(s) applies for and is granted a conditional use permit:

- a. Any accessory structure must meet the setback requirements of the zoning district that the nonconforming lot is in.
- b. The nonimpervious surface percentage must be equal to or greater than the abutting properties' nonimpervious surface percentage average, after the completion of the accessory structure. Abutting properties are those properties that are zoned as residential and are within a one hundred foot (100') radius of the property in question.
- c. The type of accessory structure must match the style, type and appearance of the principal structure located on the lot.
- d. The enlargement or replacement does not create new nonconformities or increase in parking requirements. (Ord. 151, 5th Series, eff. 12-3-2007)

C. Lot Provisions:

1. A lot of record existing upon the effective date hereof in an R residential district, which does not meet the requirements of this chapter as to area or width, may be utilized for single-family detached dwelling purposes, provided the measurements of such area and width are within seventy percent (70%) of the requirements of this chapter, but said lot of record shall not be more intensively developed unless combined with one or more abutting lots or portions thereof so as to create a lot meeting the requirements of this chapter. (Ord. 801, eff. 6-3-1974)

11.05: ZONING DISTRICTS AND MAP:

F. R-2 One- And Two-Family Residential District:

4. Lot Area, Floor Area, Height, Lot Width And Yard Requirements: All uses in the R-2 district shall comply with the requirements of the R-1 district of this section, except as hereinafter modified:

Lot Size	Lot Width	Front Yard	Rear Yard	Side Yard	
				Interior	Corner
One- and two-family 9,000 square feet	60 feet	30 feet	30 feet	5 feet	15 feet

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

1) **Current Zoning:**

- o Subject Property: R-2 One- and Two-Family Residential District
- o Surrounding Properties: R-2 One- and Two-Family Residential District

2) **Current Land Use:**

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

3) **Lot size:** 45' x 150' (including both parcels owned). Approx. 6,750 sq ft.

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

5) **Natural Features:**

Floodplain: The property is not within an identified floodplain.

Bluff/Steep Slopes: The property 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.

The general purposes and intent of the minimum required 5 ft side yard setback in the Zoning Ordinance is to provide some minimum spacing between dwelling units to prevent property line disputes, provide some air and light between

buildings and to help prevent the spread of fires from one structure/property to another.

While the proposed addition would be only 3 feet from the property line, it would be no closer than the existing dwelling, although it would certainly add more building within that setback. The landowner to the south has provided a letter stating they "have no problem with the variance they are applying for or the addition they need to build."

The zoning ordinance also has provisions that limit expansions on structures located on nonconforming lots to one-time additions that meet certain criteria, including that the addition will meet all required setbacks. The minimum lot size and width in the R-2 zoning district is 9,000 sq ft and 60 ft width and the subject lot is only 45 feet wide and 6,750 sq ft in size. However, the ordinance also does allow for a lot of record "which does not meet the requirements of this chapter as to area or width" to be "utilized for single-family detached dwelling purposes, provided the measurements of such area and width are within seventy percent (70%) of the requirements of this chapter..." The dimensions of the lot (if combined) meet the 70% requirement (42 feet width and 6,300 sq ft).

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 request for an addition to the existing building is for having a bedroom, bathroom and laundry room on the main floor rather than on the 2nd floor and basement as they are now. Further, there are limited locations to add on to the home on this property without requiring some kind of variance or without significant alterations to the layout of the existing dwelling/garage.

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

The need for the variance is largely due to the existing location and layout of the dwelling. According to Assessors' records, the home was built in the late 1800s, although 5 feet on the south end of the originally platted lot has since been transferred to the neighboring property owner. Staff is unaware at this time when this property transfer may have occurred.

10) 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. The only change would involve a larger dwelling than currently exists.

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

To applicant has stated that the proposed addition is to allow for a main floor bedroom, bathroom and laundry room to accommodate the needs of the aging and handicapped resident(s).

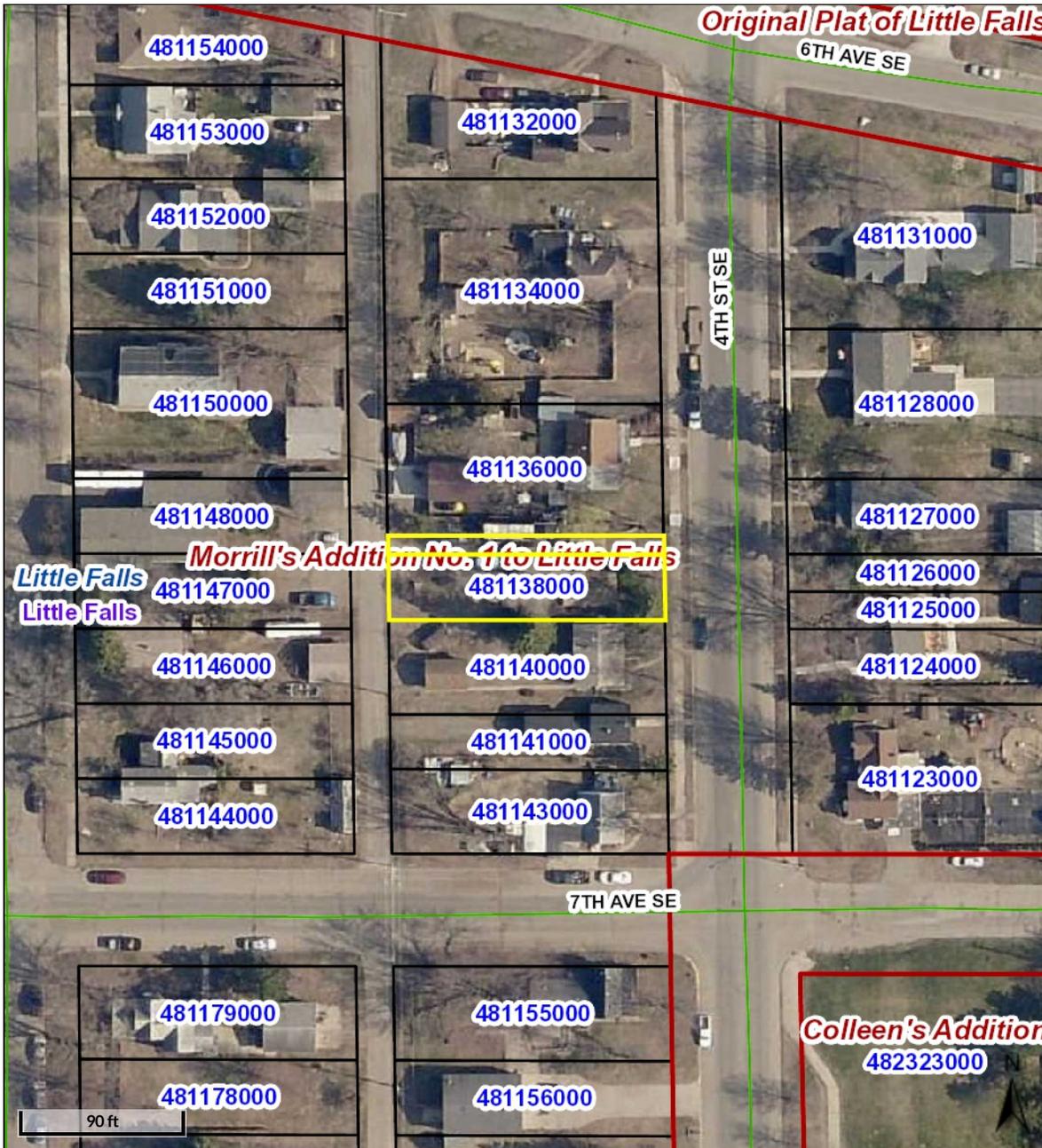
12) Could the practical difficulty be alleviated by a feasible method other than a variance (taking into account economic considerations)?

To avoid the need for a variance, it appears the applicant would have to reduce the size of the proposed addition by 2 feet or construct the same size addition at a different location (to the rear of the existing garage) on the property.

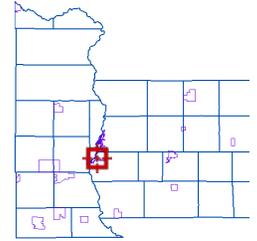
Board of Adjustment Direction: The Board of Adjustment may recommend to the Council approval of the variance request, denial of the request, or tabling of the request if the Board should need additional information from the applicant. If the Board should approve or deny the request, the Board should state the findings which support either of these actions.

Staff Comments: As the Planning Commission/Board of Adjustment considers this application, Staff would make the following comments:

1. The Board of Adjustment may wish to explore whether a 2 ft reduction in the width of the addition would be feasible, as that would not require a variance. If that is determined to be feasible, the variance could be denied and the applicant could build the smaller addition instead of what they have proposed.
2. The neighboring property owner to the south has expressed their support for the variance being granted.
3. The two parcels owned by James and Donna Waldvogel should be combined at the County Auditor's/Assessors office so as to ensure compliance with the 70% requirement of the City Code for building on existing lots of record. This could be made a condition of any variance approval.
4. Staff's interpretation of the ordinances is that a conditional use permit is not necessary for the one time addition since the lot meets the 70% standard for a lot of record being considered buildable.
5. Staff has not received any comments from the public (outside of that from the neighbor) regarding this application at the writing of this report. Any received before the meeting will be presented to the Planning Commission/Board of Adjustment at the hearing.



Overview



Legend

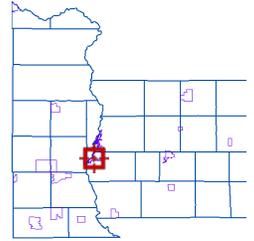
- Corporate Limits
- Political Township
- Subdivisions
- Parcels
- Main Roads**
- State Highway
- US Highway
- Road Centerlines
- ACUB Easements
- PZ_Zoning**
- Agricultural
- Commercial
- Mississippi Headwaters Board
- Manufacturing/Ind
- Residential
- Rural Residential
- Shoreland Commercial
- Shoreland Special Protection
- Shoreland Residential
- PZ_Flood Plain**
- IN
- OUT, 500yr
- PZ_Army Compatible Use Buffer
- PZ_Urban Fringe Zoning
- PZ_FeedLots

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This imagery is displayed at a scale of 1 inch=9 inch pixel resolution, (9 inches on the ground is 1 pixel on your screen). In the areas of Pierz and the NWNE lakes, the image is 1 inch=4 inch pixel resolution and is the highest quality imagery on this site. These images were flown by Pictometry in the spring of 2013.



Overview



Legend

- Corporate Limits
- Political Township
- Subdivisions
- Parcels
- Main Roads**
- State Highway
- US Highway
- Road Centerlines
- Little Falls Zoning**
- B-1
- B-2
- B-3
- B-3, PUD
- I-1
- I-2
- I-2, PUD
- PUD
- PUD-CH
- PUD.M
- R-1
- R-1, PUD
- R-1C
- R-2
- R-2, PUD
- R-2.M
- R-3
- R-3, PUD
- R-4
- ACUB Easements
- PZ_Zoning**
- Agricultural
- Commercial
- Mississippi Headwaters Board
- Manufacturing/Ind
- Residential
- Rural Residential



Phone: 320-616-5500
Fax: 320-616-5505

Fee Paid 325⁰⁰

Date Filed 4-7-16

Receipt Number 81811

Application For: REZONING, VARIANCE AND CONDITIONAL USE

Have you reviewed Chapter 11, Section 11.04 of the City Code dealing with zoning laws of the City of Little Falls? (available online: www.cityoflittlefalls.com)

Yes No

Street Address of Property 710 SE 4th ST. LITTLE FALLS

Legal Description of Property South 10 FT of Lot 6 and North 35 FT of Lot 7 Block 9 Morrills additions No 1 to LITTLE FALLS

Parcel Identification Number 481137000 481138000

Owner - Name Jim & Donna Walovogel Phone 320 632 8522
Address 710 SE 4th ST.
City LITTLE FALLS State MN Zip 56345

Applicant (if other than owner) -

Name Jeff Walovogel Phone 320 630 5000
Address 307 13th ST NW
City LITTLE FALLS State MN Zip 56345

Type of Request - Rezoning Variance Conditional Use Other

Description of Request 15'6" X 20' Addition to House
Bedroom, Bathroom, Laundry Room

Reason for Request Jim is Handicapped (Handicapped # A43851)
Bedroom & bathroom is on the upper level, Washer in basement
Addition would put all on same floor main level
(Ages - Jim 77 Donna 75)

Present Zoning Classification R2

Existing Use of Property Residential

Existing Use and Zoning of the Surrounding Area (two blocks) R2

Has a request for a variance, special use permit, or rezoning on the subject site - or any part thereof - been previously sought?

Yes _____ No X When _____

Signature of Applicant/s Jeff Waldorf

Date 3/29/16

I am the legal fee owner of the property described on this application and I consent to this application

Signature of owner/s James Waldorf

Approved _____ Denied _____ by the Planning Commission on _____
Date

Approved _____ Denied _____ by the City Council on _____
Date

Mailing Address: City of Little Falls, P.O. Box 244, Little Falls, MN 56345

The following questions must be answered.

1. What changes are you proposing to make to this property?

Building: 15'6" x 20' Addition to SW Corner of House

Landscaping: NONE

Parking/Signs: NONE

2. Describe the character of the area and the existing patterns and use of development in the area. How is the proposal consistent with those patterns and uses? The area is

older 1 & 2 Story Residential homes. The addition should
be consistent with the homes in the neighborhood

3. Describe the impact on the character of the neighborhood in which the property is located. The addition is in the back of the home.

The addition would show Improvement in neighborhood
Raise the value of home and have a positive
effect on neighborhood

4. Describe the impact to the traffic on roads and highways in the vicinity, and the expected traffic generated by the proposed use. Is there adequate off-street parking available to accommodate the proposal? No Impact to Road traffic

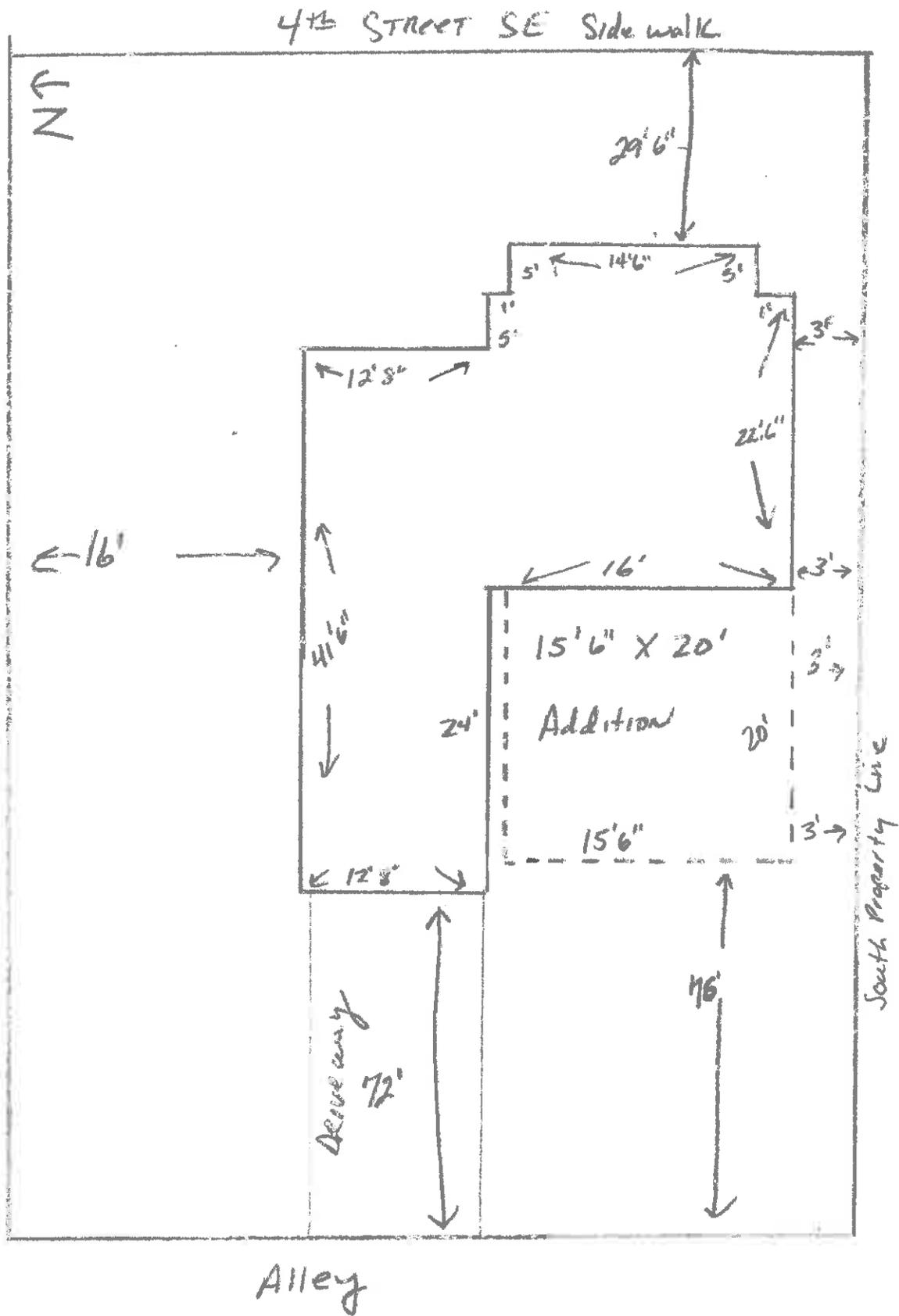
Off Street Parking NOT affected

5. What part of the City Zoning Ordinance creates a practical difficulty to the property in question? What is the practical difficulty that prevents the land to be used in a reasonable way? Set back on So Side of Property Existing house is only

3 FT off Property Line. Set back is 5' Addition would NOT
be closer than Existing House 3' set back

Use other side of page if necessary.

Mailing Address: City of Little Falls, P.O. Box 244, Little Falls, MN 56345



My name is John Kimman, I am the property owner, to the south (712 SE 4th ST) and next to Jim and Donna Waldvogel. I have no problem with the variance they are applying for or the addition they need to build.

Thank you,

A handwritten signature in black ink, appearing to read "John Kimman". The signature is written in a cursive style with a large, sweeping initial "J" and "K".

STAFF REPORT

Application: Amendment to City Code, Sections 11.03.L (Dwelling Units Prohibited). The purpose of the amendment is to clarify the existing prohibition on the use of recreational vehicles as a dwelling unit and set a limitation on the length of time that they may be used as such.

Applicant: City of Little Falls Planning Commission.

Background Information:

- Proposal:** Based on discussions and review at previous meetings of the Planning Commission, Staff has prepared proposed ordinance amendments relating to the regulation of the use of recreational vehicles as temporary dwellings on city lots.

The proposed changes are listed below.

Planning Commission Action: The Planning Commission may recommend to the City Council approval of the proposed ordinance amendment, denial of the request, or tabling of the request if the Commission should need additional information. If the application is tabled, the Commission should provide specific direction as to what additional information is needed.

Proposed Ordinance Amendment: The proposed amendment is to Section 11.03.L of the City Code, as follows (proposed new language is underlined):

L. Dwelling Units Prohibited: No cellar, garage, tent, trailer, basement with unfinished structure above, or accessory building, shall at any time be used as a dwelling unit, except trailers located in an approved mobile home park. The basement portion of a finished home or apartment building may be used for normal eating and sleeping purposes, provided it is properly dampproofed, has suitable fire protection and exits, and is otherwise approved by the building inspector.

A recreational vehicle shall not be considered a dwelling unit if it is located on a property that contains a primary dwelling (or where a dwelling is under active construction) for fourteen (14) days or less and is road ready and currently licensed. This time frame may be extended up to 180 days between April 1 and October 31 upon approval by the Zoning Administrator after a written request by the property owner has been made.

STAFF REPORT

Public Hearing: Amendment to City Code, Sections 11.05.D (R-1 One- And Two-Family Residential District), 11.05.F (R-1 One- And Two-Family Residential District), 11.05.G (R-3 Multiple-Family Residential District), 11.05.I (B-1 Limited Business District), 11.05.J (B-2 General Business District), 11.05.L (I-1 Industrial District (Light), 11.05.M (I-2 Industrial District (Heavy)), 11.05.N (Planned Unit Development District (PUD District)). The purpose of the amendments is to allow for certain uses deemed compatible with the relevant zoning districts as a conditional use if they are not otherwise listed.

Applicant: City of Little Falls Planning Commission

Background Information: At the April 11, 2016 meeting of the Planning Commission, ordinance amendments were recommended to the City Council for approval. The recommended amendments related to the listing of uses that are allowed within each zoning district - either as allowed (no permit needed), permitted (a permit is necessary) or conditional (a conditional use permit is necessary).

One of the proposed amendments, which was located in several areas of the ordinance, used the following language as a way to provide the Commission and the City Council greater flexibility regarding the uses that could be allowed in each zoning district if they weren't specifically listed: *"Other uses of the same general character as permitted or conditional uses listed above, provided they are deemed fitting or compatible to the district by the Planning Commission."*

When the language was presented to the City Council, and based on discussions with the City Administrator, it was recommended that the words "Planning Commission" be replaced with "City Council" at the end of the sentence to clarify that it is ultimately the City Council that decides.

More importantly however, the City Council has sent the proposed ordinance amendments back to the Planning Commission, upon input received from the City Attorney. The reason is to explore amending the language to provide more specific guidance as to what factors will be considered in determining whether a use is "of the same general character".

Planning Commission Action: The Commission can recommend approval of the proposed amendments to the City Council or table the item for more revisions and review.

Staff Comments: The Commission should discuss the concerns of the City Attorney and City Council and determine how it would recommend addressing them. Staff will work with the City Attorney before the meeting so as to have some recommendations for the Commission at that time.

