



# MEMORANDUM

DATE: June 7, 2016  
TO: Chairperson Hvidsten, Members of the Planning Commission, Administrator Kreft  
FROM: Cynthia Smith Strack, Community Development Director  
RE: Item 5.1 Variance: Second Driveway at 840 Court Street East

## REQUEST SUMMARY

**PZ Task:** Conduct public hearing and recommend action to City Council.

**Overview:** Kenneth and Kay Inglett, 840 Court Street East request consideration of two variances related to a second driveway. First, a variance from Section 1107.12, Subd. 5(2)(B)(1)(d), to reduce the minimum front yard width for a second driveway from 125' to 112 feet. Second, to Section 1107.12, Subd. 5(2)(1)(c) relating to driveway surfacing with concrete or asphalt.

**Locale:** Residential neighborhood; single family detached.

**Land Use:** Planned and zoned low density residential

**Attachments to Report:** (a) Staff analysis of request;  
(b) Application submittal;  
(c) Applicable Code standard;  
(d) Draft Resolution No. 16-010.

**Action Options:** Action on Resolution 16-010 recommending approval or denial (specify) of variance requests relating to a second driveway. Alternatively, the PZ may postpone action pending receipt of additional information.

**Staff Recommendation:** Approval, with conditions specified in Resolution 16-010; specifically including driveway be brought up to surfacing requirements at the time of change of ownership/transfer of deed.

**Notes:** Kenneth Inglett is expected to be in attendance.



**June 7, 2016**

**TO:** Chairperson Hvidsten, Planning Commission Members, Administrator Kreft  
**FROM:** Cynthia Smith Strack, Community Development Director  
**SUBJECT:** Resolution 16 – 010: Variance Request 840 Court Street East

The purpose of this memo is to provide the Commission with information regarding two variance requests for a second driveway.

Kenneth and Kay Inglett request two variances. First, a variance from Section 1107.12, Subd. 5(2)(B)(1)(d), to reduce the minimum front yard width for a second driveway from 125' to 112 feet. Second, to Section 1107.12, Subd. 5(2)(1)(c) relating to driveway surfacing.

Representations by the Applicant

The Applicant represents:

- An existing detached accessory structure exists in the north east corner of the lot.
- The structure had been accessed from the edge of bituminous surfacing on Court Street which did not extend fully to the east Court Street right-of-way terminus.
- The 2016 Street Improvement Project included extension of the east Court Street right-of-way fully to the east terminus.
- Without a second driveway the detached structure cannot be accessed by the property owner.
- The detached structure is seldom accessed from the street.
- The property owner has no plans to install a driveway, just a curb cut with travel across the lawn to access the structure.



Consistency with Comprehensive Plan & R-3 Single & Two Family Residential District

The existing residential (single & two family) use is consistent with planned use and current zoning.

Code Standard – Variance Request

Section 1103.05 of the Code establishes general and review criteria to be address during variance review as follows:

1. Variance must be in harmony with the general purposes and intent of the Code.
2. Variance must be consistent with the Comprehensive Plan.
3. Practical difficulties must exist, meaning:
  - a. The property is to be used in a reasonable manner which is not permitted by the Code;
  - b. The plight of the property owner is due to circumstances unique to the property and not created by the landowner; and,
  - c. The variance, if granted, will not alter the essential character of the locality.

In addition, the following criteria apply to issuing second driveway permits under Section 1107.12, Subd. 5(1)(A)(2):

1. The following criteria will be used to determine if multiple driveways will be approved on a property:
  - a) Safety concerns relative to the functionality of the street, such as backing up into a major thoroughfare, will also be considered.
  - b) The driveway(s) leads to a structure with vehicular access.
  - c) Consideration will be given to multiple curb cuts in existence at the time the permit is made, but will be not guaranteed approval to remain as is unless it meets one of these conditions listed above.

### Potential Findings

1. In favor of the request:
  - The use of the property is and will remain single family detached residential, consistent with both planned use and existing zoning.
  - The proposed variance to minimum lot width from 125' to 112' is an 'after the fact variance' as the detached structure already exists
  - The proposed variance is due to a circumstance unique to the subject property in that the paved portion of Court Street East did not extend fully to the easternmost point of right of way terminus.
  - Court Street East has been designated as a 'local' street in terms of functional classification.
  - The proposed variance to lot width results from action taken by the City with regard to extension of bituminous surfacing on Court Street East to the easternmost point of right of way terminus.
2. In opposition to the request:
  - The plight of the property owner with regard to driveway surfacing is a purely personal choice as such the driveway surfacing component is not unique to the property.

### Staff Recommendation

Staff recommends approval of the lot width variance request supported by the aforementioned sample findings of fact in support of the request, subject to the conditions below. In addition, staff recommends allowing flexibility in timeframe for installation of the driveway until sale of the property.

1. The "Use" is a second driveway at 840 Court Street East.
2. This approval shall expire one year after date of approval unless the Applicant has commenced placement of the curb cut related to the second driveway.
3. Width of the second driveway shall not exceed twenty-four (24) feet; the second driveway shall be setback a minimum of five (5) feet from the east property line.
4. When installed the driveway shall meet surfacing standards and feature either concrete or asphalt.
5. If not installed previously, the driveway shall be installed consistent with surfacing requirements (concrete or asphalt) at the time of change of ownership/transfer of deed.
6. A driveway permit is applied for and issued.
7. This permit is subject to all applicable codes, regulations and ordinances, and violation thereof shall be grounds for revocation.

## 1107.12 SUBD 5. DRIVEWAY PERMIT.

All property owners are required to obtain a driveway permit prior to modification of an existing driveway or the construction of a new driveway. The permit must be obtained from the Zoning Administrator prior to commencement of work.

1. Permits will be reviewed by the Zoning Administrator, Public Works Superintendent and City Engineer, as necessary.

2. Residential Properties:

A. The maximum residential driveway width at the curb shall be twenty-four (24) feet unless a wider driveway is requested and approved in the driveway permit. A driveway width of up to a maximum of thirty-six (36) feet may be permitted based upon the City's evaluation of the following considerations:

1. The following criteria must be met prior to consideration of a wider driveway than twenty-four (24) feet:

- a) The property setbacks allow for the curb cut to be located greater than five (5) feet from the property line.
- b) No curb cut access shall be located less than thirty (30) feet from the intersection of two or more street rights-of-way.
- c) The entire driveway must be improved with asphalt, concrete, or other approved surfaces.

2. The following criteria will be used to determine if a wider driveway will be approved:

- a) Safety concerns relative to the functionality of the street, such as backing up into a major thoroughfare, will also be considered.
- b) The driveway leads to an attached or detached garage with three (3) vehicular stalls.
- c) Consideration will be to curb cuts in existence at the time the permit is made, but will not be guaranteed approval to remain as is unless it meets one of these conditions listed above.

B. Each property, whether residential or commercial, shall be allowed one (1) curb cut access. A permit to request multiple driveways on a single family or multi-family property may be permitted based upon the City's evaluation of the following considerations:

1. The following criteria must be met prior to consideration for multiple driveways on a property:

- a) Driveway access curb openings on a public street, except single and two-family townhomes, shall not be located less than forty (40) feet from one another.
- b) The property setbacks allow for the curb cut to be located greater than five (5) feet from the property line.

- c) No curb cut access shall be located less than 30 feet from the intersection of two or more street rights-of-way.
  - d) The street frontage is greater than one hundred twenty-five (125) feet for the side of the property where multiple driveways are being requested.
  - e) The entire driveway must be improved with asphalt, concrete, or other approved surface.
2. The following criteria will be used to determine if multiple driveways will be approved on a property:
- a) Safety concerns relative to the functionality of the street, such as backing up into a major thoroughfare, will also be considered.
  - b) The driveway(s) leads to a structure with vehicular access.
  - c) Consideration will be given to multiple curb cuts in existence at the time the permit is made, but will be not guaranteed approval to remain as is unless it meets one of these conditions listed above.



# CITY OF BELLE PLAINE

218 Meridian Street North • Belle Plaine, MN 56011 • 952-873-5553

Permit Type: Z-Variance - Single Family

Parcel No.: 200110230

Work Valuation: \$0.00

Permit No.: **D-160006**

Approved Date: 05/12/16

Expiration Date: 07/12/16

For ELECTRICAL inspections, call 507-665-3205, between 7:00-8:30 a.m.  
ALL OTHER inspections call 952-873-5655, 24 hours in advance.



**Owner Information:**

INGLETT, KENNETH R & KAY W  
840 COURT ST E  
BELLE PLAINE MN 56011

**Contractor Information:**

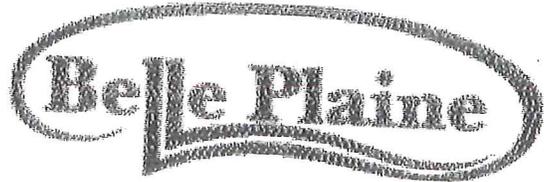
**Work Description/Requirement:**

**Fee Description:**

Variance, Single Family Fee	\$300.00		
TOTAL FEE:	\$300.00	PAID:	\$300.00

**840 COURT STREET EAST**

**THIS PERMIT MUST BE POSTED AT THE ABOVE WORK ADDRESS AT ALL TIMES**



CITY OF BELLE PLAINE  
218 N. MERIDIAN STREET  
PO BOX 129  
BELLE PLAINE MN 56011  
952-873-5553

Transaction 128032.1370  
05/11/2016 02:48pm  
sale @ BPCITY-7C

Permit D-160006 Z-Variance - Single Family	\$300.00
840 COURT STREET EAST	
Permit Z-160039 Z-Driveway Permit	\$50.00
840 COURT STREET EAST	
Receipt Total	\$350.00
Check Payment (9341 SRM)	\$350.00

Annex	CUP	Home Occ.	Interim Use	Move Building	Non - Conform	Plan Consid.	PUD	Variance
Driveway		Land Excavation	Land Fill		Rental		ROW	Sign



City of Belle Plaine  
 218 N. Meridian Street  
 P.O. Box 129  
 Belle Plaine, MN 56011

Community Development Department  
 Phone: 952-873-5553  
 Fax: 952-873-5509  
 www.belleplainemn.com

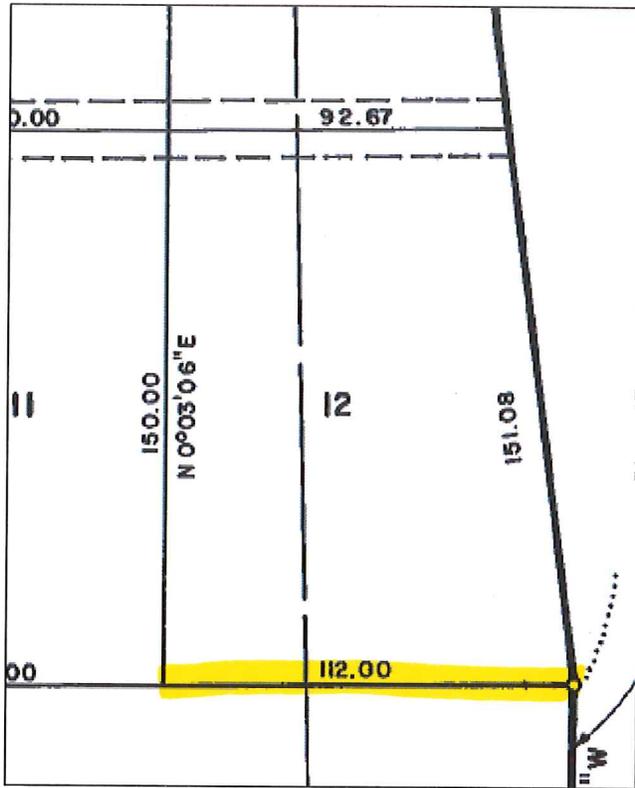
10-160006

Fee: \$300.00 Single-family Dwellings / \$500.00 all other applicants

## VARIANCE REQUEST APPLICATION

<b>PROPERTY</b>	Address: 840 East Court Street	Belle Plaine, MN	P.I.N: 200110230
Lot(s): 012	Block(s): 003	Subdivision: Chards 2nd Addition	
Zoning: Residential			
<b>APPLICANT</b>	<input checked="" type="checkbox"/> Owner	Name: Kenneth & Kay Inglett	Phone: 612-483-3878
Address: 840 E. Court Street, Belle Plaine, MN 56011		Cell:	
E-mail: Kingl2132@aol.com		Fax:	
<b>OWNER</b>		Name: Kenneth & Kay Inglett	Phone: 612-483-3878
Address: 840 E. Court Street, Belle Plaine, MN 56011		Cell:	
E-mail: Kingl2132@aol.com		Fax:	
Variance is requested to: Driveway access to rear of property - No longer have access since curb extended to property line. Garage in back.			
<b>Ordinance in which variance is requested:</b>		Section Number:	Subdivision Number:
Description: _____			
In your opinion, is the variance consistent with the purpose and intent of the ordinance?			<input type="checkbox"/> Yes <input type="checkbox"/> No
Explain: _____			
In your opinion, is the variance consistent with the comprehensive plan?			<input type="checkbox"/> Yes <input type="checkbox"/> No
Explain: _____			
In your opinion, does the proposal put property to use in a reasonable manner?			<input type="checkbox"/> Yes <input type="checkbox"/> No
Explain: _____			
In your opinion, are there circumstances unique to the property?			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Explain: _____			
In your opinion, will the variance maintain the essential character of the locality?			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Explain: _____			

1107.12, Subd. 5 (2) (B) (c) (d) min. lot width 125'  
 1107.12, Subd 5 (2) (1) (c) concrete, asphalt



5' off lot line  
40' from existing driveway

**BELLE PLAINE PLANNING COMMISSION  
RESOLUTION PZ-16-010**

**RECOMMENDING THE CITY COUNCIL **APPROVE/DENY** A VARIANCE TO REDUCE MINIMUM LOT WIDTH REQUIRED FOR A SECOND DRIVEWAY FROM 125 FEET TO 112 FEET AND ALLOWING DRIVEWAY TO BE INSTALLED AT THE TIME OF PROPERTY SALE OR DEED TRANSFER OF THE PROPERTY AT 840 COURT STREET EAST**

WHEREAS, the City Code §1103.07 provides for the processing of variance requests; and,

WHEREAS, Kenneth and Kay Inglett, owners of the property at 840 Court Street East (the 'Applicants') have applied for a variance from Section 1107.12, Subd. 5(2)(B)(1)(d);

WHEREAS, the Applicants have also applied for a variance to Section 1107.12, Subd. 5(2)(1)(c) relating to driveway surfacing with concrete or asphalt; and,

WHEREAS, the subject property is identified as PID #200110230, is legally described as Lot 12, Block 3 Chards Second Addition, and is zoned R-3 Single and Two Family Residential; and,

WHEREAS, the Applicants represent:

1. An existing detached accessory structure exists in the north east corner of the lot.
2. The structure had been accessed from the edge of bituminous surfacing on Court Street which did not extend fully to the east Court Street right-of-way terminus.
3. The 2016 Street Improvement Project included extension of the east Court Street right-of-way fully to the east right-of-way terminus.
4. Without a second driveway the detached structure cannot be accessed by the property owner.
5. At this time the detached structure is seldom accessed from the street.
6. The property owner has no plans to install a driveway, just a curb cut with travel across the lawn to access the structure.

WHEREAS, a public hearing was scheduled and held by the Planning Commission, the City's designated Planning Agency, on June 7, 2016 following duly published notice to accept public comment on the proposed preliminary plat; and,

WHEREAS, the Planning Commission accepted public input and discussed the proposed variance; and,

WHEREAS, the Planning Commission finds:

***Sample findings in favor of the request:***

1. The use of the property is and will remain single family detached residential, consistent with both planned use and existing zoning.
2. The proposed variance to minimum lot width from 125' to 112' is an 'after the fact variance' as the detached structure already exists
3. The proposed variance is due to a circumstance unique to the subject property in that the paved portion of Court Street East did not extend fully to the easternmost point of right of way terminus.
4. Court Street East has been designated as a 'local' street in terms of functional classification.
5. The proposed variance to lot width results from action taken by the City with regard to extension of bituminous surfacing on Court Street East to the easternmost point of right of way terminus.

**Sample findings in opposition to the request:**

1. The plight of the property owner with regard to driveway surfacing is a purely personal choice as such the driveway surfacing component is not unique to the property.

NOW, THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF BELLE PLAINE, SCOTT COUNTY, MINNESOTA, THAT: It recommends the City Council **approve/deny** a variance to the required minimum lot width for a second driveway from one hundred twenty-five (125) feet to one hundred twelve (112) feet, subject to the following conditions.

1. The "Use" is a second driveway at 840 Court Street East.
2. This approval shall expire one year after date of approval unless the Applicant has commenced placement of the curb cut related to the second driveway.
3. Width of the second driveway shall not exceed twenty-four (24) feet; the second driveway shall be setback a minimum of five (5) feet from the east property line.
4. A driveway permit is issued within one (1) year of the effective date of Council action.
5. When installed the driveway shall be surfaced with concrete or asphalt.
6. This permit is subject to all applicable codes, regulations and ordinances, and violation thereof shall be grounds for revocation.

BE IT FURTHER RESOLVED: construction of a driveway may be delayed, subject to the following condition:

1. The driveway will be installed and brought up to surfacing requirements (concrete or asphalt) at the time of change of ownership/transfer of deed.

The adoption of the foregoing resolution was duly moved by Commissioner \_\_\_\_\_ and seconded by Commissioner \_\_\_\_\_, and after full discussion thereof and upon a vote being taken thereon, the following Commissioners voted in favor thereof:

and the following voted against the same:

Whereupon said resolution was declared duly passed and adopted. Dated this 7<sup>th</sup> day of June, 2016.

\_\_\_\_\_  
Nathaniel Hvidsten  
Chairperson

\_\_\_\_\_  
Cynthia Smith Strack  
Community Development Director