

**BELLE PLAINE PLANNING & ZONING COMMISSION
REGULAR MEETING
JULY 11, 2016**

1. CALL TO ORDER. 1.1. Roll Call.

The Planning and Zoning Commission met in Regular Session on Monday, July 11, 2016 at City Hall, 218 North Meridian Street, Belle Plaine, MN. Chair Nate Hvidsten called the meeting to order at 6:30 p.m. with Commissioners Ashton Pankonin, Ashby Carter, Anthony Hetzel and Brittney Cotner present. Also present were Council Liaison Henry Pressley and Community Development Director Cynthia Smith Strack. Alternate Catherine Tarbell was a member of the audience.

2. APPROVAL OF AGENDA.

MOTION by Commissioner Pankonin, second by Commissioner Carter, to approve the agenda as presented. ALL VOTED AYE. MOTION CARRIED.

3. APPROVAL OF MINUTES. 3.1. Regular Session Minutes of June 7, 2016.

MOTION by Commissioner Hetzel, second by Commissioner Pankonin, to approve the Regular Session Minutes of June 7, 2016. ALL VOTED AYE. MOTION CARRIED.

4. RECOGNITION OF INVOLVED CITIZENS.

No one spoke during the open forum.

5. PUBLIC HEARINGS.

5.1. Conditional Use Permit. The Planning Commission will consider public comment on requests by Nathan and Elizabeth Hanson, owners of property at 140 Walnut Street South for a conditional use permit under Code Section 1103.08c Subd. 5(A)(2) and a non-conformance expansion permit under Code Section 1102.03. If approved the CUP and non-conformance expansion permit would allow the construction of a 1,040 square foot detached garage.

Community Development Director Smith Strack explained that Nathan and Elizabeth Hanson have applied for a conditional use permit under Code Section 1103.08, Subd. 5(A)(2) and a non-conformance expansion permit under Section 1102.03 of the Code. If approved, the CUP and non-conformance expansion permit would allow the construction of a 1,040 square foot detached garage (26' X 40') two feet from the side (north) property line at 140 Walnut Street South. The existing driveway would be used to access the detached garage. The existing dwelling has a footprint of 875 square feet.

Community Development Director Smith Strack further explained that Staff's recommendation is to approve the conditional use permit as the conditions placed on detached accessory structures exceeding 900 square feet will be achieved as the building height is 15' and exterior siding will match the house. Strack stated recommended action on the non-conforming expansion permit request is less clear given ambivalence with regard to review criteria. Ultimately, however, denial of the non-conforming use permit is recommended given the difficulty in establishing the request is unique to the property.

Chair Hvidsten opened the public hearing at 6:42 p.m. and asked for public comment.

Nathan Hanson, 140 South Walnut Street, applicant, requested approval of the Non-Conforming Expansion Permit and Conditional Use Permit. He intends to remove the existing shed and construct a larger garage in its place. Commissioner Hetzel asked why he does not utilize the alley as an access to the proposed garage. Hanson replied that he wants to retain the use of his yard as much as possible and has paid an architect to assist with the best possible location.

MOTION by Commissioner Cotner, second by Commissioner Pankonin, to close the public hearing at 6:45 p.m. ALL VOTED AYE. MOTION CARRIED.

Community Development Director Smith Strack explained that in her review of the Non-Conforming Expansion Permit, it was difficult to justify Item #2: that circumstances are unique to the property, are not caused by the landowner, are not solely for owner's convenience, and are not solely because of economic considerations. Commissioner Cotner commented that if the garage were to be built three feet to the south, then a Non-Conforming Expansion Permit is no longer necessary. Community Development Director Smith Strack confirmed Cotner's statement. Commissioner Hetzel was concerned the proposed garage would be larger than the existing home.

Chair Hvidsten called for action on the Conditional Use Permit prior to addressing the Non-Conforming Expansion Permit.

5.1.1. Resolution PZ 16-017 Conditional Use Permit at 140 South Walnut Street.

MOTION by Commissioner Cotner, second by Commissioner Pankonin, to approve Resolution PZ 16-017 Conditional Use Permit at 140 South Walnut Street. ALL VOTED AYE. MOTION CARRIED.

5.1.2. Resolution PZ 16-016 Non-Conforming Expansion Permit at 140 South Walnut Street.

Council Liaison Pressley stated the review criteria is difficult as he appreciates the opportunity for home owners to improve their property. He noted the proposed garage would be located in the same alignment as the existing shed. Commissioner Carter expressed concern for the proposed garage to be 40 feet long compared with 20 feet for the existing shed. He believed this was an opportunity to remove a non-conforming structure. Commissioner Pankonin commented that similar requests have been approved previously. Commissioner Cotner expressed concern if the Commission were to ignore the criteria of Item #2. Commissioners Carter and Hetzel concurred. Chair Hvidsten did not foresee an issue with allowing the Non-Conforming Expansion Permit. Commissioner Pankonin commented the existing large trees could be considered unique to the lot. Commissioner Carter suggested the garage be reduced in size to prevent the loss of trees.

Commissioner Hetzel departed from his Commissioner seat at 6:56 p.m. for a brief period of time.

Elizabeth Hanson, 140 South Walnut Street, applicant, requested permission to speak. Chair Hvidsten allowed Ms. Hanson to comment. Ms. Hanson stated that their lot is unique in that it is very narrow and difficult to maneuver vehicles. She also stated the driveway is very narrow but they wished to continue to use it. She opined she and Nathan invested time and resources when studying how best to utilize the lot. Nathan Hanson explained that proposed location of the garage allows for the most greenspace retainage.

Commissioner Pankonin commented that at 67 feet, the Hanson lot is narrower than neighboring properties which are generally 75 feet. Commissioner Cotner asked Staff how one defines "unique." Community Development Director Smith Strack replied there is broad discretion and that a narrow lot and large, mature trees could be considered in the realm of "unique." Commissioner Pankonin believes the lot is unique due to the existing driveway, the lot is very narrow and there are large, mature trees.

MOTION by Commissioner Hvidsten, second by Commissioner Pankonin, to APPROVE Resolution PZ 16-016 Non-Conforming Expansion Permit at 140 South Walnut Street. Commissioners Hvidsten and Pankonin VOTED AYE. Commissioners Cotner, Carter and Hetzel VOTED NAY. MOTION FAILED.

MOTION by Commissioner Cotner, second by Commissioner Carter, to DENY Resolution PZ 16-016 Non-Conforming Expansion Permit at 140 South Walnut Street. Commissioners Cotner, Carter and Hetzel VOTED AYE. Commissioners Hvidsten and Pankonin VOTED NAY. MOTION CARRIED.

5.2. Ordinance 16-011, Temporary Family Health Care Dwelling Units. The Planning Commission will consider public comment on proposed Ordinance 16-11, An Ordinance Opting-Out of the Requirements of Minnesota Statutes Section 462.3593 Relating to Temporary Family Health Care Dwellings. If approved the Ordinance will exempt the City from the requirements of the Temporary Family Health Care Dwellings law. Opting-out of the law does not preclude the City from enacting code language relating to accessory dwelling units.

Community Development Director Smith Strack explained that at a joint work session the City Council and Planning Commission discussed a bill signed into law by Governor Dayton in May. The Temporary Family Health Care Dwellings law requires cities approve qualifying temporary accessory dwelling units unless the City opts out of the law by Ordinance prior to September 1st. The City may enact local standards relating to accessory dwellings units in the event it opts out of the new law. The City and Planning Commission called for a public hearing on an Ordinance opting out of the new law. The proposed Ordinance is based on a model developed by the League of Minnesota Cities.

Chair Hvidsten opened the public hearing at 7:14 p.m. and asked for public comment. There was no response.

MOTION by Commissioner Pankonin, second by Commissioner Carter, to close the public hearing at 7:15 p.m. ALL VOTED AYE. MOTION CARRIED.

Community Development Director Smith Strack commented the City is in need of affordable housing. Chair Hvidsten commented that regulations for affordable housing may be a topic for a future meeting.

1. Resolution PZ 16-015 Recommending Approval of Ordinance 16-011.

MOTION by Commissioner Hvidsten, second by Commissioner Carter, to approve Resolution PZ 16-015 Recommending Approval of Ordinance 16-011. ALL VOTED AYE. MOTION CARRIED.

6. BUSINESS.

6.1. Discussion: Second Driveways.

Community Development Director Smith Strack explained that at the June meeting the Planning Commission briefly discussed second driveways and a Code requirement such drives extend to structures with garage doors. The discussion followed a series of requests for second driveways that do not meet code requirement. In particular, resident Chris Potter, 968 Mallard Lane spoke to the Planning Commission regarding parking of an RV on his corner lot. The Commission agreed to talk more about the standard at a future meeting.

Community Development Director Smith Strack advised that the Public Works Committee will be meeting on July 12, 2016 and it is pertinent to receive input from that Committee. It was the consensus to add this topic to next month's agenda so that a recommendation can be obtained from the Public Works Committee.

7. ADMINISTRATIVE REPORTS.

7.1. Commissioner Comments.

Commissioner Pankonin commented on the unusual color of the commercial building at 102 West Main Street.

There were no further Commissioner comments.

7.2. Director's Report.

Community Development Director Smith Strack referenced her Director's Report.

7.3. Upcoming Meetings.

1. Next Regular Meeting, 6:30 p.m., Monday, August 8, 2016.

The Commissioners were reminded of the next meeting as listed.

8. ADJOURNMENT.

MOTION by Commissioner Cotner, second by Commissioner Hetzel, to adjourn at 7:22 p.m. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Patricia Krings
Recording Secretary