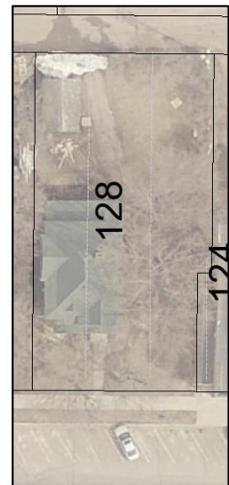


**November 12, 2019**

**TO:** Chairperson Cauley, Planning Commission Members, & Administrator Meyer  
**FROM:** Cynthia Smith Strack, Community Development Director  
**SUBJECT:** Resolution 19 – 028(A) or (B): Non-Conforming Expansion Permit to Construct Detached Garage – 128 Main Street West

Melody Livingston, fee owner of property at 128 Main Street West has applied for a non-conformance expansion permit under Section 1102.03 of the Code. If approved, the non-conformance expansion permit would allow a 576 square foot detached garage to be constructed on the subject property. Currently a 300 square foot shed is located on the subject property. Property use is a legal non-conforming single family residence in the B-3 Central Business District.



**Attachments:**

- Application for non-conforming use expansion permit.
- B-3 Central Business District standards.
- Resolution 19-028(A) Resolution 19-028(A) Resolution Recommending Approval of a Non-Conformance Expansion Permit Relating to Construction of a Detached Garage at 128 Main Street West in the B-3 Central Business District.
- Resolution 19-028(B) Resolution Recommending Denial of a Non-Conformance Expansion Permit Relating to Construction of a Detached Garage at 128 Main Street West in the B-3 Central Business District.

**Representations by the Applicant:**

The Applicant represents:

- The property use is non-homestead one family residential.
- A 24' X 24' (576 sf) garage is proposed to improve the livability of the property.
- The property has been for sale for an extended period of time and the Applicant has been advised a detached garage will increase perceived livability of the existing use
- An existing 300 square foot shed is located on the subject property and proposed to remain.
- The proposed detached garage will be accessed from the public, improved alley.
- The proposed garage will increase habitability of dwelling.
- The dwelling is not proposed for expansion/alteration.

**Non-Conformance Expansion Permit Review:**

1. The proposed 24' by 24' garage is described as having an eight-foot sidewall (i.e. garage door height of seven feet) and an 8:12 roof pitch creating an overall height of sixteen (16) feet which is not consistent with Code. Maximum height is limited to fifteen (15) feet.
2. Proposed setbacks are met as prescribed in the B-3 District.

3. Section 1102.02 of the City Code provides:

*Any nonconformity, including the lawful use or occupation of land or premises legally existing at the time of establishment **may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion.***

In addition, Section 1102.03, Subd. 2(3) establishes the following review criteria for non-conforming use expansion permits:

- A. The proposed expansion is a reasonable use of the property, considering such things as:
  - i. Functional and aesthetic justifications for the expansion;
  - ii. Adequacy of off-street parking for the expansion;
  - iii. Absence of adverse off-site impacts such as things as traffic, noise, dust, odors, and parking; and
  - iv. Improvement to the appearance and stability of the property and neighborhood.
- B. The circumstances justifying the expansion are unique to the property, are not caused by the landowner, are not solely for the landowner's convenience, and are not solely because of economic considerations; and
- C. The expansion would not adversely affect or alter the essential character of the neighborhood.

**Potential Findings in Favor of the Non-Conformance Expansion Permit Request:**

1. The property is used for residential purposes. Existing zoning is B-3 Central Business District.
2. Status of the existing use is legal non-conforming.
3. The residential dwelling is not proposed for expansion.
4. The proposed garage will not expand the habitable area of the dwelling and thereby not expand the use.
5. The proposed detached garage will improve the condition of the property and the livability of the residential use.
6. The placement of a garage on the lot will not adversely impact the use and enjoyment of other property in the immediate vicinity.
7. A principal structure is located on the lot at this time. The proposed accessory structure will not adversely impact normal and orderly development and improvement of surrounding property.
8. No changes are proposed to existing utilities, access roads, or drainage patterns.
9. The proposed detached garage will be accessed from an existing, improved alley.
10. The detached garage with proposed height, size, and exterior material requirements will not alter the essential character of the neighborhood and is a reasonable use of the property.
11. The garage replacement will have a positive impact on the value and use of the property for residential purposes.

**Potential Findings To Deny the Non-Conformance Expansion Permit Request:**

1. An existing detached shed already exists on the property. The status of the property is legal non-conforming. Expansions of legal non-conforming uses are prohibited. The proposed new detached garage amounts to an expansion of a legal non-conforming use.
2. The subject parcel is envisioned as transitioning to commercial use, a detached garage furthers its use as a residential dwelling.
3. Other legal non-conforming uses exist within the community. The existing shed could be used as a garage, therefore, the proposed garage is something the property owner would prefer but is not necessary for the use or enjoyment of the property.

4. Conditions unique to the property requiring the construction of a detached two-car garage do not exist.

**Staff Recommendation:**

Staff has reviewed the proposed non-conforming use expansion permit application and notes the dwelling unit size (footprint/height) and habitable area of the residential use is not being expanded. Staff also finds the existing shed could function as a garage or the shed could be added onto or removed in favor of the proposed detached garage. As such, a recommendation is withheld.

Staff recommends discussion pertaining to allowing or disallowing existing shed to remain on the site.

If the Commission considers a favorable recommendation, the following conditions are proposed:

1. Uses of the subject property shall be limited to the following:
  - a. A dwelling not exceeding a basement foundation size of 904 square feet and above grade living area of 2,434 square feet in area and one **alternately, two** detached accessory structure**s**.
  - b. The proposed detached accessory structure (garage) shall be no larger than 576 square feet in area or 24 feet by 24 feet in size.
  - c. The detached accessory structure shall be post/frame wood slab on grade construction, roof pitch of 7:12, hardy plank siding, and asphalt shingles. Garage door height shall not exceed seven feet. Overall height of the structure shall not exceed fifteen (15) feet.
2. The detached accessory structure is for personal use only and shall not be used for a home occupation. "Home occupation" is defined as a business, profession, occupation, or trade conducted for gain or support and engaged in by the occupant of a dwelling and/or his/her assigns.
3. The non-conforming use expansion permit is in effect for the property at 128 Main Street West and assigned to the current and/or any future owner of the property. The non-conforming use expansion permit may be revoked by the City following written notice to the property owner if the conditions of the permit as listed herein are not met and/or maintained.
4. The non-conforming use expansion permit will expire if a building permit is not secured within one (1) year of the date of issuance of the non-conforming use expansion permit.

**Action:**

The Planning Commission is to hold a public hearing and make a recommendation to the City Council pertaining to the request.

Nov. 12 Tues 6:30  
18 Mon. 6:30

\$100.

Cynthia / Jim

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

Economic Development Authority  
Phone: 952-873-5553  
Fax: 952-873-5509  
www.belleplainemn.com

Fee:  \$100.00 Single/Two-family Dwellings  \$400.00 all other applicants

## NON-CONFORMING EXPANSION APPLICATION

PROPERTY	Address: <u>128 W. MAIN ST.</u>		Belle Plaine, MN	P.I.N:
Lot(s): <u>13, 14 &amp; 15</u>	Block(s): <u>92</u>	Subdivision: <u>Borough of Belle Plaine</u>		
Acreage or Square Footage: <u>10,629 sq.ft.</u>		Zoning:		
APPLICANT	<input checked="" type="checkbox"/> Owner	Name: <u>Melody LIVINGSTON</u>	Phone:	
Address: <u>21006 Park Blvd</u>		Cell: <u>952-250-7949</u>		
E-mail: <u>Melodylivingston123@gmail.com</u>		Fax:		
OWNER	Name:		Phone:	
Address:		Cell:		
E-mail:		Fax:		

DESCRIPTION OF NON-CONFORMITY: SINGLE FAMILY

NON-CONFORMING EXPANSION IS REQUESTED TO: Add double car garage to back yard.

### OWNER'S STATEMENT

I am the owner of the above described property and I agree to this application. By signing this application, I certify that all fees, charges, utility bills, taxes, special assessments and other debts or obligations due to the city by me or for this property have been paid. I further certify that I am in compliance with all ordinance requirements and conditions regarding other city approvals that have been granted to me for any matter. (If the owner is a corporation or partnership, a resolution authorizing this action on behalf of the board or partnership must be attached.)

OWNER'S SIGNATURE: Melody Livingston

DATE: Oct. 18, 2019

### APPLICANT'S STATEMENT

This application should be processed in my name, and I am the party whom the city should contact about this application. I have completed all of the applicable filing requirements and, to the best of my knowledge, the documents and information I have submitted are true and correct.

APPLICANT SIGNATURE: Melody Livingston

DATE: Oct. 18, 2019

### OFFICE USE ONLY

Zoning: <u>B3 CB</u>	Application Fee: <u>100.00</u>	Form of Payment: <u>Cheq</u>
	<input type="checkbox"/> Site Plan	Date: <u>10-22-19</u>
		Transaction Number: <u>33074</u>
		Collected By: <u>CLS</u>
Reviewed by Community Development Director	<input type="checkbox"/> Application Complete	Date:
Reviewed by Planning Commission	<input type="checkbox"/> Tabled <input type="checkbox"/> Approved <input type="checkbox"/> Denied	Date:
Reviewed by City Council	<input type="checkbox"/> Tabled <input type="checkbox"/> Approved <input type="checkbox"/> Denied	Date:

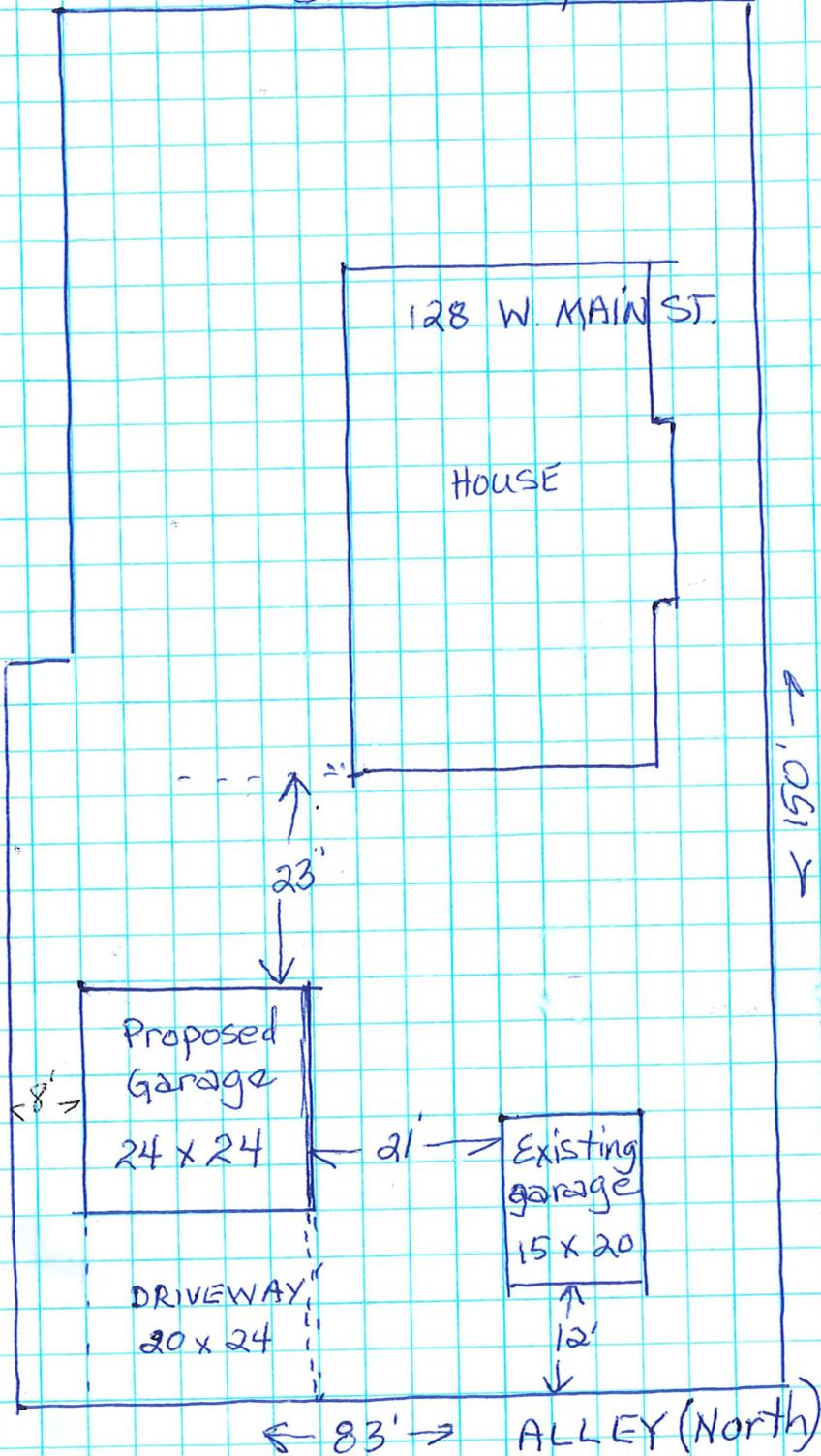
County: Scott

legal description: Lots 13, 14 and 15, Block 92, Borough of Belle Plaine, Scott County, Minnesota, excepting therefrom the following to wit: The east six (6) feet of the south fifty (50) feet of lot 13, Block 92, Belle Plaine townsite.

Hello,

I am wanting to build a 24x24 garage on grade with cement foundation and driveway.

SIDEWALK / South



## Garage

24 x 24

2x4 wood construction

7/16" OSB Roofing  
under shingles

9x7 overhead door

32x80 Entry door

1 window

8/12 roof pitch

hardboard siding

Gable entry



ALLEY

Melody Livingston  
property owner

SECTION 1105.11 B-3 CENTRAL BUSINESS DISTRICT.

1105.11 SUBD. 1. PURPOSE.

The purpose of the B-3 District is to provide specifically for the regulation of high intensity commercial uses located within the downtown Central Business District of the City.

1105.11 SUBD. 2. PERMITTED USES.

The following are permitted uses in the B-3 District.

1. Essential services are permitted except those that exceed sixty (60) feet in height or greater than one hundred fifteen (115) kilovolts,
2. Laundromats, self-service washing and drying.
3. Funeral homes and mortuaries.
4. Personal service establishments.
5. Furniture stores.
6. Pharmacies and drug stores.
7. Grocery stores and convenience grocery stores without motor fuel facilities.
8. Retail shops such as florist, gift and jewelry.
9. Hardware stores.
10. Medical, professional and commercial offices and services.
11. Photography studios.
12. Printing shops.
13. Theaters.
14. Government and public related utility buildings and structures.
15. Restaurants and bakeries, excluding drive-ins, and convenience type.
16. Liquor establishments.

*(Ord. 15-01, Section 1105.11, Adopted February 17, 2015.)*

1105.11 SUBD. 3. ACCESSORY USES.

The following are permitted accessory uses in a B-3 District:

1. Commercial or business buildings and structures for a use accessory to the principal use but such use shall not exceed thirty (30) percent of the gross floor space of the principal use.

1105.11 SUBD. 4. CONDITIONAL USES.

The following are conditional uses in a B-3 District requiring a conditional use permit based upon procedures set forth in and regulated by Sections 1103.08 of this Ordinance.

1. Motels, hotels and bed and breakfast inns.
2. Automobile sales.
3. Antique shops.
4. Bicycle sales and repair shops.

5. Residential uses as an accessory use; located above the street level, or behind the main street entrance commercial space, where the location is incidental to the conduct of the primary use of such main building.
6. Pet grooming, not to include overnight boarding of animals.
7. Day care nursery facilities.
8. Indoor firing range, as a principal or accessory use, subject to the standards contained in Section 1103.08, Subd. 5(B)(9), as may be amended (located under the heading of specific standards for conditional uses in the Highway Commercial District).

(Ord. 07-10, Section 1105.11, Subd. 4, Adopted October 17, 2007).

(Ord. 08-08, Section 1105.11, Subd. 2 & 4, Adopted November 17, 2008.)

(Ord. 15-03, Section 1105.11, Adopted June 15, 2015.)

(Ord. 17-02, Section 1105.11, Subd. 4, Adopted March 20, 2017.)

#### 1105.11 SUBD. 5. LOT REQUIREMENTS AND SETBACKS.

The following minimum requirements shall be observed in a B-3 District subject to additional requirements, exceptions and modifications set forth in this Ordinance.

1. Lot Area: None.
2. Lot Width: None.
3. Setbacks:
  - a. Front Yard: None.
  - b. Side Yard:
    1. Interior Lot: None.
    2. Corner Lot: None.
    3. Abutting a Residential District: Twenty (20) feet.
  - c. Rear Yard: Twenty (20) feet

#### 1105.11 SUBD. 6. MAXIMUM BUILDING HEIGHT.

The maximum building height shall be thirty-five (35) feet.

#### 1105.11 SUBD. 7. MAXIMUM SITE COVERAGE.

No structure or combination of structures shall occupy more than eighty-five (85) percent of the lot area.

#### 1105.11 SUBD. 8. PRESERVATION OF BELLE PLAINE'S CHARACTER DESIGN STANDARDS.

Preservation of Belle Plaine's Character Design Standards are set forth and regulated in Section 1107.22.

- (Ord. 07-10, Section 1105.11, Subd. 4, Adopted October 17, 2007).  
(Ord. 08-08, Section 1105.11, Subd. 2 & 4, Adopted November 17, 2008.)  
(Ord. 15-01, Section 1105.11, Adopted February 17, 2015.)  
(Ord. 15-03, Section 1105.11, Adopted June 15, 2015.)  
(Ord. 17-02, Section 1105.11, Subd. 4, Adopted March 20, 2017.)

**BELLE PLAINE PLANNING COMMISSION  
RESOLUTION PZ 19-028(A)**

**A RESOLUTION RECOMMENDING APPROVAL OF A NON-CONFORMANCE EXPANSION PERMIT  
RELATING TO PLACEMENT OF A DETACHED GARAGE AT 128 MAIN STREET WEST IN THE  
B-3 CENTRAL BUSINESS DISTRICT**

**PID:** 200014620

**Legal:** Lots 13, 14, and 15, Block 92, Borough of Belle Plaine, Scott County, Minnesota, excepting therefrom the following to wit: the east six (6) feet of the south fifty (50) feet of Lot 13, Block 92, Belle Plaine Townsite

WHEREAS, Melody Livingston, fee owner of property at 128 Main Street West has submitted an application for a non-conformance expansion permit to allow placement of a 576 square foot detached garage at the subject address; and,

WHEREAS, the subject property use is residential in the B-3 Central Business District, property status is legal non-conforming use; and,

WHEREAS, the Applicant represents:

1. The property use is non-homestead one family residential.
2. A 24' X 24' (576 sf) garage is proposed to improve the livability of the property.
3. The property has been for sale for an extended period of time and the Applicant has been advised a detached garage will increase perceived livability of the existing use
4. An existing 300 square foot shed is located on the subject property and proposed to remain.
5. The proposed detached garage will be accessed from the public, improved alley.
6. The proposed garage will increase habitability of dwelling.
7. The dwelling is not proposed for expansion/alteration.

WHEREAS, the Planning Commission conducted a public hearing on the proposed non-conformance expansion permit request on November 12, 2019 following mailed and published notice; and,

WHEREAS, The Planning Commission has reviewed criteria for granting a non-conformance expansion permit and has found:

1. The property is used for residential purposes. Existing zoning is B-3 Central Business District.
2. Status of the existing use is legal non-conforming.
3. The residential dwelling is not proposed for expansion.
4. The proposed garage will not expand the habitable area of the dwelling and thereby not expand the use.
5. The proposed detached garage will improve the condition of the property and the livability of the residential use.
6. The placement of a garage on the lot will not adversely impact the use and enjoyment of other property in the immediate vicinity.
7. A principal structure is located on the lot at this time. The proposed accessory structure will not adversely impact normal and orderly development and improvement of surrounding property.
8. No changes are proposed to existing utilities, access roads, or drainage patterns.
9. The proposed detached garage will be accessed from an existing, improved alley.
10. The detached garage with proposed height, size, and exterior material requirements will not alter the essential character of the neighborhood and is a reasonable use of the property.

11. The garage replacement will have a positive impact on the value and use of the property for residential purposes.

NOW THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF BELLE PLAINE THAT: It hereby recommends the City Council approve a non-conformance expansion permit to provide for construction of a 576 square foot detached garage at 128 Main Street West provided,

1. Uses of the subject property shall be limited to the following:
  - a. A dwelling not exceeding a basement foundation size of 904 square feet and above grade living area of 2,434 square feet in area and one **alternately, two** detached accessory structure**s**.
  - b. The proposed detached accessory structure (garage) shall be no larger than 576 square feet in area or 24 feet by 24 feet in size.
  - c. The detached accessory structure shall be post/frame wood slab on grade construction, roof pitch of 7:12, hardy plank siding, and asphalt shingles. Garage door height shall not exceed seven feet. Overall height of the structure shall not exceed fifteen (15) feet.
2. The detached accessory structure is for personal use only and shall not be used for a home occupation. "Home occupation" is defined as a business, profession, occupation, or trade conducted for gain or support and engaged in by the occupant of a dwelling and/or his/her assigns.
3. The non-conforming use expansion permit is in effect for the property at 128 Main Street West and assigned to the current and/or any future owner of the property. The non-conforming use expansion permit may be revoked by the City following written notice to the property owner if the conditions of the permit as listed herein are not met and/or maintained.
4. The non-conforming use expansion permit will expire if a building permit is not secured within one (1) year of the date of issuance of the non-conforming use expansion permit.

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 12<sup>th</sup> day of November, 2019.

\_\_\_\_\_  
Ashley Cauley  
Planning Commission Chairperson

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

**BELLE PLAINE PLANNING COMMISSION  
RESOLUTION PZ 19-028(B)**

**A RESOLUTION RECOMMENDING THE CITY COUNCIL DENY A NON-CONFORMANCE  
EXPANSION PERMIT RELATING TO PLACEMENT OF A DETACHED GARAGE AT  
128 MAIN STREET WEST IN THE B-3 CENTRAL BUSINESS DISTRICT**

**PID:** 200014620

**Legal:** Lots 13, 14, and 15, Block 92, Borough of Belle Plaine, Scott County, Minnesota, excepting therefrom the following to wit: the east six (6) feet of the south fifty (50) feet of Lot 13, Block 92, Belle Plaine Township

WHEREAS, Melody Livingston, fee owner of property at 128 Main Street West has submitted an application for a non-conformance expansion permit to allow placement of a 576 square foot detached garage at the subject address; and,

WHEREAS, the subject property use is residential in the B-3 Central Business District, property status is legal non-conforming use; and,

WHEREAS, the Applicant represents:

1. The property use is non-homestead one family residential.
2. A 24' X 24' (576 sf) garage is proposed to improve the livability of the property.
3. The property has been for sale for an extended period of time and the Applicant has been advised a detached garage will increase perceived livability of the existing use
4. An existing 300 square foot shed is located on the subject property and proposed to remain.
5. The proposed detached garage will be accessed from the public, improved alley.
6. The proposed garage will increase habitability of dwelling.
7. The dwelling is not proposed for expansion/alteration.

WHEREAS, the Planning Commission conducted a public hearing on the proposed non-conformance expansion permit request on November 12, 2019 following mailed and published notice; and,

WHEREAS, The Planning Commission has reviewed criteria for granting a non-conformance expansion permit and has found:

1. An existing detached shed already exists on the property. The status of the property is legal non-conforming. Expansions of legal non-conforming uses are prohibited. The proposed new detached garage amounts to an expansion of a legal non-conforming use.
2. The subject parcel is envisioned as transitioning to commercial use, a detached garage furthers its use as a residential dwelling.
3. Other legal non-conforming uses exist within the community. The existing shed could be used as a garage, therefore, the proposed garage is something the property owner would prefer but is not necessary for the use or enjoyment of the property.
4. Conditions unique to the property requiring the construction of a detached two-car garage do not exist.

NOW THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF BELLE PLAINE THAT: It hereby recommends the City Council deny a non-conformance expansion permit as requested by Melody Livingston (Property Owner) to allow a 576 square foot detached garage at 128 Main Street West.

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 12<sup>th</sup> day of November, 2019.

\_\_\_\_\_  
Ashley Cauley  
Planning Commission Chairperson

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

**November 12, 2019**

**TO:** Chairperson Cauley, Planning Commission Members, & Administrator Meyer  
**FROM:** Cynthia Smith Strack, Community Development Director  
**SUBJECT:** Resolution 19 – 028(A) or (B): Non-Conforming Expansion Permit to Construct Detached Garage – 128 Main Street West

Melody Livingston, fee owner of property at 128 Main Street West has applied for a non-conformance expansion permit under Section 1102.03 of the Code. If approved, the non-conformance expansion permit would allow a 576 square foot detached garage to be constructed on the subject property. Currently a 300 square foot shed is located on the subject property. Property use is a legal non-conforming single family residence in the B-3 Central Business District.



**Attachments:**

- Application for non-conforming use expansion permit.
- B-3 Central Business District standards.
- Resolution 19-028(A) Resolution 19-028(A) Resolution Recommending Approval of a Non-Conformance Expansion Permit Relating to Construction of a Detached Garage at 128 Main Street West in the B-3 Central Business District.
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**Representations by the Applicant:**

The Applicant represents:

- The property use is non-homestead one family residential.
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**Non-Conformance Expansion Permit Review:**

1. The proposed 24' by 24' garage is described as having an eight-foot sidewall (i.e. garage door height of seven feet) and an 8:12 roof pitch creating an overall height of sixteen (16) feet which is not consistent with Code. Maximum height is limited to fifteen (15) feet.
2. Proposed setbacks are met as prescribed in the B-3 District.

3. Section 1102.02 of the City Code provides:

*Any nonconformity, including the lawful use or occupation of land or premises legally existing at the time of establishment **may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion.***

In addition, Section 1102.03, Subd. 2(3) establishes the following review criteria for non-conforming use expansion permits:

- A. The proposed expansion is a reasonable use of the property, considering such things as:
  - i. Functional and aesthetic justifications for the expansion;
  - ii. Adequacy of off-street parking for the expansion;
  - iii. Absence of adverse off-site impacts such as things as traffic, noise, dust, odors, and parking; and
  - iv. Improvement to the appearance and stability of the property and neighborhood.
- B. The circumstances justifying the expansion are unique to the property, are not caused by the landowner, are not solely for the landowner's convenience, and are not solely because of economic considerations; and
- C. The expansion would not adversely affect or alter the essential character of the neighborhood.

**Potential Findings in Favor of the Non-Conformance Expansion Permit Request:**

1. The property is used for residential purposes. Existing zoning is B-3 Central Business District.
2. Status of the existing use is legal non-conforming.
3. The residential dwelling is not proposed for expansion.
4. The proposed garage will not expand the habitable area of the dwelling and thereby not expand the use.
5. The proposed detached garage will improve the condition of the property and the livability of the residential use.
6. The placement of a garage on the lot will not adversely impact the use and enjoyment of other property in the immediate vicinity.
7. A principal structure is located on the lot at this time. The proposed accessory structure will not adversely impact normal and orderly development and improvement of surrounding property.
8. No changes are proposed to existing utilities, access roads, or drainage patterns.
9. The proposed detached garage will be accessed from an existing, improved alley.
10. The detached garage with proposed height, size, and exterior material requirements will not alter the essential character of the neighborhood and is a reasonable use of the property.
11. The garage replacement will have a positive impact on the value and use of the property for residential purposes.

**Potential Findings To Deny the Non-Conformance Expansion Permit Request:**

1. An existing detached shed already exists on the property. The status of the property is legal non-conforming. Expansions of legal non-conforming uses are prohibited. The proposed new detached garage amounts to an expansion of a legal non-conforming use.
2. The subject parcel is envisioned as transitioning to commercial use, a detached garage furthers its use as a residential dwelling.
3. Other legal non-conforming uses exist within the community. The existing shed could be used as a garage, therefore, the proposed garage is something the property owner would prefer but is not necessary for the use or enjoyment of the property.

4. Conditions unique to the property requiring the construction of a detached two-car garage do not exist.

**Staff Recommendation:**

Staff has reviewed the proposed non-conforming use expansion permit application and notes the dwelling unit size (footprint/height) and habitable area of the residential use is not being expanded. Staff also finds the existing shed could function as a garage or the shed could be added onto or removed in favor of the proposed detached garage. As such, a recommendation is withheld.

Staff recommends discussion pertaining to allowing or disallowing existing shed to remain on the site.

If the Commission considers a favorable recommendation, the following conditions are proposed:

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3. The non-conforming use expansion permit is in effect for the property at 128 Main Street West and assigned to the current and/or any future owner of the property. The non-conforming use expansion permit may be revoked by the City following written notice to the property owner if the conditions of the permit as listed herein are not met and/or maintained.
4. The non-conforming use expansion permit will expire if a building permit is not secured within one (1) year of the date of issuance of the non-conforming use expansion permit.

**Action:**

The Planning Commission is to hold a public hearing and make a recommendation to the City Council pertaining to the request.

Nov. 12 Tues 6:30  
18 Mon. 6:30

\$100.

Cynthia / Jim

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

Economic Development Authority  
Phone: 952-873-5553  
Fax: 952-873-5509  
www.belleplainemn.com

Fee:  \$100.00 Single/Two-family Dwellings  \$400.00 all other applicants

## NON-CONFORMING EXPANSION APPLICATION

PROPERTY	Address: <u>128 W. MAIN ST.</u>		Belle Plaine, MN	P.I.N:
Lot(s): <u>13, 14 &amp; 15</u>	Block(s): <u>92</u>	Subdivision: <u>Borough of Belle Plaine</u>		
Acreage or Square Footage: <u>10,629 sq.ft.</u>		Zoning:		
APPLICANT	<input checked="" type="checkbox"/> Owner	Name: <u>Melody LIVINGSTON</u>	Phone:	
Address: <u>21006 Park Blvd</u>		Cell: <u>952-250-7949</u>		
E-mail: <u>Melodylivingston123@gmail.com</u>		Fax:		
OWNER	Name:		Phone:	
Address:		Cell:		
E-mail:		Fax:		

DESCRIPTION OF NON-CONFORMITY: SINGLE FAMILY

NON-CONFORMING EXPANSION IS REQUESTED TO: Add double car garage to back yard.

### OWNER'S STATEMENT

I am the owner of the above described property and I agree to this application. By signing this application, I certify that all fees, charges, utility bills, taxes, special assessments and other debts or obligations due to the city by me or for this property have been paid. I further certify that I am in compliance with all ordinance requirements and conditions regarding other city approvals that have been granted to me for any matter. (If the owner is a corporation or partnership, a resolution authorizing this action on behalf of the board or partnership must be attached.)

OWNER'S SIGNATURE: Melody Livingston DATE: Oct. 18, 2019

### APPLICANT'S STATEMENT

This application should be processed in my name, and I am the party whom the city should contact about this application. I have completed all of the applicable filing requirements and, to the best of my knowledge, the documents and information I have submitted are true and correct.

APPLICANT SIGNATURE: Melody Livingston DATE: Oct. 18, 2019

### OFFICE USE ONLY

Zoning: <u>B3 CB</u>	Application Fee: <u>100.00</u>	Form of Payment: <u>Cheq</u>
	<input type="checkbox"/> Site Plan	Date: <u>10-22-19</u>
		Transaction Number: <u>33074</u>
		Collected By: <u>CLS</u>

Reviewed by Community Development Director	<input type="checkbox"/> Application Complete	Date:
Reviewed by Planning Commission	<input type="checkbox"/> Tabled <input type="checkbox"/> Approved <input type="checkbox"/> Denied	Date:
Reviewed by City Council	<input type="checkbox"/> Tabled <input type="checkbox"/> Approved <input type="checkbox"/> Denied	Date:

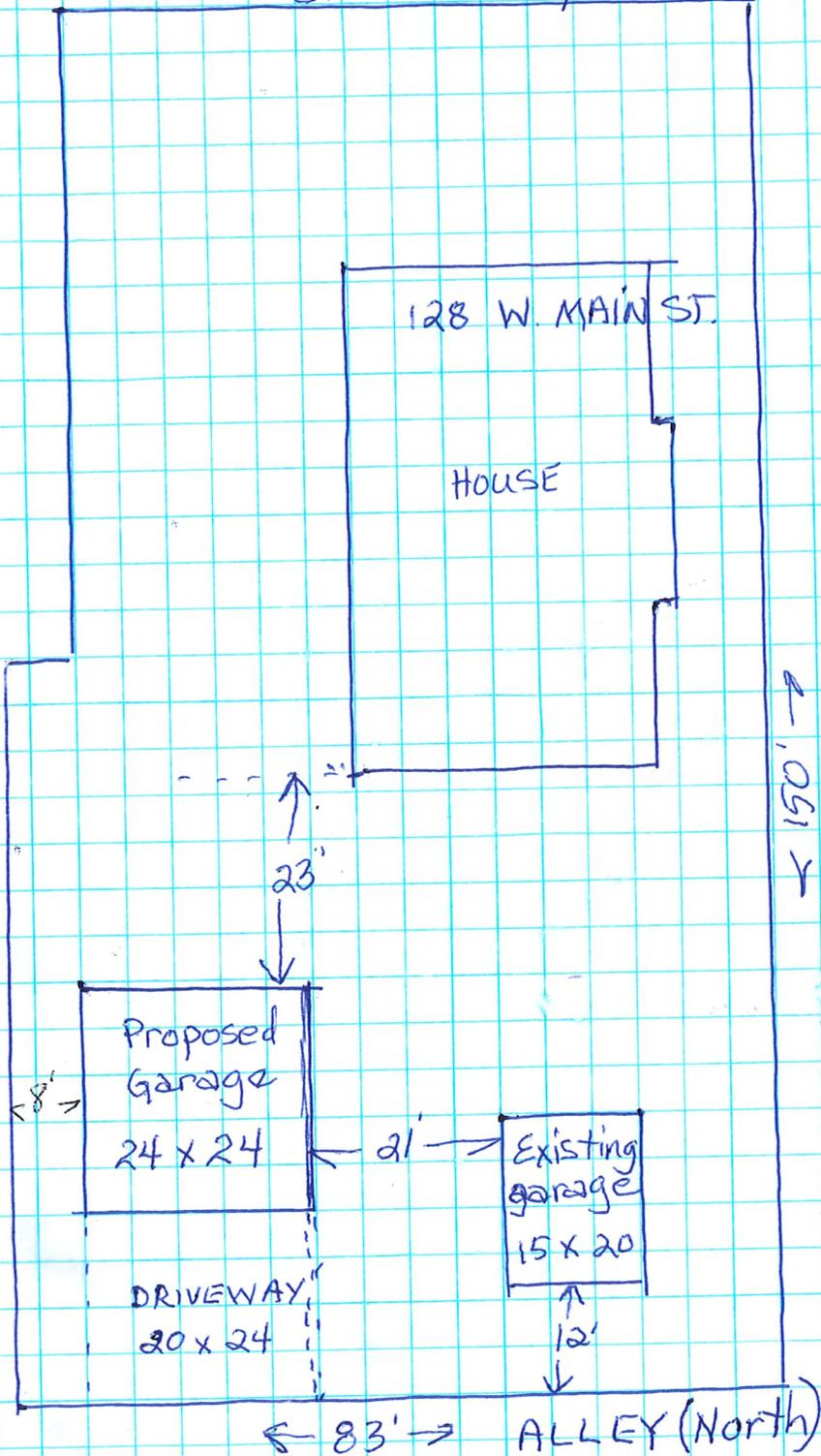
County: Scott

legal description: Lots 13, 14 and 15, Block 92, Borough of Belle Plaine, Scott County, Minnesota, excepting therefrom the following to wit: The east six (6) feet of the south fifty (50) feet of lot 13, Block 92, Belle Plaine townsite.

Hello,

I am wanting to build a 24x24 garage on grade with cement foundation and driveway.

SIDEWALK / South



## Garage

24x24

2x4 wood construction

7/16" OSB Roofing  
under shingles

9x7 overhead door

32x80 Entry door

1 window

8/12 roof pitch

hardboard siding

Gable entry



ALLEY

Melody Livingston  
property owner

SECTION 1105.11 B-3 CENTRAL BUSINESS DISTRICT.

1105.11 SUBD. 1. PURPOSE.

The purpose of the B-3 District is to provide specifically for the regulation of high intensity commercial uses located within the downtown Central Business District of the City.

1105.11 SUBD. 2. PERMITTED USES.

The following are permitted uses in the B-3 District.

1. Essential services are permitted except those that exceed sixty (60) feet in height or greater than one hundred fifteen (115) kilovolts,
2. Laundromats, self-service washing and drying.
3. Funeral homes and mortuaries.
4. Personal service establishments.
5. Furniture stores.
6. Pharmacies and drug stores.
7. Grocery stores and convenience grocery stores without motor fuel facilities.
8. Retail shops such as florist, gift and jewelry.
9. Hardware stores.
10. Medical, professional and commercial offices and services.
11. Photography studios.
12. Printing shops.
13. Theaters.
14. Government and public related utility buildings and structures.
15. Restaurants and bakeries, excluding drive-ins, and convenience type.
16. Liquor establishments.

*(Ord. 15-01, Section 1105.11, Adopted February 17, 2015.)*

1105.11 SUBD. 3. ACCESSORY USES.

The following are permitted accessory uses in a B-3 District:

1. Commercial or business buildings and structures for a use accessory to the principal use but such use shall not exceed thirty (30) percent of the gross floor space of the principal use.

1105.11 SUBD. 4. CONDITIONAL USES.

The following are conditional uses in a B-3 District requiring a conditional use permit based upon procedures set forth in and regulated by Sections 1103.08 of this Ordinance.

1. Motels, hotels and bed and breakfast inns.
2. Automobile sales.
3. Antique shops.
4. Bicycle sales and repair shops.

5. Residential uses as an accessory use; located above the street level, or behind the main street entrance commercial space, where the location is incidental to the conduct of the primary use of such main building.
6. Pet grooming, not to include overnight boarding of animals.
7. Day care nursery facilities.
8. Indoor firing range, as a principal or accessory use, subject to the standards contained in Section 1103.08, Subd. 5(B)(9), as may be amended (located under the heading of specific standards for conditional uses in the Highway Commercial District).

(Ord. 07-10, Section 1105.11, Subd. 4, Adopted October 17, 2007).

(Ord. 08-08, Section 1105.11, Subd. 2 & 4, Adopted November 17, 2008.)

(Ord. 15-03, Section 1105.11, Adopted June 15, 2015.)

(Ord. 17-02, Section 1105.11, Subd. 4, Adopted March 20, 2017.)

#### 1105.11 SUBD. 5. LOT REQUIREMENTS AND SETBACKS.

The following minimum requirements shall be observed in a B-3 District subject to additional requirements, exceptions and modifications set forth in this Ordinance.

1. Lot Area: None.
2. Lot Width: None.
3. Setbacks:
  - a. Front Yard: None.
  - b. Side Yard:
    1. Interior Lot: None.
    2. Corner Lot: None.
    3. Abutting a Residential District: Twenty (20) feet.
  - c. Rear Yard: Twenty (20) feet

#### 1105.11 SUBD. 6. MAXIMUM BUILDING HEIGHT.

The maximum building height shall be thirty-five (35) feet.

#### 1105.11 SUBD. 7. MAXIMUM SITE COVERAGE.

No structure or combination of structures shall occupy more than eighty-five (85) percent of the lot area.

#### 1105.11 SUBD. 8. PRESERVATION OF BELLE PLAINE'S CHARACTER DESIGN STANDARDS.

Preservation of Belle Plaine's Character Design Standards are set forth and regulated in Section 1107.22.

- (Ord. 07-10, Section 1105.11, Subd. 4, Adopted October 17, 2007).
- (Ord. 08-08, Section 1105.11, Subd. 2 & 4, Adopted November 17, 2008.)
- (Ord. 15-01, Section 1105.11, Adopted February 17, 2015.)
- (Ord. 15-03, Section 1105.11, Adopted June 15, 2015.)
- (Ord. 17-02, Section 1105.11, Subd. 4, Adopted March 20, 2017.)

**BELLE PLAINE PLANNING COMMISSION  
RESOLUTION PZ 19-028(A)**

**A RESOLUTION RECOMMENDING APPROVAL OF A NON-CONFORMANCE EXPANSION PERMIT  
RELATING TO PLACEMENT OF A DETACHED GARAGE AT 128 MAIN STREET WEST IN THE  
B-3 CENTRAL BUSINESS DISTRICT**

**PID:** 200014620

**Legal:** Lots 13, 14, and 15, Block 92, Borough of Belle Plaine, Scott County, Minnesota, excepting therefrom the following to wit: the east six (6) feet of the south fifty (50) feet of Lot 13, Block 92, Belle Plaine Townsite

WHEREAS, Melody Livingston, fee owner of property at 128 Main Street West has submitted an application for a non-conformance expansion permit to allow placement of a 576 square foot detached garage at the subject address; and,

WHEREAS, the subject property use is residential in the B-3 Central Business District, property status is legal non-conforming use; and,

WHEREAS, the Applicant represents:

1. The property use is non-homestead one family residential.
2. A 24' X 24' (576 sf) garage is proposed to improve the livability of the property.
3. The property has been for sale for an extended period of time and the Applicant has been advised a detached garage will increase perceived livability of the existing use
4. An existing 300 square foot shed is located on the subject property and proposed to remain.
5. The proposed detached garage will be accessed from the public, improved alley.
6. The proposed garage will increase habitability of dwelling.
7. The dwelling is not proposed for expansion/alteration.

WHEREAS, the Planning Commission conducted a public hearing on the proposed non-conformance expansion permit request on November 12, 2019 following mailed and published notice; and,

WHEREAS, The Planning Commission has reviewed criteria for granting a non-conformance expansion permit and has found:

1. The property is used for residential purposes. Existing zoning is B-3 Central Business District.
2. Status of the existing use is legal non-conforming.
3. The residential dwelling is not proposed for expansion.
4. The proposed garage will not expand the habitable area of the dwelling and thereby not expand the use.
5. The proposed detached garage will improve the condition of the property and the livability of the residential use.
6. The placement of a garage on the lot will not adversely impact the use and enjoyment of other property in the immediate vicinity.
7. A principal structure is located on the lot at this time. The proposed accessory structure will not adversely impact normal and orderly development and improvement of surrounding property.
8. No changes are proposed to existing utilities, access roads, or drainage patterns.
9. The proposed detached garage will be accessed from an existing, improved alley.
10. The detached garage with proposed height, size, and exterior material requirements will not alter the essential character of the neighborhood and is a reasonable use of the property.

11. The garage replacement will have a positive impact on the value and use of the property for residential purposes.

NOW THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF BELLE PLAINE THAT: It hereby recommends the City Council approve a non-conformance expansion permit to provide for construction of a 576 square foot detached garage at 128 Main Street West provided,

1. Uses of the subject property shall be limited to the following:
  - a. A dwelling not exceeding a basement foundation size of 904 square feet and above grade living area of 2,434 square feet in area and one **alternately, two** detached accessory structure**s**.
  - b. The proposed detached accessory structure (garage) shall be no larger than 576 square feet in area or 24 feet by 24 feet in size.
  - c. The detached accessory structure shall be post/frame wood slab on grade construction, roof pitch of 7:12, hardy plank siding, and asphalt shingles. Garage door height shall not exceed seven feet. Overall height of the structure shall not exceed fifteen (15) feet.
2. The detached accessory structure is for personal use only and shall not be used for a home occupation. "Home occupation" is defined as a business, profession, occupation, or trade conducted for gain or support and engaged in by the occupant of a dwelling and/or his/her assigns.
3. The non-conforming use expansion permit is in effect for the property at 128 Main Street West and assigned to the current and/or any future owner of the property. The non-conforming use expansion permit may be revoked by the City following written notice to the property owner if the conditions of the permit as listed herein are not met and/or maintained.
4. The non-conforming use expansion permit will expire if a building permit is not secured within one (1) year of the date of issuance of the non-conforming use expansion permit.

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 12<sup>th</sup> day of November, 2019.

\_\_\_\_\_  
Ashley Cauley  
Planning Commission Chairperson

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

**BELLE PLAINE PLANNING COMMISSION  
RESOLUTION PZ 19-028(B)**

**A RESOLUTION RECOMMENDING THE CITY COUNCIL DENY A NON-CONFORMANCE  
EXPANSION PERMIT RELATING TO PLACEMENT OF A DETACHED GARAGE AT  
128 MAIN STREET WEST IN THE B-3 CENTRAL BUSINESS DISTRICT**

**PID:** 200014620

**Legal:** Lots 13, 14, and 15, Block 92, Borough of Belle Plaine, Scott County, Minnesota, excepting therefrom the following to wit: the east six (6) feet of the south fifty (50) feet of Lot 13, Block 92, Belle Plaine Townsite

WHEREAS, Melody Livingston, fee owner of property at 128 Main Street West has submitted an application for a non-conformance expansion permit to allow placement of a 576 square foot detached garage at the subject address; and,

WHEREAS, the subject property use is residential in the B-3 Central Business District, property status is legal non-conforming use; and,

WHEREAS, the Applicant represents:

1. The property use is non-homestead one family residential.
2. A 24' X 24' (576 sf) garage is proposed to improve the livability of the property.
3. The property has been for sale for an extended period of time and the Applicant has been advised a detached garage will increase perceived livability of the existing use
4. An existing 300 square foot shed is located on the subject property and proposed to remain.
5. The proposed detached garage will be accessed from the public, improved alley.
6. The proposed garage will increase habitability of dwelling.
7. The dwelling is not proposed for expansion/alteration.

WHEREAS, the Planning Commission conducted a public hearing on the proposed non-conformance expansion permit request on November 12, 2019 following mailed and published notice; and,

WHEREAS, The Planning Commission has reviewed criteria for granting a non-conformance expansion permit and has found:

1. An existing detached shed already exists on the property. The status of the property is legal non-conforming. Expansions of legal non-conforming uses are prohibited. The proposed new detached garage amounts to an expansion of a legal non-conforming use.
2. The subject parcel is envisioned as transitioning to commercial use, a detached garage furthers its use as a residential dwelling.
3. Other legal non-conforming uses exist within the community. The existing shed could be used as a garage, therefore, the proposed garage is something the property owner would prefer but is not necessary for the use or enjoyment of the property.
4. Conditions unique to the property requiring the construction of a detached two-car garage do not exist.

NOW THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF BELLE PLAINE THAT: It hereby recommends the City Council deny a non-conformance expansion permit as requested by Melody Livingston (Property Owner) to allow a 576 square foot detached garage at 128 Main Street West.

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 12<sup>th</sup> day of November, 2019.

\_\_\_\_\_  
Ashley Cauley  
Planning Commission Chairperson

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