

**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS
May 22, 2006**

A joint meeting of the County and City Planning Commissions was held on May 22, 2006 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Mike Cypher, Susie O'Hara, Mark Rogen, , and Jim Zweep.

CITY PLANNING COMMISSION MEMBERS PRESENT: Teresa Boysen, Merdith Larson, Lynette Olson, Jessie Schmidt, and Anita Wetsch.

STAFF PRESENT: Scott Anderson, Phil Kappen, and Pat Herman - County;
Steve Randall – City
Gordy Swanson – Office of the State's Attorney

The County Planning Commission was chaired by Susie O'Hara. City Planning Commission Chair Anita Wetsch presided over the meeting.

ITEM 2. JOINT ZONING ORDINANCE TEXT AMENDMENT – definition of building.
Petitioner - Planning Department

Staff Report: Pat Herman

Staff Analysis

The Planning Staff is requesting changing the definition for building in the Joint Zoning Ordinance. The current definition only defines those structures which are permanently affixed to the land. The proposed definition would define buildings as either temporary or permanent.

There have been cases in which landowners have placed buildings on skids or moved the building around the property in an attempt to circumvent the zoning ordinance. Amending the ordinance would also allow the regulation of temporary storage trailers which have a tendency to become permanent structures and for seasonal green houses.

110. BUILDING – ~~Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and which is permanently affixed to the land. When any portion thereof is completely separated from every other portion by masonry or fire wall without any window, which wall extends from the ground to the roof, then such portion shall be deemed to be a separate building.~~

110. BUILDING – Any structure, either temporary or permanent, forming an open, partially enclosed, or enclosed space constructed by a planned process of materials and components to be designated and used for the shelter or enclosure of any person, animal or property of any kind. For the purpose of these regulations, retaining walls, concrete slabs, utility poles and fences are not considered structures.

This amendment would be consistent with the definitions in the County Zoning Ordinance and the Joint County and City of Dell Rapids Zoning Ordinance and will allow for more efficient management by the planning staff.

Planning Staff recommended approval of the new definition for building. Item 2 was on the Consent Agenda and no was present in the audience who wished to speak to the item.

Based on the staff report, a motion was made for the County by Cypher and seconded by Rogen

to recommend approval of the zoning text amendment. The motion passed unanimously. Same motion for the City by Larson and seconded by Olson. The motion passed unanimously.

ITEM 3. CONDITIONAL USE PERMIT #06-35 – to exceed 1200 sq. ft. of accessory building area – 2000 sq. ft. requested.

Legal Description – Tract 2 O’Hanlons Addition in Section 26-T101N-R48W
Location - 2601 S. River Bluff Rd., 2 miles east of Sioux Falls
Petitioner - Alex Sazonov

Report by: Phil Kappen

General Information

Present zoning - A-1 Agricultural
Existing Land Use - Residential
Parcel Size - 1.04 Acres

Report by: Phil Kappen

Staff Analysis

The subject property is located in O’Hanlon’s Addition, a residential subdivision along River Bluff Road 2 miles east of Sioux Falls. The properties to the east, north and west are residential properties. To the south is agricultural land. The city’s 2015 plan shows that this area is to be future single-family residential. The petitioner proposes to construct a 2000 sq.ft. accessory building on his property. As this is larger than the permissive size of 1200 sq.ft., a conditional use permit is required.

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

There are currently no accessory buildings in O’Hanlon’s Addition. There are, however, accessory buildings in the abutting residential developments to the north, northwest and southeast. The two lots immediately northwest of the subject property (across River Bluff Road) have buildings of 1480 sq.ft. and 2400 sq.ft. respectively on the two lots. The lot to the north of those lots has accessory buildings totaling 3456 sq.ft. Two other lots, to the north northwest of O’Hanlon’s Addition have accessory buildings of 1450 and 1540 sq.ft. respectively.

Staff does not believe that there are any covenants on the lots of O’Hanlon’s Addition regarding accessory buildings. The homes in the addition, however, are all upscale in appearance. Should this conditional use permit be approved, a condition could be placed on the permit relative to the appearance of the proposed accessory building. The petitioner should be prepared to address the appearance of the building.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The petitioner must be made aware that the building can be used strictly for his personal storage of residential related items and no commercial or business activities or storage is allowed.

The city has a requirement that a detached accessory building cannot exceed the footprint size of the primary residence. The first floor of the home on the subject property is 1369 sq.ft. (the second floor is 1111 sq.ft.) and the attached garage is 711 sq.ft. The footprint of the residential structure, therefore, is 2080 sq.ft.

3) That utilities, access roads, drainage and/or other necessary facilities are provided.

Access to the property is via River Bluff Road, a township road. The road has many turns and visibility in some areas has been a problem. No additional accesses onto the road should be

allowed.

4) That the off-street parking and loading requirements are met.

There is ample area on the subject property for any parking as a result of residential activities. No on street parking will be allowed. No commercial or business parking is allowed.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

There should be no offensive odors, fumes, dust, noise or vibration from the allowed residential uses on this property. No other types of uses are allowed.

Staff finds that the proposed building size conforms with the general sizes of other accessory buildings in the area. Staff recommended approval of conditional use permit #06-35 with the following conditions:

1. The existing driveway onto the property shall be used for access to the building. No additional driveway access shall be allowed onto River Bluff Road.
2. The building shall be used only for the petitioner's personal residential storage. No commercial or business uses or storage shall be allowed.
3. The building shall not exceed one story in height.

Public Testimony

Mr. Kappen explained that since the sign had been posted on the property the Planning Department had received three calls about this property. Each call expressed concerns that a painting business was being run out of the house on this property and that there were three vans coming and going at all times of the day.

The petitioner, Alex Sazonov, stated that he did not run his business, K & S Painting, at this site. He just wants a shop area in the building and personal storage. He rents business space at 308 W. Lotta St.

Realtor Tim Winkler, representing the petitioner, presented the Commissions with copies of the covenants. He stated that the out buildings could not be constructed larger than the footprint of the house. He said Mr. Sazonov does drive two vans home. One is used for outside painting the other for jobs inside a house. Mr. Winkler said he also worked with the developer in creating this subdivision. In response to Commissioner Larson, Mr. Winkler stated that the developer no longer owns land in this subdivision. Mr. Winkler stated that he rents the place on W. Lotta St. to Mr. Sazonov so he knows where his business is occurring.

Daren Horner, 2406 River Bluff Cir., wants the building to be constructed so that it matches the house. He believes the covenants stipulate this and wants those enforced. Mr. Kappen stated that the County does not enforce covenants, however, the Commissions could add a condition as to how the building is to be constructed. Covenants have to be enforced by neighbors. Mr. Winkler stated that Mr. Sazonov was willing to concede to the covenants with a 6/12 pitch roof, wood construction and siding.

Duane Strande, 2507 S. River Bluff Rd., has concerns about this application. The houses in the neighborhood are up scale. A 2000 sq. ft. garage would allow 7-8 stalls and it would be out of scale with the area. He questions the purpose for this large size. Every morning there are two painting vans sitting outside the house.

Tod Harvey, 2501 River Bluff Rd., stated that the petitioner's driveway was on the west side. How will this building be accessed if it is placed on the eastside on the lot?

Tim Nicolli, Split Rock Township Chairman, stated that the line of sight was not good and that this building would result in more accidents. The petitioner has two driveways but the township requested that he have only one. He doesn't feel the petitioner has been easy to work with.

Mr. Sazonov stated that he has two driveway permits from Split Rock township and he paid the fee for two permits. He has a circular drive. He plans to place the building in the southeast corner of his property and it will be 200' back from the road. There is no way he can block the view on the road way.

Laura Harmelink, 2303 E. River Bluff Cir., stated that she is a part-time stay at home mom and that she has seen the vans coming and leaving the property at all hours of the day. They also cut across the property to the east to access Mr. Sazonov's place.

Mr. Winkler stated that the lot to the east is owned by a friend and that Mr. Sazonov has permission to use it. He noted that everyone who bought a lot was informed that they could build a large out building and that is the reason some people chose to live at this site.

No one else wished to speak to the item and the floor was closed to public testimony.

Commissioner Wetch suggested that a neighborhood meeting might be in order. Mr. Kappen explained that the petitioner would not be violating the zoning ordinance if he was only driving one van home. Commissioner Zweep stated that since the petitioner has a shop in town he would support this request. Commissioner Larson pointed out that the covenants might say this size building was allowed the zoning ordinance does not.

Based on the staff report and public testimony a motion was made for the City by Larson and seconded by Olson to defer this time to the June 26 meeting to allow the petitioner time to hold a neighborhood meeting. The motion passed unanimously. Same motion for the County by Cypher and seconded by Rogen. The motion passed unanimously.