

**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
September 24, 2007**

A meeting of the Planning Commission was held on September 27, 2007 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, Don South, and Carol Twedt.

STAFF PRESENT: Scott Anderson, Phil Kappen, and Pat Herman - County Planning

The meeting was chaired by Don South.

APPROVAL OF THE CONSENT AGENDA

A motion was made by Cypher and seconded by O'Hara to approve the consent agenda. The motion passed unanimously.

ITEM 1. MINUTES – August 27, 2007

A motion was made by Cypher and seconded by O'Hara to approve the minutes. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT # 07-76 to allow light manufacturing – sheet metal shop

Legal Description – Lot 1 Block 1 Benson's 2nd Addition NE1/4 13-T102N-R50W

Location - 25804 Cottonwood Ave. Unit 1 Crooks exit from I-29

Petitioner / Owner- Neal Jacobson / Larry Haug

General Information

Present Zoning - C Commercial

Existing Land Use - Commercial

Parcel Size - 1.0 ± Acres

Report by: Scott Anderson

Staff Analysis

The applicant is requesting a conditional use permit to allow for a sheetmetal shop. The applicant has indicated that ductwork will be fabricated on the site. This use will consist primarily of bending metal.

The proposed use will be in part of the newly constructed building located at the intersection of 258th Street and Cottonwood Avenue.

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.

This is an industrial area, so the proposed use blends in quite well and should not impact the use and enjoyment of the property in the area. This type of business will not impact property values, provided no sheet metal or parts are stored in the open outdoors.

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

This new building and use is located in an existing commercial/industrial area. The proposed use should not impede future or existing industrial development in the area.

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

Cottonwood Avenue is constructed to County specifications and provides access to the site. Drainage and other needed facilities all appear to have been provided.

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

Staff has serious concerns about the availability of parking for any employees and/or the public. The site plan shows only six (6) parking spaces for three units located on the property of the newly constructed building. During the site visit on September 12, 2007, staff counted seven (7) spaces. It appears to staff that parking may not be sufficient for the 7,700 square foot building. The applicant is required to provide two (2) spaces for each three (3) employees. In order to determine if the parking requirements will be met, the applicant shall provide the Planning Department with the number of employees working in the sheet metal business by September 28, 2007. If the parking requirements can not be met, staff will

forward the Conditional Use Permit to the County Commission for review and recommend denial.

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.

The applicant will be conducting a business that will produce some noise. The area is located within an industrial area and should not be out of line with noises typically found in an industrial area.

Staff finds that the proposed use is appropriate for this commercial area, provided adequate parking can be provided. The recommended conditions of approval will ensure that harmonious development will occur.

Recommendation

Staff recommended approval of Conditional Use Permit #07-76 to allow for a sheet metal shop with the following conditions.

- 1) Any outdoor storage shall be enclosed with a 6 foot high screening fence that shall provide at least 90% opacity over the full height of the fence.
- 2) That the business operator obtains and maintains a South Dakota sales tax license.
- 3) Any new exterior lighting shall be shoe box style that directs the lighting downward.
- 4) The applicant shall provide the Planning Director with employment figures to determine if parking can be met by September 28, 2007. The applicant shall continually meet the parking requirements outlined in Article 15 of the Zoning Ordinance.
- 5) All signs must meet the requirements of Article 16 of the Minnehaha County Zoning Ordinance.

Based on the staff report, a motion was made by Cypher and seconded by O'Hara to approve Conditional Use Permit #07-76 with the conditions as stated. The motion passed unanimously.

ITEM 3. CONDITIONAL USE PERMIT # 07-77 to transfer one residential building eligibility.

From – NE1/4 NW1/4 of Section 12-T101N-R49W

To – Lacey's Tract 2 (ex. Lots U2R & U3 & ex. Knochenmus Addition) SW1/4 of
Section 5-T101N-R48W

Location - east edge of Sioux Falls

Petitioner / Owner- Roger Knochenmus

General Information

Present zoning - A-1 Agricultural
Existing Land Use - Agricultural
Parcel Size - 40 Acres

Report by: Phil Kappen

Staff Analysis

The subject property is located between Sioux Falls and Brandon, east of Six Mile Road and north of Maple Street. The surrounding properties are zoned agricultural but have a great number of existing acreages and residential subdivisions. The general area is designated as a transition area in the Minnehaha County Development Plan. A transition area is one in which it is expected that urban development is allowed.

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.

The petitioner wishes to transfer the eligibility from a parcel that is in cropland to a site that is in pasture. The property to which the eligibility would be transferred is also along a hard surfaced road (Six Mile Road, Co. Hwy 119). This increases the subject property's desirability for a residential use. The transfer of the eligibility should have little impact on the predominant land use in this

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

Both the subject property and the parcel from which the eligibility would be moved are outside of the area

in which the City of Sioux Falls is able to provide sewer. Therefore, it is not likely that either parcel will experience urban development within the foreseeable future. This is because Sioux Falls cannot serve the area and Brandon has no immediate plans to extend any urban services into the area. The subject property is currently used as pasture land and the placement of one home will not prevent that use from continuing. In fact, there is a likelihood that acreage owners in the area may be interested in using the ground for the pasturing of horses or similar use. The petitioner also has additional building eligibilities on some of the properties between the subject property and that from which the eligibility would be transferred. The petitioner has no plans to utilize any of those eligibilities at that time.

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

There is one additional building eligibility remaining on the subject property which cannot be used until approved by conditional use permit. That eligibility is not a part of the current application, but may become a factor if future additional access to Six Mile Road is requested. Access onto the highway should be limited at this time and any future home should be required to share an access with the home approved through the current application. This shared access should also be considered if the petitioner desired to transfer additional eligibilities from his cropland in the adjoining sections to this area. The shared access could be set up at a point that would accommodate a future road right-of-way.

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

There is ample space on the property for the typical parking requirements for an approved residential use.

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 little odor, fumes dust or noise from an approved residential use. Any outdoor lighting should be of a shoebox style that prevents light pollution from directly reaching adjoining properties.

Recommendation

Staff finds that the proposed transfer meets the precepts of density zoning and can be accommodated in a manner that reduces any potential for impacts on surrounding properties. Staff therefore recommended approval of conditional use permit # 07-77 with the following conditions:

- 1) Access to Six Mile Road (Co. Hwy 119) for this proposed residence and any other future residences shall be limited to one access point along the Six Mile Road property frontage. The location for that access shall have written approval from the Minnehaha County Highway Department prior to the issuance of any building permit. Any plat of the property shall be configured in order to allow this access point to continue as a shared access point or as a future right-of-way access point.
- 2) Before the issuance of any building permit, a plat shall be prepared for any proposed lot which includes the necessary shared access easements or right-of-way locations. A right-to farm notice covenant shall be required to be filed on the property prior to the issuance of any building permit.
- 3) Any additional proposal for additional residences, either through the use of the other existing building eligibility on the property, or the transfer of any additional building eligibilities, shall require the preparation of a preliminary subdivision plan that will be used to guide the future development of this site.
- 4) All outdoor lights shall be of a shoebox style that directs light downward and prevents the direct spillage of light beyond the boundaries of the property.

Based on the staff report, a motion was made by Cypher and seconded by O'Hara to approve Conditional Use Permit #07-77 with the conditions as stated. The motion passed unanimously.

ITEM 4. CONDITIONAL USE PERMIT # 07-78 to allow a fenced outdoor storage facility.

Legal Description – Lot 4 Block 4 Haug's 2nd Addition SE1/4 12-T102N-R50W
Location - 25769 Cottonwood Ave. Crooks exit from I-29
Petitioner / Owner- Bryan Peters

General Information

Present zoning - I-1 Light Industrial
Existing Land Use - Vacant
Parcel Size - 1+ Acres

Report by: Pat Herman

Staff Analysis

The applicant is requesting a conditional use permit to operate a fenced outdoor storage facility on the subject property. The property was approved for the storage of mobile homes in 1999. At that time a chain link fence with 90% opacity slats was installed. The applicant will use the same enclosed area for storage. The materials to be stored include cars, vans, trailers, campers, road maintenance and construction implements. The applicant has indicated that the storage area will have a locked gate and that surveillance cameras will be installed.

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.

This is an industrial area, so the proposed use blends in quite well and should not impact the use and enjoyment of the property in the area.

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

The proposed use should not impede future industrial type development of the area.

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

Access is from Cottonwood Avenue, and the existing driveway will be used.

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

The zoning ordinance does not specify the number of parking spaces needed for this type of use. There is sufficient room on this property for any employees or customers.

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.

The storage yard should not create odor, fumes, dust, noise, or vibrations to the extent that these would constitute a nuisance in an industrial development. Any on site lighting should be of a shoe box design with light directed downward onto the property.

Staff notice that the fence on the north side of the lot was in need of some repair. This should be completed before commencement of the business.

Recommendation

Staff found that the proposed use is appropriate for an industrial area and recommended approval of Conditional Use Permit #07-78 with the following conditions.

- 1) The storage yard shall be restricted to the area shown on the submitted site plan.
- 2) The storage yard shall be screened by a 6 foot high screening fence shall provide at least 90% opacity over the full height of the fence and the fence shall be maintained.
- 3) That the business operator obtains and maintains a South Dakota sales tax license.
- 4) Any new exterior lighting shall be shoe box style that directs the lighting downward.
- 5) The applicant shall maintain a minimum of twelve (12) off street parking spaces and one (1) loading space.
- 6) All signs must meet the requirements of Article 16 of the Minnehaha County Zoning Ordinance.
- 7) The landscape trees planted along the east property boundary shall be maintained and any dead trees shall be replaced within the current planting season.
- 8) The fence on the north side of the property shall be completed prior to the commencement of the business.

Based on the staff report, a motion was made by Cypher and seconded by O'Hara to approve Conditional Use Permit #07-78 with the conditions as stated. The motion passed unanimously.

ITEM 5. CONDITIONAL USE PERMIT # 07-79 to allow a single family dwelling.

Legal Description – Tract 1A Splitrock Estates N1/2 NE1/4 in Section 35-T102N-R48W
Location - 435 Chestnut Ave. east side of Brandon

Petitioner / Owner- Jenifer Williams

General Information

Present zoning - A-1 Agricultural
Existing Land Use - Agricultural
Parcel Size - 2.98 Acres

Report by: Pat Herman

Staff Analysis

The subject property is located on the east side of Brandon, abutting Chestnut Avenue. The site is part of a nine parcel subdivision which is zoned A-1 Agricultural. Immediately to the south are residentially zoned properties which abut new residential development within Brandon.

The property was platted in May 1988, prior to the County's adoption of density zoning. The zoning ordinance dictates that all legally described properties created between July 1979 and September 1988 have one building eligibility that can only be used if a conditional use permit is approved. The owners of the property signed an affidavit which stated that this tract was not an eligible residential building site until such time as approval was granted by the County.

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.

The area has been developed as large lot residential tracts. A single family dwelling is reflect of the current land use in the area.

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

The City of Brandon is expanding just to the south of this site and has expanded to the east of Chestnut Avenue. This area is shown as single family residential in Brandon's Comprehensive Plan.

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

There is a dedicated roadway which provides access to this property from Chestnut Avenue. A completed percolation test has been submitted to the Planning Department.

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

The tract is sufficient to provide for all parking associated with a single family dwelling.

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.

A single family dwelling should not create odor, fumes, dust, noise, vibration, or lighting at a level to constitute a nuisance.

The petitioner should be aware that a right-to-farm notice covenant must be filed on the deed prior to the issuance of a building permit.

Recommendation

Staff finds the request to be in conformance with the future land use plan for Brandon and reflective of the adjacent land use. Staff recommended approval of Conditional Use Permit #07-79 to allow a single family dwelling.

Based on the staff report, a motion was made by Cypher and seconded by O'Hara to approve Conditional Use Permit #07-79 with the conditions as stated. The motion passed unanimously.

ITEM 6. REZONING #07-06 from A-1 Agricultural to I-1 Light Industrial.

Legal Description – Lots 1-13 Block 1 West Lyons Addition in Section 17-T103N-R50W
Location - Lyons
Petitioner / Owner- Central States Fire Apparatus, LLC

General Information

Present zoning - A-1 Agricultural
Existing Land Use - Commercial
Parcel Size - 1 +Acres

Report by: Phil Kappen

Staff Analysis

The subject property is located in the Village of Lyons. Properties to the north and south are zoned I-1. The property to the west, across County Highway 143, is A-1 Agricultural. Across the railroad tracks to the east are residential uses and Lyons Park which is owned by the Village of Lyons. The existing I-1 zoning areas are utilized by the petitioner for the manufacture of fire trucks. The petitioner wishes to rezone the property to allow the construction of a building for offices, a showroom and cleaning and detailing of the vehicles.

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.

The subject property is located in the middle of existing I-1 Industrial areas. The proposed zoning would complete the existing industrial area. There are currently two residences located on the subject property. These would be removed to allow construction of the office, showroom and vehicle detailing building.

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

The proposed zoning provides a reasonable continuance of the I-1 industrial area. The Minnehaha County Development Plan provides for the rezoning of property in rural service areas. The village of Lyons is one of the designated rural service areas, therefore, the proposed rezoning conforms with the requirements of the Minnehaha Comprehensive Plan.

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

Access to the property will be via Third Street in Lyons. No additional access roads will be required.

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

There is ample space on the subject property and on the petitioner's adjoining properties for all necessary parking. No on-street parking should be allowed. The rezoning of the property to the I-1 district will trigger a requirement that any proposed parking or driving areas be hard surfaced. The ordinance requires that any commercially or industrially zoned property that accesses a hard surfaced road must have all parking and driving surfaces hard surfaced. When the petitioner applies for the building permit, they will have to provide a site plan that shows the areas to be hard surfaced and that they are meeting the required setbacks between any parking areas and any road right-of-way.

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.

The existing manufacturing uses on the rest of the petitioner's site has resulted in noise, however, the proposed uses in the portion which has been petitioned for rezoning should have little such impact. Any outdoor lighting should be of a shoebox style, however, it is not possible to place conditions on a rezoning.

Recommendation

Staff find that the proposed rezoning conforms with the locational requirements for industrial property as set forth in the county comprehensive plan. Staff, therefore, recommended approval of rezoning #07-06.

Based on the staff report, a motion was made by Cypher and seconded by O'Hara to recommend approval of rezoning #07-06. The motion passed unanimously.

ITEM 7. CONDITIONAL USE PERMIT # 07-80 to exceed 1200 sq. ft. of accessory building area (894 existing; total requested 3132 sq. ft.)

Legal Description – Tr. 2 Nelson's Addn. SE1/4 SW1/4 in Section 18-T101N-R47W
Location - 48448 265th St. 2.5 miles southwest of Valley Springs
Petitioner / Owner- Bruce Lee

General Information

Present zoning - A-1 Agricultural
Existing Land Use - Residential
Parcel Size - 5.0 Acres

Report by: Pat Herman

Staff Analysis

The property is located 2.5 miles southwest of Valley Springs. There are a number of acreages in this agricultural area. The petitioner is requesting to exceed 1200 sq. ft. of accessory building area and conditional use permit approval is required as detailed by the zoning ordinance. Currently there is 894 square foot detached garage on the property. The petitioner would like to add another 2,238 square foot storage building.

There is one lot with an existing accessory building area of less than 500 square feet in this neighborhood. The other developed lots have accessory building areas which range from 3152 square feet to over 9400 square feet. With the new building the petitioner would have a total of 3,132 square feet of accessory building area, well under the existing maximum in this vicinity.

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.

The construction of this structure should not impede on the enjoyment or use of the surrounding properties or effect property values.

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

The building can only be used for the personal storage of the petitioner's residential or agricultural related items and no commercial or business activities are allowed.

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

Access on this lot is from 265th St., a township gravel road.

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

There is sufficient parking for any allowed uses on this property.

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.

This building should not create any offensive odors, fumes, dust, noise or vibrations.

Petitioner's Note: A building inspection is required. The building inspector will measure the outside perimeter to determine that the square footage maximum has not been exceeded.

Recommendation

Staff finds that the proposed building area conforms to the general accessory building areas on other lots in the area. Staff recommended approval of conditional use permit #07-80 with the following conditions:

- 1) The total accessory building square footage shall not exceed 3,132 square feet.
- 2) The building shall be used for the personal storage only. No commercial or business uses or storage shall be allowed.
- 3) The building shall not exceed one story in height.
- 4) A building permit is required prior to the start of construction.
- 5) A building inspection is required.

Based on the staff report, a motion was made by Cypher and seconded by O'Hara to approve Conditional Use Permit #07-80 with the conditions as stated. The motion passed unanimously.

ITEM 8. CONDITIONAL USE PERMIT # 07-81 to allow a contractor's storage shop and yard.
Legal Description – Lot 1A Block 2 Green Valley Addition NE1/4 in Section 12-T102N-

Location - R50W
Crooks exit from I-29
Petitioner / Owner- A & B Concrete, Inc. / Green Valley LLP

General Information

Present zoning - I-1 Light Industrial
Existing Land Use - Vacant
Parcel Size - 1+ Acres

Report by: Scott Anderson

Staff Analysis

The applicant is requesting a conditional use permit in order to construct a contractor's storage shop and yard on the subject property. The applicant operates A & B Concrete.

The applicant has submitted a site plan that indicates the future construction of a 60 foot by 80 foot primary structure with a 20 foot by 20 foot attached smaller wing. The larger portion of the building appears to have 3 large overhead door openings. No outdoor storage has been indicated on the site plan. Should the applicant want outdoor storage, it shall be screened.

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.

This is an industrial area, so the proposed use blends in quite well and should not impact the use and enjoyment of the property in the area. This type of business will not impact property values, provided no concrete forms or materials are stored in the open. The closest uses to the south are an existing contractor's storage building and 2 mini-storage buildings. An auto body repair shop was approved at last month's Planning Commission meeting for property to the north.

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

This is the second building and use in the newly platted industrial expansion area. The proposed use should not impede future industrial type development of the area.

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

As part of the preliminary plat, the developers have prepared a drainage plan for the entire development area. The site has been graded to provide drainage from the site. The roads have been constructed meeting County specifications or surety has been posted for their construction. Minnehaha Community Water will provide water to the site.

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

The applicant is required to provide two (2) spaces for each three (3) employees. The narrative does not indicate how many employees will work at this facility. The site plan indicates only five (5) spaces, which would accommodate up to seven (7) employees, as per the zoning ordinance parking regulations. The customer parking area must be hard-surface. The site plans shows these parking areas to be paved. Staff has concerns that the five (5) parking spaces will not be adequate for customer and employee parking. The applicant shall indicate to staff the number of employees expected to work for the proposed business.

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.

The applicant will be conducting a business that will produce some noise. The area is located within an industrial area and should not be out of line with noises typically found in an industrial area.

Staff finds that the proposed use is appropriate for the newly created industrial area. The recommended conditions of approval will ensure that harmonious development will occur.

Recommendation

Staff recommended approval of Conditional Use Permit #07-81 to allow for a contractor's shop with the

following conditions.

- 1) Any outdoor storage shall be enclosed with a 6 foot high screening fence that shall provide at least 90% opacity over the full height of the fence.
- 2) That the business operator obtains and maintains a South Dakota sales tax license.
- 3) Any new exterior lighting shall be shoe box style that directs the lighting downward.
- 4) The applicant shall maintain a minimum of five (5) off street parking spaces and one (1) loading space and continually meet the parking requirements outlined in Article 15 of the Zoning Ordinance.
- 5) All signs must meet the requirements of Article 16 of the Minnehaha County Zoning Ordinance.

Based on the staff report, a motion was made by Cypher and seconded by O'Hara to approve Conditional Use Permit #07-81 with the conditions as stated. The motion passed unanimously.

Item 9 was first reviewed at the July 23rd meeting.

ITEM 9. CONDITIONAL USE PERMIT REVIEW # 06-31 -to allow a 2400 head finisher hog barn and holding pond for an existing CAFO.

Legal Description – SE1/4 & SW1/4 NE1/4 of Section 22-T103N-R51W
Location - 6 miles north of Hartford
Petitioner / Owner- Ron Steineke

General Information

Present zoning - A-1 Agricultural
Existing Land Use - Agricultural
Parcel Size - 200 Acres

Report by: Phil Kappen

Staff Analysis

A the July meeting the Planning Commission heard a review on a conditional permit allowing Ron Steineke to replace some old swine buildings with a new confinement building. Staff reported at the July meeting that there were a few conditions that had not yet been met. Mr. Steineke has now met all of the required conditions with the exception of removing the old buildings that were replaced by a new structure. The Planning Commission had indicated that the buildings were to be removed within two months. The buildings are still in place as of the date of this report, however, staff is aware that Mr. Steineke has been in contact with some contractors who would remove the structures. Staff has encouraged Mr. Steineke to have a contractor lined up for the work and be prepared to address the removal of the buildings at the September meeting.

Mr. Kappen explained that the petitioner had burned down the buildings that morning so no action was needed on this conditional use permit.

A motion was made by Cypher and seconded by O'Hara to adjourn as the Planning Commission and reconvene as the Zoning Board of Adjustment. The motion passed unanimously.

Item 10 was heard before the Zoning Board of Adjustment.

ITEM 10. VARIANCE # 07-4 to allow a front yard setback of 16 feet.

Legal Description – Lot 17A Country Gable Est. 2 in Section 5-T101N-R48W
Location - 8409 E. Sunset Circle, 1 west of Brandon
Petitioner / Owner- Merle Ankrum

General Information

Present zoning - A-1 Agricultural
Existing Land Use - Residential
Parcel Size - 1.4 Acres

Report by: Scott Anderson

Staff Analysis

The applicant is requesting a variance to reduce the minimum front setback from 30 feet to 16 feet for the purpose of adding a third attached garage stall to the existing residence. The applicant has indicated that the topography precludes building the garage on the west or south sides of the house.

On September 10, 2007 staff conducted a site visit. The property does slope rather steeply to the south and leads into wooded ravines eventually leading to the Big Sioux River. In addition, staff noted that the septic tank and drainfield appear to be located on the south side of the house.

Minnehaha County Zoning Ordinance clearly states that the Board of Adjustment may not vary the setback regulations unless it makes findings based upon evidence that **all** of the following conditions are present. Staff has visited the site and prepared its observations in regard to the following.

1. That specific circumstances or conditions, such as exceptional narrowness, topography, or siting exists.

There are topographical features associated with this lot. It does slope to the south. The Zoning Ordinance states that the topography of the lot has to be so extreme that it would result in a hardship to the owner and not merely an inconvenience. The owner has failed to demonstrate this. There are areas on the lot where a single stall garage could be constructed. In fact, it appears that there is room to the east side of the existing garage area which could be utilized.

2. That the Variance does not grant a use which is otherwise excluded from that particular district, or diminish or impair property values within the area.

The requested variance would not allow a use otherwise excluded from the district.

3. That due to the specific circumstance or existing conditions strict application of the Zoning Ordinance would be an unwarranted hardship.

No hardship exists. The applicant has full use of the property with a single family residence with an attached double stall garage. An alternate location could be found on the large one-acre lot which would meet all of the minimum required setbacks.

4. That the granting of a Variance is not contrary to the public interest and is in harmony with the general purposes and intent of the Zoning Ordinance.

The proposed variance is not in the public's interest. The proposal would allow a reduction in a setback when a suitable alternative exists. The applicant could construct the additional single stall garage addition on the east side of the existing single family residence.

5. That because of circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

In reviewing this aspect of the criteria set forth in the Zoning Ordinance, the applicant can not make a case. The property owner has full reasonable use of the property. The fact that the house was constructed with only a double stall garage instead of a triple stall garage does not eliminate reasonable use of this property. Had the original owners of the residence more properly planned ahead, construction techniques could have been utilized which would have initially allowed for the 3 stall or allowed for it to be added at a later date. The applicant has full use of the property at this point.

While staff can understand the applicant's desire to have an additional garage, the applicant has failed to provide any proof of the lack of use of the site. The Board of Adjustment must follow guidelines set forth in Article 21.04 of the Zoning Ordinance which indicate that without a variance no reasonable use of the property exists. Staff can not support the variance request.

Recommendation

Staff recommended denial of Variance #07-04 to reduce the front yard setback from 30 feet to 16 feet.

Mr. Anderson explained that under state law a 2/3 majority vote is needed to pass a variance. As there were only four members of the Board present, it is not possible for the petitioner to receive a passing vote. Mr. Anderson recommended this item be continued to the October 22 meeting.

A motion was made by O'Hara and seconded by Cypher to continue Variance #07-04 to the October 22 meeting. The motion passed unanimously.