

**Town of May
Washington County
Planning Commission
May 28, 2009**

The Planning Commission of the Town of May met for their regular meeting on Thursday, May 28, 2009, at 7:00 p.m. at the May Town Hall. Members in attendance included: John Arnason, Chairman; Don Rolf, Steve Magner, Mark Dupre, Jyneen Thatcher, and alternates Mike Dupont and Chad Nelson. Absent: Kate Donner and Lester Rydeen. Also present: Carie Fuhrman, NAC Planning Consultant; John Pazlar, Town Board Supervisor, and citizens of the Town of May. Chairman Arnason called the meeting to order at 7:00 p.m.

Approval of Minutes

Arnason moved, seconded by Dupre, to approve minutes of the April 30, 2009, regular meeting as presented. All approved.

Public Hearing

Larson Variance

Larry Larson has requested approval of a variance to allow the construction of an addition to a detached accessory building that is within the required 150 foot setback to the centerline of an arterial road. The property is located at 15120 Square Lake Trail North/CSAH 7, is located within the Shoreland District of Square Lake, and is zoned Rural Residential.

Washington County would normally deal with a variance within the shoreland, but the existing building and its expansion are compliant with the County's arterial road setbacks. The Town is more restrictive in this aspect, and thus, the Town is handling the variance request. The parcel is 0.67 acres in size and is located directly on Square Lake. It contains a single family home; a detached garage between the home and the road; and two sheds (one located between the lake and the home, and the other located between the garage and the road). The applicant is proposing an addition onto the detached garage, which includes adding space to the front of the garage and above the garage (attic space) for storage. The existing garage is 22 feet, 10 inches long by 21 feet wide, or approximately 480 square feet in size, according to the applicants. The proposed addition to the front of the garage is 4 feet long by 21 feet wide, equaling 84 square feet, and it would increase the size of the building footprint to approximately 563 square feet.

The applicant is also proposing to remove the existing garage trusses and replace them with attic trusses. The garage currently contains 8 foot high walls, and the roof measures 12 feet to the peak. The proposed garage would contain 8 foot high walls also, but the roof would measure to 18 feet, 10 inches at the peak.

According to Section 705.05.E. of the May Zoning Ordinance, parcels of less than one acre are allowed a maximum of one detached accessory structure. One single story shed of one hundred twenty (120) square feet is also permitted in addition to the detached

accessory structure. The parcel currently contains two sheds under 120 square feet (97 square feet in size and 73 square feet in size), creating a non-conforming situation. Planner Carie Fuhrman noted that if the Town were to approve the variance request, the non-conforming situation should be corrected. After she provided the staff report regarding the Larson request, she opened it up for discussion among the Commission.

Planning Commission Comments

Arnason noted that the planner stated that 4 feet would be added (84 feet), but the applicant had requested 5 additional feet, and it noted that this square footage would still be allowable per Town Ordinances. .

Thatcher moved, seconded by Arnason, to open the public hearing. All approved.

Thatcher asked which shed might be removed, and the applicant stated that he would choose to not remove any shed, and that both sheds are under 120 square feet in size. He stated that if he needs to remove a shed, it would be the garden shed closest to the road. Dupre noted that he did not think removal of the shed would be necessary, given there are a hundred trailers parked just down the road. Magner asked about the possibility of putting up a lean to, and Arnason stated he thinks this only applies to parcels over 10 acres.

Arnason moved, seconded by Rolf, to close the public hearing. All approved.

Dupre moved, seconded by Rolf, to recommend to the Town Board that the variance be approved based on following findings of fact:

- Undue hardship would be caused by strict Ordinance enforcement as the property owners would not be allowed reasonable use of their property.
- A larger garage cannot be established under the conditions allowed by the Ordinance: the setback would place a garage in basically the same location of the existing home.
- No other reasonable alternatives exist: adding on to the rear of the garage is not plausible because of the topography of the site and location of a retaining wall.
- The limited buildable area on the property is the hardship, not an economic consideration.
- The plight of the landowner is due to unique physical conditions on the land, including the lake frontage, bluffland, and topography of the site.
- This request requires very limited site preparation and grading work.
- The garage is consistent and in character with the surrounding neighborhood.

The motion further stated that the property owner would not need to remove any of the existing sheds, (with a friendly amendment from Arnason that the sheds have been with the property for more than 25 years, accepted by Dupre) and that no living space (plumbing, in particular) shall be created with the expanded accessory building. All approved.

Michaelis Conditional Use Permit Small Business and Variance

Mark Michaelis has submitted an application for a conditional use permit to operate a small business on his property, and a variance to the accessory building setback requirement. The small business request involves automotive maintenance and repair. The variance request is to allow the accessory building in which the business is to be operated may be closer than 100 feet to the north property line/right-of-way of 150th Street.

The parcel is located at 14970 Saint Croix Trail North and is zoned RR, Rural Residential. The applicant has recently purchased the property and is interested in starting his own small business at this property, which is his primary residence. The subject parcel measures 15.6 acres in size and contains frontage on State Highway 95/St. Croix Trail North to the east and 150th Street North to the north, with an existing driveway access off of St. Croix Trail North. It is located within the Shoreland Management District of "Willow Brook". The parcel is zoned RR, Rural Residential, and is designated as Rural Residential in the 2030 Comprehensive Plan. The subject garage is located in the northeast corner of the parcel, and the house is located to the south of the garage.

Variance

The applicant would like to operate the business within the existing detached garage located on the property; however, it does not meet the 100 foot property line setback requirement for accessory buildings in which a business operation is being conducted (Section 402.03.B.2). The detached garage is approximately 14 feet from the north property line/right-of-way of 150th Street:

The applicant points out the following factors in the Variance Request Narrative:

1. *A dead end dirt road (150th Street) runs along my north property line, which is about 20 feet wide.*
2. *To the north of the dead-end road is open land that is currently farmed – no occupied residence.*
3. *My garage is at least 500 feet from any residence.*
4. *The north side of the garage is a solid wall.*
5. *The 2 operating garage doors face east and west, limiting exposure to the north property line.*
6. *This is a pre-existing garage. When it was built by a previous owner, operating a small business was apparently not considered. Moving the garage to another location or building a new garage to meet setback requirements is not financially possible for me and would definitely create a hardship.*

Planning Commission Discussion

Rolf stated that the difference between this business and the previous Roth application is that there appears to be more space with less confusion

Arnason moved, seconded by Magner, to open the public hearing. All approved.

Arnason advised the applicant that the Commission has recently spent a good deal of time reviewing an application for an auto salvage/repair business, which was subsequently denied. Arnason asked about the hours of operation, and the applicant stated that his intention is not to consistently work as many hours as are indicated in the application. Arnason stated that he would be in favor of limiting the number of vehicles that could be stored on site. The applicant stated he would not exceed 3 repair vehicles outside at any time.

Mr. Michaelis asked about the Washington County requirement regarding hazardous wastes, and he stated that he did not think such a small garage would not fall under these requirements. [Note: Subsequent to the Planning Commission meeting, a Washington County inspector visited the site and advised Mr. Michaelis that he would not, in fact, fall under this Washington County requirement.] Wayne Holmberg, 15010 St. Croix Trail, who lives east and behind the house, stated that he does not live in May Township to live next to a garage/repair shop. He does not believe this is your standard small business. He also believes this will generate more traffic, and he is not in favor of this request.

The applicant would expect no more than two deliveries per day for parts and perhaps once a month pickup of the 55 gallon drum of used oil. He intends to use 3 out of 4 stalls in the garage for the business. One stall currently has a lift.

Emara White, 14878 St. Croix Trail, stated that people in her house work nights and sleep during the day. She asked about where the floor drain goes, she is concerned about the safety of wells on adjacent properties, and is generally not in favor of this application. Marsha Holmberg is not a full-time resident, but co-owns the property with her brother at 15010 St. Croix Trail N, and is not in favor of the noise and disruption this would cause. They own horses, which in the past have been disrupted by the activity at this site. She stated that because they have a bluff behind their house, any noise stops at their house.

Michaelis added that he is as far away from the neighbors as possible at this building location, and he wants to be the best neighbor possible. He is willing to work with the Town and the neighbors to satisfy their needs.

White asked about the fact that the garage is larger than the house. Dupre asked where he would place the sign, and the applicant stated that it would be somewhere south where it would not inhibit the neighbors from getting in and out. Dupre suggested marking where the sign will be prior to the Town Board meeting.

Chad Nelson stated that it is important for the Town to inspect the site for compliance, and that the Town should treat this as a new application and not compare it to the activities of previous landowners. Larry Kuehn, Lynch Road, stated that he has had a small business for more than 20 years, and he can't see any reason why the Town should not allow a young man to have a business.

Arnason moved, seconded by Dupre, to close the public hearing. All approved.

Arnason stated that, in this economy, it would be wise to think twice about depriving someone of their livelihood. He also believes the applicant deserves the benefit of the doubt and should not be saddled with infractions of previous owners of his property, or the actions regarding another person's CUP application. He also respects the concerns of property owners, and the Town owes the neighbors the respect of imposing some strict guidelines regarding the conditions of the business operation.

Rolf suggested restricting hours of operation to 8 to 6, 5 days a week. Thatcher has concerns about this location for this small business, as well as other concerns regarding the environment and the amount of noise that could be generated.

Regarding the variance, Arnason stated that it would make sense to approve the variance, because this keeps the business further away from the neighbors.

Magner moved, seconded by Rolf, to recommend to the Town Board that they approve the variance and CUP based on the following findings of fact, and subject to the listed conditions. All approved, with one nay from Thatcher.

Findings of Fact for Variance and CUP Approval

1. Enforcing the 100 foot setback would place the accessory structure closer to the existing homes in the neighborhood, increasing the noise impacts on those properties, which does not adhere to the spirit and intent of the Ordinance.
2. The parcel contains a unique circumstance in that it contains frontage on two public roads; however, 150th Street North is a dead-end, gravel road that does not receive the traffic that other roads receive.
3. The existing garage is a condition of the property and was not created by the applicant.
4. The public hearing process provides an opportunity for neighboring property owners possibly affected by an application to voice their concerns to the Town.
5. Although there is no home located directly to the north of the property, there are mitigation steps that can be taken to limit the impact to the north property:
 - a. The Town may require additional trees, or a fence, to be installed to the north and northeast of the garage in order to provide more screening.
 - b. If the Town finds that the engine noise (auto test running) conducted on the property becomes a problem, the Town may require that it be limited to inside the accessory building, and not be allowed outside.
6. The proposed business is generally consistent with the performance standards from Article 402 governing small businesses; and

7. The proposed business is generally consistent with the review standards from Section 704.04 for a conditional use permit in general, provided the following conditions are met.

Conditions/Variance & CUP Approval

1. Additional screening measures, such as additional landscaping or a privacy fence, shall be installed to screen and limit the impact of any outdoor storage, parking, engine noise, etc., and shall meet the requirements of Section 402.03.B.4.
2. The parking shall meet the requirements of Section 402.03.B.5.
3. A more detailed site plan shall be submitted, illustrating the location, dimensions, and area of the accessory building to be utilized with the small business; any possible outdoor storage areas (including the car trailer); the layout of the parking area (including size and location of parking stalls); details of additional screening to be added to the west; and the proposed location of the advertising sign.
4. The advertising sign shall meet the requirements of Section 402.03.B.9.
5. All hazardous chemicals shall be located and maintained in compliance with federal, local and state fire, police, and environmental rules and regulations. This includes providing the Township with written approval from the Washington County Department of Public Health and Environment for a hazardous waste generator's license. A copy of the license, and any subsequent inspection records, shall be provided to the Township for its records.
6. The small business is subject to periodic inspection for compliance with the CUP. The applicant shall submit a Noise-Abatement Plan to the Township, prior to the Town Board meeting.
7. If there are changes in the operation that differ from what is described in the CUP, an amendment to the CUP is required.
8. The property owner shall accomplish and adhere to all conditions identified within the permit within one year of approval by the Town Board. If this is not accomplished, the permit may be revoked.
9. The Town Board shall assign the hours of operation, including days of the week.
10. A limit of three (3) customer vehicles pertaining to the business shall be allowed to be parked outside.

11. There shall be no exterior storage of automobile parts, tires, oil/gasoline containers, or related items on the site. All storage related to the small business shall be internal to the building.
12. All refuse shall be kept in an enclosed building or properly contained in a closed trash container designed for such purposes.
13. There shall be no outdoor sales, display, and/or rental of products.

Public Hearing

Wood Fired Boilers Ordinance

Town Board Supervisor John Pazlar brought forward the proposed ordinance restricting the use of wood fired boilers in the Town. His goal is not to ban them, and existing boilers would be grandfathered. The ordinance relates to any new boilers being built. The newer units now have EPA standards that must be met, and that is the goal of this ordinance – to make certain that all new boilers adhere to EPA standards.

Thatcher stated that she is concerned about enforcing nuisance ordinances in respect to the people who are currently operating wood boilers that are causing problems for their neighbors. Pazlar stated that Attorney Snyder has provided an additional paragraph that would cover issues where the Town would be able to ask an operator to cease and desist based upon problems in the neighborhood.

Arnason moved, seconded by Dupre, to open the public hearing.

Roger Johnson, Manning Avenue N, stated that the fumes from a nearby wood boiler have caused harm to their health and well being. He stated that the Minnesota Department of Health has determined that wood smoke can be a threat to health. Elizabeth O'Meara, 14329 Manning Trial N., stated that in the winter when the boilers are in use, you cannot be outside without smelling like you have been at a bonfire.

Rolf stated that he believes we are over regulated in general and he does not see the benefit of this ordinance, given that the offending units will be grandfathered in anyway. Larry Kuehn agreed that there is too much government interference, and he suggested that the Town make recommendations rather than create an ordinance. Thatcher stated that the ordinance is probably not going to meet the intended goal, and the important problem is enforcing the nuisance ordinance on those who are causing a problem.

Pazlar also asked the Commission to comment on months of operation, whether it should be just in the winter or if it would be year around. Dupre stated that the two purposes of the ordinance would be to protect people's health and eliminate nuisances, i.e., smoke smell, ash, etc. He believes that each individual case will be different, based on lot size, wind, direction, setbacks, etc.

Arnason moved, seconded by Rolf, to close the public hearing. All approved.

Arnason moved, seconded by Dupre, to pass the ordinance on to the Town Board without recommendation.

Arnason brought up the topic of shoreland variance requests that are being reviewed by Washington County, and noted that three have been approved in the recent past. Arnason asked if the clerk could request that Washington County send these reports electronically to her so she could then forward them on to the Commission. Klein agreed she would look into that.

Hearing no further business, Arnason moved seconded by Dupre, to adjourn. All approved.

Respectfully submitted,

Linda L. Klein
Town Clerk