

**TOWN of MAY  
WASHINGTON COUNTY  
PLANNING COMMISSION  
August 29, 2013**

The Planning Commission of the Town of May met for their regular meeting on Thursday, August 29, 2013, at 7:00 pm at the May Town Hall. Members in attendance were: Chairman John Arnason, Mark Dupre, Jyneen Thatcher, Chad Nelson and alternate Jeff Chase. Absent: Don Rolf, Steve Magner, Lester Rydeen and alternate William Still. Also present: Nate Sparks, Town Planner; Bill Voedisch, Town Board Chair; Linda Klein, Town Clerk. Chairman Arnason called the meeting to order at 7:00 pm.

**Approval of Minutes** – Arnason moved, seconded by Nelson, to approve the minutes of the July 25, 2013, meeting as presented. All approved.

**Public Hearing**

**Schmitt Variance for Placement of Outbuilding Closer to Road than Primary Residence on a Corner Lot**

The applicant's property is located at 12720 Riverview Trail. This is in the Arcola Preserve subdivision. The property is zoned Rural Residential but is also in the Shoreland District.

The applicant seeks to add a 40 x 60 accessory building to his 7.5 acre parcel. The proposed site is 140 feet from the pavement of both Highway 95 and Riverview Trail. This would place the structure approximately 120 feet from the highway right-of-way and 115 feet from the Riverview Trail right-of-way. The site does not qualify for a certificate of compliance as the house is approximately 400 feet from Highway 95 and the building would then need to meet a 320 foot setback. The applicant is also seeking to have a driveway to the accessory building in addition to the 3 access points for 2 driveways that already exist on the site.

Section 705.05-D-1 states that no accessory building may be placed between the principal structure and any right-of-way. The applicant is proposing to place this structure between the house and the State Highway 95 right-of-way. This parcel has a large berm that is about 12 feet higher in grade than the spot where the building is proposed, which would obscure the view of the building from Highway 95. However, the building would be easily visible from traffic leaving the subdivision on Riverview Trail. The applicant states that he intends to plant additional trees to further screen the building.

The applicant states that to place the building behind the house could "potentially harm" the wetlands in the area. According to Washington County records, there does not appear to be wetlands in this area but rather a drainage area. There is an old railroad spur in the vicinity that has a ditch system adjacent to it. The subdivision was designed to utilize this as a swale and there is a large drainage easement on the neighboring property to the east that assists in directing water to this area.

This property currently has one bituminous loop driveway with two access points to Riverview Trail. Then there is a second gravel driveway that provides access to an area to the rear and east

of the house. Since recent amendments to State Statutes, when reviewing variances, the Town must now consider whether or not the proposal is a reasonable use and if there are “practical difficulties” present that prevent conformity to the strict terms of the ordinance. The notion of “hardship” is replaced with “practical difficulties” with all other aspects of our variance ordinance remaining.

At the July meeting, Planning Commission Chairman John Arnason reported that the commission’s main concern was granting a variance for a building where an additional compliant location is available on the property and that this may be setting a precedent for future requests. At the August Town Board meeting, Voedisch reported that the town has another letter from an adjacent property owner stating that he is not opposed to this variance. However, due to the fact that this matter was not properly noticed to neighbors originally, he said it must be noticed for another public hearing. The item was properly noticed for this August planning commission meeting.

Voedisch also noted that the compliant area for the building appears to be at the very lowest level of the property, where drainage usually flows in wet periods. He also stated that the applicant has expressed a desire to have a bathroom in the building, sink stool and shower. The variance location would work far better, as it is closer to the septic/drainfield. This generated discussion of the definition of “practical difficulty.”

In his original report, the planner did not provide a recommendation. Rather, he stated that the Board would need to review the request and determine if the proposed location is acceptable. He stated that, ideally, if the situation can be handled without the granting of a variance (and an additional driveway), that would be preferable. If it appears that no alternative exists, the Board might want to require the landscaping screening suggested by the applicant.

### **Planning Commission Discussion**

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

Larry Winters, North St. Paul, owns a lot in the subdivision. He owns the third lot on the north side going in. His concern is that before the houses were built, the pond was full. It was noted that the Schmitt house is on the south side of the road, not the north side.

Ms. Schmitt read a letter into the record from a supportive neighbor. She also stated that a third driveway is no longer planned. Board Chairman Voedisch reported that the Board met on the site on August 15 to review the proposed sites. Voedisch showed a variety of photographs taken at various locations on Highway 95, the applicant’s property, from neighboring properties, and from Riverview Trail after placing a balloon on a long pole at approximately the height of the proposed building. Coming from the south on 95, it is not visible due to placement of the trees and the berm. Coming from the north the berm and existing trees help, but the building’s roof will be visible from 95. It will also be easily visible from the two properties across the street.

Moving the balloon to a complying location in the SE area of the lot, it will be easily visible from the neighbor’s property to the east, from a future driveway that will run right past the building, and except for the two homes across the street, from traffic exiting the subdivision.

Dupre stated that he is in favor of the variance location with proper screening. Thatcher drove by the site and asked if shower/stool, etc. are common in pole buildings. She was previously not in favor of this site, but adding the bathroom changes her perspective. Arnason stated that under the Town Code, the bathroom is acceptable, and Voedisch added that there cannot also be a kitchen. Nelson previously voted no, and he still sees a problem with the practical difficulties with the compliant area, but he sees reasons for the variance site. Chase agreed with Nelson on his viewpoint and did attend the Board meeting where the matter was discussed. He agreed that the septic issue does sway his thinking, and there is visual impact with both locations. Arnason stated that this decision will set a precedent, which makes him less agreeable to the variance location.

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

Dupre moved, seconded by Thatcher, to recommend to the Town Board that they approve the request for variance with the following conditions: The practical difficulties are visual impact on neighbors, that tree removal would be required in the compliant location, and proximity to septic system for the bathroom.

1. Landscaping should be provided to screen the view of the building from both roads. The screening plan and site plan need to be approved by the Town Board.
2. The applicant shall receive all necessary permits.
3. The applicant shall receive approval from Washington County, if necessary.
4. The building shall be of the same size and location as depicted in the packet materials.
5. All fees related to this review shall be paid. On a voice vote, Thatcher, Chase, Dupre vote yes, and Arnason and Nelson no. Motion passes.

## **Public Hearing**

### **Brian Clark Variance**

The applicant's property is located at 14155 Oldfield Road in the Maywood South subdivision. The parcel is a through lot with right of ways on both sides of the property. The house is located centrally on the site with Ozark Avenue on the east and Oldfield Road on the west. The driveway accesses Oldfield Road.

The applicant seeks to construct a 30 x 34 foot detached building on the west side of the property. The building is proposed to be 17.5 feet to the peak of the building in height. The applicant is proposing an open side to the building which will be under the roof that is four feet wide. The building will have cedar siding to match the house.

Sparks noted that the key factor to consider with this request is whether or not there is a complying location available for a structure of this size. The property line along Ozark Avenue is angled inward on the parcel. There is land available north of the house where a structure could be placed but this would be closer to the Ozark Avenue right-of-way than the house. The structure proposed is 900 square feet in size (including overhang) which is less than the 2000 square feet permitted by ordinance. A building of the proposed size cannot be placed on the lot without requiring a variance. The proposed location appears to be reasonable and would not require a second driveway. The building location will not be visible from Oldfield Road, as the

site is heavily wooded.

The applicant has already received a certificate of compliance from Washington County for placing a structure in front of the house within the Shoreland District. The certificate was approved due to the fact that the building will not be visible from the water.

Sparks concluded that the property's topography, shape, and existing building sites coupled with the through lot status severely restricts the ability to place accessory structures in a conforming manner. Therefore, without a variance the applicant could not place an accessory structure of this nature on the parcel.

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

Jerry and Linda Wohlers, neighbors, appeared to speak in favor of this location. Arnason asked Clark to point out the exact location on the map. Nelson noted that the compliant location appears to be useless, and his situation shows a clear practical difficulty and would be a candidate for a variance from his viewpoint.

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

Dupre moved, seconded by Chase , to recommend to the Town Board that they approve the variance for Mr. Clark because the site has steep topography that would provide additional runoff into the storm water area and there is no compliant location and with the following conditions as recommended by the planner:

1. The applicant shall receive all necessary permits.
2. The applicant shall receive approval from Washington County and any other jurisdictions required.
3. No additional driveways shall be permitted.
4. All fees related to this review shall be paid.

All approved.

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

Respectfully submitted,

Linda L. Klein  
Town Clerk

Approved by: \_\_\_\_\_  
John Arnason, Planning Commission Chairman