

**TOWN of MAY
WASHINGTON COUNTY
PLANNING COMMISSION
June 27, 2013**

The Planning Commission of the Town of May met for their regular meeting on Thursday, June 27, 2013, at 7:00 pm at the May Town Hall. Members in attendance were: Chairman John Arnason, Don Rolf, Steve Magner, Mark Dupre, Jyneen Thatcher, Lester Rydeen, and Chad Nelson. Absent: Alternates William Still and Jeff Chase. 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 – Chairman Arnason provided Clerk Klein with amendments to minutes from November 29, 2012, and May 30, 2013. Klein will distribute those corrected minutes to all members of the Commission prior to the next official Planning Commission meeting.

Public Hearing

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. The applicant is proposing to add a third driveway to access the new building.

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.

The dual setback requirement of a corner lot limits the available space for accessory buildings, but it must be considered if there is another location that complies with the ordinances. There appears to be space to the east and rear of the house that could accommodate a building with no need for a variance. That location would utilize the existing second driveway and a 3rd driveway would not be needed. There is also a degree of existing natural screening there. This area would require more site work, but that would not be a “practical difficulty” in the planner’s view.

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 and the following conditions should apply:

1. Landscaping should be provided to screen the view of the building from both roads.
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.

Planning Commission Discussion

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

Magner asked the applicant why the second driveway is needed. The applicant indicated he would desire to have this new driveway off Riverview, but he could also access the new building from a driveway off the horseshoe driveway. He stated that all the drives were in place when they purchased this foreclosed home. The applicant has already planted some pines and other shrubs along the perimeter of where the building would be placed.

Rolf noted that it is a flat spot and the berm shields the view from Highway 95. Although he is in favor of perhaps granting the variance, he stated that the commission must be clear as to why they grant it, given there is an alternate building space available. If anyone else asked for a similar variance, this would set a precedent for granting such requests, making it hard to say ‘no’ in the future. Thatcher agreed that there is plenty of room to place the building in a spot other than a place requiring a variance.

Rydeen noted that he has a problem with this plan. He remembered a situation on Norell and County Road 7, which was also a corner lot. The applicant was required to place his building in a compliant spot rather than where he wanted it, fronting on Square Lake Trail.

Chairman Voedisch noted that when he walked the property with the building inspector, Pete Kluegel noted that the previous owner had put in a second driveway without a permit. He also noted that the applicant's back yard is very nice, and it would make sense to try and preserve it. Voedisch and the building inspector did locate a spot where the building could be placed without a variance. Voedisch noted that the one thing that will save this site is the berm and the fact that the applicant has already started putting up some screening trees and shrubs. The berm mitigates the view from the second road, which is St. Croix Trail (Highway 95), which would be included as a significant part of the findings.

Magner stated that he believes they will not be able to mitigate the view from the adjacent property owner to the east. He would recommend using the requested site.

Thatcher disagreed, and thought that removal of the trees is acceptable, given they are fast-growing trees, and she could not agree to a variance when there are two completely acceptable locations for the building. Rolf agreed with many of her points, and his biggest problem was exposure to the property to the east.

Nelson agreed with many of the points. He felt that the other location offered by Mr. Voedisch, which appears to satisfy most conditions without a variance, might be the best option. This would rule out the need for the commission to find a "reason" why they are granting this variance. Voedisch stated that the other suggested area needs to be measured off exactly to make certain that appropriate setbacks are sufficient.

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

Arnason moved, seconded by Thatcher, to recommend to the Town Board that they deny the request for variance based on lack of clear showing of practical difficulties in putting the building in a compliant location. The motion includes asking the Town Board to review the site to confirm that another location is available. Yes votes from Nelson, Rolf, Rydeen, Arnason, Thatcher. No votes from Dupre and Magner.

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

Respectfully submitted,

Linda L. Klein
Town Clerk

Approved by: _____
John Arnason, Planning Commission Chairman