



# CITY OF BAYPORT

294 NORTH 3<sup>RD</sup> STREET  
BAYPORT, MN 55003

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## PLANNING COMMISSION MEETING City Hall - Council Chambers February 16, 2010 – 6:00 p.m.

### A. CALL TO ORDER

### B. ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON

### C. APPROVAL OF MINUTES

- November 16, 2009 regular meeting

### D. PUBLIC HEARINGS

- Public hearing to consider a variance to reconstruct a portion of the existing single-family house located at 456 4<sup>th</sup> Street South

### E. OLD BUSINESS

### F. NEW BUSINESS

### G. GENERAL INFORMATION

- Calendar of application due dates and meetings for 2010

### H. OPEN FORUM

### I. ADJOURNMENT



**CITY OF BAYPORT**  
**294 NORTH THIRD STREET**  
**BAYPORT, MINNESOTA 55003**  
**PHONE 651-275-4404 FAX 651-275-4411**

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Date: January 28, 2010  
To: Planning Commission  
From: Sara Taylor, Assistant City Administrator / Planner  
Subject: Election of Chairperson and Vice-Chairperson

The bylaws of the Planning Commission state that officers are to be elected at the first meeting of each year, upon term expiration. The bylaws also state that no member shall serve as Chairperson or Vice-Chairperson for more than two consecutive terms.

Chairperson Tom Mabie's term expired December 31, 2009. As such, the Planning Commission will need to elect a new Chairperson at the February 16, 2010 meeting. Please be advised that because Commissioner Mabie has served in the capacity of Chairperson for two consecutive terms, he is not eligible for re-election.

Vice-Chairperson Dan Goldston's term also expired December 31, 2009. As such, the Planning Commission will need to elect a new Vice-Chairperson at the February 16, 2010 meeting.

**CITY OF BAYPORT  
PLANNING COMMISSION MEETING MINUTES  
CITY COUNCIL CHAMBERS  
NOVEMBER 16, 2009  
6:00 P.M.**

**CALL TO ORDER**

Pursuant to due call and notice thereof, Vice Chairperson Goldston called the regular Bayport Planning Commission meeting of November 16, 2009, to order at 6:00 p.m.

**ROLL CALL**

Commissioners Present: Dan Goldston, Pam Hoye, David Levy, and Jennifer Schneider

Commissioners Absent: Tom Mabie

City Staff Present: City Administrator Mitch Berg, Assistant City Administrator/Planner Sara Taylor and City Council Liaison Judy Seeberger

Others Present: Molly Shodeen, Minnesota Department of Natural Resources (DNR)

**APPROVAL OF MINUTES**

It was moved by Commissioner Schneider and seconded by Commissioner Levy to approve the September 21, 2009 meeting minutes as presented. Motion carried.

**PUBLIC HEARINGS**

Public hearing to consider amendments to the city's Floodplain Management Ordinance, to be consistent with the National Flood Insurance Program (NFIP), including adoption of the effective Flood Insurance Rate Map (FIRM): Assistant City Administrator/Planner Taylor explained that the purpose of the public hearing was to consider updates to the city's floodplain ordinance in response to mandates by the Federal Emergency Management Agency (FEMA). The city's floodplain ordinance is considered an overlay zoning ordinance and establishes provisions to minimize loss or damage to property located within the floodplain. The city is required to adopt the amended ordinance and subsequent updates in order to participate in the NFIP, which benefits affected property owners by making flood and disaster insurance available to them. Most of the text included in the draft ordinance is required by FEMA; however, there are some optional sections for consideration. Staff recommended approval of the draft ordinance, including the optional sections. DNR representative Molly Shodeen explained that the boundaries have been better defined and there will be fewer properties/structures in the floodplain; however, Bayport does have a high percentage of structures in the floodplain. Discussion followed on each of the optional text sections, including health and safety concerns for occupying flooded structures, the cumulative tracking of changes to structures, and defining whether assessed or appraised market values should be used to comply with the ordinance.

Vice Chairperson Goldston opened the public hearing.

Rick Schneider, 1 North Lakeside Drive, expressed concern with requiring automatic openings to equalize hydrostatic pressure but believes FEMA is moving in the right direction to regulate building and minimize losses in floodplains.

It was moved by Commissioner Levy and seconded by Commissioner Hoye to close the public hearing. Motion carried.

Commissioner Schneider stated she was opposed to adopting optional text section 5.51 requiring vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, as well as section 11.13 regulating the cost of structural alterations or additions. Discussion followed on the difficulty of administering section 5.51, revising the text to include commercial structures, and clarifying or eliminating text regarding market value in section 11.13. The Planning Commission voted 3-1 to retain section 11.13 in the draft ordinance.

It was moved by Commissioner Levy and seconded by Commissioner Schneider to recommend to the City Council to approve amendments to the city's Floodplain Management Ordinance, to be consistent with the National Flood Insurance Program, including adoption of the effective Flood Insurance Rate Map, with the findings of fact as recommended by staff, and to revise the first sentence in section 5.51 to read "All new structures, with the exception of accessory structures, must have vehicular access at or above an elevation not more than two (2) feet below the regulatory flood protection elevation." Motion carried.

**OLD BUSINESS** – None

**NEW BUSINESS** – None

**GENERAL INFORMATION** – None

**OPEN FORUM** – None

**ADJOURN**

It was moved by Commissioner Hoye and seconded by Commissioner Goldston to adjourn the meeting at 7:05 p.m. Motion carried.

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# MEMORANDUM

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**DATE:** February 8, 2010

**TO:** Planning Commission (February 16<sup>th</sup> meeting)  
Mitch Berg, City Administrator

**FROM:** Sara Taylor, Assistant Administrator/Planner

**SUBJECT:** Public hearing to consider a variance to reconstruct a portion of the existing single-family house located at 456 4<sup>th</sup> Street South

## **A. BACKGROUND**

The property is located at 456 4<sup>th</sup> Street South and is legally described as Lot 18 and the north ½ of Lot 17 of Block 94, Bayport, Washington County, Minnesota. Its dimensions are approximately 139 feet on the north and south lot lines, and 75 feet along the east and west lot lines, with a total lot area of 10,466 square feet. The subject property is surrounded by residential uses and is zoned R-2 Single-family urban.

The property owners, Mike and Judy Seeberger, are proposing to demolish and reconstruct a portion of the existing house, due to disrepair, which is located above the tuck-under garage, on the north side of the property. The Seebergers would like to reconstruct this portion of the house within the existing footprint. However, because this existing portion of the house is non-conforming with current setback requirements of the zoning code, a variance is required.

Notice of the Planning Commission's public hearing was mailed to all property owners within 350' of the subject property and published in the Stillwater Gazette on January 27, 2010.

The following informational items are attached:

- narrative by the property owner
- survey of the property with existing and proposed footprint of the house
- photos of the existing house
- exterior sketch of the proposed house

## **B. STAFF COMMENTS**

Like many Bayport homes, the existing house on the property was constructed prior to adoption of the zoning code. As such, it is not uncommon for these homes to encroach into current setback requirements on one or more sides of the property. The Seeberger's home is no exception; the north side yard setback of approximately 4 feet does not meet the 10 foot setback required by city code.

The existing north side of the house is in a state of disrepair, due to faulty electrical wiring, inadequate insulation, and settling of the foundation, which have all taken their toll on this portion of the house and pose ongoing safety concerns. Because this portion of the house is

located above an existing tuck-under garage, which is in fairly good condition, the Seebergers would simply like to reconstruct this portion of the house in its current location.

City code states that non-conforming structures cannot be altered or improved beyond normal maintenance, without being brought into compliance. As such, the Seebergers are requesting a variance to city code, to allow this portion of the house to be reconstructed at the existing setback of 4 feet. Because the house will be reconstructed within the same footprint on the north side of the house, visually, the house would not alter the character of the neighborhood.

In addition to reconstructing the north portion of the house, the Seebergers are also proposing an addition to the front and rear of the house, to expand their living space. The front addition will be located on the northeast side of the house, and as proposed, will comply with the 10 foot north side yard setback, as well as the 20 foot front yard setback requirements. The rear addition will consist of a mudroom and covered porch on the northwest side of the house, which will also comply with the 10 foot north side yard setback, as well as the 30 foot rear yard setback requirements.

**C. SUGGESTED FINDINGS OF FACT AND CONDITIONS OF APPROVAL**

Minn. Stat. 462.357 requires that a variance request must meet all three criteria of an undue hardship for the variance to be granted. The criteria is as follows: (1) the property in question cannot be put to a reasonable use if used as required by this Zoning Code; and (2) the plight of the landowner is due to circumstances unique to the property and not created by the property owner; and (3) the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the ordinance.

Findings of fact to approve the variance: Strict application of the ordinance in this particular case would constitute an undue hardship, because all three of the required criteria are met. Specifically:

- (1) The north side of the house is in a state of disrepair. In order to permit reasonable use, and correct the existing safety concerns, a variance to allow reconstruction of this portion of the house within the existing footprint, would be appropriate.
- (2) The existing house was constructed prior to the current zoning code, and therefore does not comply with current setback requirements. Because the house will not encroach further into the setback on the north side of the property, it will not have a negative impact on adjacent properties.
- (3) Because the reconstructed portion of the house will remain within the existing footprint, and the proposed front and rear additions will be located within the setback requirements, staff feels the request is consistent with adjacent properties and the character of the neighborhood.

**D. RECOMMENDATION**

Staff recommends approval of a variance to reconstruct a portion of the existing single-family

house located at 456 4<sup>th</sup> Street South within the existing footprint, at a setback of approximately 4 feet. Staff also recommends approval of the proposed front and rear additions, which will be located within the setbacks required by city code. Suggested findings of fact are as stated in section "C" of the staff report and are subject to the following conditions of approval:

- ❑ This application may be subject to the review and approval of the Middle St. Croix Watershed Management Organization (MSCWMO). Any conditions required by the MSCWMO shall be implemented as part of this application.
- ❑ Prior to any demolition, a permit will need to be secured from the city, in addition to any inspections deemed necessary by city staff or other agencies.
- ❑ Prior to the issuance of a building permit, a complete set of construction and grading plans for the proposed house shall be submitted by the applicant, in accordance with the approved variance, for review and approval by city staff.
- ❑ The type and color of the exterior siding and shingles for the new and old portions of the house shall be consistent with one another.
- ❑ Vegetative landscaping and/or sod must be restored/installed on all areas affected by the reconstruction/construction no later than July 1, 2010.
- ❑ An as-built survey that delineates all structures and impervious coverage will need to be completed by the land surveyor by July 1, 2010.

The Planning Commission is asked to make a recommendation on the application for City Council consideration. The City Council will consider the request at its meeting on March 1, 2010.

We are looking to add an addition on to our existing home. Our house currently has 2 bedrooms and one bath with 1300 finished square feet. For a family of four, we are finding space is becoming more and more of an issue. As a part of the process, the builder has proposed to tear down and re-build the north section of our house. The reason for this is that the north section of our home has numerous problems that would be difficult and expensive to try to fix piece-meal:

(1) the floors slant in different directions resulting in a small (2") step down into one bedroom and a small step-up into the other bedroom. People visiting our home are constantly tripping in and out of those rooms.

(2) the slanting floors also result in uneven steps up into the main living space.

(3) there is a 4-6" lip that people must step over when entering the front door, then immediately there is a 2" step down. As a result, people tend to sort of trip into our home.

(4) there is a hidden junction box somewhere in the north section that 3 electricians have been unable to find. There is a loose wire in that junction box or some other unknown problem which has caused two switched outlets to quit working.

(5) additional insulation and duct work is needed under the north section to properly service that section of the house and keep it warm since it is over a tuck-under (unheated) garage.

(6) rebuilding that section would result in a much more energy efficient / insulated structure.

The quickest, easiest, and best way to fix these problems, per our builder, is to simply tear off the north section of the house and re-build it on the same footprint.

The reason we are requesting a variance is because our house is situated about 4 feet from the north lot line. Thus, it is already not in compliance with the 10-foot set-back requirement. Rather than simply leave the north section as is, we would like to improve that section of our home in connection with the new addition. The work on the north section that is within 10 feet of the property line would be within the existing footprint - we would not be encroaching any closer to our north property line. In addition, the north section of our home sits directly atop a tuck-under garage. Thus, it would be difficult or impossible to remove that section and re-configure the home in order to comply with set-back requirements.

The new addition to our home would be partially over the north section of the house, and partly to the west off the north section of our house. The new addition will comply with set-back requirements. We are asking that the variance be approved because the work to be done on the north section will be within the same footprint as the existing structure. The work will also improve the interior of our home and will get rid of the problems we have been living with in that section of the house. As long as we are putting in the work to add additional living space, we would also like to improve our existing living area. For that, we will need a variance in order to do the work.

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fax: (651) 464-4822  
www.hultmn.com

Surveyors + Engineers + Wetland Specialists

**Client**  
**MICHAEL  
SEEBERGER**

**Project**  
**LOT 18 & N1/2 17,  
BLK 94, BAYPORT**

**Location**  
**BAYPORT, MN  
11-2920**

**Certification**  
I, the undersigned, being a duly licensed and duly sworn Surveyor in the State of Minnesota, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in my files and records.

**Deile F. Hebeisen**  
Registration No. 13590 Date: 11/25/09

**Summary**  
Approved: DRH Drawn: MDN

**Revision History**  
No. Date By Submittal / Revision

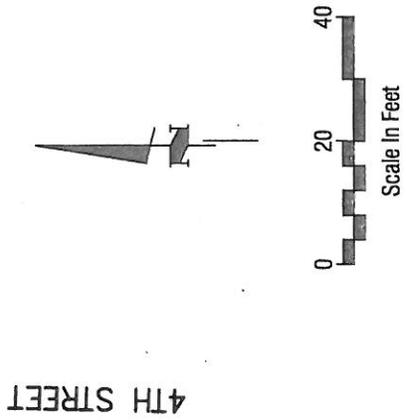
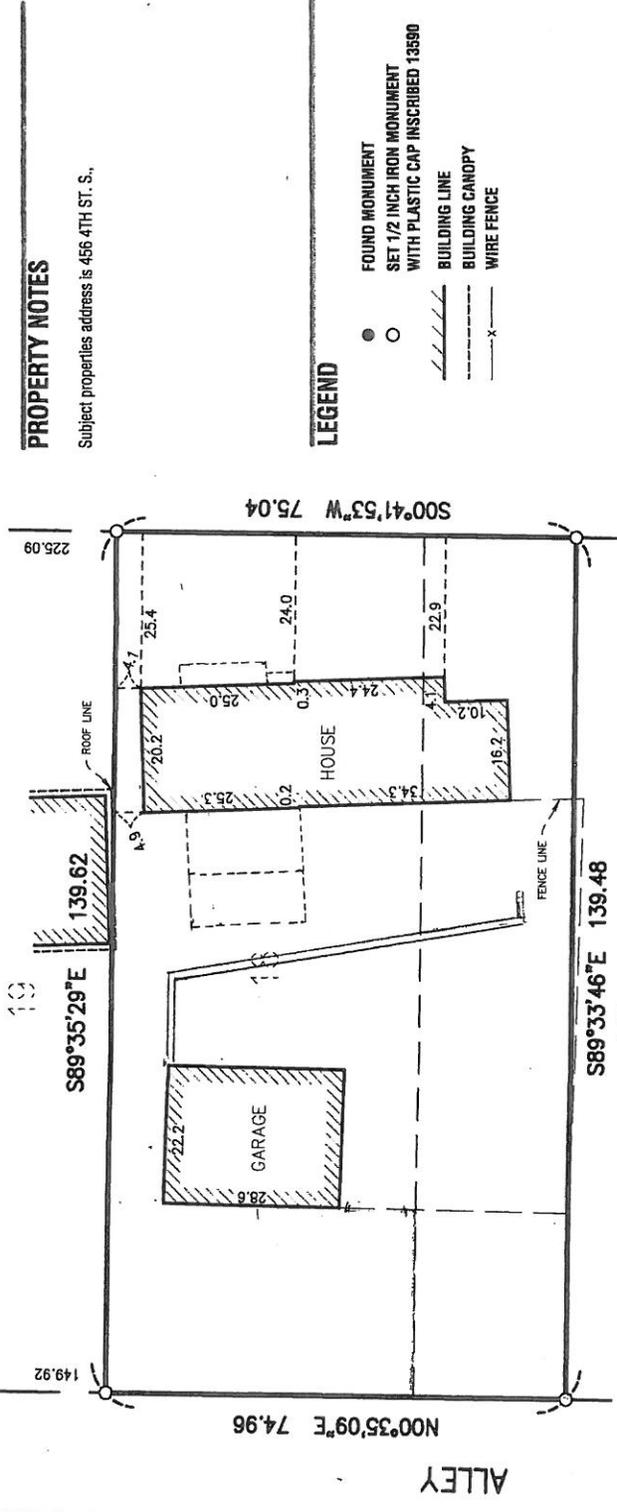
**Sheet Title**  
**CERTIFICATE OF  
SURVEY**

**Sheet Number** **1** **Revision**

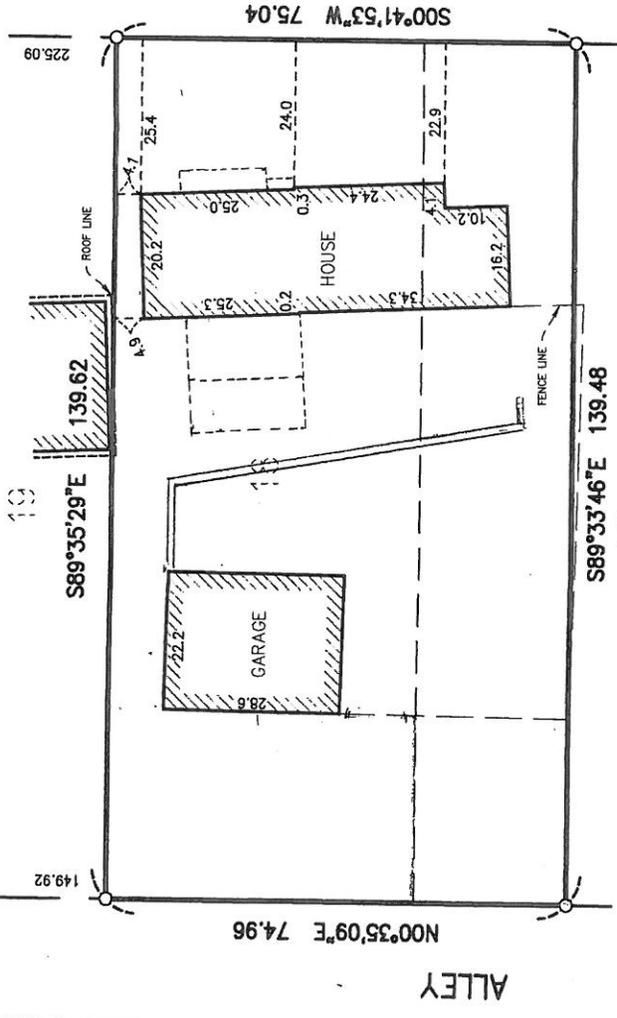
**Project No.** **09143**

**DESCRIPTION** (PER CLIENT'S CERTIFICATE OF TITLE NO. 57599)  
Lot Eighteen (18) and the North One-half (N 1/2) of Lot Seventeen (17) in Block Ninety-Four (94) in BAYPORT (formerly South Stillwater),

**PROPERTY NOTES**  
Subject properties address is 456 4TH ST. S.,



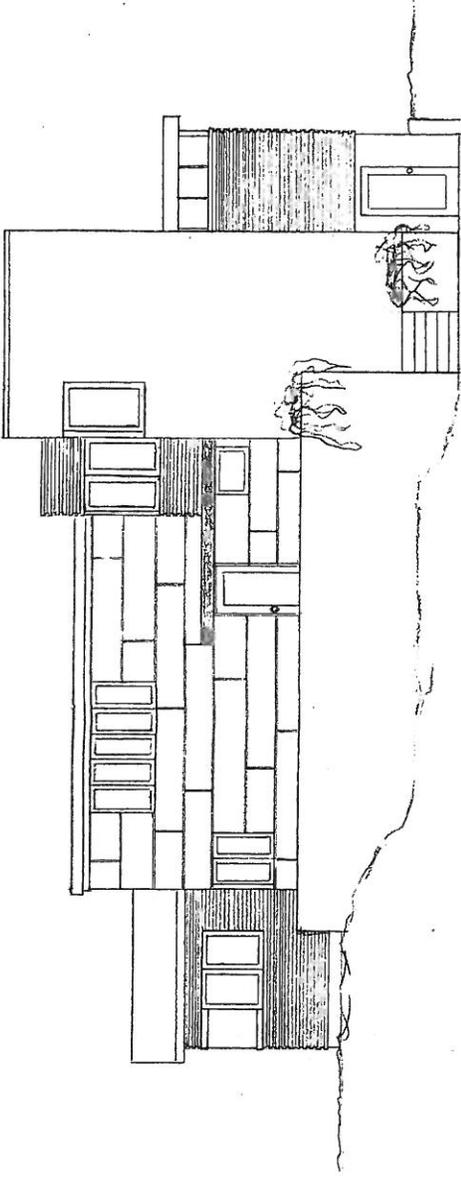
FND. 1/2" IP  
RLS 13775  
NE COR. S1/2 OF LOT 23



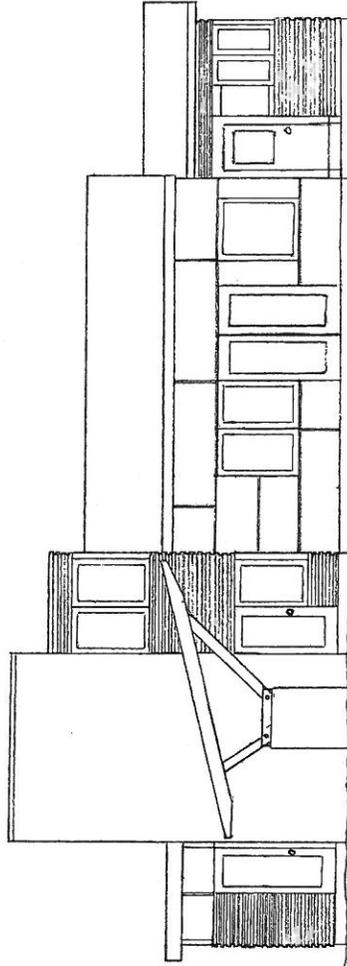
FND. 3/8" PINCH TOP IP  
SW COR. LOT 22







EAST ELEVATION



WEST ELEVATION

SEEBERGER RESIDENCE



# CITY OF BAYPORT

294 NORTH 3<sup>RD</sup> STREET  
BAYPORT, MN 55003

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## DUE DATES AND MEETINGS FOR PLANNING AND ZONING APPLICATIONS IN 2010

<i>Due date for application/fees</i> Thursday, December 17	<i>Planning Commission Meeting</i> Tuesday, January 19	<i>City Council Meeting</i> Monday, February 1
Thursday, January 14	Tuesday, February 16	Monday, March 1
Thursday, February 11	Monday, March 15	Monday, April 5
Thursday, March 18	Monday, April 19	Monday, May 3
Thursday, April 15	Monday, May 17	Monday, June 7
Thursday, May 20	Monday, June 21	Tuesday, July 6
Thursday, June 17	Monday, July 19	Monday, August 2
Thursday, July 8	Monday, August 16	Tuesday, September 7
Thursday, August 19	Monday, September 20	Monday, October 4
Thursday, September 16	Monday, October 18	Monday, November 8
Thursday, October 14	Monday, November 15	Monday, December 6
Thursday, November 18	Monday, December 20	January 2011

*All meetings will be held at 6:00 p.m. at City Hall, unless otherwise noted.  
For further information regarding planning and zoning applications or related matters, call Sara Taylor at 651-275-4404.*