



CITY OF BAYPORT

294 NORTH 3RD STREET
BAYPORT, MN 55003

PLANNING COMMISSION MEETING City Hall - Council Chambers October 20, 2014 – 6:00 p.m.

A. CALL TO ORDER

B. APPROVAL OF MINUTES

- April 21, 2014 regular meeting

C. PUBLIC HEARINGS

- Consider a request for a minor subdivision to create two separate parcels at 220 1st Avenue South, together with a variance from the side yard setback requirement for the existing single-family house on the property

D. OLD BUSINESS

E. NEW BUSINESS

F. GENERAL INFORMATION

- Update on a concept plan for a multi-family residential building for Phase II of the Inspiration development
- Resignation of Planning Commissioner Brad Hallett

G. OPEN FORUM

H. ADJOURNMENT

**CITY OF BAYPORT
PLANNING COMMISSION MEETING MINUTES
CITY COUNCIL CHAMBERS
APRIL 21, 2014
6:00 P.M.**

CALL TO ORDER

Pursuant to due call and notice thereof, Commissioner Ritzer called the regular Bayport Planning Commission meeting of April 21, 2014, to order at 6:00 p.m.

ROLL CALL

Commissioners Present: Brad Hallett, Jeff Richtman and Joe Ritzer

Commissioners Absent: None

City Staff Present: Assistant City Administrator/Planner Sara Taylor and City Council Liaison Patrick McGann

OATH OF OFFICE TO NEW MEMBERS BRAD ABRAHAMSON AND ELIZABETH KELLY

Commissioner Ritzer administered the oath of office to the new commissioners and welcomed them to their new positions.

APPROVAL OF MINUTES

It was moved by Commissioner Richtman and seconded by Commissioner Hallett to approve the October 21, 2013 meeting minutes as presented. Motion carried.

PUBLIC HEARINGS

Consider a request for a variance to exceed the maximum square footage allowed for accessory structures in the R-1 Single-family Estate zoning district for the residential property located at 12 Point Road: Planner Taylor stated the subject property is zoned R-1 Single-family Estate and contains an existing single family home with an attached garage, a detached garage/storage building and a detached pool house. She explained the existing and proposed square footage of all accessory structures on the property exceeds the allowed 2,000 square feet, and a variance is required to allow a proposed addition to the existing detached garage. A new home, attached garage and detached garage were constructed on the property in 2002-2003 after the original home sustained substantial flooding in 2001. A review of the current property conditions revealed the property contains two detached structures and 3,049 square feet of accessory space; city code allows one detached structure and up to 2,000 square feet of total accessory space. In addition, the elevation and fill around the structures does not comply with city code requirements and/or the conditions of approval for the new construction in 2002-2003. City code requires all structures to be constructed at a minimum elevation of 693 feet with 15 feet of fill around each structure in the floodplain. The property currently contains elevations from 690-693 feet, with inadequate fill around the structures. The current owners purchased the property in 2012, and the limited city records do not explain why the discrepancies exist. Planner Taylor reviewed the proposed improvements that would address the discrepancies and increase compliance with city code. These include demolishing the existing pool house, bringing in the necessary fill to an elevation of 693 feet at a minimum of 15 feet around all structures, and converting 295 square feet of the existing attached garage into living space. The applicant is requesting a variance to allow a 1,010 square foot addition to the existing detached

garage. The proposed improvements would result in 3,047 square feet of accessory space, which is a decrease of two square feet from existing conditions. Staff feels the owners are willing to make a substantial investment to bring the property into compliance with city codes, which is a significant improvement over the present conditions, and which existed at the time of purchase and were not created by the current owner. As a result of the variance, several site improvements will be completed that will improve the character of the property and preserve the existing structures at the regulatory flood protection elevation. Staff recommended approval of the variance, subject to the conditions of approval stated in the staff report. Planner Taylor noted that notice of the public hearing was published in the Stillwater Gazette and mailed to property owners within 350 feet of the property. No public comment was received on the application.

On behalf of the owners, applicant Bruce Lenzen said the garage addition would be used as a combination workshop/storage area. He reiterated his clients were not aware the property was non-compliant when they purchased it, but understand the need to comply with city code and are willing to comply with the variance conditions of approval, which include removal of the pool house and bringing in an estimated 2,200 yards of fill. Planner Taylor said the Minnesota Department of Natural Resources (DNR) has reviewed the application. The DNR is supportive of the variance, with the addition of the necessary fill to comply with elevations to 693 feet. She added the DNR would also approve the grading/fill plan for the property.

Commissioner Ritzer opened the public hearing and no comments were heard.

It was moved by Commissioner Hallet and seconded by Commissioner Richtman to close the public hearing. Motion carried.

Commissioner Richtman noted it appears the garage footings are already in place for the addition and expressed concern that there is no erosion control, i.e. silt fence, in place. Planner Taylor explained work on the addition was stopped last fall when the discrepancies were discovered and indicated a silt fence is required. She noted the variance would not increase the total impervious coverage on the lot.

It was moved by Commissioner Kelly and seconded by Commissioner Abrahamson to recommend to the City Council to approve a variance to exceed the maximum square footage allowed for accessory structures for the residential property located at 12 Point Road, subject to the findings and conditions listed in the staff report. Motion carried.

The application will be heard by the City Council on May 5, 2014.

Consider a request for an amendment to an existing conditional use permit to allow expanded hours for outdoor seating and consumption of food and beverages within the uncovered front porch area at the Hesley Jensen American Legion Post 491, located at 263 3rd Street North: Planner Taylor stated the property is zoned B-2 Central Business and contains an existing commercial building that is surrounded by commercial businesses to the north, south and west, and residential homes to the east. The American Legion is requesting that its 2008 conditional use permit (CUP) be amended to allow expanded hours for outdoor seating, smoking of tobacco, and consumption of food and beverages on the outdoor, uncovered front porch. The current CUP allows such activity from 10:00 a.m. to 10:00 p.m., and they are requesting it be amended to allow expanded hours on Friday and Saturday evenings until 12:00 a.m. The requested hours are consistent with several other restaurant/tavern outdoor patio areas in the vicinity, which have not had a negative impact on the neighborhood. As such, staff feels the request is reasonable and recommends approval, subject to the conditions of approval stated in the staff report. Planner Taylor noted that notice of the public

hearing was published in the Stillwater Gazette and mailed to property owners within 350 feet of the property. No public comment was received on the application.

Discussion followed on similar businesses use of outdoor space and seating capacity of the outdoor porch being limited to six seats. Planner Taylor stated the CUP does not specify the number of patrons allowed on the outdoor porch; however due to the size of the porch, the number of patrons is self-regulating and no issues have been identified.

Commissioner Ritzer opened the public hearing and the following were heard:

Barry Torgerson, owner of the apartments at 205 and 221 1st Avenue North adjacent to Perro Creek Tavern, expressed concern that allowing the expanded hours would set a precedent for other restaurants/taverns and generate noise concerns for his tenants. It was noted the precedent for hours was already set at midnight for weekend use and this request would allow similar hours for the American Legion. Planner Taylor will follow up with Mr. Torgerson to verify the conditions of approval for the Perro Creek Tavern CUP.

It was moved by Commissioner Hallet and seconded by Commissioner Kelly to close the public hearing. Motion carried 5-0.

The consensus of the Planning Commission was that the request was reasonable and would bring the American Legion's outdoor porch use in line with other establishments in the area.

It was moved by Commissioner Richtman and seconded by Commissioner Hallett to recommend to the City Council to approve an amendment to an existing conditional use permit to allow expanded hours for outdoor seating and consumption of food and beverages within the uncovered front porch area at the Hesley Jensen American Legion Post 491, located at 263 3rd Street North, subject to the findings and conditions listed in the staff report. Motion carried 5-0.

The application will be heard by the City Council on May 5, 2014.

OLD BUSINESS – None

NEW BUSINESS – None

GENERAL INFORMATION

Planner Taylor stated the Planning Commission would not meet in May and the next meeting is scheduled for June 16, 2014, at 6:00 p.m.

OPEN FORUM – None

ADJOURN

It was moved by Commissioner Kelly and seconded by Commissioner Richtman to adjourn the meeting at 6:33 p.m. Motion carried.

MEMORANDUM

DATE: October 15, 2014

TO: Planning Commission (October 20, 2014 meeting)

FROM: Sara Taylor, Assistant City Administrator/City Planner

SUBJECT: Consider a request for a minor subdivision to create two separate parcels at 220 1st Avenue South, together with a variance from the side yard setback requirement for the existing single-family house on the property

A. BACKGROUND

The property is located at 220 1st Avenue South and is legally described as Lots 7-9, Block 72, Bayport, Washington County, Minnesota. Its dimensions are approximately 150' on the north and south lot lines, and 160' along the east and west lot lines, with a total lot area of approximately 24,179 square feet. The subject property is surrounded by residential uses and is zoned R-2 Single Family Urban.

Applicant Chris Hayner has submitted an application for a minor subdivision and a variance from the side yard setback for the existing house on the property on behalf of property owner Doris Hayner. The applicant is proposing to divide the parcel into two lots, one of which will include the existing house and the other for the future construction of a new single-family home. As proposed, the request for a minor subdivision would result in two lots, each with dimensions of approximately 75' x 160', and a lot size of 12,000 square feet, to comply with the lot requirements of the R-2 zoning district. Because the existing house would be set back 7.6 feet from the new side lot line, a side yard setback variance of 2.4 feet is also being requested by the applicant.

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 October 8, 2014. The following informational items are attached:

- Narrative by the applicant
- Certificate of survey indicating proposed parcel subdivision and new legal descriptions

B. STAFF COMMENTS

1. Minor Subdivision

Originally, the subject property was platted as three separate lots, intended for construction of three single-family homes. However, since the parcels were combined into one parcel for tax purposes years ago, any division of the parcels must result in lots that conform with current zoning standards. The intent of the proposed minor subdivision is to create two lots that conform with current zoning ordinances, one of which will include the existing house and the other for the future construction of a new single-family home. As proposed, the two new lots will conform with the lot dimensions

and lot area requirements of the R-2 zoning district, as well as the minor subdivision ordinance and be consistent with the appearance of neighborhoods throughout the city.

	REQUIRED	EXISTING	PROPOSED
LOT AREA	10,000 SQ FT	24,179 SQ FT	Parcel A = 12,119 SQ FT Parcel B = 12,060 SQ FT
LOT FRONTAGE	75 FT	150.37 FT	Parcel A = 75.37 FT Parcel B = 75 FT
LOT DEPTH	130 FT	160.8 FT	NO CHANGE FROM EXISTING

2. Variance

In order to create two new parcels that conform with current lot dimensions and area requirements, the division of the current parcels can only occur as proposed, with a north and south orientation. As a result, the existing house on the property will be set back 7.6 feet from the new east side property line, and require a variance of 2.4 feet from the 10 foot setback requirement. The existing house currently complies with the front and rear yard setbacks, but does not comply with the west side yard setback. However, it should be noted that the house was built at this setback and it is not a result of the minor subdivision.

Several residential homes surrounding the subject property are situated on 50' x 140' lots with side setbacks that do not comply with the current 10 foot requirement. For this reason, a 2.4 foot side yard setback variance for the existing house is reasonable, and consistent with adjacent properties. Strict application of the zoning code's side yard setback requirements would prevent the existing house from keeping with the essential character of existing homes in Bayport.

	REQUIRED	EXISTING	PROPOSED FOR EXISTING HOUSE
FRONT YARD SETBACK	20 FT	23.4 FT	NO CHANGE FROM EXISTING
WEST SIDE YARD SETBACK	10 FT	3.4 FT	NO CHANGE FROM EXISTING
EAST SIDE YARD SETBACK	10 FT	82.6 FT	7.6 FT
REAR YARD SETBACK	30 FT	97 FT	NO CHANGE FROM EXISTING

C. SUGGESTED FINDINGS OF FACT AND CONDITIONS OF APPROVAL

1. Minor subdivision

Because the proposed subdivision will create two new lots that will conform with the lot dimensions and lot area requirements of the R-2 Single-family zoning district, as well as the minor subdivision ordinance, approval is recommended.

2. Variance

Minnesota Statutes 462.357. Subd 6.(2) states in part that "Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical

difficulties in complying with the zoning ordinance. ‘Practical difficulties,’ as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.” This language establishes the criteria by which the Planning Commission is to consider the variance application.

To obtain reasonable use of the property, and create two lots that comply with the requirements of the current zoning code, a modest variance from the east side yard setback for the existing house would be appropriate. The property is large enough for division into two standard single-family lots. However, because of how the existing house is situated on the property, a variance from the east side yard setback is necessary, to comply with the requirements of the current zoning code. The setbacks for the existing house will be similar to adjacent properties, and will not have a negative impact on the neighborhood. In addition, granting the variance will not alter the essential character of the locality, as the property will be compatible with traditional neighborhoods that surround the area.

To comply with regulations set forth by city code and reduce potential impacts to adjacent properties, staff recommends the following conditions of approval:

- The property owner shall be responsible for having a land surveyor prepare final legal descriptions for the two parcels, in accordance with city approvals.
- The minor subdivision and new legal descriptions for the two parcels shall be recorded with Washington County.
- The newly created parcel shall be for the future construction of a single-family home that meets all requirements of the zoning code.
- The existing shed and garage on the newly created parcel are required to be removed by the current property owner prior to the sale of the property or by June 1, 2015, whichever shall occur first, in order to comply with section 703 of the zoning ordinance, which does not allow accessory structures on a parcel without a primary structure (house).
- All costs associated with city utility services required for the newly created parcel shall be the responsibility of the property owner and shall be paid prior to the issuance of any building permit. Sewer and/or water services shall not be extended to the newly created parcel until the minor subdivision and variance have been approved by the City Council and recorded with Washington County.
- Any proposed construction on the newly created parcel shall be subject to building permits, site plan review, and approval of city staff. Approval of the minor subdivision does not constitute approval of a site plan for future construction.
- Prior to the city issuing a building or grading permit for the newly created parcel, the applicant shall submit grading, drainage, landscaping, site stabilization, and erosion control plans to city staff for review. Methods to preserve trees, as well

as minimize impacts associated with water runoff, shall be explored and are encouraged.

- All applicable fees for the construction of a new single-family home on the newly created parcel shall be submitted to the city by the property owner, i.e. park dedication, water and sewer connection charges, etc. prior to the issuance of any building permit.

D. RECOMMENDATION

Staff recommends approval of a request for a minor subdivision to create two separate parcels at 220 1st Avenue South, together with a 2.4 foot variance from the east side yard setback requirement for the existing single-family house on the property. Suggested findings of fact and conditions of approval are as stated in section “C” of the staff report. The Planning Commission is asked to make a recommendation on the request for City Council consideration. The City Council will consider the application at its next regular meeting on November 10, 2014.

DATE: 6 October 2014
TO: Bayport Planning Committee
RE: Minor subdivision of 220 First Avenue South

While my father was alive, he had talked about building a duplex next to his home, at 220 First Ave. S., on the two remaining lots he purchased back in the early 50's. As his home sits, it is positioned the wrong way on the plotted lots to utilize the remaining 2 lots free and clear for HIS dream. Over the decades we understand that minimum lots sizes have changed to a larger square foot area than the ones plotted back when the City of Bayport was planned.

Since my father's passing, my mother has moved to Croixdale, and we need to look at the financial needs of her future. We, her children feel that she is in great health and has enough time remaining that the sale of the house and current property as one parcel will not sell at the price that would cover the expense for the care needed for her remaining time.

The sale of Richard Hayner property that has a better maintained home and six city lots has only managed to bring the sale price of \$160,000. With that as a comparison, 220 First Ave S. is worth considerably less.

With these considerations in mind Doris Hayner and her children feel the best way to provide for her is to subdivide her current homestead. We desire to take what was plotted as three lots and now turn it into 2 lots. With her current home on one lot we would make an additional lot of conforming size to the current city standards.

Sincerely,
Christopher Hayner on behalf of the Hayner Family

CERTIFICATE OF SURVEY

Notes:

Bearing system is assumed datum.
 "M." Indicates measured value.
 "R." Indicates record value.
 Offsets shown to existing structures are measured to the outside building wall, unless shown or noted otherwise.
 Any projections from said wall lines, such as eaves, sills, etc., will impact Ind. offsets.
 See Proposed Parcel Desc's. on Sheet 2 of 2 Sheets.

BARRETT M. STACK
 STILLWATER, MINN. 55082
 MINNESOTA REGISTERED
 LAND SURVEYOR
 Tel. No. 439-3630

Notes:

o Indicates #13774 iron in place.
 • Indicates monument found.
 Underground or overhead, public or private utilities, on or adjacent the parcels, were not located in this survey, unless shown otherwise.
 General spot elevations shown hereon are based on National Geodetic Vertical Datum (NGVD) and are approximate. Do not use these spot elevations for future const.
 Contours shown per Wash. Co. Mapping.

SURVEY MADE EXCLUSIVELY FOR: Mr. Chris Hayner, 11 Point Road, Bayport, MN 55003

DESCRIPTION: Existing Overall Parcel Description: (as provided by client)

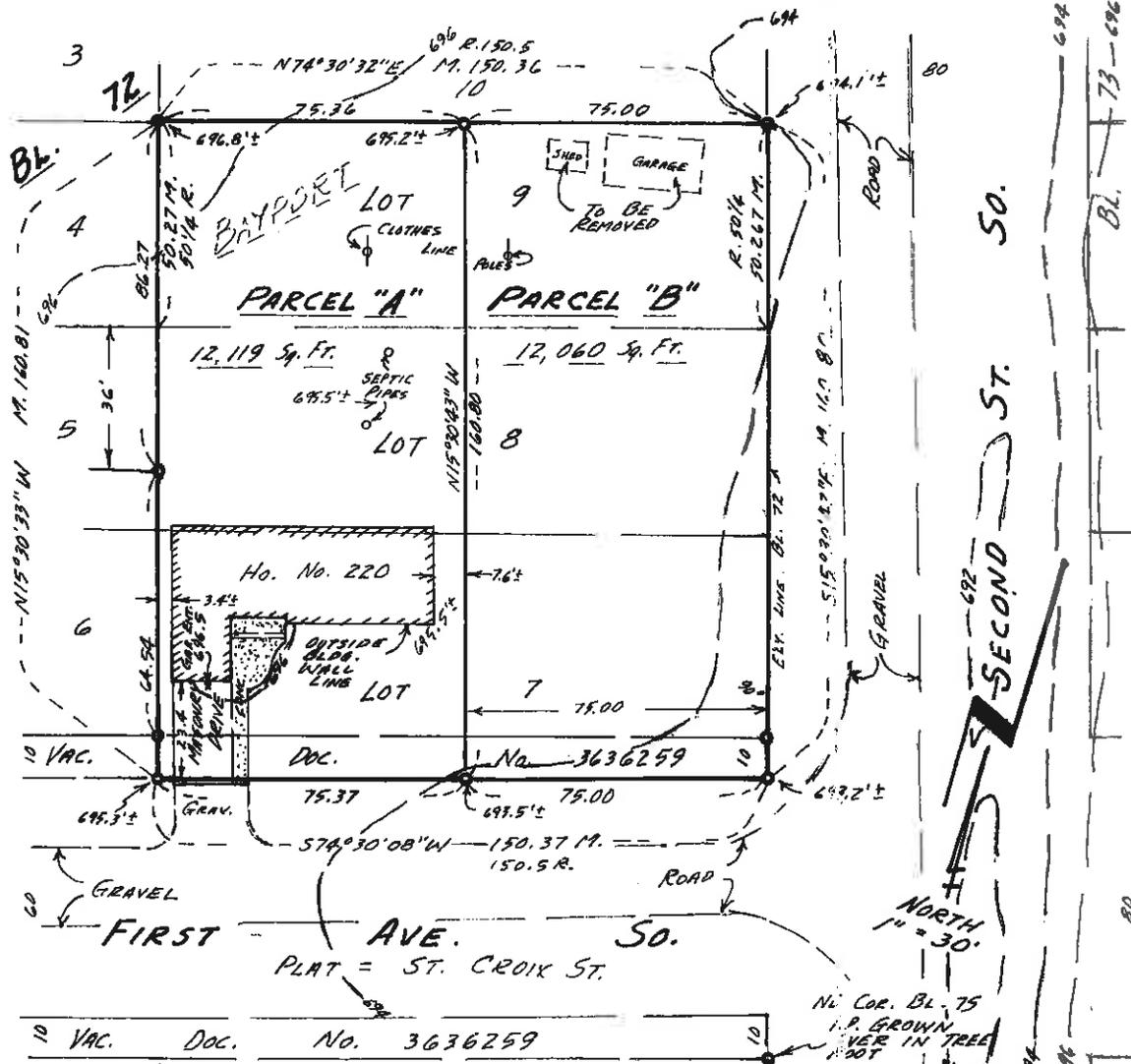
Lots 7, 8 and 9, Block 72, BAYPORT, (formerly South Stillwater) as surveyed and platted and now on file and of record in the office of the County Recorder in and for the County of Washington and State of Minnesota.

Notes: The Overall Parcel contains 24,179 square feet, more or less. Proposed Parcel A contains 12,119 square feet, more or less.

Parcel A Impervious Areas:	House and Concrete Steps:	=	1812 square feet
	Masonry Drive and Conc. Walk:	=	546 square feet
	Total	=	2358 square feet
			or 19.46% of Parcel A

City of Bayport Setback and Area Requirements:

Setbacks:	Front = 20 feet	Lot Area = 10,000 square feet
	Side = 10 feet	Lot Frontage = 75 feet
	Rear = 30 feet	Lot Depth = 130 feet
	Permitted Impervious Areas = 35% of Parcel Area.	



I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.
Barrett M. Stack
 Date: Oct. 1, 2014 Reg. No. 13774

LOT 1 BL. 75 LOT 17

STACK LAND SURVEYING
9090 North Fairy Falls Road
Stillwater, MN 55082
(651) 439-5630

Chris Hayner
11 Point Road
Bayport, Minnesota 55003

PROPOSED 2014 BOB AND DORIS HAYNER PARCEL MINOR SUBDIVISION:

PROPOSED PARCEL "A" DESCRIPTION:
(existing Doris and Bob Hayner house parcel)

All that part of Lots 7, 8 and 9, Block 72, BAYPORT (formerly South Stillwater) as surveyed and platted and now on file and of record in the Office of the County Recorder of Washington County, Minnesota, together with all that part of the vacated northerly 10.00 feet of First Avenue South accruing to said Lot 7, all of which lies westerly of projections of a line drawn parallel with and 75.00 feet westerly, perpendicular measure, from the easterly line of said Block 72.

Subject to and together with any other valid easements, reservations or restrictions.

PROPOSED PARCEL "B" DESCRIPTION:
(vacant land parcel - existing old garage and shed to be removed)

All that part of Lots 7, 8 and 9, Block 72, BAYPORT (formerly South Stillwater) as surveyed and platted and now on file and of record in the Office of the County Recorder of Washington County, Minnesota, together with all that part of the vacated northerly 10.00 feet of First Avenue South accruing to said Lot 7, all of which lies easterly of projections of a line drawn parallel with and 75.00 feet westerly, perpendicular measure, from the easterly line of said Block 72.

Subject to and together with any other valid easements, reservations or restrictions.

Note:

Because of the close proximity of the existing house to the proposed easterly and westerly lines of Parcel "A", as shown on Sheet 1 of 2 Sheets, a driveway easement may want to be retained over and across a portion of Parcel "B" to provide access to the rear of Parcel "A" for the possible access to a future detached garage or other permitted structures. The above proposed descriptions will need to be modified to reflect the described limits of this easement, if one is to be created.

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota

Barrett M. Stack

Barrett M. Stack

Date: October 2, 2014 License No. 13774