

Pursuant to due call and notice thereof a meeting of the Planning Commission in and for the City of Albany, Stearns County, Minnesota, was called to order by Chairman Adam Rushmeyer at 6:30 o'clock in the evening on Monday, June 29, 2016 in the Council Room at 400 Railroad Avenue for the said City.

Other Planning Commission members present for the meeting were: Joseph Wedel, Todd Horton, and Keith Heitzman. Will Seiler was absent. Councilor John Greer, Planning Commission Liaison, was present for the meeting. Others present for the meeting: Susan Kadlec, City Attorney, Tom Studer, Alice Wiechmann, Elisabeth Studer, local residents.

Chairman Adam Rushmeyer called for any additions or corrections to the minutes of May 2nd and hearing none declared them approved.

Joseph Nett/Bonnie Cassady, 151 2nd Street, was present for the meeting.

Pursuant to due notice, at 6:32 PM, Chairman Adam Rushmeyer called a public hearing into session on a request by Joseph Nett/Bonnie Cassady, 151 2nd Street for a variance to relax the rear yard requirement of twenty (20) feet to allow for the construction of a house addition to a single-family residential home. A proper notice was published in the Albany Enterprise on June 15th and no written comments were received. Ms. Cassady appeared before the Board to inform the Board that the purpose of their request is to construct a safe room within the house so it can be accessed during severe weather and an addition to increase livable space similar to what other neighbors have done through the variance process. Ms. Cassady noted that the patio home is less than 1,200 square feet. Mr. Studer questioned whose responsibility is it to maintain the stormwater catch basin adjacent to the Nett property which serves the purpose of removing surface water during rainfall events from several rear yards in the neighborhood. Mr. Studer noted that the addition will increase the impervious surface on the property and if the stormwater catch basin is not functioning properly several properties including the Nett property may have a water issue with surface flooding. Mr. Studer also noted that at no point should any construction equipment damage adjoining properties and recommended that some type of fencing be installed during construction. Mr. Schneider informed the Board that the Public Works Department will inspect the stormwater catch basin to make sure that it is functioning properly and identify the direction of flow. Mr. Schneider also noted that in the past three variances to relax the rear yard requirement had been approved by the City for additions to patio homes in the neighborhood, but the Nett/Cassady request is greater than the others. Mr. Greer questioned what the parameters are relating to the issue of a variance. Mr. Schneider provided language from the City's Zoning Ordinance 80 in relation to the issuance of a variance. Mr. Greer questioned if the height of the proposed addition alters the essential character of the neighborhood. Mr. Nett informed the Board that the addition is not two-story and not any higher than other homes nearby. Ms. Cassady noted that the upstairs is important to them and the addition will increase the value of their home which will reduce the likelihood of the home becoming transient in nature in the future. Chairman Adam Rushmeyer closed the public hearing at 7:05 PM. After due discussion, a motion was made by Joseph Wedel and seconded by Keith Heitzman to recommend to the Council that the variance to relax the rear yard requirement of twenty (20) feet to allow for the construction of a house addition to a single-family residential home be approved as per the following findings:

1. The variance request is consistent with the comprehensive plan in that it encourages new construction and increased property tax base.
2. The variance will not be detrimental to the public welfare.
3. The variance will allow homeowner to construct a "safe room" and additional storage eliminating the need for a small detached shed on property.
4. The variance is not sought solely for reasons of increased financial gain.
5. Variance to relax the rear yard setback of twenty (20) feet to eleven (11) feet.
6. Public Works Department inspects condition of stormwater catch basin and removes any sediment or other debris from storm sewer pipe if necessary.
7. Silt fence be placed on Nett property to eliminate construction activity from damaging neighbor's property.
8. All construction activity to remain on Nett property.

All voted for the motion and it carried.

The Board took notice of several corrections and additions to the City's Sign Ordinance 80.11, prepared by the City Attorney. Mr. Schneider informed the Board that he invited Ms. Kadlec to the meeting to explain the reasoning to amend the sign ordinance. Ms. Kadlec appeared before the Board to inform the Board that in June 2015, the U.S. Supreme Court issued a ruling in *Reed v. Town of Gilbert*, striking down the town's sign ordinance. Ms. Kadlec noted following:

The Court held that the town's sign ordinance violated the First Amendment because it regulated signs based on their content; whereby the ordinance exempted three types of signs—ideological signs, political signs, and temporary directional signs, with different ordinance rules as to size, location, and duration for each. The Court explained that the ordinance employed content-based restrictions because which rules apply depends entirely on the sign's communicative content. The majority opinion emphasized that courts must consider whether a law is content-neutral on its face before turning to its purpose, holding that any content based restrictions demand strict scrutiny. To survive strict scrutiny, the government must prove the regulations were narrowly tailored to achieve compelling governmental interests, a test that is rarely satisfied. Like the Gilbert ordinance, the City of Albany's ordinance provides different rules for different types of signs, based upon the particular message. For example, there are special provisions for real estate signs, and temporary signs advertising non-profit or charitable community events. These distinctions would not survive examination by the Court.

Ms. Kadlec recommended that the sign ordinance be revised to remove such distinctions. Ms. Kadlec also noted that content neutral provisions, such as sign size, location, height, and illumination are all acceptable regulations. Mr. Schneider noted that he will visit with other nearby cities to determine what changes they may consider to their sign ordinances. Mr. Schneider informed the Board that information will be provided to the Board at a future meeting.

The Board took notice of a proposed amendment to Ordinance 80 opting-out of the requirements of MN Statutes, Section 462.3593. Ms. Kadlec noted that Governor Mark Dayton signed into law a bill creating a new process for landowners to place mobile residential dwellings on their property to serve as a temporary family health care dwelling. Ms. Kadlec noted that the new law sets forth a short term care alternative for a mentally or physically impaired person by allowing them to stay in a temporary dwelling on a relative's or caregiver's property. Mr. Kadlec noted that cities do have the option to opt-out of the new legislation, but if no action is taken on or before September 1, 2016, cities will have to follow and implement the new temporary family health care dwelling law. Mr. Schneider informed the Board that a public hearing is required if the City chooses to opt-out of the said Statute. Mr. Horton questioned how long a city would have to allow a temporary family health care dwelling on a property. Ms. Kadlec noted that the dwellings may be permitted for a period of six (6) months with a one-time six (6) month renewal option and only one dwelling per lot and only one dweller who resides within the temporary dwelling. Mr. Greer noted that he would recommend the City opt-out of the new legislation. After due discussion, a motion was made by Joseph Wedel and seconded by Todd Horton to recommend to the Council to schedule a public hearing and approve an amendment to Ordinance 80 opting-out of the requirements of MN Statutes, Section 462.3593. All voted for the motion and it carried.

Chairman Adam Rushmeyer adjourned the meeting at 7:50 PM.

Tom Schneider
Clerk/Adm.