

MANDAN PLANNING AND ZONING COMMISSION

MANDAN CITY HALL BUILDING

October 24, 2016

The Planning and Zoning Commission of Mandan duly met in session in the meeting room of the Mandan City Hall Building on October 24, 2016, at 5:15 p.m. CDT.

Commissioners Present: Zachmeier, Klemisch, Kelly, Helbling, Leingang, Laber, Liepitz, Frank, Robinson

Commissioners Absent: Klein, Knoll, Beach

Commissioner Leingang motions to approve the August 29, 2016 minutes. Commissioner Laber seconds. Upon vote, the motion receives unanimous approval of the Board.

NEW BUSINESS

1. A request from Timothy & Janice Kubik for a variance on the location of an accessory building. Said property is Lot 12, Block 1, Patti's Acres 1st Addition in Section 17, Township 139N, Range 81W. The property is located at 4008 Old Red Trail NW.

Bob Decker, City Planner, says the municipal code restricts accessory buildings to the side or rear of the main building. The owners are asking for a variance to place a 12ø x 20ø shed in front of their house. There are trees and a significant slope on either side that does not allow room for a building on the side or back of this lot. The house sits back roughly 100 feet from the road. The lots are larger than average.

Commissioner Laber visited the Kubiks at home. There would have to be excavations to put the building on the side or back of the house. There is no way they could put a building there otherwise. It would fit in the neighborhood to put it in the front. It looks like it would be a nice building.

Commissioner Zachmeier says this is the second variance request on Old Red Trail recently. He asks Bob if it would be easier to change the code. This has been in the code since 1994.

Bob says the accessory building restrictions are in the code and this is one example of what he would like to change and cleanup. Mayor Helbling asks what the variance fee is. Bob says it is \$400.

FINDINGS:

- 1. There are special conditions applying to the land or buildings for which the variance is sought. The rear of the lot has a significant slope that prevents location of an accessory building.*
- 2. The strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the land. The primary structure is located well back on the lot. This limits the area of the lot that is behind the primary structure for location of accessory structures as specified in the code. There is ample area to the side of the primary structure for location of accessory structures.*

3. *Granting of the variance is necessary for the reasonable use of the land. The percentage of the lot that will be covered by buildings is substantially less than what the code allows. The building coverage is about 5% when the allowance is 30%.*
4. *Granting of the variance as requested is the minimum variance that will accomplish the relief sought by the applicant.*
5. *Granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

Mayor Helbling motions to approve the variance and refund the variance fee of \$400 back to the Kubrick's. Commissioner Leingang seconds. The motion passes with the following vote: Zachmeier-aye, Klemisch-aye, Kelly-aye, Helbling-aye, Leingang-aye, Laber-nay (approves variance but not the refund without further discussion), Liepitz-aye, Frank-nay (agrees with the variance but would like to see the refund request separated from the variance request), Robinson-aye

Mayor Helbling says Roberts Rule of Order states the motion requires a vote and is not the time for discussion.

OTHER BUSINESS

1. Consider draft of Ordinance No. 1241 amending Section 105-1-2 and creating Section 105-1-15 of the Mandan Municipal Code related to signs.

Bob says the Sign Code Committee discussed, debated and put good thought into this draft. They would like this to move forward for approval at the next City Commission.

Commissioner Frank has a couple questions from somebody she spoke with in commercial real estate. Dot asks Wayne Munson to the podium to help answer.

The first question is in regards to square feet. Under Temporary Signs in the draft, Number 6, Letter B states signs for real estate that are larger than 16 square feet shall require approval from the Mandan Architectural Review Commission. The real estate representative thought that might be too small. There are larger commercial properties for sale where larger signs are used. An example is commercial property south of the refinery. The representative thinks they will have to come before MARC a lot.

Wayne Munson, Indigo Sign Works, "This line item specifically says if it's over 16 square feet, you need MARC approval. Now, also in this document the maximum square footage of a temporary sign is 64. So, all this section is asking for is if it's over 16 you have to have MARC approval. Not saying it's not allowed."

Commissioner Frank says the concern is having to come in for perpetual requests for something that is more than likely going to be granted. The suggested is for a minimum 4' x 8' sign. On occasion they add a 2' x 8' rider on that sign. She asks if that may be reasonable.

Wayne Munson, "A lot of the, whether it's the for sale signs or it's the property is being financed by a lot of those are exactly that 4' x 8' with 2' x 8' rider."

The commercial real estate signs would be in front of MARC every 2 weeks.

Temporary signs. Commercial Real Estate signs about 160 x 160.

The second question Dot has is regarding Letter C, Real Estate signs in place for more the 365 days must be approved by MARC. Again, the concern is that commercial is habitually on the market for longer than 365 days. Commercial real estate sits on the market longer than other types of real estate. They can sit for 3 to 5 years. Is there some way to keep an eye on the maintenance of these without having to come in for an extension?

Wayne Munson says the construction of those signs is good enough to be there for 2-4 years. If that is the concern, they are structurally good to be there for that long.

Bob says the regulation request is motivated by some poorly constructed signs that look ratty after a year. There was a real estate sign on 1804 that was held up with 2x4s.

Commissioner Frank asks if the blights and concerns about the construction of the signs can be addressed on an as-needed basis. Bob will take a look at rephrasing the code with that recommendation.

Wayne Munson says the Bismarck-Mandan Chamber Board of Directors presented the draft to the local issues group. This group had a series of questions for the subcommittee that were addressed. The chamber does endorse the draft.

Nancy Diechert, Bismarck Mandan Board of Realtors, says the board is in support of the recommendations and thanks Commissioner Frank for her support.

Dave Hegle, Awesome Signs, wants to know how long it will take to get permit approvals for temporary off-premise signs on the state roads like Main Street and Memorial Highway. Bob says it would be up to the NDDOT. He doesn't know what their process is. He is working with Kevin Levi of the NDDOT to get this worked out. The off-premise signs fall under billboards on the federal level. It is a statewide issue.

Commissioner Laber thanks Bob Decker and Wayne Munson for their work on the draft.

Mayor Helbling suggests taking the off-premise sign off the draft until the NDDOT issue is worked out. Bob says right now the draft says the sign company is responsible for working with the NDDOT for approval.

Commissioner Laber says the NDDOT rules are already there, but nobody is following them. Bob says the sign companies are not notifying the DOT. The DOT has no idea if they are not being notified. The draft says they have to communicate with the DOT.

Mayor Helbling asks for clarification on what needs to be cleared through the DOT. Bob says only off-premise signs on a state road would need DOT approval. If a business is advertising on their own property, that would not need approval.

Commissioner Frank motions to recommend to City Commission Ordinance #1241 relating to signs. Motion includes clarification on section Y: Temporary Signs, 6 B & C, in regards to the square feet permitted to real estate signs, increasing the size to 6' x 8' plus a rider which brings it to 48 square feet. Also to look at allowing the real estate signs be in place longer

than 365 days a year and asks staff to tie that into letter K in the ordinance. Commissioner Laber seconds. Upon vote, motion passes unanimously.

Commissioner Leingang motions to adjourn. Commissioner Frank seconds. Motion passes unanimously. Meeting adjourns at 5:54 p.m.