



**Agenda Date: 12-08-14
CITY COUNCIL MEMO**

Agenda item: Consider Requests of Boris Ninkovic, 2800 East Road: 1) Variances to encroach into the required rear yard setback, exterior east side yard setback and required structure separation along the rear property line; and 2) Conditional Use Permit for the placement of impervious surface above forty percent for the construction of a new single family home.

Summary: Boris Ninkovic has submitted an application requesting variances to encroach into the required rear and exterior east side yard setbacks and a request to encroach into the minimum required structure separation in the Groveland Assembly Grounds.

- **Ordinance Section 900.12(3)(a) requires a minimum rear yard setback of ten (10) feet. The applicant proposes a rear yard setback of four feet, six inches (4'-6") for the proposed single family home and is requesting a variance to encroach five feet, six inches (5'-6") into the required rear yard setback.**

The proposed structure along the rear property line abuts a driveway accessing the home west of the subject home. The existing home is located two feet from the south property line, the proposed structure would be moved back to four feet, six inches.

- **Ordinance Section 900.12(3)(a) requires an exterior east side yard setback of fifteen (15) feet. The applicant proposes an exterior east side yard setback of thirteen feet, one inch (13'-1") feet for the proposed single family home and is requesting a variance to encroach one foot, eleven inches (1'-11") into the required exterior east side yard setback.**

The closest encroachment of the proposed structure would be built on the footprint of the existing deck and would not encroach any closer than the house on the adjoining lot to the west.

- **Ordinance Section 900.12(3)(a) requires a minimum setback from the nearest structure on an adjoining lot of twenty (20) feet. The applicant proposes a structure separation along the west side property line of twelve feet, six inches (12'-6") for the proposed single family home and is requesting a variance to encroach seven feet, six inches (7'-6") into the required structure separation setback.**

The proposed structure complies with the required ten (10) foot west side yard setback. The structure on the adjacent lot does not comply with the required side yard setback which creates the encroachment situation. The proposed structure increases the west side yard setback and structure separation by approximately two (2) feet.

The applicant has submitted an application requesting a conditional use permit for an impervious surface area of 44.9%.

- **Ordinance Section 900.10(2) permits a maximum impervious surface area of forty-five (45) percent of the lot area for lots less than 16,500 square feet serviced by municipal water and sanitary sewer with the issuance of a conditional use permit. The applicant proposes an impervious surface area of 44.9%.**

The property currently has an impervious surface area of 44.9%. The applicant does not propose to exceed the existing percentage. Any excess impervious surface area over 45% requires a variance.

STAFF RECOMMENDATION:

*Staff recommends the Council **Approve** the application for variances of Woodland Ordinance Section 900.10(3)(a); to encroach five feet, six inches (5'-6") into the required ten (10) foot rear yard setback, to encroach one foot, eleven inches (1'-11") into the required fifteen (15) foot exterior east side yard setback and to encroach seven feet, six inches (7'-6") into the required twenty (20) foot structure separation and the application for a Conditional Use Permit to exceed the*

maximum permitted impervious surface area of 40% by 4.9%, for an overall impervious surface area on the property of 44.9% as presented for the proposed single family home at 2800 East Road.

VARIANCE FINDINGS BASED ON THE REVIEW AND APPROVAL PROCESS IN SECTION 900.14 OF THE ORDINANCE:

Findings:

a. The variance will be in harmony and keeping with the spirit and intent of the zoning ordinance:

Section 900.01 outlines the purpose and intent of the ordinance as the principal means of attaining the goals and standards set forth in Woodland's Comprehensive Plan, including preservation of open space, scenic views, natural topography and habitat, wetlands, lakes, indigenous vegetation and trees, and rehabilitation of existing housing units on their present location.

The proposal seeks to remove an existing non-conforming structure and replace it with a new non-conforming structure which reduces the degree of two of the existing non-conformities. No encroachments are increased and the impervious surface area is maintained within the allowed conditional use limit.

b. The variance request is consistent with the comprehensive plan:

The request is consistent with the Comprehensive Plan in that it maintains the single family nature of the neighborhood.

c. The proposal puts the property to use in a reasonable manner:

The proposal puts the property to a reasonable use by replacing an existing home constructed in 1930 with a larger, new single family structure while not increasing the existing encroachments.

d. There are circumstances unique to the property not created by the landowner:

The subject property is about two-thirds the minimum required lot area for the Assembly Grounds, which limits the ability to construct within the required setbacks. The applicant was able to comply with two of the required setbacks and the impervious surface requirements permitted by the conditional use standards.

The existing structure does not have a garage and the addition of a garage on the proposed structure requires an enlarged footprint, making it difficult to comply with the all the required setbacks and the 40% impervious surface coverage.

e. The variance(s) will not alter the essential character of the locality:

The essential character of the neighborhood would not be impacted by the proposal since, even though the home would be larger than the existing home, it maintains essentially the same encroachments and impervious surface area. The plan has been reviewed and approved by the Architectural Committee of the Assembly Grounds.

CONDITIONAL USE FINDINGS BASED ON THE REVIEW AND APPROVAL PROCESS IN SECTION 900.10 OF THE ORDINANCE:

(a) the proposed home will enhance the general character of the community; (b) the magnitude of the proposed alteration is consistent with the surrounding area; (c) there will no negative impact on the use and enjoyment of surrounding properties; (d) though the proposed structure is larger than the one that exists now, the amount of impervious surface is not increased; (e) the location of the proposed home is further away from structures on adjacent properties than the current home; (f) there would be no effect on the light and visibility available to the adjoining properties; (g) there would be minimal impact of the existing vegetation; (h) the proposal would not have a negative impact on property values, and (i) there are no concerns related to fire safety in regards to the proposal.



Agenda Date: 12-8-14 CITY COUNCIL MEMO Variance Recommendation

Agenda Item: Consider Variance Request, Boris Ninkovic, 2800 East Road

Summary: Copies of the application materials and staff report are attached for the City Council's reference. Notice of the public hearing was published in the Sun-Sailor newspaper on November 20, 2014. The City Council will hold a public hearing at their December 8, 2014 meeting. The Council shall consider the public comments, applicant's comments, application materials, staff report and **must** address city code Section 900.14, Subdivision 5, "Variance Findings", as well as any conditions prior to taking any official action in the form of a motion.

Council Action: Action required by January 5, 2015. Potential motions ...

1. **Approval Motion:** I move the council accept the recommendation of staff and **Approve the application for variances of Woodland Ordinance Section 900.10(3)(a); to encroach five feet, six inches (5'-6") into the required ten (10) foot rear yard setback, to encroach one foot, eleven inches (1'-11") into the required fifteen (15) foot exterior east side yard setback and to encroach seven feet, six inches (7'-6") into the required twenty (20) foot structure separation as presented, based on the following findings:**

a. The variance will be in harmony and keeping with the spirit and intent of the zoning ordinance:

Section 900.01 outlines the purpose and intent of the ordinance as the principal means of attaining the goals and standards set forth in Woodland's Comprehensive Plan, including preservation of open space, scenic views, natural topography and habitat, wetlands, lakes, indigenous vegetation and trees, and rehabilitation of existing housing units on their present location

The proposal seeks to remove an existing non-conforming structure and replace it with a new non-conforming structure which reduces the degree of two of the existing non-conformities. No encroachments are increased and the impervious surface area is maintained within the allowed conditional use limit.

b. The variance request is consistent with the comprehensive plan:

The request is consistent with the Comprehensive Plan in that it maintains the single family nature of the neighborhood.

c. The proposal puts the property to use in a reasonable manner:

The proposal puts the property to a reasonable use by replacing an existing home constructed in 1930 with a larger, new single family structure while not increasing the existing encroachments.

d. There are unique circumstances to the property not created by the landowner:

The subject property is about two-thirds the minimum required lot area for the Assembly Grounds, which limits the ability to construct within the required setbacks. The applicant was able to comply with two of the required setbacks and the impervious surface requirements permitted by the conditional use standards.

The existing structure does not have a garage and the addition of a garage on the proposed

structure requires an enlarged footprint, making it difficult to comply with the all the required setbacks and the 40% impervious surface coverage.

e. The variance, if granted, will not alter the essential character of the locality:

The essential character of the neighborhood would not be impacted by the proposal since, even though the home would be larger than the existing home, it maintains essentially the same encroachments and impervious surface area. The plan has been reviewed and approved by the Architectural Committee of the Assembly Grounds.

2. **Denial Motion:** I move the council **deny** *the application for variances of Woodland Ordinance Section 900.10(3)(a); to encroach five feet, six inches (5'-6") into the required ten (10) foot rear yard setback, to encroach one foot, eleven inches (1'-11") into the required fifteen (15) foot exterior east side yard setback and to encroach seven feet, six inches (7'-6") into the required twenty (20) foot structure separation as presented, based on the following findings:*

- a. The variance(s) **will NOT** be in harmony and keeping with the spirit and intent of the zoning ordinance:
- b. The variance(s) **will NOT** be consistent with the comprehensive plan:
- c. In proposal **will NOT** put the property to use in a reasonable manner:
- d. There are **NOT** circumstances unique to the property not created by the landowner:
- e. The variance(s) **WILL** alter the essential character of the locality:

3. **Motion for Additional Time:** I move the Council directs staff to draft written notice stating the City Council will extend the 60-day time limit to take action on the request until March 6, 2015 as permitted by MN Statute 15.99 for the following reason(s) _____.

Note: MN statute 15.99 requires a council decision within 60 days. The council may approve or modify a request based on verbal findings of fact and the applicant may proceed with their project. However, if the council denies the request, the council must state in writing the reasons for denial at the time that it denies the request. The council may extend the 60-day time limit by providing written notice to the applicant including the reason for the extension and its anticipated length (may not exceed 60 additional days unless approved by the applicant in writing).



**Agenda Date: 12-08-14
CITY COUNCIL MEMO
CUP Recommendation**

Agenda Item: Consider a Permit for the Alteration of a Non-Conforming Structure, Boris Ninkovic, 2800 East Road

Summary: Copies of the application materials and staff report are attached for the City Council's reference. Notice of the public hearing was published in the Sun-Sailor newspaper on November 20, 2014. The City Council will hold a public hearing at their December 8, 2014 meeting. The Council shall consider the public comments, applicant's comments, application materials, staff report and **must** address city code Section 900.15, Subdivision 3; "Evidence", as well as any conditions prior to taking any official action in the form of a motion.

Council Action: Action required by January 5, 2015. Potential motions ...

1. **Approval Motion:** *I move the council accept the recommendation of staff and **approve** the application Conditional Use Permit to exceed the maximum permitted impervious surface area of 40% by 4.9%, for an overall impervious surface area on the property of 44.9% as presented for the proposed single family home at 2800 East Road. The motion is based on the following findings:*
 - a. The proposed home will enhance the general character of the community.
 - b. The magnitude of the proposed alteration is consistent with the surrounding area.
 - c. There will no negative impact on the use and enjoyment of surrounding properties.
 - d. Though the proposed structure is larger than the one that exists now, the amount of impervious surface is not increased.
 - e. The location of the proposed home is further away from structures on adjacent properties than the current home.
 - f. There would be no effect on the light and visibility available to the adjoining properties.
 - g. There would be minimal impact of the existing vegetation
 - h. The proposal would not have a negative impact on property values.
 - i. There are no concerns related to fire safety in regards to the proposal.

2. **Denial Motion:** *I move the council **deny** the application for the Conditional Use Permit to exceed the maximum permitted impervious surface area of 40% by 4.9%, for an overall impervious surface area on the property of 44.9% as presented for the proposed single family home at 2800 East Road. The request does not meet the requirements for approval outlined in Section 900.15(3) which are outlined in the following findings:*
 - a. _____.
 - b. _____.
 - c. _____.

3. **Motion for Additional Time:** *I move the Council directs staff to draft written notice stating the City Council will extend the 60-day time limit to take action on the request until March 6, 2015 as permitted by MN Statute 15.99 for the following reason(s) _____.*

Note: MN statute 15.99 requires a council decision within 60 days. The council may approve or modify a request based on verbal findings of fact and the applicant may proceed with their project. However, if the council denies the request, the council must state in writing the reasons for denial at the time that it denies the request. The council may extend the 60-day time limit by providing written notice to the applicant including the reason for the extension and its anticipated length (may not exceed 60 additional days unless approved by the applicant in writing).