

**CALL TO ORDER**

Planning Commissioner Fuller called the regular meeting of the City of Rockford Planning and Zoning Commission to order on **April 9, 2015** at 7:00 p.m. The meeting was held in the Council Chambers of City Hall, 6031 Main Street, Rockford, MN.

**ROLL CALL**

Roll call was taken and the following members were present: Fuller, Cihlar and Sand. The following members were absent: Petersen-Biorn and Werman. Also in attendance was Deputy Clerk Etzel.

**PUBLIC HEARING/Variance – Shelter at 8220 Elm Street**

The City of Rockford is proposing to construct a new park shelter within Riverside Park in approximately the same location as the previous Lions Shelter that was demolished. The subject site is zoned POC, Parks Open Space Conservation District, which allows for construction of the shelter as an accessory use to the allowed public park. However, Riverside Park is also within the FP, Floodplain Overlay District. A public hearing has been noticed for April 9, 2015 to consider the City of Rockford's application.

Construction of the shelter within the FP District requires approval of a conditional use permit in accordance with Section 1001.22, Subd. 5.C of the Zoning Ordinance. The Planning Commission held a public hearing on December 11, 2014 to consider the conditional use permit and the City Council approved the application on December 23, 2014. The conditional use permit requires that the structure be constructed in compliance with Section 1001.22, Subd. 5.D.3 of the Zoning Ordinance that any enclosed areas be flood proofed in accordance with the structurally dry flood proofing FP-1 or FP-2 classifications in the State Building Code. The City is now seeking a variance from these provisions and a public hearing has been noticed for the Planning Commission meeting on April 9, 2015.

Section 1001.22, Subd. 5.B of the Zoning Ordinance requires that the lowest floor of any structure be no lower than one (1) foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon. The elevation of Riverside Park at the proposed location of the shelter is approximately seven to 10 feet below the regulatory flood elevation. Filling the site for construction of the shelter is not practical from a physical or financial standpoint. Raising the shelter to comply with the flood elevation requirements is also not practical from a construction standpoint and would require significantly more improvements (ADA access) that contemplated under the current project.

As such, the City approved a conditional use permit for construction of the shelter with the only condition being that any enclosed areas be flood proofed in accordance with the structurally dry flood proofing FP-1 or FP-2 classifications in the State Building Code in accordance with Section 1001.22, Subd. 5.D.3 of the Zoning Ordinance. This would require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. However, such construction methods are not feasible for the shelter's intended use as a kitchen and meeting room facility.

The City is requesting a variance to allow construction of the park shelter building excepting requirements of Section 1001.22, Subd. 5.D.3 of the Zoning Ordinance. Consideration of the variance is to be based upon (but not limited to) the criteria established in Section 1001.03, Subd. 4.A of the Zoning Ordinance:

1. That because of the particular physical surroundings, shape, or topographical conditions of the specific parcel of land involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. That the conditions upon which an application for a variance is based are unique to the parcel of land for which the variance is sought and are not applicable, generally, to other property within the same zoning classification.
3. That the purpose of the variance is not based exclusively upon a financial hardship, or a desire to increase the value or income potential of the parcel of land.
4. That the alleged hardship is caused by the provisions of the Zoning Ordinance and has not been created by any persons having an interest in the parcel of land and is not a self-created hardship.
5. That the granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the neighborhood in which the parcel of land is located.
6. That the proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety.
7. That the requested variance is the minimum action required to eliminate the hardship.
8. Does not involve a use which is not allowed within the respective zoning district.

The requirements of the Floodplain Overlay District are established to minimize public safety risk to life and property resulting from floods. The City's Riverside Park is within the floodplain but is protected by an engineered levee that significantly reduces the risk of the area being flooded to the extent of damaging the proposed building. However, the levee is not certified by the Army Corps of Engineers and thus the area remains in the flood plain. The furnishings of the building will be limited based on its intended use as an accessory kitchen and meeting room. And, as a park shelter, occupancy of the structure will be limited and controlled by the City which has primary responsibility for protecting public safety and would regulate use of the structure on that basis.

The proposed shelter is an accessory structure with limited improvements and occupancy within a public park thus limiting public health safety and welfare risks in the event a flood should occur consistent with the intent of the City's flood plain regulations of Section 1001.22 of the Zoning Ordinance. The property is unique with the FP District based on its public ownership, minimal investment and occupancy as a public park and protection by an engineered levee satisfying the criteria for variance. City staff recommend approval of the variance.

Planning Commissioner Fuller opened the public hearing at 7:09 p.m.

No one from the public spoke.

Planning Commissioner Fuller closed the public hearing at 7:09 p.m.

The Planning Commission agreed with the Planner's recommendations.

**MOTION** was made by Sand, seconded by Cihlar to approval Resolution #BA15-02 approving a variance to allow construction of the park shelter building excepting requirements of Section 1001.22, Subd. 5.D.3 of the Zoning Ordinance at 8200 Elm Street.

**MOTION CARRIED** – VOTING IN FAVOR – FULLER, CIHLAR, and SAND.

**\*Approve Regular Planning and Zoning Minutes/March 12, 2015**

**MOTION** was made by Fuller, seconded by Sand to approve the minutes of the March 12, 2015 Regular Planning and Zoning Meeting.

**MOTION CARRIED** – VOTING IN FAVOR – FULLER, CIHLAR, and SAND.

**OPEN FORUM**

Chair Werman called for open forum, no one from the public spoke.

**Deputy Clerk's Report**

The Deputy Clerk's report included: Commissioner Cihlar was sworn in, Riverside Park shelter variance, April 23, 2015 P&Z meeting cancelled, Public Works Supervisor Peterson is retiring on May 1, 2015 and the upcoming community events.

**ADJOURNMENT**

**MOTION TO ADJOURN** was made Fuller, seconded by Sand.

**MOTION CARRIED** – VOTING IN FAVOR – FULLER, CIHLAR, and SAND.

Chair Werman adjourned the meeting at 7:12 p.m.

*Submitted by Audra Etzel, Deputy Clerk*