

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, JANUARY 24, 2017 –7:30 P.M.

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a regular meeting of the Independence City Council was called to order by Mayor Johnson at 7:30 p.m.

2. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

3. ROLL CALL

PRESENT: Mayor Johnson, Councilors Betts, Spencer and Grotting

ABSENT: McCoy

STAFF: City Planner & City Administrator Mark Kaltsas, City Administrative Assistant Horner, City Attorney Vose

VISITORS: WHPS Director Gary Kroells

4. ****Consent Agenda****

All items listed under Consent Agenda are considered to be routine by Council and will be acted on by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- a. Approval of City Council minutes from the January 10, 2016 Regular City Council Meeting.
- b. Approval of Accounts Payable; Checks Numbered 16838-16873. For Information Checks Numbered 16829-16837 and 16874-16878 are Payroll Checks.
- c. Approve E-Charging Joint Powers Agreement and Court Services Amendment Renewal.
 - a. **RESOLUTION 17-0124-01** Approving the Joint Powers Agreement (JPA) with the State of Minnesota, Department of Public Safety and Bureau of Criminal Apprehension to utilize systems, tools and data made available by the State and BCA.
- d. Approval of Liquor License Renewals for Windsong Golf Club, Pioneer Creek Golf and the Ox Yoke Inn.

Motion by Betts, second by Spencer to approve the Consent Agenda. Ayes: Johnson, Betts, Spencer and Grotting. Nays: None. Absent: McCoy. MOTION DECLARED CARRIED.

5. SET AGENDA – ANYONE NOT ON THE AGENDA CAN BE PLACED UNDER OPEN/MISC.

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- Planning Commission Meeting
- Hennepin County Comprehensive Plan Meeting
- Planning Commission Interviews

Grotting attended the following meetings:

- Planning Commission Meeting
- LMCC application from Frontier meeting
- Planning Commission Interviews

McCoy attended the following meetings:

Betts attended the following meetings:

- Planning Commission Interviews

Johnson attended the following meetings:

- Northwest League of Municipalities Meeting
- Orono Healthy Youth Committee Meeting
- Orono School Board Meeting
- Planning Commission Interviews

Horner attended the following meetings:

- Planning Commission Interviews

Kaltsas attended the following meetings:

7. ANNUAL CITY COUNCIL VISIT BY DISTRICT 33 STATE SENATOR DAVID OSMEK.

Senator Osmek was not able to attend

8. DIRECTOR GARY KROELLS, WEST HENNEPIN PUBLIC SAFETY - ACTIVITY REPORT FOR THE MONTH OF DECEMBER, 2016.

for a complete activity report for the month of December 2016 see the City Council packet

Kroells noted that Independence had 5002 incidents as of the year end which is up significantly from 2015. Kroells said the Citizens Academy is open for enrollment now and classes will start in February. He encouraged those interested to apply via Facebook or the WHPS website.

9. DEAN VOSS (APPLICANT) AND LINDA NELSON (OWNER) REQUEST THAT THE CITY CONSIDER THE FOLLOWING ACTIONS FOR THE PROPERTY LOCATED AT 4586 SHADY BEACH CIRCLE, INDEPENDENCE, MN (PID NO. 02-118-24-21-0007):

- a. **RESOLUTION 17-0124-02** Considering a variance to allow a reduced front yard setback for the purpose of constructing a garage addition.

Kaltsas said the subject property is located at 4586 Shady Beach Circle. The property is a legal non-conforming property that does not meet all of the current lot and setback requirements. There is an existing home and two small sheds on the subject property. He noted the applicant is seeking approval to construct an addition onto the existing home. The addition would include living space and a new garage. The applicant is proposing to meet applicable side yard setbacks, but would like to encroach into the required front yard setback. The proposed encroachment would require the City to grant a 17 foot variance to allow a front yard setback of 13 feet rather than the required 30 feet.

The subject property is a legal non-conforming lot of record. The City's current lot standards require a minimum of 1 acre for all properties in the Shore land Overlay zoning district. The subject property is .34 acres in size. The existing home does not have a garage. There are two small sheds located on the property. The City has historically considered variances for properties in the Shore land Overlay district that are substandard lots of record. The City already allows a considerable amount of relief from the requisite standards by ordinance. The City allows all requisite setbacks to be reduced by 40% for substandard lots of record. In this particular situation, the existing lot could accommodate an approximately 22 foot wide expansion without a variance. This width would be the minimum width of a typical two car garage. The subject property is considered a substandard lot of record in accordance with the City's Shore land Ordinance Section 505.15.

Setbacks for properties located in the shore land ordinance are as follows:

505.15. Substandard lots. Lots of record in the office of the county register of deeds or registrar of titles prior to December 1, 1982, which do not meet the requirements of this section 505, may be allowed as building sites provided:

- (a) such use is permitted in the zoning district;*
- (b) the lot of record is in separate ownership from abutting lands, and can meet or exceed 60% of the lot area and setback requirements of this section; and*
- (c) all requirements of section 705 of this code regarding individual sewage treatment systems are complied with.*

<u>Existing Hardcover</u>	<u>(sq. ft.)</u>	<u>Proposed Hardcover</u>	<u>(sq. ft.)</u>
House	1,352	House	1,352
Deck & Steps	207	Deck & Steps	207
Bituminous Parking	233	Bituminous Parking	233
Concrete	378	Proposed Addition	698
Gravel Driveway	1,843	Proposed Garage	900
Shed	196	Proposed Porches	296
	<u>4,209</u>		<u>3,686</u>
Lot Area	14,812	Lot Area	14,812
Total Hardcover	28.4%	Total Hardcover	24.9%

The applicant is proposing to remove two existing sheds, a concrete patio area and the existing gravel driveway to reduce the impervious surface coverage area of the property (see diagram below).



Subd. 2. Lot standards.

	Unsewered Areas			Sewered Areas		
	NE Waters	RD Waters	Tributary Streams	NE Waters	RD Waters	Tributary Streams
Lot Area	2.5 acres	2.5 acres	2.5 acres	1.0 acre	1.0 acre	1.0 acre
Water frontage and lot width at building line	200 ft	200 ft	200 ft	125 ft	100 ft	100 ft
Structure setback from ordinary high water mark	150 ft	100 ft	100 ft	150 ft	100 ft	100 ft
Structure setback from roads and highways	85 ft from centerline or 50 ft. from right-of-way, whichever is greater					
Structure height limitation	35 ft	35 ft	35 ft	35 ft	35 ft	35 ft
Maximum lot area covered by impervious surface	25%	25%	25%	25%	25%	25%
Sewage system setback from ordinary high water mark	150 ft	75 ft (RR) 150 ft (AG)	75 ft (RR) 150 ft (AG)	125 ft	75 ft	75 ft

Front Yard Setback:

Required: 85 feet from centerline or 50 feet from the ROW (@ 60% = 30 feet from right of way)

Proposed: 13 feet from the right of way

Side Yard Setback (as it relates to proposed addition):

Required: 30 feet (@ 60% = 18 feet)

Provided (West): 18'

In addition to the setback requirements, properties located in the shore land district can have a maximum impervious surface coverage of 25%. This property would be permitted to have a maximum impervious surface coverage of 3,703 square feet. The applicant has prepared an analysis of the impervious surface area for this property. The existing and proposed impervious surface calculations are as follows:

The applicant is also proposing to construct a pervious paver driveway to access the garage addition. The City has not counted pervious pavers towards the total impervious surface area. With the proposed garage/house addition, the property would have a total impervious surface equaling 24.9% of the lot area.

There are several factors to consider relating to granting a variance. The City's ordinance has established criteria for consideration in granting a variance.

520.21. Standards for granting variances. Subdivision 1. The City Council may grant a variance from the terms of this zoning code, including restrictions placed on nonconformities, in cases where: 1) the variance is in harmony with the general purposes and intent of this zoning code; 2) the variance is consistent with the comprehensive plan; and 3) the applicant establishes that there are practical difficulties in complying with the zoning code (Amended, Ord. 2011-08)

Subd. 2. An applicant for a variance must demonstrate that there are practical difficulties in complying with the zoning code. For such purposes, "practical difficulties" means:

- (a) The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;*

(b) the plight of the property owner is due to circumstances unique to the property not created by the landowner;

(c) the variance, if granted, will not alter the essential character of the locality.

Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. (Amended, Ord. 2011-08)

Subd. 3. The City Council shall not grant a variance to permit a use that is not allowed under the zoning code based on the zoning classification of the affected property. (Amended, Ord. 2011-08)

520.23. Conditions and restrictions. The board of adjustments may recommend and the City Council may impose conditions on a variance. Conditions must be directly related to and must bear a rough proportionality to the impact created by the variance. (Amended, Ord. 2011-08)

Consideration of the criteria for granting a variance:

- a. Residential use of the property is consistent with the Rural Residential District. The applicants are seeking a variance that is generally consistent with similar variances granted for properties in this area.
- b. Each property in this area is non-conforming and typically requires relief from certain setbacks. The City will need to determine if the requested variance is unique to this property.
- c. The character of the surrounding area is residential. The proposed single family home is in keeping with the City's comprehensive plan.

There are several additional items that could be considered by the City:

1. Many of the surrounding properties have been granted relief from the requisite setback requirements due to the small size of the properties, unique lot layouts resulting from the historic nature of the structures on the properties and the change in nature of the homes from seasonal to permanent.
2. From the image below it can be seen that several properties in this neighborhood have reduced front yard setbacks. The setbacks range from approximately 10 feet to 20 feet from the right of way/property line. The applicant is seeking a 13 foot setback.
3. The requested variance would allow a standard size two garage to be located on the property. From the plans provided, it appears that the depth of the garage could be reduced to accommodate a greater setback from the right of way.
4. Due to the location of the property at the end of a cul-de-sac and its orientation on the curve of the road, the apparent impact on the "streetscape" will be somewhat minimized.

Ultimately the City will need to find that the aforementioned criteria for granting a variance have been met by the applicant.

The City has not received any comments prior to the writing of this report.

Staff is seeking a recommendation or direction from the Planning Commission pertaining to the request for a variance. Should the Planning Commission consider granting a variance, the following findings and conditions should be considered.

1. The proposed Variance request meets all applicable conditions and restrictions stated in Chapter V, Section 520.19, Procedures on variances, in the City of Independence Zoning Ordinance.
2. The total impervious surface coverage for this property will not exceed 25% of the total lot area. The applicant shall submit a detail of the proposed pervious paver driveway to the City for review and approval at the time an application for a building permit is submitted.
3. The applicant shall submit a drainage plan to the City at the time of building permit application. The drainage plan will be reviewed by the City to ensure that the proposed improvements do not adversely impact any of the surrounding properties relating to grading and drainage.
4. The Applicant shall pay for all costs associated with the City's review of the requested variance.
5. Any future improvements made to this property will need to be in compliance with all applicable standards relating to the Rural Residential and Shore land Overlay zoning districts. No expansion of the home/ garage or impervious areas will be permitted without an additional variance request.

Johnson said he was excited about the permeable paver driveway. Grotting asked if the permeability could be explained as those pavers sit on a bed of gravel. Kaltsas said there a couple layers of sand utilized as well so the driveway stays porous and the water can still infiltrate through it.

Johnson noted it will be a nicer dwelling than the current house. Voss explained the variance and parking logistics.

Motion by Betts, second by Spencer to approve Resolution 17-0124-02 for a variance to allow a reduced front yard setback for the purpose of constructing a garage addition for the property located at 4586 Shady Beach Circle. Ayes: Johnson, Betts, Spencer and Grotting. Nays: None. Absent: McCoy. MOTION DECLARED CARRIED.

10. OPEN/MISCELLANEOUS

11. ADJOURN

Motion by Grotting, second by Betts to adjourn at 8:20 p.m. Ayes: Johnson, Betts, Spencer and Grotting. Nays: None. Absent: McCoy. MOTION DECLARED CARRIED.

Respectfully Submitted,

Trish Bemmels/ Recording Secretary