

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
TUESDAY, JANUARY 17, 2017 – 6:30 P.M.

1. CALL TO ORDER

Pursuant to due call and notice thereof, a regular meeting of the Independence Planning Commission was called to order by Chair Phillips at 6:30 p.m.

2. ROLL CALL

PRESENT: Chair Phillips, Commissioners Gardner, Palmquist and Thompson
STAFF: City Planner Kaltsas, City Administrative Assistant Horner
ABSENT: Commissioner Olson
VISITORS: Dean Voss, Jan Gardner, Lynda Franklin

3. APPROVAL OF MINUTES:

a. November 15, 2016 Planning Commission Meeting

Motion by Gardner, to approve the minutes of the November 15, 2016 Planning Commission Meeting, second by Palmquist. Ayes: Gardner, Thompson, Phillips and Palmquist. Nays: None. Absent: Olson. Abstain: None. Motion approved.

4. **PUBLIC HEARING:** 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. 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.

Property Information: 4586 Shady Beach Circle
Zoning: *Rural Residential (Shoreland Overlay)*
Comprehensive Plan: *Rural Residential*
Acreage: *0.34 acres (14,812 square feet)*
Impervious Surface Maximum: *25% (3,703 square feet)*

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 Shoreland 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 Shoreland Overlay district that are substandard lots of record. The City allows 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 Shoreland Ordinance Section 505.15.

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.*

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 shoreland 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:

<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.

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 Shoreland Overlay zoning districts. No expansion of the home/ garage or impervious areas will be permitted without an additional variance request.

Thompson asked if there was anything substandard of this road that would be a public safety concern. Kaltsas said he talked to Public Safety and Public Works and they had no concerns. Spencer noted this was a relatively newly constructed road.

Gardner asked why there was a need for the garage to be 36’ garage. Voss said it was for boat and snowmobile storage.

Public Hearing Open

No comments.

Motion by Thompson to close the Public Hearing, second by Gardner.

Public Hearing Closed

Palmquist said he was concerned that the 13' setback seemed tight. Voss said that Jorgenson's was closer than 13'. Thompson noted that with mitigation there were a lot of things coming out and based on the size of the lot the request seems reasonable.

Motion by Gardner to approve the variance as written for 4586 Shady Beach Circle. Second by Thompson. Ayes: Gardner, Thompson, and Palmquist. Nays: Phillips. Absent: Olson. Abstain: None. Motion approved.

5. Ordinance Update Discussion.

- a. Consider and prioritize ordinance amendments for 2017.

Kaltsas said Olson had submitted his letter of resignation and noted the term policies needed to be updated. Kaltsas said the City has received three applications for Olson's position and the Council will be interviewing those candidates in December. Accessory dwelling units needs to be better defined for instance should an accessory structure be allowed to have a basement, etc.

Palmquist asked what Kaltsas sees coming up in planning applications. Kaltsas said the potential housing development on the Cliff Otten property will be coming up and could be 100 houses on 46 acres. He noted that would be a different process as it will be developed with sewer access. Kaltsas noted the Comp Plan will be one of the biggest items moving forward.

Thompson said a concern that he had revolved around the process of how planning passes on recommendations to building inspections which can go on to remediation and how these issues are followed up on to make sure all requirements have been met. He said the end-to-end process needs to be better defined. He asked if this would be an ordinance issue to concretely define the process. Gardner said it would fall on the building inspector to follow-up on issues. Thompson said he felt it could be a better defined process from end-to-end. Kaltsas said this could be looked at policy-wise but noted some checks and balances had been implemented over the course of the last couple years. He noted building permits are not issued until Planning has signed off on the plans and that was not the case previously. Kaltsas said follow-up does occur and cited recent examples like Lindgren Lane. Palmquist asked if more of the onus needed to be put on the applicants instead of staff having to ride the homeowners to comply. Kaltsas said for improvements requiring a separate escrow from the applicant is not a bad idea. Thompson said there needs to be more visibility of what is getting done instead of hearing what is not getting done.

Gardner asked about the animal units question and said he saw it as a non-issue. Phillips said the question came up when they were looking at a property that had 40% wetlands. Kaltsas said some of the issue is water quality and runoff from the number of animals. He said there is a lot of grey area in the current ordinance whereas if it is 10 acres or less there are restrictions but over 10 acres there are none. Palmquist asked Kaltsas if the work the Planning Commission does on issues is viewed as fully vetted by the City Council. Kaltsas said the Council typically approves based on the Planning Commission's findings. Spencer said the Planning Commission has great experience and the Council generally feels confident in their vetting process.

6. . Open/Misc

7. Adjourn

Motion by Palmquist, second by Thompson to adjourn the meeting at 7:30 p.m. Ayes: Gardner, Thompson, Phillips and Palmquist. Nays: None. Absent: Olson. Abstain: None. Motion approved.

Respectfully Submitted,

Trish Bemmels
Recording Secretary