

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION  
TUESDAY, FEBRUARY 21, 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, Dumas and Thompson

STAFF: City Planner Kaltsas, City Administrative Assistant Horner

ABSENT: None

VISITORS: Lynda Franklin, Randy Mason, Dale Hoikka, Jean Gardner, Corey Oefflin, Brad Johnson

3. Swearing in of New Planning Commissioner Leith Dumas.

4. APPROVAL OF MINUTES:

a. January 17, 2017 Planning Commission Meeting

**Motion by Gardner, to approve the minutes of the January 17, 2017 Planning Commission Meeting, second by Palmquist. Ayes: Gardner, Thompson, Phillips and Palmquist. Nays: None. Absent: None. Abstain: Dumas. Motion approved.**

5. **PUBLIC HEARING:** Randall and Margaret Mason (Applicant/Owner) requests that the City consider the following actions for the property located at 3212 Independence Road (PID No.s 13-118-24-22-0008, 13-118-24-22-0009, 12-118-24-33-0004, 12-118-24-33-0004) in Independence, MN:

a. A minor subdivision to combine the two existing lots into one lot.

Kaltsas said the subject property is located along Independence Road just north of Lindgren Lane. There are currently four tax parcels on this property due to the location of the section line, which separates school districts. The property has access onto Lake Independence.

In 2010, the previous owner of this parcel subdivided the original lot into two (2) buildable lots. The property was recently purchased by the applicants. They would like to combine the properties back into one (1) lot for the purpose of constructing a single-family home on the property. In discussing the property with the applicants, the City noted that structures constructed on the property would need to meet all applicable building setbacks from the existing property lines (cannot be constructed across property lines). In addition, the City noted that detached accessory structures could not be constructed on a lot without a principle structure. This would preclude the applicants from constructing a home on one side of the property and a detached accessory structure on the adjacent property. Because of this information, the applicant made an application to the City for a minor subdivision to combine the two properties into one lot.

There are several unique aspects of this property that should be noted by the City during consideration of the application:

1. The property is bisected by a section line that separates the Delano and Orono School Districts. As a result, the property has four property id (PID) numbers associated with the two lots. In the after condition, the property will still have two PID numbers, but only one buildable lot.
2. The previous owner paid for two sewer connections for the two properties. Any new home construction on this property will connect to the City's sewer on Independence Road.
3. There was a single-family home on the property that was razed by the previous homeowner. This property in the after condition can accommodate a new home and meet all applicable setbacks.
4. An existing driveway provides access to this property from Independence Road.
5. The requisite drainage and utility easements may need to be vacated and re-dedicated. The applicant shall execute the necessary documents to clean up any easements as determined necessary by the City.

The proposed subdivision to allow a lot combination appears to meet all applicable standards of the City's zoning and subdivision ordinance. The combined lot will fit into the surrounding area and have minimal impacts on the surrounding properties.

Kaltsas said the City has not received any written comments regarding the proposed subdivision or conditional use permit.

Staff is seeking a recommendation from the Planning Commission for the requested Subdivision with the following findings:

1. The proposed subdivision for a lot combination meets all applicable criteria and conditions stated in Chapter V, Section 500, Planning and Land Use Regulations of the City of Independence Zoning Ordinance.
2. The Applicant shall pay for all costs associated with the City's review of the requested minor subdivision.
3. The Applicant shall record the subdivision and City Council Resolution with the county within six (6) months of approval.
4. The Applicant shall execute and record the requisite drainage and utility easements with the county within six (6) months of approval.

#### Public Hearing Open

No comments.

**Motion by Gardner to close the Public Hearing, second by Palmquist.**

#### Public Hearing Closed

**Motion by Palmquist, to approve a minor subdivision to combine the two existing lots into one lot for the property located at 3212 Independence Road (PID No.s 13-118-24-22-0008, 13-118-24-22-0009, 12-118-24-33-0004, 12-118-24-33-0004) in Independence, MN., second by Gardner. Ayes: Gardner, Thompson, Phillips, Dumas and Palmquist. Nays: None. Absent: None. Abstain: None. Motion approved.**

6. **PUBLIC HEARING:** Corey Oeffling (Applicant/Owner) requests that the City consider the following actions for the property located at 5215 Sunset Lane (PID No. 01-118-24-31-0002):

- a. A variance to allow a reduced front and side yard setback. The setback reductions would permit the construction of a new attached garage and front porch.

Kaltsas said the subject property is located at 5215 Sunset Lane, which is on the south side of the road before it curves north along Lake Sarah. The property is comprised of approximately .84 acres. The property has a significant grade change and a mix of upland wooded areas.

Kaltsas said this was an update from a previous request. UPDATE - The Planning Commission initially reviewed this request in November of 2016. At that time, the applicant did not have an official survey of the property and was asking the Planning Commission to consider a variance for a reduced front and side yard setback. The request made to the City included the following proposed setbacks from the front and side yards:

Front Yard Required: 85 feet from centerline of road.

Front Yard Proposed: 45 feet from centerline of road

**Variance: 40 feet**

Side Yard Required: 30 feet (existing home is located 19.7 feet from side property line)

Side Yard Proposed: 16 feet

**Variance: 14 feet**

The Planning Commission reviewed the request and recommended approval subject to the applicant obtaining a certified survey for the property. The applicant commissioned the survey and upon review of the proposed setbacks in relation to the property lines determined that the garage would be considerably closer to the side lot line. The applicant is now proposing the following setbacks for the garage addition:

Front Yard Required: 85 feet from centerline of road.

Front Yard Proposed: 42.1 feet from centerline of road

**Variance: 42.9 feet**

Side Yard Required: 30 feet (existing home is located 19.7 feet from side property line)

Side Yard Proposed: 8.7 feet

**Variance: 21.3 feet**

Due to the discrepancy between the setbacks initially considered by the Planning Commission and the newly proposed setbacks, it was necessary for the variance to be reconsidered by the City. The applicant is proposing a side yard setback of 8.7 feet from the west property line versus the originally proposed 16 feet. The applicant is proposing a front yard setback of 42.1 feet from the centerline of the road versus the originally proposed 45 feet. There are several additional considerations that should be noted by the Planning Commission when reviewing this request:

1. There is a narrow strip of “unbuildable” land directly adjacent to the side property line that would be closest to the proposed structure (see depiction below). This land is owned by a neighboring property owner that lives two properties to the east of the subject property. The owner of the strip of land has provided a letter to the City stating that they do not object to the requested variances.
2. The existing home will maintain an approximate 83-foot setback from the east property line.

All comments, criteria and conditions initially considered by the Planning Commission would still be applicable to this request. Commissioners will need to determine if the amended request complies with the criteria for granting a variance.

ORIGINAL REPORT – The applicant would like to construct a new front porch and attached garage on the property. There is currently an existing home located on the property. The existing home has an attached garage that is located below the living area and accessed through the lower level. The applicant recently acquired the home from his father and would like to construct a new attached garage in a location and at an elevation that would allow access into the home at the main living level. The lot slopes from west to east in a manner that would make it difficult to construct an addition that could be accessed at the main living level grade.

In order to accommodate the new garage, the applicant is seeking a variance to allow the reduction of the front and side yard setbacks. The requisite setbacks are as follows:

Front Yard Required: 85 feet from centerline of road.

Front Yard Proposed: 45 feet from centerline of road

**Variance: 40 feet**

Side Yard Required: 30 feet (existing home is located 21 feet from property line)

Side Yard Proposed: 16 feet

**Variance: 14 feet**

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. The applicant is proposing to use the property in a manner consistent with the Rural Residential District. The property is wooded and positioned in a way that would reduce the impact of the proposed garage addition. The neighborhood surrounding this property has a wide array of property types with varying setbacks from the front and side yard setbacks. The applicants have attempted to locate the building in a manner that they feel would reduce or mitigate impacts to the surrounding properties.
- b. The character of the surrounding area is residential. The applicant is proposing to update the existing home with a new front porch. The applicant is also trying to construct a new garage that is at the same level as the main living area of the home. Currently the only access to the home from the garage is through the basement.
- c. The proposed variance would allow the expansion of a residential structure which is in keeping with the City's comprehensive plan.
- d. The existing home is located approximately 21 feet from the side property line and would be considered a non-conforming structure. The applicant could construct a detached garage that would be permitted to be located within 15 feet of the side property line.
- e. The elevation of the house and overall lot makes it difficult to locate a garage to the east of the existing home without significant changes being made to the grade. The applicant believes that the impact from those changes would be more significant to the surrounding properties than the plan which is proposed.
- f. The applicant is proposing to construct a new front porch on the existing home. The front porch would encroach into the required setback approximately 10 feet. The City could grant a variance for the porch separately if the proposed garage is not recommended for approval.
- g. Should the City consider granting approval of the requested variances, a certified survey should be provided by the applicant to verify the property lines and exact setbacks.

The Planning Commission will need to determine if the requested variances meet the requirements for granting a variance.

***Neighbor Comments:***

The applicant has spoken with the surrounding property owners and stated that he generally received support of the requested variance. The City received a letter from the property owner of 5175 Sunset Lane (owner of the adjacent strip of land to the west).

Staff is seeking a recommendation from the Planning Commission for the requested Variances with the following findings and conditions:

5. The proposed Variance meets all applicable conditions and restrictions stated in Chapter V, Section 520.19, Procedures on variances, in the City of Independence Zoning Ordinance.
6. The requested variances will allow the construction of the proposed garage, mud room and porch in accordance with the approved plans only (plans will become an exhibit of the resolution). The variances shall be as follows:
  - a. Front Yard: 42.9 feet
  - b. Side Yard: 21.3 feet
7. The Applicant shall pay for all costs associated with the City's review of the requested variance.
8. Any future improvements or expansion of the structure will need to be in compliance with all applicable standards relating to the Rural Residential zoning districts.

Thompson asked if this request was re-noticed and Kaltsas confirmed that it indeed was re-noticed. Gardner noted the garage was 14' from the right-of-way. Phillips asked if there was a way to screen the garage from the road. Oeffling said he was not cutting down a lot of trees and he would actually be planting some trees. Kaltsas noted there is a 30' utility easement.

Public Hearing Open

**Motion by Gardner to close the Public Hearing, second by Palmquist.**

Public Hearing Closed

Palmquist asked if was going to be a public safety issue having the garage that close to the road. Kaltsas said Public Works did not think it would be a problem as 30' was considerable. He said WHPS did not have concern as well.

**Motion by Gardner, to approve a variance to allow a reduced front and side yard setback that would permit the construction of a new attached garage and front porch for the property located at 5215 Sunset Lane (PID No. 01-118-24-31-0002), second by Thompson. Ayes: Gardner, Thompson, Phillips, Dumas and Palmquist. Nays: None. Absent: None. Abstain: None. Motion approved.**

7. **PUBLIC HEARING:** Hoikka Construction (Applicant) and Beau'Selle Stable (Owner) request that the City consider the following actions for the property located at 1060 Copeland Road (PID No. 29-118-24-31-0001) in Independence, MN:

- a. An interim use permit to allow a temporary accessory structure that is greater than 5,000 SF in association with the Commercial Riding Stable permitted as a conditional use permit on the subject property.

Kaltsas stated in the Fall of 2016, the City considered and granted a conditional use permit to allow the expansion of the existing detached accessory building (barn) to be greater than 5,000 square feet and a commercial riding stable on the subject property. At that time the owner anticipated commencing construction of the barn expansion in the fall and winter of 2016/2017. The construction of the barn expansion has not occurred and in January of 2017 the owner approached the City about constructing a temporary indoor riding arena on the property. The City noted that the applicant could construct a temporary or permanent building on the property as long as it was less than 5,000 square feet in overall size. The applicant recently acquired a steel frame “dome” style building that is approximately 12,000 square feet in overall size. The applicant inquired about erecting the building as a temporary structure until the permanent barn expansion is completed. The City noted that the applicant could construct a portion of the accessory structure (up to 4,999 square feet) without needing a conditional or interim use permit.

The applicant has already constructed a portion of the proposed temporary building. The portion of the building that has been constructed is less than 5,000 square feet in overall area. Properties greater than 10 acres in overall size do not have a limitation on the total square footage permitted for accessory buildings. The applicant is seeking approval to construct and utilize a temporary 12,000 square foot building for a period of one year from the date of approval or six months following the completion of the permanent indoor riding arena. This would allow the applicant time to complete the construction of the permanent barn expansion on the property. The interim use permit would expire six months following the completion (issuance of an occupancy permit) of the barn expansion or one year from the City Council date of approval, whichever occurs first.

The City has two ways that it could consider allowing the temporary building to be constructed. The City could amend the existing conditional use permit or grant a new interim use permit. In this situation, the City recommended that the applicant apply for an interim use permit. Interim use permits are limited to an event or date certain and allow the City to specify a clear date or event that will cause the interim use permit to end.

The City has the following criteria for granting an Interim Use Permit:

1. The use is deemed temporary and the use conforms to the development and performance standards of the zoning regulations.
2. The date or event that will terminate the use can be identified with certainty.
3. Allowing the use will not impose additional costs on the public if it is necessary for the public to take the property in the future.
4. The user agrees to any conditions that the city council deems appropriate for allowing the use.
5. The use meets the standards set forth in subsection 520.11 governing conditional use permits.

The City will need to determine if the requested interim use permit (IUP) meets all of the aforementioned conditions and restrictions. The temporary nature of the proposed detached accessory structure will mitigate long term impacts of the use. The proposed location of the structure on the property appears to reduce the adverse effects on this property or the surrounding properties.

The City has visited the site and discussed the operation of the proposed temporary detached accessory structure with the applicant. Given the location of the property on Copeland Road, the adjacent

commercial riding stable (810 Copeland Road to the south), the orientation of the buildings and their relationship to the surrounding properties, it appears that the proposed application can be found to meet the requirements for granting an interim use permit to allow an accessory structure larger than 5,000 square feet on the property.

Should the City consider granting approval of the IUP, the following conditions should be considered:

1. The interim use permit shall expire six months following the completion (issuance of an occupancy permit) of the barn expansion or one year from the City Council date of approval, whichever occurs first.
2. All conditions of the conditional use permit for a commercial riding stable shall apply to the temporary use of the proposed accessory structure.

There have been no comments from neighboring properties.

Kaltsas said Staff is seeking a recommendation from the Planning Commission pertaining to the request for an interim use permit with the following findings and conditions:

1. The proposed interim use permit request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The interim use permit will include the following conditions:
  - a. The interim use permit shall expire six months following the completion (issuance of an occupancy permit) of the barn expansion or one year from the City Council date of approval, whichever occurs first.
  - b. All conditions of the conditional use permit, regulating the use for a commercial riding stable, shall apply to the temporary use of the proposed accessory structure.
    - i. No expansion of the temporary detached accessory structure shall be permitted on the property without the further review and approval by the City.
3. The applicant shall pay for all costs associated with reviewing the application and recording the resolution.

Palmquist asked if conditions of the CUP would also apply to this IUP. Kaltsas said the temporary use takes away some of those concerns. He said the codes have been met and this is for personal use now. Gardner asked if it could be converted to a CUP. Kaltsas said they could do that if they wanted to in the future. Gardner noted the rest of the structure would be addressed in the building permits. Thompson asked about future possibilities and what route could be taken that would not involve coming back to planning. Kaltsas noted that under 5000 sq. ft. there were no limitations. He said they could move the building around as long as they met the setback requirements and height limitations. Thompson asked if this path would put any extra burden on the city staff and administration. Kaltsas said this was his recommendation and makes it a cleaner process without trying to attach the CUP to it.

### Public Hearing Open



No comments.

**Motion by Gardner to close the Public Hearing, second by Phillips.**

Public Hearing Closed

Gardner said it looks straightforward. Thompson said he always has concerns with the process but realizes this is ok as the structure is under 5000 sq. ft. Palmquist asked that the start date would be for the construction of the barn on the property. Hoikka said it would be sometime in mid-May. Palmquist asked what the duration of the construction would be. Hoikka said it would take about eight months.

**Motion by Gardner, to approve an interim use permit to allow a temporary accessory structure that is greater than 5,000 SF in association with the Commercial Riding Stable permitted as a conditional use permit on the subject property located at 1060 Copeland Road (PID No. 29-118-24-31-0001), second by Palmquist. Ayes: Gardner, Thompson, Phillips, Dumas and Palmquist. Nays: None. Absent: None. Abstain: None. Motion approved.**

8. **PUBLIC HEARING:** Dean Fowser (Applicant/ Owner) requests that the City consider the following actions for the property located at 8875 Highway 12 (PID No. 18-118-24-11-0001) in Independence, MN.

- a. An amendment to the conditional use permit to expand the commercial building located on the property.

Kaltsas stated the public hearing could be opened and continued to March 21, 2017 as the applicant needs more time and would not be necessary to re-notice.

**Motion by Thompson, to open the Public Hearing and continue until March 21, 2017, second by Gardner. Ayes: Gardner, Thompson, Phillips, Dumas and Palmquist. Nays: None. Absent: None. Abstain: None. Motion approved.**

9. Comprehensive Plan Discussion

- a. Overview of March Kick-off Meeting

Kaltsas said the City Council discussed the upcoming efforts to draw up the 2040 Comprehensive Land Use Plan for the City. They decided that the Planning Commission would serve as the initial “host” with public input sessions planned as well as joint meetings with the City Council. Kaltsas said the three applicants that were not selected for the open Planning Commission appointment were invited to participate as active members in the Comprehensive Plan. He said all three candidates accepted the invitation. Kaltsas said the kickoff event would take place at the March 21 meeting. The kickoff meeting will involve the process, history and requirements involved in the Comprehensive Plan. Kaltsas said it is anticipated that by the summer of 2018 a draft will be adopted with the final plan submitted by the end of 2018.

Palmquist asked if there would be joint meetings with Maple Plain. Kaltsas thought that probably would be one or two meetings with Maple Plain. Phillips noted that some Public Hearings get heated so it may be best to have that be the only item on the agenda instead of trying to fit it with a bunch of other things.

Thompson asked if there was input, the Planning Commission would need from Met Council. Kaltsas said staff would compile the background information needed and submit that to Planning. He said if the Planning Commissioners wanted to get a jump-start, they could look at the 2040 Thrive Plan, which is Met Council's baseline plan. Thompson asked if it was data-driven or esoteric. Kaltsas said it was both. He said they use empirical data and a sophisticated and high-level demographic system to project populations. He noted their scope and breadth of the plan is much wider than it used to be.

10. Open/ Misc.

11. Adjourn

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

Respectfully Submitted,

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Trish Bemmels  
Recording Secretary