

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION  
TUESDAY, MARCH 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 Commissioner Gardner at 6:30 p.m.

2. ROLL CALL

PRESENT: Commissioners Dumas, Gardner, Thompson and Palmquist

STAFF: City Administrative Assistant Horner, City Administrator Kaltsas

ABSENT: Chair Phillips

VISITORS: Jay Lorek, Ed Pluth, Sally Simpson, James Conely, Jan Gardner, LuAnn Brenno, Lynda Franklin, Barb Janas, Randy Stinson, Dawn Mooney, Brian Glover, Paul Glover, Nathan Betts, Jen Kazen

3. Approval of minutes from the February 21, 2017 Planning Commission Meeting.

**Motion by Thompson, to approve the minutes of the February 21, 2017 Planning Commission Meeting, second by Palmquist. Ayes: Gardner, Thompson, Dumas and Palmquist. Nays: None. Absent: Phillips. Abstain: None. Motion approved.**

4. James and Alison Conely (Applicant/Owner's) request that the City consider the following actions for the property located at 4530 Lake Sarah Drive South (PID No. 02-118-24-24-0020 in Independence, MN:

- a. A variance to allow a reduced front and side yard setback. The setback reductions would permit the construction of a third garage stall attached to the existing detached garage.

Kaltsas said the applicant is seeking approval to construct an addition (third stall) onto the existing detached garage. The garage addition would be 17 feet wide by 30 feet in length. The property is located at the intersection of Shady Beach Circle and South Lake Sarah Drive and therefore is subject to the recently adopted corner setback provisions of the ordinance. The existing garage is located on the property such that the angle prevents the addition of a third garage stall from meeting both the front yard (setback from South Lake Sarah Drive) and corner yard setbacks (setback from Shady Beach Circle).

The ability of the owner to expand the garage is limited by the current location and its proximity to the adjacent property lines. In reviewing the property, it does not appear that there is a logical alternative solution to expanding the garage in an area that meets all requisite setbacks. The proposed garage expansion would have the following setbacks:

Front Yard Setback:

Required: 85 feet from centerline or 51 feet from the ROW.  
Proposed: 38 feet from the right of way (variance of 13 feet)

Corner Yard Setback:

Required: 51 feet from the ROW

Proposed: 37 feet from the right of way (variance of 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. 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. Many of the properties in this area have setbacks from the right of way or side property lines that do not meet the required setbacks.
- c. The character of the surrounding area is residential. The proposed garage expansion for a

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. The neighboring property owner directly across Shady Beach Circle that would have the most visibility of the garage expansion has submitted a letter to the City stating that they have no problem with the requested variance.
3. The property across Shady Beach Circle is setback 20 feet from the right of way line.
4. The property has a fairly extensive vegetative screen that would further mitigate potential impacts of the proposed garage (see pictures attached).

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

The City received a letter from the neighboring property owner located at 450 Shady Beach Circle.

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 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 or right of way relating to grading and drainage.
3. The Applicant shall pay for all costs associated with the City's review of the requested variance.
4. 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 a parking pad and Kaltsas said there was a concrete pad in place now. Palmquist asked if there would be life safety issues because of the vegetation that screens the area. Kaltsas said that cars need to pull up far enough beyond the hedge that there really is no blockage. Spencer noted it was a three-way stop so that helps and said it has not been an issue to date.

Public Hearing Open

No comments.

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

Public Hearing Closed

Thompson said it seems fine and consistent with the rest of the district.

**Motion by Palmquist, to approve a variance to allow a reduced front and side yard setback for the property located at 4530 Lake Sarah Drive South, second by Thompson. Ayes: Gardner, Thompson, Dumas and Palmquist. Nays: None. Absent: Phillips. Abstain: None. Motion approved.**

5. Jay Lorek (Applicant/Owner) requests that the City consider the following actions for the property located at 990 County Road 92 N (PID No. 28-118-24-33-0008) in Independence, MN:

- a. A Conditional Use Permit to allow an accessory dwelling unit to be located within the existing detached accessory building on the subject property.

Kaltsas said several years ago, the City adopted an ordinance permitting accessory dwelling units as a conditional use in both Rural Residential and Agriculture zoning districts. The intent of the ordinance was to allow for “mother-in-law” type units to be located within the principle structure or a detached accessory building. The applicant is seeking a conditional use permit to allow an accessory dwelling unit inside of a portion of the existing detached accessory structure on the property. The detached accessory structure is currently utilized as both a garage and unfinished all-purpose space. The applicant currently houses his elderly father within his existing home. He would like to finish a portion of the detached accessory structure into a “studio” (open floor plan) type dwelling unit. The proposed unit would have a living space/bedroom, full bath and kitchen facilities. There would be a separate access into the unit from the outside. The proposed accessory structure would be used a true “mother in law” unit.

The subject property has an existing principle home and several small accessory buildings on the property. In order to allow an accessory dwelling unit, the applicant will need to demonstrate how they meet all applicable criteria for granting a conditional use permit. The City has criteria broadly relating to Conditional Use Permits and then more focused criteria relating specifically to accessory dwelling units.

An accessory dwelling unit must meet the following criteria:

*Subd. 2. "Accessory Dwelling Unit." A secondary dwelling unit that is:*

- (a) *Physically attached to or within a single-family dwelling unit or within a detached<sup>a</sup> accessory building that has a principal structure on the parcel; and*

**The applicant is proposing to construct the accessory dwelling unit within an existing detached accessory structure.**

- (b) *Subordinate in size to the single-family dwelling unit; and*

**The proposed accessory dwelling unit would be subordinate in size to the single family dwelling unit.**

- (c) *Fully separated from the single-family dwelling unit by means of a wall or floor, with or without a door; and*

**The proposed accessory dwelling unit would be separated from the single-family home.**

- (d) *Architecturally compatible with the principal structure (using materials, finishes, style and colors similar to the principal structure); and*

**The proposed accessory structure is existing and appears to generally complement the principle home on the property.**

- (e) *The lesser of 33% of the above ground living area of the principal structure or 1,200 square feet, and no less than 400 square feet; and*

**The principal structure has ~1,575 square feet of above ground space not including the basement. 33% of 1,575 square feet equals 520 square feet. The applicant is proposing to construct an accessory structure which will total 513 square feet. The proposed square footage would be equal to the permitted maximum square feet.**

- (f) *Not in excess of the maximum square footage for accessory structures as permitted in this code; and*

**The maximum accessory structure size for properties zoned Agriculture is 2% of the buildable (upland) lot area up to 10 acres and then it is no longer restricted. The applicant has 17 acres and therefore would comply with applicable standards.**

- (g) *Has permanent provisions for cooking, living and sanitation; and*

**The applicant is proposing to construct permanent provisions for cooking; living and sanitation (see attached depiction).**

- (h) *Has no more than 2 bedrooms; and*

**The applicant is proposing to have one bedroom within the accessory dwelling unit.**

- (i) *Limited to relatives of the homesteaded owner occupants or the homesteaded owners of the principal structure. The total number of individuals that reside in both the principal dwelling unit and accessory dwelling unit may not exceed the number that is allowed by the building code; and*

**The applicant is proposing that the accessory dwelling unit be occupied solely by family members.**

- (j) *Uses the existing on-site septic system<sup>b</sup> or an approved holding tank; and*

**The property has an existing septic system that was designed for a four (4) bedroom home. The existing home has three (3) bedrooms. The City has reviewed the septic system and found that it is able to accommodate the proposed bedroom.**

- (k) *Respectful of the future subdivision of the property and the primary and secondary septic sites. The City may require a sketch of the proposed future subdivision of a property; and*

**The detached accessory is a conforming structure that is currently in existence.**

- (l) *In compliance with the adopted building code relating to all aspects of the dwelling unit.*

**The proposed accessory structure will meet all applicable building codes and will be required to obtain requisite permits.**

*a On lots less than 2.5 acres, the accessory dwelling unit must be attached to the principal dwelling unit or located/constructed within an existing detached accessory structure that meets all criteria of this section.*

*b The existing on-site septic system will be required to be inspected by the City to ensure compliance with all applicable standards. Any system that does not meet all applicable standards shall be brought into compliance as a part of the approval of the accessory dwelling unit.*

The location of the existing accessory building and its proximity to the surrounding properties will mitigate potential impacts of converting a portion of the space into an accessory dwelling unit. The surrounding properties are similar in character and have similar sized detached accessory buildings. The accessory dwelling unit will need to meet all applicable building codes and building regulations. The applicant will be required to apply for and receive all applicable and requisite building permits.

As proposed, the accessory dwelling unit appears to meet all applicable criteria established in the zoning ordinance. In addition to the requirements for allowing an accessory dwelling unit, the City has additional criteria which need to be considered for granting a conditional use permit

The criteria for granting a conditional use permit are clearly delineated in the City's Zoning Ordinance (Section 520.11 subd. 1, a-i) as follows:

1. The conditional use will not adversely affect the health, safety, morals and general welfare of occupants of surrounding lands.
2. The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the proposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.
4. Sufficient off-street parking and loading space will be provided to serve the proposed use.
5. The proposed conditional use can be adequately serviced by public utilities or on-site sewage treatment, and sufficient area of suitable soils for on-site sewage treatment is

- available to protect the city from pollution hazards.
6. The proposal includes adequate provision for protection of natural drainage systems, natural topography, tree growth, water courses, wetlands, historic sites and similar ecological and environmental features.
  7. The proposal includes adequate measures to prevent or control offensive odor, fumes, dust, noise, or vibration so that none of these will constitute a nuisance.
  8. The proposed condition use is consistent with the comprehensive plan of the City of Independence.
  9. The proposed use will not stimulate growth incompatible with prevailing density standards.

Consideration for the proposed conditional use permit should weigh the impact of having an accessory dwelling unit located on this property. The location of the proposed accessory dwelling unit and its compliance with all applicable setbacks appears to mitigate potential impacts resulting from the construction of the accessory dwelling unit. The City will need to consider if the accessory dwelling unit meets the requirements and criteria for granting a conditional use permit.

Should the CUP to allow an accessory dwelling unit be recommended for approval by the Planning Commission, it is suggested that the following conditions be noted by the City:

- The Conditional Use Permit will be subject to the applicant successfully obtaining and completing a building permit for all applicable improvements required for a dwelling unit.
  
- The proposed accessory structure cannot be expanded or enlarged without the review and approval of the City. Any expansion will require an amendment to the conditional use permit following all applicable procedures.

The City has not received any written comments regarding the proposed conditional use permit to allow an accessory dwelling unit.

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

1. The proposed Conditional 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 conditional use permit will be issued subject to the following items being completed:
  - a. The Conditional Use Permit will be subject to the applicant successfully obtaining and completing a building permit for all applicable improvements required for a dwelling unit.
  - b. The proposed accessory structure cannot be expanded or enlarged without the review and approval of the City. Any expansion will require an amendment to the conditional use permit following all applicable procedures.

Thompson asked if the code requirements in the CUP would transfer to the next owner of the property.

Kaltsas said the accessory dwelling would have to comply and the new owners would have to follow the same rules.

Dumas asked about the septic and notations/ mark-ups on that as it was not clear. Kaltsas said the system was reviewed and signed off on.

**Motion by Palmquist, to approve a variance to allow a Conditional Use Permit to allow an accessory dwelling unit to be located within the existing detached accessory building on the subject property for the property located at 990 County Road 92 N., second by Thompson. Ayes: Gardner, Thompson, Dumas and Palmquist. Nays: None. Absent: Phillips. Abstain: None. Motion approved.**

6. **PUBLIC HEARING – (TO BE CONTINUED TO APRIL 18, 2017):** 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.

Public Hearing Open

No comments.

**Motion by Thompson to continue the Public Hearing at the April 18, 2017 meeting, second by Palmquist.**

7. **Comprehensive Plan Discussion.**

Joint Planning Commission/City Council Kick-off Meeting

In response to the 2040 issuance of the regional system statements, the City of Independence is beginning the process of updating its local comprehensive plan. The comprehensive plan update will ensure consistency with the most recent adopted regional plans and policies and provide the City with a comprehensive development map for the next twenty years. The City of Independence will prepare an update to the 2030 Comprehensive Plan to guide development and land use through the year 2040. Due to changes in population forecasts, growth and housing trends, it is imperative that the City evaluate its past and ensure that it is prepared to secure its future. The City will engage the elected and appointed City officials and public to develop a unified vision for the future of Independence. Once this vision has been established, the City will work to prepare a detailed and sustainable comprehensive plan that responds to all aspects of the prescribed growth and future development and redevelopment. Areas of focus will be to understand and plan for future housing needs, to enhance and protect natural resources and to attract residential, commercial, retail, industrial and office development and redevelopment within the City.

In support of advancing the development of the City's comprehensive plan, the City will need to select or appoint a representative task force to lead the planning process. Typically, the City will utilize the expertise and diverse representation of the Planning Commission to lead the comprehensive plan development process. The City Council and various other community groups, business owners and residents will also aid in development of the plan. It is anticipated that the development of the



comprehensive plan will take approximately eighteen months to complete. The submittal of the plan to the Metropolitan Council would occur in the summer-fall of 2018.

A key component to a successful comprehensive plan is actively involving community stakeholders as the comprehensive plan is being developed. Public participation will help to ensure that the resulting comprehensive plan accurately reflects the vision, goals, and values of the community. There is a wide array of public participation activities that can be utilized to foster public participation throughout every stage of the comprehensive planning process. Some of the activities that can be considered by the City are as follows:

- Direct Mail/Email/Social Media
- News releases and mass media
- Displays and exhibits
- Public educational meetings
- Website
- Open houses
- Public hearings
- Visual preference survey
- Design Charrette
- Focus groups
- Community surveys
- Visioning

The City's Comprehensive Plan public participation strategy would be established to embody the following goals:

- Include a variety of input opportunities for every audience group at every stage of the process.
- Provide opportunities for people to participate "a little" or "a lot" in the process, while assuring that one or a few individuals or interest groups do not dominate the process.
- Recognize that ongoing public involvement is essential to create an innovative plan, yet one that can be implemented.
- Use existing planning and committee frameworks as a foundation for the comprehensive planning process.
- Engage media and educational institutions to increase public input opportunities and leverage City resources.
- Inform and work with other governments and institutions with an interest in planning for the City of Independence.
- Recognize that the goals expressed above must be balanced with the need to complete a comprehensive plan within a set budget and timeframe.

It is anticipated that the City will utilize some or all the public participation strategies while developing the comprehensive plan. One established method that would be recommended for the City to consider is the development and use of a community survey. The information and insight obtained from a community survey could help in the development of the comprehensive plan. Utilization of social media and the City's website could also secure quick and efficient communication and feedback with the City's constituents.

The City anticipates that the public participation strategy will lead to the development and ultimately the adoption of a policy document that addresses issues such as land use, resource conservation and park system development, transportation, and other topics identified during the process. The Planning Commission, staff and consultants will carry out research, outline policy choices, and prepare a draft policy document that will be reviewed through the public input process described above. The City's Planning Commission, in conjunction with the City Council can lead the preparation of this important policy document.

The draft process of developing the comprehensive plan is outlined in the timeline to follow. The timeline represents a conceptual outline of the various elements and components of the plan along with the necessary participants and estimated time to complete each step in the process. The timeline, public involvement, number of meetings and content can be modified during the process to respond to the actual needs of the City.

Staff is generally seeking feedback from the City Council pertaining to the conceptual process and timeline. Janas asked about the density plan North of Maple Plain. Kaltsas said it would be a little higher. Dumas asked if they had to get a letter from Maple Plain to utilize the sewer. Kaltsas said it could be through Maple Plain or through the City's current line via Perkinsville. Loretto is currently looking at connecting to our pipe on County Road 11 as well. Thompson asked if the population reduction projections were correct, would it be safe to assume that no greater density is needed. Kaltsas said the City is losing population but gaining density. Kaltsas said the density requirements are 3 acres for a unit. Thompson noted this could satisfy the 2040 Comprehensive Plan. Kaltsas said that was correct. Kaltsas said Met Council requires Cities to have a certain number of units classified as affordable housing.

Brian Glover asked about Highway 12 improvements. Kaltsas said corridor improvements would be part of the plan. He said there is interest in commercialization in that area as well. Grotting asked what ties the City to three acres and if is all determined by Met Council. Kaltsas said Met Council governs the City's ability to project land use.

➤ Comprehensive Plan timeline available at the City.

8. Open/ Misc.

9. Adjourn

**Motion by Thompson, second by Palmquist to adjourn at 8:40 p.m. Ayes: Gardner, Thompson, Dumas and Palmquist. Nays: None. Absent: Phillips. Abstain: None. Motion approved.**

Respectfully Submitted,

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Trish Bemmels  
Recording Secretary