

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION  
TUESDAY, APRIL 18, 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 Dumas, Gardner, Thompson and Palmquist  
STAFF: City Administrative Assistant Horner, City Administrator Kaltsas  
ABSENT: None  
VISITORS: Jason Sievers

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

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

4. **PUBLIC HEARING:** Jason Sievers (Applicant/Owner) requests that the City consider the following actions for the property located at 1180 County Road 83 (PID No. 25-118-24-32-0001) in Independence, MN:

- a. A variance to allow a reduced side yard setback. The setback reductions would permit the construction of a home and garage addition attached to the existing home.

Proposed: 37 feet from the right of way (variance of 14 feet)

Kaltsas said the subject property is located at 1180 County Road 83. The property is on the east side of County Road 83 and south of the intersection of Timber Trail and County Road 83. There is an existing home and one small detached accessory structure on the subject property.

The applicant is seeking approval to construct an addition onto the existing home. The addition includes living space as well as a larger garage. The applicant is proposing to remove a portion of the existing house, which includes the existing garage. The applicant would then construct an addition onto the portion of the existing home to remain. The existing home is currently in compliance with all applicable setbacks for this property.

The applicant is asking the City to consider granting a variance from the side yard setback (north property line) to allow expansion of the existing home. The City requires a side yard setback of 30 feet for properties zoned RR-Rural Residential. The applicant is proposing to construct the home addition so that it is setback 17.6 feet from the side property line rather than 30 feet as required. The resulting variance to the side yard setback would be 12.4 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.
- b. There are several surrounding properties that do not appear to be in compliance with applicable principle structure setbacks.
- c. The character of the surrounding area is residential. The proposed 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. The required detached accessory structure setback from the side yard is 15 feet. The applicant could locate a detached accessory structure on this property and meet applicable setbacks.
- 2. The property directly north of this property has several detached accessory buildings which do not meet applicable setbacks. The owner of the property directly north did

provide a note to the City stating that they found the requested variance to be acceptable.

3. Several properties directly west of the subject property appear to have reduced front yard setbacks.
4. The proposed home/garage addition is a two-story addition, which will be taller than the portion of the existing structure that is being removed.

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

The City received a letter from the neighboring property owner located at 1212 County Road 83 supporting the requested variance. 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 pay for all costs associated with the City's review of the requested variance.
3. 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.

#### Public Hearing Open

Thompson asked Sievers if there was a viable option to use the existing setbacks with the demolition process that goes back to the blue area. Sievers said the foundation sits low and is currently 19' from the northern neighbors. He said it used to be detached. Thompson asked what the architectural consideration is that this new structure would need to go so far past the setback. Sievers said it was going to be a three-car garage.

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

#### Public Hearing Closed

Palmquist asked Kaltsas to explain the standards for granting a variance (subdivision 2). Kaltsas said the City can determine if the plight of the property owner is due to circumstances is unique to the property and not created by the landowner. He said the applicant needs to demonstrate practical difficulties. Palmquist said he was not sure the "plight" was unique in this application. Gardner made a motion to approve but there was no second.

Thompson said his concern is there is no plight issue and he would deny. He said there is not a compelling argument at this point to approve. Palmquist stated he was ok with conditions (a) and (c) but does not feel it meets condition (b).

Dumas said why we have an ordinance if we keep adding variances to it. Dumas asked why there were two different standards; 15' for ancillary structure and 30' for a principle structure. Kaltsas said that has been in place before his time here. Kaltsas said this application/ structure could probably be drawn up differently.

Palmquist asked if Kaltsas would expand on the properties that have reduced setbacks that are west of this property. Kaltsas said those properties had been grandfathered in.

**Motion by Thompson, to deny the application for a variance to allow a reduced side yard setback. The setback reductions would permit the construction of a home and garage addition attached to the existing home and asks the applicant to reconfigure to meet required setbacks, second by Palmquist. Ayes: Gardner, Thompson, Dumas and Palmquist. Nays: None. Absent: None. Abstain: Phillips. Motion approved.**

5. **PUBLIC HEARING – (TO BE CONTINUED TO MAY 16, 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.

6. Community Survey Follow-Up

Kaltsas asked if there was any feedback from the Planning Commissioners about the upcoming community survey that will go out to residents regarding the 2040 Comp Plan. He asked if they had any input on what should be addressed and questions that should be asked. Gardner noted urban development could be better defined. Palmquist asked if it should look at population density more than expansion. Phillips thought item (3) could be better defined to specifically address the rural character, whether it was dog parks or trails, etc. Dumas said it should include a map and Kaltsas said he was developing that. Kaltsas said he wants to know who is responding and where they live. Palmquist asked if there would be some type of control to make sure those submitting are not submitting more than once. Kaltsas said that really is not necessary with the size of the City. Palmquist said it would be important to make it easy to do and return.

7. Open/ Misc.

8. Adjourn

**Motion by Thompson, second by Gardner to adjourn at 7:15 p.m. Ayes: Phillips, Gardner, Thompson, Dumas and Palmquist. Nays: None. Absent: None. Abstain: None. Motion approved.**

Respectfully Submitted,

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Trish Bemmels  
Recording Secretary