



PLANNING COMMISSION MEETING MINUTES  
TUESDAY AUGUST 20, 2024

**7:30 PM REGULAR MEETING**

1. Call to Order

Pursuant to due call and notice thereof, a work session of the Independence Planning Commission was called to order by Chair Gardner at 7:30 p.m.

2. Roll Call

PRESENT: Commissioners Gardner (Chair), Tearse, Dumas and Alternate Usset.

ABSENT: Thompson, Volkenant and Story

STAFF: City Administrator Kaltsas, Administrative Services Director Simon

VISITORS: See Sign-In Sheet

3. Approval of Minutes:

- a. July 16, 2024, Planning Commission Meeting Minutes.
- b. July 30, 2024, City Council Meeting Minutes (For Information Only).

**Motion by Tearse, seconded by Usset to approve the minutes.**

**Ayes: Gardner, Tearse, Dumas and Usset. Nays: None. Absent: Thompson, Volkenant, Story, and. Abstain: None. Motion Approved. 4-0**

4. **PUBLIC HEARING (Continued)** – Robert Berens (Applicant) and Andrea Berens (Owner) are requesting the following action for the property located at 5845 Lake Sarah Heights Drive (PID No. 02-118-24-12-0012) in the City of Independence, MN.

- a. A variance permitting a reduction of the front yard and side yard setback to allow the construction of a car port and future garage in front of the existing house.

***Property/Site Information:***

The subject property is located at 5845 Lake Sarah Heights Drive which is on the south side of the road before it intersects Lake Sarah Heights Cir. The property is comprised of approximately .88 acres. The property has a mix of upland, wooded and wetland areas and has frontage on Lake Sarah.

**Property Information: 5845 Lake Sarah Heights Drive**

Zoning: *Rural Residential (Shoreland Overlay)*  
Comprehensive Plan: *Rural Residential*  
Acreage: .88 acres  
Impervious Surface Maximum: 25%

**Discussion:**

The applicant would like to construct a new car port (which may be converted to or initially constructed to a detached garage) in front of the existing house. The home does not currently have a garage. The applicant received permission from the city to move the existing home onto this property in 2021. The applicant provided the city with plans that also allowed for a future garage (shown as a concrete pad on the plans) in front of the existing home on the property.

When the applicant initially planned to move the home onto the property, they were intending the primary access to be on the east side of the house. Once it was moved and set on the foundation, they decided to have the entrance come in from the “front” (north side) and decided not to pursue a side entrance. The current home has the entrance on the front (north side) of the property. Along with a garage, the applicant would like to construct a side entrance on the east side of the home. In order to make this a reasonably sized entrance that fits with the existing house, they are seeking a 6’ variance from the east property line to allow a 12’ x 12’ entry.

In order to accommodate the proposed detached car port/garage, the applicant is seeking a variance to allow a 15-foot reduction to the front yard setback. The variance would allow the car port/garage to be offset approximately 15 feet from the north face of the existing home. This setback would also minimize grading and tree removal going towards the lake and west property line. Locating the structure further to the south would require more fill and grading. The proposed car port/garage would meet the applicable side yard setback of 15’ for detached accessory structures. The requisite setbacks are as follows:

**Car Port/Garage**

Front Yard Required: 85 feet from centerline of road

Front Yard Proposed: 70 feet from centerline of road

**Variance: 15 feet**

Side Entrance

Side Yard Required: 30 feet from property line

Side Yard Proposed: 24 feet from property line

**Variance: 6 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.
- b. The property is wooded and positioned in a way that would reduce the impact of the proposed car port/garage addition and side entrance. The neighborhood surrounding this property has a wide array of property types with varying setbacks from the front and side yard setbacks.
- c. Having a garage is consistent with surrounding properties. The existing lot has some grading and wetland challenges along with existing vegetation and tree coverage. While the home was brought onto the property by the owner, this lot does have some physical challenges due to the wetlands, lakeshore, existing tree coverage and grades.

The Planning Commission will need to find that the requested variances meet all applicable criteria for granting a variance.

**Neighbor Comments:**

The city has not received any written or verbal comments as of the time this report was prepared.

**Recommendation:**

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

- 1. 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.

2. The requested variance will allow the construction of the proposed detached car port/garage and side entrance in accordance with the approved plans only (plans will become an exhibit of the resolution). The variances shall be as follows:

- A 15' front yard variance to allow the proposed detached garage/carport to be located 70' from the centerline of the road rather than 85' as required.
- A 6' side yard variance to allow a front entrance to be located 24' from the east property line rather than 30' as required.

Note that the detached garage can be located 15' from the side property line as shown without a variance.

3. The Applicant shall pay for all costs associated with the City's review of the requested variances.

4. Any future improvements or expansion of the principal structure or detached accessory structure will need to be in compliance with all applicable standards relating to the Rural Residential and Shoreland Overlay zoning districts.

#### **Attachments:**

1. Property Pictures
2. Building Plans
3. Site Survey

Coming back after being considered. Applicant wanted 2 variances and told them to go back and rework the application so we can look at everything. This property is on the NE side of Lake Sarah with lake frontage, 0.88 acres, RR, RR, shoreland overlay district. New carport on the property which they may convert or construct a detached garage. Existing home was moved in in 2021. Applicant sited the house that allowed for a future garage to be added in the front of the house. They left enough room to meet applicable setbacks. Once moved it, they realized a few things that changed. Asking granting a variance to allow a reduced front yard setback in front of house, detached from the house. Applicant would also like to build a side entrance to the E side of the home. Was originally part of their plan when they moved in and now, they would like to do that. In order to do that – reduced side yard setback to do that. Survey shows that the home was located in the manner that met all setbacks for the zoning. Proposed house was planned with a concrete pad with an attached garage. They did not do a side entrance to this house and put it on the N side of the house. They would like to build the carport and/or 24x24 car structure. With detached, they can go closer to side yard setback than if it were attached. Current house is located 36ft from the property line. They want a sidewalk around the side of the house. Initially it was set up that way. 12ftx12ft side entrance to all them room to work with interior layout. As you go to the S on this property, there is a slope towards the lake, a ravine on E side and drainage area. Two variances – front yard 15ft to allow 70ft setback from centerline and side entrance 24ft from property line (6ft variance). In this case, they are proposing to use the property in accordance to zoning and there are some challenges with grading that creates a hardship. We have also considered garages as a right of sort and common amenity you have with a SFD especially in the shoreland district. We did not receive any comments prior to this meeting.

#### **GARDNER OPENED PUBLIC HEARING**

Bob Berens – Mark explained it well. First I thought I had a 30ft setback but Mark explained. I have my two daughters living in the house and I want to make a garage for them to protect their

cars. The setback on side of the house, when we originally sited it, it was a split level. I closed up side entrance and I am uncomfortable to not have a 3<sup>rd</sup> entrance.

#### CLOSE PUBLIC HEARING

Gardner – seems like another small lake lot struggling with the side yards.

Dumas – are we setting a precedence?

Gardner – no I don't think so. You could put it closer to the house. This isn't a mansion; it is a reasonable house. Id be in favor of it.

**Tearse, seconded by Dumas to approve variance 4-0**

**Motion by Tearse, seconded by Dumas to approve the variances requested.**

**Ayes: Gardner, Tearse, Dumas and Usset. Nays: None. Absent: Thompson, Volkenant, Story, and. Abstain: None. Motion Approved. 4-0**

5. **PUBLIC HEARING** – Ethan Kindseth (Applicant) and Chris Dahlberg (Owner) are requesting the following action for the property located at 3010 Lindgren Lane (PID No. 13-118-24-21-0002) in the City of Independence, MN.

- a. A variance to allow the reconstruction of the existing home (legal non-conforming) on the same foundation with expansion of the height, roof, and enclosed spaces associated with modifications to the roof.

***Property/Site Information:***

*The subject property is located at 3010 Lindgren Lane. The property is located along the north side of Lindgren Lane on the west side of Lake Independence. There is an existing home located on the property. The existing home is considered a legal non-conforming structure and the property is considered a sub-standard lot of record. Substandard lots of record in the shoreland district are allowed to have reduced setbacks of 60% of the required setbacks.*

**Property Information: 3010 Lindgren Lane**

Zoning: Rural Residential (Shoreland Overlay)

Comprehensive Plan: Rural Residential

Acreage: 3.41 acres (1.16 acres above OHWL)

Impervious Surface Maximum: 25%

**Discussion:**

The applicant approached the city about the possibility of taking down the existing home and constructing a new home on the subject property on the foundation of the existing home. The city noted that the existing home is considered a legal non-conforming structure that does not meet current setbacks from the lake and Lindgren Lane. As a result, the home can be fully reconstructed but cannot be expanded, enlarged, or made taller without obtaining applicable variances for the areas proposed to be changed.

In addition to being considered a legal non-conforming structure, the 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.*

Based on the permitted setbacks, the subject property has a limited building area.

The existing home has the following setbacks:

Lake: 39.7' – (20.3' variance)

Side: na - compliant

Street: 49.7' to centerline of street (51' required) (1.3' variance)

The applicant is proposing to take down the existing home to the foundation and reconstruct a new home on the foundation. The applicant is proposing to increase the overall structure height (roof height expansion can be seen in elevations below) and expand a portion of the home on the main level. The expansion would be on top of the existing tuck under garage and is shown below in blue (in both the plan view and elevation view). The proposed new home would not encroach closer to the lake than the existing home but would enlarge the existing structure so that it is taller and expanded as noted.

The applicant has prepared a survey, existing house plans, proposed house plans and site plan. the city has reviewed the proposed plans and visited the property. The city discussed the possibility of moving the proposed house to the west and south to meet applicable setbacks. The applicant has noted that the existing trees, elevations and existing site improvements all support the request to rebuild the new home on the existing foundation.

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)*

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*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 applicant has attempted to leave the majority of the existing site features, deck, patio and landscape in its current location without completely reworking the entire site.
- b. Many of the surrounding properties on Lindgren Lane do not comply with applicable setbacks. This area of the city contains a handful of properties that do not conform to applicable setbacks.
- b. The character of the surrounding area is residential. The proposed single-family home is in keeping with the City's comprehensive plan.

The variances would allow expansion of the existing home so that it has the same setbacks as the existing home (39.7' to the OHWL – representing a 20.3' variance and 49.7' to centerline of Lindgren Lane – representing a 1.7' variance). All other setbacks of the proposed home meet applicable setbacks. The Planning Commission will need to determine if the requested variances, to allow the proposed home to be constructed on the existing foundation meets the requirements for granting a variance. Several additional considerations that could be considered are as follows:

- 1. This lot was developed prior to the establishment of the setbacks in the current ordinance being adopted.
- 2. Setbacks to the side yard, street and lakeshore vary considerably on the surrounding properties.
- 3. The applicant is proposing to construct the new home on the existing foundation without disturbing the remainder of the site.

***Neighbor Comments:***



The City has not received any comments relating to the request at the time this report was prepared.

***Recommendation:***

Staff is seeking a recommendation from the Planning Commission for the requested variances. Should the Planning Commission Recommend approval of the variances, the following findings and conditions should be considered:

1. The requested variances meet all applicable conditions and restrictions stated in Chapter V Section 520.19, Procedures on variances, in the City of Independence Zoning Ordinance.
2. The City finds that the criteria for granting a variance have been satisfied by the applicant. Specifically, the City finds the following:
  - a. Residential use of the property is consistent with the RR-Rural Residential District.  
The applicant is seeking a variance to allow single-family home on the property.
  - b. The location of the proposed home is in the location of the existing home with the expansion primarily upward.
  - c. The character of the surrounding area is residential. The proposed new home is in keeping and consistent with the surrounding uses found in this neighborhood.
2. The total impervious surface coverage for this property will not exceed 25% of the total lot area.
4. The variance will permit a 20.3' variance from the OHWL of Lake Independence and a 1.7' variance from the front yard setback (measured to the centerline of Lindgren Lane). Any modification, changes or alteration to the structure that does not meet applicable setbacks in the future would require additional review and approval in the form of a variance.
5. The applicant shall pay for all costs associated with the City's review of the requested variances.

Kaltsas – lakeshore and front yard setback. Owners are looking at ways to update existing home to remodel or rebuild. Met with them and went through status of home. RR, RR, shoreland ordinance. SW side of lake indy on Lindgren Lane. Legal nonconfining structure, lot of record. Nonconforming because it doesn't meet current setbacks, and lot of record prior to 1982. Substandard lot of record is notable because we have an administrative.

Existing home is 39.7 ft from OHWL. It is located in a way that if you built it today it would be 20.3 and centerline setback is 51<sup>ft</sup> (49.7). taking down to foundation? MN allows you to rebuild in exact location and specs that was built. This case, applicant looked at foundation and noted that it



supports lower-level floor and other home didn't have upper level and change roof line and height of structure. That change requires a variance for what they can't meet. Applicants' preference would be to use what's there and build off of it and modify it. Tuck under garage and above that they would like to make a new use on that story. We have to look at this as if it is a new structure. Shoreline setback and centerline variance and they could pass for building this new home.

Usset – the footprint of the home will not change; it is just vertically and roofline?

Kaltsas – that's correct. Footprint would remain just above ground.

Dumas – roof pitch? Obstructing view?

Kaltsas – increasing height but there isn't a home directly behind this to ruin view. LNC is a protection so you could rebuild. It does protect with what is there. People shouldn't be impacted. There is a factor, where it could go into a new criteria.

OPEN PUBLIC HEARING

CLOSED PUBLIC HEARING

Tearse – what if foundation isn't good?

Kaltsas – can rebuild it.

**Motion by Dumas, seconded by Tearse to approve the variances requested with recommendations #1-#5**

**Ayes: Gardner, Tearse, Dumas and Usset. Nays: None. Absent: Thompson, Volkenant, Story, and. Abstain: None. Motion Approved. 4-0**

Will bring to the September 3<sup>rd</sup> City Council Meeting.

6. Open/Misc.

Tearse – trees cut on Woodhill Lane and I thought they were going to come back?

Kaltsas – If it hasn't been done I will take a look at that

Tearse – they are all dead and now down the street almost touching the ground.

Dumas – Timber Island Trail tree down about to fall over by the bus stop.

7. Adjourn.

**Motion by Usset, seconded Tearse by to adjourn meeting at 8:05pm. Ayes: Gardner, Tearse, Dumas and Usset. Nays: None. Absent: Thompson, Volkenant, Story, and. Abstain: None. Motion Approved. 4-0**

Meeting adjourned.

Respectfully Submitted,  
Carrie Solien/Recording Secretary