



MINUTES OF A MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
TUESDAY, FEBRUARY 2/20/2024

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 Thompson at 7:30 PM.

2. **Roll Call**

Present: Thompson, Tearse, Volkenant, Dumas

Absent: Gardner

Alternates: Story, Usset

Staff: City Administrator Kaltsas, Simon

Visitors: Marvin Johnson (See Sign in sheet)

3. **Approval of Minutes**

a. December 19, 2023, Planning Commission Meeting Minutes.

b. February 6, 2024, City Council Meeting Minutes (For Information Only)

Motion by Volkenant, seconded by Terse to accept the minutes as written.

Ayes: Thompson, Tearse Dumas, Volkenant, Story and Usset.

Nays: None. Absent: Gardner

Abstain: None.

Motion Approved. 6-0

4. **PUBLIC HEARING:** John Bellingham (Applicant) Mary Bellingham (Owner) are requesting the following action for the property located at 2616 CSAH 90 N (PID No. 14-118-24-32-0004) in the City of Independence, MN:

a. A minor subdivision to allow a lot line rearrangement which would adjust the property line between the two existing properties.

Property/Site Information:

The properties are located on the east side of County Road 90, just north of Warren Way. The east property has an existing home and detached garage, and the west property has an existing detached accessory structure. The property has the following characteristics:

Property Information: **2616 County Road 90 (PID No. 14-118-24-32-0004)**

Zoning: RR-Rural Residential

Comprehensive Plan: RR-Rural Residential

Acreage:

Before – .99 acres

After – 2.50 acres (Proposed – East Lot)

Property Information: **Unassigned Address (PID No. 14-118-24-32-0003)**

Zoning: RR-Rural Residential

Comprehensive Plan: RR-Rural Residential

Acreage:

Before – 3.56 acres

After – 2.05 acres (Proposed- West Lot)11. The last thing is there is a park dedication requirement for the new lot as created in the packet.

Discussion:

The applicant is seeking a minor subdivision to allow a lot line rearrangement that would more equally divide the two existing lots of record. The east lot is considered a legal non-conforming lot of record due to not meeting the minimum lot size or minimum lot frontage requirements. The west lot is a conforming lot of record. The owner has historically owned both properties and lived in the existing home located on the east property. The owner is seeking to sell the properties and would like to adjust the lot line currently dividing the properties.

The proposed lot line rearrangement would shift the lot line separating the properties to the west. This shift would increase the size of the east lot from approximately 1 acre to 2.5 acres. It would also decrease the

size of the west property from approximately 3.5 acres to 2 acres. There are several potential benefits that could be obtained as a result of the proposed lot line rearrangement.

- In the proposed condition, the east property would now have frontage (approximately 45') on County Road 90.
- The east property would gain additional property to accommodate primary and secondary septic sites.

Staff has reviewed the request and offers the following information for consideration by the Planning Commission:

- 1.In the before condition, both lots are considered lots of record with a building entitlement for each lot. The requested lot line rearrangement will not change the total number of building entitlements.

2. The lot line rearrangement would adjust the lot lines so that the lots would nearly be equal in size.
3. The increased size of the east lot would bring that lot closer to conformance with applicable standards while providing space for a primary and secondary septic system and frontage on CSAH 90.
4. In the after condition, the western lot would be less than 2.5 acres which will change the conforming status of the property to non-conforming.
5. The minimum frontage required by ordinance for properties that are between 2.5 and 3.49 acres is 200 LF. There is not enough frontage to make both properties fully conforming. The proposed lot line rearrangement would provide some frontage for the east lot without reducing the frontage of the west lot below the minimum.
6. There is an existing detached accessory structure located on the western parcel that is in poor condition. It is recommended that a condition be added to the approval requiring the removal of the structure by the owner.
7. The existing home located on the eastern lot will require a new septic system to be installed. The applicant has provided the City with information showing a primary and secondary on-site septic system for both of the proposed properties.
8. The applicant will be required to dedicate the requisite perimeter drainage and utility easements for both properties.
9. Driveway access to the properties is subject to Hennepin County. It is unlikely that any additional driveway connections to County Road 90 will be permitted. It is likely that both properties will have a shared driveway. The applicant should prepare a shared driveway easement for the western property and provide a draft maintenance agreement to be reviewed by the City.

Neighbor Comments:

The city has received questions relating to the requested lot line rearrangement.

Recommendation:

Staff is seeking a recommendation from the Planning Commission for the requested minor subdivision to allow a lot line rearrangement with the following findings and conditions:

1. The proposed minor subdivision to allow a lot line rearrangement request meets all applicable conditions and restrictions stated Chapter V, Sections 500 and 510, Planning and Land Use Regulations and Zoning, in 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. City Council approval of the requested minor subdivision shall be subject to the following:

a. The applicant providing and executing the requisite drainage and utility easements.

b. The applicant shall prepare a shared driveway easement for the western property and provide a draft maintenance agreement to be reviewed by the City and recorded against the property.

c. The applicant shall remove the existing detached accessory structure prior to conveying the property.

4. The applicant shall record the subdivision, easements, maintenance agreement and City Council Resolution with the county within six (6) months of approval.

Kaltsas – applicant and owner asked city to consider lot line rearrangement between properties. There is an existing home and garage on 2616 property (square in SE corner). Zoned RR and guided RR. In before .99 acres in overall, in after it would be 2.5 acres. In the West property it is RR, guided as RR. In before it is 3.56 acres, in after it is 2.05 acres. Applicant asked about selling these properties. Owner of them owned them jointly and family is looking at selling. Possibility of making the lots more equal in size and provide access point onto co rd. 90 for eastern lot. Proposant to take existing line and adjust it to west and finger out to 90. More equal lots in size and cleaning up a nonconformity. Existing garage doesn't meet setbacks and crosses over line. Existing lots of record so they are nonconforming lots, western lot would be conforming but eastern would not. They want to create lots closer to conformity. Creating two nonconforming lots but better as a configuration. Another aspect, existing lot at 2616 doesn't have room for a secondary septic site. They would be creating space for both primary and secondary sites for the house. They also provided primary and secondary site for the vacant site for any subdivision to occur. Both are lots of record. Closer to equal. Provides for primary and secondary. Western lot would be less than 2.5 acres so status is nonconforming. There is not enough lineal frontage but right now there is no frontage for the eastern lot. Existing detached structure is recommended that it be removed. WE don't have any permits for that structure. Existing home will require new septic to be installed. They have provided this. They will need to provide D&U easements for both sites. HC would ask for 17' of additional ROW.

Dumas – received some questions related to the alignment.

Kaltsas – a couple residents called about creating a new lot. They weren't aware that there were two lots at this property. They had concerns about another house being built.

Thompson – does the city have history or staff have opinion on which lot is closer to conforming or is conforming?

Kaltsas – the acreage on front or back, if you adjust that line, the front lot could be fully conforming. I don't know that there is a good reason one way or another. Is it better to balance them?

Tearse – does the eastern lot have septic where existing house is?

Kaltsas – yes, but they need to put a new one in. It is original.

Usset – it seems the only way to make it fully conforming is to make it one lot. The current home can't build a septic.

Kaltsas – I don't know for sure that they couldn't do it on the north side. They may have to grant themselves an easement to build the new septic.

Usset – afterwards, the west lot isn't buildable because it's under 2.5?

Kaltsas – it's a lot of record so it is.

Story – what is our frontage?

PUBLIC HEARING OPEN

John Bellingham – POA for moms property. We tried to balance it out the best we could. The property line over the garage doesn't make sense. They would need driveway access if we sell one of the properties. There isn't enough frontage to make the 200 ft. There is a horse barn on the west lot that will be torn down.

Motion by Tearse, seconded by Volkenant to close the public hearing.

5. **PUBLIC HEARING:** A text amendment to the City's zoning ordinance Chapter 5, Section 515, Solar energy systems.
 - a. The City will consider an amendment that will look at possible allowing an increase in the maximum square footage of residential scale ground mounted solar energy systems. The current maximum is 500 square feet.

Discussion:

Since the adoption of the solar energy ordinance in 2016, the City has considered 3 variance applications relating to ground mounted solar energy systems. All three of the applications considered asked for more than 500 SF of ground mounted surface area which is the maximum size allowed by the City's currently solar energy ordinance. The current ordinance stipulates the following relating to ground mounted solar energy systems:

Subd. 5. Ground-Mounted Solar Energy Systems shall conform to the following standards:

- a. Ground-mounted systems shall only be allowed on a parcel with an existing principal structure.
- b. Ground-mounted systems shall be located only in rear or side yards.
- c. Ground-mounted systems shall not be located in the Shoreland Overlay District.

- d. Ground-mounted systems shall be wholly screened from view from the public right of way and adjacent residential structures. Methods for screening shall include berming, fencing, landscaping and/or combination thereof.
- e. Ground-mounted systems shall be located on a parcel of at least 2.5 acres.
- f. Ground-mounted systems shall be setback 40 feet from the rear yards.
- g. Ground-mounted systems shall be setback 30 feet from the side yards.
- h. Ground-mounted systems shall have a maximum area of 500 SF.
- i. The maximum height for any component of the system shall be 15 feet.
- j. Ground-mounted systems shall be in compliance with any applicable local, state and federal regulatory standards, including building, electrical and plumbing codes.
- k. Ground-mounted systems and their support structures shall be designed by a certified professional to meet applicable professional standards for the local soil and climate conditions.

Staff has discussed the possibility of increasing the size of allowed residential scale ground mounted solar energy systems based on the demonstrated need of a particular property. In addition to demonstrated need, the City could consider additional criteria similar to those already contemplated in the current ordinance. Criteria such as lot size, separation or setbacks from adjacent or neighboring properties, maximum size, etc.

The City reviewed similar ordinances for surrounding communities and noted that the following methods are being utilized:

- Percentage of lot coverage (i.e., counts towards maximum lot coverage requirements – 20%)
- Minimum setbacks (i.e., 300 LF from adjacent residential structures and 100 LF from property line)
- Maximum SF (i.e., 4,000 SF – anything over 1,500 SF is a CUP)
- Minimum lot size (i.e., 5 acres minimum lot size)

The City also reached out to several solar installers to discuss energy usage and solar array sizes typical for today's technology. The City obtained the following information:

Large Residence Example

Conditioned Square Footage: 14,750 sqft

Usage Estimate per Sq/Ft: 0.45

kWh/sqft/month Estimated Monthly

Usage: 6,637 kWh Estimated Annual

Usage: 79,650 kWh

Proposed Solar Installation production estimate:
56,169 kWh Estimated offset: 71%

MN Average Single-Family Home Example

Square Footage: 2,026 sqft
Average Monthly Usage:
1,013 kWh
Average Annual Usage: 12,156 kWh

The relationship between size of home and usage has been a dependable starting point for determining estimated usage on new construction. In instances where utility bills can be used to see historical usage, the estimate for most homes tracks still tracks within 10% of actual usage. With the addition of electric vehicles and the trend to electrify homes, we have been seeing a trend upwards in average home usage. Electric vehicles alone will add an average of 270 kWh/month per vehicle.

Current 500 sq. ft CUP limit for ground mounts

- Allows for 22 x 420 modules or 9.24 KWDC system (using the most efficient module in the marketplace)
- Production when optimally placed and tilted, and with no shade would produce approximately 11,916 kWh/yr

Based on the information obtained and considered by the City in reviewing this issue, the following considerations are provided to Planning for further discussion:

- Increase the allowable size of ground mounted solar arrays allowed by conditional use permit to be commensurate with demonstrated usage. This could include utilizing a third-party consultant to prepare and document demonstrated need for each application.
 - o Maximum size of ground mounted systems meeting the following additional criteria and showing demonstrated need is **2,500 SF**
- Provide additional criteria that would be used to review applications:
 - o Increased property size or minimum large property size – **10 acres minimum** to exceed 500 SF
 - o Increased setbacks from property lines – **100 LF from property lines and 1,000 LF from adjacent residential structures**

Item coming back for discussion and consideration after recent consideration for GM solar was denied. It was recommended that we look at these systems. No vote tonight but get some feedback. We current allow 500sqft max and an array of criteria with those. Only on parcels with principal structure. Only on rear or side yards. Not be located in shoreland overlay. Wholly screened from view of public. Located on at least 2.5 acres. Setback 40 from rear, 30 side yard and max height of 15 ft. We have had 3 requests for variances since this was adopted in 2016 for exceeding 500sqft. We have denied them all for different reasons. One was visibility from neighbors, one was producing energy in excess of what they needed and the third was denied based on them not having a hardship even though they had a need for the demand even though they had the best demand for it. Looked at other ordinances and high-level dive into what other cities are. Regulation is broad. Common themes were percentage of lot cover, minimum setbacks, how far away from residential structure or property lines, min sqft, min lot size. The last solar company that made a proposal, they offered to provide additional information. They talked about MN average scale and larger scale example. Does the city want to make any changes for people to be allowed to get more sq. ft. We could either amend the criteria to have additional provisions of size proportionate to size of your property or increase to a flat size. You could increase setbacks as well. Or third-party confirmation that you are creating it for your own personal use, not to sell back. We don't have a size limit on a roof, however this home has a flat roof, so it isn't doable.

Thompson – this wouldn't be the only public hearing?

Kaltsas – I noticed this so we can re notice it or do whatever

JPS – in the past when referenced survey that people don't want ground mounted solar, and it seems like it would take away the rural view.

Kaltsas – we had an application for a community solar garden. We had no provisions in our ordinance about solar. It took 6 months to get public sentiment. It was discussing all ground mounted. A lot of people don't want the landscape or covered with solar. Commercial ground solar was a nonstarter. If someone has a wooded property and don't have access to solar, could they do ground mounted? We have very little kickback on what we have done so far and no one has complained. There was a public testimony.

Dumas – for the 3 that isn't enough. Indy homes are bigger than most. It's a CUP. I think we could bump the average to match the size of the home or size of lot.

JPS – there's a lot of roof to mount it

Dumas – if it's a flat roof, then you can't

Tearse – I would remind that granting a variance is not due to a hardship by the owner.

Dumas – if you say 750 instead of 500 does that get rid of most of the homes.

Usset – what will the new average be? How can we create less headache for us. I could build a barn and put it on there but that would be a bigger eye sore. I'd be curious about demonstrated usage. If you can shield it on 3 acres, what's the difference if it's on 3 or 10?

Tearse – for people putting hockey rinks in back yard with mag lights doe they need a permit?

Kaltsas – no

Tearse – what about swimming pool?

Kaltsas – yes you do.

Tearse- technology is going to be so different in the next 10 years and they won't be any use in the future.

Kaltsas – we have had a shift where people say they need more. We have had 500 sqft plus some roof mount. I just want direction on expanding the 500 or if there is something we want to change to get around the variance.

Thompson – lets open the Public Hearing

PUBLIC HEARING OPEN

Brandon Jurmu with L. Cramer builders - property 7075 Hwy 12. I can speak to our project. The system designed by greenway solar was purely a result of anticipated use. I read through various packets. Someone noted that it's on a large piece of land and no visibility. You can see the house from the road from the leafless trees. Is there an option to restart the variance request on that property particularly.

Thompson – a variance means you are granted to go another route than our ordinance. Our legal requirement of a variance is that you are suffering something from something that a homeowner did not cause themselves. The house being bigger or uses more energy does not qualify.

Kaltsas – nothing would stop you from reapplying.

Brandon Jurmu – the hardship part of it, is the planning and council the judge of that?

Tearse – yes, we make a recommendation, and the council decides.

Thompson to continue PH until next meeting, Story seconded.

Thompson – there is probably more wiggle room or more thought to put in. Somethings to think about, should these systems be a function of the size of your property and not make it an impact? Should that guide the size of the system or how much does your house really need? In RR if you have some chickens, it's so you can have eggs, it's a personal use. If there is solar for personal use, I don't understand why there isn't an AG conversation why you have chickens to feed your family.

Dumas – does that go back to the solar garden. The comments were against having a big solar garden. The size we have now is too small and they are based on houses we don't have in the city. If you are out on 40 acres and totally screened and for personal consumption, then maybe it is selling it back?

6. Open/Misc.

Thompson – council does a great job. Frustrated with care and thoughtfulness with new and change coming to the community vs maintaining what we have now. Challenges in the community. I am developing something and would like to present it someday. 7 properties that have something that we wouldn't allow as a change but because it's here now or hard to deal with, we don't touch. Some things we point out and don't follow through. I did some data gathering that people can take a look at.

7. Meeting adjourned.

Motion by Story, seconded by Volkenant to adjourn at 8:44 PM

Ayes: Thompson, Tarse Dumas, Volkenant, Gardner and Usset.

Nays: None. **Absent:** None

Abstain: None.

Motion Approved. 6-0

Respectfully Submitted,
Carrie Solien/Recording Secretary