

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, OCTOBER 2, 2018 –6:30 P.M.

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a regular meeting of the Independence City Council was called to order by Mayor Johnson at 6:30 p.m.

2. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

3. ROLL CALL

PRESENT: Mayor Johnson, Councilors Spencer, Grotting, Betts and McCoy

ABSENT: None

STAFF: City Administrator Kaltsas, City Administrative Assistant Horner, City Attorney Vose

VISITORS: Dave Zoldahn, GERALYN McDONALD, Doug McDonald, Anita Volkenant

4. ****Consent Agenda****

All items listed under Consent Agenda are considered to be routine by Council and will be acted on by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- a. Approval of City Council minutes From the September 18, 2018 Regular City Council Meeting.
- b. Approval of Accounts Payable; Checks Numbered 18290-18321. Check number 18289 to WHPS Provided Separately.
- c. Approval of Election Judges for the November General Election.
- d. First and Second Quarter Building Permit Information – For Information.

Motion by Betts, second by Grotting to approve the Consent Agenda items. Ayes: Johnson, McCoy, Grotting, Betts and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.

5. SET AGENDA – ANYONE NOT ON THE AGENDA CAN BE PLACED UNDER OPEN/MISC.

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

Johnson asked Senator Dave Osmek to speak and give an overview of legislative actions. He noted the success of securing the Highway 12 legislation and bonding package. Osmek stated funding was approved for Loretto to tap into the Met Council sewer system and there were also funds approved for the railroad crossing to be updated which includes the crossing at Townline Road.

Johnson thanked Osmek and noted Hertaus as well in getting the funding through for the Highway 12 initiative and said it was very much appreciated. Osmek said he will continue to work with Hennepin County and MnDOT on any roadblocks that may come up, so the project may keep moving along.

Johnson asked what the priorities are for the Legislature coming up this year. Osmek stated one of his priorities are roads and bridges.

Grotting asked about progress on registration tabs and charges associated with that. Osmek said they are making progress and noted that vehicles are being inappropriately assessed and causing underpayment or overpayment on tabs and this is due to a software issue and its interpretation. He said in 2017 when the software was first implemented there were known flaws in the system.

Spencer attended the following meetings:

- Planning Commission Meeting
- Klaers Century Farm Celebration
- Maple Plain Comprehensive Plan Open House
- Highway 12 Press Conference and Open House

Grotting attended the following meetings:

- Planning Commission Meeting
- LMCC work
- Highway 12 Press Conference and Open House
- Conversation with WHPS about taking over fire permits issuance at the City

McCoy attended the following meetings:

- Planning Commission Meeting
- Highway 12 Press Conference and Open House

Betts attended the following meetings:

- Highway 12 Press Conference and Open House

Johnson attended the following meetings:

- Planning Commission Meeting
- Community Action Partnership Hennepin County Finance Meeting
- Election Training
- Met Council Land Use Advisory Committee Meeting
- National League of Small Cities phone calls with Sarah Lindsey
- Orono School Board Meeting
- Elim Homes meeting with Tessa
- Love INC. strategic planning committee meeting
- Visited the Mound High School new Performing Arts Center
- Regional Council of Mayors tour of 3-M
- Hennepin County Recycling Open House Public Hearing
- Highway 12 Press Conference and Open House

Horner attended the following meetings:

- Election Training
- Highway 12 Press Conference and Open House

Kaltsas attended the following meetings:

- Upper Midwest APA Conference and selected speaker

7. David Zoldahn (Applicant/Owner) requests that the City consider the following action for the property located at 440 Kuntz Drive in Independence, MN (PID No.s: 33-118-24-24-0001 and 33-118-24-21-0002):

- a. **RESOLUTION 18-1002-01** considering approval of a minor subdivision to permit a lot line rearrangement to adjust the east/west line between the two subject parcels.

Kaltsas noted the property is located south of CSAH 6 at the southeast corner of CSAH 6 and Kuntz Drive. There is an existing home and several detached accessory structures located on the southern property. The northern property does not have any existing structures. The majority of the property is currently tillable land with some wetlands located on the far east side of the property.

The applicant is seeking a minor subdivision to allow a lot line rearrangement which would allow the north property to be expanded and the south property to be reduced. Both properties are considered buildable lots of record. Currently, the south property is approximately 22.5 acres and the north property is 2.5 acres. The applicant would like to essentially balance the properties so that the north property has more “buildable” area. The south property has the existing home and detached accessory buildings and would be 10 acres in the after condition. The 10-acre lot size will allow no square footage restrictions for detached accessory structures.

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

1. The applicant meets applicable criteria relating to the existing accessory structures located on the south parcel. In the after condition, all structures will meet requisite setbacks.
2. In the after condition, the properties will have the following frontage on a public right of way and lot width to frontage ratios:
3. The applicant has provided the City with the requisite percolation tests confirming that there is a primary and secondary on-site septic site for each property.
4. Access to the north property could be from either CSAH 6 or Kuntz Drive. Access to CSAH 6 would be subject to Hennepin County approval. Hennepin County has noted that access onto CSAH will not be permitted at this time.
5. There is adequate space on the north property to construct a residence and associated accessory buildings.
6. Both properties are lots of record and no park dedication fees are required for either existing lot.
7. The City will require the requisite drainage and utility easements for both properties.

Commissioners reviewed the request and asked questions of staff and the applicant. Commissioners found that the request for the lot line rearrangement met all applicable criteria and was straight forward. Commissioners asked about access onto CSAH 6 and it was noted that Hennepin County had reviewed the

proposed minor subdivision and will not allow access. The Planning Commission recommended approval to the City Council of 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. Access to CSAH 6 will require the review and approval of Hennepin County.
4. The Applicant shall provide the City with the legal descriptions, execute and record the requisite perimeter drainage and utility easements with the county within six (6) months of approval.
5. The Applicant shall record the subdivision and City Council Resolution with the county within six (6) months of approval.

Motion by McCoy, second by Betts for approval of RESOLUTION 18-1002-01 of a minor subdivision to permit a lot line rearrangement to adjust the east/west line between the two subject parcels for the property located at 440 Kuntz Drive in Independence, MN (PID No.s: 33-118-24-24-0001 and 33-118-24-21-0002): Ayes: Johnson, McCoy, Betts and Spencer. Nays: None. Absent: None. Abstain: Grotting. MOTION DECLARED CARRIED.

8. Doug and GERALYN McDonald (Applicants/Owners) request that the City consider the following action for the property located at 4976 South Lakeshore Drive in Independence, MN (PID No. 24-118-24-11-0013):

- a. **RESOLUTION 18-1002-02** considering approval of a variance to allow the construction of a detached accessory building that does not meet the side yard setback from the west property line.

Kaltsas said the subject property is located at 4976 South Lake Shore Drive. The property is located on Lake Independence off South Lake Shore Drive. There is an existing home and detached garage on the subject property.

He noted the applicant is seeking approval to remove and replace an existing legal non-conforming detached accessory structure located on the subject property. There is an existing detached accessory structure located on the property that does not currently meet the required side yard setback from the west property line. The existing garage is located 1.5 feet from the west side property line. The required setback for detached accessory structures is nine (9) feet. The applicant would like to raise the height of the building foundation to allow proper drainage of the site to go around the building and towards the lake without inundating the structure. In addition to raising the elevation of the existing structure, the applicant would like to change the roof line of the building so that they can access the building from a door on the south elevation. The existing garage has an off-centered roof line that can be seen from the photographs attached to this report. The applicant would like to construct a standard centered gabled roof on the new garage.

Staff has had correspondence with the applicant to discuss the existing and proposed detached garages on the property. The applicant did look at rebuilding the existing shed in its current location which would be

permitted by the City. Ultimately, the applicant determined that they would like the City to consider granting a variance to allow a new detached accessory garage to be constructed in the same location as the existing garage with three changes:

1. Raise the finished floor elevation of the new structure so that it sits 1.5 feet above the adjacent drainage swale.
2. Change the roofline of the new structure from an offset gable roof to a center gable roof.
3. Extend the structure 3 feet to the south while maintaining the 1.5-foot side yard setback. 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;*
- 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 west that would have the most visibility of the garage has submitted a letter to the City stating that they support the requested variance. In addition, this property owner recently constructed a new detached accessory structure on their property. During the construction of the adjacent detached accessory building, the drainage along this property line was generally corrected.
3. The proposed garage would be very similar to the existing garage on the property.
4. The maximum impervious surface coverage for this property is .25% or 10,999 SF. The existing coverage is as follows:

House, walks, patio and deck: 4,953 SF

Driveway: 3,803 SF

Existing Garage: 575 SF

Total: 8,781 SF

The total coverage with the existing and proposed garage (plus 60 SF for the 3-foot addition) would be within the allowable impervious coverage for this property.

5. The applicant has submitted a proposed drainage plan which indicates how the drainage will be addressed on the subject property.

6. The City allows up to 1,850 square feet of detached accessory structure for this property. The existing and proposed garage is approximately 600 SF and well within the allowable structure size.

Kaltsas said ultimately the City will need to find that the criteria for granting a variance have been met by the applicant.

Public Comments:

The City received a letter from the neighboring property owner located at 4986 South Lake Shore Dr. offering support for the request.

Commissioners reviewed the request and asked questions of staff and the applicant. Commissioners asked for additional information relating to the drainage on this property. The property owner noted that they had worked with Hennepin County Land and Water on a design for the drainage between the existing garage and new detached accessory structure on the adjacent property. Commissioners noted that the applicant could rebuild the existing building and that the proposed building was similar in size and height to the building proposed.

Commissioners asked if the new building conformed in all other aspects to the City's ordinances. Staff noted that it was fully in conformance outside of the side yard setbacks. Commissioners found the variance to meet the criteria of the City and recommended approval to the City Council.

The Planning Commission recommended approval to the City Council for the requested variance with 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 garage will be permitted without an additional variance request.
4. The Applicant shall record the City Council Resolution within six (6) months of the Council Approval

Betts asked if the new building would be raised higher. Kaltsas said the grading has been done. Johnson noted part of this is due to what the neighbors had done on their property. McDonald noted the new structure would be raised a foot and half higher. Johnson asked what direction the flow of water would be going, and McDonald confirmed that it would be flowing to the lake. Betts said it appeared on the picture that the floor was damp. McDonald said that at times water can be free flowing in front of the shed. Grotting asked if the neighbors work affected this was permitted. Grotting said that this would be something to note in the future.

Motion by Betts, second by McCoy for approval of RESOLUTION 18-1002-02 considering approval of a variance to allow the construction of a detached accessory building that does not meet the side yard setback from the west property line for the property located at 4976 South Lakeshore Drive in Independence, MN (PID No. 24-118-24-11-0013): Ayes: Johnson, Grotting, McCoy, Betts and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.

9. Open/Misc.

10. Adjourn.

Motion by Grotting, second by Spencer to adjourn at 7:10 p.m. Ayes: Johnson, McCoy, Grotting, Betts and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.

Respectfully Submitted,
Trish Gronstal/ Recording Secretary