

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, AUGUST 21, 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: City Attorney Vose

STAFF: City Administrator Kaltsas, City Administrative Assistant Horner

VISITORS: Nate and Courtney Pribyl, Anita Volkenant, Dave Zoldahn

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 July 10, 2018 Regular City Council Meeting.
- b. Approval of City Council minutes From the July 17, 2018 Regular City Council Meeting.
- c. Approval of Accounts Payable; Checks Numbered 18142-18223.
- d. Approval of the Large Assembly Permit for Mamas Happy Fall Event to be Held September 6-8, 2018.
- e. Approval of the Large Assembly Permit for Cystic Fibrosis Bike Ride to be Held September 22, 2018.
- f. Approval of a Tobacco License for Windsong Farm Golf Club.
- g. Approval of the Truth in Taxation Annual Hearing to be Held on December 4th, 2018 at 6:00 P.M.
- h. Second Quarter Financial Report

Motion by McCoy, second by Spencer to approve the Consent Agenda items. Ayes: Johnson, Betts, McCoy, Grotting 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

Spencer attended the following meetings:

- Planning Commission Meeting
- Two Wright County Meeting

- Lake Sarah Association Picnic and Annual Meeting
- National League of Small Cities Mayor's Conference
- Night to Unite Events
- City Council Workshop

Grotting attended the following meetings:

- National League of Small Cities Mayor's Conference
- Planning Commission Meeting
- LMCC Meeting
- LMCC Quarterly Meeting

McCoy attended the following meetings:

- Night to Unite Events
- National League of Small Cities Mayor's Conference
- Haven Homes Update Meeting
- City Council Workshop

Betts attended the following meetings:

- National League of Small Cities Mayor's Conference
- Police Commission Meeting
- Night to Unite Events
- City Council Workshop

Johnson attended the following meetings:

- National League of Small Cities Mayor's Conference
- Haven Homes- two Advisory Committee Meetings
- Police Commission Meeting
- Lake Sarah Association Picnic and Annual Meeting
- Love Inc. Meeting
- Met with Loretto Fire Department
- Senior Community Services Finance Committee Meeting
- Bob Mitchell Memorial Service
- Night to Unite Events
- Northwest Trails Appreciation Dinner
- West Hennepin Chamber of Commerce Meeting
- Community Action Partnership Finance Meeting
- Community Garden Group Dinner
- Press Conference with WHPS and Viridian Technologies
- West Hennepin Pioneer Meeting
- Metropolitan Cities Policy Meeting
- City Council Workshop

Horner attended the following meetings:

- Election Judge Training
- Small Cities Mayor's Conference
- City Council Workshop

- Election Day
- Night to Unite Events

Kaltsas attended the following meetings:

- MnDOT looking for September dates to host Open House for Highway 12 projects
7. Nate Pribyl (Applicant/Owner) requests that the City consider the following action for the property located at 5405 Lake Sarah Heights Dr. (PID No. 01-118-24-23-0011) in Independence, MN:
- a. **RESOLUTION 18-0821-01** – Considering approval of a variance for reduced setbacks to allow the reconstruction and enlargement of the existing legal, non-conforming shed located on the subject property.

Kaltsas said the subject property is located at 5405 Lake Sarah Heights Drive. The property is located along the northeast shore of Lake Sarah and on the west side of Lake Sarah Heights Drive. There is an existing home and detached accessory structure located on the subject property.

The applicant experienced damage to their home and accessory building during a storm last year and determined that the existing detached accessory structure on the property needed significant repair. The applicant razed the existing structure and reconstructed the existing shed without a permit from the City stating that they were unaware that it was required to replace the existing accessory structure. The City notified the applicant this year that the new accessory structure needed to be permitted and did not meet applicable setbacks.

The previous detached accessory structure was considered a legal non-conforming structure as it did not meet applicable setbacks from the lakeshore and side yard setback line. The applicant could have reconstructed the previous structure in total if it was not expanded in any direction. The applicant slightly expanded the size of the previous structure and moved the structure further away from the side property line and lake shore. The previous structure was 12' x 14' (168 SF) and the new structure is 13' x 17' (221 SF). The previous structure was located less than 1 foot (actual dimension not known) from the side property line and approximately 50 feet from the Ordinary High-Water Level (OHWL) of Lake Sarah. The new shed is located 23 inches (at its closest point) from the property line and 51 feet from the OWHL of Lake Sarah. The City can consider granting an after the fact variance for the new shed if it finds that it meets all applicable criteria of the zoning ordinance. 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 side yard or lakeshore property lines that do not meet the required setbacks.

c. The character of the surrounding area is residential. The proposed detached accessory structure associated with a single-family home is in keeping with the City's comprehensive plan.

1. There are several additional items that could be considered by the City: 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 maximum amount of impervious surface coverage permitted in this property is 25% of the total area or 6,496.75 square feet. The new shed is slightly larger than the previous shed but still fits within the total allowed impervious surface coverage. Impervious surface coverage for this property is calculated as follows:

House: 4,535 SF
Driveway: 1,383 SF
Deck: 252 SF
Shed: 221 SF
Proposed: 6,391 SF
Permitted 6,496.75 SF

3. The adjacent property to the southeast has an existing shed that is located closer to the property line and OHWL than the subject structure. In this area of the City, there are many structures that are located closer to the property lines than required.

4. The new shed, while larger, is located further from the side yard property line and further from the OHWL than the previous structure. The applicant could have reconstructed the existing shed in the previous location in accordance with the legal non-conforming structure provisions.

5. The City would allow a water oriented accessory structure to be located no closer than 9 feet from the side yard property line and 10 feet from the OHWL. This structure could possibly qualify as a water oriented accessory structure; however, the maximum height of a water-oriented accessory structure is 10 feet. This structure is approximately 12 feet in height and would be too tall. The properties on both sides of this property have an existing water oriented accessory structure.
6. The neighboring property owners that are on both sides of the subject property have submitted letters to the City stating that they do not have any issues with the new shed.
7. The shed is well screened by existing trees and vegetation that further mitigate potential impacts of the shed. Ultimately the City will need to find that the aforementioned criteria for granting a variance have been met by the applicant.

The City received two letters from the neighboring property owners located at 5425 and 5401 Lake Sarah Heights Drive supporting the requested variance. No additional comments were made at the public hearing. Commissioners reviewed the requested variance and asked questions of staff and the petitioner. Commissioners asked the applicant if they had additional plans to build a water-oriented accessory structure. The applicant noted that they did not have plans to build any other accessory structures. It was noted that the applicant does not have enough remaining square footage of impervious surface to construct any additional hard cover on this property. Commissioners found that the criteria for granting a variance had been met and recommended approval to the City Council. Planning Commissioners recommended approval of the requested variance with the following findings and conditions:

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 City finds that the criteria for granting a variance have been met by the applicant and specially that:
 - a. The requested variance is consistent with the historic use of the property and fits into the character of the surrounding property.
 - b. The neighboring properties have similarly located accessory structures that mitigate the impacts of the proposed shed.
 - c. The previous shed could have been reconstructed in the current location.
3. The requested variances will allow the proposed detached accessory structure in accordance with the approved plans only (plans will become an exhibit of the resolution). The variances granted shall be as follows:
 - a. Ordinary High-Water Level: 51 feet
 - b. Side Yard: 1 foot, 11 inches
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 detached accessory structure or impervious surface area will be permitted without additional review and approval from the City.

5. The City Council Resolution shall be recorded with the County.

Motion by Betts, second by Grotting to approve RESOLUTION 18-0821-01 of a variance for reduced setbacks to allow the reconstruction and enlargement of the existing legal, non-conforming shed located action for the property located at 5405 Lake Sarah Heights Dr. (PID No. 01-118-24-23-0011) in Independence, MN. Ayes: Johnson, Betts, Grotting, McCoy and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.

7. Open/Misc.

Johnson asked about accessory height discussion that will be taking place at the Planning Commission meeting. Kaltsas said they were going to discuss having accessory structures proportional to the primary structure. The current model of height limitations needs to be reviewed and updated.

8. Adjourn.

Motion by McCoy, second by Spencer to adjourn at 6:58 p.m. Ayes: Johnson, McCoy, Betts, Grotting and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.

Respectfully Submitted,
Trish Gronstal/ Recording Secretary
