

MINUTES OF A MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
TUESDAY, FEBRUARY 18, 2020 – 7:30 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 Gardner at 7:30 p.m.

2. Swearing in of Newly Appointed Planning Commissioner Dumas.

3. ROLL CALL

PRESENT: Commissioners Palmquist, Thompson, Volkenant, Dumas and Gardner

STAFF: City Administrator Kaltsas, Assistant to Administrator Horner

ABSENT: None

VISITORS: Daryl Jorgenson, Cody Johnson, Mary Jorgenson, Wayne Jorgenson, Ann Slavec, Jason and Kathleen Nelson

4. Approval of Minutes:

- a. January 21, 2020 Planning Commission Meeting
- b. February 4, 2020 City Council Meeting Minutes (For Information Only)

Motion by Palmquist to approve the January 21, 2020 Planning Commission minutes, second by Volkenant. Ayes: Gardner, Thompson, Volkenant, Dumas and Palmquist. Nays: None. Absent: None. Motion Approved.

5. PUBLIC HEARING: Darryl Jorgenson (Applicant) and Mary Jorgenson (Owner) request that the City consider the following action for the property located at 4594 Shady Beach Circle, Independence, MN (PID No. 02-118-24-21-0029):

- a. A variance to allow the subdivision of property zoned RR-Rural Residential that does not meet all applicable requirements. The proposed subdivision would create four (4) lots on the subject property.
- b. Preliminary Plat approval.

Kaltsas said the applicants approached the City about the possibility of subdividing their property into a total of four (4) lots. The property is zoned RR-Rural Residential and is governed by the S-Shoreland Overlay District. The property is currently bisected by the Shady Beach Circle right of way.

Historically, there were several cabins located on the southern portion (non-lakefront side) of the property. Within the S-Shoreland Overlay zoning district, the City allows the subdivision of properties connected to City sewer into lots with a minimum lot size of one acre. The City has historically allowed lots that are within 1,000 feet from the OWHL and connected to sewer to be subdivided as long as they meet all other applicable criteria. The City has also historically considered granting a variance to allow the subdivision of property that does not meet all applicable criteria if the property is separated by an existing road right of way. In this case, the existing home located on Lake Sarah is separated from the remaining property by the right of way of Shady Beach Circle. The proposed subdivision would create three new

undeveloped lots and one lot with the existing home on Lake Sarah. The existing home and lot in the after condition would not meet all applicable criteria of the City's zoning ordinance for Shoreland lots. The existing home is connected to City sewer. The proposed lots would have the following detail:

Block 1- Lot 1
Area- 0.36 acres
Frontage- 102.50 LF
Lot Frontage to Lot Depth- 1:1.5

Block 2- Lot 1
Area- 1.0 acres
Frontage- 235 LF
Lot Frontage to Lot Depth~1:1

Block 2- Lot 2
Area- 1.4 acres
Frontage- 261 LF
Lot Frontage to Lot Depth ~1:1

Block 2- Lot 3
Area- 1.5 acres
Frontage- 1135 LF
Lot Frontage to Lot Depth~1:1

The City requires the following setbacks/lots standards for lots zoned RR-Rural Residential and in the S-Shoreland:

Side Yard Setback: 30 feet
Front Yard Setback: 85 feet from the centerline of road
Rear Yard Setback: 40 feet
Wetland Buffer Setback: 10 feet
Maximum Impervious Coverage: 25%

The City has reviewed the proposed subdivision and offers the following comments and notes for further consideration:

1. The application is for a variance and preliminary plat to allow the subdivision of property that does not meet all applicable criteria. The issue requiring the variance is the existing homesite in the after condition. The existing homesite will be less than 1 acre in overall size in the after condition. It should be noted that the existing homesite does not meet requisite setbacks and is currently considered legal non-conforming. The City will require an impervious surface calculation for the existing house to verify compliance with the 25% maximum impervious surface requirement.

2. The applicant is proposing to connect Lots 1-3, Block 2 to the existing sewer line running along Shady Beach Circle. In order to make the connections, it will be necessary to cut into the existing bituminous street. The proposed lots would be subject to all applicable sewer fees and Lots 1 -3, Block 2 will also be subject to the initial sewer assessment of \$9,550 per lot. Lot 1, Block 1 is currently connected to City sewer and was assessed for the sewer connection.

3. The proposed homes on Lots 2 and 3, Block 2 would be slab on grade homes with no basement. This is a result of the high-water table, existing grades and adjacent pond elevation. The City is requesting additional information relating to the separation between the 100-year high water elevation and the top of foundation for the proposed home sites. It appears from the initial review that the proposed home sites would meet applicable standards for separation. Additional grading to provide for a dedicated overland flow route and associated easements may be required.

4. The City has reviewed the proposed grading and has minor comments pertaining to the proposed driveway culverts, grading and swales. The City will work with the applicant to revise the grading plan prior to City Council approval of the final plat.

5. The existing culvert that runs beneath Shady Beach Circle will need to be inspected.

6. There are several existing accessory structures located on the portion of property that will be split off from the existing home site. These structures will not be permitted to remain in the after condition and will need to be removed.

7. The applicant will be required to enter into a Development Agreement with the City and submit and received approval for a final plat at a future meeting. The Agreement will stipulate maintenance of the existing pond, park dedication fees, sewer connection fees, public improvement conditions and requisite security.

8. Lots 1-3, Block 2 will be subject to applicable park dedication fees. The current park dedication fee is \$3,500 per lot for all property up to 5 acres in size.

The City has standards for granting a variance which need to be considered prior to making a recommendation relating to the application. The standards established by the City require the applicant to demonstrate that the requested variance does not cause a condition not in keeping with the character of the surrounding area. In addition, the applicant must demonstrate that the requested variance is unique to the subject property. The standards for granting a variance are as follows:

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 standards for granting a variance:

a. The applicants are proposing to use the property for residential which is consistent with the RR-Rural Residential Zoning District.

b. The properties created by the subdivision are similar in nature and character to the surrounding properties and in most cases larger than surrounding properties.

c. The requested variance to allow the subdivision of the property must be found to be unique to this property. The City has historically found that properties separated by a public right of way are limited in number and unique to the City. In this instance the existing homesite has historically functioned as an individual lot. In the after condition, the existing home site would be similar in size and character to the properties adjacent to and located on Lake Sarah.

The City will need to determine if the requested variance to allow the subdivision of the property meets the requirements for granting a variance. The proposed subdivision, if approved, would create three (3) properties that meet all applicable criteria of the City's zoning ordinance. The existing home site does not meet applicable criteria and would continue to be a legal non-conforming property. Staff is seeking a recommendation from the Planning Commission for the requested variance and preliminary plat with the following findings and conditions:

1. The proposed variance and preliminary plat request meet all applicable conditions and restrictions stated in Chapter V, Section 520.19, Procedures on variances, and Chapter V, Section 500, Subdivisions, in the City of Independence Zoning Ordinance.

2. The Applicant shall address all comments made within this report, recommended by the Planning Commission and required by the City's Engineer review of the subdivision.

3. The Applicant shall enter into a Development Agreement with the City.

4. The Applicant shall pay for all costs associated with the City's review of the requested variance and preliminary plat.

5. The Applicant shall submit final plat application within 90 days of the City Council approval of the preliminary plat.

Kaltsas noted there is a 50' easement providing access to the lake on one of the properties. Thompson noted the addresses need to be consistent. He asked about the private easement and who would govern the dock. Kaltsas said he does not know if an ingress/ egress easement provides for a dock. He noted the lake is governed by the DNR and that the City does not have a separate ordinance that regulates docks.

Volkenant asked about other lot sizes in the area. Kaltsas outlined other lots in the area and the similar sizes noting some are bigger but many are close to this size. Palmquist asked about the impervious surface of Lot 1 Block and what would happen if it is over 25%. Kaltsas stated that at this time the lot is no conforming due to other reasons and if it is determined may need to have modifications. He noted there are other homes that are legal non-conforming.

Public Hearing Open

Ann Slavek, said the park is beautiful and enjoyed by many residents. She asked if the lots were appraised and would the City consider buying it. She noted there were a lot of young children in the neighborhood that enjoy it for many reasons.

Brad Spencer, 4510 Shady Beach Circle, said the park and original homesite were combined after the home was built. He said the park was added because he wanted his workshop property on it.

Daryl Jorgensen said he is helping his mom as this is a large property for one person to care for.

Mary Jorgensen said she has had this property for over 20 years and the park was always Ron's thing and she cannot maintain it. Mary said there are many things involved with the cost of the property such as insurance and taxes.

Kathleen Nelson said she lives up the hill from Mary. She asked the Jorgenson's to reach out to the neighbors because they would like to consider pooling together to buy the property. Slavek said maybe they could parcel out one lot and turn the rest into a park.

Gardner closed the Public Hearing.

Public Hearing Closed

Thompson asked about the variances being required on the existing house are fairly easy and the lots being created all meet the requirements. Thompson said he would approve it if the original lot can meet the impervious surface requirement. Gardner agreed it is a small lot but it is consistent.

Motion by Thompson to approve a variance to allow the subdivision of property zoned RR-Rural Residential that does not meet all applicable requirements per the Staff report and 5 conditions recommended with a final plat due within 90 days for the property located at 4594 Shady Beach Circle, Independence, MN (PID No. 02-118-24-21-0029), second by Palmquist. Ayes: Gardner, Thompson, Volkenant, Dumas and Palmquist. Nays: None. Absent: None. Motion Approved.

6. Open/Misc.

7. Adjourn.

Motion by Thompson, second by Palmquist to adjourn at 8:20 p.m.

Respectfully Submitted,

Trish Gronstal/ Recording Secretary