

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
TUESDAY, JUNE 18, 2019 – 7:30 P.M.

1. SWEARING IN OF NEW PLANNING COMMISSIONER

Anita Volkenant was sworn in as a new Planning Commissioner.

2. 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.

3. ROLL CALL

PRESENT: Commissioners Thompson, Gardner and Dumas

STAFF: City Administrator Kaltsas, Administrative Assistant Horner

ABSENT: Commissioner Palmquist

VISITORS: Anita Volkenant, Mary Fehn, John Conlin, Katie Roers, Gary Ostberg, Jon Richter, Annie and Bob Ibler, Dean Jablonsky, John Pierro, Lynda Franklin

4. APPROVAL OF MINUTES:

- a. April 16, 2019 Planning Commission Meeting
- b. June 4, 2019 City Council Meeting Minutes (For Information Only)

Motion by Thompson, to approve the March 19 Planning Commission Minutes, second by Dumas. Ayes: Thompson, Gardner and Dumas. Nays: None. Absent: Palmquist. Abstain. None. Motion Approved.

5. PUBLIC HEARING: Katie and Brian Roers (Applicant/Owner) request that the City consider the following action for the property located at 2914 Lindgren Lane (PID No. 13-118-24-24-0006) in Independence, MN:

- a. A variance to allow reduced side yard setback from the north property line to allow the construction of a new home.

Kaltsas said the subject property is located at 2914 Lindgren Lane. The property is located along the west shoreline of Lake Independence. There is an existing home and several small sheds located on the property. The property is accessed from Lindgren Lane although the property has no direct frontage on the road. The property access is gained across the City's property. The property is approximately .36 acres. This 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.

The City granted a variance for this property in 2014 allowing a 3-foot reduced side yard setback on both sides of the property. The variance granted allowed the proposed home at the time to be located 15 feet from each side property line rather than 18 feet as required. The applicant at the time decided not to move forward with building the new home and the property went back up for sale. The current applicants purchased the property last year and came forward with an application for a variance based on a revised

site plan. Planning Commission reviewed the request in 2018 and recommended approval of the variance subject to working with the adjacent property owner. The applicant asked for the application to be tabled so that they could go back and review the location of the proposed new home.

The subject 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.

The subject property is located off of Lindgren Lane directly adjacent to the City's former community septic drain field property. There is currently an existing home (cabin on the property). The existing home on the property is not in good condition. The property supports a maximum home width of approximately 27 feet utilizing the required setbacks. The applicant is seeking an eight (8) foot variance from the north side yard setback to support a 34-foot-wide home. The setback on the south side at its closest point is proposed to be approximately 20 feet. The applicant has prepared a general site plan which identifies the proposed home location. The proposed home would be a two-story structure. The plan shows that the proposed home would meet the requisite 60-foot lakeshore setback. The proposed home would meet or exceed all other required setbacks as follows:

Front Yard Setback: Required: 85 feet from centerline or 50 feet from the ROW (@ 60% = 30 feet from right of way) Proposed: N/A

Side Yard Setback (North Side): Required: 30 feet (@ 60% = 18 feet) Provided: 10 feet

Side Yard Setback (South Side): Required: 30 feet (@ 60% = 18 feet)

Provided: 19.7 feet

Lakeshore Setback: Required: 100 feet from Ordinary High Water Mark (@ 60% = 60 feet) Proposed: ~60 feet

In addition to the setback requirements, properties located in the shoreland district can have a maximum impervious surface coverage of 25%. This property can have a maximum coverage of 3,933.75 square feet. The proposed house and impervious site improvements have a total impervious coverage area of 3,525 square feet or 22.40% (See survey for detailed breakdown). The proposed house and site improvements would not exceed the required maximum impervious coverage allowed under the Shoreland 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. The applicant is proposing to use the property in a manner consistent with the Rural Residential District. The applicant has attempted to locate the building in order to provide a viable access to the lake side of the property. The proposed home meets or exceeds all other applicable setbacks for property zoned Rural Residential and covered by the Shoreland Overlay District.

- b. This property is one of the narrowest in this particular part of the City.
- c. The character of the surrounding area is residential. The proposed single-family home is in keeping with the City's comprehensive plan.

The Planning Commission will need to determine if the requested variance 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. The existing home is considerably smaller than those located on the surrounding properties.
- 2. Side yard setbacks vary considerably on the surrounding properties.

3. The new home will be connected to City sewer. The City has granted a new access and utility easement across that portion of the City's property currently used by the property for access. The applicant has also secured an easement from the property owner to the north to allow access to the property.

Staff is seeking a recommendation from the Planning Commission for the requested Variance. Should the Planning Commission Recommend approval of the variance, 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 total impervious surface coverage for this property will not exceed 25% of the total lot area.
3. The variance will permit an 8-foot reduction of the north side yard setback to allow the proposed site plan. Any modification change 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.
4. The applicant shall submit a drainage plan to the City at the time of building permit application. The drainage plan will be reviewed by the City to ensure that the proposed improvements do not adversely impact any of the surrounding properties relating to grading and drainage.
5. The applicant shall pay for all costs associated with the City's review of the requested variance.
6. 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.
7. The variance approval will be valid for one year from the date of City Council approval. Construction of the new home will be required to commence prior to expiration of the variance.
8. The City Council Resolution shall be recorded with the County.

Gardner noted that this was a 2nd request; one from the Roers and another from the previous owners. He said there is nothing really new in it.

Gardner noted that they had been granted an easement across the city portion of the lot and neighbor Fehn had granted them and easement as well.

Public Hearing Open

Mary Fehn, 2930 Lindgren, property owner to the North said she is fine with the 10' easement on the North side. She said the owner is going back to 70' setback and that gives her more of a view.

John Conlin, stated he is delighted it worked out for neighbors.

Motion by Thompson, second by Dumas to close the Public Hearing.

Public Hearing Closed

Motion by Thompson to a variance to allow reduced side yard setback from the north property line to allow the construction of a new home for the property located at 2914 Lindgren Lane (PID No. 13-118-24-24-0006) in Independence, MN per staff recommendations 1-8; second by Dumas. Ayes: Gardner, Thompson, Volkenant and Dumas. Nays: None. Absent: Palmquist. Abstain. None. Motion Approved.

7. **PUBLIC HEARING:** Gary and Lynda Ostberg (Applicants) request that the City consider the following action for the property identified by (PID No. 33-118-24-14-0003) and located at 7297 CSAH 6 in Independence, MN:
- a. A conditional use permit amendment to allow the future construction of horse bunkers on the property.
 - b. A conditional use permit to allow a ground mounted solar system that is less than 500 SF.

Kaltsas said the property is located on the south side of CSAH 6 and just west of Game Farm Road N. The property has an existing home, a detached accessory structure (horse barn and indoor riding arena) and is comprised of open pasture, a woodland area and wetlands. The applicants received approval of a conditional use permit on the subject property to allow a commercial riding stable, associated bunkhouse and detached accessory structure larger than 5,000 SF in 2017. In 2018, the applicant asked for an amendment to the CUP to expand the commercial riding stable by adding an indoor walker building. This request was approved by the City. The applicant would now like to add a ground mounted solar system to the property as well as a small enclosed gazebo. The City generally adds a stipulation to all CUP approvals that prohibits any expansion of the existing buildings and or use associated with the commercial riding stable without an amendment to the CUP. In this case, the addition of the enclosed gazebo would be considered an expansion of the commercial riding stable and therefore subject to the City's review and approval.

The ground mounted solar system requires its own conditional use permit. In all zoning districts of the City, ground mounted solar systems are only permitted as a CUP. Ground mounted solar systems have the following requirements:

Subd. 5. Ground-mounted solar energy systems shall conform to the following standards:

17 (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.

The proposed ground mounted solar system would be located in the side yard adjacent to the existing home on the property. The proposed solar system would be comprised of two separate ground mounted arrays. The total square footage of the two arrays would be 462 SF. This would be less than the 500 feet

maximum SF permitted. The arrays would be setback approximately 55 feet from the north property line (side yard). The required setback is a minimum of 30 feet.

and adjacent residential structures. There are currently no residential structures located near the proposed location. The proximity of the proposed ground mounted system to the nearest residence and or public right of way is ~1,000 feet. The City will need to discuss whether or not additional screening should be added to the north property line. One additional consideration relating to screening is that the panels will be oriented to face south. This will help to mitigate glare and or other visual impacts to surrounding properties. The applicant has also provided the City with an updated site plan and image of the proposed gazebo. The gazebo would be located near the horse barn and would be approximately 12' x 12'. The proposed gazebo would meet all applicable setbacks. The criteria for granting a conditional use permit are clearly delineated in the City's Zoning Ordinance (Section 520.11 subd. 1, a-i) as follows:

1. The conditional use will not adversely affect the health, safety, morals and general welfare of occupants of surrounding lands.
2. The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the proposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.
4. Sufficient off-street parking and loading space will be provided to serve the proposed use.
5. The proposed conditional use can be adequately serviced by public utilities or on-site sewage treatment, and sufficient area of suitable soils for on-site sewage treatment is available to protect the city form pollution hazards.
6. The proposal includes adequate provision for protection of natural drainage systems, natural topography, tree growth, water courses, wetlands, historic sites and similar ecological and environmental features.
7. The proposal includes adequate measures to prevent or control offensive odor, fumes, dust, noise, or vibration so that none of these will constitute a nuisance.
8. The proposed condition use is consistent with the comprehensive plan of the City of Independence.
9. The proposed use will not stimulate growth incompatible with prevailing density standards.

The City has discussed the proposed ground mounted solar system and enclosed gazebo with the applicant. The proposed ground mounted solar system appears to meet all applicable standards provided for in the zoning ordinance. The size of the system and its proximity to the surrounding property appears to adequately mitigate potential visual impacts. The City will need to determine if the system should be further screened from the north property line. The proposed gazebo is compatible to the existing commercial riding stable and previously granted CUP. Given the location of the property off of CSAH 6, the orientation of the buildings and their relationship to the surrounding properties, it appears that the proposed application can be found to meet the requirements for granting a conditional use permit amendment. Staff is seeking a recommendation from the Planning Commission pertaining to the request for a conditional use permit and amendment with the following findings and conditions:

1. The proposed conditional use permit and amendment request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The conditional use permit previously granted will remain in full force and the following conditions will be added to the permit:
 - a) The conditional use permit will allow an approximate 150 SF enclosed gazebo to be located in accordance with the approve site plan attached hereto as EXHIBIT A. The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution. A new

conditional use permit will allow a ground mounted solar system to be located on the subject property and in accordance with the approved site plan attached hereto as EXHIBIT B.

a. The ground mounted solar system shall be constructed in accordance with all applicable zoning code, building code and other applicable standards.

4. The applicant shall pay for all costs associated with the review and recording of the resolution granting approval of the conditional use permit and amendment.

Dumas asked if they could subdivide in the future. Kaltsas stated this was AG classification so they could not subdivide.

Thompson asked about the separate CUP for the solar panels. Kaltsas said it had to be separate as it is not part of the horse arena.

Volkenant asked if screening has been required for others. Kaltsas noted this was the first solar set-up like this requested that is ground-mounted. Panels are allowed on permitted on homes.

Gardner noted that with improvements the cubic square feet was really inconsequential. Dumas did not think it would impact anyone else.

Public Hearing Open

No comments.

Motion by Thompson, second by Dumas to close the Public Hearing.

Public Hearing Closed

Motion by Thompson to approve a conditional use permit amendment to allow the future construction of horse bunkers on the property and a conditional use permit to allow a ground mounted solar system that is less than 500 S.F., for the property located at 2914 Lindgren Lane (PID No. 13-118-24-24-0006) in Independence, MN; second by Volkenant. Ayes: Gardner, Thompson, Volkenant and Dumas. Nays: None. Absent: Palmquist. Abstain. None. Motion Approved.

8. **PUBLIC HEARING:** Daniel Bovitz for Hennepin County (Applicant) request that the City consider the following action for the property identified by (PID No. 22-118-24-14-0003) and located at 2055 CSAH 90 in Independence, MN:

- a. A conditional use permit to allow a weather monitoring antenna to be located in Pioneer Creek Park.

The City, West Hennepin Public Safety and Hennepin County have been discussing possible locations to install a weather warning antenna within the City of Independence for several years. Chief Gary Kroells has recommended that the City establish a location for this type of antenna to provide critical advanced weather warning information to emergency management personnel. WHPS and Hennepin County have reviewed many locations in the City and discussed the installation of this antenna with several private parties as well as the City. The City's park site offers a relatively unobstructed location that could pick up

weather and wind coming from the west/northwest. Hennepin County provided the City with the following information relating to the weather warning antenna:

Hennepin County Emergency Management would like to install a weather station at Pioneer Creek Park in Independence. This station would integrate into the Hennepin West Mesonet (HWM), which is a network of weather stations across Hennepin County.

The HWM is an “all-hazard” system meaning that it has applications across the full spectrum of emergencies and disasters. These including natural hazards, industrial accidents, and adversarial attacks. Some emergencies are driven by environmental factors that form the actual threat (severe weather, excessive heat, solar storms, etc.). In other cases, environmental factors shape the behavior of other threats (radiological releases, chemical spills, bio agent dispersion, etc.). Finally, all emergency responses and recoveries have an environmental component that must be understood to protect responders and the public and to ensure uninterrupted response.

HWM sensor stations have instruments to monitor weather conditions in compliance with World Meteorological Organization (WMO) and National Weather Service (NWS) standards. HWM data is ingested into the National Oceanic and Atmospheric Administration’s MADIS system for use by global weather modeling systems. Unique components of HWM weather sensors include 1) WBGT extreme heat stress sensors (now used by the MN State High School League); 2) Freezing rain / icing sensors (used by Metro Transit Light Rail and other Transportation elements); and 3) Lightning sensors that detect distance and azimuth to strikes to provide early warning for outdoor event safety.

The installation will include a 30 foot aluminum structure that holds most of the sensors and detects wind speed, direction, temperature, humidity and barometric pressure. Rain gauges and soil sensors are placed on or in the ground nearby. Stations use solar energy and require no external power. Data is sent via cellular phone or radio to the network data base. A steel base is used with iron rods in each corner to keep it firm on the ground. 3 guy wires are screw anchored into the ground to keep tower from tipping or swaying. Total construction from start to finish takes 2-3 days and is done by Hennepin County Emergency Management.

Our partner coalition currently includes: The National Weather Service (NWS), City of Minneapolis, Three Rivers Park District, Minnehaha Watershed District, Wright-Hennepin Cooperative Electric, City of Maple Grove, City of Plymouth, City of Saint Bonifacius, City of Greenfield, City of Orono, City of Dayton, City of Bloomington, Minnesota Vikings, Minnesota Natural Resources – State Climatology Office.

The proposed antenna would be 30 feet tall and located to the west of the sledding hill in the park. The ground site area would be 40’ x 40’ and fenced with a chain link fence. There are no power or utility connections required. The towers data collector is powered by solar and a cellular network allow for data transmission.

The City has criteria that should be considered relating to telecommunications towers. The criteria provided in the ordinance are as follows:

- (a) To regulate the location of telecommunication towers and facilities;
- (b) To protect residential areas and land uses from potential adverse impacts of telecommunication towers and facilities;
- 31 (c) To minimize adverse visual impacts of telecommunication towers and facilities through design, siting, landscaping, and innovative camouflaging techniques;
- (d) To promote and encourage shared use and co-location of telecommunication towers and antenna support structures;
- (e) To avoid damage to

adjacent properties caused by telecommunication towers and facilities by ensuring that those structures are soundly and carefully designed, constructed, modified, maintained and promptly removed when no longer used or when determined to be structurally unsound; (f) To ensure that telecommunication towers and facilities are compatible with surrounding land uses; (g) To facilitate the provision of wireless telecommunications services to the residents and businesses of the city in an orderly fashion.

There are several factors that should be considered relating to the conditional use permit as follows:

1. City Council preliminary reviewed the concept of locating a facility in the Community Park and agreed to allow Hennepin County to move forward with an application.
2. The City worked with the applicant to locate the antenna in a portion of the park that is not currently utilized nor planned for future recreational development.
3. The existing sledding hill is approximately 35 feet tall and can be used for perspective when considering the proposed tower height.

A request for a Conditional Use Permit must meet the requirements established for granting a Conditional Use Permit in the City's Zoning Ordinance. The criteria for granting a conditional use permit are clearly delineated in the City's Zoning Ordinance (Section 520.11 subd. 1, a-i) as follows:

1. The conditional use will not adversely affect the health, safety, morals and general welfare of occupants of surrounding lands.
2. The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the proposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.
4. Sufficient off-street parking and loading space will be provided to serve the proposed use.
5. The proposed conditional use can be adequately serviced by public utilities or on-site sewage treatment, and sufficient area of suitable soils for on-site sewage treatment is available to protect the city form pollution hazards.
6. The proposal includes adequate provision for protection of natural drainage systems, natural topography, tree growth, water courses, wetlands, historic sites and similar ecological and environmental features.
7. The proposal includes adequate measures to prevent or control offensive odor, fumes, dust, noise, or vibration so that none of these will constitute a nuisance.
8. The proposed condition use is consistent with the comprehensive plan of the City of Independence.
9. The proposed use will not stimulate growth incompatible with prevailing density standards.

In the AG-Agriculture zoning district, telecommunication towers are permitted as a conditional use. The proposed tower will be visible from several surrounding properties to the west and north. The proposed location does not appear to be visible from the south or east. The Planning Commission will need to determine if the requested conditional use permit meets all of the aforementioned conditions and

restrictions for granting a conditional use permit. Staff is seeking a recommendation from the Planning Commission for the request for a conditional use permit. Should the Planning Commission make a recommendation to approve the requested action, the following findings and conditions should be considered:

1. The proposed conditional use permit and site plan review meet all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
3. This conditional use permit will approve a weather warning antenna with a maximum height of 30 feet and the associated site improvements and ground mounted equipment as shown on the approved site plan and attached hereto as EXHIBIT A.

Public Hearing Open

Jack Jablonski, 6405 Hillstrom, said he has big concerns and is very much opposed. He noted this antenna would not be covered up and it will be ugly. He said it went ruin the look of the park.

Motion by Thompson, second by Dumas to close the Public Hearing.

Public Hearing Closed

Thompson asked why it could not be placed at City Hall. Kaltsas said that was looked into as the preferable spot but there was not an appropriate position that worked with wind detection. Kaltsas said they tried for over a year to see if there would be a spot it could work on the City Hall property. Kaltsas noted they have also talked to private land owners.

Kaltsas said the City's emergency management team feels very strongly this data is important to keep residents safe and that is why the City would provide a location versus a private landowner even though the fee would most likely be fairly nominal. A gap has been identified within the Independence area for a and that is why it is proposed a tower is placed in this area.

Thompson said the screening is ugly. Kaltsas said the screening is mainly for the guide wires. Volkenant said it is a clumsy design and a jumpable fence. She thought it should be in a more visible area as this was fairly hidden and security could be an issue. Kaltsas said that was discussed as this area is not monitored. He noted it was not a City liability. Dumas asked if there was another option and if it could be a different color. Betts asked if the hill would compromise the tower as far as wind flow. Kaltsas said this was closely looked at and they did all the wind studies.

Volkenant asked if there was a risk of injury with the base being at the base of the sledding hill. Kaltsas said it is about 100' feet off the back of the hill. Gardner thought it should be away from the sledding hill. Thompson thought it was important to have a tower in the City but felt this was not the right location. Volkenant asked if there was a different location. Kaltsas said there was not another location within the park that was deemed appropriate.

Motion by Dumas to deny based on location by the sledding hill and aesthetics of the fence a conditional use permit to allow a weather monitoring antenna to be located in Pioneer Creek Park for the property identified by (PID No. 22-118-24-14-0003) and located at 2055 CSAH 90 in Independence, MN; second by Volkenant. Ayes: Gardner, Volkenant and Dumas. Nays: None. Absent: Palmquist. Abstain. Thompson. Motion Approved.

6. Open/Misc.

5. Adjourn.

Motion by Thompson, second by Dumas to adjourn at 8:45 p.m.

Respectfully Submitted,
Trish Gronstal/ Recording Secretary