

MINUTES OF A MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION  
JUNE 21, 2022 – 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. Oath of Office for Newly Appointed Planning Commission Alternate – Timothy Usset  
Mark Kaltsas swore in Tim Usset as Planning Commissioner Alternate.

3. ROLL CALL

PRESENT: Commissioners Gardner, Volkenant, and Alternates Story and Usset  
STAFF: City Administrator Kaltsas  
ABSENT: Dumas, Tearse, and Thompson  
VISITORS: John Zitzloff

4. APPROVAL OF MINUTES:

- a. May 17, 2022, Planning Commission Meeting
- b. June 7, 2022, City Council Meeting Minutes (For Information Only)

**Motion by Volkenant to approve the May 17, 2022 Planning Commission minutes, second by Story. Ayes: Gardner, Volkenant, and Alternate Story. Nays: None. Absent: Dumas, Tearse, and Thompson. Abstain: Usset. Motion Approved.**

5. **PUBLIC HEARING:** John Zitzloff (Applicant/Owner) is requesting that the City consider the following action for the property located at 4224 Lake Sarah Dr. S. (PID No. 02-118-24- 42-0002) in Independence, MN:

- a. A variance to allow a detached accessory structure on the property that exceeds the height of the principal structure.

***Request:***

John Zitzloff (Applicant/Owner) is requesting that the City consider the following action for the property located at 4224 Lake Sarah Dr. S. (PID No. 02-118-24-42-0002) in Independence, MN:

- a. A variance to allow a detached accessory structure on the property that exceeds the height of the principal structure.

***Property/Site Information:***

The subject property is located at 4224 Lake Sarah Dr. S. which is on the east side of the road approximately ¼ mile north of the CSAH 11/Lake Sarah Drive S. intersection. The property has an existing single-family home and is comprised of a mix of wetlands and upland.

Property Information: 4224 Lake Sarah Dr. S.

Zoning: *AG-Agriculture*

Comprehensive Plan: *Rural*

Residential Acreage: 3.75

acres

***Discussion:***

The applicant would like to construct a detached accessory structure on the property. There is currently an existing home and small detached shed located on the property. The City regulates the total square footage permitted for detached accessory structures using a formula contained within the zoning ordinance. The formula allows a property owner to construct an accessory building which does not exceed 2% of the upland square footage of the property. In this case, the City has determined that the upland portion of the property is 2.56 acres. The City’s water resource consultant visited the property several weeks ago to confirm the wetland boundary. Based on this determination, the total allowable square footage for a detached accessory structure is 2,230 SF (2.56 acres -111,482 sf \* .02 = 2,230 SF).

The applicant is proposing to construct a 2,226 square foot detached accessory structure (53’ x 42’) which is just less than the maximum size permitted. The current plan depicting a 42’ x 60’ will be revised to reflect the maximum size permitted. In addition to the limitation on building size, the City regulates the maximum height of detached accessory structures. The maximum height of an accessory structure shall not exceed the height of the principal structure.

*<sup>3</sup> The height of an accessory structure shall not exceed the height of the principal structure. The height of the principle and accessory structure shall be measured in accordance with the definition provided in this ordinance, Section 510.05, Subdivision 10.*

The City measured the mid roof height of the principal structure to be 13’-6”. The applicant would like the City to permit the detached accessory building to be 20’ -6” in height. In order for the applicant to construct a building higher than that which is permitted, the City will need to consider a 7’ variance. The applicant is proposing to locate the building approximately 30’ east of the rear line of the principal structure. The elevation of the proposed accessory building (994) is approximately 4’ lower than the elevation of the principal home (998). This differential in elevation would aid in mitigating adverse effects resulting from the taller accessory building.

The proposed accessory structure is proposed to meet applicable building setbacks. Setbacks for detached accessory structures are as follows:

	<u>REQUIRED SETBACKS</u>	<u>PROPOSED SETBACKS</u>
Front Yard:	85’ from CL of road	N/A (beyond 100’)
Side Yard:	15’	16’
Rear Yard:	40’	N/A (beyond 100’)

There is an existing driveway that would provide access to the proposed building. The proposed building will be used by the applicant for an office, storage, workshop, canning, and fish cleaning kitchen. The City noted that the “range” label shown in the kitchen area of the plans should be removed to address any issue that could be construed as an accessory dwelling unit. The proposed building is 3 stories with a “walk out” lower level, main level, and second story. The building would be sided with board and batten steel siding and a metal roof.

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 Agriculture District. The applicants have attempted to locate the building to meet all other applicable setbacks for properties zoned Agriculture.

- b. The potential impacts of the requested variance will be somewhat mitigated as a result of the existing elevations, size of the property and existing screening due to vegetation and elevations.
- c. The character of the surrounding area is a mixture of agriculture and residential. The proposed detached accessory building is generally in keeping with the intent and typical use of properties zoned Agriculture.
- d. The adjacent property to the south has several large, detached accessory structures. The property to the north has several large agricultural buildings.

The City discussed the recently adopted ABRC review process and applicable criteria. The requirements for setbacks from the principal building (75' separation) and increased side yard setbacks (30' instead of 15') would create additional issues relating to placement of the building as determined by the applicant. As a result, the request for a variance was pursued for this property. The Planning Commission will need to determine if the requested variance meets the requirements for granting a variance.

***Neighbor Comments:***

The City has not received any written comments regarding the proposed variance.

***Recommendation:***

Staff is seeking a recommendation from the Planning Commission for 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 7-foot variance will allow the detached accessory building to have a maximum height of 20'-6" feet as measured in accordance with City standards.
3. The proposed building cannot be used for a commercial business or storage.
4. The applicant shall provide the City with a revised set of plans showing the building dimensions to be 53' x 42' prior to City Council review and consideration.
5. The applicant shall provide the City with a grading plan prior to City Council review and consideration.
6. The Applicant shall pay for all costs associated with the City's review of the

requested variance.

7. 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.

Kaltsas summarized the 4 pages of this variance request (details in the PC packet). The applicants' request would reduce the proposed accessory building's sq ft to comply with the 2% allowable keeping it at 2,226 sq ft and 53'x42'. He explained that this is a request for a variance to allow a detached accessory structure on the property that exceeds the height of the principal structure. When the City amended its ordinances 7-8 yrs ago to increase the allowable sq ft for detached accessories and also make that sq ft proportional to the property rather than static sizes. Keeping them subordinate to the primary dwelling/ principal structure. The height restriction can be no taller than the principal structure. Some variances came in where that proportionality didn't matter anymore... lots of acreage between structures and met ordinances. The City made an Accessory Building Review Committee/ABRC who can without variance approve height exception subject to applicants meeting other requirements. This applicant has a rambler and wants to have it usable to the primary structure and keep some connectivity for accessibility and keeping it less than 75' away.

They want to utilize the driveway and locate it closer than the 30' side setback and not distanced 75' from the principal structure. ABRC review board process. Full variance is to the height only and meets all other setbacks. Survey shows it is uniquely triangular-shaped adding challenges. (See packet details.)

As noted, there is a wetland, so the City's water resource identified a safe line and applied a buffer maxing the 2.56 acreage at 230 sq ft. The resident is proposing a 226 sq ft. and if approved. 53'x42'.

2<sup>nd</sup>, the building height is measured to the mid-pt of hip/gable roof. They are proposing mid-pt height be 20.6' which is a 7' variance. Proposing its location 30 ft e of rear line of principal structure and set over the top of the hill. Sloping up and then down towards the wetland, so the height should be a couple feet lower than the home's height. The projected location shows the slope away with a walkout utilizing the slope.

The City's set back requirements are: 85' from the c of rd. They're 100+' from rear and are in compliance.

Requesting a 7' variance due to the height limitations. Removing the range from the plan, as ranges are defining items making it a living kitchen vs. a s/he shed kitchen. (See architectural plans for details). 2<sup>nd</sup> story has office and storage, totaling 3 levels. Kaltsas showed the site plan drawings and has a white steel siding.

Criteria reasonable manner are common in this area. Neighbors also have large detached accessory buildings. The ordinance was enacted after this home was built. If granted it wouldn't alter the surrounding area. If granted, it would help to mitigate the extensive vegetive buffer. Which can be seen from the street but their setback help. No comments were received for this variance.

Gardener asked how close does the building have to come to the original structure to be considered to be attached as he'd seen some 6" away still be considered "attached"? Kaltsas said it needs to be attached. Story asked the ballpark height of the building is to the south. Kaltsas said 20' Are there restrictions on permeable % applied to this for the driveway? Kaltsas, no.

Gardner discussed with Zitzloff on the building's intended use for non-dwelling use but for fish cleaning, office, etc. They agreed the variance was a good idea.

**Volkenant motioned to close the Public Hearing. Story seconded. No further questions. Ayes: Volkenant, Gardner and Alternates Story and Usset. Nays: None. Absent: Dumas, Tearse, and Thompson. Abstain: None.**

**Motion by Usset to approve variance subject to staff recommendations, second by Volkenant. Ayes: Volkenant, Gardner and Alternates Story and Usset. Nays: None. Absent: Dumas, Tearse, and Thompson. Abstain: None. Motion Approved.**

This will go before the July 5th Council meeting for consideration.

6. **TO BE TABLED TO JULY 19 - PUBLIC HEARING:** Jon Dailing/Windsong Farm Golf Club (Applicant) and David Meyer (Owner) are requesting the following action for the property generally located at and adjacent to 8590 County Road 92 N (PID No.s 32-118-24- 23-0001, 32-118-24-22-0003, 32-118-24-22-0002, 32-118-24-13-0002, 32-118-24-12-0003 and 32-118-24-12-0004) in the City of Independence, MN:
  - a. Conditional use permit amendment to allow the development of a new 18-hole golf course and associated site improvements on the subject properties.

Kaltsas asked for a formal motion allowing a 2<sup>nd</sup> 18-hole golf course on their north property to be tabled as some items needed to be tweaked before going before CC and to allow us to not re-notice it and for more public to attend.

**Gardener Opened public hearing and Volkenant motioned to close public hearing. Ayes: Volkenant, Gardner and Alternates Story and Usset.**

**Volkenant motioned to table the Public Hearing until the July 19<sup>th</sup> Planning Commission meeting, second by Story. Ayes: Volkenant, Gardner and Alternates Story and Usset. Nays: None. Absent: Dumas, Tearse, and Thompson. Abstain: None. Motion Approved.**

Motion to close Public Hearing:

7. Open/Misc.

Kaltsas said there's a big July 19<sup>th</sup> meeting agenda.

8. Adjourn.

Story motioned to close.

**Adjourned at 8:02 p.m.**

Respectfully Submitted,

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Linda Johnson / Recording Secretary