

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, MARCH 11, 2019 - 8150 BARBARA AVENUE**

1. CALL TO ORDER 2. ROLL CALL:

The City Council of Inver Grove Heights met in regular session on Monday, March 11, 2019, in the City Council Chambers. Mayor Tourville called the meeting to order at 7:00 p.m.

Present were: Councilmembers Bartholomew, Perry, Piekarski Krech, and Dietrich; City Administrator Lynch, City Attorney Kuntz, Associate City Planner Botten, and City Clerk Tesser.

3. PRESENTATIONS:

There were no presentations.

4. CONSENT AGENDA:

- A.
 - i. Minutes of February 11, 2019 City Council Meeting Minutes.
 - ii. Minutes of February 25, 2019 City Council Meeting Minutes.
- B. **Resolution 19-39** Approving Disbursements for Period Ending March 5, 2019.
- C. **Resolution 19-40** Authorizing Carryover of Unused Budget Appropriations.
- D. Consider **Resolution 19-41** Approving the First Amendment of the 2019 Dakota County Community Funding Application to Receive Additional Funding for Waste Abatement Activities.
- E. Approval of Rental Licenses.
- F. Lakefield Veterinary Group – Case No. 19-04SC; Consider the following for property located at 7109 and 7131-7135 Cahill Avenue:
 - a) A **Resolution 19-42** approving a Preliminary and Final Plat for a one lot subdivision.
 - b) A **Resolution 19-43** approving a Vacation of existing perimeter drainage and utility easements in Winsor Ridge.
 - c) A **Resolution 19-44** approving a Conditional Use Permit to expand a small animal veterinary clinic.
- G. Consider approval of the attached job description of Shift Captains for the Inver Grove Heights Fire Department.
- H. Personnel Action.

Councilmember Piekarski Krech requested to pull Agenda Item 4A.

Motion by Bartholomew second by Perry to approve the Consent Agenda with the exception of Agenda Item 4A.

Ayes: 5

Nays: 0 Motion carried.

Councilmember Piekarski Krech stated that she was absent from the meeting that took place on February 11, 2019.

Motion by Piekarski Krech second by Perry to approve Agenda Item 4Ai Minutes of February 11, 2019 City Council Meeting Minutes.

Ayes: 4

Nays: 0

Abstain: 1 (Piekarski Krech) Motion carried.

Motion by Piekarski Krech second by Perry to approve Agenda Item 4Aii Minutes of February 25, 2019 City Council Meeting Minutes.

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC COMMENT:

There were no public comments.

6. PUBLIC HEARING:

7. REGULAR AGENDA:

PLANNING DEPARTMENT:

A. James Vanbuskirk; Consider the following resolutions for the property located at 9215 Rich Valley Boulevard:

a) A Resolution relating to a Variance to allow an accessory structure larger than 1,600 gross square feet. Resolution 19-45

b) A Resolution relating to a Vacation of existing drainage and utility easements on either side of lot line between Lots 1 and 2, Block 1, Rich Valley Ponds. Resolution 19-46

Associate City Planner Heather Botten stated that the request is for property located on the south side of Rich Valley Boulevard. It is zoned E1 (Estate Residential), 2.5-acre minimum lot size requirement. She stated that the applicant is proposing to construct a 2,382 two story, gross square foot accessory building. The applicant owns two parcels of land totaling 4.87 acres. There is one single family home on the property and no other structures on either lot. She stated that an accessory structure is not allowed to be constructed on a vacant parcel without a principle structure regardless of the size of the structure. The two lots would be required to be combined, which is done administratively. She stated that there is a drainage and utility easement that goes through the middle of the two parcels. It is in the request to vacate that easement. She stated that City Code allows for one detached accessory structure on the property up to 1,600 gross square feet in size. She commented that the applicant stated that the additional size is for their own personal space and items. The proposed accessory structure would be in compliance with setbacks, impervious surface, and external building material requirements. She stated that both lots of the applicant's property were platted in 2006, and both are considered to be buildable lots. She stated that each lot could have a home and an accessory structure on it. The owner does not have the intention of building another home on the property or selling the property to someone else. The proposal is for one detached structure on the parcel.

She stated that staff believes that the applicant did not identify any practical difficulties to comply with the Ordinance. There is currently an attached garage with the house. The property is allowed a 1,600 gross square foot accessory structure and is not preventing the homeowner from any reasonable use of the property if the variance would be denied. She stated that staff recommends denial of the request but is in support of the vacation of the drainage and utility easement. She stated that the Planning Commission met on March 5th for a public hearing and recommended denial of the request for the variance due to a lack of practical difficulty. They were in support of the vacation request.

Councilmember Piekarski Krech asked if vacating the drainage easement was a problem. She asked how that affects the status of the property and if it changes it.

Associate City Planner Botten responded that there would be no problem. She stated that the engineering department is requesting some additional easement over the lowland. She responded that it does not change the status of the property.

James Vanbuskirk, 9215 Rich Valley Boulevard stated that he brought the builder for the building, Mike Peterson, along to the meeting. Pictures of the home were displayed, and Mr. Vanbuskirk stated that the home lot is 2.5 acres, the other lot is 2.37 acres, and was issued a variance to allow another house and another garage on it. He stated that the previous owners of the vacant lot left room for a home on the property which is located about 30 to 40 feet away from the current home.

He stated that he is proposing to build a detached garage next to his home and has encountered City Codes disallowing his plans. He stated that one is about property line anomalies on his lot and the second is about how bonus space is measured in garages. The two lots are a platted total of 4.87 acres and is .13 acres short of five acres. He commented that City Code allows for one 1,600 square foot garage to be built on lots under five acres and a 2,400 square foot garage on lots of five acres or larger. He stated that he has a 4.87-acre lot that was split into two contiguous lots, one is 2.5 acres where the current house is, and the other lot is 2.37 acres. The second lot has a variance that allows a complete house, well, drainfield, and separate 1,600 square foot garage to be built. He stated that when he recently purchased the home and the second lot, he knew he needed to have a detached garage. He commented that his wife also stated that he should have a music practice area that is not in the main house. He stated that he assumed he would have no problem building a second garage that is much smaller than a second home and garage. He proposed to rejoin the two lots into one and build only one garage with a 1,600 square foot footprint. He asked that Council look at the unique situation and conclude that allowing the single variance on the garage rather than two large houses and two garages.

Mike Peterson, Precision Builders, stated that he has been working with Mr. Vanbuskirk on this issue. He stated that there are some land anomalies and that he pulled the documents he will show from the Dakota County GIS map service. He stated that he also spoke with Pete Hawkinson, who is with the company that originally did the platting for Rich Valley Ponds for further clarification. He stated that three items were discovered with the lot lines on the home. He commented that Mr. Vanbuskirk is close to the five-acre minimum to not needing the variance. He displayed a map of the area and stated that the first item is the neighbor's roadway easements. There is land in the easement that counted toward those lot acreage measurements. He commented that Mr. Vansbuskirk's was shorted. There is an increasing roadway easement on his own property. There is a 33-foot easement that belonged to both lots, and a 22.7-foot increase in the road right of way. He questioned why the extra land was taken away from the lot and deeded to the County. He commented that if it were included in Mr. Vanbuskirk's land, it would total over five acres and would not require a variance.

Mayor Tourville stated that it is a County road and asked if it would have been deeded to the City right of way.

City Attorney Tim Kuntz responded that it went to the County. He asked how big the parcel was, not including the extra space.

Mr. Peterson responded that he did not have the answer to that but would be discussing another area that could answer some of that question.

Mr. Peterson discussed the lot line and the current lot line based on the legal description. There is an exception with the dotted line from the roadway back to the lake which isn't in their legal description or Lot 2's legal description. He commented that it is an exception but is written into the legal description of Mr. Vanbuskirk's land. He stated that it gives the impression it belongs to Block 1's property. He stated that he spoke with Mr. Hawkinson who stated that it could be a result of antiquated engineering practices. He stated that the applicant could go through the process of trying to find out who owns the area, but it would be a long task and expensive. He stated that it was strange that the area was not dedicated.

Mayor Tourville asked about the one driveway that serves the home.

Mr. Vanbuskirk responded that the owners before him owned both lots and may have thought of selling the second.

Mr. Peterson asked that the City Council consider the exception that was found, to consider the anomaly that takes more land of what used to be counted towards the acreage, and to take into account the neighboring properties and where their lot lines go to the middle of the road. He stated that over time

enough land has been deeded away from Mr. Vanbuskirk's property that limits him from building a garage that matches the aesthetics of the house.

Mayor Tourville stated that he mentioned the jog in front and asked how much that measured at.

Mr. Peterson responded that the exception is almost eight feet wide between Mr. Vanbuskirk's lot line and the neighbor's lot line.

Mr. Vanbuskirk commented that if his land were 59 inches wider, it would put him over five acres.

Councilmember Piekarski Krech asked who took care of the eight-foot exception.

Mr. Vanbuskirk responded that it was all woods.

Mayor Tourville stated that when getting beyond Lot A and taking a look at the PUD near Rich Valley, it looks like it gets back out to the center line of the road again.

Mr. Vanbuskirk responded that both of his neighbors have over five acre lots. It looks like their lot lines have been pulled back from the center of the road. He stated that going further toward Dodd Road, the residences are plotted to the center of the road with easements. Going further yet, some are pulled back to what he referred to as "one level" and commented that his has been pulled back a "third level". He stated that the problem drops him below the five-acre level.

Associate City Planner Botten stated that when looking at lot size they do not include right of way. Some of those do have right of way to the center line or above and is excluded when looking at total lot size. She stated that the jog that is shown is because of platting. That additional right of way was dedicated to the County for the future. She stated that when the other lots are plotted, the lot lines would match up.

She stated that the plat was approved in 2006. She commented that she recently found a memo from 2007 addressed to the Council addressing lot sizes. There was a neighbor dispute between the two. The applicants agreed to deed the disputed five-foot sliver to the neighbor to the east. She stated that she was unsure that was ever done.

Mayor Tourville commented that it was to the other property owner. He asked who made the decision.

Associate City Planner Botten responded that it was the other property owner. She stated that the Manley brothers were the owners of the property. They were having a dispute and in order to record the property because there was an undecided dispute, it was agreed to give the other property to the east.

Associate City Planner Botten stated that the driveway easement is a private easement and was done between the two parcels in the event there was another house built on the vacant parcel. It is a private document.

Councilmember Bartholomew asked if the eight feet was recorded.

Associate City Planner Botten responded that she does not have any documents stating it was done. It could have been a private property matter. She stated that looking at the County sites it is shown as a sliver that nobody has ownership of. She commented that the property owner to the east is still the same one that was there in 2006, if brought to their attention, they may take care of that.

City Attorney Kuntz asked about the three oddities that were mentioned and clarified that one was the expanded county right of way, the second was the exception. He asked what the third one was.

Mr. Peterson responded that the third was the comparison of Mr. Vanbuskirk's lot line to where the lot lines go to the center of the road. Mr. Vanbuskirk's does not.

Mr. Vanbuskirk displayed photos of his home and drawings of what the proposed garage would look like. He stated they are picking up the design elements of the home with a high-pitched roof and gables. He displayed a scale model of his current garage and stated that there is a "bonus room" created in the upper portion of the garage that leaves space throughout the entire length. He brought out a scale model of the proposed garage that would be built on a 1,600 square foot pad. He commented that the language in the Code states that any space created within the rafter system does not count towards the 1,600 square feet. He stated that the problem with that is that the proposed garage has a deeper bay to store a motorhome. The roofline works in the front, but not the back, and they would have to build another gable. He commented that there is a problem with the building Codes and the way they are written. If that area were raised two feet higher it would count against his space. He stated that to try to fix the problem since it did not work in his favor, anyway, was to expand the rear portion and flatten out the pitch of the roof. Doing that would put them over 1,600 feet and is why he is asking for a variance. It brings the countable space below 2,400 square feet but over 1,600. He stated that the problem is when the back portion is added and the space in the expanded roof is counted as square feet, where the space in the roof along the front is not counted.

He stated that the Planning Commission has said that they do not want to set a precedence by allowing a variance. He commented that he did not believe there was another lot in the City with all of the conditions outlined with the building and the lot lines. He stated that his lot is the only lot slightly diminished amid the surrounding five-acre plus lots. He commented that the surveyor told him it would take months and thousands of dollars to find out who owns the unknown strip of land. The strip of land is not on his deed nor his neighbors. The land exists and affects the size of his lot. He stated that it is fully landlocked, and nothing can be done with it as it is. The roadway easement also reduces his acreage but not the perceived area. He stated that he is asking for a variance to build the garage with the following four points to take into consideration:

1. Deed says he owns 4.87 acres. At five acres he would be allowed a 2,400 square foot garage. If the lot were 59 inches wider, he would be over the five-acre mark and his proposed building is under the recommended 2,400 square foot limit.
2. The footprint of the building is 1,600 square feet and most of the bonus space is not counted in that number. The gable to cover the motorhome bay puts them over the 1,600 square foot limit.
3. All aspects of the garage have all been cleared with the merging of the two lots together. The merging is in process.
4. Currently has two lots. Lot 1 is 2.25 acres and includes his home. Lot 2 is 2.37 acres and granted a variance to allow a home and 1,600 square foot garage.

He asked that the Council consider the options available. He stated that if he kept it to two parcels, it could contain two homes, two garages, and would not keep with the existing five acres lots surrounding the area. He commented that he could build a smaller garage with a regular roof line that does not fit cosmetically. He stated that he could merge the two lots and build the proposed garage on the 1,600 square foot space that is already approved for another home. He stated that he is asking for a variance to build the building.

Councilmember Piekarski Krech asked if he was Blue Planet Holdings.

Mr. Vanbuskirk responded yes. That is the LLC he owns it through.

Mayor Tourville stated that not many single-family owners come with models to display. He commented that the drawing has two garage openings, but the model only shows one.

Mr. Vanbuskirk responded that his model was upside down. There are two garage doors. It is approximately a 2 ½ car garage.

Mayor Tourville asked that if there was an agreement that states that nothing else would be built on the lot, it was built out to its max, and that another single-family home could not be built, and if he would have a problem with that.

Mr. Vanbuskirk responded that he would not have a problem.

Mayor Tourville asked how large the lots were.

Mr. Vanbuskirk responded that the lot where his home is located on is 2.5 acres and the other lot is 2.37 acres, which is the lot that was given the variance in 2006.

Councilmember Dietrich asked if the exterior of the garage would match the home. She asked if the permeable surfaces were good with Codes.

Mr. Vanbuskirk responded that they are planning to match everything. He commented that it is a more expensive garage than he was planning to build. He responded that the everything had passed Codes.

Councilmember Bartholomew stated that the original creation of the property creates enough ambiguity for a hardship. There is the exception that nobody knows about. He commented that there is additional ambiguity out front when looking at dedicated property. The 59 inches were not the issue. He stated that the original intent was to be five acre lots and that ambiguity caused it to be less. He stated that the practical difficulty is platting error causing it to be less than five errors.

Motion by Bartholomew second by Dietrich to approve with the practical difficulty as stated to James Vanbuskirk; Consider the following resolutions for the property located at 9215 Rich Valley Boulevard:

- a) A Resolution 19-45 relating to a Variance to allow an accessory structure larger than 1,600 gross square feet.**
- b) A Resolution 19-46 relating to a Vacation of existing drainage and utility easements on either side of lot line between Lots 1 and 2, Block 1, Rich Valley Ponds.**

Councilmember Piekarski Krech stated that she supports this because it removes one well and septic system.

Mayor Tourville requested that there would be no living space in the new garage.

Mr. Vanbuskirk responded that there would not be a kitchen and no shower. There would be the necessary toilets and a work sink.

Councilmember Piekarski Krech asked if that would hook up to the current septic system. She asked where the septic was located.

Mr. Vanbuskirk responded that it would hook up to the current system. He responded that the septic was located behind the home.

Councilmember Piekarski Krech asked if they were adding the stipulation that there should be no living space in the detached facility.

Associate City Planner Botten stated that an ADU would be allowed in an accessory building. The applicant does not have to come before the City Council for that if they are in compliance with the Code. She stated that if ADU space is less than 1,000 square feet they would not have to come before the Council the way the Ordinance currently is. The Code would allow to convert of up to 1,000 square feet as an ADU.

Councilmember Piekarski Krech asked if they would have to connect to the existing septic and well.

Associate City Planner Botten responded that if it were an ADU it would still have to be an existing well and septic. She commented that she was not sure the well and septic were designed to handle another family to be there, that would be up to inspections department to handle.

Mayor Tourville stated that another septic and well does not make sense and neither does another entire building.

City Attorney Kuntz asked if they could explore a couple of the conditions raised and if they could be clarified or refined. One is on the no living space. He stated that from the applicant's presentation, he is creating a space where he will be practicing music. He stated that the no living space meant to preclude that, what was in mind was no kitchen or bedrooms. He asked if there was a bathroom.

Mr. Vanbuskirk responded the space was to be used as a music room, among other things. He responded that he planned to have a bathroom on both floors and a sink on both floors. The main floor is strictly garage with a work sink. There would not be a kitchen or bedroom.

City Attorney Kuntz asked if the toilet facilities and work sink connected to an existing septic system.

Mr. Peterson responded that it would be in a holding tank.

Mr. Vanbuskirk responded that it would be used so little that it is just a tank in the ground that would be pumped out as needed.

City Attorney Kuntz asked who told them that was legal. He asked if the information about having two toilets and a sink was shared with whoever they spoke with.

Mr. Peterson responded that they worked with some of the inspectors and had conversations with the City. He stated that he has not submitted a plan for formal review yet. He responded that the plan for the toilets and sink were presented.

Councilmember Piekarski Krech commented that the addition of the toilets could put them over the septic system load.

City Attorney Kuntz questioned the condition about not having a living space. He asked if that could that be converted into a condition that states there shall be no kitchen facilities, meal preparation facilities, or bedrooms located within.

Councilmember Piekarski Krech and Bartholomew agreed.

Mayor Tourville asked if it would come back to the City if the applicant wanted to have living space.

Associate City Planner Botten responded that they would have to come to the City for a Building Permit. If they meet the requirements for the ADU, it is not brought before the Planning Commission or the City Council.

Mayor Tourville stated that if that were to change, they would have to go through the proper Permits with the City.

City Attorney Kuntz asked if they are concluding that because of other provisions that he has to meet. He stated that the Council does not need the provision about no living space or another house.

Mayor Tourville responded that the applicant would have to follow the proper permitting process with the City if that space is going to change.

City Attorney Kuntz asked what the suggested reason was about the practical difficulty.

Councilmember Bartholomew responded that when the lots were created, the intent was for all of them to be five acres in size. The ambiguity was where the property line lies between the east and west property that created a shortfall of a small amount and created this lot to be less than five acres. He stated that that error was the practical difficulty. He stated that the practical difficulty was the error and setting the property line which caused the ambiguity.

City Attorney Kuntz clarified and stated that the error or ambiguity relating to the boundary dispute on the east side of the property.

Associate City Planner Botten asked if they would be including the conditions listed in the staff report for approval for the variance.

Mayor Tourville responded yes.

Councilmember Piekarski Krech asked if the lot combination could be done administratively.

Associate City Planner Botten responded that it is an administrative process that includes filling out an application, the City writes a letter to the County stating that the City approves, they bring the letter to the County for the consolidation. It would have to be done before the issuance of the Building Permit.

Ayes: 5

Nays: 0 Motion carried.

8. MAYOR & COUNCIL COMMENTS:

Councilmember Piekarski Krech asked that people remember to clean storm drains for the melting snow.

Mayor Tourville asked to have a date for the update on the consultant that is working on employment. It would be a report that would come to Council. He asked the Council how often they would like the updates and asked if twice a month would work.

The City Council agreed on twice a month for updates.

City Administrator Lynch responded that something would be sent out this week.

Mayor Tourville stated that there is a meeting listed for this Thursday for a final decision.

9. ADJOURN:

Motion by Perry second by Dietrich to adjourn at 8:09 p.m.

Ayes: 5

Nays: 0 Motion carried.