

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, May 16, 2023 - 7:00 p.m.
City Council Chambers - 8150 Barbara Avenue

1. CALL TO ORDER

Chair Niemioja called the Planning Commission Meeting to order at 7:00 p.m.
The Pledge of Allegiance was recited.

2. ROLL CALL

Commissioners Present: Elizabeth Niemioja (Chair)
Scott Clancy (Vice Chair)
Robert Heidenreich
Joan Robertson
Jonathan Weber
Dennis Wippermann
Kate Challeen

Commissioners Absent: Jaime Besser (excused)
Vacant

Staff Present: Allan Hunting, City Planner
Heather Botten, Associate Planner
Stacy Bodsberg, Community Development Support Specialist

3. CONSENT AGENDA

A. The Planning Commission Meeting Minutes for May 2, 2023, are not yet available and will be distributed at the next meeting.

4. PUBLIC HEARINGS

A. Consider a Request by Phoolcummarie Motilall, 10471 Barnes Ave, for a Variance from the Rear Setback and to Exceed the Maximum Size of an Accessory Building. (Case No. 23-19V)

Reading of Public Notice

Commissioner Weber read the Public Hearing Notice to consider the request for Motilall - Case No. 23-19V, for property located at 10471 Barnes Avenue. The request consists of a Variance to allow an accessory building 4,000 feet in size when 2,400 square feet is the maximum size allowed. Notices were mailed to 7 property owners on April 26, 2023.

Presentation of Request

Associate Planner Heather Botten discussed the request for property located along Barnes Avenue and 105th Street. The property is currently zoned Agricultural. The lot size is about 5 acres and consists of a single-family home with a 3-car garage. There is an existing 3,200 square foot structure located about 58 feet from the northern property line. This past January the roof of the structure collapsed due to the heavy snow load. The applicant is requesting a Variance to build a structure 4,000 square feet in size, located 38 feet from the northern property line. Rural residential properties that are greater than 5 acres are allowed to have up to 2 detached structures with a gross square footage of 2,400 square feet. Any structures over 1,000 square feet in size are required to have a 50-foot setback from all property lines. The applicant states the structure is for their own personal items. The accessory building would comply with all other zoning requirements such as exterior building materials and impervious surface on the lot. She stated that the city has recently modified the zoning code increasing the size of accessory

structures on 3.4 to 5 acre lots. At this time, they have not gone above that. The maximum is still 2,400 square feet.

With this request, the location of the proposed structure is in the same general location. The additional size (20 feet) has moved into the northern part, encroaching into the northern setback. With this property, staff believes there is room to the south to add the additional square footage, or push the whole structure further south to comply with setback requirements. The property would be allowed to replace the existing structure up to the same square footage of 3,200 square feet. Staff believes the request for the additional square footage and the encroachment into the setback to be a convenience to the applicant and not a practical difficulty. Most of the lots in the general area are about 5 acres. With the vegetation, the structure already there, and other structures in the area, adding the additional square footage may not have an impact or alter the character of the neighborhood.

With regards to the variance criteria, the request is unique in economic considerations as they appear to be a part of the basis for the request. The applicants were not aware the rules had changed since first building the structure over 20 years ago and had already ordered the new 4,000 square foot structure. Due to it being a special order, they are unable to return it.

Economic considerations cannot be the sole basis for approving a variance request. Staff recommends denial of the request as they do not believe there is sufficient rationale to support the location and size of the accessory building.

She mentioned that an email was received from one resident who noticed the public hearing on the city website and thought this would be an additional structure. They were against the applicant having an additional 4,000 square foot structure but never followed up.

Planning Commission Discussion

Commissioner Clancy stated that there had been discussion about trying to work with square footage for accessory structures in agricultural zoned districts with previous applicants. He asked if there were special permissions allowed for accessory structures housing livestock.

Ms. Botten replied that if the sole use of the structure would be agricultural use it would be exempt from City Code requirements. In this case it is not a farming/agricultural use and would be for his own personal items.

Commissioner Heidenreich questioned what the original structure use was for.

Ms. Botten replied that 23 years ago the original structure was built for agricultural purposes. A building permit was not required at that time. Since then, building requirements have changed and a building permit is now required even if it is being used for agricultural use.

Commissioner Heidenreich questioned if the structure was ever used for agricultural use or if that was how they got around needing a building permit.

Ms. Botten replied that she was unsure.

Commissioner Heidenreich stated that he drives by there all the time and is concerned that the applicant has about 40-50 intermediate bulk containers all over his yard.

Ms. Botten replied that staff had asked the applicant about the containers in the yard and the applicant stated that they would be removed by the end of the summer.

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Commissioner Robertson stated that the request was like one that the Commission dealt with two weeks ago. At that time, it was discussed that the City Council had not yet allowed any type of ratio, the standards are still the same. She said the difference with this request is that the applicant already ordered a shed based on an assumption that was not confirmed. Ms. Robertson stated that she knows someone who did the exact same thing in Rosemount, and it was not allowed to be returned, the Rosemount Planning Commission denied the resident's request. Her biggest concern was if changing the strategy, if someone would go ahead and buy it first. She questioned if that sets a precedent and if someone really wanted one, they may try to buy it first and then go to the Planning Commission. If being consistent, she suggests they be held to the same set of standards they held two weeks ago with the similar request.

Chair Niemioja stated that the applicant was not in attendance and that there was nobody in attendance in the audience.

Commissioner Weber stated that if switching to the rationale that was put in place for smaller acreages, this would still be 2,400. It would not matter if there was an updated code for 5+ acres, this would still be 2,400.

Chair Niemioja stated that staff is allowing the applicant to go beyond by grandfathering them in on the size Variance. They are getting additional square footage they would not normally be getting. It is a very narrow exception to be grandfathered in like this. She stated that there isn't a way for the Planning Commission to change the City Code to allow for a bigger structure or to go against the setback without a great practical difficulty. She does not see a practical difficulty.

Commissioner Weber stated that he was fine with the square footage due to the location of the property. He lives in the same area and understands that people have larger lots and want to keep things indoors. He referenced the home they had discussed on Rich Valley Boulevard that went over and above the allowed square footage. It was due to items the applicant wanted to store. He said driving by this property, it would probably be nice to see the things stored outside, be stored inside a building. This home is on the way to and from one of the most gorgeous and busy parks people go to on the weekends. He said he would support 4,000 square feet, but cannot support the 38-foot setback because the building could be moved forward.

Chair Niemioja questioned what Commissioner Weber's rationale would be with supporting 4,000 square feet.

Commissioner Weber replied it would be for the primary reason of taking what is outside and putting it inside. He mentioned that some type of verbiage was used for Rich Valley in the past.

Commissioner Challeen said this seemed 100% consistent with what was discussed two weeks ago; that resulted in a denial.

Commissioner Robertson stated that would set a precedent. She doesn't want to allow someone to order a bigger building first and then see if it would be allowed. She does not want to get into the habit of saying there is a bunch of junk or an excess of materials in their yard and that maybe it would be approved so they could get their items out of the yard. That could be considered not valid rationales for exceeding building size or setback.

Chair Niemioja stated that there have been multiple instances where someone has come for a Variance after the fact. After the fact isn't always the best time to bring a request.

Commissioner Weber asked if the building materials were metal and post like the current one is.

Ms. Botten replied in the affirmative.

Commissioner Weber stated if the Commission does not approve the additional 800 feet, the applicant would just have excess material. The economic distress wasn't that much because the applicant can just build it shorter.

Opening of the Public Hearing

There were no attendees for the Public Hearing.

Planning Commission Recommendation

Motion by Commissioner Wippermann, Second by Commissioner Robertson, to Deny both Variance requests for Phoolcummarie Motilall, 10471 Barnes Ave, (Case No. 23- 19V) with the Reasons Stipulated in the Staff Report.

Motion carried (7/0). This item goes before the City Council on June 12, 2023.

5. REGULAR BUSINESS None.

6. COMMISSION AND STAFF COMMENTS

Commissioner Robertson stated that the meeting minutes from May 2, 2023, Planning Commission meeting were not included on this meeting and suggests that they be amended when they are available. Item D. Request by Bituminous Roadways, there was a condition or language added that states the independent lab to be used for testing would be one that was consistent with the Minnesota Department of Health. She said she thought it was said "accredited by", the Minnesota Department of Health does not accredit those kinds of laboratories. Accreditation is a significant process. She proposes when the minutes are written, they don't say "accredited by", it says "approved and recommended by the Minnesota Department of Health". She wanted this language changed before the minutes are approved.

Chair Niemioja stated that the minutes would have to be reported as the minutes were and that this change would be an amendment to those minutes.

Commissioner Robertson stated that when it comes time for those minutes to be approved, the Commission should make a motion to amend the minutes.

Commissioner Heidenreich stated that this item goes before City Council next Monday. He was doubtful any of this would be written by then and the decision would have been made.

Chair Niemioja questioned if a note can be made and passed along.

City Planner Allan Hunting replied he would look to see what the condition was. He said he thought the list would be used that was provided or registered with the Department of Health. He said Draft minutes would be a part of the packet that goes before the City Council. He would check the minutes for what was referenced.

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Chair Niemioja stated that this meeting is Commissioner Robertson and Commissioner Challeen's final Planning Commission meeting of their term (by choice) and that they have added wonderful discussion to this Commission, and both were thanked. She stated that Commissioner Clancy was reappointed for another three-year term.

Commissioner Challeen stated that it has been a pleasure.

Commissioner Robertson shared that she has enjoyed it and likes it. There is a point where she believed she had to pull something off her bucket list and she knew this would be left in good hands. She had no worries. If something comes up, she can always come and sit in the audience.

Associate Planner Botten mentioned there are items up for discussion for a next meeting.

7. ADJOURN

Motion to adjourn the Planning Commission Meeting at 7:21 p.m.

Respectfully submitted, Sheri Yourczek, Recording Secretary