

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, November 7, 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)
Jonathan Weber (Secretary)
Dennis Wippermann
Lance Twedt
Trisha Presley
Robert Heidenreich
Aida Schaefer
Jason Teiken

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

3. CONSENT AGENDA

A. Minutes of the October 17, 2023, Planning Commission Meeting

Commissioner Schaefer mentioned she had a question that was not included in the recommendation. She assumed it would be included in the paperwork staff submitted to the City Council.

Associate Planner Botten replied the City Council receives a copy of the Planning Commission minutes.

Commissioner Schaefer questioned if the City Council receives a written report like this Commission does, which takes them through different criteria. She said if the economic consideration is stating there is none that supersedes whatever documentation is in the meeting minutes.

Chair Niemioja clarified that Commissioner Schaefer was looking for whether or not the report followed through on her question.

Commissioner Schaefer agreed.

Associate Planner Botten suggested reaching out to City Planner Hunting who presented at the meeting. She referenced the staff report stating there is a shorter summary sent to Council with a copy of the Planning Commission minutes along with the planning report to the Council.

Commissioner Schaefer asked when this was going to be presented to the City Council.

Associate Planner Botten replied next Monday. The packet is provided to the Council on the Wednesday or Thursday prior.

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Chair Neimioja stated there were no changes recommended to the minutes.

The minutes from the October 17, 2023 Planning Commission meeting were approved without exception.

4. PUBLIC HEARING

A. Request for a Variance to construct a home addition that encroaches on the front setback located at 6930 Carmen Avenue. (Brian Carpenter - Case No. 23-44V).

Reading of Public Notice

Commissioner Weber read the Public Hearing Notice. Notices were mailed to 8 property owners on October 19th, 2023.

Presentation of Request

Associate Planner Heather Botten discussed the request for property located north of 70th Street, east of Carmen Avenue, and zoned R-1C, Low Density Residential. The property had a house fire which requires the original home to be rebuilt. The homeowners are using the existing foundation from the original home, that was built in 1960. The size of the home would be increased by adding a second story and a front porch that would be encroaching into the front setback. The porch would be located about 25 feet from the front property line whereas 30 feet is the required setback. The porch addition would be in compliance with other City Code requirements. Decks and porch additions are typical expansions of single family homes, the size and location are limited to conforming to setbacks. Although the porch addition would enhance the curb appeal of the newly built home, it would be the closest structure to the front property line in this neighborhood when comparing to other homes along the street. The lot has unique constraints as they are using the existing foundation to rebuild. There is a reasonable use on the property with the home being constructed. There is room on the property to add a porch to the rear of the home or to have an uncovered front entrance way (deck). Code allows for an uncovered front entrance way to encroach up to 24 feet. Based on information in the report and what was presented, staff recommend denial of the request as they feel that all the Variance criteria has not been met. If a recommendation is made for approval there are two conditions listed to include.

Planning Commission Discussion

Commissioner Weber said the right-of-ways for homes on the west side of the road seem to be minimal compared to the right of way on the right side of the road. Sidewalks are in on the other side of the street, they have less right of way than this side has.

Associate Planner Botten stated that the right-of-way is the distance between the property line and the curb. On the other side, she was unsure of the dimensions, could be greater because of a sidewalk.

Opening of Public Hearing

Brian Carpenter, 3010 Lunar Lane, Eagan, Capital City Construction, Applicant, stated he has read and understands the report. He addressed the porch stating it does not block site lines, is open air, not enclosed, and does not have living space. It will add to the curb appeal of the

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property. Not having a covered entry could pose a safety issue for the children in the home to keep snow and ice from falling off the roofline.

Chair Niemioja asked if a back patio concept was looked at as opposed to a front porch.

Mr. Carpenter replied it was not being used as a living space. It was to have a covered area into the entryway of the home.

Liz Crandall, 6930 Carmen Avenue, Homeowner, shared that they had a devastating loss when an electrical fire started while out of town. Their belongings were unsalvageable. They raised their two children there for the past 12 years, the thought of not returning broke their hearts. They determined it would be more cost effective to rebuild versus buy. They are using this as an opportunity to add a second story and have a covered entry on the front of their home. They are seeking a variance to allow them to add a roof to cover the front entry of their home, which reduces the front yard setback to 25 feet. By definition, a porch is a covered shelter projecting in front of the entrance of a building. Zoning ordinance states it would allow for an uncovered porch to encroach up to 24 feet from the property line. She said based on the definition of a porch, an uncovered porch is an oxymoron and does not exist.

Chair Niemioja mentioned she drove by today and noticed the property line ended 5-6 feet short of the road. She asked if they mow and maintain the piece of property in front of the home.

Ms. Crandall replied they do. She said there are similar homes in their neighborhood that have a second story and a covered front entry, similar to their planned design (photos were shown). She referenced the report and stated city code identifies criteria considered as practical difficulties. City staff (Heather) has evaluated their request under five criteria:

Criteria 1: Accurate based on city code and the zoning ordinance.

She stated this was the reason why they are requesting a variance and feel approval of the request would be a reasonable departure from the existing zoning ordinance.

Criteria 2: They find to be irrelevant.

They are seeking to add a front covered entryway. Adding a porch on the back of the home does not achieve this.

Criteria 3: They agree.

This is why they are asking for a 25 foot setback. It is less than the 24 feet allowed for a structural element to encroach from the front setback.

Criteria 4: Northern neighbors have no issue with what is being proposed.

Their garage would be between the porch entry and their home. It has no impact.

Criteria 5: Respectfully disagree.

The fire in their home created an undue hardship. They found it more advantageous to build instead of buy. Consideration of having a covered front entry directly stems from this hardship as a part of the rebuild.

Chair Niemioja shared that staff gave Criteria #5 for an example. It was stated as economic consideration that was not alone the reason they were going for this. Staff is not trying to work against them on these elements. These elements have to be gone through under law. The Planning Commission is missing the practical difficulty piece. She said she likely speaks on behalf of the entire Commission that they are all very sympathetic to the fact that this fire could

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have been much worse had they been home. The Commission wants to try to determine a practical difficulty. All factors have to be addressed in the analysis.

Ms. Crandall said they understand the recommendation from staff is to deny the request. They feel the recommendation statement is incorrect. It is not a front porch addition, this is to cover the front entry. They do not believe adding this to their home would negatively impact the neighborhood. She asked the Commission to take into consideration the points mentioned. She shared that engineering has reviewed and takes no exception to this variance request.

Commissioner Wippermann asked if the applicant plans to maintain this porch as an open porch, with no walls, no screening, and maybe have a railing. He requested clarification that it would not be used as any type of living space or become a part of the house.

Ms. Crandall replied they would likely not have a railing. The space would not be used for living space.

Commissioner Heidenreich questioned if distances were measured from the house to the setback from the foundation or the edge of the roofline.

Associate Planner Botten responded when the roof overhang is larger than 2 feet, it is measured from the edge of the roofline. Code states the setback is a minimum distance from the lot boundary to the nearest vertical surface, except a roof eave overhang may project up to 24 inches. When going beyond the 24 inches, they measure from the edge of the roofline.

Commissioner Heidenreich asked if they were measuring from the edge of the house.

Associate Planner Botten replied they are measuring from the edge of the porch which is 25 feet from the front property line. The garage is about 30 feet, the house is setback 31/32 feet. The porch would extend into the area 25 feet from the property line.

Commissioner Heidenreich asked what the 28'2 was and if it was to the edge of the structure.

Mr. Carpenter replied that goes to the garage. The covered area would extend about 2 feet past the fascia line of the garage.

Commissioner Heidenreich mentioned it was a 3 foot 10 inch encroachment. It is 26.2 from the foundation to the edge of the property line.

Chair Neimioja explained that the Commission may be trying to determine how far over 24 inches they are going. It is 3 feet over.

Commissioner Heidenreich commented that the roof is overhanging the floor of the porch by more than 2 feet.

Mr. Carpenter replied the deck portion overhangs to the stairs. It does not extend past that.

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Commissioner Heidenreich asked how deep the deck was from the front of the house toward the curb and if it was a 6 foot deck.

Mr. Carpenter replied it is 8 feet total.

Commissioner Weber asked how far the deck protrudes from the foundation towards the street.

Mr. Carpenter replied the deck to the end of the stairs is 8 feet from the front of the home. The deck itself is 6 feet.

Commissioner Heidenreich said they should not be measuring from the edge of the stairs or the end of the roof. They should be measuring from the 6 foot point of the deck.

Mr. Carpenter replied it measures from the fascia line.

Chair Niemioja asked if the foundation goes out the full 6 feet.

Mr. Carpenter replied, no, it would just be posts. There is no foundation underneath, it is just a covered entry.

Commissioner Heidenreich said it was still considered foundation for the structure. The roof line doesn't count if it is only 2 feet past the 6 feet. They are measuring from the foundation, not from the roof line, just like they do on the garage.

Associate Planner Botten replied if measuring 6 feet, they still encroach into the 30 foot setback.

Commissioner Heidenreich mentioned that the house sits back from the 30 feet for the garage making the encroachment minimal, 3 feet 10 inches. Commissioner Heidenreich said he was basing it off of the number provided, 26.2.

Mr. Carpenter replied that is the end of the new stairs.

Chair Niemioja asked if the stairs would be counted if uncovered.

Associate Planner Botten responded if the entrance was uncovered they could be located up to 24 feet from the property line.

Commissioner Heidenreich asked if this was a porch or just a landing at the top of the stairs. It is required to have a 3 foot landing at the top of the stairs. He said this does not seem like an encroachment.

Associate Planner Botten replied they can have an uncovered landing into the setback.

Chair Niemioja was uncertain they could remove the foundation piece or change how the foundation is counted.

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Commissioner Heidenreich replied that was his point. The city says it sticks out 6 feet from the original foundation. He is saying the new foundation brings it out the additional 6 feet. The 2 foot overhang is not counted. It should only be measured at 6 feet from the original distance of the foundation because they do not measure from rooflines.

Vice Chair Clancy stated it could be said that the overhang stops at 28 feet from the property line, if that could pass.

Associate Planner Botten replied they are allowed a 2 foot overhang.

Vice Chair Clancy questioned by adding any type of overhang if they have to look at the entirety of the porch as one cohesive addition, or can it be said that a part of the porch encroaching on the setback from the property line, but the overhang is within the definition of what is allowed per code, 28 feet from the property line. It's 30 feet from the house, the overhang comes out 2 feet. The actual walkable porch is within a certain acceptable setback if bringing the overhang back a little bit. If it stops 28 feet from the property line it could be said per code definition, that it is within the 24 inches from the maximum lot line, stopping 28 feet from the property line. The moment the covered portion is added everything has to be looked at together, it cannot be split.

Associate Planner Botten said it was possible it could be used as a practical difficulty.

Commissioner Heidenreich asked why they wouldn't take the measurement from the new foundation point. It is a vertical surface nearest.

Associate Planner Botten replied that encroaches into the setback by 4 feet.

Commissioner Weber said if uncovered they would be allowed to go to 24.

Chair Niemioja asked if it were covered by 2 feet, if they would still be allowed to go to 24.

Associate Planner Botten replied if the wall of the house is at 30 feet, they are allowed a 2 foot overhang bringing them to 28. If the wall of the house is at 32 feet, the 2 foot overhang brings them to 30 feet.

Mr. Carpenter mentioned the house was setback from the garage a little. He questioned if the 2 feet was from the front of the garage, not the house itself.

Associate Planner Botten replied the garage would be allowed a 2 foot overhang, it is at 30 feet. The house, which is back an additional 2 feet, is also allowed the 2 foot overhang. It is measured from the top level wall. For the garage it is measured from the end of the garage.

Mr. Carpenter questioned if they kept it at the fascia line of the garage and did not extend past the current fascia line.

Associate Planner Botten replied that was something that could be used as a practical difficulty.

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She clarified the discussion stating they would allow a 4 foot overhang from the porch, which would be in line with the overhang of the garage. She mentioned it would be amended, it would be a little shorter, not as proposed, but could encroach 2 feet into the setback.

Mr. Carpenter replied he believed they could make that work. It allows the covered entryway.

Commissioner Schaefer asked what the purpose and intent of this part of the City Code was and why they were trying to keep 24 or 30 feet.

Associate Planner Botten replied it is a design/aesthetic requirement. There have been overhangs made larger, requirements are needed to have a max. A standard overhang is 2 feet, it is allowed to encroach.

Commissioner Schaefer referenced #1 stating if the purpose is for aesthetics, it is more aesthetically pleasing to have those overhangs aligned. One is 2 feet, one 4 feet, having them aligned would look better.

Associate Planner Botten replied that could be the recommendation for a hardship.

Ms. Crandall asked how far out the front stoop would go. The current plan has it at 6 feet.

Commissioner Weber asked if the slab could extend beyond the overhang.

Associate Planner Botten replied in the affirmative.

Commissioner Weber said they could continue the slab out and would have almost 4 feet of covered area. The roofline would be contiguous with the roof on the garage.

Chair Niemioja closed the Public Hearing.

Chair Niemioja stated they were not here to change the City Code. It is an interesting question for the Council to consider. She mentioned in the past for a practical difficulty, they have used the existing slab. She wished she could have said fire was the practical difficulty but from a legal standpoint it is not for this Commission, the City Council has more latitude. She agreed having them line up for aesthetics is appealing.

Commissioner Weber questioned the need for a variance if this was going to be redrawn. He asked if it would be a variance for the new setback.

Associate Planner Botten replied yes. It could state to be kept in line with the existing garage.

Vice Chair Clancy asked if any action needed to be taken or if it was a recommendation to the applicant.

Associate Planner Botten replied they are still encroaching, the variance is still needed.

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Commissioner Schaefer summarized that they are still encroaching, there is a practical difficulty with #1 that they are trying to meet the intent and purpose of the code with the aesthetics.

Chair Niemioja said they meet #1, but still need a practical difficulty.

Commissioner Wippermann questioned why they couldn't consider rebuilding a house damaged by fire as a practical difficulty. There would not be much of a precedent set because it requires a house be damaged by fire in order to apply. Then they would not have to redesign. Chair Niemioja liked the idea and has looked into it but was unable to find anything.

Commissioner Wippermann said they are asking for 5 feet; they would still be 25 feet from the street. He said they were approving housing developments with 20 foot front setbacks. The applicant is making a major improvement to the home by putting on a second story.

Chair Niemioja asked if Acts of God were ever considered for something like this and if it was considered a practical difficulty.

Associate Planner Botten was unsure if that has been used in the past.

Chair Niemioja mentioned that Commissioner Weber referenced the 5 foot space the applicant is not getting counted in the lot line yet they maintain all the way to the street. They have played with this before as a practical difficulty.

Associate Planner Botten responded that right of ways are something all properties have. Taking setbacks from the edge of the curb could be a different avenue. Currently, all setbacks are taken from property lines in the regular R-1C District. Right of way widths vary.

Chair Niemioja mentioned there is a Church next door. They would likely not want something coming out so far that could be aesthetically off. On that side there would not be a comparison as it is a grassy church lot. She questioned if there would be more leeway on that side.

Commissioner Heidenreich commented this is being done for aesthetic reasons, not who is cutting the grass or paying property tax. He believes there are a lot of reasons to approve this.

Planning Commission Recommendation

Motion by Wippermann, Second by Teiken, to Approve the Variance to allow the porch addition within the front yard setback, subject to the 2 conditions listed, along with a 3rd condition that the porch be maintained as an open porch. The practical difficulty is rebuilding a house damaged by fire.

Ayes: 9

Nays: 0 Motion carried.

This item tentatively goes before the City Council on November 27, 2023.

Associate Planner Botten questioned if the Variance was approved as submitted, not the revised version with the smaller porch.

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Commissioner Wippermann replied his intent was as submitted.

5. REGULAR BUSINESS None.

6. ADJOURN

Motion to adjourn the meeting at 7:47 p.m.

Respectfully submitted by Sheri Yourczek, Recording Secretary