

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, April 19, 2022 – 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.

Commissioners Present: Elizabeth Niemioja
Dennis Wippermann
Pat Simon
Anthony Scales
Kate Challeen
Jonathan Weber
Robert Heidenreich
Scott Clancy
Joan Robertson

Staff Present: Allan Hunting, City Planner
Heather Botten, Associate Planner
Kim Fox, Community Development Specialist

2. APPROVAL OF THE PLANNING COMMISSION MINUTES FOR MARCH 15, 2022:

The Planning Commission Meeting Minutes for March 15, 2022 were approved as submitted.

3. APPLICANT REQUESTS AND PUBLIC HEARINGS:

A. Consider a Variance to exceed the maximum gross square footage allowed for accessory buildings on the property located at 9177 Courthouse Blvd. Ct. (William & Robyn Lethert – Case No. 22-17V).

Reading of Public Notice

Commissioner Simon read the Public Hearing Notice to consider the request for William and Robyn Lethert – Case No. 22-17V, for property located at 9177 Courthouse Boulevard Court. The request consists of a Variance to exceed the maximum accessory structure square footage allowed on the property and any other related variances. Notices were mailed to seven property owners on April 6th, 2022.

Presentation of Request

Associate Planner Heather Botten discussed the request for property located at the end of Courthouse Boulevard Court, a private road off the frontage road along Highway 55. The property is zoned E-1, Estate Residential District, with a lot size of 7.27 acres. There is a single-family residential house with an attached garage and a 7,000 square foot detached accessory structure that was a former agricultural building that in the 1970's was converted into an indoor ice-skating rink. Rural residential properties greater than 5 acres are allowed to have a maximum of two detached accessory buildings, but up to 2,400 gross square feet total. Zoning Code does not have exemptions for structures that are used for recreational uses for example: indoor pool or skating rink.

Ms. Botten stated the request is for an 1,800 square foot accessory structure, exceeding the maximum square footage allowed on the property. The applicant states the additional structure is needed to store his own personal items. The structure would be located in the middle of the

property and would be in compliance with all other zoning requirements such as setbacks and impervious surface standards. Due to screening, visibility from neighboring properties would be minimal. The City Council has reviewed/modified the accessory structure standards changing the size allowed on lots 3.4 to 5 acres. Lots greater than 5 acres were not discussed, keeping with the 2,400 maximum gross square feet. Staff believes the request may be considered a convenience to the applicant and not a practical difficulty. Approval of the variance could set a precedent for other large accessory structure variances in rural neighborhoods.

She mentioned that staff heard from a neighboring property owner regarding concerns of a business that could be operated out of the property. If the variance is approved there is a condition/zoning code requirement stating home occupations are not allowed to be operated out of accessory buildings.

Commissioner Weber asked if the Commission could make a recommendation to the City Council to relook at the Zoning Ordinance and see if they can carry on the ratio through and above 5 acres. With the same rationale the applicant would be allowed 3,489.6 square feet, although the square footage is still over. He asked if this was an Agricultural Use building, which is allowed in E-1, that could have livestock in it.

Ms. Botten replied they could have livestock on the property, but they currently do not. She said the Commission could make a recommendation to Council to have them look at lots larger than 5 acres.

Commissioner Weber asked if the building was used in that manner, if the garage could still be put on.

Ms. Botten replied in the affirmative.

Commissioner Weber mentioned if allowed the same ratio through, any time someone comes before the Commission with something larger than 5 acres it's simple numbers.

Chair Niemioja clarified the second point made by Commissioner Weber asking if he could consider recommending that the recreational building fall under the agricultural definition.

Commissioner Weber responded in the affirmative.

Commissioner Weber said there were two different sized buildings on the property, he questioned the size of the front half of the building versus the back half.

Ms. Botten responded that would be a question for the Applicant.

Opening of Public Hearing

Bill Lethert, 9177 Courthouse Boulevard Court, stated he had not reviewed the staff report.

Chair Niemioja replied that Staff's recommendation in the report is to deny based on the lack of a Practical Difficulty.

Commissioner Weber asked for the difference in size from the front building to the back building.

Mr. Lethert replied the front is roughly 1,800 square feet, the back is the majority of the building.

Commissioner Weber asked the Applicant when he purchased the property, if it was an operational ice rink or open space.

Mr. Lethert replied he has lived on the property for over 50 years. It was an indoor rink at one-point, various other things have been in the building. There was no ice rink in there when he purchased the property from his parents, once he had a child, he put the ice rink back in.

Commissioner Weber asked if the 30x60 structure was the exterior dimensions.

Mr. Lethert responded in the affirmative.

Commissioner Robertson asked how many square feet the current building was.

Mr. Lethert replied 7,000 square feet.

Commissioner Robertson asked if he was contemplating an ice rink in the building.

Mr. Lethert replied there is one currently inside.

Commissioner Robertson asked who the ice rink was used for.

Mr. Lethert replied it is used for family and friends. He said there isn't a business there, there never will be, the liability is not worth it for him. He has businesses elsewhere.

Commissioner Robertson said the total square footage could be about 9,000 square feet.

Mr. Lethert responded it was close to that number. The building there is a pre-existing non-conforming building. The garage he would like to build would be between his house and the pole barn and could not be seen or heard from any other property around him.

Commissioner Robertson asked Mr. Lethert if he has considered retrofitting some of the existing building to give him the garage space.

Mr. Lethert replied it was not feasible.

Chair Niemioja stated under current Code there would be people that would see the size and number of accessory buildings. The Commission would have to determine a practical difficulty under the current code to allow for the building.

Chair Niemioja closed the Public Hearing.

Planning Commission Discussion

Commissioner Challeen referenced Commissioner Weber's line of questioning and had the impression that a building is a building is a building. It doesn't matter if it is agricultural or storage when calculating total square footage or including/excluding a structure. She questioned if that was his thoughts.

Commissioner Weber replied partially. When he checked out the area, he noticed the front and back portions of the building; he was trying to separate the two. If changing the ratio and carrying it along to the 5+ acres, the Applicant would be allowed 3,489 square feet. If the front half of that building is 1,800 square feet and the remainder 30x60 interior square footage at 1,624, he would be allowed an additional 1,689. This would be an allowed use if looking at the back piece as a recreational piece that goes into the agricultural side of things instead of so many different breaks in the Code. Anything agricultural in that building would be a non-issue, it would be allowed by permit. Under the current use, it's not that he's using it for storage. He commented that down the

road it may be used by another family for horses. He doesn't see it out of character to put this back into something allowed because based off his numbers, the garage would fit. He sees it as a reasonable use. The problem would be coming up with a practical difficulty. He said the property/structure is well maintained on a property like this. The applicant is looking for a spot to park vehicles and keep them off the driveway. The garage attached to the house is smaller.

Commissioner Robertson recalled a few years ago there was a property off of Old Concord that had an older nice historic type home and a separate large detached garage. The final review of that indicated due to the history of the property, it wasn't reasonable to try to build a new garage and attach it to the house so it counted. The end result was the history of the property as a whole and how long the non-conforming buildings had been there. The history of its prior use was taken into consideration when a decision was made about allowing a second building. She commented there is some history with this property, it's been a part of Inver Grove for a long time. It was a ranch at one time. She didn't know what a practical difficulty would be. She said whatever it is used for isn't something the Commission can make a decision on. If using the ratio mentioned, he is still well above what would be allowed. With the size and history of the property, she felt it may be relying too much on a formula.

Commissioner Simon asked if the Applicant could add the garage to the garage on the house.

Ms. Botten responded the applicant could add onto the house, but from what she understood there were topography challenges. If it would work with the lot, the applicant could add on to the existing attached garage.

Commissioner Scales did not believe he could come up with a practical difficulty for this. He was unlikely to support it due to the lack of practical difficulty. He said he would leave it up to the Council to decide.

Chair Niemioja suggested drawing it back into the code they are dealing with tonight and the limits versus a recommendation they might give to Council.

Commissioner Heidenreich said it was built and used as a horse barn. He questioned when it was ever converted legally to become a recreational use area. Its temporary use is as an ice rink, eventually it could be used as a horse barn again. He said it was a horse barn, still is a horse barn, an agricultural building.

Ms. Botten replied the property was converted in the early 70's. It lost its agricultural use at that time. The property is currently not used for agricultural uses.

Commissioner Heidenreich asked if they could ever have a horse in there.

Ms. Botten responded they could if someone else wanted to. They could also convert it into a big pole barn and storage for cars, boats, and RV's. With current use, there is no agricultural use on the property. The 1,800 square feet in the front was added on from the original horse barn.

Commissioner Weber asked what the city code says about recreational use of a space like that.

Ms. Botten replied it's not defined on residential properties. There are no exemptions for recreational use, they could it as an accessory use; same as if they wanted an indoor swimming pool or tennis court. There are not separate requirements.

Commissioner Weber questioned if it was an indoor pool, it would be treated as accessory building square footage like they are discussing tonight, or if it would be treated as something else.

Ms. Botten replied if wanting to do an indoor pool detached from the home it would be counted as an accessory building and towards the gross square footage, not at 7,000 square feet.

Commissioner Weber said the only way this building couldn't be used as an accessory structure was if it was agricultural use.

Planning Commission Recommendation

Motion by Commissioner Scales, second by Commissioner Weber, to deny the variance to allow the accessory structure of 1,800 square feet due to lack of practical difficulty, with the recommendation to City Council to review the City Code in accordance on lots of 5 acres or more to continue the ratio use that was used for 3.4 acre to 5 acres at the 480 square feet per acre number.

Commissioner Robertson said she thought they were trying to mix two things. The second must reflect the thoughts of the proposal that Commissioner Scales had. She suggested it not be done as a part of this motion.

Commissioner Scales said they cannot direct the Council within a motion.

Commissioner Weber repealed the second on the Motion.

Motion by Commissioner Scales, second by Commissioner Wippermann, to deny the variance to allow the accessory structure of 1,800 square feet due to lack of a practical difficulty.

Commissioner Heidenreich questioned if they didn't have to take any action and pass it off on the City Council and have them send it back if the Commission needs to vote.

Motion carried (7/2) – Weber, Heidenreich. This item will go before the City Council on May 9th, 2022.

Commissioner Weber asked that City Council to review the City Code going with accessory structure sizes and continue the ratio that we use for the 3.4 acre to 5-acre sizes to continue above and beyond the 5-acre size buildings.

Chair Niemioja questioned if Commissioner Weber wanted to talk about reclassification.

Commissioner Weber replied he agreed with Commissioner Heidenreich in that the original intent of the building is still there. Because this individual uses it in a different way doesn't mean the intent of the building is gone. Code is Code. He said he is not going to make a recommendation.

B. Consider a Variance to construct an accessory building within the shoreland setback of Rosenberg Lake on the property located at 8450 Alta Avenue (Justin Jongbloedt - Case No. 22-12V).

Reading of Public Notice

Commissioner Simon read the Public Hearing Notice to consider the request for Justin Jongbloedt – Case No. 22-12V for property located at 8450 Alta Avenue. The request consists of a variance to construct an accessory building within the shoreland setback of Rosenberg Lake and any other related variances. Notices were mailed to 4 property owners on April 6, 2022.

Presentation of Request

Associate Planner Heather Botten discussed the request located at the end of Alta Avenue, the last lot on the dead-end road. The property is zoned R-1A, Single Family Zoning District. The Applicant is requesting a variance to build a 975 square foot accessory building within the shoreland setback requirements. The lot abuts Rosenberger Lake, DNR ID#19-41. Setbacks for lots that do not have city water and sewer is 100-foot setback from the Ordinary High-Water Mark (OHW).

She mentioned when the house was built the water on the southeast side was considered a wetland. There are no additional setbacks from wetlands. In 2006 previous owners added onto the house requiring a variance from setbacks, it was approved. The DNR went out and walked the property and determined all the water is part of the 1941 DNR Rosenberger Lake. The house is currently non-conforming. The land is about 200 feet wide, with 100-foot setbacks on both east and west sides, leaving no room to build an addition or an accessory building complying with setbacks. The location of the building would comply with all other Zoning Code requirements. The structure would not be any closer to the bodies of water than what the house is already located. She mentioned that shoreland districts require DNR Review. They reviewed and commented that they have no exceptions to the variance request or the location of the structure as long as it's not going any closer than the current established setback. Staff has not heard from any surrounding property owners. Based on the conditions and information listed in the report, staff recommends approval.

Commissioner Simon asked if the Applicant was meeting rear setback.

Ms. Botten replied in the affirmative.

Commissioner Weber asked if the Applicant or City received the DNR's response.

Ms. Botten replied she/City did. They are fine with the location of the structure.

Opening of Public Hearing

Justin Jongbloedt, 8450 Alta Avenue, has read and understands the report. He said the house was built 30 feet and 80 feet from the shoreline. They were trying to maintain the same integrity that was done with the last variance from the addition.

Chair Niemioja closed the Public Hearing.

Planning Commission Discussion

Commissioner Robertson mentioned this seemed straightforward. It was a unique situation; it's locked and they couldn't do anything with it. She did not believe they had the right to deny the Applicant an accessory building. She said that due diligence has been done, she would approve the request.

Planning Commission Recommendation

Motion by Commissioner Robertson, second by Commissioner Scales, to approve the Variance to construct an accessory building within the shoreland setback of Rosenberger Lake on property located at 8450 Alta Avenue (Justin Jongbloedt - Case No. 22-12V) as stated with the Conditions and Practical Difficulties listed.

Motion carried (9/0). This item goes before the City Council on April 25th, 2022.

C. Consider a Final Plat and Final Planned Unit Development for a 50-lot, two outlot

subdivision to be known as Highlands at Settlers Ridge (U.S. Home Corp – Case No. 22-14PUD).

Reading of Public Notice

There was no Public Notice.

Presentation of Request

City Planner Allan Hunting discussed property on the west side of South Robert, north of the Argenta Hills Development.

- Plat contains 50 lots
 - 48 new building sites
 - 1 lot is the existing homestead
 - 1 lot will be City Park

There was some confusion with Lot numbers that was cleared up:

- Lot 30 on the Final Plat is the park area
 - The Parks Commission will discuss park improvements at a later date
- Outlots A and B would be dedicated to the city
 - Contain all required open space and most of the stormwater ponding area
- A Trail would be constructed connecting with Argenta Hills and the future trail in Peltier Reserve
- Design of 72nd and the cul de sac has been sorted out with Engineering
- MnDOT. There will be a required right turn lane southbound on Highway 3:
 - To enter a property
 - Sidewalk segment for connectivity to future trail

Sorting out from the Preliminary:

- There was an approximate 10-foot gap between this property and the Argenta Hills development
 - Going through condemnation proceedings for city control for utility crossings and so trail connections can be made
 - Determined in late April

There were a few other details that would be finalized before getting to the City Council in May for Final Plat Approval and the Development Contract and Agreements. Staff and Engineering recommend approval of the Plans.

Commissioner Simon referenced House 38 and 39, where the retaining walls were. The owner behind that has a house close and had spoken about what would keep the wall there and hold the land so it doesn't affect the home. She questioned if that has been discussed/dealt with between the landowner and the development.

Mr. Hunting replied the Developer could answer the question. He said there would be retaining walls there that would have to have Permits to make sure they are constructed properly and can handle the loads.

Commissioner Wippermann questioned the overall lot width of 65 feet.

Mr. Hunting replied that the typical lot size would be around that width.

Melissa Duce, Land Entitlement Manager with US Home, DBA Lennar, 16305 West 36th Street, Suite 600, Plymouth, Minnesota, introduced herself.

Commissioner Simon referenced Lots 38 and 39 and the homeowner to the north who had concerns regarding the sand/clay and if the walls would hold that back. It would affect his property

since his home is close to that particular corner.

Ms. Duce replied they have been in contact with the Resident. "Test pits" were conducted a couple of weeks ago where it takes larger amounts of the material to understand the integrity. The Structural Engineers were happy with what they saw and are doing more soil borings along the area where the walls will be constructed. They have continued to work with the resident and may be relocating some trees and doing some grading work so there is minimal affect to his home and foundation.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Commissioner Challeen, to approve the Final Plat and Final Planned Unit Development for a 50-lot, two outlot subdivision to be known as Highlands at Settlers Ridge (U.S. Home Corp – Case No. 22-14PUD) with the Conditions listed.

Motion carried (9/0). This item goes before the City Council on May 23rd, 2022.

4. OTHER BUSINESS

City Planner Hunting mentioned as a part of the Comprehensive Plan in regards to the Mississippi River Critical Area Corridor, all the cities have to adopt the new DNR Regulations that were established by the State. The DNR created a Model Ordinance and adopted Regulations. Each city has to adopt that Model Ordinance. This will take place at the second meeting in May. The Consultant helping Draft the Ordinance will be Presenting to the Commission. More information will be sent to the Planning Commission via email.

There will not be a Planning Commission Meeting on Tuesday, May 3rd.

Chair Niemioja mentioned there would be Commissioner Appointments coming up. She inquired about when Elections would be done.

Community Development Specialist Kim Fox replied that will take place at the first meeting in June.

Chair Niemioja requested Commission Members email Community Development Specialist Kim Fox their summer schedules. There will be some conflicts. Herself and Commissioner Weber will both be gone the first week in July.

Commissioner Weber referenced the Mississippi Corridor and asked if the affected landowners were notified of the meeting.

Mr. Hunting replied he was unsure if they would directly notify landowners. The DNR sent a notice to every landowner in the Overlay District when they began this process. Open Houses and other public meetings were held. The city has to adopt the Ordinance that was established through the DNR process.

Commissioner Weber asked if City Planner Hunting would be able to illustrate what was/what is.

Mr. Hunting replied there would be a summary table to identify the differences.

Commissioner Simon asked which Overlay.

Mr. Hunting responded the Mississippi Critical Area Overlay.

5. ADJOURN

The meeting was unanimously adjourned at 7:46 p.m.

Respectfully submitted,
Sheri Yourczek, Recording Secretary

DRAFT