PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, July 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 Jonathan Weber Dennis Wippermann Robert Heidenreich Joan Robertson Jaime Besser Scott Clancy Kate Challeen
Commissioners Absent:	Anthony Scales (excused)
Staff Present:	Allan Hunting, City Planner Heather Botten, Associate Planner Kim Fox, Community Development Specialist

2. APPROVAL OF THE PLANNING COMMISSION MINUTES FOR JULY 5, 2022:

The Planning Commission Meeting Minutes for July 5, 2022 were approved as submitted.

3. APPLICANT REQUESTS AND PUBLIC HEARINGS:

A. Consider a Variance to allow a driveway up to the side property line whereas five feet is the required setback at 3635 78th Street (Steve Buenzow – Case No. 22-30V)

Reading of Public Notice

Commissioner Weber read the Public Hearing Notice to consider the request for Steve Buenzow – Case No. 22-34V for property located at 3635 78th Street East. The request consists of a variance to allow a driveway to be located up to the property line whereas 5 feet is the required setback and any other related variances. Notices were mailed to 3 property owners on July 6th, 2022.

Presentation of Request

Associate Planner Heather Botten discussed the property located at 3635 78th Street East, zoned R-1C single family residential district. The lot currently has a single-family home with a two-car garage and was built in 1971. The existing driveway is 20 feet wide. The applicant proposes widening a portion of the driveway into the side yard setback located up to the property line whereas a 5-foot setback is required. Staff does not believe the proposed improvements alter the character of the neighborhood as there are other driveways in the neighborhood up to the property lines.

In 2010 the city started requiring driveway permits. An aerial photograph of the neighborhood was shown from 2010 indicating numerous existing driveways up to property lines prior to 2010 and are grandfathered in. The applicant has a current driveway going up to their garage. The driveway addition is not essential, the applicant could add on to the east side of the driveway.

Staff believes the request for the additional driveway square footage may be considered more of a convenience and not a practical difficulty. Staff recommends denial of the of the variance as proposed. The applicant submitted additional information via email and four signatures from neighbors that are in support of the request.

Motion by Commissioner Weber, second by Commissioner Robertson, to add the narrative submitted by the applicant yesterday and the four signed signatures received today into the record

Motion carried (8/0).

Opening of Public Hearing

Steve and Monica Buenzow, 3635 78th Street East. Mr. Buenzow stated he has read and understands the report.
Ms. Buenzow mentioned there is an ash tree located to the right of the driveway.
Mr. Buenzow said moving the driveway to the east would result in having to take out a mature ash tree, which is not something they were willing to do. They have three cars and always have to move the cars around when coming and going. He mentioned there was greenspace between the two properties and a natural swale providing drainage to the back.

Chair Niemioja mentioned there would be increased impervious surface and was hopeful he would be respectful of the neighbor with snow removal/plowing. She questioned what their plan was for snow removal.

Mr. Buenzow replied they already plow the area because there is a gate to the back.

Commissioner Robertson questioned where the snow was plowed to.

Mr. Buenzow replied its plowed straight ahead, not to the neighbor's side. He mentioned that the widening of the driveway is basically the length of a car.

Commissioner Heidenreich asked what the amount of impervious/pervious surface allowed on a lot was. He was unsure where the drainage would go.

Ms. Botten replied it is based on lot size. This would be in compliance with impervious surface.

Commissioner Heidenreich understood about saving the tree, but didn't feel that would be the case with the emerald ash borer. He was concerned about the trees in the neighbor's yard and did not think they could park a car underneath. He asked what the plan was for those.

Ms. Buenzow replied those were trimmed yearly, she can walk under it.

Commissioner Challeen questioned if the homeowner decided not to use concrete and put in a paver block pad, if that would require a permit and a variance.

Ms. Botten responded it would, even if it's Class 5, permeable pavers, concrete, or bituminous.

Commissioner Besser asked if the extra vehicle would be parked in front of the garage, not alongside.

Mr. Buenzow replied in the affirmative.

Chair Niemioja closed the public hearing.

Planning Commission Discussion

Chair Niemioja believed they have previously utilized the practical difficulty to try and save trees, especially heritage trees.

Commissioner Robertson was concerned about setting a precedent. She worries when heavy weight is placed on what neighbors say because neighbors move. There could be challenges as whoever seeks to buy that house may question why the driveway extension could be done. She felt the plan looks good in that they are not going all the way down to the street. She was less concerned about the fact that it would be the length of a car. She was concerned if allowing, how many more people down the street would want the same and what that could do to drainage.

Commissioner Weber said he drove the area and noticed a vast majority of the properties already have driveways up to property lines. Driving and seeing that everybody else has this convenience the applicants cannot have is one of the reasons he would side for it because it would be consistent with the rest of their neighbors.

Commissioner Challeen agreed this looked good aesthetically and is consistent with neighbors. She was having trouble with a practical difficulty unless it's the tree.

Commissioner Robertson agreed the tree was a concern. She said the tree has no bearing on a practical difficulty on the other side of the driveway. It could be said if the tree wasn't there they would have to move to the east, that doesn't justify moving to the west.

Chair Niemioja stated it was a heritage tree that adds value to their property. She felt it has been used as a practical difficulty before.

Commissioner Heidenreich said he drove down the street and noticed everyone else in the neighborhood has the wider driveways. He mentioned there were no houses across the street and the lot has a steep backyard. If parking where proposed, they would have to step on the neighbor's lawn to get out, which could be a challenge in the future. He commented that 7 feet is not wide enough to park a vehicle, you couldn't open the doors.

Commissioner Weber said it was possible some of the neighbors were over their property lines. It was hard for him to look at a homeowner who is trying to do the right thing, drive down the street and see the same thing on everyone else's property, and not try to help them out.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Commissioner Challeen, to approve the variance with the three conditions listed using the practical difficulty of staying consistent with the neighborhood in use of the lot and not impeding on a heritage tree on the other side of the property, for property located at 3635 78th Street. Case No. 22-30V.

Motion carried (8/0). This item goes before the City Council on August 8, 2022.

B. Consider variances from the front setback and maximum size of an accessory building located at 8008 River Road (Steve Carpenter & Debby Kaeder Carpenter – Case No. 22-30V)

Reading of Public Notice

Commissioner Weber read the Public Hearing Notice to consider the request for Steve Carpenter & Debby Kaeder Carpenter – Case No. 22-30V. The request involves property located at 8008 River Road and consists of a variance from setbacks from the maximum size and height allowed for an accessory building and any related variances. Notices were mailed to 2 property owners on July 6, 2022.

Presentation of Request

City Planner Allan Hunting stated as the project evolved and discussions were had with the applicant, there is no longer a need for a height variance. This item only deals with setback and size. The request is to remove the older garage and replace with a slightly larger gross square footage. The existing building was built prior to 1965 when the ordinance came into effect. It is either at/or slightly over the property line. The garage is currently two levels with interior dimensions of 1,572 square feet. The current maximum size allowed for building in R-1C zoning is 1,000 square feet.

- The applicant proposes a new two-story building with loft space
- An interior total size of 1,694 square feet
- Constructing it at the exact same setback lines
- Would retain the location at the same place
    - There is rationale behind the setback variance
- The maximum size is being increased by 122 square feet, a 7% increase

There are other accessory structures like this in the area. This would be similar to the look and feel of the other existing structures. There is support for maintaining the existing setback.

- The footprint stays the same
    - The increase is that one of the floors is cantilevered, the main floor cantilevered towards the house, and the size of the dormers. A massive increase in bulk is not noticed.
- For height, the lowest level would be covered by more than 50%.
    - Measurement would be taken from the main floor, street side, with the height being approximately 16 feet; complies with height requirements.

Staff believes there is rationale to support both variances. There is practical difficulty for both. There are two conditions for approval for each one. Staff recommends approval as presented. One email was in support of the request and included in the packets. Additional emails were received in support and forwarded to the Commission prior to the meeting.

Commissioner Robertson asked if the new building would no longer edge over the property line and if it would be behind it.

Mr. Hunting replied it would be at or just behind the property line.

Commissioner Weber asked about the size of the additional shed on the property.

Mr. Hunting was unsure of the size, it was going to be removed.
Commissioner Robertson asked what the total lot size was.

Motion by Commissioner Robertson, second by Commissioner Heidenreich, to accept the additional emails and letters into the record from Wipplingers located at 8388 River Road and 9100 River Road and others: Ms. Rud, Ms. Arme, and the Pone's.

Motion carried (8/0).

Commissioner Weber stated the lot is 1.2 acres in size.

Opening of Public Hearing

Debby Kaeder Carpenter, 8008 River Road, and Max Norton, Designer, 3649 73rd Court East. Both stated they have read and understand the report.

Ms. Kaeder Carpenter addressed the square footage stating they are in zone R-1B, not zone R-1C. She mentioned that in 10.15.18 on accessory structures in the code, it says that: "A. Each detached accessory structure in a single-family residential use in all E-2, R-1, and R-2 zoning districts shall not exceed a total maximum gross square footage area of 1,000 square feet". She said they understand that and were told by Steve Johnson that they were grandfathered in to what they already had. She said it continues with "The gross floor area figure may exclude any usable attic space or loft space. The total number of all detached accessory structures on lots E-2, R-1, and R-2 zoning districts shall be limited to one". She asked why they were required to use the area in the attic under the dormers as space.

Mr. Hunting replied it has been interpreted that part of the code was meant to have the attic space within the trusses so it wasn't going out to the exterior walls. Once dormers went to the exterior walls and had the full height not within the truss system, those areas are counted towards total square footage.

Commissioner Weber said because that was being used as a fact, if it could only be considered the standup square footage instead of the entire square footage.

Mr. Hunting replied they were only using calculated areas. The rest of the space within the truss system is not counted. 90 square feet was calculated for the area.

Chair Niemioja referenced the foundation and questioned if anything original was staying.

Ms. Kaeder Carpenter replied no, it's all built on bedrock, the foundation would go, they would rebuild.

Mr. Norton stated the plans reflect if bedrock is encountered during excavation of the old, it would constitute the new floor grade for the footings.

Chair Niemioja stated existing foundation has been used as a practical difficulty in the past.

Commissioner Weber asked for the square footage of the shed that is being torn down.

Mr. Norton replied under 50 square feet.

Ms. Kaeder Carpenter said they felt the practical difficulty was with the lay of the land. The original garage was two story and they want to keep the two-story garage. It's not practical to put the garage further east as they would be unable to get in and out, north of the location is where the drain field is, and putting it north further away from the house was not reasonable.

Commissioner Robertson asked what their thoughts were for using the building.

Ms. Kaeder Carpenter replied it would be used as a garage and for tools used in the yard such as: lawnmowers, snowblowers, work bench.

Mr. Norton mentioned the primary function would be for three cars.

Chair Niemioja closed the public hearing.

Planning Commission Discussion

Chair Niemioja noted that she was unsure bedrock was used as a practical difficulty, but foundation has been used along with challenging topography.

Commissioner Challeen mentioned there was a lot of space that wasn't going to be used for cars or tools upstairs. She questioned why.

Commissioner Robertson said she struggles when exceeding that far over code. She commented that just because people have so many things now, doesn't justify going over the allowed size of a building. The size of the building concerns her. When she drove by, she noted the existing building was large. She was concerned about what allowing one individual to rebuild that far over the allowed space says to everyone else down the road.

Commissioner Heidenreich said when he drove by, he viewed it as the second floor was where they were going to park. The packets viewed it from the house side where it appears to be two story. It's one story from River Road. He felt it made perfect sense that they would be moving the shed that is encroaching on the neighbor's property. He felt it was the perfect addition for this property and fits into the character of the property.

Chair Niemioja opened the public hearing.

Ms. Kaeder Carpenter, 8008 River Road, stated the upper garage is used in the winter for their vehicles, they cannot get out on the lower driveway in the winter. She mentioned aesthetically, there are other garages on River Road that have been allowed to have dormers that have appeal versus looking like a big shed.

Chair Niemioja closed the public hearing.

Commissioner Robertson said she would feel more comfortable that due diligence has been done due to what the ordinance allows for the size of the lot if it was smaller. She felt this was really overstepping what the ordinance says. She asked what justifies a building of that size and if the redesign of the building brings them closer to what the ordinance allows. She worries about the message sent to the rest of the city.

Commissioner Weber stated his conflict is that this is property with a 1,572 structure on it that is usable but not aesthetically pleasing to the owner. There is a 98 square foot shed violating the code of multiple accessory structures. The applicant would be getting rid of the second accessory structure and making useable loft space. This isn't increasing the footprint. By removing the second structure he felt this should be allowed because they are cleaning up the property and making it more code compliant than it currently is.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Commissioner Clancy, to approve the variance from section 10-15-18 A to allow an accessory structure greater than 1,000 gross square feet subject to the following two conditions and utilizing the practical difficulty that they are not increasing the footprint and the topography of the lot does not allow for this structure to move anywhere else for property located at 8008 River Road (Case No. 22-30V).

Motion carried (8/0).

Motion by Commissioner Weber, second by Commissioner Besser, to approve the variance for the accessory structure closer to the front property line than 30 square feet with the two conditions listed and utilizing the practical difficulty listed in the Commission packets for property located at 8008 River Road (Case No. 22-30V).

Motion carried. (8/0). This item goes before the City Council on August 8, 2022.

C. Consider a variance to exceed the maximum allowed square footage for an accessory dwelling unit (ADU) on the property 7301 Babcock Trail (Bruce & Holly Zschokke – Case No. 22-29V)

Reading of Public Notice

Commissioner Weber read the Public Hearing Notice to consider the request for Bruce & Holly Zschokke – Case No. 22-29V. The request involves property located at 7301 Babcock Trail and consists of a variance to exceed the maximum allowed square footage for an accessory dwelling unit (ADU) and any other related variances. Notices were mailed to 2 property owners on July 6, 2022.

Presentation of Request

Associate Planner Heather Botten discussed property located on the west side of Babcock Trail, south of 70th Street, zoned agricultural. The property is 3.59 acres in size and is a mixed-use site. The property consists of a single-family home with a two-car garage, two agricultural buildings, Glassing Florist, and an old barn. The applicant requests an ADU (accessory dwelling unit), to be located out of the existing barn. The ADU portion would be larger than 1,000 square feet, whereas code has a maximum square footage for an ADU of 1,000. The structure was built around the 1930's. The lower level of the building would be the garage with the main floor ADU of 1,250 square feet in size. The intent of the ADU ordinance is to provide a secondary living space for a family member(s) or a rental. An ADU has its own kitchen, bath, and sleeping spaces. The ordinance was created with a list of standard conditions such as minimum and maximum size of the ADU. The other zoning requirement such as having a shared septic system, two off street parking spaces, someone that owns the property has to live in either the ADU or the principal structure, are being met. The ordinance allows the ADU to be in a detached structure if the lot is over one acre in size, that requirement is being met. The code does not have flexibility when looking at converting existing structures. This property is unique in that the foundation

was built in 1865. There was a fire that destroyed the original structure, the current structure was built around the 1930's. The barn was not built with the intention of having an ADU in it. It is unique that they are able to convert this historic building into living space. Staff does not believe the request for the ADU would alter the character of the neighborhood as it's an existing building. It is already a mixed use with a lot of traffic coming in and out of the site. Staff recommends approval of the request with one condition. Staff has not heard from any of the neighbors.

Chair Niemioja asked if something should be suggested to Council regarding amending the code to talk to conversion or if it should be kept within the variance language.

Ms. Botten recommended keeping it within the variance. The ordinance has been here since 2015. This is the first one using a grandfathered in structure.

Opening of Public Hearing

Holly Zschokke and Bruce Zschokke, 7295 Babcock Trail, have read and understand the report.

Commissioner Robertson asked if the current building has a basement underneath or if it was sitting at ground level.

Mr. Zschokke replied it is a two-story structure, the back has a walkout which would be the garage portion. The land goes up along the side, there is a walkout on the other side.

Commissioner Robertson asked if the existing structure been examined for appropriateness and structural requirements.

Mr. Zschokke replied they were meeting with people who are looking at it. If the building is not, they would make sure that it is.

Chair Niemioja closed the public hearing.

Planning Commission Discussion

Commissioner Robertson believed this to be an appropriate request. They are utilizing an existing building on nice property. She struggles with the notion of an ADU limited in size to 1,000 square feet. She requested the City Council revisit in what type of situations a slightly larger ADU would be appropriate.

Commissioner Weber said they could limit the sizes for a one bedroom and increase for a two bedroom. It gives maximum requirements to not allow an additional single-family home.

Commissioner Heidenreich mentioned the fact that the foundation was built in 1865 was remarkable. Given the existing structure is already that size, he does not believe they should mess with it.

Planning Commission Recommendation
Motion by Commissioner Weber, second by Commissioner Heidenreich, to approve the variance to allow the accessory dwelling unit (ADU) at 1,250 square feet whereas 1,000 square feet is the maximum size allowed, subject to the one condition and using the rationale/difficulty listed in the Commission packets for property located at 7301 Babcock Trail (Case No. 22-29V)

Motion carried (8/0). This item goes before the City Council on August 8, 2022.

D. Consider a variance from the number of accessory structures allowed on the property located at 9580 Baker Ct. (Lars Runquist – Case No. 22-28V)

Reading of Public Notice
Commissioner Weber read the Public Hearing Notice to consider the request for Lars Runquist – Case No. 22-28V. The request involves property located at 9580 Baker Court and consists of a variance from the maximum size of an accessory structure allowed on the property and any other related variances. Notices were mailed to 4 property owners on July 6, 2022.

Presentation of Request
City Planner Allan Hunting discussed the property located on the corner of Barnes Avenue and 96th Street. The applicant proposes removing one of the original three barn accessory structures and replacing it with a larger one at the same location. The existing is approximately 646 square feet and would go up to a little over 1,000 square feet. Current code for E-1 allows for one detached structure at 1,600 gross square feet for maximum size. There are three structures on the site, the original from the farm could be from the late 1800's. The large barn is still used for Ag purposes and would be exempt from the number of structures on the site. There are two legal non-conforming structures; removing one of them and replacing it loses it's grandfathering for the number and has to go through a variance to allow the second to be replaced. When combining the square footage of the proposed plus the other existing, they are still under 1,600 square feet. The structure would meet the 50-foot setback from all property lines. Staff believes there is uniqueness being the old buildings from the farm predate the ordinances. The applicant is just changing the size of one of the structures. Staff supports the request with the practical difficulty listed in the report. No phone calls or correspondence has been received from any of the neighbors.

Commissioner Weber stated the public notice only talks about the variance from maximum size of an accessory structure. It doesn't talk about making a decision about a second.

Mr. Hunting replied that item has changed.

Commissioner Weber referenced the second non-conforming structure that was not being touched and asked if it doesn't just stay a legal non-conforming use.

Mr. Hunting replied in the affirmative.

Opening of Public Hearing
Lars Runquist, 9580 Baker Court, has read and understands the report. He referenced a diagram shown stating the incorrect lot was outlined. He also owns two other lots right next to the one being discussed. The area is a part of the original 300-acre farm of Mr. Vance Grannis. It has a large dairy barn which has been restored back to its original pitch. The building they are tearing down was the creamery. They have three cars and have never had a garage. They would be maintaining the architectural look and feel of the original farm.

Chair Niemioja closed the public hearing.

Planning Commission Recommendation
Motion by Commissioner Weber, second by Commissioner Heidenreich, to approve the variance and the one condition listed with the practical difficulty listed in the Commission packets for property located at 9580 Baker Ct. (Case No. 22-28V)
Motion carried (8/0). This item goes before the City Council on August 8, 2022.

Commissioner Challeen recommended saving the wood on that structure.

E. Consider a variance from the minimum number of parking stalls required at 6449 Concord Blvd. (Jersey's Bar & Grill – Case No. 22-31V)

Reading of Public Notice
Commissioner Weber read the Public Hearing Notice to consider the request for Jersey's Bar & Grill – Case No. 22-31V. The request involves property located at 6449 Concord Boulevard and consists of a variance from the minimum number of required parking spaces to allow for a patio addition and any other related variances. Notices were mailed to 4 property owners on July 6, 2022.

Presentation of Request
Associate Planner Heather Botten presented the request for property located on the west side of Concord Boulevard, zoned B-3, general business district. The property owner owns a number of lots in the area. One lot had a house that the applicant demoed located north of the existing structure where the patio is proposed. The property north is zoned R-1C, single family with an existing house. In the middle is a home zoned for commercial. On the west side of Delilah there is more residential zoning. The applicant is looking to add a seasonal patio on the north side of the existing building. Based on the existing design of the site, they are currently at their maximum capacity for parking. The outdoor patio is designed for 46 seats, requiring an additional 15 parking spaces. The patio addition complies with all zoning requirements. The zoning ordinance requires all uses have a minimum number of parking spaces which is determined based on the use, size of building, and location of the business. Parking requirements help avoid conflicts with existing and abutting businesses and property owners.

A patio addition is a common addition for a restaurant/bar to remain competitive in the existing economy/market. The parking standards in the zoning code may not fit all uses out there. The existing bar/restaurant has a maximum occupancy that takes into consideration all portions of the business, including a seasonal patio used only a few months out of the year. Staff believes it is reasonable to have reduced parking based on the applicant's actual demand noted in his existing business and the seasonal use. The property is unique. Based on the design capacity and business demand, they would be in compliance with the required minimum number of parking. Looking at the occupancy based on the Fire Marshal, they are not in compliance. Staff

believes that improving the overflow lot located across from other parking/south of the existing building, would help accommodate the required existing parking stalls. Zoning code requirements for that parking improvement would have to be met and include improving it with concrete/bituminous and having it striped. The applicant would also put signs up in the existing main parking area telling people where to go for overflow parking. Staff recommends approval of the variance to have a reduced number of parking with the three conditions listed. Staff heard from two neighbors who submitted comments included along with the staff report. Both neighbors were against the request and expansion.

Chair Niemioja asked if the Fire Marshal was aware of this request.

Ms. Botten replied the Fire Marshal has been working with the applicant on more requirements with the expansion of the patio.
Chair Niemioja asked if doing a remodel on the interior to be able to adjust their capacity, if they wouldn't need to apply for that as long as it's in the Fire Marshal code.

Ms. Botten replied it's based on per seat. If removing seats and the design capacity that way, the fire capacity is based more on space.

Commissioner Weber asked if the back was the deck or an extension deck.

Ms. Botten replied it was the existing smoking patio, which would stay. A variance was requested for that years ago. The deck addition complies with requirements.

Opening of Public Hearing
Bill Ashton, 6449 Concord Avenue, has read and understands the report.

Chair Niemioja referenced the emails sent from residents asking Mr. Ashton if he had any comment.

Mr. Ashton replied that both were rental properties. The one that had a complaint regarding damage to the home was a tree branch that had fallen during a storm. He contacted his insurance company who told him he was not liable and to tell them that they have to go through their own insurance company. He has not heard anything back.

Chair Niemioja asked about capacity numbers and staff's discussion surrounding numbers around 300.

Mr. Ashton replied their capacity is 365. He felt 300 people was way too busy and not comfortable.

Commissioner Weber asked about the condition listed with the overflow and if they were fine with improving it.

Mr. Ashton replied in the affirmative.

Chair Niemioja closed the public hearing.

Planning Commission Recommendation
Motion by Commissioner Robertson, second by Commissioner Clancy, to approve the request as defined with the conditions and the practical difficulty as defined in the packet for property located at 6449 Concord Blvd, Jersey's Bar & Grill (Case No. 22-31V)

Motion carried (8/0). This item goes before the City Council on July 25, 2022.

4. OTHER BUSINESS
City Planner Allan Hunting mentioned the Commission's first meeting in August will be cancelled due to lack of agenda items.

5. ADJOURN
Motion to adjourn the Planning Commission Meeting at 8:17 p.m.
Respectfully submitted, Sheri Yourczek, Recording Secretary.