

**City of Falcon Heights
Planning Commission Minutes
June 28, 2011**

PRESENT: Commissioners Black, Brown, Gustafson, Minns, Noble, Staff Liaison Jones.

ABSENT (with notice): Commissioners Fite, Wartick, Council Member Harris

A quorum being present, the meeting was called to order by the Commissioner Black, Chair, at 7:02 p.m.

The minutes for February 22, 2011, were approved.

Public Hearing: Amending the Falcon Heights City Code to make the variance ordinance consistent with new State Law

Staff Liaison Jones offered a detailed introduction of the matter under consideration. A 2010 decision by the Minnesota Supreme Court had a major impact on the ability of cities to grant zoning variances, requiring a much narrower and stricter standard than had been the practice for many years. In May, 2011, a new state law went into effect that essentially returned the standard for variances to the “reasonable manner” understanding that was in effect before the 2010 decision. The League of Minnesota Cities recommended that cities look at their variance ordinances and bring them into line with new state law. A draft amendment has been provided by the city attorney for consideration this evening.

The Chair opened the public hearing. As there was no one who wished to speak, the Chair asked for and received a motion to close the hearing, seconded and approved unanimously.

Variance Amendment: Discussion and Commission Action

Jones offered to read the definition of “practical difficulties” as set out in both the Minnesota Statute and the proposed new city ordinance. The new wording moves the “uniqueness” requirement that was formerly in the findings to the definition. She confirmed that “practical difficulties” replaces the “hardship” phrases in the existing version of the variance section.

Commissioners asked for clarification on several points and discussed a couple of examples from Falcon Heights over the last ten years. A Frequently Asked Questions document from the League of Minnesota Cities website was recommended for reading by any interested member of the public.

Staff asked the Chair for the opportunity to provide two additional points of public education, also found in the LMC FAQ document:

- Public opinion alone is not sufficient to grant or deny a variance. “All my neighbors say it’s OK” is not grounds for approval. The statutory standards must be met.

- Prior variance decisions or existing conditions on other properties are no guarantee that the same thing will be allowed in a new case. Configurations of other properties may have existed before present codes, and prior variance decisions do not set a precedent. The statutory standards, again, must be met for any new variance.

In other words, though the new statute is less restrictive, it does not mean variances will be easy to obtain. Falcon Heights has granted very few over the last 10 years and observes fairly tough criteria. Staff works with owners and contractors to plan within the code in order to meet their goals without variances.

A motion to recommend approval of the ordinance amendment was made by Gustafson, seconded by Minns, and approved unanimously.

Change to Standing Rules – tabled from February 22

At the request of the Commission, staff had rewritten a paragraph dealing with the opening of public hearings, putting procedure into chronological order in the paragraph. The Commission approved the minor change by consensus.

Information And Announcements:

Jones had a few updates for the Commission

- The hearing that was scheduled last month regarding a rezoning of a narrow portion of the Awad Clinic property at Hamline and Larpenteur was canceled last month, staff research discovering that the situation was more complicated than expected and that rezoning might not even be needed. (The western strip of property is on the books as residential, though it has always been used for commercial use.)
- Last month the Commission met in workshop with representatives of the Ramsey County Historical Society to hear about the Society's plans for the future of the Gibbs Museum property. The eventual goal is to give the museum property, currently zoned P1/R1, a more appropriate designation, as it is not really "public land." This will take place when the Historical Society is ready to come forward with a more definite plan. In the meantime the house at 2129 Larpenteur is being rented as a residence, licensed.
- Commissioner Wartick is not present due to a new baby in the family.
- Parks and Recreation has two great events coming up in July – Movie in the Park on July 13 and the Ice Cream Social on July 28.

ADJOURNMENT: The meeting was adjourned at 7:38 p.m.

Respectfully submitted,

Deborah Jones, Staff Liaison