



**City of Lake Elmo
Planning Commission Meeting
Minutes of September 12, 2016**

Chairman Kreimer called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m.

COMMISSIONERS PRESENT: Fields, Dodson, Dunn, Williams, Larson, Griffin, Kreimer, and Lundquist

COMMISSIONERS ABSENT: Haggard

STAFF PRESENT: Planning Director Wensman & City Planner Becker

Approve Agenda:

Amendments suggested are to add discussion of the Tartan Park Comprehensive Plan Amendment and to request an opinion from the City Attorney regarding .

M/S/P: Dunn/Fields, move to approve the Agenda as amended, ***Vote: 7-0, motion carried Unanimously.***

Approve Minutes: August 22, 2016

M/S/P: Williams/Fields, move to approve the August 22, 2016 minutes as amended, ***Vote: 6-0, motion carried with Dunn not voting.***

Public Hearing – Variance Suzanne Horning

Becker started her presentation regarding the variance request from Suzanne Horning for Lot 9 of Krause's addition. This property is located at the intersection of Jamaca Ave N and Jane Road N. This application is for a variance from the 12 month time limit for the commencement of work associated with a lot size variance. A variance was granted on April 2014 for a variance from minimum lot size requirements. At that time, the applicant had requested that it be in perpetuity, but it was approved for a period of five years.

This lot is located in the RS zone, is located in the shoreland district, but is not a riparian lot. The applicant has owned the property since the mid 1980's and would like to convey the lot within the family as a buildable lot. The variance expires in April of 2019 and the owner will need to make a decision to build on or sell it now.

The applicant provided a survey showing existing conditions and that the site can support a home and septic system. The surrounding properties are of similar size, some being even smaller. The applicants have noted that without the variance, the property cannot be put to a reasonable use. The property has been taxed over time as a buildable lot and the applicant does not want to sell, but would like to convey the land to her children. Staff consulted with the City Attorney and found that it is possible to grant this as variances by nature run with the land. The applicant is requesting this so that they do not have to go through this process again. They have now been granted two variances, one in 1985 and one in 2014.

Staff went through the findings and how they relate to the four variance criteria of Practical difficulties, Unique circumstances, Character locality and Adjacent properties and traffic. There was one call received with the caller concerned that allowing this lot to be built upon will set a precedent. Staff is recommending approval of this variance application with a number of conditions, most of which were conditions of the previous variance. A condition was added that states that the variance will be valid until any one of the conditions occurs: The properties planned use changes in the Comp Plan, the property is rezoned, zoning regulations in RS change that would make the lot more non-conforming, included but not limited to an increase in minimum lot size requirements; or an increase in minimum lot width requirements.

Dodson is wondering why this is an issue when this was originally platted as a buildable lot. Becker stated that it is because it does not have a home on it and would not be considered a legal non-conforming lot.

Bridget Eubank, 9960 57th Street, and Brent Weyer, Suzanne Hornings children, spoke on behalf of Suzanne who was unable to attend. They would like to maintain the flexibility to ensure that this lot is buildable in the future.

Public Hearing opened at 7:29 pm

There were no other written or electronic comments received

Public hearing closed at 7:30 pm.

Dunn supports the motion as this is a developed area and this lot is consistent with the other lots.

Williams would like to propose an additional condition that all other City, Zoning and development regulations must be satisfied before a building permit is issued.

M/S/P: Williams/Larson, move to recommend approval of the request for a variance from the minimum lot size requirements in the RS – Rural Single Family Residential zoning district and from the maximum time of one year for which a variance is valid,

subject to the conditions of approval as recommended by staff and the additional condition recommended by the Planning Commission, ***Vote: 7-0, motion carried unanimously.***

Public Hearing – Zoning Text Amendment – Solid Wall Fences

Becker started her presentation by explaining the current fence code regulations as it relates to solid wall fencing on lots under ½ acre and what the exceptions are. Becker went through some of the history on the fence code. Anticipated higher density residential development was cited as the reason for the recommendation for allowing privacy fencing. After discussion over the course of five meetings, the current ordinance amendment was adopted.

Section 154.081 requires that fences in side and rear yards need to be at least 30% open to air and light. Even if the prohibition of solid wall fences over four feet on lots under ½ acre is removed, fences would still need to adhere to this requirement unless this requirement is removed. Staff researched other Cities that allow solid wall fences over 4' and there were quite a few. Staff presented two different options to the Planning Commission for discussion. Option #1 eliminates the prohibition of solid wall fences on lots under ½ acre altogether and also eliminates requirement of permitted encroachments on required yards. Option #2 eliminates the requirement for adjacent property owner to give permission. It also exempts fences that do not exceed one-fourth of the linear distance of the perimeter of a lot from the 30% openness requirement. It also eliminates the exception which allows fences that are erected under other circumstances when a solid wall fence is warranted due to safety, etc. which could be considered subjective and discriminatory. Staff recommends that the Planning Commission adopt option #2.

Fields asked if this allows privacy from one neighbor, but not three. Williams is wondering why we would not want to allow it on 3 sides of the lot, but not in the front yard. Becker stated that there is already a provision on front and side on corner lots. Option #2 is much more restrictive and there is only exceptions for when solid wall fences can be erected.

Public Hearing opened at 7:51 pm

Denise Thompson, 9077 Jane Road N, tried to get a fence permit for their dog and they were not able to get the neighbor signature. They feel that they are not able to have enough privacy. She also did some research and she was not able to find another City in Minnesota that does not allow the 6 foot high privacy fence.

There were no other written or electronic comments received

Public Hearing closed at 7:57 pm