

**City of Lake Elmo
Planning Commission Meeting
Minutes of February 27, 2012**

Chairman Van Zandt called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Ziertman, Obermueller, Van Zandt, Fliflet, Bloyer, Williams. COMMISSIONERS ABSENT: Hall, Pelletier, Haggard. STAFF PRESENT: Planning Director Klatt

Van Zandt introduced Justin Bloyer as a new alternate member of the Planning Commission.

Approve Agenda

M/S/P: Ziertman/Fliflet move to approve the agenda as presented. Vote 5:0

Minutes – February 13, 2012

M/S/P: Williams/Ziertman, move to approve the minutes of the February 13, 2012 meeting as presented. Vote 4:0 with Fliflet and Bloyer abstaining.

Public Hearing (Continuation) – 5577 Lake Elmo Avenue North Lot Split Variances

Klatt presented information concerning a request from Steven Weber, 12729 22nd Street North, West Lakeland, MN to allow the subdivision of a 5.11-acre parcel at 5577 Lake Elmo Avenue into two new lots of 2.27 and 2.84 acres in size. One of the newly created lots would contain an existing home, while a new buildable lot would be created on the northerly portion of the site. A variance has been requested from the minimum lot size requirement of 10 acres in a RR – Rural Residential zoning district and the minimum width requirement of 300 feet for lots in this district. The proposed lot widths would be 195 and 95 feet respectfully.

Klatt noted that the applicant has previously requested a Comprehensive Plan and Zoning Map Amendment on the same property, but has withdrawn that request in favor of the current variance application. He also indicated that the public hearing on this matter was opened at the February 13, 2012 Planning Commission meeting, but was continued until February 27, 2012 because the applicant was not able to attend on the prior meeting date.

Klatt asked that the Planning Commission take action to continue the public hearing, take any additional testimony, and then move on to its deliberations concerning the request.

Williams questioned when the lots in this neighborhood were originally created. Klatt responded that most of the smaller lots in this portion of the City were created prior to incorporation into the City and therefore subject to whatever township regulations were in place at the time. It was noted that the township regulations at one point allowed for the creation of one-acre sized lots.

Bloyer asked if all of the property in this area was at one time owned by a single property owner. Klatt suggested that one of the public hearing attendees may have the answer to that question.

THE CHAIRMAN REOPENED THE PUBLIC HEARING AT 7:40 P.M.

Eileen Bergman, 5500 Lake Elmo Avenue, responded to the Commission's questions regarding past ownership of the property by noting that in the past she did not own all of the property along Lake Elmo Avenue, but that she did own the applicant's property and some of the lots that now surround it. She stated that she is opposed to the lot split primarily because nothing has changed to the land uses surrounding the applicant's property since it was created in the late 1970's. Mrs. Bergman also expressed concern that the granting of the variance would set precedence for other rural property owners to subdivide their land.

James DeLaplain, an attorney representing the applicant, discussed the properties near the applicant's site, and noted that all of surrounding lots are consistent with the lots that would be created through the variance. He stated that he disagreed with the Staff findings in the Planning Commission report, and expressed concern that the City Code was not applied properly in this situation.

Mr DeLaplain specifically commented as follows: 1) that the proposed subdivision is reasonable, especially when compared to the surrounding lots, 2) that the shape of the lot is unique and should be considered separate from the lot size, 3) that the proposed lots would not be any different than the surrounding parcels, most of which are smaller than the proposed lots, 4) that the staff report does not address the issue of congestion, which is the term used in the variance ordinance.

Delaplain stated that under the new State Statutes, variances are used more as a shield than a sword by City Councils for dealing with requests from landowners. He suggested that the City can grant a variance and that the standards are subjective enough to protect the City against any claims from property owner opposed to the request.

Steven Weber, 12729 22nd Street North, West Lakeland, MN reviewed the history of his family's involvement with the subject parcels, and stated that the character of the surrounding land is not rural, and that this character will not change with the granting of a variance. He also commented that there have been discussions with property owners concerning a future frontage road, and such a road would also make the area less rural in character. He stated that he would look at other options for a driveway access if needed.

Fliflet suggested that the first finding be further clarified to note more specifically that the subdivision of this particular lot is not a reasonable use of the property. She commented that the lot was created under a five-acre standard, and could only have been smaller than this if permitted under the codes at the time.

Ziertman explained that the uniqueness of the lot cannot be caused by the landowner, and that in this case, the property owner created the unique circumstances by subdividing the lot in its present configuration. She also commented that the further subdivision of a five-acre lot was not consistent with the City's Comprehensive Plan.

The Commission generally expressed concern about creating two non-conforming lots with regards to lot size and width.

Williams stated that he did not support the variance, and specifically that he did not find that the creation of a 2.5-acre lot in a Rural Residential zoning district was a reasonable use of the property. He also indicated that the lot configuration should not have a bearing on the City's decision because the split of any five-acre parcel would be unreasonable. Williams urged the Commission to consider the long-range impact of allowing the continued creation of non-conforming lots.

M/S/P: Willams/Ziertman, to recommend denial of the variance request based on the findings incorporated as part of the Staff report and with additional clarification of the findings related to practical difficulties. Vote 5:0 with Bloyer abstaining.

Business Item – *Form-based Code Discussion*

Klatt handed out a recent article concerning form-based codes, and reviewed certain aspects of a hybrid code that has been adopted by the City of Flagstaff , Arizona. The Commission generally reviewed the example code and discussed the potential to adopt such a code in Lake Elmo.

Council Updates

Klatt reported on recent City Council decisions concerning land use applications.

Staff Updates

Klatt informed the Commission of upcoming Village and I-94 Work Group meetings.

Adjournment

The meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Kyle Klatt
Planning Director