

LAKE ELMO PLANNING COMMISSION MINUTES

JUNE 11, 1984

*approved
7-984*

Vice Chairman Nazarian called the meeting to order at 7:30 p.m. in the Council Chambers. Present: Kuettner, Lundquist, Lyall, Michels, Moe, Schiltz, Administrator Klaers.

1. Minutes: May 29, 1984

M/S/P Lundquist/Michels - To approve the minutes of the May 29, 1984 Planning Commission meeting as presented. (Motion carried 7-0)

2. Application by Howard Springborn for a simple lot subdivision (and lot size zoning variance) at lot 9, block 2 of Springborn's Green Acres (the SE corner of Jamaca Ave. and 55th Street.

The Administrator advised the Commission that this application was before the Planning Commission and City Council last February and March. The request is identical to the proposal submitted with one significant change. This change relates to the overall concept approved in 1978. This concept calls for thirty-one lots and is being platted in two separate stages. Phase 2 has twelve lots close to the one acre size and has yet to come to the final plat stage. Phase 1 has nineteen lots most exceeding 1.5 acres. The major change is that Mr. Springborn is proposing to eliminate one of the future lots in phase 2 in exchange for this lot split. This could be beneficial to the City as this could be an opportunity to resize and reshape some of the lots in phase 2 at the final plat stage to meet the 1.5 acre requirement.

Helen Hoffman, owner of lot 8 (adjacent to Mr. Springborn's proposed lot split) stated if she had known that two lots would be put on lot 9, she would not have purchased lot 8.

Jerry Dreese 5385 Jamaca, (adjacent property owner), stated he bought his lot with the idea that all of the lots in that area were from two to four acres and would stay that way.

Barbara Buggert, adjacent property owner, stated she was opposed to this lot split. She further stated that the road conditions (hill, curve) would make this an unsafe location for two driveways.

Mr. Folz stated that they are not asking for a variance; they are asking for a change in the agreement that was made in 1978 when the overall concept was approved by the City Council. He further indicated that his understanding was that a simple lot subdivision was required, but that no lot size variance was necessary because of the pre-existing approved plan.

Klaers stated that before this application goes to the City Council, he will get an opinion from the City Attorney. We have a lot of record (the lot proposed to be split), the other proposed 12 lots (in phase 2) are not lots of record. If we are going to subdivide a lot

of record into lots less than 1.5 acres, he still feels that a variance is required. Even though it is a land swap concept, we would still be creating two non-conforming lots.

Bruce Folz stated his understanding was that since there is a contract agreement that is binding, no variance would be required.

M/S/P Lyall/Moe - To get a legal opinion from the City Attorney to determine if the proposal is legal (with no variance required); and if the proposal is legal (lot swap) the Planning Commission is in favor of this request. (Motion carried 7-0).

M/S/P Lyall/Moe - If the legal opinion is that the proposal is not legal (the swap cannot be made) and a variance is required, the Planning Commission would recommend denial of the application. (Motion carried 6-1 <Michels>).

Michels stated the reason he voted against this motion was that he was in favor of Mr. Springborn's first request in that he felt the difference in lot size was very close to the average lot size in the area; and most of the problems with variances are because of street frontage, and there is adequate street frontage for this lot split.

3. Application by Kenneth Isaacson for a simple lot subdivision (and lot size and lot width variances) at 7851 50th St. N.

The Administrator advised the Commission that if this application eventually receives approval we would be splitting two lots into four lots because the road splits the existing lot. Mr. Isaacson has submitted insufficient information to consider the simple lot subdivision (no survey or soil information was received).

The Commission reviewed City Engineer's letter of June 7, 1984 in which he states that the applicant proposes to divide a 2.18 acre parcel (inclusive of Hill Trail traveled way) into two lots, each containing about .94 acres after a suitable right-of-way for Hill Trail is subtracted, where a 1.5 acre lot size is required. The location of Hill Trail also compounds the problem because it severs the parcel or parcels. The Engineer further recommended the the lot size variance be denied because it would take a presently conforming parcel and create two non-conforming lots.

The Commission reviewed their actions regarding the 60% rule from the 4-9-84 Planning Commission meeting in which they unanimously recommended to the Council "to not consider changing the 60% rule, or average lot size requirements for reasons of public health and welfare, protection of wells and lakes, protection of property values, protection and maintaining road access, avoiding loss of control, for the property owners own protection; and if we have a variance for average lot size requirement there will be no more than one variance on any parcel; that variance would be for lot size, - nothing else, as outlined in section 301.909 of the City Code".

M/S/P Lundquist/Moe - To recommend to the City Council denial of the Isaacson application based on the above mentioned excerpt from the 4-9-84 Planning Commission minutes. (Motion carried 7-0)

4. Discussion: Size of assessory structures in all zoning districts.

The Commission reviewed the assessory structure limitations in the different zones in the City.

The Administrator will have the Building Official check the state code requirements for assessory structures and bring this topic back to the Commission at a later date. Administrator will also verify whether or not the seven counties within the metropolitan area must follow the state code regarding assessory structures.

5. Other

***Michels stated he would like to see the Planning Commission study the "bed system" (septic system) that is being used in Wisconsin and to follow the progress of this procedure. This item will be added to the 1984 Work Plan.

***There was a brief discussion on the water problems in the area.

The meeting adjourned at 9:40 p.m.

The Planning Commission is an advisory body to the City Council. One of the Commission's functions is to hold public hearings and make recommendations to the City Council. The City Council makes all final decisions on these matters.

Lake Elmo Ordinances require that certain documents and information be included in applications. The Planning Commission may postpone consideration of an application that is incomplete and may for other reasons postpone final action on an application.

For each item, the Commission will receive reports prepared by the City Staff, open the hearing to the public, and discuss and act on the application. If you are aware of information that hasn't been discussed, please fill out a "Request to Appear Before the Planning Commission" slip; or, if you came late, raise your hand to be recognized. Comments that are pertinent are appreciated.

AGENDA

LAKE ELMO PLANNING COMMISSION

JUNE 11, 1984

7:30 p.m.

Meeting Convenes

1. Minutes: May 29, 1984
2. Application by Howard Springborn for a simple lot subdivision (and lot size zoning variance) at lot 9, block 2 of Springborn's Green Acres (the SE corner of Jamaca Avenue and 55th Street).
3. Application by Kenneth Isaacson for a simple lot subdivision (and lot size and lot width zoning variances) at 7851 50th Street N.
4. Discussion: Size of accessory structures in all zoning districts.

JUNE 7, 1984

TO: PLANNING COMMISSION MEMBERS

FROM: PATRICK KLAERS, CITY ADMINISTRATOR

SUBJECT: AGENDA MEMO FOR JUNE 11, 1984 MEETING

1. Attached for your consideration are the minutes of the 5-29-84 Planning Commission meeting.

2. Application by Howard Springborn for a simple lot subdivision (and lot size zoning variance) at lot 9, block 2 of Springborn's Green Acres (the SE corner of Jamaca Avenue and 55th Street).

This application was before the Planning Commission and City Council last February and March; therefore, the site and proposal should be familiar to everyone. The request is identical to the proposal submitted with one significant change. This change relates to the overall concept approved in 1978. This concept calls for thirty-one lots and is being platted in two separate stages. Phase 2 has twelve lots close to the one acre size and has yet to come to the final plat stage. Phase 1 has nineteen lots, most exceeding 1.5 acres. The major change is that Mr. Springborn is proposing to eliminate one of the future lots in phase 2 in exchange for this lot split. This could be beneficial to the City as this could be an opportunity to resize and reshape some of the lots in phase 2 at the final plat stage to meet the 1.5 acre requirement.

Attached for your information is the new application, map and report from Larry Bohrer. Also attached for your information is the relevant material from the first application. You may find this material to be very informative.

A major issue with this application are the concerns of the neighbors. These neighbors were against the lot split last time and have clearly purchased large lots with a known concept that their neighbors also would have large lots. On the other side of the coin, the land north of 55th Street, directly across from this lot in question will most likely be developed in the future to residential, at very close to the 1.5 acre requirement. This is an assumption, but if this takes place, these lots would be fairly consistent with the two proposed 1.38 acres size lots.

Nonetheless, we still must address the issue of creating two non-conforming lots out of one conforming lot. Larry Bohrer's report addresses this issue to some degree. The staff does not have any strong feelings on this application as we had indicated with the March application. This time around, if we create two non-conforming lots out of one conforming lot, we are not setting much of a precedent because of the overall concept approved in 1978, and the "lot swap plan" being presented. The staff feels that reworking the remaining lots in phase 2 is a good benefit to the City and may be significant enough to offset creating two non-conforming lots and the sentiments of the neighbors.

This is strictly a judgement call on the staff's part and the Planning Commission and City Council's part. In this particular case, I feel the neighbors concerns are more valid than in most cases.

3. Application by Kenneth Isaacson for a simple lot subdivision (and lot size and lot width zoning variances) at 7851 50th Street N.

Mr. Isaacson is planning to subdivide his lot located at the NW corner of 50th Street and Hill Trail. This application would create two non-conforming lots out of one existing conforming lot. Please note the true location of the road shown on the large map that is attached.

If this application eventually receives approval we would be splitting two lots into four lots because the road splits the existing lot. Mr. Isaacson has submitted insufficient information to consider the simple lot subdivision (no survey or soil information was received). In reality, we are looking at the variance before the lot split is being considered. The Planning Commission does not make comments on variances. If the City Council approves the variances, additional information would need to be submitted so that consideration could be given to the simple lot split. Then if the lot split is approved, the applicant would have to apply for a shoreland permit.

The attached Larry Bohrer report addresses this aspect of the application. Also attached is the application, legal description and maps. Note that a lot width variance is also required. Also, please refer to my notes #1 and #5 in the "other information" section at the end of this memo.

Because of the process of reviewing the variances first and then the simple lot subdivision, this could be a very brief discussion by the Planning Commission. However, the Planning Commission should feel free to comment on both the lot split and the variances even if the information at this time is still in the concept stage. The City Council will hold a public hearing on the two variances requested at their 6-19-84 meeting. Again, if these variances are approved, then we will see the simple lot split before the Planning Commission at a later date. You should note the staff will be recommending denial of both the lot split and variances based on the principal of creating non-conforming lots.

4. Discussion: Size of accessory structures in all zoning districts.

Preliminary discussion took place at the 5-14-84 meeting and you may want to continue with this discussion. Note that the Wier application for an accessory structure larger than is allowed in the City Code was denied by the City Council. The Council stressed interest in this topic and felt that it is one issue the Planning Commission should review. If nothing else, we should develop an approach or "game plan" to review this issue.

This may be a very brief meeting because of the review on the Isaacson application. Therefore, the Planning Commission can either end the meeting early; review #4 above; or look at the other items on the work plan. The Council's approved Planning Commission Work Plan is

attached. Added at the bottom are other work plan additions that have been discussed at recent Planning Commission meetings.

OTHER INFORMATION

1. Attached for your information are 10 forms that the City Staff has developed through a series of staff meetings. The staff has met numerous times to discuss the procedure for reviewing applications. The results of these discussions has been the drafting of these attached forms. Each application we receive will have a related form(s) attached to the file and we will follow the stages as shown.

The staff now has a clear idea as to the process each applicant must follow, but has found some of these processes to be redundant and/or confusing. For example, when an application for a rezoning or a large lot subdivision needs a variance, then the applicant must have a public hearing before the Planning Commission for the request and then an additional public hearing before the City Council for the variance that is required with each request. Eventually we hope to make recommendations that will simplify the process for reviewing applications.

2. Attached is a Minneapolis Star and Tribune article dated 5-29-84, relating to high water in the lakes throughout the State and the wet and dry trends of the last 100 years. This article reinforces what the Mayor has stated repeatedly about the wet and dry periods in Lake Elmo. We clearly are in a wet period at this point and this may continue for the next few years according to the article.

3. Attached for your information is the most recent City Newsletter dated 5-22-84, which highlights an article on water levels on Lake Jane.

4. Wish to inform the Planning Commission that I will be on vacation the week of June 18th. This means that I will be out of the office when the agenda is prepared and the packets sent out for the 6-25-84 Planning Commission meeting. Therefore, these packets may be sparse and information either mailed independently by the City Engineer, or handed out at the Planning Commission table. Because I will be out of the office, there is a chance that a majority of the background information on the agenda items will be given to the Commission verbally during the meeting.

5. Attached for your information is the first page of a memo I sent to the City Attorney in March, and his response dated 6-1-84. This memo relates to applications for simple lot subdivisions that create two non-conforming lots.

I asked the attorney if we could refuse these applications at the administrative level. The attorney responded by saying "yes, the staff can reject these applications, but individuals can always apply for variances". This means that an applicant can process the variance application thru the City Council first, then apply for the simple lot subdivision. This could save the applicant some money (cost of survey), but it also takes more time. If the applicant is not concerned about the cost relating to the simple lot subdivision, he

can still process the simple lot application simultaneously with the variance application.

This is not the answer I hoped to receive from the attorney, but it further clarifies the review and application process for simple lot subdivisions that require variances. The staff will discourage these applications, but will inform all applicants about both of the options indicated above.

6. Update on 6-5-84 City Council Meeting.

- The Council heard an update from VBWD representative, Dick Murray on the water level of Lake Jane. This situation, as in past years, is not good; but is better than at the same time in June of 1983. We are not at an emergency situation yet, but the Council expressed its desire for VBWD to develop an emergency contingency plan other than using the diesel pump to push larger quantities of water into City Park Pond.
- Accepted the three recommendations the Planning Commission made at its 5-14-84 meeting. These three recommendations relate to (1) revising a code amendment to limit the access on local streets; (2) to hold an informational (open house) meeting for the applicants in the 201 Study (this should take place this summer); (3) to provide some requirements where either the sewer pumper or the resident submits a card to the City indicating when their septic system was pumped.

Number 3 in part relates to insuring that the 201 applicants maintain their system and will most likely be implemented later this year or early in 1985. This request for another emergency contingency plan is desired because the realities of the benefits proposed by the 509 Plan of gravity and pipes may not be achieved until after the 1985 and maybe 1986 summer seasons.