

**City of Lake Elmo  
Planning Commission Meeting  
Minutes of June 27, 2011**

Vice Chair Fliflet called to order the meeting of the Lake Elmo Planning Commission at 7:01 p.m. COMMISSIONERS PRESENT: Hall, Obermueller, Fliflet, Ziertman, and Williams (7:02). Absent: Pelletier, Bidon, Van Zandt, and Haggard. STAFF PRESENT: Planning Director Klatt and Planning Intern Johnson.

**Agenda**

M/S/P, Hall/Williams, move to approve the agenda. Vote: 5:0.

**Minutes-** *None.*

**Public Hearing-** *Zoning Text Amendment*

Planning Director Klatt asked the commission to consider an ordinance that would amend the variance section of the Lake Elmo City Code. This zoning text amendment is in response to revised Minnesota State Statutes regarding the use of variances in land use cases. As an overview, Planning Director Klatt explained the reasons behind the legislative change in the state statute regarding variances. In the period since the Minnesota Supreme Court ruled on the interpretation of undue hardship, the City of Lake Elmo has passed only two variances, both in cases of replacing failing septic systems.

Vice Chair Fliflet asked whether City Staff wrote the new ordinance or if the text came from a standardized new ordinance from another source. Planning Director Klatt explained that the new language came from three different sources: ordinances from other municipalities, language from the Lake Elmo City Code, as well as language from the state statute.

Planning Director Klatt explained that due to the change in variance statute from “undue hardship” to “practical difficulties”, “hardship” should be struck from the definitions section of the City Code.

Commissioner Hall asked if “hardship” was written into the City Code after the Supreme Court ruling, or if it was present beforehand. Planning Director Klatt explained that “hardship” was in the definitions section before the Supreme Court ruling.

Commissioner Williams felt that it would be useful to have the definition of “practical difficulties” in the definitions section of the City Code. Planning Director Klatt stated that Staff can place the term “practical difficulties” in the definitions section to add clarity.

In response to the language regarding appeals, Vice Chair Fliflet commented that using the name “Board of Adjustment” instead of “City Council” could be confusing to normal residents who are not familiar with the City Code. He explained that the name “City Council” could be included to provide clarity.

Planning Director Klatt continued reviewing the new language. He highlighted that what is required of the applicant has not changed for the most part. However, one recommendation from Staff is to include the same process of alerting nearby residents that occurs for conditional use permits should be incorporated into variance as well. Another recommendation from Staff is that the application process for variances be grouped into an all encompassing application section of the Administration chapter in the future. Finally, Klatt explained that the Staff recommends adding a condition of expiration of the variance if it is not used in 12 months after the variance is granted.

Commissioner Williams proposed a hypothetical situation and asked Planning Director Klatt if this would be considered “practical difficulties”. Planning Director Klatt explained that the process of evaluating “practical difficulties” will be ongoing as Staff begins to work on variance requests.

Commissioner Williams commented that he believes that there are going to be many variance requests in the future, and the Commission will have a difficult time making decisions.

Vice Chair Fliflet noted that she feels the wording of the state statute is less definitive and therefore better because it does not include the language “must” and is open to more interpretation. Planning Director Klatt felt that a substitution of wording using the state statute would be acceptable.

Commissioner Ziertman felt that we should remain flexible.

Planning Director Klatt reminded the Commission that in order for a variance to be approved, all four findings must be made.

The Planning Commission suggested a change to the wording of finding #2 in the variance language to “The plight of the land owner is due to circumstances unique to the property not created by the land owner” (the word “must” has been removed) which is in line with the state statute.

Planning Director Klatt noted that Staff recommends approval as presented. In addition, he highlighted the three changes to the variance language recommended by the Planning Commission. First, a definition for “practical difficulties” was added to the definitions section. Second, a note was made that the City Council serves as the Board of Adjustment. Third, a change to the language in finding #2 of the variance test.

**VICE CHAIR FLIFLET OPENED THE PUBLIC HEARING AT 7:36**

No one spoke.

**THE VICE CHAIR CLOSED THE PUBLIC HEARING AT 7:36**

M/S/P, Ziertman/Williams, moved to pass the motion with the aforementioned changes.  
Vote: 5:0.

**Business Items- “Design Review for Officials” Presentation/Training Session**

Planning Director Klatt stated that this presentation should be helpful considering the potential changes to the Comprehensive Plan in light of future planning initiatives in the Village Area and South of 10<sup>th</sup> St. Area. In addition, it should be noted that potentially implementing Form Based Code should allow for greater control of design review moving forward.

Commissioner Williams noted that the Planning Commission has an overall lack of training in terms of design review.

Commissioner Obermueller explained that the planner from West Palm Beach Florida highlighted the fact that variation from the design standards is allowed with exceptional design.

**Updates**

Planning Director Klatt noted that the Bremer Bank PUD Amendment was approved by the City Council. In addition, the City Council accepted the vision statements for the South of 10<sup>th</sup> St. Area as reviewed by the Planning Commission. Finally, Klatt noted that the City Council went through some deliberation and decided that the Planning Commission will be reduced to seven voting members and two alternates. The quorum has also been reduced from five members to four members.

Commissioner Ziertman wondered whether the reduction to quorum affected the Village Area and South of 10<sup>th</sup> St. Area work groups as far as voting on those issues.

Planning Director Klatt felt that the numbers should be ok.

**Commission Concerns**

None

**Adjournment**

Meeting adjourned at 8:45PM