

## PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, June 4, 2019 – 7:00 p.m.  
City Hall Chambers - 8150 Barbara Avenue

Chair Maggi called the Planning Commission meeting to order at 7:00 p.m.

Commissioners Present: Armando Lissarrague  
Elizabeth Niemioja  
Tony Scales  
Dennis Wippermann  
Pat Simon  
Annette Maggi  
Joan Robertson  
Brett Kramer

Commissioners Absent: Jonathan Weber (excused)

Others Present: Allan Hunting, City Planner  
Heather Botten, Associate Planner

Chair Maggi gave a brief explanation on the use of abstentions. She advised that typically abstentions are used in cases where there is a clear conflict of interest, whether it be financial, a personal relationship to the applicant, etc.

### **KENTON AND ROSALYN MILLER – CASE NO. 19-21V**

#### **Reading of Notice**

Commissioner Simon read the public hearing notice to consider the request for a variance to allow a six-foot fence to be located 25 feet from the front property line whereas 30 feet is required, for the property located at 5824 Blackberry Trail. 4 notices were mailed.

#### **Presentation of Request**

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant is requesting a variance to allow a six-foot high privacy fence 25 feet from the front property line whereas 30 feet is required. The reasons for the fence requirement appear to be mainly visibility for traffic and emergency vehicles along the street and driveways. A second reason would be uniformity along front views and visual appeal. Staff believes installing a six-foot fence 25 feet from the front property line to be a reasonable use of the property as it would be setback over 35 feet from the road. Staff also believes that the proposed fence would not be out of character for the neighborhood. Staff believes a practical difficulty can be found in the fact that the proposed fence would be located up to a retaining wall, would be within a wooded area with trees located closer to the property line than the fence, and the fence would not affect the visibility along the right-of-way or neighboring driveway. Staff recommends approval of the request with the one condition listed in the report. Commissioners received a copy of an email from one of the neighbors that is in support of the request. Staff also received a phone call with general inquiries.

Commissioner Robertson asked if the variance required a practical difficulty.

Chair Maggi replied in the affirmative, stating the practical difficulty as defined by staff was listed in the report.

Commissioner Wippermann asked if the applicant was requesting two variances; one for setback and the other for the height of the fence.

Ms. Botten replied that one variance was being requested to allow a six-foot privacy fence 25 feet from the property line.

Ms. Botten advised that the applicant can have a fence in the front yard up to 42 inches; the variance is to allow it to be six-foot high.

Commissioner Wippermann asked what the practical difficulty would be for the height allowance.

Ms. Botten replied that the reasons listed include the proposed fence not affecting visibility from the road for emergency vehicles or for traffic, it not adversely affecting any of the neighbors, and being setback further than the existing trees on the property.

Commissioner Robertson questioned whether those were practical difficulties.

Ms. Botten replied that was what staff recommended as a practical difficulty; however, Planning Commissioners could make their own recommendation.

### **Opening of Public Hearing**

Ken Miller, 5824 Blackberry Trail, advised he was available to answer any questions.

Chair Maggi asked the applicant if he read and understood the report.

Mr. Miller replied in the affirmative. He showed photos of where the fence would be located, noting that it would be located behind existing trees, next to a retaining wall, and would be barely visible from the road.

Commissioner Niemioja asked if the fence could be moved to a different location on his property.

Mr. Miller replied that currently a six-foot fence would need to be 30 feet from the front property line; he is requesting that it be 25 feet from the road. He would be allowed to have a 42-inch fence 25-feet from the road, but he would prefer the entire fence be six feet high rather than having the front five feet only 42-inches.

Chair Maggi asked the applicant why he would not end the fence at 30 feet as permitted by code.

Mr. Miller replied that he wants to abut his retaining wall on the one side and the suggested location is a good ending point.

Commissioner Robertson noted that a six-foot fence is higher than what code allows.

Mr. Miller replied that he would like the front five feet to be the same height as the rest of the fence.

Commissioner Scales clarified that the only part of the proposed fence that is not allowed by code to be six feet is the front five feet.

Chair Maggi closed the public hearing.

### **Planning Commission Discussion**

Chair Maggi stated the question seems to be defining a practical difficulty.

**Planning Commission Recommendation**

Motion by Commissioner Scales, second by Commissioner Lissarrague, to approve the request for a variance to allow a six-foot fence to be located 25 feet from the front property line whereas 30 feet is required, for the property located at 5824 Blackberry Trail, with the practical difficulty as stated in the report.

Commissioner Niemioja was in favor of the request but did not feel that being located next to a retaining wall, being in a wooded area, and not affecting visibility along the right-of-way was a practical difficulty and would set an undesirable precedent.

Commissioner Lissarrague stated the request made sense to him and he did not believe there would be many similar situations throughout the city.

Commissioner Kramer asked if the existing trees, retaining wall, and land contours could be considered the plight of the landowner due to circumstances unique to the property.

Chair Maggi replied that the retaining wall was a manmade structure, but trees and topography were sometimes used as a practical difficulty.

Commissioner Robertson questioned whether in this case the trees require the applicant to bring the fence to that location, or rather was it that the trees happen to be there and it would be nice to have the fence meet them, which is not a practical difficulty.

Motion failed (3/5 - Simon, Maggi, Niemioja, Wippermann, Robertson).

Motion by Commissioner Niemioja to approve the setback variance based on the preservation and use of the trees and the land.

Mr. Hunting clarified that there was no setback variance being requested. The request is to allow a six-foot fence to be 25 feet from the property line.

Commissioner Niemioja withdrew her motion.

This item goes to the City Council on June 10, 2019.

**JEFF AND CHRISTIE SCHADEGG - CASE NO. 19-07SZC**

**Reading of Notice**

Commissioner Simon read the public hearing notice to consider the request for a conditional use permit to operate a beauty salon as a home occupation, for the property located at 8375 Cooper Way. 33 notices were mailed.

**Presentation of Request**

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the applicants are proposing to operate a one chair beauty salon in an existing portion of the house located just inside the front door of the house. The business would be by appointment only and customer parking is available on their driveway. Staff finds the request to be in compliance with the conditional use and home occupation criteria and therefore recommend approval of the request with the eight conditions listed in the report.

Chair Maggi noted that the home occupation guidelines require the entrance to be through a separate door whereas the applicants are proposing to use the main door to the home.

Mr. Hunting replied that customers would be able to enter the salon area without going further into the house, so staff felt they met the criteria in this case.

**Opening of Public Hearing**

Jeff Schadeegg, 8375 Cooper Way, advised he was available to answer any questions.

Chair Maggi asked the applicant if he read and understood the report.

Mr. Schadeegg replied in the affirmative.

Commissioner Simon asked the applicant if he considered installing an outside door between the steps and the edge of the front of the house.

Mr. Schadeegg replied that there was not enough space to do so. He added that there is also a bay window across the front of the house. At one point in time the code required the entrance be from within the house. When the code changed it was with the idea that you did not want people going through the residence to get to the home occupation. Because of that they chose this room because clients would come in the front door and take an immediate turn into the room being used for the business.

Commissioner Simon noted that Condition 7 prohibits any signs on the property advertising or identifying a beauty shop.

Mr. Schadeegg stated he understood and explained that his wife has been in business for 45 years and is losing her lease. The customers coming to her salon would be her existing customer base that she would like to service for a couple years until she retires.

Commissioner Robertson asked if there would be any signs or salon furnishings visible in the front window.

Mr. Schadeegg replied there would be no signs, the blinds in that window were typically closed, and the salon furnishings would be on an adjacent wall and only visible from a specific angle.

Commissioner Lissarrague asked if staff was aware of any other businesses in the City with the same type of entrance.

Mr. Hunting replied that he would not know as other home occupations did not require review.

Commissioner Lissarrague asked if the neighbors had any objections.

Mr. Hunting advised that staff did not receive any objects from the 33 property owners that were notified.

John Kedrowski, 8380 Cooper Way, stated he lived directly across from the subject property and had no objections to the request.

Chair Maggi closed the public hearing.

**Planning Commission Recommendation**

Motion by Commissioner Wippermann, second by Commissioner Scales, to approve the request for a conditional use permit to operate a beauty salon as a home occupation, for the property located at 8375 Cooper Way, with the eight conditions listed in the report.

Motion carried (8/0). This item goes to City Council on June 10, 2019.

### **MARK ENGEN – CASE NO. 19-25CV**

#### **Reading of Notice**

Commissioner Simon read the public hearing notice to consider the request for a variance to allow two accessory buildings on the property whereas one is the maximum allowed, and a conditional use permit to exceed the maximum impervious surface allowed, for the property located at 9255 Courthouse Boulevard. 28 notices were mailed.

#### **Presentation of Request**

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant purchased the property a couple years ago and added additional impervious surface to the site as he was unaware of the code requirements. The applicant is over the allowed amount by 4,862 square feet, which is within the 10% allowed with a conditional use permit. Engineering has reviewed the request and is working with the applicant on the stormwater and grading requirements. The applicant has agreed to give the City a 10-foot drainage and utility easement along the front and an easement over the natural basin on the property in lieu of installing a raingarden. The applicant is also requesting an after-the-fact variance to allow more than one accessory building on the property. A neighbor was moving and offered the 400 square foot structure to the applicant. The property also has a 1,400 square foot detached structure, whereas only one is allowed. Staff does not believe that the applicant identified practical difficulties to comply with the variance criteria and that approving the variance could set a precedent for the number of accessory buildings allowed in the E-1 district. Staff recommends denial of the request for a variance, based on the reasons listed in Alternative B of the report, and approval of the request for a conditional use permit to exceed the maximum impervious surface.

Commissioner Simon asked if the applicant pulled a permit for the additional concrete or the new accessory structure.

Ms. Botten replied that no permits were pulled, however, permits were not necessarily required for the concrete work, especially behind the garage and on the sides.

Commissioner Simon asked if the impervious surface associated with a building permit was counted, such as a patio being poured next to a garage addition.

Ms. Botten replied that the patio would still count towards total impervious surface; however, the concrete does not require a permit.

#### **Opening of Public Hearing**

Mark Engen, 9255 Courthouse Boulevard, advised he was available to answer any questions.

Chair Maggi asked the applicant if he read and understood the report.

Mr. Engen replied in the affirmative. He advised that he essentially replaced his blacktop with concrete and filled in the space between the two driveways. He was told he did not need a permit to remove his blacktop and replace it with concrete. He has agreed to work with the engineering staff regarding easements. He advised that the structure was previously on the property across the street from him. They gave it to him when they sold their property and he assumed it would be okay to bring it across the street onto his property. He questioned why the structure was acceptable on his neighbors' property but not on his own.

Chair Maggi stated that allowing only one accessory structure has been in the code for quite some time and it was unfortunate the applicant was not aware of the rule.

Commissioner Simon asked the applicant if he could define a practical difficulty for having the second structure.

Mr. Engen replied because it was given to him.

Kathleen Kincaid, 9175 Courthouse Boulevard, asked if the applicant was planning to run his business from his property.

Commissioner Scales replied that he parks his vehicles there.

Ms. Kincaid was concerned about additional traffic on Courthouse Boulevard and the number of vehicles that would be stored there.

Ms. Botten advised that there are two separate requests for this property. The request for a code amendment for the business is going to City Council on June 10. This request is for impervious surface and number of accessory buildings allowed on a residential property.

Commissioner Lissarrague asked for clarification regarding the two requests for Mr. Engen going to City Council at different times.

Ms. Botten replied that tonight's request was for a use separate from the business, noting that residents can expand their impervious surface and ask for a variance for an additional structure on residential property.

Chair Maggi closed the public hearing.

### **Planning Commission Discussion**

Commissioner Scales stated that he struggled with not allowing this additional structure because there are hundreds of buildings like this throughout the City.

Commissioner Niemioja stated she would not be voting for approval on the variance due to lack of a practical difficulty. One of the reasons she was concerned about the practical difficulty on a previous request this evening was because this property owner might be able to use the same practical difficulty and say the building was in the woods, next to a retaining wall, and not impacting visibility from the road.

Commissioner Scales stated that while he would likely be voting against the variance because of the lack of a practical difficulty, he hoped that City Council would take a hard look at this because there were many similar existing buildings throughout the city.

Commissioner Robertson stated that having similar buildings in the city should not become the basis for continuing to allow it, especially since they were not sure how long the buildings had been there, whether they had been grandfathered in, and whether they in fact should not be there.

Commissioner Scales stated he did not disagree with that but believed the City should look at the codes and reevaluate.

Commissioner Wippermann agreed with Commissioner Robertson that many of these may have been in existence before the codes were implemented so they would become grandfathered and

are permitted.

**Planning Commission Recommendation**

Motion by Commissioner Niemoja, second by Commissioner Kramer, to approve the request for a conditional use permit to exceed the maximum impervious surface allowed, for the property located at 9255 Courthouse Boulevard, with the conditions listed in the report.

Motion carried (8/0).

Motion by Commissioner Simon, second by Commissioner Wippermann, to deny the request for a variance to allow two accessory buildings on the property, whereas one is the maximum allowed, for the property located at 9255 Courthouse Boulevard, due to the lack of a practical difficulty.

Commissioner Lissarrague stated it was unfortunate there was a code prohibiting a second structure as it seemed appropriate for this particular property.

Motion carried (8/0). This item goes to the City Council on June 24, 2019.

**VANSOUTH LIMITED PARTNERSHIP – CASE NO. 19-24ZC**

**Reading of Notice**

Commissioner Simon read the public hearing notice to consider the request for a rezoning of the property from B-4, Shopping Center to B-3, General Business and a conditional use permit to allow a recreation center in the shopping complex, for the property located at Southridge Shopping Center. 15 notices were mailed.

**Presentation of Request**

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the applicants have been working on leasing space to the YMCA while they are looking for a new permanent location. The YMCA falls under the definition of 'Recreation Center', which is a conditional use in the B-3 district but is not allowed in the B-4 district. The applicant/owner is requesting to change the zoning of Lot 2 of the Southridge Shopping Center to B-3. The City approved a similar request for the Salem Square Shopping Center in 2011 when the center was looking to lease space to Pawn America; the center was zoned B-4 and was rezoned to B-3. The subject site does not really function as a B-4 shopping center, which is typically an enclosed shopping mall. The existing commercial strip center would better fit the traditional B-3 shopping center area. Staff recommends approval of the request.

Chair Maggi asked if there were any unintended consequences of changing the zoning on this entire section of the shopping center.

Mr. Hunting replied he was not aware of any, and he noted that the B-3 district allows more uses than the B-4 district.

Chair Maggi asked how long the YMCA planned to be at this location.

Mr. Hunting stated the applicant's initial thought was approximately three years.

**Opening of Public Hearing**

Katie Lowe, 7553 Alpine Court, Executive Director at the West St. Paul YMCA, advised she was available to answer any questions.

Chair Maggi asked the applicant if she read and understood the report.

Ms. Lowe replied in the affirmative.

Commissioner Simon asked if they would continue the Silver and Fit programs at the temporary facility.

Ms. Lowe replied in the affirmative. She stated as long as their membership base stays the same, and people come to the classes, they will continue to offer the same activities. There are some exceptions, one being there is no pool at this location.

Commissioner Robertson asked if there would be a running track at the temporary location.

Ms. Lowe replied there would not and noted they do not have a track at their current location either.

Commissioner Scales asked where the YMCA's permanent location would be.

Ms. Lowe replied that had not yet been determined but they were committed to staying in their current service area.

Chair Maggi closed the public hearing.

#### **Planning Commission Recommendation**

Motion by Commissioner Simon, second by Commissioner Niemioja, to approve the request for a rezoning of the property from B-4, Shopping Center to B-3, General Business and a conditional use permit to allow a recreation center in the shopping complex, for the property located at Southridge Shopping Center, with the condition listed in the report.

Motion carried (8/0). This item goes to the City Council on June 10, 2019.

#### **OTHER BUSINESS**

##### **Officer Elections**

Motion by Commissioner Niemioja, second by Commissioner Scales, to nominate Annette Maggi as Chair of the Planning Commission.

Motion carried (8/0)

Motion by Commissioner Niemioja, second by Commissioner Kramer, to nominate Tony Scales as Vice-Chair of the Planning Commission.

Motion carried (8/0)

Motion by Commissioner Scales, second by Commissioner Wippermann, to nominate Pat Simon as Secretary of the Planning Commission.

Motion carried (8/0)

Chair Maggi congratulated the three Commissioners that were recently reappointed.

Mr. Hunting introduced Community Development Director Heather Rand.

Mr. Hunting advised that the June 18 Planning Commission meeting has been cancelled.

The meeting was unanimously adjourned at 8:01 p.m.

Respectfully submitted,

Kim Fox  
Recording Secretary