

**MINUTES  
PLANNING COMMISSION MEETING  
CITY OF WHITE BEAR LAKE  
JANUARY 27, 2020**

The regular monthly meeting of the White Bear Lake Planning Commission was called to order on Monday, January 27, 2020, beginning at 7:00 p.m. in the White Bear Lake City Hall Council Chambers, 4701 Highway 61, White Bear Lake, Minnesota by Chair Mark Lynch.

**1. CALL TO ORDER/ROLL CALL:**

MEMBERS PRESENT: Jim Berry, Pamela Enz, Mark Lynch, Erich Reinhardt, and Peter Reis.

MEMBERS EXCUSED: Ken Baltzer.

MEMBERS UNEXCUSED: None.

STAFF PRESENT: Anne Kane, Community Development Director, Samantha Crosby, Planning & Zoning Coordinator, and Ashton Miller, Planning Technician.

OTHERS PRESENT: Jim Hamilton, Robert Johnson, Richard Herod III, Chuck Mears, Michele Klegin, Melanie Emery.

**2. APPROVAL OF THE JANUARY 27, 2020 AGENDA:**

Member Reis moved for approval of the agenda. Member Berry seconded the motion, and the agenda was approved (5-0).

**3. APPROVAL OF THE NOVEMBER 25, 2019 PLANNING COMMISSION MEETING MINUTES:**

Member Reinhardt moved for approval of the minutes. Member Reis seconded the motion, and the minutes were approved (5-0).

**4. CASE ITEMS:**

A. **Case No. 19-10-Z:** A **City-Initiated** text amendment to Zoning Code Section 1303.230, Subd.7 “Shoreland Alterations” to create parameters for the use of riprap and reiterate the limitation that retaining walls not exceed four (4) feet in height.

Staff recommended tabling the request. Member Reis moved such, Member Reinhardt seconded and the item was tabled by a vote of 5-0.

B. **Case No. 20-1-CUP & 20-1-V:** A request by **Richard Herod III** for a 2’ variance from the 4’ height limit for a fence abutting a right-of-way, per Code Section 1302.030, Subd.6.h.4, in order to maintain a six foot fence along Cottage Park Road, and a conditional use permit for two curb cuts accessing Cottage Park Road, per Code Section 1302.050, Subd.4.h.9 at the property located at 4264 Cottage Park Road.

Miller discussed the case. Staff recommended approval of one curb cut, denial of one curb cut and denial of the fence height variance.

Member Reinhardt recapped the scenario of events to which Kane clarified that Mr. Herod had contacted staff to confirm if his contractor had pulled a permit. He was told they had not, nor had they verified the property lines before work began. A survey done later revealed that both a small section of the fence and a very small corner of the residence is in the right-of-way.

Member Reis confirmed that it is not the full extent of the fence that encroaches into the right-of-way and asked about the materiality of the encroachment into the right-of-way, considering it was six inches. Kane responded that the right-of-way of Cottage Park is much tighter than most and therefore probably more material than others.

Member Reis reiterated that the options for compliance are to chop off top two feet or relocate 12 feet further back. He asked if the department keeps a log of contractors who commit such violations. He suggested that perhaps in the future, the City should more closely monitor certain contractors when they pull permits to ensure they are following the rules. Kane cautioned that the house's encroachment into the right-of-way is a unique circumstance and could be misleading in relation to the location of the property line.

Member Lynch opened the public hearing.

Richard Herod III, the applicant, acknowledged that he never intended to be in this situation. He explained the intent of the fence is to prevent people from leaning over the fence and stealing his two French bulldog puppies when he is not looking. His home is on a corner lot and the house is situated in a strange place, which limits the amount of back yard space. He does not want to lose any of that space by pushing the fence back, or incur the expense of relocation. Concerning the curb cuts, he acknowledged the lot across the street could not support a house, but he would like to utilize it for an accessory structure.

Member Lynch sought clarification on the portion of fence that encroaches into the neighbor's property, which is a civil matter between the two private landowners. The city is not requiring any changes to the fence to the east of the house.

Member Berry wondered about the possibility of cutting the fence down by two feet, and then adding something more see-through along the top such as latticework. Kane replied that it is still considered a six-foot fence.

Mr. Herod asked if landscaping such as arborvitaes could be utilized in place of the fence. Kane confirmed that they could be – and without a permit.

Melanie Emery, 2143 Lakeview and 2144 Lakeview Avenue. She commented that everyone knows the house and that the neighborhood is a very busy area with lots of pedestrians. She believes that wanting to connect one's fence to the corner of the house is natural and makes sense. She finds that if trees can be planted in that spot, the fence ought to be allowed there, so is in support of all of the applicant's requests.

Chuck Mears, 4274 Cottage Park Road. He questioned if the new street curb would be surmountable or traditional. Kane responded that she believed the curb will be a typical 6-inch

barrier curb, similar to the curb along the west side of Lake Avenue. Mr. Mears appreciated that Mr. Herod approached him to obtain his opinion on the fence and supports keeping it in the existing location. He pointed out that there are other properties in this neighborhood that are extremely close to the property line. He thinks that moving the segment of fence out of the right-of-way does not make a lot of sense given the nominal amount of encroachment. Finally, he suggested a lesser variance could be granted that would not require the applicant to move the fence the full twelve feet back.

Michele Klegin, 3404 Cottage Park Road. She commented that the fence is beautiful since it is not white or metal. She believes that moving the fence 12 feet back from the property line would look odd. She mentioned that she understands the applicant's desire to protect his dogs, as there has recently been a rash of stolen dogs according to a neighborhood watch app.

Member Lynch closed the public hearing.

Member Reinhardt mentioned that a wrought iron fence would provide the security while preserving the views.

Member Enz wondered if the road will be widened at all during the reconstruction. Ms. Klegin reported that it will not according to the packet of information she received from the City.

Member Lynch expressed disappointment that the work was done before the proper approvals were in place. He noted there has been an uptick in the number of variance requests after the work, and that eventually something may need to be taken down. He was not supportive of blocking the view of the lake since it is a community asset.

Member Reis moved to recommend approval of Case No. 20-1-CUP, but only one of the two curb cuts and removal of condition #6 and denial of 20-1-V. Member Reinhardt seconded the motion.

Member Reinhardt asked about the Encroachment Agreement. Kane responded that the fence could be included in the agreement and the risk is essentially transferred to the homeowner. She cited a similar situation in Ramaley Park on an alley.

The motion passed by a vote of 4-1. Member Lynch opposed.

- C. **Case No. 20-2-V:** A request by **Twin Cities Petroleum** for a 3'8" variance from the 10' setback requirement along the north property line, and a 4'5" variance from the 10' setback requirement along the east property line, both per Code Section 1202.040, Subd.2.B.1, in order to locate a freestanding monument sign in the existing greenspace on the northeast corner of the property located at 2490 County Road F East.

Crosby discussed the case. Staff recommended approval of the request.

Member Lynch opened the public hearing.

Robert Johnson, 4087 Bellaire Avenue, White Bear Township. He and his wife have lived there for many years. They are opposed to the construction of the sign. Since the new owner took over, there have been a number of changes at the store that have negatively affected him. There are now constant loops of ads on the pumps, creating noise that can be heard in Mr. Johnson's yard

and the canopy lights have been changed out and are on constantly. He is afraid that the illuminated sign will aim straight at their house. The light will be on all night even when the store is not open.

He stated that considering the location of the station and that it has been there for so long, the sign may not be great advertising. The roads are not through streets and the people that drive by have already decided if they will visit the gas station, so the sign will not draw in new crowds. He believes the light pollution that the monument sign will emit is not justified based on the location of the gas station.

Member Lynch replied that the Planning Commission may be able to address Mr. Johnson's concerns regarding the noise and canopy lights since the sign will be adding more illumination to the property.

Jim Hamilton, applicant. He explained that there has never been an electronic pricer there. The price sign is on the canopy and can be difficult to change, meaning sometimes it does not get done, which impacts business since price is a major factor in the gas industry. The previous lessee had a decrease in sales compared to his other stores that did have electronic pricers. He does not think there are many places that do not have electronic price signs, and one is needed here.

Member Lynch asked if the top part of the sign could be dimmed. Mr. Hamilton replied it was not an option. He added that gas can be pumped 24 hours a day, so some lighting is needed for safety.

Member Lynch closed the public hearing.

Member Reinhardt asked if there is anything in the code that pertains to lighting and neighbors, especially since the business is uniquely nestled inside a residential neighborhood. Crosby replied that this is the first time staff has heard of issues in the area.

Member Berry asked if a permit is needed for new lighting. Crosby stated that only an electrical permit is required. She added that the City could request a lighting plan to review.

Member Lynch asked if conditions could be added to the resolution of approval. Crosby answered that they could at least address the canopy lighting. Kane added they usually do not add conditions for a variance because it either meets the hardship requirement or not. She noted she could look into what the code would allow, since there is no conditional use permit for the site. Crosby further noted that a condition could be added that requires the sign background to be opaque like churches to reduce the illumination.

Member Enz asked if light pollution is addressed in the city code. Crosby replied that the allowed measure of light is one foot candle from the center of the street.

Mr. Hamilton explained that working with the sign face is doable and that block out could be added that would help reduce the amount of light. He believes Twin Cities Petroleum wants to be good neighbors, so he will also look into the sound issue from the video screens.

Member Lynch proposed that he would like to add some language regarding the blocking of the sign.

Member Enz moved to recommend approval of Case No. 20-2-V with a condition that both compliance with and reduction of the light and noise be reviewed by staff. Member Reis seconded the motion. The motion passed by a vote of 5-0.

**5. DISCUSSION ITEMS:**

**A.** City Council Meeting Minutes of January 14, 2020.

No discussion

**B.** Park Advisory Commission Meeting Minutes of October 17, 2019.

No discussion

**6. ADJOURNMENT:**

Member Reis moved to adjourn, seconded by Member Enz. The motion passed unanimously (5-0), and the January 27, 2020 Planning Commission meeting was adjourned at 8:32 p.m.