

**MINUTES
PLANNING COMMISSION MEETING
CITY OF WHITE BEAR LAKE
JUNE 28, 2021**

The regular monthly meeting of the White Bear Lake Planning Commission was called to order on Monday, June 28, 2021, beginning at 7:00 p.m. in the White Bear Lake City Hall Council Chambers, 4701 Highway 61, White Bear Lake, Minnesota by Chair Ken Baltzer.

1. CALL TO ORDER/ROLL CALL:

MEMBERS PRESENT: Michael Amundsen, Ken Baltzer, Jim Berry, Pamela Enz, Mark Lynch, and Peter Reis.

MEMBERS EXCUSED: Erich Reinhardt.

MEMBERS UNEXCUSED: None.

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

OTHERS PRESENT: Richard Nirdsard, Arlene Ryan, Marcia & John Faurneelee, Ann Duke, Dee Engebretson, Donna Huisenga, Al Mensureem, Brooke & Garrett Boesch, Paula Lobinsky, John Stickney, Gretchen Peterson, Allison Besser, Rick & Sharon Prokosch, John Johannson, Chris Simmons, Jim Trusten, Pam Preiser, Joe Morris, Tim Wald, and Paul Aplikowski.

2. APPROVAL OF THE JUNE 28, 2021 AGENDA:

Kane proposed to add approval of an interim use permit to item 4.H of the agenda. Member Berry moved for approval of the agenda, as amended. Member Lynch seconded the motion, and the agenda was approved (6-0).

3. APPROVAL OF THE MAY 24, 2021 PLANNING COMMISSION MEETING MINUTES:

Member Reis moved for approval of the minutes. Member Enz seconded the motion, and the minutes were approved (6-0).

4. CASE ITEMS:

A. **Case No. 15-2-SHOPa:** A request by Pam Preisler for a six year extension to an existing Special Home Occupation Permit, per Code Section 1302.120, in order to operate a beauty salon out of her residence at the property located at 3862 Crestwood Place.

Miller discussed the case. Staff recommended approval.

Member Berry asked if any comments were submitted by the public regarding the business. Miller confirmed there were two letters written in support.

Member Baltzer opened the public hearing. As no one spoke to the matter, Member Baltzer closed the public hearing.

Member Reis moved to recommend approval of Case No. 15-2-SHOPa. Member Lynch seconded the motion. The motion passed by a vote of 6-0.

- B. **Case No. 21-14-V:** A request by **James Trusten** for a 25.5 foot variance from the 30.5 foot front yard average setback, per Code Section 1302.030, Subd.4.d, and a 2.5 foot variance from the five foot side yard setback, per Code Section 1302.030, Subd.4.e, in order to construct a garage in front of the home at 1783 Eugene Street.

Miller discussed the case. Staff recommended approval subject to the conditions listed in the report.

Member Baltzer opened the public hearing. As no one spoke to the matter, Member Baltzer closed the public hearing.

Member Lynch clarified the options for the shed; either it is moved now or sometime in the future if work in the utility easement is required. He stated that he would support allowing the shed to remain if the homeowner signs an agreement acknowledging the shed may need to be removed if the City ever needs to access the easement. Member Enz suggested that the condition be recorded against the property so that future owners know.

Member Lynch moved to recommend approval with the change to condition #6 as recommended by Member Enz of Case No. 21-14-V. Member Reis seconded the motion. The motion passed by a vote of 6-0.

- C. **Case No. 21-15-V:** A request by **Brooke & Garrett Boesch** for a two foot variance from the four foot height limit, per Code Section 1302.030, Subd.6.4.3, in order to construct a six foot tall fence along the west property line of the property located at 2514 Oak Court.

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

Member Baltzer opened the public hearing.

Brooke and Garrett Boesch, 2514 Oak Court, applicants, explained that the lilac bushes will be on the outside of the fence, which will provide camouflage, softening the look of the fence and the 30 foot setback from the road will prevent the “gated community” feel. They are concerned that traffic will increase in the area considering they are close to the County Road E and Bellaire Avenue intersection and the six-foot fence will grant more privacy and safety for their children without taking away a portion of their yard.

Member Amundsen stated that he drove along Bellaire Avenue and only saw one privacy fence along the way. He asked if the applicants could expand upon the need for a six-foot fence, because a four-foot fence would be just as capable as a six-foot fence at keeping children in the yard.

Garrett Boesch reiterated that the taller fence would provide more privacy from the vehicle traffic along Bellaire Avenue. Moving the fence back twelve feet would not be aesthetically pleasing.

Member Baltzer closed the public hearing.

Member Enz agreed that a four-foot fence would be sufficient in keeping children safe within the yard.

Member Reis explained that he visited the area during the noon hour of the day and there was not much traffic on the road.

Member Reis moved to recommend denial of Case No. 21-15-V. Member Enz seconded the motion. The motion passed by a vote of 6-0.

- D. **Case No. 21-16-V:** A request by **Joe Morris** for a two-foot variance from the four foot height limit, per Code Section 1302.030, Subd.6.4.3, in order to construct a six-foot tall fence along the west property line of the property located at 4926 Johnson Avenue.

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

Member Reis referenced one of the neighbor's comments that implied danger of pulling out of the alley onto Johnson Avenue. He tested it out and agreed that the six-foot tall fence would impair the sight lines of exiting vehicles.

Member Baltzer opened the public hearing.

Joe Morris, 4926 Johnson Avenue, applicant, stated that he is a new community member having purchased the home recently. His wife is a lifelong White Bear Lake resident. The taller fence was proposed in order to block traffic and offer a little more privacy. He did not know that the fence request would create a skirmish in the neighborhood. He stated that he will not argue against the denial, but asked for his money back. He feels duped by the process. He was told that when he submitted the variance application, there was a 90% chance that the variance would not pass. He did not understand it meant he had no real opportunity to plead his case.

Mr. Morris described how they elected not to tear down the home and have been extremely thoughtful throughout the renovation process. He is not opposing the recommendation, but would like his money back.

Member Baltzer closed the public hearing.

Member Baltzer asked staff if there was a procedure for the refunding of fees.

Kane suggested that something be put in writing to present to the City Council for consideration. She noted that there have been notices published in the newspaper and sent to residents as well as staff time that has been put towards working on the report and permit application.

Member Reis asked how much a variance costs and how much staff time is put towards each case. Kane replied that it is \$310 for the residential variance and address list and that there is a significant amount of staff time dedicated to each request.

Member Reis moved to recommend denial of Case No. 21-16-V. Member Amundsen seconded the motion. The motion passed by a vote of 6-0.

- E. **Case No. 21-11-V:** A request by **Paula & Mike Lobinsky** for four variances: a 10.5 foot variance from the 15 foot side yard setback on the south side and a 10 foot variance from the same on the

north side, both per Code Section 1303.040, Subd.5.c; a 29 foot variance from the 35 foot street side setback for an attached garage and living area above it, per Code Section 1313.040, Subd.5.c.1; and a three foot variance from the 53 foot average lakeside setback for a deck, per Code Section 1302.040, Subd.4.c, all in order to demolish the existing home and reconstruct a new single family residence on the property located at 4372 Cottage Park Road.

Member Baltzer recused himself and Member Lynch chaired the case.

Crosby discussed the case. Staff recommended approval of a lesser variance on the south side, approval of the north and street side variances with design modifications, and approval of the lakeside variance as requested only when subjected to the conditions listed in the report.

Member Lynch asked if it would be better suited to wait for a different design to be submitted by the applicant that is less likely to be recommended for denial. Crosby replied that the applicants have gone through several design changes already and at this point, she believes they are looking for direction.

Member Lynch opened the public hearing.

Paula Lobinsky, applicant, stated that originally they wanted to renovate the home, but found that the foundation is unusable. The next plan was to rebuild what is there plus a little larger to accommodate their family needs. The four stall garage is proposed because they want to alleviate the parking on the street and accommodate the need for storage.

Ms. Lobinsky clarified that the current house on the site is actually 22 feet to the peak as opposed to the 15 feet stated in staff's report. She acknowledged that they are flexible on the height and plan on modifying the design.

Ms. Lobinsky explained that the wider staircase is part of their plan to be able to age in place. She thinks they will be able to pull it back a little to accommodate staff's recommended reduced setback variance.

Member Berry asked how the applicant felt about staff's recommendations. Ms. Lobinsky replied that, in general, they mostly make sense. She stated that the variance being recommended for denial is tough because the neighbor's home is on the other side of the lot, and right now there is access to the lake on both sides of the property. They designed the home to have a larger access on one side as opposed to smaller access everywhere.

Ms. Lobinsky acknowledged that the hip roof is not necessarily the style the applicants want, but is confident she can come up with an alternative style.

Crosby explained that if design modifications other than a hip style roof that met the intent of the code were proposed, the changes could be approved administratively.

Ms. Lobinsky stated that they are conscious of the impervious surface, which is why the tandem garage style is proposed rather than a side-loading garage.

Sharon Prokosch, 4376 Cottage Park Road. She expressed enthusiasm for the proposal, stating that she thinks the view of the lake will be improved since the new home will be pulled back from

the lake. She believes that the applicants have been thoughtful in their design and have proposed something that will blend with the surrounding neighborhood.

Member Baltzer closed the public hearing.

Member Enz stated that she is worried that at its current height, the new residence will tower over the rest of the neighborhood, especially since the road is narrower than other streets. She appreciates the desired design, but thinks there are many other solutions that would make the home less obstructive and be more in line with the other homes in the neighborhood.

Member Amundsen stated that he is supportive of the variances as long as the height is reduced and the hip style is adopted on the front. He can relate to the amount of stuff having kids and recreating on the lake generates, so he thinks that the size of the garage is reasonable, especially considering there is no other shed or storage space.

Member Lynch expressed support of staff's recommendations.

Member Amundsen asked if it made sense to approve or table the request until other designs are submitted.

Crosby explained that they are not approving the layout of the home, just the parameters and conditions of the variance, which provides for flexibility.

Kane added that, if desired, the Commissioners could include a condition allowing flexibility should a new variance pop out during the redesign that waives the six-month waiting period after a variance is denied.

Member Amundsen moved to recommend approval of Case No. 21-11-V as recommended by staff and including a condition that waives the six-month waiting period after a variance has been denied. Member Berry seconded the motion. The motion passed by a vote of 5-0, with one abstention.

- F. **Case No. 21-6-CUP:** A request by **Independent School District #624** for a Conditional Use Permit Amendment, per Code Section 1303.245, to allow two building additions to the existing South Campus building to facilitate conversion of the existing high school to a middle school at 3551 McKnight Road.

Kane discussed the case. Staff recommended approval of the request with the conditions in the staff report.

Member Baltzer opened the public hearing.

Member Lynch sought clarification on the black dots that appeared on the site plan.

Paul Aplikowski, Architect, explained the dots are how they count teaching stations and have no bearing on the design of the project.

Member Enz asked about the restrooms because there did not appear to be doors on the plans. Mr. Aplikowski replied that the design is newer and similar to what has been approved on other school district projects. The school district is interested in providing privacy toilets, which are

not required to be designated as either male or female. The State building code does not explicitly allow this, stating that the bathrooms must be signed for boys and girls, so as a part of the exception to allow it to happen, more supervision of the sink area is required. This is why there are not doors on the front area. The doors are located on the stalls themselves.

Kane added that the Building Official has been working with the State Building Code Official on the “exceptional review” that the restroom area requires.

Member Amundsen asked if the eight new classrooms are based on the projected number of future students and which door is considered the main entrance.

Mr. Aplikowski stated that they are projecting 1,350 students in this middle school, so the additional classrooms are needed to accommodate that growth. At the time of construction of the original building, it was not a priority to have a “main entrance” and the offices were located in the center of the school. In the age of more security in schools, the south is designated as the main entrance. This proposal will cure any issues and security will be able to be handled in the main office.

Tim Wald, Assistant Superintendent, reiterated that the atrium will now provide for a secure entrance that was not a concern when the school was initially built.

Member Baltzer closed the public hearing.

Member Berry commented that he appreciates the new traffic pattern.

Member Lynch moved to recommend approval of Case No. 21-6-CUP. Member Enz seconded the motion. The motion passed by a vote of 6-0.

- G. **Case No. 21-2-Z & 21-5-CUP:** A request by **Division 25, LLC** for a text amendment to the Sign Code Section 1202.040, Subd.2, to allow billboards; and a Conditional Use Permit, per the amended code, to allow installation of a two sided V-shaped dynamic billboard at the property located at 4650 Centerville Road.

Kane discussed the case. Kane explained that staff is looking for direction from the Commissioners on the text amendment itself. The Conditional Use Permit for the billboard will not be considered at this meeting. She gave an overview of the previous ordinance that regulated billboards and highlighted a number of proposed regulations that staff would like the Planning Commission to provide feedback on.

Member Lynch asked if the amendment would allow for billboards on Highway 96. He thinks it would be appropriate to focus only on the interstate highways. Kane confirmed that what is being proposed reads ten feet from a trunk highway, which would include Highway 61 and 96 and raises a little bit of concern.

Member Lynch concurred with staff’s recommendation that there should be some language regarding a buffer to prevent billboards over buildings or parking areas.

Kane touched on the message duration explaining that the proposal is quite different from what was previously allowed in the code. A study was completed and found that twenty minute

durations were very safe. The applicants are proposing eight seconds. When dynamic display was proposed for other signs within the City, a compromise of five minutes was agreed upon.

Member Enz wondered what other communities have adopted and if the safety studies are available. Kane stated that the neighboring communities have adopted the eight second duration and that she can provide that information for the Commissioners at the next meeting.

Member Lynch opined that the five minutes may be too long and the eight seconds may be too short, although he could be convinced of other time lengths.

Member Amundsen asked what communities in other parts of the Twin Cities have adopted. He suggested the Metropolitan Council may have guidance on billboard regulations. Kane offered to look into it and provide that information before the next meeting.

Member Berry summarized that the balance is between safety and profit in terms of number of messages shown.

Kane explained the maximum brightness is something that the neighboring residents are concerned with. The applicants have provided a more detailed plan that demonstrates what a 0.3 footcandle projection looks like.

Member Enz asked if the brightness is measured in the day or evening. Kane replied that it changes based on time of day through the use of an automatic dimmer.

Member Lynch wondered if there are things that can be attached to shield the billboard lighting away from neighboring properties, like parking lot lights. Kane was not sure if anything like that existed.

Kane agreed to provide the information Member Berry requested regarding the billboard in White Bear Township.

Kane described the linear spacing of billboards. In 2007, the minimum spacing was required to be no more than 2,600 linear feet to the nearest billboard or 1,300 feet to any residentially zoned property. She measured distances to the existing billboards in the area. The billboard in the Township is 1,600 feet from the proposed location and the static billboard to the south is 3,300 feet.

In response to an inquiry from Member Lynch, Crosby speculated that there are possibly six or seven billboards currently in the City.

Member Amundsen asked if the proposed 750 foot spacing would allow more signs to fill between the current signs. Kane explained that there is a proposed maximum number of billboards to limit that infill. The language would encourage moving and updating current billboards to more appropriate locations.

Member Lynch asked if current billboards that did not meet the standards wanted to upgrade would be considered grandfathered in. Kane responded no, there will be a difference between static and dynamic signs and each will be conditional use permits.

Member Lynch asked if the code could say “X number of feet within the City” because he thinks it may become problematic if other cities adopt codes that are different from White Bear Lake. Kane agreed that a clarification that the code only applies within corporate limits is appropriate.

Member Amundsen asked about the proposed size increase. Kane explained that surrounding communities have a 700 square foot limit. She was cautious about creating language so unique to White Bear Lake that billboard companies do not want to work in the City.

Kane requested that the Commission continue the case to next month to give staff time to work with the applicants on the specifics of the proposed billboard.

Member Baltzer opened the public hearing.

John Johannson, Division 25 LLC, applicant, explained that they started the billboard process eight years ago. They have been patient. They did not know what they were stepping into when they purchased the property, but they have cleaned up the environmental issues, closed wells, and paid for the road and traffic control improvements in the area.

He stated that City staff originally asked that residential be constructed first. The commercial came second and they are lucky to have local grocer in that space. The billboard has been contemplated since day one. There is a reciprocal easement between his company, the senior residence facility, and the City, which has a future sign built in. He thinks that they will be able to meet the residents’ concerns regarding the sign.

Mr. Johannson continued that electronic billboards are a tremendous improvement over the static billboards. The static signs had gooseneck lights that shine back, hitting the sign and bouncing the light everywhere. The new billboards have innovative technology, are internally lit with dimming technology. If there is a malfunction, the camera will shut the billboard down. The proposed billboard has 0.3 footcandle, which is very low. For reference, one footcandle is needed to create a shadow. He explained that a cutoff feature is generally not needed because the cone of the light is so minimal. After 0.3 footcandles, the cone reduces quickly to zero. There is more light emanating from Lunds & Byerly’s.

Mr. Johannson explained that the industry standard billboard is 14 feet by 40 feet. The signs can be bigger, but legibility is lost if they are smaller. The eight second flip is the standard time change. If there is a longer duration, the dynamic sign probably will not be built because it is not economically viable. Drive time on the freeway means a person will probably only see one sign before driving past, so will not be distracting.

He noted that generally, five hours a month are given to community hours, which equates to 2000 flips and dispersed throughout the day.

Member Lynch suggested that the residents of the apartment may be more concerned with the changing of the sign every eight seconds as opposed to the light.

Mr. Johannson stated that he will work to educate the residents about the sign to eliminate any worries they may have. The pole will be decorative. The boards will be oriented toward the highway, not the residential building. The images will not move, the message will be static and changes will be immediate, with no dynamics in between.

He stated that initially the text amendment would allow no new signs, only move or upgrade what is existing. He thinks the signs should be limited to 35 E and 694, but that it would be okay if a sign is visible from a trunk highway. He described other billboards that he has worked on, including a recent one in Vadnais Heights that is 60 feet tall. They build attractive, decorative signs and this one will be no different.

Member Baltzer closed the public hearing.

Member Lynch moved to continue Case No. 21-2-Z & 21-5-CUP. Member Amundsen seconded the motion. The motion passed by a vote of 6-0.

H. **Case No. 21-1-Z & 21-1-IUP: A City-Initiated** text amendment to Zoning Code Section 1303.160 to allow interim use permits in the B-5 zoning district.

Kane discussed the case. The City Council has expressed the desire to allow for interim use permits, but specified that it should be limited to the B-5 Central Business District and only to exceed the 30% square footage limit for non-retail uses. Staff recommended approval of the text amendment and of a subsequent interim use permit for 4701 Banning Avenue.

Member Baltzer asked if the IUP would be specific to the downtown area. He believes there may be a loophole that would allow other businesses to receive an IUP and then two years later be allowed to stay because the business is so well established.

Kane stated that the ordinance is so narrowly tailored to apply only to the downtown, so it is not a great concern that it will be used often.

Member Lynch asked if a business would be able to apply for a variance or extension of the IUP. He wonders if this ends up being a really strict conditional use permit.

Member Berry added that this is just a first step at getting what the business ultimately wants. He thinks that the comments submitted by Dale Grambush are valid. He does not think the City should change what makes the downtown area unique. It was hard to bring retail back after it died in the 1970s and this proposed text amendment moves away from retail.

Member Lynch compared the situation to a gazebo being built before a permit is obtained. The question becomes “do we make them tear the gazebo down, as temporary as it may be”? He asked if the IUP can be applied only to this parcel because he does not want to make a habit of granting interim use permits.

Member Enz concurred, noting that it feels like do now, ask for forgiveness later, which does not work out for the residents.

Member Baltzer wondered if the code can be changed temporarily.

Kane replied that through the recodification process that the City is undergoing, this text amendment could be rescinded. She reiterated that the change in occupancy would trigger a sprinkler requirement. For example, the owner of the building next door may want to turn the eye clinic to a real estate office, but would need to sprinkle the building, which is not without a great cost. She does not think it will be used often because of the significant investment needed for a two-year lease.

Member Baltzer suggested that the text amendment be reconsidered in two years if the Commissioners do not like how IUPs are being used.

Member Baltzer opened the public hearing.

Gretchen Peterson, Bree LLC, applicant, expressed her support for the amendment. She stated that they recognize that it is a short-term agreement and the tenants are aware as well. She thinks this provides for flexibility, especially when faced with unique circumstances, such as the Covid-19 pandemic. She commented that the current tenants are bringing many people into the area, are very lively, and are a great addition to the downtown area. The amendment allows for a mix in use as we learn what the next phase of retail will look like.

Member Baltzer closed the public hearing.

In response to a question from Member Lynch, Kane stated that the code update will be worked on over the winter.

Member Amundsen moved to recommend approval of Case No. 21-1-Z. Member Enz seconded the motion. The motion passed by a vote of 5-1, Member Berry opposed.

Member Amundsen moved to recommend approval of 21-1-IUP. Member Lynch seconded the motion. The motion passed by a vote of 5-1, Member Berry opposed.

5. DISCUSSION ITEMS:

A. City Council Meeting Summary of June 8, 2021.

Referencing the comments concerning the conservation of water, Member Amundsen wondered how close the City came to implementing stricter watering bans. Kane was unsure, but noted the ban on watering between 10 am and 5 pm every day. Member Baltzer provided a history on why the City moved away from odd/even watering days.

Member Enz asked how Boatworks Commons is permitted to water the courtyard every day. Kane explained that system uses the stormwater that is captured on site.

B. Park Advisory Commission Meeting Minutes of April 15, 2021.

Member Enz asked for an update on the gazebo. Kane answered that the project will not be complete in time for Fourth of July, but it will be done this year.

Member Enz appreciated that the Park Commissioners visited each of the parks.

Member Berry stated that he is concerned that the erosion at McCarty Park was not addressed. He also thinks a recycle bin should be provided. Kane replied that the comments will be forwarded to the Parks Commission.

Member Baltzer was pleased to see Lions Park lot was recently striped.

6. ADJOURNMENT:

Member Enz moved to adjourn, seconded by Member Reis. The motion passed unanimously (6-0), and the June 28, 2021 Planning Commission meeting was adjourned at 9:44 p.m.