



**MINUTES
PLANNING COMMISSION MEETING
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA
MONDAY, JUNE 27, 2022
7:00 P.M. IN THE COUNCIL CHAMBERS**

1. CALL TO ORDER AND ATTENDANCE

Chair Jim Berry called the meeting to order at 7:00 p.m.

MEMBERS PRESENT: Mike Amundsen, Ken Baltzer, Jim Berry, Pamela Enz, Mark Lynch, Erich Reinhardt, and Andrea West.

MEMBERS ABSENT: None.

STAFF PRESENT: Jason Lindahl, Community Development Director, Samantha Crosby, Planning & Zoning Coordinator, Tracy Shimek, Housing & Economic Development Coordinator, Ashton Miller, Planning Technician and Troy Gilchrist, City Attorney.

OTHERS PRESENT: Rollo Strand, Kris and Kasey Birch.

2. APPROVAL OF AGENDA

It was moved by Member **Lynch** seconded by Member **Enz**, to approve the agenda as presented.

Motion carried, 7:0

3. APPROVAL OF THE MINUTES

A. Minutes of May 23, 2022

It was moved by Member **Baltzer** seconded by Member **Amundsen**, to approve the minutes of the May 23, 2022 meeting as presented.

Motion carried, 7:0.

4. CASE ITEMS

A. **Case No. 22-12-V:** A request by **Kris & Kasey Birch** for the following four variances: a 2.2 foot variance from the 15 foot side yard setback, per Code Section 1303.040, Subd.5.c.2, a 10 foot variance from the 20 foot street side setback for the garage, per Section 1302.030, Subd.4; a 15.2 foot variance from the 35 foot street side setback for the principal structure, per Section 1303.040, Subd.5.c.1; and a 14.5 foot variance from the 74.8 foot average lake side setback, per Section 1302.040, Subd.4.c; all in order to demolish the existing single-family home and construct a new single-family home at the property located at 4324 Cottage Park Road.

Crosby discussed the case. Staff recommended approval of the request with a number of conditions as presented in the report.

Member Baltzer recused himself since he is a neighbor to the applicant.

Member Amundsen wondered if the existing shed could remain on the property, noting that on past requests for variances on all four sides, it has been a condition to remove them.

Ms. Crosby replied that the shed is nonconforming in its location, so if torn down, could not be replaced. The applicants altered and reduced the size of the attached garage in order to retain the shed, so staff felt comfortable agreeing to let it to stay.

Member Berry opened the public hearing.

Kris Birch, 4324 Cottage Park Road, applicant, he thanked Ms. Crosby for the guidance throughout the process and the Commissioners for volunteering their time. Member Berry asked if the applicant is ok with the conditions proposed by staff. Mr. Birch confirmed that they were. He stated that there are a few things left to figure out in terms of the raingarden.

Member Berry closed the public hearing.

Member Lynch stated that he normally would be hesitant to support a five foot setback, but in this case, it is so close to what currently exists that he feels more comfortable recommending approval.

Member Enz thanked Mr. & Mrs. Birch for having such a complete application.

It was moved by Member **Amundsen** to recommend approval of Case No. 22-12-V, seconded by Member **Enz**.

Motion carried, 6:0. Member Baltzer abstained.

- B. Case No. 22-3-LS & 22-13-V:** A request by **Rollo Strand** for a minor subdivision, per Code Section 1407.030, to untie two historic lots of record and a 1.3 foot variance from the 10 foot side yard setback, per Code Section 1303.060, Subd.5.c.2, at the property located at 1986 Webber Street

Miller discussed the case. Staff recommended approval of the request as proposed.

Member Berry opened the public hearing.

Rollo Strand, 1986 Webber Street, applicant, he explained that the property has been in his family for the last thirty years. It was his father's wish to split the lot. He does not have exact plans yet for the new lot. They may build a home for their son or they may sell. They are just starting the process.

Member Berry closed the public hearing.

It was moved by Member **Baltzer** to recommend approval of Case No. 22-3-LS & 22-13-V, seconded by Member **Lynch**.

Motion carried, 7:0.

5. DISCUSSION ITEMS

A. Legal Training – Presented by City Attorney

Troy Gilchrist, City Attorney, touched on a number of topics as they related to the Planning Commission. He discussed the zoning authority granted to cities and the limitations on that authority. He informed the Commissioners that they are not bound to past decisions.

Mr. Gilchrist explained the role of the Planning Commission as an advisory board to the City Council. The Planning Commission plays a vital role in due process. In response to a question from Member Lynch, Mr. Gilchrist confirmed that a planning agency is required.

Mr. Gilchrist continued with the fiduciary duty of the Commissioners. Member Enz sought advice regarding a situation where she was speaking with someone who did not know she was on the Planning Commission and they shared information counter to what was presented to the City. Mr. Gilchrist explained that he does not believe the Commissioners have an affirmative duty to report things they may see or hear. The breach of duty would apply more in legal matters.

Member Amundsen asked if it worthwhile to attend the City Council meetings in order to provide the Councilmembers more context to the Planning Commission's decisions. Mr. Gilchrist did not think that was necessary since the Commissioners' voice is presented through staff.

Member Lynch commented that he has attended a City Council meeting, but came in his own capacity as a resident of White Bear Lake.

Mr. Lindahl stated that it is the role of staff to carry forward the recommendations of the Planning Commission. He urged the Commissioners to let staff know if they ever feel their views are not being appropriately articulated.

Mr. Gilchrist explained the aspects of planning and zoning, including the Comprehensive Plan and different types of permits, such as conditional use permits (CUP) and interim use permits (IUP). Member Lynch asked if special home occupation permits are considered IUPs. Ms. Crosby replied that they could be considered a type, since they do not transfer to new property owners. Mr. Gilchrist explained that conditional use permits typically are not meant to have time limits since they run with the land. They can be revoked, however, which generally goes through the Planning Commission and City Council. He spoke about variances and the legal standards used to review requests, which requires a practical difficulty be established.

Mr. Lindahl added that the Commissioners will start to see the variance criteria listed in the staff reports.

Mr. Gilchrist explained the type of zoning decisions, providing a distinction between legislative and quasi-judicial decisions. Legislative decisions involve the weighing of policy and should be made using a rational basis. In quasi-judicial decisions, the policymaking is essentially done since the standards for approval are laid out. He ran through the rules of procedure, noting it is important that the Commissioners voice their opinions. Mr. Lindahl concurred, stating that it helps direct staff.

Member Baltzer asked how much responsibility the Commissioners have in designing the request and if the decision should be based solely on what is presented at the meeting. Mr. Gilchrist stated it is not really the job of the Planning Commission to design the plan, however sometimes a few tweaks are okay. He stated that Commissioners should be neutral decision-makers and keep their minds open when hearing cases.

Member Lynch asked if staff would change the report before it goes to the City Council if the Planning Commission were to disagree with staff's findings of fact. Mr. Lindahl stated that staff would make a distinction between staff's recommendation and the recommendation put forth by the Planning Commission. They would present all the information for the Council to make a determination.

Mr. Gilchrist explained open meeting laws and required notices. The open meeting law prohibits members from meeting outside among a quorum of the body to discuss business. In response to a question from Member Enz regarding a phone call she received from an applicant, Mr. Gilchrist commented that a good response would be to direct the applicant to the public hearing.

Mr. Gilchrist described different conflicts of interest and suggested that if a Commissioner sees something on the agenda that may pose a conflict of interest, to discuss with staff and err on the side of caution. Member Lynch asked if a reason needed to be given when a member abstains from a vote. Mr. Gilchrist replied it is not necessary, but helpful, and that when a member does abstain, he or she should sit in the audience for the duration of the case.

Member Amundsen asked how the Commission keeps up with changing times and trends in the planning and zoning world. Mr. Gilchrist responded that the Planning Commission is relying on staff. He reiterated that the Planning Commission is not held to past decisions. Mr. Lindahl added that the Planning Commissioners bring their life experiences and unique perspectives to cases, which may differ from those who served 15 years ago. It is important for members to apply their perspectives to cases while working within the standards laid out for variances, CUPs, etc. Staff's job to stay up to date with trends and bring forward what is important to the community to the Planning Commission for consideration.

Member Baltzer asked about the phrase of "setting precedent". Mr. Gilchrist replied that it may be helpful to look at how a decision will affect the greater community, but precedent does not mean a decision needs to be made one way or the other.

B. City Council Summary Minutes of June 14, 2022.

In reference to the Schafer-Richardson case, Member Amundsen commented that the height of the building seemed to be a focus, which did not come up during the Planning Commission meeting. He was unsure whether the concept phase was an appropriate time to discuss the design of the building.

Mr. Lindahl explained that the Planning Commission can discuss any aspect of the proposal, including height, parking, building materials, etc. The City Council focused on different things and height was one aspect that several members held strong opinions on. Member Amundsen asked when the next stage will come before the Commission. Crosby stated that the applicant has indicated that they will submit by the July 18th deadline to be on the August 29th Planning Commission meeting.

C. Park Advisory Commission Minutes of April 21, 2022.

No Discussion.

6. ADJOURNMENT

There being no further business before the Commission, it was moved by Member **Baltzer**, seconded by Member **West** to adjourn the meeting at 9:15 p.m.

Motion carried, 7:0