



**MINUTES  
PLANNING COMMISSION MEETING  
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA  
MONDAY, JANUARY 29, 2024  
7:00 P.M. IN THE COUNCIL CHAMBERS**

**1. CALL TO ORDER AND ATTENDANCE**

**MEMBERS PRESENT:** Mike Amundsen, Mark Lynch, Ken Baltzer, Jim Berry, Scott Bill

**MEMBERS ABSENT:** Pamela Enz

**STAFF PRESENT:** Jason Lindahl AICP, Community Development Director; Ashton Miller, City Planner; Shea Lawrence, Planning Technician

**OTHERS PRESENT:** Jay Rendall, Chad Lemmons, Steve Anderson, Annie Carlson, Susan Welles, Robert Pepper, Ed Cox, Charles Reese, Rose Miller, Mary Reese, Ken Macdonald, Ann Macdonald, Joe Henderson

**2. APPROVAL OF AGENDA**

It was moved by Member **Bill** and seconded by Member **Baltzer** to approve the agenda as presented.

Motion carried 5:0.

**3. APPROVAL OF THE MINUTES**

**A. Minutes of November 27, 2023**

It was moved by Member **Lynch** and seconded by Member **Amundsen** to approve the minutes of November 27, 2023.

Motion carried, 5:0.

**4. CASE ITEMS**

**A. Case No. 24-1-CUP:** A request by **Dustin and Annie Carlson and Jeff Plaisted** for a conditional use permit for a third curb cut, per code section 1302.050, Subd.4.h.9, at the property located at 2505 Lake Avenue.

Shea Lawrence, Planning Technician, discussed the case. Staff recommend denial of the case.

Member Berry opened the public hearing.

The applicant, Annie Carlson, of 2505 Lake Avenue explained that they intend to make the existing curb cut on Stillwater smaller and want to provide direct access to the accessory

dwelling unit (ADU) with the new driveway. She explained that she understands ADUs do not allow for driveways but thinks this would be useful and add to the property. She added that she believes Highway 96 may not be considered an arterial road as it will be given back to the city.

Member Berry closed the public hearing.

Member Baltzer explained that the property is unique because it is large enough to build four houses that would require four curb cuts. He added that a property down the street has two curb cuts right next to each other. The proposed curb cut is far apart from the existing curb cut on Stillwater and the cut on the south side is quite far away. He does not think this curb cut is consistent with the intent of the ADU standards that were implemented. He does not think the snow plows will be impacted by the new curb cut and would be in favor of approving.

Member Amundson recalled that when the ADU went through the land use approval process the garage door and driveway were not included in the plans. He added that the code seems cut and dry that ADUs cannot have separate curb cuts as it is “expressly prohibited”. He thinks the findings in staff’s report are strong.

Member Berry explained that this property previously went through the land use approval process and the plans changed after the permits were issued. He added that this may have been a different situation if the applicants had discussed with staff prior to making any changes.

Member **Amundsen** moved to recommend denial of case number 24-1-CUP, Member **Lynch** seconded. The motion carried 4:1. Member Baltzer opposed.

- B. Case No. 24-2-V:** A request by **Dean Hedlund** for a variance from the 120 square foot maximum allowed for a second accessory structure, per section code 1302.030, Subd.4.i.2.b, in order to construct a shed in the rear yard of the property located at 4728 Stewart Avenue.

Shea Lawrence discussed the case. Staff recommended approval of the proposal.

Member Amundsen asked if the existing shed would need to be removed, if the proposed structure would be allowed if it was attached and whether a driveway would lead to the structure. Lawrence replied that the existing shed would need to be removed and that a driveway is not proposed. She confirmed that if the structure were attached it would be permitted because up to 1,250 square feet of combined accessory structure square footage is allowed based on the size of the lot and the home.

Member Lynch asked what size shed could be permitted by right, as the proposed shed is 264 square feet. Lawrence explained sheds up to 120 square feet can be permitted by right.

Member Berry opened the public hearing.

Susan Welles, 3227 26<sup>th</sup> Avenue N, is the architect representing the homeowners. She is very familiar with the lot as she has worked with the applicants since 2019 for their remodel. She explained that after being in the house for a few years they have realized they need more accessory structure space. They originally designed a 14 x 24 structure and have now reduced it to a 12 x 22 and reworked the roof to reduce the height in efforts to appease the neighbors. The structure meets other aspects of the code and it would otherwise be allowed if attached. She noted that the proposal could have been approved through an administrative variance.

Member Berry asked about the interactions the applicant has had with the neighbors. Welles explained that she was not part of those conversations and is not sure how they went. At that time, there was only one neighbor opposed to the proposal.

Member Berry asked if there was any discussion about moving the structure closer to Stewart. Welles stated it would have been quite a bit in front of the rest of the house. The house is a single story rambler, with no basement so storage space is at a premium. Member Berry noted that the structure is quite large, asking what they intend to store in it. Welles responded that they use the attached garage for their one car, but it is only about 11 feet wide so there is not room for much else. Their current storage shed is at capacity and they would like space to store their lawn equipment and patio furniture or potentially a small boat.

Member Lynch asked about the height of the existing shed. Welles explained that she isn't certain but that it is probably around 6.5 feet tall.

Member Berry inquired about the need for the overhead door. Welles explained that it is for ease of access and that the applicants have no intention of adding a driveway. Member Berry asked if they would use it for car storage. Welles responded that she believed it would be for a boat that they would take out of storage once a year and then put back for the offseason, therefore there isn't a need for a driveway. Welles also added that a flat roof wouldn't be architecturally similar to the home and therefore would be inconsistent with the zoning code.

Ed Cox, a contractor who lives down the street at 2258 3<sup>rd</sup> St., explained that he has done a lot of work throughout the city. He added that many people adjust their plans to make a two car garage fit on their lot and stay within setbacks and height requirements. He added that the property to the south that he is currently working on stayed within the confines of the code and didn't need variances. They were considerate of the neighbors, and only clipped maybe 2 feet of the lake view. He thinks this is a unique area of the community and the structure will impact the neighbors' views greatly. He thinks the applicants will use the structure for a car. He added that there are no structures like this in downtown and that he believes the code protects the integrity of downtown and he wouldn't be happy to see this approved. Member Berry asked if he thought anything would work on the site. Cox replied that a 120 square foot shed is plenty large enough and that they could have created a two deep garage when they remodeled in 2019 but that would have affected their view.

Jay Rendall, the neighbor directly to the north of the subject site, 4740 Stewart, provided a point by point history of the neighborhood. He believes the structure would change the essential character of the neighborhood, and it would block the view of the lake. He added that none of the neighbors supported the administrative variance and that no one, not just the abutting residents support this proposal. He was opposed to signing the administrative variance because it would ruin his view of the lake. He added that the Hedlunds seem to only be concerned about their own view and not the neighbors. He told the Hedlunds that if they proposed anything taller than the existing shed, it would be a problem. He has questions about its intended use and the need for that size. He believes a variance cannot be approved if the structure is going to be used as a garage. He doesn't believe there is blight on their property and noted that many properties don't have sheds. He referenced the 2030 Comprehensive Plan stating the need to preserve the character of downtown. He doesn't believe the use of the structure as a garage is a reasonable use. He believes they could have addressed their storage issues when they remodeled the home in 2019. He explained that the neighborhood families have used the backyards in a park-like way, having paths from one yard to another without the barriers of fences. Neighbors are considerate when planting landscaping to ensure views are not impacted but this proposed structure will block neighbors' views and would be intrusive. He is disappointed that the Hedland's would want to do this despite neighbors' objections.

Robert Pepper, a neighbor at 2280 4<sup>th</sup> Street, explained that he will be slightly affected by the proposal. He added that this proposal was sprung on the neighbors 8 or 9 days prior. He believes this proposal will demolish the idea of rear yard storage and could carry on to other nearby properties. He explained there are no privacy fences, only a few small accessory structures with green space in between which has added to the neighborhood charm. A one car garage dropped into the neighborhood would be inconsistent with the neighborhood and stated the height is prohibitive. He added there may be a way forward if they were to relocate the structure closer to the home.

Member Berry closed the public hearing.

Member Amundsen asked if the use of a second accessory structure as a garage was prohibited. Miller responded that the code is prohibitive based on size, not uses or what is stored inside.

Member Lynch asked about administrative variances and notices for 350 feet. Lawrence explained that the properties abutting the affected yard would be required to sign off on the proposal for it to be approved through the administrative process. Member Lynch expressed his appreciation for this process to have the case before the Planning Commission when neighbors disapprove. Member Lynch disagreed with staff on findings four and five. He thinks the applicant could have made design decisions that would have provided more storage space during their prior remodel process. He also disagreed with staff on the idea that the essential character of the locality will not be impacted. He thinks the views of the lake are part of the essential character.

Member Baltzer explained that he sees both sides. He added that people don't have a right to see the lake. The argument that you have always been able to see the lake does not then mean you are entitled to that view and the City Council has seen cases with this premise before and have not been supportive of that argument. On the other hand, he thinks the neighborhood's feelings about the proposal are important. He understands the neighbors' concerns but also recognizes that landowners have a right to build on their property and that White Bear Lake is changing.

Member Bill explained that he struggles with the fact that the residents could have addressed the issue back in 2019 during their remodel, but also recognizes that if you want a view of the lake, you should buy a property directly facing the lake. He also added that he doesn't think staff should regulate the use of the structure. He noted that he thinks the structure would alter the character of the neighborhood.

Member Amundsen considered the five questions used to access a variance request. He explained he has been swayed by the residents' testimony about the structure altering the character of the neighborhood and explained he doesn't agree with finding five in staff's report.

Member Berry stated this would be the biggest shed on the block, physically changing the locality. He believes the proposal is inconsistent with standards four and five for a variance.

Member **Amundsen** moved to recommend denial of case number 24-2-V, Member **Lynch** seconded. The motion carried 5:0.

- C. Case No. 24-3-V:** : A request by **Charles Reese** for a variance from the 5 foot side yard setback per code section 1302.030, Subd.4.e, in order to retain a 120 square foot storage shed at the property located at 2563 Elm Drive.

Miller discussed the case. Staff recommended approval as proposed.

Member Lynch asked to clarify which property line the shed is closest to. Miller responded that the shed is closest to the east lot line and the comment submitted was from the neighbor to the north. Lynch asked to confirm that the shed has been up since the early 2010's and just received the first complaint this past year. Miller responded yes—a neighbor recently put up a shed spurring a property line dispute, so the city inspector went out to verify the property line.

Member Berry opened the public hearing.

The applicant, Charles Reese, explained that when he and his wife purchased the home in 2015 the shed was already there and provided a brief background about the property line and shed dispute with the neighbor and was available to answer any questions from the commissioners.

Member Bill asked if the neighbor at 2555 Elm Dr. has had any issues with the shed. Reese responded they have not expressed any concerns about it, noting that it's a rental property.

Member Berry closed the public hearing.

Member Amundsen asked about the validity of the neighbor's claim that the shed is actually located on the lot line. Miller responded the shed is not on the property line—the applicant hired a surveyor to find the property pins and a city inspector completed a field inspection to confirm the lot line. The numbers on the site plan are accurate.

Member Lynch added that this shed has been around for about 15 years and hasn't bothered anybody in that time, so he thinks it should be able to remain as is.

It was moved by Member **Lynch** to recommend approval for Case No. 24-3-V, seconded by Member **Baltzer**.

Motion carried, 5:0.

- D. Case No. 24-4-V:** A request by **Ken Macdonald** for two variances from the 15 foot side yard setback, per code section 1303.040, Subd.5.c.2, in order to construct a two story home at the property located at 4556 Highway 61.

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

Member Berry opened the public hearing.

The applicant Ken MacDonald of 4556 Highway 61 provided additional photos to the Planning Commissioners of the existing conditions of his home. Macdonald responded to the points laid out in the attorney letter from the neighbor's attorney. He explained that the code allows for non-conforming structures to be expanded and that he was unsuccessful in contacting the neighbors regarding this project so an administrative variance would not have been possible. He explained that the other neighbors have been supportive of the project.

Macdonald addressed the concerns that were brought up by the neighbors when the previous owners of his property went through this process last year. He explained that the home will be brought up to current building and fire code standards and therefore the fire risk will be reduced. The windows, mechanical, electrical and more will all be updated. Macdonald also addressed the neighbors' concerns about water and ice and referenced the engineering report the neighbors had done. Macdonald explained that currently neither of their homes have gutters, and the report recommended that both homes add them—Macdonald explained that they will be adding gutters and a French drain to capture water. Macdonald questioned the sincerity of the neighbor's concern about water, as the Millers have not added gutters themselves despite that recommendation. As far as the structural concerns brought up in the engineering report, Macdonald explained that adding backfill would actually be better for the neighboring structure as it would reduce the load on the wall. He added that they are reducing potential living space in the basement to reduce excavation depth to minimize the risk to the neighbors. Macdonald referenced the wind tunnel that the neighbors are concerned about.

Macdonald stated he was unsure how adding second story would impact the wind and that the neighbors use the side of their house for storage of kayaks and their trash cans, so he is unsure how big of an issue the wind could be. Macdonald concluded that the house is unlivable due to numerous problems including rodents, mold, burst radiators, substandard electrical, and an eroded foundation.

Chad Lemmons, an attorney representing the Millers who own the property at 4552 Highway 61 explained that the house does not need to be expanded in order to be utilized. The owner could fix up the house from its current condition without expanding it. He also believes that the applicants should need to go through the conditional use permit process because this is a non-conforming property, citing a section of city code. He believes the owners have a reasonable use of the property if they rehabilitate the house.

Lemmons explained he has been out to the property and saw the water that drains between the two houses creating icy conditions. He is unsure how a fire fighter could fit through the narrow space between the two houses with all their equipment. Member Berry asked if the Millers garage is also 2 stories, to which Lemmons responded yes. Lemmons also expressed concerns about lateral support when constructing a building so close to another and concerns about the wind tunnel between the two homes. He added that the home is part of the historic nature of the neighborhood.

Macdonald explained that the Miller's house was built in 1921 and would also then be considered a part of the historic nature of the neighborhood yet, they were permitted to build additions in the 1960s and 80s. He added that other neighbors have received variances for their additions. Macdonald noted that of the 5 houses to the north and the 5 houses to the south, 9 of those properties contain 2 story homes so his proposed home fits within the character of the neighborhood. Lemmons added that both the properties are non-conforming but that the Miller's setback has never changed, so the Macdonald's home should stay where it is.

Member Berry closed the public hearing.

Member Berry asked staff if this proposal should go through a CUP process. Lindahl explained that staff processed this application the same way they have for other tear down rebuilds along the lake. He added that state statute related to non-conformity has changed since the City's code was written and therefore a variance would be the appropriate process for this request.

Member Amundsen asked what percentage of the house would align with the existing footprint for the house. Miller responded that the proposed house is typically within a few inches of the existing footprint on the west side and it is proposed to be in line with where the deck once was on the east side.

Member Lynch added that the five standards for the variance have been met, and he is therefore supportive of the request. He explained the house will have similar setbacks and would look consistent with nearby properties and it is reasonable. He added that whatever is

next for this site, will be a vast improvement from what exists on the site. He also explained if there are issues that arise from construction there are processes for the landowners to address that and it's not the Planning Commissions role to assess that.

Member Berry agreed with Member Lynch adding that the applicant is trying to rebuild the house while having the least amount of impact to the neighbors.

Member Amundsen noted that this proposal is very similar to the proposal that was approved by the Planning Commission and City Council last year and that he is looking forward to seeing the property rehabilitated.

Member **Lynch** moved the recommend approval of Case No. 24-4-V, seconded by Member **Amundsen**.

Motion carried, 5:0.

## 5. DISCUSSION ITEMS

### A. Election of Officers

Member Berry opened the nominations for Chairperson. Member **Lynch** moved to nominate Member Amundsen for chair. There being no other nominations for chair, Member **Lynch** moved to close nominations. Member **Amundsen** seconded. Motion carried, 5:0.

Member **Lynch** moved to elect Member Amundsen for Chair, seconded by Member **Berry**. Motion carried, 5:0.

Member Berry opened the nominations for Vice Chair. Member **Lynch** moved to nominate Member Enz for Vice Chair, seconded by Member **Baltzer**. There being no other nominations, Member **Amundsen** moved to close nominations, seconded by **Baltzer**. Motion carried, 5:0.

Member **Lynch** moved to elect Member Enz to Vice Chair, seconded by Member **Baltzer**. Motion carried, 5:0.

### B. City Council Meeting Update

Lindahl provided an update on the last City Council meetings. Lindahl explained that the text amendment case changing the requirement for a supermajority vote from City Council for text amendments, rezonings and PUDs to a simple majority from the November Planning Commission meeting had its first and second readings at City Council and was approved.

### C. Zoning Update – Community Advisory Committee



Lindahl provided an update on the Zoning Code Update process. He explained that at the latest meeting on December 5<sup>th</sup>, the consultants presented a placetypes analysis of the city. He added that a placetypes map will be created to inform zoning map updates. Member Amundsen asked if other studies are being considered throughout this process such as the County Rd E Corridor Study or the ongoing traffic and mobility study. Lindahl explained that yes previous studies like that are being considered but noted that since the traffic and mobility study has not yet been approved by City Council it won't be integrated into the process until it is completed. Lindahl added that the consultants will be presenting a directions report at the next zoning update meeting on February 7th. Member Berry added that it's not going to be an easy task to simplify or shrink down the existing code.

Lindahl informed the commissioners that the next planning commission meeting will likely involve training for the commissioners.

Member Lynch asked about the timeline for filling the open planning commission spot. Lindahl answered that there were four applicants for the position and that the mayor has conducted interviews, so the spot will hopefully be filled soon.

## 6. ADJOURNMENT

There being no further business before the Commission, it was moved by Member **Baltzer** seconded by Member **Amundsen** to adjourn the meeting at 9:25. Motion carried, 5:0.