

Meeting Minutes
New Prague Planning Commission
Wednesday, April 28, 2010

1. Call Meeting to Order

The meeting was called to order at 6:35 p.m. by Planning Commission Chair Grant Gengel with the following members present: Kay Wilcox, Bob Gilman, and Jay Nuhring. Absent: Ryan Peltier.

City Staff Present: Ken Ondich – Planning Director, Renee Christianson – City Planner.

2. Approval of March 24, 2010 Regular Meeting Minutes

It was moved by Wilcox, seconded by Gilman to approve the March 24, 2010 regular meeting minutes as submitted. Motion carried (5-0).

3. Old Business - None

4. New Business

**A. Request for Variance #V1-2010 - 102 Lincoln Avenue North
Joshua Klehr, Applicant**

City Planner Renee Christianson presented the request for variance from the required 10' alley setback to 6' to allow construction of an attached garage at 102 Lincoln Avenue North. She noted that the lot is small, being only 64' x 80', that the applicant purchased the home in October of 2009, and there is currently no garage on the property. The property is zoned B1 – Central Business District. The residential use of the property is a legal non-conforming use which cannot be expanded, however the Zoning Ordinance does have an exception which allows the construction of a garage if none previously existed. The applicant submitted a survey of the property which shows a garage proposed at 6' from the alley. The survey and various pictures of the property were displayed for the Planning Commission.

Mrs. Christianson then reviewed the criteria for granting variances as noted in Section 506 of the Zoning Ordinance, noting that there must be exceptional or extraordinary circumstances that exist on the property, the literal interpretation of the Zoning Ordinance would preclude the applicant from reasonable use of the property, and that the applicant should not be granted any special privileges that would be denied to other property owners.

She stated that in reviewing the request staff looked for other reasonable alternatives for building a garage within the required setbacks. She displayed two alternatives to construct the garage without a variance, and based on this fact staff was recommending denial of the variance request.

An email stating support for the variance request was submitted from neighboring property owners, Don and Judy Conn.

Joshua Klehr stated that he is willing to install additional courses of block on the north side of the garage so the water from the alley would not enter the garage. He stated that he would like two single doors on the garage rather than one sixteen foot door as suggested by staff, because he has a pickup truck and would like a higher door on one of the stalls.

Chairman Gengel stated that he would like to see him construct the garage within setbacks.

Commissioner Wilcox stated that she likes to see that the property is being improved, but that the Zoning Ordinance is black and white in this regard so she does not support the variance request.

Michael Kuefner, 107 Lincoln Avenue North, asked if the Planning Commission is planning to take out the other detached structures along the alley that don't meet setbacks. Chair Gengel stated that they would not. Mr. Kuefner stated that Mr. Klehr isn't trying to do anything that hasn't been done before because there are other structures in the area that encroach into the alley setback. He also stated that Mr. Klehr is going to be investing a lot of money into the house which is a benefit to the neighborhood.

Commissioner Gilman said that the real question is does Mr. Klehr meet the criteria established for granting a variance? Commissioner Gilman did not believe the criteria were met.

Mr. Klehr stated that he would then build a structure with 20' sidewalls instead of 10' sidewall, and that he would figure out how to build the garage within setbacks. He said that it wouldn't be the prettiest, but it will be there.

It was moved by Gilman, seconded by Wilcox, to deny the request for variance #V1-2010 from the required 10' setback to 6' to allow construction of an attached garage at 102 Lincoln Avenue North in the B1 zoning district for the following reasons:

- A. Although the subject property is extraordinarily small and was created prior to the enactment of the New Prague Zoning Ordinance, a reasonably sized two stall garage can be constructed within the required setbacks.
- B. The literal interpretation of the provisions of the Zoning Ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the same area because the applicant can build a garage on the property within the allowable setbacks.
- C. Granting the variance would confer on the applicant a special privilege that would be denied to other property owners in the City because the required 10' alley setback applies to all residential properties within the City.

- D. The variance would be detrimental to the purpose of the Zoning Ordinance because it would confer upon the applicant a privilege which would not be granted to neighboring properties.

Motion carried (4-0).

**B. Zoning Ordinance Amendment – Concept Review #6
New Prague Planning Department, Applicant**

Planning Director Ondich presented the 6th draft amendment to the Zoning Ordinance. He noted that staff had previously suggested adding Interim Use Permits as a mechanism to deal with temporary uses, but that more research needed to be done on the topic. He has now completed the necessary research and is suggesting changes to Section 506 of the ordinance which addresses a purpose, conditions, the procedure for applying for, termination, and revocation of a conditional use permit.

He stated that there was a change in state statutes in 1989 where time limits were no longer allowed on conditional use permits, and the interim use permit provision was created to allow time limits to be placed on use approval. He stated that interim use permits can be approved if:

- A. The use conforms to the zoning regulations;
- B. The date or even that will terminate the use can be identified with certainty;
- C. Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
- D. The user agrees to any conditions that the governing body deems appropriate for permission of the use.

Planning Director Ondich noted that the process is identical to the conditional use permit process, except that there is an end date or event listed in the conditions. He stated that the League of Minnesota Cities recommends obtaining a cash deposit or bond to ensure clean-up or removal of a business after closure. He noted examples of interim uses such as a temporary auto sales lot prior to permanent development of a site.

Commissioner Wilcox stated that the City needs to be very careful in what they approve because getting a business to close upon the approved end date may be more difficult than it sounds. She asked if they were allowed in all zones. Interim uses are only being suggested for the business and industrial zoning districts, not residential.

**C. Zoning Ordinance Amendment – Final Review of Proposed Changes
New Prague Planning Department, Applicant**

City Planner Renee Christianson presented the final review of proposed changes to the Zoning Ordinance. She noted that Planning Department staff has been working on the amendments over the past year and a half and the Planning Commission has reviewed various sections of the proposed changes during the process. She explained that this was the final presentation and overview of changes already reviewed. She reviewed changes to various sections as follows:

Section 301 – Rules - Made a clarification to definitions not stated in Zoning Ordinance.

Section 302 – Definitions - Made several changes to the definitions, including additions, changes and deletions. The definitions were compared with all of the uses listed within each zoning district, to make sure that there is a definition for all listed uses.

Section 505 – Conditional Use Permits - Added a purpose and changed the exhibit and submittal requirements. Reworded the provision relating to CUP revocation.

Section 506 – Interim Use Permits - Added provisions for Interim Use Permits, including criteria for granting, conditions, procedures, and termination.

Section 507 – Variances - Changed the exhibit and submittal requirements for variances.

Section 508 - Made reference to Interim Use Permits

Section 601 – Zoning Districts - Added provision for interim zoning designation upon annexation. We encountered an issue with this during the Walmart annexation. The Ordinance did not previously address what a property would be zoning immediately upon annexation. This change was suggested by the City Attorney.

Section 603 to 607- Residential Zoning Districts -Minor wording adjustments

608 – B1 Central Business District - Changes to permitted and conditional uses. Changed apartments located above the first floor to permitted instead of conditional use (added performance standards for apartments above the first floor). Added interim uses to this section.

Section 609 – B2 Community Commercial - Significant changes to permitted and conditional uses. Less restrictive, several businesses could locate without needing a conditional use permit now, including office, retail, service, restaurants, clinics, and daycare centers. Added interim uses to this section.

Section 610 – B3 Highway Commercial District - Significant changes to permitted and conditional uses. Less restrictive, several business could locate without needing a conditional use permit. Added interim uses to this section.

Section 611 – Light Industrial District - Minor changes to permitted and conditional uses. Added interim uses to this section.

Section 705 - Bulk Storage (Liquid) - Removed the requirement that underground storage tanks require a conditional use permit, as the placement of underground storage tanks are regulated by other government agencies. Also removed the requirement that existing tanks comply by obtaining a conditional use permit, as this conflicts with State law. If a use is predates enactment of a zoning ordinance which may apply to it, Minnesota Statute states that the use has the right to remain

Section 707 – Screening - Changed the screening requirements slightly. This section requires screening between commercial/industrial uses and residential uses. Previously there was a 50% opacity requirement for the plantings, or a fencing requirement in lieu of plantings. This has been changed to require a “greenbelt” a minimum of 20’ in depth, and plantings of ‘sufficient density to provide a visual screen and reasonable buffer’. A fence may also be used for screening but not in lieu of plantings/greenbelt. If a fence is used, the fence must be on the business side of the greenbelt.

Staff has encountered some issues recently where the screening that met our existing requirements seemed inadequate. For example, in the area south of Coborn’s, the required screening was installed, but it just hasn’t been adequate in terms of shielding the residences from noise and lights.

A change has also been suggested requiring the landscaped greenbelt only between business and residentially zoned property, not residentially used property, as was previously required.

Section 708 – Fencing - Added language addressing fencing within drainage and utility easements. It is allowed but the property owner must sign an acknowledgement that the city has the right to access this easement area for their needs. The fence is installed at the risk of the property owner. Also required a 5’ setback along road right of ways.

Section 714 - Home Occupations - Staff has made some fairly significant revisions to the performance standards for Home Occupations. Home Occupation regulations are contained in Section 714 and now contain a purpose, general standards applying to home occupations, a list of sample permitted home occupations, and also a sample list of prohibited home occupations.

Section 717 – Parking - Added definitions for streets that match the street definitions in the subdivision ordinance. We added a provision for angled parking and also a minimum drive aisle width and a provision for one-way circulation. We increased the setback requirement for parking lots that abut a street right of way, and restrict parking lots from being within a public easement. We removed the 50% shading requirement for parking lots and simply required a minimum of one tree every 30’ around the perimeter (or 40’ spacing if along a front). We changed the interior landscape requirements (parking lot islands) so that they only apply to parking lots containing more than 50 spaces, and require a shade tree within each island and added a minimum island size. We added more uses to the list of parking requirements and made the uses listed more consistent with the uses shown within the zoning districts and definitions. We changed that curbing requirement so that curbing is only required if a lot contains more than four parking spaces.

Section 719 – Restaurants - Staff has suggested three (3) separate classifications for Restaurants: Class I being a fast food restaurant, Class II being a sit down restaurant, and Class III being a sit down restaurant that serves alcohol or has entertainment. Additionally, a Drinking Establishment is a business that receives the majority of its gross sales from the sale of alcohol consumed on the site.

Staff has suggested that in the B1 district, Class I, Class II, Class III restaurants, and drinking establishments be permitted uses.

Staff has suggested that in the B2 district, Class I, Class II, and Class III restaurants be permitted uses, and that drinking establishments be conditional use.

Staff has suggested that in the B3 district, Class I, Class II, and Class III restaurants be permitted uses, and that drinking establishments be conditional use.

Performance standards have been added in Section 719. They basically provide setbacks from Class III Restaurants and Drinking Establishments to low density residentially zoned properties. They shall not be located adjacent to low density residential zoned properties and if within 100' of a residential zoned property the hours shall be limited to 6:00 a.m. to 11:00 p.m.

Section 720 - Drive-Thru Businesses - Changes to the language are suggested so that this section is consistent with the regulations for fast food restaurant order boards. The language is slightly more restrictive by stating microphones and speakers cannot be directed towards residential areas, alleys or streets.

Section 721 - Car Washes - Minor wording changes; this section is now slightly less restrictive than it was.

Section 722 - Convenience Stores - Minor wording amendments are suggested, no substantive changes.

Section 723 - Access Spacing and Driveway Guidelines - Staff has suggested some significant changes to the Access regulations in Section 723. The existing regulations do not make any reference to access spacing based on the various functional classifications of roadways, or type of driveway being requested.

We also suggested removing the minimum driveway width, adding a maximum driveway width, added a maximum driveway grade requirement, requiring driveways to be surfaced with either bituminous or concrete (or equivalent), requiring sight triangles at street intersections, prohibiting access within turn lanes, requiring setback distances from driveway to intersecting streets, prohibiting driveways on arterial roadways, requiring minimum spacing between driveways on collector streets, and restricting access onto major collectors and arterial streets if alternative access is available.

Section 726 - Commercial Building Design for the B-1 District - Added a purpose to this section, and added language which requires the preservation of existing/original building facades, prohibits original brick from being covered by stucco or other finishes, prohibits the filling in of original window sizes, encourages the restoration of facades to meet the original building character, and requires a special review prior to allowing demolition of a building in the B1 district. The section still requires 40% of a first floor area be windows, but only on the more major street side of a corner lot, and it exempts accessory buildings from this provision.

Section 733 - Outdoor Seating for Food Service Businesses and Drinking Establishments
- Effectively no change, just slight wording adjustment.

Section 737 - Apartments Located Above the First Floor - Added specific provisions for apartments located above the first floor, requiring parking spaces, security lights, and trash receptacles.

Section 738 - Traffic Impact Studies - Added Section 738 regarding Traffic Impact Studies. The section adopts, by reference, a document outlining when a Traffic Impact Study is required, the required format for the study, and mitigation measures if a development causes an unacceptable level of service on adjacent roadways. These Guidelines are newly drafted, and not a formal part of the Zoning Ordinance, but a separate document.

Chairman Gengel stated that he supports the changes as presented. Commissioner Wilcox stated that she is glad the document was written by city staff and not a consultant.

It was moved by Gilman, seconded by Wilcox to forward the draft Zoning Ordinance, along with the Traffic Impact Study Guidelines and the Central Business District Design and Sign Guidelines, to the City Attorney for review, and to schedule a public hearing on the proposed changes to the Zoning Ordinance before the Planning Commission upon City Attorney approval of the document. Motion carried: 4-0.

5. Miscellaneous

The following miscellaneous items were reviewed:

- A. Planning Director Ken Ondich reviewed the Rental Registration maps for 2008/2009 and 2010. He noted that the registration program was implemented by the City Council following the Parish mortgage fraud case, and that these are the first two registration periods of data.

Daniel Flynn, 104 Lincoln Avenue North, entered the meeting and inquired about the Joshua Klehr variance request. Chair Gengel explained the request and that the Planning Commission had denied the request based on the fact that a garage can be constructed on the property within the required setbacks.

6. Adjournment

The meeting was adjourned at 8:15 PM by order of Chairman Gengel.

Respectfully submitted,



Renee Christianson
City Planner