

Meeting Minutes
New Prague Planning Commission
Wednesday, May 24, 2006

1. Call Meeting to Order

The meeting was called to order at 6:30 p.m. by Planning Commission Chairperson Grant Gengel with the following members present: Pat Remfert, Bob Gilman, Kay Wilcox, Grant Gengel and Michael LaDuke. All members were present.

City Staff Present: Renee Christianson - City Planner and Ken Ondich – City Planner.

2. Approval of April 26, 2006 Meeting Minutes

It was moved by Wilcox, seconded by LaDuke to accept the April 26, 2006 meeting minutes as submitted. Motion carried (5-0).

**3. Request for Conditional Use Permit #C4-2006 – Sheds for Sale in B-1 District
Rod Tietz, applicant**

Planner Christianson presented the staff report. She stated that the request was originally reviewed as a concept at the February Planning Commission Meeting. She stated that the property is zoned B-1 Central Business District which is established to encourage a viable downtown area by allowing retail, service, office and entertainment facilities. She stated the primary use of the property is for a Real Estates Office and that exterior storage and sales is not listed as a permitted or conditional use in the B-1 District but that the Zoning Ordinance states the City may require a conditional use permit for exterior storage. She added that the Planning Commission previously determined that a conditional use permit was necessary. She stated that sheds are proposed in front of the property approximately 10' from the front property line and 6' from the side property line. She noted that the area to be approved for the exterior storage and display of sheds is approximately 24' x 24' in size. She stated that screening is required between adjacent residential areas, that the site is bordered by residentially used property to the south and that there are trees located between the residential property and the proposed shed and that City staff is not recommending any additional landscaping. She noted that the B-1 District requires buildings to be brick to compliment the historical downtown area. She stated that an existing 32 sq. ft. sign exists on the property and that only one freestanding sign is allowed per lot. She stated that staff recommends approval of the request to allow the exterior storage of sheds for display and sale with the findings listed in the staff report and the conditions listed in the staff report based on the discussion at the February concept review meeting comments given by the Planning Commission.

The public hearing was opened at 6:40 PM.

With no public comments received the public hearing was closed at 6:41 PM.

Commissioner Gengel asked about a signage plan for the site.

Rod Tietz, applicant, stated that the shed that he would place on the property would probably be the grey shed shown in the staff report that has window boxes on it and that he would only put one shed on the property at a time. He stated that he might want to put a small sign out front of the shed such as a miniature for sale sign or even put something from time to time on the message center for his real estate sign.

Commissioner Gengel stated that since he already had a freestanding sign that he could not have another for the shed.

Commissioner Wilcox stated that she wasn't at the previous Planning Commission meeting when this matter was discussed. She stated that she doesn't agree with the location to sell the sheds in the B-1 Central Business District on Main Street. She said that it sets precedence. She stated that she could support the idea in the B-3 Highway Commercial Zoning District. She stated that there is a potential for problems by allowing the sheds for sale there and with other Main Street locations and that the magnitude is too large and that they just don't belong on Main Street.

Commissioner Gengel stated that the Planning Commission previously discussed other possible locations where such items could be displayed for sale and that it was not seen as an issue.

Commissioner Gilman asked if the shed that would be placed on the property would be a model and not one that could be purchased.

Mr. Tietz stated that it would be a model, but that he would not rule out changing the shed occasionally for a different look.

Commissioner Remfert stated that since the concept review he has spoken with five to six other people about the idea of the sheds displayed for sale and now believes it is the wrong area to display sheds for sale and that it would set precedence.

Commissioner LaDuke stated that he agreed with Commissioner Remfert that it would be the wrong place for them.

Commissioner Gilman stated that he is ok with having one shed on display for sale on the property. He added that it's not like having a board or motor home for display on the lot.

It was moved by Wilcox, seconded by LaDuke to recommend denial of CUP #C4-2006 to allow exterior storage of sheds for display and sale in the B-1 Central Business Zoning District with the following findings:

- A. The proposed exterior storage and sale of sheds is in conflict with the Comprehensive Plan of the City.
- B. The proposed exterior storage and sale of sheds is not in compliance with the B-1 Central Business District design guidelines in Zoning Ordinance Section 726.

Motion carried: Ayes 3 Nays 2 (Gengel and Gilman)

**4. Request for Variance #V1-2006 – House/Garage Addition (Front Setback)
Donna Schumacher, applicant**

Planner Ondich presented the staff report. He stated that there is an existing single stall garage that the applicants would tear down in order to add the attached garage and home addition which would consist of a double stall garage and a bedroom, bathroom, dining room and living room. He stated that the home was built in 1956 and is only 10' from the north property line along 4th Street NE, but meets all other setbacks. He noted that the existing detached garage is only 6' from the north property line. He stated that the requested variance is to allow the addition to be 24' into the required 30' setback because the lot has two front 30' setbacks to meet. He noted that all the homes between Lincoln and Lyndale on the south side of 4th Street NE are at most only 15' from the property line with none currently meeting the required 30'. He noted that across the street at 320 Pershing Ave. N. a variance was granted for a similar request, but that such approval does not mean that this request must be approved. He noted that two options exist for the request. One is the applicants proposal with the attached garage to be 6' from the north property line which allows the applicants to keep a corner kitchen window on the back of the house which only provides for 18' from the garage door to the back of the curb and pushing the garage back makes the addition of a living room not feasible because of the desire to save the corner kitchen window. He stated that the second option is to push the garage and living room portion of the addition to the south by 5' which provides for 23' to the back of the curb which would maximize the driveway length for parking vehicles in front of the garage and would still allow the applicants to keep their corner kitchen window. He stated the easiest option would be the shift the entire addition south 5' but would make the applicants loose the kitchen window. He noted that past decisions by the Planning Commission have been to maintain a 20' long driveway. He stated that at least having 11' from the garage door to the front property line is a condition that staff recommends for approval. He read through the possible findings for the request. He stated that staff recommends approval of the variance to allow the attached garage and home addition to be 6' from the north property line along 4th Street NE with the findings and condition in the staff report.

Commissioner Gengel stated that he was somewhat troubled by staff's opinion that the special circumstance is not a result of the actions of the applicant which could be related to the small lot size or simply because the applicant is asking for something that doesn't fit on the lot. He stated there is a cause and effect taking place here. He also noted that he does not see a consistent setback in the area that the Planning Commission should be mindful of keeping. He ended by stating that he is comfortable with staff's recommendation.

Commissioner Wilcox asked the applicant if she could live with the changes staff proposed to the layout to the addition.

Donna Schumacher, applicant, stated that they have reworked the plan since they first applied for the variance. She stated that they were thinking of removing the living area behind the garage so that the garage could be pushed back away from the road further than they originally proposed it and which would fit with staff's recommendation to have an 11' distance between the garage doors and the property line. She also explained the situation with the corner kitchen windows and the need to keep them. She stated that the sink sits in the corner of the home on the SE corner with a window on each side of the sink that if the addition were pushed south it would require one of the windows to be removed.

Commissioner Wilcox stated that she would like to maximize the driveway length.

Commissioner Gilman stated that he did not see an issue with the driveway length at 23' as staff has recommended.

Planner Ondich stated that this would put the garage doors 11' from the north property line and 23' to the back of the curb.

Planner Christianson stated that this could be an issue at a future time if a sidewalk were to be installed in the boulevard in front of the garage and cars were parked outside they would sit over the sidewalk.

Donna Schumacher stated that she thought the street was reconstructed in 1999.

Planner Ondich stated that there is maybe 9' more to work with to push the garage further back from the north property line, but that was just an estimate and did not know how that would work with roof lines on the addition as a whole.

The Planning Commission reached consensus that the living space addition should line up with the existing home at 10' from the north property line and that the garage portion of the addition should be setback a minimum of 11' from the north property line.

It was moved by Wilcox, seconded by Gilman to recommend approval of Variance #V1-2006 to allow an attached home and garage addition to be 10' instead of the required 30' from the north property line along 4th Street NE with the following findings:

1. Exceptional circumstances apply to the property because the applicant owns a corner lot of only 56.7' in width. Once all the setbacks are accounted for it only provides for a 19.7' wide by 92.5' buildable area for additions to the home or the addition of a garage. The lot was created before current zoning ordinance was adopted.
2. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance because the property is a narrow corner lot, the buildable area on the lot is unreasonably small compared to other lots in the area that are not located on a corner. Furthermore, all the homes located on the south side of 4th Street NE between Lincoln Ave. N. and Lyndale Ave. N. are all affected by the terms of the ordinance as none of them currently meets the 30' setback along 4th Street NE and all would require a variance in order to add onto their homes.
3. Special circumstances do not exist as a result of the actions of the applicant because the lot was created at a very narrow width for a corner lot well before the adoption of the current zoning ordinance. It is the narrow width of the lot and the only 19.7' wide buildable area that is the special condition.
4. Granting the variance would not confer a special privilege in that all other structures within the two block area along the south side of 4th Street NE between Lincoln Ave. N. and Lyndale Ave. N. all do not meet the currently required 30' front setback to 4th Street NE. None of the structures in this area on the south side of the road are more than 15' from the 4th Street NE property line.
5. The variance being requested is the minimum variance which would alleviate hardship of having a very narrow buildable area on the lot. The proposed home and garage addition is proposed to line up with the edge of the existing home and not be any closer to the

north property line so that on the SE corner of the home an existing corner kitchen window can remain on the existing structure.

6. The variance being requested would not be materially detrimental to the purpose of this zoning ordinance or other property in the same area because other homes along the south side of 4th Street NE between Lincoln Ave. N. and Lyndale Ave. N are located no further than 15' from the property lines along 4th Street NE and because the proposed attached home and garage addition will not be any closer to the property line than the existing detached garage that will be removed on the property.

With the following condition:

1. The garage portion of the addition must be setback a minimum of 11' from the north property line along 4th Street NE to maximize the length of the driveway on the property outside of the right of way.

Motion carried: Ayes 5 Nays 0

5. Preliminary and Final Plat for Sayler Addition Greg Sayler, applicant

Planner Ondich presented the staff report. He stated that the applicant purchased the property on April 5, 2006 and it was the former site of Delrose Tool and Die. He stated that the applicant brought a concept plan review to the Planning Commission at the April meeting. He stated the plat will not create any new lots or lines, it will just establish the lot that was previously described by metes and bounds. He noted the property was located in the B-3 Highway Commercial Zoning District which has a minimum lot size of 20,000 sq. ft. and a minimum lot width of 80' and that neither the lot area or width meets the minimum requirement and that since additional land is not owned by the applicant to add to the parcel that variances would have to be noted for the lot area and the lot width. He stated drainage and utility easements were proposed at 5' along the sides and 10' along the front and back of the lot, but that a 40' buffer area is required from the edge of wetlands or in this case the creek which must be shown on the property as drainage and utility easement. He noted that the preliminary plat shows the required setbacks. He noted that an existing curb cut from Highway 21/13 is on the property and that a permit from Mn/DOT is not needed until traffic increase becomes significant with a new user. He stated the property drains towards the creek to the west and that the Zone AE flood plain exists just outside of the property to the west with a base flood elevation of 973' and that Randy Bradt of the DNR stated that the City's 40' buffer area is appropriate to the creek. He stated that no park land is required because the plat is not creating any new lots and it already located within the City limits. He stated that water and sewer is available to the site. He stated that staff recommends approval of the Preliminary and Final Plat of Sayler Subdivision.

The public hearing was opened at 7:29 PM.

With no public comments received the public hearing was closed at 7:30 PM.

Commissioner Gengel asked the applicant if he would demolish the old building on the property.

Greg Saylor, applicant, stated that he would tear down the south side of the building and possibly keep the north side of the building which is the garage. He stated that it seems solid and that he could make it match a new building that he could build on the site.

Commissioner Gengel stated that the new building on the site requires a conditional use permit because the zoning ordinance for the B-3 Highway Commercial District only lists 3 permitted uses.

Commissioner LaDuke stated that there is no parking on the highway right of way and that the existing building is about five feet from the highway right of way line so that there would be no room to park in front of the existing garage door. He noted that it's against the law to park within state highway right of way.

It was moved by LaDuke, seconded by Remfert to recommend approval of the Preliminary and Final Plat of Saylor Subdivision in the B-3 Highway Commercial Zoning District with the following findings:

1. The preliminary plat complies with the purpose and intent of the New Prague Comprehensive Plan and Subdivision Ordinance.
2. The plat proposes only to re-establish the existing lot line of the existing property currently described by metes and bounds. This is required because the Zoning Ordinance Section 401 does not allow building permits for new developments to be issued on land described by metes and bounds.

With the following conditions:

1. Approval is granted in accordance with the preliminary plat drawing dated 5/2/06 and final plat drawing dated 4/28/06 on file with the New Prague Planning Department.
2. A title opinion must be approved by the City Attorney before final plat approval.
3. The final plat must be recorded within 90 days of the date of the City Council granting approval.
4. The 40' creek buffer area must be shown on the Final Plat as a part of the drainage and utility easement on the property.

And acknowledging the following variances:

1. A variance is being noted from the minimum lot width of 80' in order to allow the existing lot dimension of 75' width to be re-established with the plat because the applicant does not own the adjacent land to meet the minimum lot width requirement.
2. A variance is being noted from the minimum lot size requirement of 20,000 sq. ft. (.459 acres) in order to allow the existing lot size of .18 acres to be re-established with the plat because the applicant does not own the adjacent land to meet the minimum lot size requirement.
3. Park land dedication is not being required because the lot lines are simply being platted in the same location because the property was previously described by metes and bounds.

Motion carried: Ayes 5 Nays 0

6. Request for Variance #V2-2006 – Maximum Height Requirement Chart Industries, applicant

Planner Christianson presented the staff report. She stated that Chart Industries is proposing a 110' by 120' addition onto the current plant which was built at 58' in height in 1980 which is used to manufacture very large tanks. She stated that two existing large cranes would be needed in the expansion building area which require the 58' height. She noted that the previous zoning ordinance did not have a maximum height requirement so the 58' high building was allowed. She read the proposed findings for the variance request as well as the two conditions contained in the staff report. She stated that staff recommends approval of the 8' height variance to allow a 58' high building at 407 7th Street NW.

Commissioner Remfert stated that the variance for the building height would allow Chart to make their facility more of a specialty manufacturing site which is a good thing for the company and the community.

It was moved by Wilcox, seconded by Remfert to recommend approval of Variance #V2-2006 to allow the approval of the 8' height variance to allow a 58' high building at 407 7th Street NW in the I-1 Light Industrial Zoning District with the following findings:

1. The City of New Prague enacted a zoning ordinance in 2000 which limited the maximum height of a building to 50'. Prior to this there was no height limitation placed on buildings in the I1 zoning district. By 2000 the owners of the company had already made a substantial investment in buildings and equipment that required a 57'7" building height. Staff believes that this is an extenuating circumstance over which the owners of the property have had no control. Not being able to expand the building at this location would limit the owner's ability to compete in the manufacturing of large scale cryogenic tanks.
2. The literal interpretation of the Zoning Ordinance, which limits building heights in the I1 zoning district to a maximum height of 50', would deprive the applicant of the ability remain competitive in manufacturing large scale cryogenic tanks.
3. A special circumstance exists over which the owners of the property have had no control. The owners of Chart Industries constructed a 57'7" high building in 1980 that met the requirements of the New Prague Zoning Ordinance, and thus, made substantial economic investments in the building used to manufacture large cryogenic tanks. Chart Industries has determined that, in order to remain competitive in the manufacturing of these large cryogenic tanks, it is necessary to expand the 58' high manufacturing facility. The enactment of New Prague's zoning controls which limit the maximum height of a building to 50' is a circumstance over which the applicant has had no control.
4. The height variance being requested is the minimum variance that would accommodate the two existing bridge cranes that are already located within the adjacent building and that must be used in the building addition, thereby alleviating the hardship.
5. Staff believes that the variance being requested would not be materially detrimental to the purpose of this zoning ordinance or other property in the same area because a structure that is 57' 7" high exists on the site today and has not caused an adverse affect to the neighborhood.

With the following conditions:

1. The variance is issued for a period of one year and shall become null and void if not issued within one year.
2. The variance is issued to allow a 100' x 120' building addition as shown on the site plan dated 5/16/06.

Motion carried: Ayes 5 Nays 0

Commissioner Wilcox asked if they had installed a railroad spur on their property yet.

Steve Thoresen, representative of Chart, stated that the Union Pacific Railroad currently allows them to use one of the rail lines, but that they won't let them do this anymore in the future so they are now planning on adding a rail spur.

7. Zoning Ordinance Amendment – Outdoor Wood Fired Boilers

Planner Ondich presented the staff report. He provided background and history on the proposed amendment, noting that the Planning Commission had reviewed the matter several times and held a public hearing at a March 22nd 2006 meeting and that the City Council had considered the amendment at two meetings during the month of April and decided to send the matter back to the Planning Commission for further review because they did not support a ban on the units or the proposed regulations that the Planning Commission previously felt were inadequate. He presented the two options for language that were rejected. He presented a map of the possible locations of the units based on a 75' setback to property lines and a 200' setback to adjacent residential structures. He stated that staff does not have any further suggestion for the zoning ordinance amendment.

Commissioner Gengel stated that he stands by the Planning Commission's original recommendation to ban the installation of outdoor wood-fired boiler units within the city limits.

Commissioner Gilman stated that they are a health hazard and a nuisance to the residents of the city.

Commissioner Wilcox stated that she had done a lot of research on the matter and that it's hard to regulate the type of fuel that they can burn and that the problem is the scale and duration of the burning by outdoor woodburning furnaces which creates noxious and hazardous smoke, soot, fumes, odors and air pollution, can be detrimental to citizens' health, and can deprive neighboring residents of the enjoyment of their property or premises. She stated that with the adoption of a ban on the installation of the units the city would be securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the City and its inhabitants. She added that she found information on cost comparisons of the outdoor wood boilers versus other heating sources and found that the average initial cost of operation is much higher with the wood boilers. She also noted that they are about 43% efficient compared with a conventional natural gas forced air furnace which is up to 90% efficient. She also stated that she found a lot of information in a New York State report on outdoor wood fired boilers. She read a story of a person who lived next to an outdoor wood fired boiler and how it devalued the property because of the smoke emissions. She added that creating an area around the units where residential homes could not be built could result in a taking of the land surrounding the units so that an ordinance worded in that way would not work.

Commissioner Remfert stated that he sees a lot of the outdoor wood-fired boiler units being shipped these days.

Commissioner Wilcox stated that some cities also regulate the units to being operated only between September 1st and May 1st.

A motion was made by Wilcox, seconded by LaDuke to re-affirm the previous Planning Commission recommendation to ban the installation of outdoor wood-fired boilers in the City of New Prague along with the research submitted by Commissioner Wilcox being entered into the record.

Motion carried: Ayes 5 Nays 0

8. Miscellaneous

A. 60 Day Rule Statute Review –

Planner Christianson presented an overview of the M.S. Chapter 15.99 commonly known as the “60 Day Rule”.

B. Traffic Counters -

Commissioner Remfert asked about all the traffic counters on Main Street and on County Road 37.

Planner Christianson stated that Mn/DOT District 7 is completing a comprehensive traffic study of the area. She stated that from between 3-6 PM each day there are cars sitting at certain intersections also observing turning movements. She stated she expects the results in late June or early July.

C. Sign on Main Street-

Commissioner Remfert asked about the drywall company sign located on Main Street.

Planner Christianson stated that she would look into the issue further and noted that it is within the B-1 Central Business District.

9. Adjournment

A motion was made to adjourn the meeting at 8:10 PM. by Remfert, seconded by LaDuke, which passed unanimously (5-0).

Respectfully submitted,



Kenneth D. Ondich
City Planner