

City Council Proceedings

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague



City Council Meeting
Monday, July 17, 2006

Mayor Sindelar called the meeting to order with the following members present: Sindelar, Kratochvil, Jirik, Wilcox, Babione. Absent: None

Motion Babione, Second Wilcox.
Approve the issuance of On-Sale Liquor License, Off-Sale Liquor License, Sunday Liquor License to Schumacher New Prague Hotel Inc. at 212 Main St. W.
Term of said license September 1, 2006 - March 31, 2007.
Motion carried.

Council Member Wilcox offered the following Resolution and moved for its adoption.

RESOLUTION #06-07-17-01

RESOLUTION OF THE NEW PRAGUE CITY COUNCIL
APPROVING A VARIANCE FROM THE REQUIREMENT THAT DECKS BE SETBACK A MINIMUM OF 30' FROM A FRONT PROPERTY LINE, 20' FROM A REAR PROPERTY LINE AND 7' FROM A SIDE PROPERTY LINE TO ALLOW A DECK TO BE 27.5' FROM THE FRONT PROPERTY LINE ALONG CENTRAL AVE. N., 5.5' FROM THE REAR PROPERTY LINE, AND 4' FROM THE SIDE PROPERTY LINE AT 310 CENTRAL AVE. N. IN THE RL-84 SINGLE FAMILY RESIDENTIAL ZONING DISTRICT, NEW PRAGUE, MN

WHEREAS, Robert and Marcia Sammons, owners of the following real estate in the County of Scott to wit:

The East Six (6) feet of the North Sixty-five (65) feet of Lot Five (5) and the North Seventy (70) feet of Lot Six (6), all in Block Twelve (12) in Philipp's Addition to Praha (Now City of New Prague), Scott County Minnesota, according to the plat thereof filed of record in the Office of the Register of Deeds in and for said County and State.

are requesting a variance from the requirement that decks be setback a minimum of 30' from a front property line, 20' from a rear property line and 7' from a side property line to allow a deck to be 27.5' from the front property line along Central Ave. N., 5.5' from the rear property line, and 4' from the side property line at 310 Central Ave. N. in the RL-84 Single Family Residential Zoning District, which is located on the above described real estate; and,

WHEREAS, the New Prague Planning Commission has completed a review of the application and made a report pertaining to said request (V3-2006), a copy of said report has been presented to the City Council; and,

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WHEREAS, the New Prague Planning Commission on the 5th day of July, 2006, after due consideration of presented testimony and information, voted unanimously to forward the matter to the City Council with a recommendation for approval; and,

WHEREAS, the New Prague City Council finds:

1. Exceptional or extraordinary circumstances apply to the property which does not apply generally to other properties in the area because the lot is only 5,010 sq. ft. which is 3,390 sq. ft. smaller than the current minimum lot area required today, because the lot does not provide ample depth for a rear yard behind the home, and because a very large tree is located in the buildable area for a deck on the property. There is also a jog in the lot at the southwest corner which makes the side lot setback variance necessary.
2. The literal interpretation of the provisions of this ordinance would deprive the applicants of rights commonly enjoyed by other properties in the same area under the terms of this ordinance because the only possible location for a deck on this property is technically on the side of the home because the rear yard setback for decks and the location of an attached garage do not allow the deck to be placed in a typical "backyard" of the home and to compensate for this the proposed deck location would keep the deck behind the home as much as possible for privacy.
3. Special conditions and circumstances do not result from the actions of the applicants because the applicants did not plant the large tree located within the buildable area for the deck and also because the applicants did not create the small lot size or irregular dimensions of the lot that led to the absence of a typical backyard in which to locate a deck on the property.
4. The granting of the variances requested will not confer on the applicant any special privilege that is denied by this ordinance to owners of other lands, structures or buildings in the same district because most other lots in the area have an adequately sized back yard in which to locate a deck on their homes because they have a greater lot depth than the applicant's lot.
5. The variances requested are the minimum variances which would alleviate the hardship because the deck would be placed west of the tree and would be setback further from the rear property line than the existing attached garage and would not extend closer to Central Ave. N. than the home while still providing for wheelchair access to a proposed door into the home onto the deck surface. It would also allow the applicants to keep their large tree.

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- 6. The variance would not be materially detrimental to the purpose of this ordinance or to other property in the same area and will also not adversely affect the neighborhood because the deck will be in a private location on the lot where without the variance the deck would be 30' from Central Ave. N. which would provide for little privacy and would also put a deck in a location on the property where one would not normally be found in the immediate vicinity.
- 7. The granting of the variances for the deck setbacks is reasonable and would provide the applicants reasonable use of their property.

NOW, THEREFORE BE IT RESOLVED, by the City Council of New Prague, Minnesota, that the request for variance #V3-2006, to allow a variance from the requirement that decks be setback a minimum of 30' from a front property line, 20' from a rear property line and 7' from a side property line to allow a deck to be 27.5' from the front property line along Central Ave. N., 5.5' from the rear property line, and 4' from the side property line at 310 Central Ave. N. in the RL-84 Single Family Residential Zoning District, as proposed by Robert and Marcia Sammons is hereby approved based on the above findings and with the following condition.

1. Unless the variance is used within one (1) year after being issued, it shall become null and void.

This Variance approval becomes effective immediately upon its passage and without publication.

Council Member Babione seconded said Resolution and upon roll call the following vote was recorded.

	<u>AYES</u>	<u>NAYES</u>
Sindelar	<u>X</u>	_____
Babione	<u>X</u>	_____
Jirik	<u>X</u>	_____
Kratochvil	<u>X</u>	_____
Wilcox	<u>X</u>	_____

Thereupon Mayor Sindelar declared said resolution adopted this 17th day of July, 2006.

Craig Sindelar, Mayor

ATTEST:

Jerry Bohnsack, City Administrator

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Council Member Wilcox offered the following Resolution and moved for its adoption.

RESOLUTION # 06-07-17-02

RESOLUTION OF THE NEW PRAGUE CITY COUNCIL
APPROVING A CONDITIONAL USE PERMIT TO ALLOW A SHOP/GARAGE
BUILDING IN THE B-3 HIGHWAY COMMERCIAL ZONING DISTRICT,
NEW PRAGUE, MINNESOTA

WHEREAS, Greg Saylor, owner of the following real estate in the County of LeSueur to wit:

Lot 1, Block 1, Saylor Addition, according to the plat thereof, LeSueur County, Minnesota.

is requesting a Conditional Use Permit to allow shop/garage building in the B-3 Highway Commercial Zoning District, which is located on the above real estate; and,

WHEREAS, the New Prague Planning Commission has completed a review of the application and made a report pertaining to said request (C5-2006), a copy of said report has been presented to the City Council; and,

WHEREAS, the New Prague Planning Commission on the 5th day of July, 2006, following proper notice held a public hearing regarding the request, and following due consideration of presented testimony and information, voted unanimously to forward the matter to the City Council with a recommendation for approval subject to findings contained in staff report C5-2006 and those listed during the Planning Commission Meeting; and,

WHEREAS, the New Prague City Council finds:

1. The use as a shop/garage will not create an excessive burden on existing parks, schools, streets and other public facilities which serve the area because there will be no employees on the site and the site will generate little traffic on a daily basis.
2. The use as a shop garage will be adequately screened to the north by a row of large evergreen trees from the adjacent residentially used land to the north so that the existing home will not be depreciated in value and there will be no deterrence to development of vacant land.
3. The use is reasonably related to the overall needs of the City and to existing land use in that the new building and use replaces a dilapidated structure which had not been actively used for any commercial purpose for the past few years and the new building is also one which will provide viable space for future tenants of the site.

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4. The proposed shop/garage use is consistent with the purposes of the zoning ordinance and the purposes of the B-3 Highway Commercial Zoning District in that the shop/garage is a use that is suited to a location oriented to the traveling public and a viable location for other for future users of the new building.
5. The proposed shop/garage use is not in conflict with the comprehensive plan of the City because the Comprehensive Plan designates this property as being located within the B-3 Highway Commercial Zoning District.
6. The proposed shop/garage use will not cause traffic hazard or congestion because it will mainly be used for equipment storage and some minor shop related activities inside the building.
7. Adequate utilities such as water and sewer have been provided at the site and the existing curb cut to the property from Highway 21/13 is more than adequate for the proposed and future uses.

WHEREAS, the New Prague City Council approves the request with the following conditions:

1. The conditional use permit is issued for a period of one year, and shall become null and void without further action from the Planning Commission unless used within one year of the date granting the permit.
2. The Conditional Use Permit is issued in accordance with the site plan dated 6/15/06 noting the building size of 44' x 54' and that the building will be 9' closer to the front property line, on file with the New Prague Planning Department.
3. The applicant, Greg Sayler, must comply with all recommendations of the City Engineer and Public Works Director.
4. There shall be no outside storage or garbage on the 4th Ave. SW (Highway 21/13) side of the building.
5. The three required parking stalls shall be striped with white or yellow paint lines not less than 4" wide providing for parking spaces at a size of 9' x 20' on a concrete or bituminous paved surface with a perimeter curb located outside of any drainage and utility easement while noting that one or more of these spaces will be provided for within a building.
6. The front door to the new building must be adjacent to the parking area on the south side of the front (east facing) elevation so that it is visible from the road right of way.
7. A minimum of 3 windows shall be installed on the front of the building to give the building an appearance of a "typical

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business".

8. One deciduous tree must be planted adjacent to the parking spaces outside of any drainage and utility easement to meet the requirement of Zoning Ordinance Section 717.7 that 25% of the parking lot shall be shaded at full tree maturity.
9. All signs must conform to Section 718 of the Zoning Ordinance.
10. All lighting must conform to Section 704 of the Zoning Ordinance.

And making the following findings to approve a variance for the 9' encroachment into the required 40' front setback:

1. Exceptional or extraordinary circumstances apply to the property because of its unusually small lot size and the location of the creek, and for these reasons the applicant is not able to fully utilize the typical building area on the lot.
2. The special conditions and circumstances do not result from the actions of the applicant because the applicant did not create the small lot size or locate the creek adjacent to the lot.
3. The variance would not be materially detrimental to the purpose of the Zoning Ordinance because many existing structures within the B3 zoning district encroach upon the front setback requirement, so there is not a prevailing setback with adjacent buildings which should be maintained for aesthetic purposes. Further more, the building will be over 80' from the edge of Highway 13/21 even with the 9' variance into the required 40' front yard setback.

And noting the following variance:

1. A variance is being granted from the requirement that 3% of the gross parking area lying more than 20' from the street right of way shall be improved and maintained with landscaping in accordance with Section 717 (2)(A)(3) because parking lot on the site is only for two parking spaces and the landscaped area would not be reasonable to require in such a small space.

NOW, THEREFORE BE IT RESOLVED, by the City Council of New Prague, MN, that the Conditional Use Permit to allow a shop/garage building in the B-3 Highway Commercial Zoning District is hereby approved.

This Conditional Use Permit is approved effective immediately upon its passage and without publication.

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Council Member Babione seconded said Resolution and upon roll call the following vote was recorded.

	<u>AYES</u>	<u>NAYES</u>
Sindelar	_____	___ <u>X</u> ___
Babione	___ <u>X</u> ___	_____
Jirik	___ <u>X</u> ___	_____
Kratochvil	_____	___ <u>X</u> ___
Wilcox	___ <u>X</u> ___	_____

Thereupon Mayor Sindelar declared said resolution adopted this 17th day of July, 2006.

Craig Sindelar, Mayor

ATTEST:

Jerry Bohnsack, City Administrator

Council Member Wilcox offered the following Resolution and moved for its adoption.

RESOLUTION # 06-07-17-03

RESOLUTION OF THE NEW PRAGUE CITY COUNCIL
GRANTING AN AMENDMENT TO CONDITIONAL USE PERMIT #C8-2004 TO
ALLOW AN EXPANSION TO THE RESTAURANT LOCATED AT 825 1ST ST SE,
LOT 2 BLOCK 1 EAST TOWN PLAZA, IN THE B2 COMMUNITY COMMERCIAL
ZONING DISTRICT, NEW PRAGUE, MINNESOTA

WHEREAS, Extreme Investor's of New Prague, owner of the following real estate in the County of LeSueur to wit:

Lot 2 Block 1, East Town Plaza, according to the recorded plat thereof, LeSueur County, Minnesota.

is requesting a Conditional Use Permit to allow an addition to the restaurant located at 825 1st Street SE in the B2 Community Commercial Zoning District, which is located on the above real estate; and,

WHEREAS, the New Prague Planning Commission has completed a review of the application and made a report pertaining to said request (C8-2004), a copy of said report has been presented to the City Council; and,

WHEREAS, the New Prague Planning Commission on the 5th day of July, 2006, following proper notice held a public hearing regarding the request, and following due consideration of presented testimony and information, voted unanimously to forward the matter to the City Council with a recommendation for

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approval subject to findings contained in staff report C8-2004 and those listed during the Planning Commission Meeting; and,

WHEREAS, the New Prague City Council finds:

- A. The proposed addition to the restaurant will not create an excessive burden on existing parks, schools, streets or other public facilities which serve or are proposed to serve the area, as the proposed expansion will only accommodate an area for pool tables, cooler space, and refuse area.
- B. The restaurant is adjacent to business uses on its east and west side, and business zoned land to the south. The proposed building addition will not be visible from the existing residential properties to the north. Therefore, the proposed building expansion will be sufficiently compatible with residential homes in the area.
- C. The proposed building addition and site will have a similar appearance to the existing restaurant building and site, the appearance of which has not had an adverse impact on adjacent residential property.
- D. The restaurant use has already been established on the site and no new uses, as defined by the Zoning Ordinance, will be established as a result of the proposed building expansion.
- E. The use is consistent with the zoning ordinance because restaurants are specifically listed as a conditional use within the B2 zoning district, and the proposed building expansion conforms to performance standards identified in the zoning ordinance.
- F. The use is not in conflict with the comprehensive plan because restaurants are specifically listed as a conditional use within the B2 district, the land use which the property is guided to in the Comprehensive Plan.
- G. The proposed building expansion will not create additional seats within the restaurant and for this reason staff finds that the proposed building addition will not create unreasonable traffic hazard or congestion.
- H. Adequate utilities have been or will be provided.

WHEREAS, the New Prague City Council approves the request with the following conditions:

- 1. The conditional use permit amendment is granted in accordance with the site plan and building elevations dated 5/23/06 on file with the New Prague Planning Department.
- 2. The door proposed on the south side of the building could

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be relocated to the west side of the building if the building inspector determines it necessary to meet the building code.

- 3. The number of seats allowed at the restaurant shall remain at no more than 159. This has been determined based on the 63 parking spaces that have been identified for the restaurant, allowing 1 parking space for every 3 seats in the restaurant and 1 parking space for 10 possible employees on the largest shift.
- 4. The appearance of the south elevation must match the existing south building elevation in terms of windows and awnings, and that the proposed door shall be for exit only.

NOW, THEREFORE BE IT RESOLVED, by the City Council of New Prague, MN, that Conditional Use Permit #C8-2004 which allowed a restaurant on Lot 2 Block 1 East Town Plaza, hereby be amended to allow an expansion to the restaurant, with all other original conditions to remain in effect and adding 4 conditions as stated above.

This Conditional Use Permit is approved effective immediately upon its passage and without publication.

Council Member Kratochvil seconded said Resolution and upon roll call the following vote was recorded.

	<u>AYES</u>	<u>NAYES</u>
Sindelar	<u>X</u>	_____
Babione	<u>X</u>	_____
Jirik	<u>X</u>	_____
Kratochvil	<u>X</u>	_____
Wilcox	<u>X</u>	_____

Thereupon Mayor Sindelar declared said resolution adopted this 17th day of July, 2006.

Craig Sindelar, Mayor

ATTEST:

Jerry Bohnsack, City Administrator

Dick & Lenore Krava and Tom & Jane Hangaard were present to request that the Council consider vacation of platted street 6th St. SE east of Central Av. S.

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Motion Wilcox, Second Babione.

Accept petition to vacate 6th St. SE east of Central Av. S and call for Public Hearing to consider said vacation on August 21, 2006.

Motion carried.

Motion Wilcox, Second Jirik.

Approve Joint Powers Agreement between City of New Prague and Independent School District #721 for Raven Stream Park.

Motion carried.

Council Member Jirik offered the following Resolution and moved for its adoption.

RESOLUTION #06-07-17-04

RESOLUTION OF THE NEW PRAGUE CITY COUNCIL
ENTERING INTO MN/DOT AGREEMENT NO. 89817 WITH THE STATE OF MINNESOTA, DEPARTMENT OF TRANSPORTATION

IT IS RESOLVED that the City of New Prague enter into Mn/DOT Agreement No. 89817 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for payment by the State to the City of the State's share of the costs of the acquisition of landscape materials to be placed by the City along Trunk Highway No. 21 from Trunk Highway No. 19 to 1000 feet north adjacent to Philipp's Park within the corporate limits of the City of New Prague under State Project No. 7002-969B.

IT IS FURTHER RESOLVED that the Mayor Craig Sindelar and the City Administrator Jerome Bohnsack are authorized to execute the Agreement and any amendments to the Agreement.

Council Member Kratochvil seconded said Resolution and upon roll call the following vote was recorded.

	<u>AYES</u>	<u>NAYES</u>
Sindelar	<u> X </u>	<u> </u>
Babione	<u> X </u>	<u> </u>
Jirik	<u> X </u>	<u> </u>
Kratochvil	<u> X </u>	<u> </u>
Wilcox	<u> X </u>	<u> </u>

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Thereupon Mayor Sindelar declared said resolution adopted this 17th day of July, 2006.

Craig Sindelar, Mayor

ATTEST:

Jerry Bohnsack, City Administrator

Motion Kratochvil, Second Jirik.

Approve Joint Powers Agreement between City of New Prague and Scott County Cities and Scott County for construction of Public Safety Training facility.

Motion carried.

Motion Wilcox, Second Babione.

Approve the following consent agenda items:

- A. Approve Previous Meeting Minutes
- B. Approve Claims for Payment.
- C. Approve MN Lawful Gambling Application for Exempt Permit for Scott/Le Sueur MN Waterfowl on August 11, 2006 at the Park Ballroom.

Motion carried.

Motion Wilcox, Second Babione.

Approve the amended Emergency Operations Plan.

Motion carried.

Motion Wilcox, Second Jirik.

Accept the resignation of Jim Westall from the Park Board.

Resignation accepted with regrets.

Motion carried.

There being no further business, the meeting was adjourned.

Jerry Bohnsack
City Administrator