

**Meeting Minutes**  
**New Prague Planning Commission**  
**Wednesday, November 16, 2022**

**1. Call Meeting to Order**

The meeting was called to order at 6:32 p.m. by Chair Dan Meyer with the following members present Brandon Pike, Ann Gengel, and Jason Bentson. Absent was Shawn Ryan.

City Staff Present: Ken Ondich – Planning / Community Development Director and Kyra Chapman – Planner

**2. Approval of Meeting Minutes**

**A. October 26th, 2022 Regular Meeting**

It was motioned by Pike, seconded by Bentson, to approve the October 26<sup>th</sup> regular meeting minutes as submitted. Motion carried (4-0)

**3. OLD BUSINESS**

**A. None.**

**4. NEW BUSINESS**

**A. Request for Variance #V7-2022 – Front Yard Setback After-the-Fact Variance from 30’ to 6’ 8” for an existing front deck at 110 3<sup>rd</sup> Street NW  
Joel Peters – applicant**

Planner Chapman presented the staff report and introduced the variance request. She explained that the subject home was constructed in 1900 and that many of the homes in Phillips Second Addition were built between the late 19<sup>th</sup> century and the first half of the 20<sup>th</sup> century. The subject home was built prior to the creation of zoning ordinances; therefore, the home was grandfathered in as a nonconforming structure. For the past several months, the applicant has made numerous renovations to the home such as reestablishing the foundation and reconstructing the roof. More importantly, the applicant replaced the front vestibule and replaced it with a front deck. The existing deck extends 6’ east, past the footprint of the original vestibule. As a result, the deck is violating section 403 (1) of the Zoning Ordinance, which states that nonconforming structures can be repaired but cannot be expanded. Although the deck is no closer to the property line than the previous vestibule (6’ 8” from the property line), it is violating Zoning Ordinance 604 (5) (C), which states that the minimum front yard setback in the RL-84 Single Family Residential District is 30’.

Pike inquired if the stairs affect how close the home is to the property line.

Planning Director Ondich explained stairs are allowed encroachments as stated in the zoning ordinance. This means that the stairs do not need to meet building setbacks.

Joel Peters, the applicant, said that over the past eleven months, multiple renovations have been made to the house. At the time, he did not realize removal of the vestibule and replacing it with a deck would violate zoning or building codes. The vestibule was removed to fix the foundation wall which was sinking along the east and west side of the property. The deck was expanded an additional 6' to the east to protect the investment made to the north facing foundation wall and improve the practicality and use of the structure. Peters further reminded the Planning Commission that the deck is no closer to the road than the previous vestibule.

Pike inquired what the alternative would be if the applicant was not granted approval for the variance.

Planning Director Ondich explained that the deck would have to be removed as it is not meeting the front setback requirement. Similar situations such as this has occurred elsewhere in the city, where residents had to remove their decks because of setback violations.

Art Gorgen, a neighbor at 111 2<sup>nd</sup> St NW, stated that he understands the issues and complications of living in an old neighborhood and doing old housework. He explained that he received a garage variance under similar zoning constraints. The work that the applicant has done has made the neighborhood a better and brighter place.

A motion was made by Bentson, seconded by Gengel to recommend approval of Variance #V7-2022 from the required 30' front setback to 6' 8" to allow the existing deck to remain at 110 3<sup>rd</sup> Street NW for the following findings and conditions:

- A. The requested variance is to allow the existing deck structure to be located no closer to the front property line along 3<sup>rd</sup> St NW than 6' 8" is in harmony with the general purposes and intent of this Ordinance because decks as part of a single-family homes are a permitted use in the RL-84 Single Family Residential Zoning District.
- B. The requested variance is consistent with the comprehensive plan because the subject property including the home and the deck are a permitted use in the RL-84 Single Family Zoning.
- C. The applicant will continue to use the property in a reasonable manner, considering that the deck structure will be 6' 8" rather than the 30' setback requirement along 3<sup>rd</sup> St NW, but will be setback further than the existing north position of the home.
- D. Unique circumstances apply to this property which do not generally apply to other properties in the vicinity because the subject house is closer to its property lines

than most homes in the neighborhood, mostly due to its age of construction predating any zoning ordinance within the city.

- E. The variance does not alter the essential character of the neighborhood because the land north, south, east, and west of the property are all zoned for residential purposes and all of the homes in the area are setback at various distances from their front property lines well below the current standard of 30’.
- F. The variance requested is the minimum variance which would alleviate the practical difficulty because the deck protects the investment made to the north facing foundation wall and makes the space usable for future occupants.

And with the following condition:

1. A building permit must be obtained for the structure and inspected to meet Building Codes R311.7.5.1, R311.7.8, and R311.7.8.1, which relate to risers, handrails, and height.

Motion carried (4-0).

## **5. Miscellaneous**

The following miscellaneous items were reviewed as information only:

### **A. Comprehensive Plan Update – MSA Selected by Council 11/7/22**

Planning Director Ondich updated the Planning Commission that during the November 7<sup>th</sup> Council meeting, City Council selected MSA to complete the Comprehensive Plan. MSA plans to develop a Steering Committee, which could include various members such as the EDA, Park Board, City Council and Planning Commission. There would be a total of six meetings during the year. Those that are interested in participating in the Steering Committee should let planning staff know. It was also noted that the Comprehensive Plan will provide online input to encourage more community engagement.

The Planning Commission seemed interested in being a part of the Steering Committee.

### **B. Monthly Business Updates**

Planning Director Ondich presented the Monthly Business Updates. Five new home permits were processed in October for a total of 14 new homes this year. Purchase agreements are being made for all the remaining shovel-ready site lots in the industrial park district. Some businesses in this area will be applying for conditional use permits. Most likely these applications will be received around January or February of 2023.

Gengel asked what’s happening at Praha Village. There were some surveyors on the property.

Planning Director Ondich explained that the property is being purchased by a new owner. Surveyors are currently locating utilities and other improvements on the property.

Chair Meyer inquired if bordering farmers won't sell their land, how will the city expand.

Planning Director Ondich explained that the city could annex nearby land. To annex land, the city would have to prove that they have sewer and water capability. However, its likely that farmers would sell due to the financial gain they would receive.

## **6. Adjournment**

A motion was made by Pike, seconded by Bentson, to adjourn the meeting at 7:02 pm. Motion carried (4-0).

Respectfully submitted,

A handwritten signature in black ink that reads "Kyra J. Chapman". The signature is written in a cursive, flowing style.

Kyra J. Chapman  
Planner