

**Meeting Minutes**  
**New Prague Planning Commission**  
**Wednesday, December 15, 2021**

**1. Call Meeting to Order**

The meeting was called to order at 6:36 p.m. by Chair Dan Meyer with the following members present: Paul Tupy and Shawn Ryan. Absent were Mike Uttenhove and Ann Gengel.

City Staff Present: Ken Ondich – Planning / Community Development Director

**2. Approval November 17, 2021 Regular Meeting Minutes**

It was moved by Ryan, seconded by Tupy, to approve the November 17, 2021 regular meeting minutes as submitted. Motion carried (3-0).

**3. Old Business**

None.

**4. New Business**

**A. Request for After-The-Fact Variance #V5-2021 – Front Yard Setback from 30’ to 21.5’ for Front Deck at 207 3<sup>rd</sup> Street SW  
Thomas Wood - Applicant**

Planning Director Ondich presented the staff report. He stated that the applicant, Thomas Wood, is seeking an after-the-fact variance from the 30’ front setback to be reduced to 21.5’ in order to allow a partially constructed front deck to remain on his property. He stated that the lot is an interior lot platted in 1917 and the existing home was constructed sometime in the late 1940’s with both dates occurring before any City Zoning Ordinance existed in the city. He stated that the existing home is located less than 30’ to the property line along 3<sup>rd</sup> Street SW at 28.5’. He stated that sometime in 2020 the previous front steps were removed and the deck was partially constructed without a permit. He stated that the previous steps were an allowed encroachment per the zoning ordinance. He stated that the subject property is zoned RL-84 Single Family Residential but is of an era that predates the adoption of a zoning ordinance. He stated that the home to the west is 26.5’ to the front property line and the home to the east is 29.5’ to the front property line and that the proposed deck would be 21.5’ to the front property line which is 5’ closer than the adjacent structures. He stated that looking at the block as a whole, no other home is closer

than 26.5' to the front property line, nor does any other home have a similar front deck to what is proposed. He stated that the front deck would be out of character for the area and no practical difficulty exists as the previously existing front steps would meet ordinance requirements. He stated that staff recommends denial of the variance with the findings listed in the staff report.

Planning Director Ondich stated that a letter from Mary and Vic Braith was included in the packet, but that they wanted the letter read into the record. He stated that the letter was dated December 2, 2021 and that they support the after-the-fact variance request and that as homeowners they feel that every homeowner is entitled to make improvements to their home to provide enjoyment of the home and that it will also help in the value of their home.

Commissioner Ryan asked if approving the variance would set precedence and open the door for future requests that are similar.

Planning Director Ondich stated that staff's recommendation was not to approve the variance and that he was not sure how the findings could be changed to support it. He stated that each variance is reviewed on its own merits, but that others could hear about the variance and make similar requests.

Commissioner Tupy stated that all the criteria for variances is difficult to justify for this request.

Commissioner Ryan asked if the question of precedence could be asked of the City Attorney.

Planning Director stated that he could ask the City Attorney for his opinions on setting precedence.

The Planning Commission generally discussed other options for a seating area, the possibility of an ADA ramp, and just providing steps to meet building codes.

Planning Director Ondich stated that steps to meet the building code would be an allowed encroachment per the zoning ordinance. He also noted that state statute provides for ADA ramps to be an encroachment into setbacks as well. He stated that most likely either option would not extend to 7' out from the home but that he would check with the Building Official.

The applicants, Thomas & Laura Wood, stated that they would like a seating area on the front of the home and that the existing sidewalk and ground area was not entirely level as the reason for wanting a deck on the front.

Brian Otto of Shadowwood Construction, who is the applicant's contractor, noted that he had difficulty navigating the City's online permitting process during Covid and ended up just building the deck without a permit and felt it would be easier to ask for forgiveness later is why the deck was partially built at this point leading to the variance request.

Chair Meyer asked Mr. and Mrs. Wood if they would consider other options for a front deck such as a ramp.

Mr. & Mrs. Wood indicated that they would be open to other ideas.

Planning Director Ondich stated that he could talk to Chad Lunder, Building Official, for some additional options to be explored and that he could also run the question of setting precedent past the City Attorney. He also noted that the deck is under 30 inches in height, meaning that it is not required to have a railing around the top of the deck, but only required to have one handrail on the stairs.

Mr. Otto stated that the homeowners' insurance company may require a railing around the deck if it's approved.

A motion was made by Ryan, seconded by Tupy, to table the request to the January 26, 2022 Planning Commission meeting in order to have staff ask the City Attorney about setting precedent for the variance request if approved and to allow the applicant and staff time to discuss further alternative options.

Motion carried (3-0).

## **5. Miscellaneous**

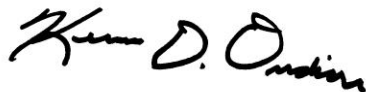
The following miscellaneous items were reviewed as information only:

- A. Monthly Business Update – Planning Director Ondich provided the Monthly Business update to the Planning Commission that had been provided to the EDA earlier in the month.
- B. 2022 Meeting Calendar – Planning Director Ondich provided the 2022 Meeting Calendar as information.

## **6. Adjournment**

A motion was made by Ryan, seconded by Tupy, to adjourn the meeting at 7:12 pm. Motion carried (3-0).

Respectfully submitted,



Kenneth D. Ondich  
Planning / Community Development Director