

**Special Meeting Minutes**  
**New Prague Planning Commission**  
**Wednesday, March 25, 2020**

\*Conducted Via GoToMeeting due to the COVID-19 Pandemic which prevented attendance at the regular meeting location.

**1. Call Meeting to Order**

The meeting was called to order at 6:30 p.m. by Chair Bob Gilman with the following members present on the virtual meeting conference call: Shawn Ryan and Paul Tupy. Absent was Mike Uttenhove and Dan Meyer.

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

**2. Approval February 26, 2020 Regular Meeting Minutes**

It was moved by Tupy, seconded by Ryan, to approve the February 26, 2020 regular meeting minutes as submitted. Motion carried (3-0).

**3. Old Business**

A. None.

**4. New Business**

**A. Request for Variance #V3-2020 – Wetland Setback Variance to Edge of Buffer Easement  
KA Witt Construction, applicant**

Planning Director Ondich presented the staff report. He stated that the subject vacant lot is located at 600 Eastland Ave. SE and was platted in 2007 as part of Eastland Addition. He stated that since the property was platted, Section 734 of the Zoning Ordinance was adopted which provided more specific buffer requirements for wetlands, rather than a blanket 40' buffer and 50' setback from wetlands that existed when the lot was platted. He stated that approximately 66% of the lot is covered by wetland or buffer area which impacts the use of the lot and would prevent a home of the same size and appearance as others in the area from being constructed. He stated that the proposed home would not encroach into the 40' buffer area and that the home is being constructed for Steve and Jenny Yetzer. He stated that the property is zoned RL-90 Single Family Residential and that other than the lot directly to the south which was issued a variance in 2019 that other lots in the development are not generally subject to the wetland buffer and setback. He stated that the applicant submitted a statement of practical difficulty that noted that the variance is necessary in order to keep a similar type and size of home as others in the development and that the 50' setback from the wetland prevents consistent home size and unduly restricts

the use of the lot. He stated that there have been 5 variances granted for homes to be constructed at less than 50' to the wetland edge since the 2002 ordinance took effect. He stated that the most recent wetland setback variance was V2-2020 and also V5-2019 which was located on the lot directly to the south. He stated that staff recommends approval of the variance request based on the findings contained in the staff report.

Jason Witt of KA Witt Construction, applicant, stated that they tried as best they could to minimize the impact of the home to the wetland setback and are maintaining the 40' buffer area in full.

Commissioner Ryan noted that there was not room for a deck and asked Mr. Witt if the purchasers were aware that no deck could fit on the back side of the home.

Mr. Witt stated that the purchasers were aware that there was not room for a deck on the back side of the home and they were o.k. with this fact.

A motion was made by Ryan, seconded by Tupy, to recommend approval of Variance #V3-2020 for reduction from the required 50' wetland setback to the edge of the wetland buffer easement line to allow for the construction of a new home located at 600 Eastland Ave. SE for the following reasons:

- A. The requested variance to allow for the construction of a new home at no less than the edge of the existing wetland buffer easement is in harmony with the general purposes and intent of this Ordinance because residential structures are a permitted use in the RL-90 Single Family Residential Zoning District.
- B. The requested variance to allow for the construction of a new home at no less than the edge of the existing wetland buffer easement is consistent with the comprehensive plan because the subject property can have a single family home as a permitted use in the RL-90 Single Family Residential Zoning District and the variance would provide for a buildable area to construct a single family home on the lot that is consistent with the type and size of home that exists in the neighborhood that does not exist with the full wetland setback in place.
- C. The applicant proposes to construct the new single family home which is a reasonable use and would match the existing neighborhood area in terms of its type and size.
- D. Unique circumstances apply to this property over which the property owners had no control and which do not generally apply to other properties in the vicinity because the lot was platted in 2007 and the 50' wetland setback that has been in effect since 2002 prevents a home from being built on the lot that will match the type and size which is found in the neighborhood because over 66% of the lot is covered by wetland or wetland buffer area.
- E. The variance does not alter the essential character of the neighborhood because the variance would allow a home to be constructed on the lot that would match

the type and size commonly found in the neighborhood even with over 66% of the being covered by wetland or wetland buffer area.

- F. The variance requested is the minimum variance which would alleviate the practical difficulty because it would allow for the construction of a home that would match the type and size found in the neighborhood while maintaining the full wetland buffer/easement area to the wetland.

And with the following condition:

- 1. Wetland buffer signs must be purchased from the city and installed at the 40' wetland buffer line that crosses the north and south property lines to delineate the wetland buffer area on the lot. This buffer area is a "no mow" area.

Motion carried (3-0).

**B. Concept Review of Zoning Ordinance Amendment – Garage Sales  
City of New Prague., applicant**

Planning Director Ondich presented the staff report. He stated that City staff has been dealing with some complaints in residential areas about homes that have numerous garage sales per year with the complaints relating to traffic and noise concerns from frequent garage sales. He stated that at least a couple of garage sales visited by staff in 2019 found that the garage sales had many items that were new or unused that were most likely purchased for the purpose of resale, rather than being legitimate resale of used goods. He stated that in light of the concerns, staff spoke with the City Attorney's office and they suggested that a zoning ordinance amendment could be considered to provide a definition and criteria for garage sales under the heading of home occupations in the zoning ordinance. He stated that staff is providing the drafted ordinance to begin discussion on the topic. He stated that if the Planning Commission were agreeable to the changes that a public hearing would be scheduled in the future. He stated that the amendments would add language to Section 714 of the Zoning Ordinance for "Home Occupations" to define garage sales as being the sale of second hand goods, limits the events to 72 consecutive hours, items being sold were not obtained for the purchase of resale or consignment and that a total of 3 sales are allowed per calendar year.

The Planning Commission had general discussion about the proposed amendments being a good idea to limit items being sold for the purchase of resale in residential areas in order to avoid having to find a commercial store front for the sale of certain items and instead conduct business in a residential district. They directed staff to schedule a public hearing for the amendments at the April 2020 Planning Commission Meeting.

## 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.

## 6. Adjournment

A motion was made by Tupy, seconded by Ryan, to adjourn the meeting at 7:01PM. Motion carried (3-0).

Respectfully submitted,

A handwritten signature in black ink that reads "Kenneth D. Ondich". The signature is written in a cursive style with a large initial 'K' and 'O'.

Kenneth D. Ondich  
Planning / Community Development Director