

Special Meeting Minutes
New Prague Planning Commission
Wednesday, August 26, 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 6:31 p.m. by Paul Tupy with the following members present on the virtual meeting conference call: Mike Uttenhove and Shawn Ryan. Absent were Mike Chair Bob Gilman and Vice Chair Dan Meyer.

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

2. Approval July 22, 2020 Regular Meeting Minutes

It was moved by Ryan, seconded by Uttenhove, to approve the July 22, 2020 regular meeting minutes as submitted. Motion carried (3-0).

3. Old Business

A. None.

4. New Business

**A. Request for Comprehensive Plan Amendment & Rezoning a Property to RH High Density Residential in the Plat of Deutschland First Addition
Marvin Deutsch, applicant**

Planning Director Ondich presented the staff report. He stated that the applicant made an application to reguide and rezone the 1.35 acre lot in Deuschland First Addition from B-2 Community Commercial to RH High Density Residential. He stated that an apartment building of up to 43 units is proposed and there is a companion variance request being reviewed. He stated hat the site is subject to many deed restrictions placed on the lot by Walgreens that have severely limited its use for commercial purposes. He stated that the reguiding and rezoning from B-2 Community Commercial to RH High Density Residential is supported in the Comprehensive Plan in that it would provide for more life cycle housing, consider the changing housing needs of the community, that specific RH sites are to be considered adjacent to larger roads and community services and provided for tiered land uses and finally that a housing needs study from 2016 showed a need for 304 market rate apartments in New Prague by 2040 with no market rate apartments of any substantial size dating back to the 1970's. He stated that staff recommends the reguiding and rezoning of the land from B-2 Community Commercial to RH High Density Residential with the findings listed in the staff report.

The public hearing was opened at 6:41 PM.

Marvin Deutsch, applicant, stated that with the rezoning of the property the setbacks would be changing on the lot which necessitated the variance request to allow the building to fit on the site. He stated that there would be underground parking for the building in order to fit the units on the site.

Planning Director Ondich clarified that the variance was actually the next item on the agenda, but noted that apartments were allowed as a conditional use in the B-2 District, but that commercial would be required on the first floor and that due to deed restrictions on the lot there were not many viable commercial uses that could actually locate there so the better option was to rezone the property which does change the setbacks that apply to the site.

Commissioner Ryan asked if there would be retail on the first floor of the apartment building.

Mr. Deutsch indicated that with the rezoning request there would not be any commercial on the first floor and further noted that the strip mall directly to the east was planning to expand their building, but has since put that project on hold, which further notes the need for commercial is not great while noting that the need for residential apartments remains strong.

The public hearing was closed at 6:47 PM.

A motion was made by Ryan, seconded by Tupy, to re-guide Lot 1, Block 1, Deutschland First Addition from B-2 Community Commercial to RH High Density Residential and to rezone the same land from B-2 Community Commercial to RH High Density Residential, with the following findings supporting the comprehensive plan amendment:

1. Amending the future land use plan with the described changes will provide for the utilization of underutilized land which has been commercially zoned for approximately 20 years and has remained undeveloped.
2. Market rate apartments of a larger scale have not been constructed in the City since the 1970's and a Comprehensive Housing Needs Update Study was completed in November 2016 that included the New Prague Housing Market which also identified the need for an additional 304 market rate apartments out to the year 2040 which are further realized by making this land available for high density residential development.

and with the following findings supporting the rezoning request:

1. Rezoning the described property will provide for the utilization of underutilized land which has been commercially zoned for approximately 20 years and has remained undeveloped.

2. Rezoning the land described to RH High Density Residential Zoning will conform to the City's Comprehensive Plan.

Motion carried (3-0).

**B. Request for Variance #V8-2020 – Rear Yard Setback from 30' to 10' and Front Yard Setback from 30' to 27' 7" for a 43 Unit Apartment Building
Marvin Deutsch, applicant**

Planning Director Ondich presented the staff report. He stated that the applicant platted the lot in 2020 and is preparing the site for the possible construction of an apartment building with up to 43 units. He stated that the zoning ordinance was recently amended to allow up to 32 units per acre. He stated that the proposed apartment is in need of two variances due to the unique shape of the lot and because it is located along two public roads. He stated that the variances would reduce the front setback to 1st Street SE from 30' to 27' 7" and reduce the rear setback from 30' to 10'. He stated that the properties to the north east and west are zoned commercial with the property to the south being zoned RH High Density residential. He stated that deed restrictions placed on the lot by Walgreens severely hinder its use for commercial purposes. He stated that the shape of the lot requires the building to be pushed to the northwest side of the lot as much as possible. He stated that there are no buildings near the lot line on the north that would create any issues and that it is just a shared drive aisle. He stated that staff recommends approval of the variance request with the findings listed in the staff report.

Marvin Deutsch, applicant, stated that he believed Mr. Ondich explained the variance request well. He stated that they have developed many layouts for the property and keep coming back to the laying being presented as it flows well with the driveway accesses to the Walgreens property that are already in place. He stated that without the variance the use of the lot is greatly restricted.

Commissioner Ryan asked how many parking spaces were required.

Planning Director Ondich stated that two spaces per unit were required.

Mr. Deutsch stated that he has ample parking on the site with roughly one half being provided under the building and the other half being provided outside with approximately 20 extra spaces provided for on the site.

A motion was made by Ryan, seconded by Tupy, to recommend that the City Council approve the variance with the following findings:

- A. The requested variance is in harmony with the general purposes and intent of this Ordinance because apartment buildings are a permitted use in the RH High Density Residential Zoning District.
- B. The requested variance is consistent with the comprehensive plan because apartments are a permitted use in the RH High Density Residential Zoning District.
- C. The applicant will continue to use the property in a reasonable manner which would be an apartment building use.

- 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 has an unusual shape and abuts two public roadways and requires a unique building layout to fully utilize the property.
- E. The variance does not alter the essential character of the neighborhood because apartments are a permitted use in the RH High Density Residential Zoning District and the variances for the building on the north and south sides would not have an impact on adjacent properties
- F. The variance requested is the minimum variance which would alleviate the practical difficulties because it would allow the apartment building to fit on the lot and to provide the maximum unit density allowed by ordinance on the property.

Motion carried (3-0).

**C. Request for Final Plat of Tikalsky Estates – 2 Lot, 2 Outlot Plat
Patricia A. Tikalsky Revocable Trust, applicant**

Planning Director Ondich presented the staff report. He stated that the applicant has applied for approval of the final plat of Tikalsky Estates which is a two lot and two outlot plat on 72.58 acres of land. He stated that the annexation is also in process at this time. He stated that the City Council approved the preliminary plat on August 3, 2020 and that the applicant has addressed a number of conditions of the preliminary plat since that time. He stated that title work is being reviewed and a development agreement is being prepared. He stated that staff recommends that the Planning Commission approve the final plat of Tikalsky Estates with the findings and conditions listed in the staff report.

A motion was made by Tupy, seconded by Ryan to recommend approval the Final Plat of Tikalsky Estates in the RL-90 Single Family Residential Zoning District, with the following findings:

- 1. The final plat complies with the purpose and intent of the New Prague Subdivision Ordinance.
- 2. The final plat conforms to the RL-90 Single Family Residential District.

And the following conditions:

- 1. Approval is granted in general accordance with the Final Plat submittal dated 8/5/2020 on file with the New Prague Planning Department.
- 2. The Final Plat must be recorded within 90 days of the date of the City Council granting approval per Chapter 051 (E) of the Subdivision Ordinance.
- 3. The developer must enter into a Development Agreement with the City of New Prague, and the agreement must be approved by the City Council at the time of final plat approval for items relating to the utilization of the existing well and septic for the existing home located on Lot 1, the restricted use of Lot 2 until city services are provided to Lots 1 & 2, WAC/SAC due and owed on the existing home at the time of connection to city utilities and finally regarding park land dedication and other development fees.

4. A payment in lieu of land dedication must be made in the amount of \$1,085.58.
5. Approval is subject to all requirements of the City Attorney including review and approval of the Title Commitment.
6. Annexation of the property must be approved by the Office of Strategic and Long Range Planning, Office of Municipal Boundary Adjustments, prior to final plat approval, and in the event that the State does not approve the annexation the final plat shall become void.
7. As required by the DNR, the public watercourse must be labeled on the map as Unnamed Stream (M-055-023-055-002-001).

Motion carried (3-0).

**D. Request for Variance #V6-2020 – Side Yard Setback from 6’ to 1’ for Detached Garage
David Hauer, applicant**

Planning Director Ondich presented the staff report. He stated that the applicant has applied for a variance to allow a detached garage to be constructed at 1’ from the side lot line instead of the ordinance required 6’ setback at 109 Columbus Ave. N. He stated that the new 24’ x 44’ garage would replace three existing accessory structures which are all located on the side lot line. He stated that he is proposing the structure to be 1’ from the side lot line to line up with his driveway, avoid the removal of a large tree and allow room for a second vehicle to access the new garage. He stated that the subject property is zoned RL-70 Single Family Residential as well as all the land to the north, south east and west while noting that St. Wenceslaus church/school is also located in the same zoning district. He stated that the home was constructed in 1930 with homes on either side built in 1920 and 1969, all of which predate the adoption of a zoning ordinance within the City. He stated that all lots in the area are of a smaller width, with the subject lot being only 53’ wide and the home placement limiting the access to the backyard. He stated that there is no alley access to the rear yard to access the garage and that the neighboring garage is 10’ from the lot line. He stated that the applicant will be fireproofing the garage to allow it to be up to 1’ from the lot line. He stated that staff recommends approval of the variance with the findings listed in the staff report.

David Hauer, applicant, stated that he did not have anything to add about the request.

A motion was made by Ryan, seconded by Uttenhove, to recommend that the City Council approve the variance with the following findings:

- A. The proposed variance is in harmony with the general purposes and intent of the Ordinance because the RL-70 Single Family Residential Zoning District allows detached garages to be constructed as a permitted use.
- B. The proposed variance is consistent with the comprehensive plan because detached garages are allowed as a permitted use in the RL-70 Single Family Residential Zoning District.
- C. The applicant will continue to use the property in a reasonable manner not permitted by the ordinance in that only the side yard setback will be reduced from 6’ to 1’ while

noting that the proposed detached garage would be fireproofed in accordance with all building code requirements.

- D. Unique circumstances apply to the property in that it is an unplatted lot and the house predates any zoning ordinance being adopted by the City with the lot being narrow and the placement of the house on the lot dictated that the driveway abut the north lot line to provide access to the backyard of the home as no alley exists for alternative access to the rear yard.
- E. The variance does not alter the essential character of the neighborhood because the proposed detached garage would replace three existing detached structures that all are located on the side lot line and this new building would replace said structures.
- F. The variance requested is the minimum variance which would alleviate the practical difficulties because the variance would allow the applicant the to construct a detached garage, avoid cutting down a significant tree and provide access for a second vehicle to access the proposed garage, all while providing usable open space in the rear yard while not changing the essential character of the neighborhood.

Motion carried (3-0).

**E. Request for Variance #V7-2020 – Front Yard Setback from 30’ to 28’ 7” for Home Addition
Troy & Jill Kuphal, applicants**

Planning Director Ondich presented the staff report. He stated that the applicants live at 404 1st Ave. NW and have applied for a variance to allow a home addition of 13’ x 20’ in size to be located 1’ 5” closer to the front property line than the ordinance requirement of 30’ and that the addition would be no closer to the property line along 3rd Street NW than the existing structure. He stated that the home was constructed in 1938 which predates any zoning ordinance within the City. He stated that the subject property and all surrounding properties are zoned RL-84 Single Family Residential. He stated that the property was platted in 1882 and that other homes adjacent are located between 15’ and 16’ to front property lines. He stated that the subject lot is a corner lot and was not platted of a greater than normal depth. He stated that staff recommends approval of the variance with the findings listed in the staff report.

A motion was made by Ryan, seconded by Uttenhove, to recommend that the City Council approve the variance with the following findings:

- A. The requested variance to allow the construction of an addition to be located no closer to the front property line along 3rd Street NW than the existing home at 28’ 7” is in harmony with the general purposes and intent of this Ordinance because 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 proposed addition are a permitted use in the RL-84 Single Family Zoning District and provides for a larger home for the applicants which will add value to the subject property.
- C. The applicant will continue to use the property in a reasonable manner as the only change will be an addition that will be constructed no closer to the front property line along 3rd Street NW than the existing home, instead of the ordinance required 30’.

- D. Unique circumstances apply to this property which do not generally apply to other properties in the vicinity because the lot was created as far back as 1882 and the home was built in 1938 which predates the existence of any zoning ordinances in the City and the existing home was placed 28' 7" from the south property line along 3rd Street NW with the existing home being located within the required front setback meaning the home addition could not be added without being located within the required 30' front setback, unless setback 1.5' which would not be practical.
- E. The variance does not alter the essential character of the neighborhood because the subject property and general neighborhood were developed prior to the adoption of a zoning ordinance and therefore many of the homes do not meet current setback requirements. Specifically, the homes in the immediate vicinity are located as close as 15' from the property line along 3rd Street NW, meaning the proposed addition is located no closer to the street than the existing neighborhood conditions.
- F. The variance requested is the minimum variance which would alleviate the practical difficulty because it would allow the addition to be constructed in line with the same setback to 3rd Street NW that the existing home is constructed to.

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.

6. Adjournment

A motion was made by Uttenhove, seconded by Ryan, to adjourn the meeting at 7:33PM. Motion carried (3-0).

Respectfully submitted,



Kenneth D. Ondich
Planning / Community Development Director