

Meeting Minutes
New Prague Planning Commission
Wednesday, June 22, 2011

1. Call Meeting to Order

The meeting was called to order at 6:32 p.m. by Planning Commission Member Bob Gilman with the following members present: John Roos, Jay Nuhring and Council Representative David Bruzek. Absent: Ryan Peltier.

City Staff Present: Ken Ondich – Planning Director

2. Elect Chair and Vice Chair for 2011

It was moved by Bruzek, seconded by Roos to elect Bob Gilman as Chair for 2011. Motion carried (4-0).

It was moved by Bruzek, seconded by Roos to elect Jay Nuhring as Vice Chair for 2011. Motion carried (4-0).

3. Approval of May 25, 2011 Regular Meeting Minutes

It was moved by Bruzek seconded by Roos to approve the May 25, 2011 regular meeting minutes as submitted. Motion carried (4-0).

4. Old Business

None

5. New Business

**A. Zoning Ordinance Amendments – Variances
City of New Prague - applicant**

Planning Director Ondich presented the staff report. He stated that on May 5, 2011 Governor Dayton signed new variance legislation into law that affects how all cities review variance requests. He stated that the new variance statute changes the name of the variance standard from “undue hardships” to “practical difficulties” while retaining a three factor test that a city must consider before approving or denying a variance. He stated that the City is required to make changes to the ordinance before approving any variance applications. He stated that the amendments are summarized as changing the definition of a variance in the zoning ordinance and the subdivision ordinance as well as changing the approval criteria to match with state statute.

The public hearing was opened at 6:40 PM.

No public comments were received.

The public hearing was closed at 6:41 PM.

Commissioner Bruzek stated that he thought it unusual that the League of Minnesota Cities' list of questions that must be addressed when reviewing variances did not say that the questions must be answered in the affirmative, but rather must simply be addressed. He questioned the need for the specific example of access to sunlight for solar systems as a practical difficulty in the ordinance.

Planning Director Ondich stated that the solar system language was directly from the state statute which is the only reason it was included in the proposed amendment. He also noted that the language in the proposed ordinance stated that all the findings must exist to approve a variance and not simply to address them as the info from the league noted.

Commissioner Bruzek stated that finding A and C of the proposed ordinance seemed to contradict each other. He also stated that findings E and F look like the language was flip flopped from the existing language to the proposed language for no apparent reason. He finally asked about the difference between unusual hardship and practical difficulties as used in the amendments to the subdivision ordinance sections.

Planning Director Ondich stated that he would check with the City Attorney as to why the term "unusual hardship" was used in the subdivision sections versus "practical difficulties". He stated that he believed this came up in the drafting of the ordinance and that the statute for subdivision ordinance variances had not changed and still used the "unusual hardship" term.

It was moved by Bruzek, seconded by Nuhring to recommend approval to the City Council with potential changes to the subdivision ordinance sections regarding the use of "undue hardships" versus "practical difficulties". Motion carried (4-0).

B. Zoning Ordinance Amendments – Fence Height for Backyards Along Roads City of New Prague - applicant

Planning Director Ondich presented the staff report. He stated that Jay Skare, a resident of New Prague, submitted a letter dated June 7, 2011 about fencing in his backyard which is along 10th Ave. SE. He stated that Mr. Skare was informed that only a 4' tall fence is allowed within 30' of any road right of way which would not allow a privacy fence for he or any of his neighbors. He stated that staff believes that a zoning ordinance amendment, rather than multiple variances, would be the best way to address the concerns raised by Mr. Skare. He stated that staff contacted six area cities about what height fencing they allow for yards that have backyards abutting roadways and in five of the six cities, 6' tall fences are allowed. He noted that the past Planning Commission and City Council's have had concerns about 6' tall fences along roadways creating a closed in feeling. He stated that staff does not have any specific language amendments at this time, but would like

discussion regarding a provision that would allow “through lots” which abut major collector roads to have a 6’ tall privacy fence instead of the 4’ which is currently allowed.

Commissioner Nuhring stated that he could see the potential for residents to take a short cut through yards in 9th Street Ct. SE to get to the bike path as noted in one of the letters, but said he did not condone such behavior. He also stated that at the University of Minnesota has situations where walkers and bikers will take the path of least resistance rather than on the designated paths. He stated that to keep people out of a yard, a 4’ tall fence would work just as well as a 6’ fence. He stated that he liked the look of a 4’ fence with landscaping versus a 6’ fence without landscaping. He stated that he lived in Apple Valley previously and when McAndrew’s Road was extended, the homes that abutted it to the rear were not happy about the potential traffic, but due to the trees and vegetation it provided a nice buffer.

Commissioner Gilman stated that he worries about maintenance of the area behind 6’ tall privacy fences along roads because there is higher potential for the area to be ignored by the residents. He noted that regarding the situation where there are fences 1’ from the sidewalk along 10th Ave. SE that MnDOT has a 2’ minimum sidewalk clearance zone.

Commissioner Bruzek stated that he was on the Planning Commission when the variances were issued for some fences along County Road 37. He stated that they were given based on situations such as head lights from the curve in the road. He stated that the fences look somewhat unsightly now and that the area behind them is not maintained well. He stated that along 10th Ave. there is less of a public right of way and that 6’ tall fences of all types will provide a cluttered and boxed in look and not be aesthetically pleasing.

Commissioner Nuhring stated that none of the letters received note concerns about headlights.

Planning Director Ondich stated that for homes on the east side of 10th Ave. SE where headlights could be a potential issue that the grade of the homes would preclude any such problem. He stated that some of the homes have their patio doors at ground level up 4’ or more from the ground level at the road. He stated that a 6’ tall fence would not even reach the height of the back of the home on some lots.

The Planning Commission determined that they did not support making any changes to the fence ordinance at this time.

6. Miscellaneous

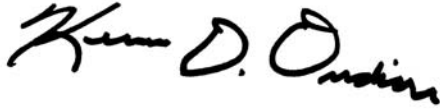
The following miscellaneous items were reviewed as information only:

- A. 2010 Census Information – Demographics Profile** – Planning Director Ondich reviewed a memo that was provided to the City Council at their June 20th meeting.

7. Adjournment

A motion was made by Nuhring, seconded by Roos to adjourn the meeting at 7:39 PM. Motion carried (4-0).

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 Director