

**Meeting Minutes**  
**New Prague Planning Commission**  
**Wednesday, May 22, 2019**

**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: Paul Tupy, Matt Goldade and Dan Meyer. Absent was Shawn Ryan (arrived at 6:32 p.m.).

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

**2. Approval February 27, 2019 Regular Meeting Minutes**

It was moved by Tupy, seconded by Meyer, to approve the February 27, 2019 regular meeting minutes as submitted. Motion carried (4-0, Ryan had not yet arrived).

**3. Old Business**

A. None.

**4. New Business**

**A. Request for Variance #V2-2019 – Parking Lot Curbing Requirement at 501 6<sup>th</sup> Street NW  
Howard Braith, applicant**

Planning Director Ondich presented the staff report. He stated that the applicant recently purchased the property from the City's EDA to be the new home for his business, Braith Auto. He stated that the design of the site does not necessitate perimeter parking lot curbing for stormwater management purposes and that the zoning ordinance actually allow the curbing requirement to be waived if sheet drainage is used in the design. He stated that the City's Engineer did not consider the design to utilize the sheet drainage method and therefore a variance would be necessary to utilize the design without curbing. He stated that the curbing also can protect adjacent sidewalks and trails but that the parking area does not abut any public trails and when abutting the sidewalk to the front door they have provided wheel stops. He stated that the property is zoned I-1 Light Industrial and that there is over 10' of elevation change from the west side of the site to the east side of the site. He stated that sheet drainage could be achieved but not without raising the building and pushing it back from the road at a significant cost. He stated that a building recently constructed at 603 6<sup>th</sup> Street NW does not have curbing, but that site was designed to sheet drain and therefore the curbing was waived per the ordinance and rather by the formal variance process. He

stated that staff recommends approval of the variance with the findings listed in the staff report.

Commissioner Goldade asked if the northern portion of the lot was usable as it did not have any building or parking areas on it.

Howard Braith, applicant, stated that some of the area on the north could be used for building expansion, but that it was going to be graded for overland water flow for the time being. He also stated that another advantage of not having curbing was that if an inoperable car were in their lot that they could use an ATV to push the vehicle into their garage and that not having a curb would make that process a lot easier.

Commissioner Ryan asked if the applicant would be doing any painting of vehicles at the site.

Mr. Braith stated that he would not be doing any painting or washing of vehicles.

A motion was made by Meyer, seconded by Goldade to recommend approval of Variance #V2-2019 from the parking lot curbing requirement for a new industrial building development proposed at 501 6<sup>th</sup> Street NW, as proposed by Howard Braith, for the following reasons:

- A. The requested variance to waive the parking lot curbing requirement will allow for the development of an industrially zoned vacant lot with an automotive repair business which is a permitted use in the I-1 Light Industrial Zoning District, is in harmony with the general purposes and intent of this ordinance.
- B. The requested variance to waive the parking lot curbing requirement is consistent with the comprehensive plan because the subject property can have an industrial building as a permitted use in the I-1 Light Industrial Zoning District and the variance would provide for the parking lot to be constructed without curbing.
- C. The applicant proposes to use the property in a reasonable manner whereby only the parking lot curbing requirement would be waived, while still providing the necessary stormwater management from the parking lot and while providing protection from adjacent trails and sidewalks from cars overhanging by either distance or wheel stops.
- 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 over 10' of elevation change from the west side to the east side which prevents the site from being developed with a sheet draining parking lot, without considerable additional costs, which would have allowed the parking lot curbing requirement to be waived without the need for a variance.
- E. The variance does not alter the essential character of the neighborhood because the property and proposed parking lot would be similar to an adjacent parking lot constructed in 2016 located to the west in the industrial park which is not curbed.
- F. The variance requested is the minimum variance which would alleviate the practical difficulty because it would allow for the construction of the parking lot without curbing while being cost effective and providing for required stormwater management on the site.

Motion carried (5-0).

**B. Request for Variance #V3-2019 – Fence Height Along Road at 1014 9<sup>th</sup> St. Ct. SE  
Greg & Jane Kemper, applicants**

Planning Director Ondich presented the staff report. He stated that the applicants are seeking a variance to allow a 6' tall fence to be located up to the front side property line along 10<sup>th</sup> Ave. SE. He noted that they had been granted Variance V4-2018 previously for a pool and a fence setback to the trail. He stated that they are now seeking to enclose the backyard fully with a 6' tall fence for privacy and security purposes. He stated that the property is zoned RM Medium Density Residential and that the property is a corner lot adjacent to 10<sup>th</sup> Ave. SE which is a major collector road with a lot of traffic. He stated that the yard is not fully enclosed currently to keep out foot traffic, but the pool is properly secured at this time to meet the City's ordinances. He stated that the grade of the backyard is lower than the road and adjacent trail and that if the fence were installed at the 30' setback line that it would not provide much privacy benefit to the property owners. He stated that the home to the north that abuts 10<sup>th</sup> Ave. SE does not have a fence but it does have a vegetation hedge which acts similar to a fence, but exceeds 6' in height. He stated that staff recommends approval of the variance with the findings listed in the staff report.

Commissioner Ryan asked if the fence material had been decided on yet.

Jane Kemper, applicant, stated that they hadn't determined the material yet, but were leaning towards wood because the neighbors fence that they would tie into is wood and because a wood fence is less expensive.

A motion was made by Meyer, seconded by Tupy to recommend approval of Variance #V3-2019 from the fence regulations in the RM Medium Density residential zoning district to allow a 6' tall fence to be located up to the front (side) property line along 10<sup>th</sup> Ave. SE, located at 1014 9<sup>th</sup> Street Court SE, as proposed by Greg and Jane Kemper, with the following findings:

- A. The proposed variance is in harmony with the general purposes and intent of the Ordinance because the RM Medium Density Residential Zoning District allows fences to be constructed as a permitted use.
- B. The proposed variance is consistent with the comprehensive plan because fences are allowed as a permitted use in the RM Medium Density 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 height of the fence within 30' of the right of way exceeds the ordinance permitted 4' height.
- D. Unique circumstances apply to the property in that it is a corner lot abutting a road on two sides (front and side) with the roadway along the side yard being 10<sup>th</sup> Ave. SE which is a major collector road that carries a high traffic load.
- E. The variance does not alter the essential character of the neighborhood because the proposed 6' tall fence would be located 1' setback from the existing trail along

10th Ave. SE on the side (front) lot line and would be in the same location, but shorter, than the vegetation that exists on the lot to the north along 10<sup>th</sup> Ave. SE.

- F. The variance requested is the minimum variance which would alleviate the practical difficulties because the variance would allow the applicant the privacy, security and noise mitigation they are seeking while not reducing the usable area of their backyard and while not changing the essential character of the neighborhood.

Motion carried (5-0).

**C. Request for Variance #V4-2019 – Side Yard Setback at 305 Pershing Ave. N.  
Ann Christy, applicant**

Planning Director Ondich presented the staff report. He stated that the property owner is seeking a variance from the 7' side yard setback to 5' for an attached garage addition. He stated that the home was constructed in 1958 which predates any zoning ordinance being adopted in the City. He stated that the existing home is 5' from the side lot line and the addition would be no closer than the existing structure. He stated that the property is zoned RL-70 Single Family Residential and that many homes in the area do not meet the side setbacks. He said that most homes are spaced a minimum of 14' apart, but due to the placement of the homes they are not meeting the requirement 7' minimum that is required by the ordinance today. He stated that staff recommends approval of the variance with the findings listed in the staff report.

A motion was made by Goldade, seconded by Meyer to recommend approval of Variance #V2-2019 from the required 7' side setback to 5' to allow for the construction of an attached garage to an existing home located at 305 Pershing Ave. N. for the following reasons:

- A. The requested variance to allow the construction of an attached garage addition to be located no closer to the north (side) property line than the existing attached garage at 5' is in harmony with the general purposes and intent of this Ordinance because attached garages are a permitted use in the RL-70 Single Family Residential Zoning District.
- B. The requested variance is consistent with the comprehensive plan because the subject property including the home and attached garage addition are a permitted use in the RL-70 Single Family Zoning District and provides for a larger and more usable attached garage 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 attached garage addition that will be constructed no closer to the north (side) property line than the existing attached garage at 5' instead of the ordinance required 7'.
- D. Unique circumstances apply to this property which do not generally apply to other properties in the vicinity because the lot was created and the home was built in 1958 which predates the existence of any zoning ordinances in the City and the existing home and garage were placed 5' from the north (side) property line with the existing garage being located within the required side setback meaning the

garage addition could not be added without being located within the required 7' side setback.

- 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 between 4' to 7' from side property lines, meaning the proposed addition is located no closer to the side lot line than the existing neighborhood conditions.
- F. The variance requested is the minimum variance which would alleviate the practical difficulty because it would allow the attached garage addition to be constructed in line with the same side yard setback that the existing attached garage is constructed to.

Motion carried (5-0).

## 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. Thank You to Matt Goldade for Serving on the Planning Commission – The Planning Commissioners and Planning Director Ondich thanked Matt Goldade for his four years on the Planning Commission.

## 6. Adjournment

A motion was made by Meyer, seconded by Tupy, to adjourn the meeting at 7:14 p.m. Motion carried (5-0).

Respectfully submitted,



Kenneth D. Ondich  
Planning / Community Development Director