

Meeting Minutes
New Prague Planning Commission
Wednesday, May 24, 2017

1. Call Meeting to Order

The meeting was called to order at 6:30 p.m. by Chair Nuhring with the following members present: Bob Gilman, Matt Goldade. Absent were Jenna Tuma and Dan Meyer (arrived at 6:39PM).

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

2. Approval April 26, 2017 Regular Meeting Minutes

It was moved by Goldade, seconded by Gilman, to approve the April 26, 2017 regular meeting minutes as submitted. Motion carried (3-0).

3. Old Business

None.

4. New Business

**A. Request for Variance #V2-2017 – Fence Height Variance at 716 E. Main Street
Joel Wollin, applicant**

Planning Director Ondich presented the staff report. He stated that the applicant, Joel Wollin, has applied for a variance to allow a 6' tall privacy fence which does not meet the ordinance limit of 4' tall within 30' of road right of way. He stated that Mr. Wollin would like the 6' tall privacy fence on the right of way line instead of 30' further into his yard which would limit the privacy and usability of the backyard. He stated that the fence is proposed as a shadowbox style of fence and would have vines such as clematis or climbing ivy planted adjacent to it which is similar to the front of the house. He stated that the property and adjacent properties are zoned RH High Density Residential with single family homes to the west and a townhome building to the south. He stated that the East Town Plaza strip mall is located to the east in the B-2 Community Commercial Zoning District which generates a lot of traffic both via foot and vehicles adjacent to Mr. Wollin's property. He stated that Mr. Wollin has been vocally opposed to the strip mall sign since it was installed in the late 2000's and that he believes the fence will block the view and light into his backyard. He stated that the 6' tall fence would be allowed only half way into his backyard if the ordinance were followed. He stated that Variance V4-2006 was issued to allow a 5' tall privacy fence near the strip mall, but that the fence was ultimately not installed and that V2-2013 was approved to

allow a 6' tall privacy fence near downtown on a corner lot to keep people out of a yard and to provide for more privacy. He stated that staff recommended approval of the variance with the six findings in the staff report.

Joel Wollin, applicant, stated that he had a lot of reasons why he was requesting the fence variance. He stated that the sign at the strip mall was the biggest issue and that he has been upset about the appearance of the sign since it was installed. He stated that the sign used to strobe and change messages quite often. He stated that 7th Ave. SE has also gotten busier over the years. He stated that he likes to entertain in his backyard and there is no privacy with the road traffic and often gets stares from people driving by at 5mph. He stated that his wife is also often sexually harassed when she is in the backyard from vehicles passing by.

Gordon Carlson, 717 1st Street SE, stated that he thanked the Planning Commission for sending out the notice of the meeting. He stated that he lives on the same street as Mr. Wollin and that his home faces Mr. Wollin's backyard. He stated that he has to deal with the same traffic and junk being thrown in his yard from traffic on 7th Ave. SE just as Mr. Wollin. He stated that he did not think the City should vary from its fence regulations to allow a 6' tall privacy fence. He stated that he has an issues with the 36' long camper that Mr. Wollin parks on his property which will be 10' tall and parked near the alley. He stated that he will feel boxed in with the fence and camper on Mr. Wollin's property and that he will have nothing to look at from his home or screen porch any longer. He stated that the fence is being stopped 16' short of the alley for the camper to fit there. He stated that he doesn't like that the camper can be parked adjacent to the alley. He stated once again that he would like the city to stick to the ordinance on the books for fences.

Commissioner Nuhring asked Mr. Carlson to indicate on the map where his townhome was located and where his screen porch was located.

Vernon Oraskovich, 713 1st Street SE, stated that he lives in the southeast corner of the townhomes and that the variance request does not directly affect him, but that he agrees with the concerns that Mr. Caslon and their other neighbor Ms. Becker have expressed to him about the fence. He stated that the fence might even affect their property values because they will feel more boxed in and lose their views from their living rooms.

Mary Jo Becker, 715 1st Street SE, stated that her primary access to her home is from the alley and that it is hard to see when exiting the alley onto 7th Ave. SE because of the location of an existing tree and bush. She stated that she believes the fence will not allow for good visibility when exiting the alley.

Mr. Wollin stated that the cars will have good visibility leaving the alley being no different than today. He stated that he knows it will not be a popular statement but noted that it was not his fault that the condo units face the alley and his backyard.

Sam Souk Wollin, applicant, stated that they have tried parking their camper in a different direction but that it tears up their yard and the area in general. She has stated that they have always been good neighbors and just want additional privacy.

Commissioner Gilman stated that he has seen the parties they have had in the backyard of the property and agreed that it is not private at all and essentially the property has two front yards. He stated that homes with frontage on two roads have a hard time getting privacy.

Commissioner Meyer stated that he believes a 4' tall fence would not provide privacy as people walking by are taller than 4' tall.

Chair Nuhring stated that variances are provided for reasonable accommodations for homeowners to do something not allowed by the zoning ordinance. He stated that there are a lot of 6' tall fences along property lines of roadways and that it provides for privacy where it would not normally be provided. He stated that he understands that some neighbors could be affected but that it does provide a benefit to certain homeowners.

Mr. Carlson invited everyone to stop out to his property to see his concerns in person.

Planning Director Ondich stated that he'd be happy to visit the property.

A motion was made by Gilman seconded by Meyer to recommend approval of Variance #V2-2017 from the fence regulations in the RH High Density Residential Zoning District to allow a 6' tall fence to be located up to the property line along 7th Ave. SE at 716 E. Main Street for the following reasons:

- A. The proposed variance is in harmony with the general purposes and intent of the Ordinance because the RH High 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 RH High 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 and the location of the fence, while abutting a roadway, is what the applicants consider to be the side of their lot.
- D. Unique circumstances apply to the property in that it is a corner lot and the lot width as platted is not any wider than a mid-block lot, which would be typical of newer platted lots. This means the 30' front/side yard setback for a 6' tall fence means it would be further away from the road right of way than the edge of the house where the fence is proposed today.
- E. The variance does not alter the essential character of the neighborhood because the proposed 6' tall fence would be located just a few feet closer to the road than the existing house and is going to provide privacy for the backyard of the owners as it is across the street from a commercial zoning district which contains a strip mall.
- F. The variance requested is the minimum variance which would alleviate the practical difficulties because the variance would allow the applicants the

privacy they are seeking while not changing the essential character of the neighborhood.

Motion carried (4-0).

**B. Concept Review of Zoning Ordinance Amendment for Residential Accessory Structures
City of New Prague, applicant**

Planning Director Ondich presented the staff report. He stated that an accessory structure that was constructed in the backyard of a home on east Main Street has generated some discussion on what sizes and types of accessory buildings the City allows. He stated that he would like the Planning Commission to discuss the accessory structure regulations and discuss possible changes. He stated that the State Building code recently changed to stated that only permits over 200 sq. ft. now require a building permit versus the 120 sq. ft. and under that was the limit previously. He also stated that many cities do not allow pole buildings for residential accessory structures and also limit building heights to 15' or under.

The Planning Commission consensus after discussion was to limit accessory building heights to 15', to remove the limit on the door height opening, to require a building permit for accessory buildings over 200 sq. ft. only to match state building code and finally to not limit construction methods as long as they can meet state building code.

Planning Director Ondich stated that he would prepare a report for a public hearing on the amendments likely at the June Planning Commission meeting.

The Planning Commission also asked staff to research changing the fence regulations for corner lots and through lots.

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 Meyer, seconded by Gilman, to adjourn the meeting at 7:48 p.m. 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, stylized "K" and "O".

Kenneth D. Ondich
Planning / Community Development Director