

**CITY OF NORTH ST. PAUL
PLANNING COMMISSION
REGULAR MEETING MINUTES
THURSDAY, MAY 6, 2021
6:30 P.M.**

I. CALL TO ORDER

Chair Barton called the meeting to order at 6:30 p.m. The meeting was conducted via Zoom.

II. ROLL CALL

COMMISSION

Elaine Barton, Commission Chair

Patrick Blees, Commissioner **EXCUSED ABSENT**

Erik Brenna, Commissioner

Rick Gelbmann, Commissioner

John Monge, Commission Vice Chair

Lisa Wong, Commission City Council Liaison

Andrew Wise, Commissioner **Arrived at 6:36 p.m.**

Allan Worm, Commissioner **ABSENT**

STAFF

Eric Zweber, Planning Consultant

Lisa Ritchie, Planning Secretary

III. ADOPT AGENDA

Motion to adopt agenda by Commissioner Monge, and seconded by Commissioner Gelbmann, with all present voting aye (4-0). Motion carried to adopt the May 6, 2021 Agenda.

IV. APPROVAL OF MINUTES

Motion to approve Minutes by Commissioner Brenna, and seconded by Commissioner Gelbmann, with all present voting aye (4-0). Motion carried to approve the April 1, 2021 regular meeting minutes as submitted.

V. MEETING OPEN TO THE PUBLIC

John Schmahl, 2750 Chisholm Avenue, stated he would like to comment about Agenda Item 7 related to Zoning Ordinance Updates.

Chair Barton stated the Planning Commission held a public hearing on that item at their last meeting, but it was tabled. She added she would make sure Mr. Schmahl gets a chance to speak during Agenda Item 7.

VI. PUBLIC HEARINGS

A. ZVA-21-3 Variance to Construct a Screen Porch within the Shoreland Setback at 2612 Swan Avenue E.

City Planner Eric Zweber reviewed a request for a setback variance from the Ordinary High Water Level (OHWL) mark. The property has an existing deck within the 75-foot setback of the OHWL. The property is zoned R-1 and lies within the Shoreland Overlay District. The applicant is proposing to add a structure to the deck, making it part of the principal structure.

Mr. Zweber stated the setback is 75 feet or the average of the 2 adjacent properties. Enclosing the existing deck will not change the essential character of the neighborhood, and it is a residential use that is consistent with City plans and overlays.

Mr. Zweber stated he received an email from DNR Hydrologist Dan Scollan who was contacted by a North St. Paul resident, and he indicated he had reviewed the plan and does not plan to comment on the application.

Mr. Zweber stated the homeowner has submitted an application to replace the existing deck, which is an exception from the shoreland setback. He added all standards are met, and the deck construction and modifications will meet the requirement that the principal structure shall not be located closer than 57 feet from the OHWL.

Commissioner Gelbmann requested clarification about the setbacks. He asked how Mr. Zweber arrived at his recommendation of 57 feet.

Mr. Zweber stated the property in question has a setback of 70 feet. The recommended setback is the lesser of either 75 feet or the average of the two adjacent properties which would be 87.5 feet. He added 57 feet is the minimum amount of the request, which is to enclose the porch.

Chair Barton stated the addresses of adjacent properties are incorrect. Mr. Zweber stated he used GIS, and apologized if he got the addresses wrong. He added it is the four houses to the southwest of the subject property.

Commissioner Brenna asked why properties on Poplar were not used. Mr. Zweber stated the results would have been similar.

Mr. Gelbmann stated there are two different criteria being described – one is adjacency. Mr. Zweber confirmed that is the standard for the setback.

Mr. Gelbmann asked whether that is based on the character of the neighborhood, but not necessarily adjacent. Mr. Zweber confirmed that is his interpretation.

Chair Barton asked whether the request varies from the language of the average setback. Mr. Zweber stated it is a variance to the entire language of the setback requirement, and the result is a new setback standard, with a proposed setback of 57 feet.

Chair Barton stated the creation of a new standard should be done by amending the Code. Mr. Zweber stated that is essentially what is being done for this property, where the shoreland setback would be 57 feet.

Chair Barton asked if the applicant has any questions.

Paul Anderson, the applicant, stated he agrees with everything that has been said, and appreciates the Planning Commission's consideration of this request. He added there is no intention to do anything more than add a screen porch over an existing deck. He noted the home was built in 1941 on a 50-foot lot by the North St. Paul Firefighters as a fundraiser. The deck was added 50 years ago, and needs to be replaced anyway.

Chair Barton opened the public hearing at 7:09 p.m.

John Schmahl asked why the DNR was not consulted in this process. He stated he contacted the DNR and was told that any variance request in the shoreland district should be reviewed by the DNR.

Mr. Schmahl stated the term "adjacent" means next to or adjoining. He added it is not four houses away. The person he spoke with at the DNR said that this would not fly, but in the long run they would not have any negative comments because it is an existing deck on an existing footprint, and they are not concerned about it.

Mr. Schmahl stated the DNR representative told him that it is irrelevant to move away from adjacent properties, to pick and choose other properties. He added he hopes in future the City will do what the DNR expects it to do, which is to contact them and get their input. He noted the DNR should be consulted.

Chair Barton stated water protection Ordinances were not included in the Code until the previous update. She added each request like this is an opportunity for learning.

Chair Barton closed the public hearing at 7:15 p.m.

Mr. Zweber stated, with regard to public hearing notice, City Staff is using new permitting process software, and a public hearing checklist has been created to ensure that all applications are reviewed to determine whether a public hearing is required. He added that process has been added since this public hearing was published in the newspaper and mailed to the neighbors, but notice was not sent to the DNR. He noted he reached out to the area Hydrologist, and there was some miscommunication about who should receive public hearing notice. He confirmed this was an error, but City Staff are always trying to improve the process, to prevent this from happening in the future.

Mr. Zweber stated, with regard to Mr. Gelbmann's comment, this is a request for a variance from the standard, based on criteria, which would be vicinity and not adjacent.

Chair Barton stated she does not believe the Planning Commission has the authority to change the meaning of a standard in a particular case. She added this structure became non-conforming

when the shoreland overlay district was created and cannot be expanded. She noted, however, she would like an assessment of whether turning an existing deck into a porch can be considered an expansion.

Mr. Zweber stated it is an expansion of the principal structure, and the requested variance would eliminate non-conformity.

Chair Barton stated a deck is considered a portion of the principal structure in State statute, if it was there when the Ordinance came into play. Mr. Zweber agreed, adding a deck is cited as an exception in the Code, aside from the setback standard.

Chair Barton stated it is not necessary to provide a new interpretation of the Code when there is a specific standard like the setback averaging option. She added, in this case, there are 2 immediately adjoining properties, and setbacks from the lakefront vary. This was a way to provide relief without a variance in certain circumstances.

Chair Barton stated, from her perspective, the request is deficient as a 75-foot setback is not unique to this property.

Commissioner Monge asked whether they could replace the deck. Mr. Zweber confirmed this, adding they have already requested and received a deck permit from the City, which is allowed by Ordinance.

Commissioner Gelbmann stated Mr. Zweber had indicated that the variance, if granted, would change the property setback. He asked whether that would allow a 4-foot addition on the house without requiring an additional variance.

Mr. Zweber confirmed this, adding the recommendation is that the new setback would be 57 feet from the OHWL mark. He added the recommendation can be changed to setback for screen porch only.

Commissioner Gelbmann stated a screen porch could be built to the south and would not require a Variance. Mr. Zweber agreed that is a finding the Planning Commission could make and provide a recommendation.

Commissioner Wise stated the proposed addition will maintain the same footprint as the existing deck, and it is a simple plan. He added it seems to stay within the scope of what is currently there, and it meets the criteria reviewed by Mr. Zweber. He thanked Mr. Zweber for his presentation.

Commissioner Gelbmann asked how the DNR was notified. Mr. Zweber stated he assumes they were contacted by Mr. Schmahl.

Chair Barton stated the DNR does not tend to comment on individual setbacks, but they do want to keep track of how many variances are granted.

Mr. Zweber stated Mr. Schmahl was correct in stating that the DNR should be notified. Chair Barton agreed.

Chair Barton stated it is not unreasonable to add a porch, but this approach is not in line with the purpose of the shoreland overlay district, and the setback. She added this could set a precedent set for increasing encroachment, and the purpose of setback standards is to limit encroachment.

Chair Barton stated simply putting a roof over an existing deck is not an expansion, and a variance would not be required. She added the shoreland ordinance came into effect with 75-foot setbacks. She asked how expansion can be defined. She noted the request is not supportive of the purpose of the shoreland Ordinance, and the Planning Commission cannot pick a number for a setback.

Commissioner Gelbmann stated the addition of the roof is significant in terms of the character of the property. He added decks are excluded from setback restrictions for a reason, because they do not have a full façade.

Commissioner Brenna stated he puts himself in the property owner's shoes. He added the deck footprint will not change and will have the same square footage and same impervious area. He noted he does not believe the proposed porch will change the character of the house, and he is leaning towards supporting the request.

Commissioner Gelbmann stated this approval would essentially move a structure 13 feet closer to the lake and would affect the view of the natural shoreline from the lake and the opposite shore. He added the purpose of the Ordinance is to maintain a somewhat natural shoreline, so people who use the lake can enjoy the minimal impact.

Chair Barton stated the issue with variances is the practical difficulty, which relates to having something unique about the property that does not apply to other properties. In this case, the setback requirement applies to every property, and she cannot find anything unique here that would allow a variance.

Mr. Zweber review the criteria for approval: the variance must be consistent with the general purpose of the Comprehensive Plan; the variance must not adversely affect health, safety or general welfare; the variance must be necessary to special conditions that apply to the land in particular to this property; the variance request must be the minimum variance request necessary to alleviate practical difficulty; and practical difficulties from the strict application of the Zoning Code.

Chair Barton stressed the importance of following variance standards and shoreland overlay district standards. She asked whether the property is located in the general flood plain overlay district, and whether there are applicable standards. Mr. Zweber stated he believes it is in the flood plain overlay, but there are no applicable standards, as the flood plain regulates fill on adjacent properties, but the flood elevation will not change in this case.

Motion by Commissioner Brenna, and seconded by Commissioner Monge, with Commissioners Brenna, Monge and Wise voting aye and Chair Barton and Commissioner Gelbmann voting nay

(3-2). Motion carried to recommend City Council approval of ZVA-21-3 Variance to Construct a Screen Porch within the Shoreland Setback at 2612 Swan Avenue E.

B. ZHO-21-1 Interim Use Home Occupation Permit for Bradley Plumbing

Planning Secretary Lisa Ritchie reviewed a request for an Interim Use Permit for a home occupation at 2081 Park Row, to allow for a business or enterprise to be conducted in a dwelling. She added the applicant, Mr. Bradley, is a plumbing contractor, and wishes to continue to park his truck in his driveway as he has done for 37 years.

Mr. Zweber stated all conditions of the IUP will need to be met by Mr. Bradley.

Chair Barton stated the Planning Commission is in the process of changing off-street parking requirements. She added she does not believe this request will be a problem.

Mr. Zweber stated City Staff recommends approval of the interim use home occupation permit. He added the applicant must continue to follow Ordinances set forth by the City with Code compliance.

Chair Barton stated a recommendation should include a requirement that parking standards would be met. Mr. Zweber agreed, although that is already a requirement.

Chair Barton opened the public hearing at 8:08 p.m.

John Schmahl stated there is a space in the staff report where a shot of the parcel from Ramsey County GIS should have been inserted. He added there was not even an address, which has put every citizen in the City at a great disadvantage. He noted he is not capable of commenting on this as he does not have enough information.

Chair Barton stated visuals should be included in the packet, wherever possible.

Chair Barton closed public hearing at 8:10 p.m.

Commissioner Wise asked whether this issue was brought forward as a complaint. He asked whether there is a time limit to the IUP.

Mr. Zweber confirmed that this was the result of a complaint, and the applicant applied for an IUP. He added there should be a time frame, which is often 5 years, but could be as long as the applicant owns the home.

Chair Barton stated the purpose of the IUP is that this type of use can create impacts. She added a time limit should be added, so that the IUP is no longer in effect if the business is sold or the applicant is no longer operating the business at the residence. Mr. Zweber agreed.

Commissioner Brenna asked whether the truck is too close to the curb and gutter. Mr. Zweber confirmed this, adding, however, this is not a variance request.

Motion by Commissioner Wise, and seconded by Commissioner Gelbmann, with all present voting aye (5-0). Motion carried to recommend City Council approval of ZHO-21-1 Interim Use Home Occupation Permit for Bradley Plumbing. The IUP will remain in place until the applicant no longer owns and operates the business from the residence.

VII. COMMISSION BUSINESS ACTION ITEMS & RECOMMENDATIONS

A. ZTA-21-1 Zoning Code Text Amendments 21-1 to Implement the 2040 Comprehensive Plan.

Mr. Zweber reviewed changes to the draft Zoning Ordinance that have been added since the Planning Commission's last discussion. He noted these revisions relate to truck parking; commercial vehicle definitions; Accessory Dwelling Unit (ADU) size requirement; parking standards; and community gardens and yard sales in Mixed Use Districts.

Mr. Zweber stated City Staff recommends approval of the proposed Ordinance changes.

Chair Barton stated Mr. Schmahl had indicated that he wished to speak during this Agenda Item. She invited him to speak.

John Schmahl stated, with regard to "lot line front" on page 31 of 75, there is no mention of how that is determined. He added many things depend upon knowing that, and a survey may be necessary. He noted it is frustrating that there is no mention of where it might be.

Mr. Schmahl stated on page 33 of 75, "vehicle commercial 1" is referred to twice. He added he assumes the second reference is supposed to be "Vehicle Commercial 2". Chair Barton agreed.

Mr. Zweber agreed to make that change.

Mr. Zweber stated, with regard to Mr. Schmahl's comments regarding front lot lines, the Code is clear that the front lot line is the boundary of the lot that abuts the dedicated public or private street. He added every plat is available on Ramsey County's website. He noted he does not believe the language should be corrected.

Chair Barton stated, in the Zoning Code, Section 154.010.A.13 reads, "Boats and recreational vehicles in the front yard may not exceed 21 feet." She added that should be removed to be consistent. Mr. Zweber agreed to take care of that.

Chair Barton requested feedback and comments from the Commissioners.

Commissioner Gelbmann stated he is satisfied with the way it is now.

Chair Barton stated assisted living and memory care is allowed in the MU-1, but not senior housing with services, which includes assisted living and memory care.

Mr. Zweber stated it is his guess that senior housing with services is not updated correctly. He added the term “skilled nursing facility” could be used. He noted there is a definition in State statute of housing for the elderly, which is identified as senior housing with services.

Chair Barton stated assisted living and memory care is allowed in MU-1, but senior living with services is not. She added it should not be added as a non-conforming use in MU-1.

Motion by Commissioner Gelbmann, and seconded by Commissioner Monge, with all present voting aye (5-0). Motion carried to recommend City Council approval of ZTA-21-1 Zoning Code Text Amendments 21-1 to Implement the 2040 Comprehensive Plan, with the following additions: clarify “Vehicle Commercial 2” and reference to boats and trailers to be added to the list of amendments.

VIII. OLD BUSINESS

-None.

IX. REPORTS FROM STAFF

Mr. Zweber stated a special meeting of the Planning Commission is scheduled for May 20, 2021.

Commissioner Gelbmann requested that meeting dates be added to the body of the Planning Commission emails that are sent out, instead of only in the calendar link.

X. REPORTS FROM CITY COUNCIL LIAISON

City Council Liaison Lisa Wong gave a review of the City Council’s recent meetings, at which Mr. Zweber reviewed the North High School renovation project, for which parking could be an issue, and the Covern School project, which included parking lot updates.

City Council Liaison Wong stated the City Council voted to disband the Design and Review Committee, with some responsibilities to be integrated into the Planning Commission.

Commissioner Gelbmann stated a bonding bill has been put forward by Senator Wiger for the Highway 36/120 interchange construction.

Mr. Zweber stated the School District has tabled the North High School renovation project and withdrawn their application.

XI. REPORTS FROM COMMISSIONERS

Commissioner Monge stated he recently drove by the 7th Street one-level townhomes development. He thanked everyone who reached out to him after his son’s recent passing of Covid.

Commissioner Brenna asked for an update on Planning Commissioner email addresses. Ms. Ritchie stated City Staff are looking at moving over to a Google platform, so everything is in the works right now.

Chair Barton thanked Ms. Ritchie for including the working email for this meeting.

Ms. Ritchie stated the City-wide clean-up event will be held at the Public Works Building this weekend from 8:00 a.m. – 1:00 p.m. on Saturday May 8, 2021.

XII. ADJOURNMENT

There being no further business, motion to adjourn by Commissioner Monge, and seconded by Commissioner Wise, with all present voting aye (5-0). Motion carried to adjourn the meeting at 9:12 p.m.

The next regularly scheduled Planning Commission Meeting is Thursday, June 3, 2021 at 6:30 p.m.

Members, please notify any planned absences to: Lisa Ritchie
Planning Commission Secretary
lisa.ritchie@northstpaul.org
651-747-2400