

PLANNING COMMISSION MEETING MINUTES

Tuesday, January 2, 2018

Pursuant to due call and notice thereof, a regular meeting of the Cambridge Planning Commission was held at Cambridge City Hall, 300 – 3rd Avenue NE, Cambridge, Minnesota.

Members Present: Vice Chair Chad Struss, Julie Immel, Brandon Grell, Bob Erickson, Robert Nelson, and Kersten Barfknecht-Conley (City Council Representative).

Members Absent: Chair Mike Stylski

Staff Present: Community Development Director Westover and Community Development Administrative Assistant Levitski

CALL TO ORDER and PLEDGE OF ALLEGIANCE

Struss called the meeting to order at 7:00 pm and led the Pledge of Allegiance.

APPROVAL OF AGENDA

Conley moved, seconded by Nelson to approve the agenda as presented. Motion carried 6/0.

APPROVAL OF MINUTES

December 5, 2017 Regular Meeting Minutes

Grell moved, seconded by Erickson to approve the December 5, 2017 meeting minutes as presented. Motion carried 6/0.

PUBLIC COMMENT

Struss opened the public comment period at 7:02 pm and without any comments, closed the public comment period at 7:03 pm.

NEW BUSINESS

Public Hearing: Variance Request for 237 Cypress St S

Levitski explained in July, 2017 the owner of the property at 237 Cypress St. S., Brandy Herbst contacted staff asking questions about installing additional concrete to expand their driveway. At that time, staff requested Herbst to submit a site plan showing where she intended to install the new portion of driveway so staff could review it along with reviewing the impervious surface lot coverage. Staff did not receive a site plan and the work commenced without proper approvals.

Levitski reported staff received a complaint that the new portion of driveway was closer than five feet to the property line and Building Inspector Matt Small was out to the property on July 27, 2017. At that time he could not determine where the property stakes were and requested a surveyor come out to mark the property pins.

Levitski stated she and Matt went back out to the property on August 21, 2017 after the property pins were located by a surveyor and verified the newly installed portion of the driveway was closer than five feet. At this time, she noticed there was quite a bit of impervious surface on the property. Levitski told Herbst that she would follow-up with her once she was able to do an approximate calculation of impervious surface.

Levitski reported on August 22, 2017 she sent Herbst an email letting her know that staff estimates the property to be 32% covered with impervious surface and they needed to remove concrete in order to be below the maximum amount of 30%.

Levitski stated on September 12, 2017 staff sent a letter to Herbst explaining the background and history of the issue and instructed Herbst to remove 503 square feet of impervious surface along with meeting the setback requirements on the west side of her property or staff would need to pursue legal action. Levitski stated in the letter that if Herbst did not agree with staff's calculations, she would need to have the property surveyed to determine the correct amount of impervious surface. Herbst contacted staff and the soonest a surveyor could be out to the property would be the middle of October.

Levitski reported on October 19, 2017, staff received the survey which determined the property has a total of 8,072 square feet of impervious surface which equals 34.1%. In order to meet 30% impervious surface, the owner would need to remove 961.4 square feet of impervious surface.

Levitski stated on October 23, 2017 staff received a zoning application requesting a variance to allow the property to exceed the impervious surface maximum amount.

Levitski explained the purpose of the variance process is to review applications on a case by case basis to determine whether relief may be granted from unforeseen particular applications of the zoning code that create practical difficulties. In considering an application for a variance, the Planning Commission shall recommend the approval of the variance only upon the finding that an application complies with the standards set forth in the Zoning Code.

Levitski reviewed the seven standards and staff's findings that were included in the packet and recommended the Commission make a motion to recommend the City Council deny the granting of the variance request and recommend approval of the findings of facts.

Struss opened the public hearing at 7:08 pm.

Brandy Herbst of 237 Cypress St S, Cambridge, Minnesota 55008 gave the

Commission background information regarding previous code violations and communication with staff. Herbst explained there has been an ongoing feud with her neighbor to the west which brought on complaints to the city. Herbst stated she contacted the City two years ago when they began renovations on their home. Herbst explained they purchased the home in 2010 and it was a foreclosed home with a lot of damage. As an agreement with the mortgage holder they had to bring up the standard of the home to that of the rest of the neighborhood. They contacted the City because there were four different types of parking surfaces on the lot and according to the building inspector at the time the parking surfaces needed to be the same.

Herbst stated she has seven children and owns a home care company. The home was purchased with the intention of accommodating clients which is why the home is completely handicap accessible. Herbst reviewed past complaints and explained she has done everything the City has asked her to do which includes parking on approved surfaces and applying for a home occupation permit. Herbst admitted not supplying staff with a site plan for the new driveway work as requested but her contractor assured her they would not have any issues since a permit was not needed.

Herbst voiced concern that property lines are not well established and the neighbor to the northwest has a fence that encroaches onto surrounding properties including hers. Herbst voiced concern over removing concrete on the west side of the property because of the rebar that was placed in the concrete. Herbst stated part of the reason why they added concrete was to alleviate drainage issues.

Herbst announced they have gotten approval from the state to set the house up for a group home and they are working with staff on City regulations. Herbst stated they plan to remove the pool, hot tub and the play structure which was identified on the survey as existing shed.

Immel asked when they plan to remove those items. Herbst explained their goal is July 2018 and they are in the process of transferring the home to their company and then they will be purchasing land and building a home.

Herbst stated the neighbor's garage to the west is encroaching onto their property. Levitski explained the garage is what is considered an existing non-conforming structure. Westover explained how Minnesota Statutes regulate nonconformities. Nonconformities are land uses, structures, or lots that do not comply with the current zoning ordinances of the city. Herbst noted they got rid of their Recreational Vehicle because there wasn't enough room for parking their personal vehicles.

Without additional public comment, Struss closed the public hearing at 7:32 pm.

Grell asked what the process is when staff discovers a parking surface too close to the property line. Westover explained when it happens and staff catches it while it happens the issue must be corrected.

Struss confirmed the setback is an issue because it was just added and staff caught it. Herbst stated her variance request includes waiving the setback requirements as well as impervious surface.

Grell asked what would happen if a property owner built a deck without a permit. Levitski explained if a property owner builds something that requires a permit and staff catches it, the owner is required to stop the work and apply for the proper permits. Levitski confirmed adding to an existing driveway does not require a permit.

Erickson asked how many square feet is the pool and hot tub. Levitski indicated the survey reflects 243 square feet for the pool and hot tub but wasn't sure on the size of the shed since the survey staff received is not to scale. Herbst estimated 600 square feet for the pool, existing shed, and hot tub. Immel confirmed taking away 600 square feet of impervious surface would bring the property to 31% covered. Discussion ensued on options to allow them to go over the impervious surface maximum amount.

Levitski confirmed with Herbst nobody from the City instructed them to place rebar in the concrete driveway. Nelson explained in order to do the job right they needed to have rebar. Nelson stated he doesn't like the ordinance on the impervious surface because there are other ways to have permeable surfaces.

Nelson moved, seconded by Erickson to recommend the City Council approve the variance to exceed the maximum surface amount and setback for the west side of the property as long as they remove the pool, hot tub and existing shed. Nelson stated he felt this was appropriate since there are so many other issues with other property lines.

Struss questioned whether or not the Commission can recommend approval of the variance with conditions. Levitski explained staff prepared a draft resolution denying the request based on the seven standards identified in the staff report. Levitski further explained if the Commission would like to approve the variance based on conditions, the seven standards will have to be re-written in support of the request and asked for the Commission's assistance with how to define those standards in support of the request.

Commissioners expressed their opinion that if they can get down to 31% they would be comfortable with that. Levitski asked if they wanted to include a completion date for the removal of the items in order to get down to 31%. Struss asked how they go about approving the conditions. Levitski explained the resolution that staff prepares for Council based on the Planning Commission's recommendations will list the conditions set forth by the Planning Commission.

Nelson amended his motion to include a completion date of Monday, September 3, 2018. Erickson accepted the amendment to the motion. Levitski clarified the motion was to remove the pool, hot tub, and existing shed, not an amount of 31%. Levitski explained staff nor the applicant exactly know how much the hot tub, pool, and existing structure will lower the percentage until staff can verify the size of all items.

Conley and Struss voiced concern over granting the variance because the ordinance existed prior to the construction of the driveway and the criteria is there for what would qualify for a variance in a typical situation and staff's findings did not support granting the variance based on the criteria.

Erickson stated the Commission has recommended approval of variances in the past. The variance should not be given when it is against the common good and he didn't feel this request is against the common good.

Westover explained in order to approve a variance they have to meet the practical difficulties test. When staff went through the practical difficulties they found all of them in this case were self-inflicted. Staff could not find reasons to allow it but it is ultimately up to the Planning Commission and City Council to make that decision. Westover noted the practical difficulties are not necessarily related to the property itself it is the people that are living there and how they are using the property now. Westover reminded the Planning Commission that in order to legally approve a variance, the Commission will have to find standards that are going to support allowing the variance. Nelson stated he disagreed with some of the staff's findings.

Grell asked how Nelson felt about the setback issue. Nelson stated he isn't concerned with setbacks for surfaces and the water is supposed to go to the storm sewer and not on the neighbor's property. Levitski explained set back requirements are not meant only for drainage. Levitski explained the impervious surfaces collect pollution such as heavy metals, oils, and other contaminants and runs off into the storm sewer drains which is not a good thing.

Nelson stated he felt it was silly to remove the concrete in order to meet the setbacks. Immel stated while she agrees, the owner should have submitted the plan to the city like the city asked them to and then it wouldn't have been installed without meeting the setback requirements. Erickson confirmed there was not a permit required. Conley confirmed staff asked for a site plan prior to them performing the work. Westover stated even though no permit is required, they still have to meet all City Codes and setback requirements.

Struss repeated the motion which was to recommend that City Council grant the variance to not have to meet setbacks on the west property line, to exceed the 30% maximum impervious surface requirement as long as they remove the pool, hot tub, and existing shed in a good faith effort to come as close to compliance and have those items removed by Labor Day, 2018. Nelson called the question. Upon call of the roll Nelson and Erickson voted aye. Immel, Grell, Struss, and Conley voted nay. Motion failed.

Conley moved, seconded by Immel to recommend the City Council deny the granting of the variance request and recommend approval of the findings of facts as presented by staff. Upon call of the roll Immel, Struss, and Conley voted aye. Grell, Erickson, and Nelson voted nay. Motion failed.

Grell moved, seconded by Immel to recommend City Council approve the variance to allow exceeding the 30% maximum impervious surface requirement as long as the property owner removes the pool, hot tub, and the smaller existing shed as a good faith effort to come as close to compliance by September 3, 2018 along with meeting the setback requirements on the west side of the property line, and they are not allowed to add additional impervious surface in the future. Motion carried 4/2 with Struss and Conley voting nay.

Public Hearing: Variance Request for Joy Lutheran Church, Temporary RV Living

Westover stated Joy Lutheran Church will be remodeling their facility in 2018. During the remodeling project, Joy Lutheran would like to hire The Laborer's for Christ and be allowed to have them reside in their Recreational Vehicles (RV's) on the property. The Laborer's for Christ is an organization that provides construction services for projects like this. Westover stated they will come to the site and stay for the duration of the project so the request is to allow up to five (5) recreational vehicles for living purposes from May 1, 2018 to October 31, 2018.

Westover explained because this request varies the specific provisions of the city's Zoning code, a variance is required. Westover reviewed the language in the Zoning Code.

Westover explained the Joy Lutheran Church property is in the R-1 One Family Residence District, therefore this regulation applies and to allow more than one RV for more than seven consecutive days requires a variance.

Westover stated the purpose of the variance process is to review applications on a case by case basis to determine whether relief may be granted from unforeseen particular applications of the zoning code that create practical difficulties. In considering an application for a variance, the Planning Commission shall recommend the approval of the variance only upon the finding that an application complies with the standards set forth in the code and identified on the Findings of Fact.

Westover stated since this is a temporary request and will end after the remodeling project is complete, the Commission may consider the variance with strict conditions of approval. Westover stated Joy Lutheran Church is a commercial use in a residential zoning district. While recreational vehicles are also not allowed in commercial districts for living purposes, it may be reasonable to allow the request for their intended and temporary purposes.

Struss opened the public hearing at 8:10 pm.

Kevin Schmitt of 1050 Joy Circle, Cambridge, Minnesota 55008 stated they have lived at the residence for 20 years and the church has been a good neighbor. Schmitt stated he felt there are other remedies such as other housing options including staying at the

pre-existing manufactured home park. Schmitt voiced concern regarding an increase in traffic and felt surrounding residents that intend to sell their home could be negatively impacted. Schmitt posed the following questions: Where will the RV's be parked on the lot? How will they empty sewage and water tanks? How long will the RV's be permitted to be parked on the lot? What type of RV's will be parked on the lot? How will the worker's dispose of their garbage? Will they be permitted to have pets? Will there be portable toilets on the lot?

Don Videl, Chairman of the congregation for the church stated the people staying in the RV's are a group of retired people that live in the RV's for the duration of the project. Videl stated the church as researched having them stay at area camping sites but the cost is significant. Videl assured the Commission they are quiet people that participate in the ministry of the church during their stay and was not sure if they had pets.

Grell asked where the RV's will be located. Videl stated they plan to be on the east lot on both the north and south side of the lot. Videl stated the RV's will only be visible on Central Avenue and there would also be construction equipment parked on site.

Nelson asked how they will have power for the RV's. Videl stated they will be putting in a temporary power source.

Nelson asked about how they are going to get rid of their sewage. Videl stated they plan to contract with a sewage company to empty their tanks or they will ask permission to tie into the City's sanitary sewage system.

Schmitt asked how many people would be staying on site. Videl wasn't exactly sure but thought there would be five RV's with 2 – 3 people per unit.

Schmitt asked what the economic impact would be if they had the RV's stay off-site. Videl explained if they stayed at the Isanti County Fairgrounds it would cost the church around \$26,000 once they factor in all the fees. Videl noted all traffic would access the lot off of Central Ave.

Without additional public comment, Struss closed the public hearing at 8:30 pm.

Westover suggested adding additional conditions that the RV's must meet all other City Codes at all times.

Struss asked what the process would be if staff felt they had to revoke the variance. Westover explained staff could bring the request to City Council at any time.

Immel recommended the church draft a waiver for the laborers so they are clear on the City Codes.

Schmitt asked if a background check is completed on the company. Videl stated they do a thorough background check.

Struss confirmed a public notice was sent to all properties within 350 feet.

Immel moved, seconded by Conley to recommend City Council approve the variance request and add a condition that the RV's must meet all other City Codes at all times. Struss encouraged the church to work with the neighbors on any concerns they might have. Motion carried 6/0.

Public Hearing: Places of Worship Ordinance Amendment

Westover stated the Planning Commission discussed exterior materials for places of worship on December 5, 2017 and it was the direction of the Commission to bring back the proposed ordinance.

Westover explained two recent requests for potential new "churches" have been brought to the City's attention. They have both asked about exterior material requirements and the current code is silent on requirements for places of worship.

Westover stated places of worship are allowed in both the city's residential and commercial zoning districts and new dwellings in residential districts are required to have a residential appearance (i.e. vinyl, asphalt roof, pitched roof, etc.). Westover stated new buildings in commercial districts are required to have specific commercial exterior materials (brick, rock face block, stone, finished pre-cast panels, glass, stucco).

Westover reported staff had a discussion on this and determined that for the time being until the Planning Commission and Council can discuss, places of worship would be considered commercial use and therefore need to adhere to the commercial exterior standards.

Westover stated since the city code does not define exterior materials for places of worship, the concern is that other requests for materials like steel or plain block would be requested. The current commercial standards do not allow steel, plain block, etc. Westover explained the residential standards aren't specific either, the code states that residential structures shall have a residential appearance including a residential type siding and roofing materials which staff interprets as typically vinyl or other hardy board type siding and asphalt or steel roof.

Nelson stated the steeple height is a concern since existing churches such as First Baptist and Cambridge Lutheran Church currently exceed 30 feet in height.

Struss opened the public hearing at 8:52 pm and without any public, closed the public hearing at 8:53 pm.

Grell moved, seconded by Erickson to recommend the City Council approve the draft ordinance as presented. Motion carried 6/0.

Comprehensive Plan – Review of Chapters 1 – 3 (Goals)

Westover explained as part of the updated 2017 Comprehensive Plan process, it was determined that staff and the Planning Commission would review the goals of the plan on a regular basis. Westover reviewed each of the general goals for each chapter and asked Commissioners to give a thumbs up on each goal.

Nelson stated he had concern with 1.6 with the choice of wording as “individual choice”. Consensus of the Commission was to limit that policy to just “general welfare”.

Robert Nelson asked if the City is addressing tiny houses and believes the City should be more receptive along with mother-in-law houses. Westover explained that was brought to the Planning Commission about a year ago and will be brought back to the Commission in the near future.

OTHER BUSINESS / MISCELLANEOUS

City Council Update

Westover and Conley updated the Commission on the previous City Council meeting.

Parks, Trails, and Recreation Commission Update

Westover updated the Commission on the previous Parks, Trails, and Recreation Commission.

ADJOURNMENT

Nelson moved, seconded by Erickson, to adjourn the meeting at 9:12 pm. Motion carried unanimously.



Mike Stylski
Cambridge Planning Commission Chair

ATTEST:



Marcia Westover
Community Development Director/City Planner