

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, June 21, 2011 – 7:00 p.m.
City Hall Chambers - 8150 Barbara Avenue

Chair Bartholomew called the Planning Commission meeting to order at 7:00 p.m.

Commissioners Present: Tom Bartholomew
Pat Simon
Tony Scales
Dennis Wippermann
Mike Schaeffer
Harold Gooch
Victoria Elsmore
Armando Lissarrague
Paul Hark

Commissioners Absent:

Others Present: Tom Link, Community Development Director
Allan Hunting, City Planner
Heather Botten, Associate Planner

APPROVAL OF MINUTES

The minutes from the June 7, 2011 meeting were approved as submitted.

CITY OF INVER GROVE HEIGHTS – CASE NO. 11-15ZA

Reading of Notice

Commissioner Simon read the public hearing notice to consider an ordinance amendment to Chapter 10-3-4 of the City Code (Zoning Ordinance) relating to criteria granting a variance. No notices were mailed.

Presentation of Request

Allan Hunting, City Planner, advised that Tim Kuntz would present a summary of the revised variance language which was recently signed into law.

Tim Kuntz, City Attorney, explained the request as detailed in the report. He advised that the Minnesota Legislature revised the variance language to allow a municipality to grant a variance when 'practical difficulties' exist in complying with the zoning ordinance as opposed to the old standard of 'undue hardship'. He advised that the County statute was changed as well to have relatively similar standards to that of municipalities. He advised that the new standards for granting a variance include: 1) The variance has to be in harmony with the general purpose and intent of the zoning ordinance, 2) The variance must be consistent with the Comprehensive Plan, 3) The applicant must show there are 'practical difficulties' in complying with the zoning ordinance, 4) The variance may not allow a use not allowed under the Zoning Ordinance for property in the zone where the affected person's land is located, 5) the City may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance, and 6) The authority to grant a variance includes the authority to grant a variance from restrictions placed on non-conformities. He noted that the criteria for a 'practical difficulty' include: a) Property owner proposes to use the property in a reasonable manner permitted by the Zoning Ordinance, b) The plight of the landowner is due to circumstances unique to the property not created by the owner, c) The variance will not alter the essential character of

the locality, and d) Economic considerations alone do not constitute practical difficulties. He stated that the Commission will likely spend a great deal of time discussing what is 'reasonable', whether the circumstances are unique to the property, and the imposing of conditions which are directly related to and bear a rough proportionality to the impact created by the variance. Mr. Kuntz recommended approval of the ordinance amendment.

Commissioner Wippermann asked if the City had the ability to establish more or less restrictive standards than the State provision.

Mr. Kuntz replied that the general consensus is that the City's authority to grant a variance could not be more or less restrictive than State Statute.

Commissioner Wippermann stated he was concerned that the revised language would make the process more subjective and that property owners could circumvent zoning requirements by requesting variances.

Mr. Kuntz replied that property owners would have the difficult task of proving uniqueness. He advised that if a situation arose where applications were continually being denied because of a specific zoning requirement there were other zoning tools they could use rather than the variance process (i.e. conditional use permit).

Chair Bartholomew stated he supported the request.

Planning Commission Recommendation

Motion by Commissioner Simon, second by Commissioner Scales, to approve the ordinance amendment to Chapter 10-3-4 of the City Code (Zoning Ordinance) relating to criteria granting a variance.

Motion carried (9/0). This item goes to the City Council on July 11, 2011.

KAY DICKISON – CASE NO. 10-26V

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a variance from the bluffline setback to construct a 160 square foot structure in the bluffline whereas 40 feet is the required setback, and a variance from the front yard setback for an accessory building to be located 20 feet from the front property line whereas 30 feet is required, for the property located at 7521 River Road. 3 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the request was originally brought to the Planning Commission in 2010. At that time of the City Council meeting the applicant recommended tabling the request until the variance criteria was changed at the legislative level. The applicant would like to construct a 160 square foot detached accessory structure on the property overlooking the river. The request requires two setback variances; one for the structure to be located 20 feet from River Road whereas 30 feet is required, and the second to be located in the bluffline whereas 40 foot is the required setback from the top of bluff. She noted that DNR received notice of the original request last summer. At that time they recommended denial; however, they were under the impression that there was room on the property for the applicant to construct an accessory building that would meet all setbacks and they did not take into consideration the City's required front yard setback and the bluffline setback. Staff recommends approval of the request with the conditions listed in the report.

Commissioner Gooch asked if the DNR was still opposed to the request, to which Ms. Botten replied that staff had not renotified them as the structure size and location had not changed.

Commissioner Gooch asked if DNR's opposition was mostly due to the fact that they did not understand the other setbacks.

Ms. Botten replied in the affirmative. She stated the DNR based their decision on a 75 foot Ordinary High Water (OHW) setback whereas the OHW is actually 50 feet. Therefore, the applicants are compliant with the OHW setback.

Commissioner Gooch asked why staff felt there was a misunderstanding on the part of the DNR.

Ms. Botten replied that she spoke with the DNR after receiving their letter and confirmed the OHW setback was 50 feet as opposed to the 75 feet referenced in their letter. Also, DNR's letter did not address where the bluffline setback was and the fact that the City required a front yard setback as well.

Commissioner Gooch asked if there was any buildable space on this lot, to which Ms. Botten replied there was not.

Commissioner Schaeffer asked if the DNR comments were solely a recommendation, to which Ms. Botten replied in the affirmative.

Commissioner Lissarrague asked what the setback was on the single-family dwellings in the area.

Ms. Botten replied that the lot to the north was approximately 35-40 feet from the river and the one to the south was approximately 50 feet, making the proposed structure would be in character with the neighborhood.

Commissioner Gooch asked if the studio was proposed to have water or septic, to which Ms. Botten replied it was not.

Commissioner Gooch asked if there was potential for the property to be sold and the new owner building a single-family home.

Ms. Botten replied there was not as they would have to subdivide the property and it would not meet the City's lot size requirements for a single-family home.

Opening of Public Hearing

The applicant, Kay Dickison, 7521 River Road, pointed out that she originally requested an additional variance to allow another detached structure. She has since attached the garage and therefore that request has been taken off the table. She stated she wants to build a studio where she can sit indoors and enjoy the river. The studio will have no water or septic and will not be a living space. It may, however, have solar or electric.

Chair Bartholomew asked if the applicant was in agreement with the conditions listed in the report, to which Ms. Dickison replied in the affirmative.

Commissioner Wippermann asked if there would be a formal driveway to the studio.

Ms. Dickison replied there would be no pavement, but perhaps some gravel.

Commissioner Wippermann asked if the structure currently on the property would remain.

Ms. Dickison replied it was a temporary structure being used by her contractor during construction.

Commissioner Simon asked why the applicant oriented the proposed studio east/west rather than north/south.

Ms. Dickison replied she wanted the studio to have a similar configuration to the home and she also wanted to maximize her view of the river while minimally impacting the environment.

Commissioner Hark asked if the applicant planned to park any vehicles on the potential gravel driveway.

Ms. Dickison replied there would be no permanent placement of vehicles there and minimal intermittent use.

Planning Commission Discussion

Chair Bartholomew stated he supported the request.

Planning Commission Recommendation

Motion by Commissioner Wippermann, second by Commissioner Gooch, to approve the request for a variance from the bluff line setback to construct a 160 square foot structure in the bluffline whereas 40 feet is required, and a variance from the front yard setback for an accessory building to be located 20 feet from the front property line whereas 30 feet is required, for the property located at 7521 River Road, with the three conditions listed in the report.

Motion carried (9/0). This item goes to the City Council on June 27, 2011.

CITY OF INVER GROVE HEIGHTS – CASE NO. 11-14Z

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a rezoning from A, Agricultural District and R-1B, Single Family Residential District to P, Institutional District for the properties located at 8336 Babcock Trail and for the 7400 block of River Road. 14 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that Council recently adopted an ordinance amendment to allow outdoor storage on Public zoned property for local governmental use. The Council approved outdoor storage to be utilized on six sites that have historically been used for outdoor storage such as trees, brush, and materials used for city projects. Of the six sites identified, four were already zoned P, Institutional and two were not. Council directed staff to initiate the rezoning of those parcels. The two sites in question are the property at the end of Babcock Trail (also known as the Kuchera property) and the old waste water treatment plant property located between River Road and Dickman Trail in the 7400 block (also known as the Gish property). Staff recommends approval of the request.

Commissioner Simon asked how long the trailer had been parked on the Kuchera property and what is being stored in it.

Mr. Hunting replied that he was unsure.

Commissioner Gooch asked if the six identified properties were cordoned off to discourage public trespassing and/or dumping.

Mr. Hunting stated there were some barricades on the River Road property but he was not sure on the other locations.

Commissioner Simon advised there was currently a couch left on the River Road property.

Chair Bartholomew asked if the City intended to have storage on the small piece of property along Dickman Trail, to which Mr. Hunting replied not that he was aware of.

Chair Bartholomew advised that some of the landowners in the area were concerned and requested that the City level and shape that area to make it easier to mow.

Mr. Hunting advised that if the storage on the identified sites were to be intensified the City would have to first come before the Council with their request and there would be a public discussion.

Opening of Public Hearing

Greg Sampson, 7540 River Road, asked how the City planned to access the River Road property, stating the only current access to the property was via the private driveway owned by the Plans and the railroad right-of-way. He advised there were no barricades to the property to prevent illegal dumping and there were numerous items such as broken PVC pipes, broken culverts, television sets, floor tiles, railroad ties, chain link fencing, etc. on the property. He displayed photographs of such items on the property and stated he had complained about this issue several years ago and it had not yet been resolved. He advised that he had addressed the issue of several existing wells on the property as well and was not sure if they had been capped or were still open.

Planning Commission Discussion

Chair Bartholomew asked how the City would access the property.

Mr. Hunting stated the site was rarely used and he was unsure how they would access it.

Commissioner Schaeffer asked what the procedure was for getting the City to clean up and maintain the subject properties.

Mr. Hunting replied that when an issue was brought to the attention of the City the Public Works Department staff was notified to pick up the debris.

Commissioner Schaefer asked if staff could notify the Public Works Department of the debris on the River Road property, to which Mr. Hunting replied in the affirmative.

Chair Bartholomew asked if staff had any history of complaints received on the River Road property regarding dumping.

Mr. Link replied that he did not. He noted there was previously a complaint of promiscuous dumping on the City's Blaine Avenue property. It was brought to the attention of City Council and Public Works staff then cleaned up the site and put a chain across the driveway to discourage future trespassing/dumping.

Chair Bartholomew stated he supported the rezoning but encouraged the City to be diligent in properly maintaining their property.

Commissioner Schaeffer asked what the definition was of acceptable material that could be stored on the properties in question.

Mr. Hunting replied that they intentionally used vague language; however, typical storage items would be storm debris and brush, mulch, dirt, etc. If the City wished to use the properties for anything different than what they're currently being used for they would need to bring the request before City Council.

Commissioner Schaeffer asked if such a request would go before the Planning Commission along with mailed notice to neighbors.

Mr. Hunting stated it was his understanding that such a request would not have to go through the public hearing process.

Commissioner Lissarrague suggested tabling action on the River Road property until there was more understanding of how the City would resolve the debris issue.

Mr. Hunting stated the request was regarding land use only, however, he would notify the Public Works Department of the debris.

Commissioner Lissarrague stated he was concerned because Mr. Sampson stated that this issue was brought to the City's attention previously, however, the situation has not yet been resolved.

Mr. Hunting stated those issues should perhaps be dealt with at the City Council level.

Chair Bartholomew stated the issue at hand was land use and zoning.

Mr. Sampson stated that the City is responsible for some of the debris on the property, such as broken culverts. He questioned how long they could be stored there as many of the items have been there for years. He encouraged the Commission to table action on the River Road property.

Commissioner Elsmore asked if the requested zoning change would zone the property correctly for how the City is using it, to which Mr. Hunting replied in the affirmative.

Commissioner Elsmore asked how long the City had been using the properties, to which Mr. Hunting replied a number of years.

Commissioner Elsmore asked why the property wasn't rezoned earlier, to which Mr. Hunting replied he was unsure.

Commissioner Elsmore stated the first step in getting the property cleaned up and used appropriately is to have it zoned correctly.

Chair Bartholomew asked if the City was currently using the River Road property to store materials.

Mr. Link replied that his understanding was that it was being used minimally.

Chair Bartholomew asked if there any some City-owned materials on the site, to which Mr. Link replied in the affirmative.

Chair Bartholomew agreed with Commissioner Elsmore that if the property were zoned properly the City could then be held accountable for the materials stored there.

Commissioner Simon stated that unless they could separate the two properties she would vote no because she did not think a rezoning would resolve the on-going problem of debris on the River Road property.

Commissioner Hark recommended they look at both properties together, stating the Commission's responsibility was to make a recommendation on the land use change rather than the debris issue.

Commissioner Wippermann asked if they could add a condition of approval that the property be cleaned up.

Mr. Hunting stated that typically conditions are not put on rezonings but the Commission could make a recommendation that the Council address the debris issue and that it be properly cleaned up.

Planning Commission Recommendation

Motion by Commissioner Gooch, second by Commissioner Elsmore, to approve the rezoning from A, Agricultural District and R -1B, Single Family Residential District to P, Institutional District for the property located at 8336 Babcock Trail and along the 7400 block of River Road, with a recommendation that the City review the debris on both sites and ensure that only appropriate items are stored there and that the property remain in proper order.

Motion carried (7/2 – Simon, Lissarrague). This item goes to the City Council on July 11, 2011.

OTHER BUSINESS

Chair Bartholomew adjourned the meeting at 8:10 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary