

**AMENDED MINUTES OF A REGULAR PLANNING COMMISSION MEETING HELD
TUESDAY, OCTOBER 09, 2007 – 7:01 P.M. – ROCKVILLE CITY HALL**

Planning Commission met at City Hall -6:15 p.m. as a committee of the whole to view 2 sites:

- 6:15 P.M. Philip & Shamba Mueller @ 11347 Hubert Lane
- 6:35 SJ Louis Construction @ 1351 Broadway Street West

The meeting was called to order by Chair Toni Honer. Roll call was taken and the following members were found to be present: Chair Toni Honer, Jerry Bechtold, Dale Borgmann, Jerry Tippelt & Dan Hansen, Absent Susan Palmer.

Staff members present were: Administrator/Clerk Rena Weber, Utility Billing/ Administrative Assistant Judy Neu & Building Official Jeff Howe.

Others present: Philip & Shamba Mueller & Bill Molitor, Paul Salzl, Ev Balko, Clarence & Tom Bloch & Anthony Peters.

APPROVAL OF AGENDA/AMENDMENTS – Motion by Member Bechtold, second by Member Borgmann, to approve the agenda and addition as amended. Motion carried unanimously.

APPROVAL OF AMENDED MINUTES 9/25/07 – Motion by Member Bechtold, second by Member Borgmann, to approve the amended minutes of 9/25/07 Motion carried unanimously.

NEW BUSINESS

SJ LOUIS VARIANCE -1351 BROADWAY STREET WEST-

Zoning Administrator Rena Weber read the notice of public hearing which is being held to consider the request of James Schueller DBA SJ Louis Construction for a variance from Side yard Requirements. The address of the property is: 1351 Broadway Street West with a legal description of:

That part of the S ½ of the NW ¼ and of the N ½ of the SW ¼ of Section 17, Township 123, Range 29, Stearns County, Minnesota described as follows: Commencing at the Southwest corner of the NW ¼ of said SW ¼; thence on an assumed bearing of N 0° 08' 40" W along the West line of said SW ¼, a distance of 920.00 feet; thence on a bearing of N 89° 51' 20" E, 533.00 feet; thence on a bearing of N 0° 08' 40" W, 38.14 feet; thence on a bearing of N 73° 24' 43" E, 984.19 feet to the point of beginning of the tract herein described; thence on a bearing of N 0° 08' 40" W, 769.34 feet to the Southerly right of way line of Old S.T.H. No. 23; thence on a bearing of N 65° 13' 16" E, along last said line 1303.40 feet to its intersection with the East line of said NW ¼; thence on a bearing of S 0° 19' 15" E along last said line, 1145.65 feet; thence on a bearing of S 88° 40' 32" W, 669.35 feet to its intersection with a line bearing N 73° 24' 43" E from the point of beginning; thence on a bearing of S 73° 24' 43" W along last said line, 541.22 feet to the point of beginning. Subject to easements of record.

Containing 25.00 acres, more or less.

The request is to construct an industrial structure within the required 150' side yard setback requirements of the I-1 Industrial District to the Residential District in the City of Rockville.

Paul Salzl explained to construct a 70' x 108' storage building with a 20' lien. The cold storage building will store small construction equipment, small hand tools and one stall will store office papers & records.

Bill Molitor-805 1st Street South, Cold Spring-stated that his brother and him own the residential property to the east and would have concerns that the 150' side yard setback would not be met and would like to see a berm the length of the property.

Member Tippelt questioned what kind of material the building is going to be made of.

Paul Salzl stated it is a pole barn structure and the colors would match the office building. The wall would be a light stone color and the roof would be an antic bronze. The lot will be paved in the front, along the side and the back.

Paul Salzl stated that there was discussion at the site visit about the security fence and explained that the owner would like to see that the fence be put on the property line and the gas easement be mowed grass.

Member Tippelt questioned if the cold storage building could be placed on the west side of the property.

Paul Salzl explained that the west side has plans for putting in a truck scale, a fueling station and a future equipment washing bay with a hydrant and catch.

Rena Weber stated that the attorney provide a memo that would amend the Zoning Code to reduce the side yard setbacks for industrial property abutting a residential district and you should keep in mind when making your decision. You will be reviewing this information at your next meeting.

1. Setbacks.

- A. Setbacks from Residential Property, Churches and Schools. The setback from all residentially zoned property, churches and schools must be at least one hundred fifty (150) feet. This setback area must be landscaped and may not be used for parking, loading or driveways, except if the industrial property is at least one hundred fifty (150) feet from the residential property; then the normal non-residential setback shall apply.

The attorney proposal is to replace it with the following language:

1. Setbacks.

- A. Setbacks from Residential Property, Churches and Schools. A Light Industrial District side or rear yard adjacent to a residential boundary line, or property currently used as a church or school shall provide for a landscaped strip of at least one hundred feet in width along the lot boundary line. If the length of this portion abutting the residential boundary line is planted to provide a natural screen, setback may be reduced to sixty feet of landscaped property.
- B. There shall be no side or rear yard setback for driveways and parking areas except as stated in section C.

Bill Molitor questioned what specifies a landscape, is it 1 tree per 50' or is it a berm. This will make a difference on the setback.

Rena Weber reported that the City has a landscaping ordinance that will be followed.

Member Tippelt stated that if the berm would continue the length of the property the proposed building would not be able to be built there because you can't put the berm on the gas easement.

Paul Salzl explained that the original plans show shrubs and trees planted on top of the existing berm.

Rena Weber reported that there are plans to put an 8 foot fence around the property.

Motion by Member Bechtold, second by Member Tippelt, to close the public hearing at 7:22 p.m. Motion carried unanimously.

Rena Weber reported the following written/oral report:

STAFF REPORT AND PICTURES

Re: Variance Request
76.41629.900: Owner: Schueller Properties, LLC
Property Address: 1351 Broadway Street West, Cold Spring, MN 56320

Variance(s) Requested:

1. Variance to construct 90' x 108' warehouse and to locate it 55' from east property line which abuts an R-2 Residential District. **150' side yard setback required.**

Construction Requests:

1. Construct warehouse and locate it 5' from the gas line easement currently running along the eastern property line.

Relevant Information:

1. I-1 Industrial District requires that any structures be setback 150' from the side yard.
2. This will be the third structure constructed on a 25 acre lot.
3. The proposed building would be located 133'6" from the Maintenance Building which would allow semi truck easy access through the yard.

Recommendations:

1. The ordinance requires a 150' setback from side yards. The Planning Commission has reviewed this issue previously with SJ Louis and discussed changing the ordinance to reflect something similar to what St. Joseph has (60'). Attorney Mogen has drafted an ordinance amendment to this effect only requiring the 60' to be landscaped.
2. Maintain existing drainage patterns over, under, and across their property.
3. Proper temporary and permanent erosion control measures (BMP's) shall be implemented during and after construction to minimize sediment leaving the site; this would include proper installation of silt fence or bio-rolls on the down gradient side(s) of any excavations or earth disturbing activities, and subsequent re-vegetation of the disturbed areas soon after work is completed. It appears there are wetland(s) nearby south and southwest of the property.
4. Engineer comments should be reviewed and incorporated once received.
5. Require 60' setback.

ENGINEER REPORT

1. The approved overall site grading plan (without the cold storage building) shows an emergency overflow (EOF) at an elevation = 1076.0 from the NE pond to the south pond in the location of the proposed cold storage building. This overland EOF needs to be maintained outside of the gas main easement. It appears an exposed foundation (east) wall combined with a 5:1 slope constructed from the gas main easement would be one way to achieve the necessary 1076.0 EOF.
2. Implement proper temporary erosion control practices during construction including silt fence on the down gradient sides of any excavations, earth disturbing activities, and stockpiles.
3. Re-vegetate the site promptly after active exterior construction is completed.

Building Official Jeff Howe questioned the engineer comment regarding the overland EOF that needs to be maintained outside of the gas main easement and to have a 5:1 slope on the east side of the foundation. This might be hard to meet and will further discuss it with the engineer.

FINDINGS OF FACT: A review of the findings of fact was done.**Question 1 6 yes****Question 2 6 yes****Question 3 6 yes****Question 4 6 yes****Question 5 6 yes****Question 6 6 yes****The criteria for granting the variance have has been met.**

(A copy is hereby attached marked Exhibit A).

Member Tippelt made a comment that it makes sense on what they are looking at doing and he was the only one that was against the proposed accessory structure ordinance. Everyone should keep this in mind that if there was a house in the residential lot, would that change your decision.

Rena Weber reported that 25 notices were sent out.

Motion by Member Bechtold, second by Member Tippelt, to recommend approval at the 65 foot setback from the property. Motion carried unanimously.

PHILIP & SHAMBA MUELLER- 11347 HUBERT LANE--

Zoning Administrator Rena Weber read the amended notice of public hearing which is being held to consider the request of Philip & Shamba Mueller for a variance from Setback Requirements. The address of the property is: 11347 Hubert Lane, Cold Spring, MN with a legal description of: Lot 4, Block 1 & Lot 5, Block 2, Stearns County Boundary Commission Plat 1 in the City of Rockville.

The request is to construct a 28' x 40' single family dwelling and to build within 20' of Hubert Lane. Setback requirements are: 25 feet from roadway.

Said request also will include 28' x 12' deck (lake side) and to build within 52' of the OHWL (ordinary high water level). Required setback is to be no closer than 63' or in line with the abutting structure(s).

Shamba Mueller explained that they have a small lot and would like to maximum the space. The request is a 5 foot variance from the road to accommodate a larger front (lake) side as while as the Ordinary High Water Level (OWHL) being rather high if the cabin would be moved closer to the lake.

No public comment.

Motion by Member Borgmann, second by Member Hansen, to close the public hearing at 7:39 p.m. Motion carried unanimously.

Rena Weber reported the following written/oral report:

STAFF REPORT AND PICTURES

Re: Variance Request
76.42301.011: Owners: Philip & Shamba Mueller
Property Address: 11347 Hubert Lane

Variance(s) Requested:

1. Variance to construct a single family dwelling (28' x 40') with an attached 12' x 28' deck and to build within 52' of the OHWL on Grand Lake – General Development Lake. Said request is also to build within 20' of the roadway.

Construction Requests:

1. Remove existing cabin and construct new structure. *The existing cabin was demolished after staff suggested they don't remove it.*
2. Construct 24' x 26' double story garage on Lot 4, Block 1.

Relevant Information:

1. This property is located within the 1000' Shoreland Overlay District.
2. This shows two lots, but is one parcel.
3. Total square footage 11,279 with 2080 square feet of structure. 2819 square feet is allowed. If there is to be any more impervious surface this must be indicated and shown on the site plan.

Recommendations:

1. Staff has worked with the Mueller's to site the buildings further back from the roadway and they did move the garage further back to 25'.
2. The Staff recommends moving the cabin further 5' and eliminate the deck or deny the requests.

ENGINEER REPORT

1. The required 25' principal structure (cabin) setback from the road could be met by replacing the proposed 12' x 28' deck with a patio made of pervious materials.
2. Construct drainage swales along the side yard lines as necessary to maintain off-site existing drainage patterns through the site and to keep on-site runoff from running on to adjacent properties.
3. Consider requiring construction of a 25' wide native vegetation buffer along 75% of the shoreline, and/ or construction of a rain water garden large enough to accommodate impervious site runoff, as mitigation for the variances. The planting plan (for the buffer and rain garden) should be approved by the City Engineer.
4. Implement proper temporary erosion control practices during construction including silt fence on the down gradient sides of any excavations, earth disturbing activities, and stockpiles.
5. Re-vegetate the site promptly after active exterior construction is completed.

Member Hansen stated that the cabin is not inline with the rest of the cabin and it is clearly noted that the engineer would like to see that.

Rena Weber explained that Stearns County Environmental report indicates that they need to be 3' higher than the Ordinary High Water mark. The first floor elevation would have to be 1109.8.

Member Bechtold requested that the applicant meet with the Stearns County Soil and Water before next Wednesday.

Shamba Mueller questioned the run off, why would 5' closer to the lake be a benefit which 5' further from the lake would make more sense.

Chair Honer explains that the request would be to move your cabin 5' closer to the lake but you would eliminate the 12' wooded deck.

Shamba Mueller stated that even if they would use the pervious pavers they still would want the cabin 20' from the road to have more frontages from the lake.

Member Hansen explained the 25' wide native vegetation buffer zone is that you would not be able to mow 25' of it.

Shamba Mueller stated that if that's the case it would only leave them with 12 feet in the front.

Rena Weber reported that 25 notices were sent out.

FINDINGS OF FACT: A review of the findings of fact was done on the 5 foot setback from the road.

Question 1 6 yes

Question 2 6 yes

Question 3 6 yes

Question 4 6 yes

Question 5 6 no

Question 6 6 yes

(A copy is hereby attached marked Exhibit B).

Motion by Member Bechtold, second by Member Dietman, to recommend approval on the 20 foot roadside setback. Motion carried unanimously.

Motion by Member Borgmann, second by Bechtold to recommend approval of a patio constructed of pervious paver not to exceed 12 feet, in addition to follow the mitigation and to get input from Stearns County Soil & Water. Motion carried unanimously.

ANTHONY PETERS- VARIANCE COMPLIANCE-25523 PLEASANT ROAD-

Rena Weber reported that Anthony Peters was at the last meeting on complying with the variance request. He is back again because the former building official still considers the bunk beds habitable and that Anthony Peters was told by the former building official that if he builds a solid wall from the floor to the ceiling to separate the garage from the living area he would then be in compliance.

Rena Weber reported that the former Building Official Nancy Scott presented a document stating that this permit was issued on 8/16/04. I did the footing inspection on 9/28/04. I did not hear anything further regarding this project until August of this year. On 8/21/07 I went to the location and found that this "garage" was being used as sleeping quarters, complete with a bathroom, bunk beds, couch, sink and refrigerator. As far as I'm concerned this permit was expired and I was just trying to clean up an old permit. In order to make this structure code compliant a new building permit would need to be issued by your building official. I would recommend that your building official do an on-site and determine what needs to be done.

Rena Weber explained that she looked thru the ordinance to see where this would be allowed. The only area would be under guest cottage but Anthony Peters would have to apply for another variance because of the lot size requirement is 35,000 square feet.

Building Official Jeff Howe explained that bunk beds are considered habitable.

Anthony Peters stated that he would be willing to build a solid wall.

Building Official Jeff Howe explained you still would have the issue with guest corridor and still would need a variance.

Member Borgmann recommend having the bunk beds removed.

Anthony Peters explained that he was told if there is a kitchen in it that it would be considered habitable, there is no kitchen and no microwave. He does not understand why we are backing down on it now.

Rena Weber reported that the former Building Official would not give you your final certificate because it's habitable.

Rena Weber reported that Anthony complied right away regarding the removal of the outhouse.

Building Official Jeff Howe explained the 2006 International Residential Code on habitable space- A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable space. Building Official Jeff Howe will meet Anthony at the site to review the issue and bring back a report at the next meeting.

SUMMARY OF ALL PERMITS IN AUGUST/SEPTEMBER – Just an update.

Recessed at 8:26 p.m.

OLD BUSINESS

Discussion on

- Water Oriented Accessory Structure
- Shoreland Guidelines
- Research

ADJOURNMENT – *Motion by Member Bechtold, second by Member Borgmann, to adjourn the meeting at 8:50 p.m. Motion carried unanimously.*

JUDY NEU
BILLING CLERK/ADMINISTRATIVE ASST

TONI HONER
CHAIR