

# CITY OF ROCKVILLE

City Hall

229 Broadway Street East

PO Box 93

Rockville, MN 56369

## Planning/Zoning Commission Meeting

Tuesday, January 10, 2017 - 6:00 p.m.

### AGENDA

1. ROLL CALL
2. OATH OF OFFICE
3. APPROVAL of AGENDA/AMENDMENTS
4. APPROVAL OF DECEMBER 13, 2016 MEETING MINUTES
5. RESOLUTION 2016-XX FINDING OF FACT REGARDING THE KATHLEEN MIMBACH VARIANCE REQUEST
6. ZONING AMENDMENTS –
  - a. accessory structures exceeding 120SF TO STATE 200SF & All Accessory Structures under 200SF needs a site plan approval  
AND: Storm water management Impervious Surface
7. OTHER BUSINESS
  - a) Next Meeting February 14, 2017, 6:00 p.m.
8. ADJOURNMENT

\*This agenda has been prepared to provide information regarding an upcoming meeting of the Rockville City Planning Commission. This document does not claim to be complete and is subject to change.



## OATH OF OFFICE

### OATH

*State of Minnesota*

SS:

*County of Stearns*

I, Brian Herberg, do solemnly swear or affirm that I will support the Constitution of the United States and Constitution of the State of Minnesota and that I will discharge faithfully the duties of the office of Planning Commission Member of The City of Rockville in the County of Stearns, the State of Minnesota, to the best of my judgment and ability.

Signature

*Subscribed and sworn to before me this \_\_\_\_ day of January, 2017.*

Signature of Notary Public

Date commission expires

Printed name of Notary Public

County of residence

Stearns



## OATH OF OFFICE

### OATH

*State of Minnesota*

SS:

*County of Stearns*

I, Tom Molitor, do solemnly swear or affirm that I will support the Constitution of the United States and Constitution of the State of Minnesota and that I will discharge faithfully the duties of the office of Planning Commission Member of The City of Rockville in the County of Stearns, the State of Minnesota, to the best of my judgment and ability.

Signature

*Subscribed and sworn to before me this \_\_\_\_ day of January, 2017.*

Signature of Notary Public

Date commission expires

Printed name of Notary Public

County of residence

Stearns

**MINUTES OF THE REGULAR PLANNING/ZONING COMMISSION MEETING HELD  
Tuesday, December 13th 2016, 6:00 p.m. – Rockville City Hall**

**Item 1) ROLL CALL** - The meeting was called to order by Chair Bill Becker. Roll call was taken and the following members were present: Dale Borgmann, Jerry Tippelt, and Dave Meyer. Absent: Member Toni Honer and Liaison Susan Palmer.

Staff present: City Administrator, Martin Bode and City Attorney, Adam Ripple w/Rinke Noonan.

Others present were various members of the public.

**Item 2) APPROVAL OF AGENDA/AMENDMENTS –**

*Motion by Borgmann, second by Tippelt, to approve the agenda as presented. Motion carried unanimously.*

**Item 3) APPROVAL OF NOVEMBER 15, 2016 MEETING MINUTES –**

*Motion by Borgmann, second by Tippelt, to approve the November 15, 2016 meeting minutes as presented. Motion carried unanimously.*

**Item 4) PUBLIC HEARING – Mimbach Variance Request**

**STAFF REPORT**

Owner: Kathleen Mimbach

Property Address: 21567 Agate Beach Road

Legal Description: Parcel ID# 76.41800.0010 – N2 lot 10 and FR.14A of Govt Lot 2 ADJ to said lot old #28.17224.000, Lot 10 of First Add to Agate Beach, Section-Township-Range 28-123-029

Zoning District: R-1 Single Family Residential

Variance Requested:

1. An after-the-fact Variance to setback requirement of a non-conforming lot in an R-1 District

Section 17, Subsection 6, 5 Setbacks,

B. Side Yard Setback. The side yard setback must be at least ten (10) feet, except that the side yard setback on corner lots must be at least fifteen (15) feet.

Relevant Information:

1. This property is located in the Grand Lake Shoreland District
2. Variance of 3.1 feet on the West end of new addition and 3.5 feet on the East end.
3. 20 notices of public hearing were sent out.

**RECOMMENDATION**

1. Approve

Tom Jovanovich, attorney for Kathleen Mimbach, spoke on her behalf. He explained a summary of the variance application and its justification.

The following spoke in opposition of the variance request:

Tom Ruether, 21583 Agate Beach Road; Holly Ruether, 21583 Agate Beach Road; John Knutson, 21405 Agate Beach Road; Judy Rothstein, 21485 Agate Beach Road; Harriet Naegeli Lehner, 21503 Agate Beach Road; Michael Hornung, 21537 Agate Beach Road; and LeRoy Steinhoff, 21525 Agate Beach Road.

Commissioner Tippelt, requested clarification about a statement that was made by a resident that implied that the variance was to allow encroachment onto the neighbor's property. Attorney Adam Ripple, went on to explain that this is not a true statement and the variance is to vary from the 10 foot side yard setback.

**Motion by Borgmann, second by Tippelt, to close the Public Hearing at 6:17 p.m.**

Chair Becker read the staff report. Attorney Adam Ripple stated with the Planning Commission's consent, staff will draft a formal resolution outlining the Finding-of-Fact that the Planning Commission can act on at its next meeting.

**Owner: Kathleen Mimbach  
FINDING OF FACT  
SUPPORTING/DENYING A VARIANCE**

A variance may be granted when the applicant for the variance established that there are practical difficulties in complying with the zoning ordinance. The consideration of the following criteria as defined in Minnesota Statutes Section 462 and Minnesota Statutes Section 394.27:

1. Is the variance in *harmony* with the purposes and intent of the *ordinance*?  
Why or Why not?  
**Becker Yes    Borgmann Yes    Tippelt Yes    Meyer Yes**
2. Is the variance *consistent with* the *comprehensive plan*?  
Why or Why not?  
**Becker Yes    Borgmann Yes    Tippelt Yes    Meyer Yes**
3. Does the proposal put property to use in a *reasonable manner*?  
Why or Why not?  
**Becker Yes    Borgmann Yes    Tippelt Yes    Meyer Yes**
4. Are there *unique circumstances* to the property not created by the landowner?  
Why or Why not?  
**Becker Yes    Borgmann Yes    Tippelt Yes    Meyer Yes**
5. Will the variance, if granted, maintain the *essential character* of the locality?  
Why or Why not?  
**Becker Yes    Borgmann Yes    Tippelt Yes    Meyer Yes**

IF ALL OF THE ANSWERS ARE "YES", THE CRITERIA FOR GRANTING THE VARIANCE HAVE BEEN MET.

**Motion by Meyer, second by Borgmann, to approve the Mimbach variance request as presented. Motion carried unanimously.**

**Item 5) PUBLIC HEARING – Jeff's Auto Body Sign Variance**

**STAFF REPORT**

Owners: Jeffery and Gina Kraus dba: Jeff's Auto Body  
Property Address: 9785 County Road 6  
Legal Description: 75.03A P/O N2NE4 & N 33 1/3 RODS of S2NE4 & P/O E2NW4 Lying E RR ROW Less 41 Acres & Less Hwy 23 ROW Section-Township-Range 03-123-029  
Zoning District: B-2 – General Business

Variance Requested:

1. Variance to construct a 4.2' x 19.95, 84sf Electronic sign on top of his current 6.8 x 19.95, 136sf for a total 220sf

Section 12, Subdivision 16.

- B.1. Maximum aggregate area for lot.
  - a. Single entity occupant property – One (1) square foot per lineal front foot.
- B.3. Maximum sign area of freestanding signs
  - a. If facing Trunk Highway 23 – One hundred-fifty (150) square feet.
  - b. If facing other arterial or collector street – One hundred twenty- five (125) square feet.

Relevant Information:

- 1. This property is located on the West side of CR 6 at the intersection of State Highway 23.
- 2. Property 4.56 acres more or less.
- 3. Front footage (Hwy 6) 760 lineal feet more or less, (Hwy 23) 183 lineal feet more or less
- 4. 6 notices of public hearing were sent out.

RECOMMENDATION

- 1. Approve

Duane Willenbring, 25123 County Road 139, questioned the current sign ordinance in a B-2 district. Administrator Bode provided the answer as listed in the Staff Report above.

***Motion by Borgmann, second by Tippelt, to close the Public Hearing at 6:45 p.m.***

After discussion Planning Commission reviewed the following Finding-of-Fact:

**Owner: Jeff's Auto Body  
FINDING OF FACT  
SUPPORTING/DENYING A VARIANCE**

A variance may be granted when the applicant for the variance established that there are practical difficulties in complying with the zoning ordinance. The consideration of the following criteria as defined in Minnesota Statutes Section 462 and Minnesota Statutes Section 394.27:

- 1. Is the variance in *harmony* with the purposes and intent of the *ordinance*?  
Why or Why not?  
**Becker Yes    Borgmann Yes    Tippelt Yes    Meyer Yes**
- 2. Is the variance *consistent with* the *comprehensive plan*?  
Why or Why not?  
**Becker Yes    Borgmann Yes    Tippelt Yes    Meyer Yes**
- 3. Does the proposal put property to use in a *reasonable manner*?  
Why or Why not?  
**Becker Yes    Borgmann Yes    Tippelt Yes    Meyer Yes**
- 4. Are there *unique circumstances* to the property not created by the landowner?  
Why or Why not?  
**Becker Yes    Borgmann Yes    Tippelt Yes    Meyer Yes**
- 5. Will the variance, if granted, maintain the *essential character* of the locality?  
Why or Why not?  
**Becker Yes    Borgmann Yes    Tippelt Yes    Meyer Yes**

IF ALL OF THE ANSWERS ARE "YES", THE CRITERIA FOR GRANTING THE VARIANCE HAVE BEEN MET.

***Motion by Meyer, second by Tippelt, to approve the sign variance request as presented. Motion carried unanimously.***

**Item 6) PUBLIC HEARING – Zoning Amendments**

**Public Hearing Notice: ORDINANCE NO. 2016-86 – Amending Sections of Zoning Ordinance**

RE: Section 9, subd.2, Accessory Buildings  
Section 9B, Site Plan  
Section 33 Storm Water Management

Planning Commission reviewed the following proposed ordinance amendments:

**ORDINANCE NO. 2016-86**

ORDINANCE AMENDING CERTAIN SECTIONS OF THE CITY OF ROCKVILLE ZONING CODE

WHEREAS, the City Council of the City of Rockville adopted official zoning controls (“Zoning Code”) pursuant to the authority granted in Minnesota Statutes, Chapter 462 in April 2003 which replaced all pre-existing official controls; and

WHEREAS, the City Council amended the Zoning Code by Ordinance Numbers 2003-06, 2004-18, 2004-19, 2004-20, 2004-25, 2004-26, 2006-30, 2007-40, 2007-41, 2007-42, 2007-43, 2007-44, 2008-45, 2008-46, 2008-47, 2008-49, 2008-50, 2008-51 and 2008-53; 2009-58, 2009-61, 2009-62, 2009-63, 2010-64, 2011-69, 2011-70, 2011-73, 2012-74, 2012-76, 2014-82, 2015-84 and 2016-85.

WHEREAS, the City Council has the authority pursuant to Minnesota Statutes, Chapter 462 to amend the official zoning controls; and

WHEREAS, the City Council seeks to amend: certain zoning requirements, and

WHEREAS, public hearing was held on December 13, 2016 in front of the City Planning Commission, and members of the public were given an opportunity to comment on the proposed amendment(s)

NOW, THEREFORE, THE CITY COUNCIL DOES ORDAIN TO AMEND THE ROCKVILLE ZONING ORDINANCE AS FOLLOWS:

SECTION 33: STORMWATER MANAGEMENT Subdivision 12b;A-3 is hereby amended as follows:

3. On a General or Recreational Development lake, 15%, except that a lot of record may contain up to 25% impervious surface, without a variance, if the parcel provides a plan to the City that treats surface water runoff for water quality, as provided in 13(b).

SECTION 9: GENERAL REQUIREMENTS Subdivision 2;F is hereby amended as follows:

- F. Site Plan Required. All accessory structures shall require a building permit and approval of a Site Plan.

SECTION 9: GENERAL REQUIREMENTS Subdivision 2;H is hereby amended as follows:

- H. Design and Appearance of Exterior. All accessory buildings greater than 200 square feet shall be constructed so that the appearance of its exterior is uniform and resembles the color and material of the principal structure. For purposes of this Subdivision 2(G):

SECTION 9B: SITE PLAN Subdivision 1;1-i is hereby amended as follows:

- i. The erection or construction of any principal structure or building and/or any accessory structure within any zoning classification require submittal of a site plan to the City; except that single/two family residential units on lots within approved subdivisions shall be exempt providing they adhere to elevations and building types as approved with the grading/drainage plan.

SECTION 9B: SITE PLAN Subdivision 2;2-A,a is hereby amended as follows:

- a. Building permit applications for the construction of principal structures and/or accessory structures in the R-1 single family and R-2 two family district shall illustrate the location of the proposed building(s) relative to property lines, easements (public and private), elevations and the uses of all remaining land.

SECTION 9B: SITE PLAN Subdivision 2;2-B,a is hereby amended as follows:

- a. Building permit applications for the construction of principal and accessory structures in the A-40 Agricultural District shall illustrate the location of the proposed building(s) relative to property lines, easements (public and private), elevations and the uses of all remaining land.

SECTION 17: R-1 SINGLE FAMILY RESIDENTIAL DISTRICT Subdivision 3;4, is hereby amended as follows:

4. Accessory Buildings (not exceeding two hundred (200) square feet in area) for storing domestic equipment and non-commercial recreational equipment.

SECTION 18: R-2 TWO FAMILY RESIDENTIAL DISTRICT Subdivision 3;3, A, is hereby amended as follows:

- A. Accessory Buildings (not exceeding two hundred (200) square feet in area) for storing domestic equipment and non-commercial recreational equipment.

***Motion by Borgmann, second by Tippelt, to close the Public Hearing at 6:45 p.m.***

Following discussion the Planning Commission decided to postpone any action until the next meeting.

**Item 7) OTHER BUSINESS –**

- a) Planning Commission Applications  
Received two (2) applications for planning commission vacant seats: Tom Molitor and Brian Herberg.

***Motion by Tippelt, second by Borgmann, to recommend to City Council to approve the two new Planning Commission applicants. Motion carried unanimously.***

- b) Next Meeting January 10, 2017, 6:00 p.m.

***ADJOURNMENT – Motion by Meyer, second by Borgmann to adjourn the meeting at 7:06 p.m. Motion carried unanimously.***

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**Martin M. Bode**  
**Zoning Administrator**

**CITY OF ROCKVILLE, MINNESOTA**

**RESOLUTUION 2016-XX**

**A Resolution of Finding of Fact Regarding the Variance Request from Kathleen Mimbach to the City of Rockville Side Yard Setback Requirements in an R-1, Shore Land Zoning District**

**WHEREAS**, the Rockville Planning Commission held a public hearing on December 13, 2016 and recommended approval of the variance to the Rockville City Council;

**WHEREAS**, The Rockville Planning Commission adopts the following findings of fact:

FINDINGS OF FACT

1. The current zoning of Subject Property is R-1 Single Family Residential District within the Shoreland Overlay District; and
2. The current zoning of the surrounding properties is R-1 Single Family Residential District (north and south) and A-40 Agricultural District to the east (wetland); and
3. The current land use of Subject Property a detached single family dwelling; and
4. The current land use of surrounding properties is detached single family dwellings to the north and south, with agricultural (wetland) to the east; Grand Lake is to the west; and
5. The lot size of the Subject Property is fifty (50) feet in width and approximately 320 feet in depth equating to a lot area of approximately 16,000 sf. The property immediately south is a similarly shaped residential parcel. The Subject Property was created decades ago and precedes consolidation and the institution of zoning standards; and
6. The Subject Property is a riparian parcel on Grand Lake; and
7. Section 30, Subd. 2 of the Rockville Zoning Ordinance requires consideration of the following when reviewing variance requests; and
  - a. *Unique Circumstances*: There are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district as follows:
    - i. The parcel was created prior to consolidation of the township and the City.

- ii. The parcel was created prior to the existence of land use regulations.
- iii. The parcel was developed as a single family detached dwelling nearly 70 years ago.
- iv. The original dwelling is not positioned on the property perpendicular to the front lot line, rather it is askew from being parallel with the side lot lines.
- v. The original dwelling was found to be in disrepair and in need of updating.
- vi. When the dwelling was updated it was expanded 13.8 feet to the east into the front yard (toward Agate Beach Road).
- vii. The dwelling expansion extended the original setback line.
- viii. The City approved a site plan acting in good faith the original setbacks were adequate.
- ix. After repairs were completed it was determined the original footprint of the dwelling encroached into side yard setbacks required under Section 17, Subd. 6 of the Zoning Ordinance (ten feet is required).
- x. The extent of encroachment is limited to an area 13.8 feet in length with a depth ranging from 3.1 feet (west) to 3.5 feet (east).
- xi. Since the construction has been completed, in good faith, while it appears physically possible to meet the required setback (reconstructing the expansion and offsetting the expansion from the existing side building wall), doing so will involve additional cost, disruption within the shoreland overlay, and disturbance of additional soil area; and

8. *Reasonable use of the property.* The requested variance is reasonable in that the front, side (south), and rear required setbacks are met. The parcel, which was created prior to modern zoning standards, is by today's standards a narrow and deep lot. The variance is of limited area. The limited area of the variance, the fact the site plan was approved by the City (acting in good faith), and the significant costs for remedying the encroachment are evidence the variance is reasonable; and
9. *Not merely economic.* Cost or expense saving is not the sole rationale for the variance. The existing parcel is narrow and deep in shape. In addition, the original dwelling is placed unusually on the parcel and not perpendicular to the road or parallel to the side property line. The City, operating in good faith, previously approved a site plan and construction has been completed. This is an 'after the fact' variance; and
10. *Neighborhood Character Maintained.* The variance does not alter the essential character of the neighborhood as the use is consistent with single family dwellings on riparian lots adjacent to Grand Lake. The variance is for a performance standard and not for the use of the property; and

11. *Spirit of Zoning Ordinance and Comprehensive Plan Retained.* Planned and existing land use are consistent with continued low density residential use. Comprehensive Plan. Providing for continued low density residential use is fitting with the residential character of the existing built environment.

**NOW THEREFORE;** The Rockville Planning Commission does hereby Adopt/Approve of the aforementioned Finding of Fact in the matter of the Kathleen Mimbach request for a variance to the City of Rockville side yard setback requirements.

Adopted by the Rockville Planning Commission this \_\_\_\_\_ day of January, 2017.

ATTEST:

\_\_\_\_\_  
Bill Becker, Chair

\_\_\_\_\_  
Martin M. Bode, Zoning Administrator

Further Adopted by the Rockville City Council this \_\_\_\_\_ day of January, 2017.

ATTEST:

\_\_\_\_\_  
Duane Willenbring, Mayor

\_\_\_\_\_  
Martin M. Bode, City Administrator

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- H. **Design and Appearance of Exterior**. All accessory buildings greater than 200 square feet shall be constructed so that the appearance of its exterior is uniform and resembles the color and material of the principal structure. For purposes of this Subdivision 2(G):

**SECTION 9B: SITE PLAN Subdivision 1;1-i is hereby amended as follows:**

- i. The erection or construction of any principal structure or building and/or any accessory structure within any zoning classification require submittal of a site plan to the City; except that single/two family residential units on lots within approved subdivisions shall be exempt providing they adhere to elevations and building types as approved with the grading/drainage plan.

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4. Accessory Buildings (not exceeding two hundred (200) square feet in area) for storing domestic equipment and non-commercial recreational equipment.

**SECTION 18: R-2 TWO FAMILY RESIDENTIAL DISTRICT Subdivision 3;3, A, is hereby amended as follows:**

- A. Accessory Buildings (not exceeding two hundred (200) square feet in area) for storing domestic equipment and non-commercial recreational equipment.

**EFFECTIVE DATE:** This ordinance shall become effective upon its passage and publication in the official newspaper.

Dated this 21<sup>st</sup> day of December, 2016

**ATTEST:**

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**Martin M. Bode**  
City Administrator/Clerk

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**Jeff Hagen**  
Mayor

Published: Cold Spring Record  
December 27, 2016