

CITY OF MEDINA
PLANNING COMMISSION
Meeting Minutes
Tuesday July 9, 2019

1. **Call to Order:** Chairperson Reid called the meeting to order at 7:00 p.m.

Present: Planning Commissioners Aaron Amic, Peter Galzki, Beth Nielsen, Kerby Nester, Cindy Piper, Robin Reid, and Rashmi Williams.

Absent: None.

Also Present: City Planning Director Dusty Finke and Planning Intern Ben Schneider.

2. **Public Comments on Items not on the Agenda**

No comments made.

3. **Update from City Council Proceedings**

Albers reported that the Council met on June 18th and approved the lot line rearrangement for two properties on Medina Road, approved the vacation of easements for 1495 Medina Road, and approved the wetland setback variance for a sewer system for 485 Medina Road. He noted that the Council also reviewed the Charlie's concept once again and provided comments along with the Ditter concept plan, noting that the Council had no concerns with that plan. He noted that at the July 2nd meeting the Council reviewed a wetland buffer vacation request and approved that request for 3157 Wild Flower Trail. He noted that the Council also adopted the ordinances related to Uptown Hamel that the Planning Commission previously recommended for approval.

4. **Planning Department Report**

Finke provided an update.

5. **Public Hearing – Ordinance Amendment – Chapter 8 of the City Code Related to Setbacks From Streets Within the Single and Two Family Residential (R-2) Districts**

Finke presented a request from property owners in the Enclave neighborhood to reduce the setback from minor collector roadways from 35 feet to 30 feet. He stated that currently the R-2 zoning district mainly applies to the north end of the Enclave neighborhood and in the Fields of Medina neighborhood along Meander Road. He noted that staff reviewed the existing properties and the setbacks currently exceed the setback by a fair amount, with the exception of two properties in the northern end of the Enclave which were constructed with setbacks of 36-feet and 43-feet. He stated that the applicant provided research related to setbacks from other communities which was included in the staff report. He noted that none of the other communities required a larger setback along minor collector roadways, but most communities require a front setback when the backyard is adjacent to a roadway. He stated that the vision and goals of the Comprehensive Plan were included in the report, highlighting the rural character, desire for open space and preservation of rural vistas. He stated that the request would reduce the rear setback to be equal to the front setback when adjacent a minor collector road. He stated that staff did not see a good reason to limit the discussion to the R-2

zoning district as many districts are similar. He stated that if it would make sense to reduce the setback in this case it would make sense to discuss a similar reduction in other similar residential districts. He stated that if the larger setback stays in place staff identified some potential issues related to lot depth and lot size.

Reid asked whether this change would impact all existing R-2 properties and future development in the R-2 district. Finke confirmed that it would.

Amic noted that this would only apply to properties that abut a minor collector roadway within that district.

Nester referenced the information provided from other communities, noting that Corcoran requires 100 feet for a rear setback for a arterial roadways.

Galzki stated that the report mentioned that a variance had been considered but staff did not believe a unique situation existed. He did not see the purpose in rewriting the ordinance for one or two requests and believed that a variance would be a better route.

Finke stated that because the lot depth exceeds the minimum by such an amount, he was unsure the context that could be used to provide practical difficulty other than the chosen depth of the house when constructed, which it did not seem like a unique circumstance.

Galzki asked if the lot depth is the choice of the homeowner or the builder.

Finke stated that the builder/developer is the owner of the property when making the decision on lot depth. He stated that if the lot was created at the minimum standards and did not leave a sufficient building pad, that may be a difficulty, but that is not the case here.

Williams asked if there is any other way to have this approved without a change to the ordinance.

Finke stated that the applicant could apply for a variance, but a unique situation/practical difficulty would need to be identified that would support the request.

Galzki stated that he would see a variance as more appropriate than a zoning change.

Nester noted that the homeowner still knowingly purchased the home knowing the size of the lot and placement of the home.

Matthew Cole, applicant, stated that he moved into his home five years ago noting that the home was previously built. He stated that he was made aware of the setback issue when purchasing the home but noted that they had been told that their neighbors were able to obtain a variance to construct their deck. He noted that he later learned that information was incorrect. He stated that he came to Finke a few months ago to discuss the ability to obtain a variance for a deck. He stated that he did obtain signatures from those in his neighborhood supporting his request for a deck. He noted that after discussions with staff it was determined that his variance may be difficult to justify and a change in code would be another option to pursue. He stated that the request would impact very few properties in the communities, those within R-2 that abut minor collector roadways. He stated that the reduced setback would allow him to construct a deck large enough to support a table for his family. He noted that if this is not approved, they would not be able to construct a deck with sufficient space and their alternate option would be hardscape. He noted that he could not find anyone else that this would impact and that is why no one is here tonight.

Reid opened the public hearing at 7:34 p.m.

No comments made.

Reid closed the public hearing at 7:34 p.m.

Williams stated that this seems excessive to change the ordinance for this purpose. She acknowledged that the developers are not always sharing the right information. She stated that while she would like the property owner to be allowed to enjoy dinner on their deck, she also understands the desire to keep the rural character of Medina.

Galzki stated that either way he would like the property owner to be able to construct a deck on their property but would like to do that in the best way that makes sense for the City. He stated that he has worked with residential developers in the past and their largest concern is getting the largest number of lots out of a development while meeting the minimum lot standards. He noted that there are always a few lots in a development that will be challenged by setbacks or wetland location. He stated that he would have a hard time reducing the setback and changing the ordinance to accommodate this request. He believed that a variance would be the better choice.

Nielsen stated that she also struggles with the issue. She applauded the property owner for all his research and hard work on the topic. She noted that the owner can do an 8-foot wide deck across much of the home, which some people may find sufficient.

Nester stated that she does not believe amending the ordinance would be the best choice.

Amic asked for details on the requirement for a variance.

Finke stated that staff spent a fair amount of time reviewing this request and the different methods that could be used. He stated that the problem with blaming the person that owned before you would not be unique and could be applied to everyone in the community. He noted the three point test for a variance: 1) consistent with purpose and intent of the ordinance; 2) consistent with Comp Plan; 3) practical difficulties. In determining if there are practical difficulties: 1) use of property must be reasonable (including minimizing the variance as much as possible); 2) circumstance unique to property, not caused by owner; 3) will not impact character of the locality.

Amic stated that it appears that in terms of a variance it would depend how liberally the Commission would want to interpret the criteria. He stated that he also believes that it does matter if there are less stringent setbacks in other rural communities. He stated that this issue would only impact a small number of properties and he does not see a large difference between 35 and 30 feet.

Piper stated that it seems there is agreement that the Commission would like to be able to allow the resident to construct a deck but is struggling between whether a variance or zoning change would be appropriate. She asked if there is an option in between.

Finke stated that you would either follow the rules or change the rules. He noted that Plymouth allowed an exception for decks to encroach into the setback. He stated that the problem is that builders want to maximize the buildable space on the lot which does not leave a lot of room for other structures, such as decks. He stated that the builder is going to fill the building envelope, whatever that envelope is, and will still leave the issue of decks.

Reid stated that she would have a problem changing an ordinance that would impact the entire City and future development but would like to find a way to allow this deck to be constructed. She did not believe it appropriate to make an ordinance change to accommodate one homeowner. She stated that the City has always been tight in its review of variances and if staff could not find something that would qualify for the criteria, she was unsure that would be approved.

Piper stated that there has to be a way to do this using a variance.

Cole stated that he and his wife believed that they could meet the variance criteria. He noted that there are a number of things Lennar promised the neighborhood that did not come to fruition.

Reid stated that the hardship for this request could be the kitchen bump-out that the home has, as that is unique to the home and makes the smaller deck less practical.

Finke stated that the unique situation would be that the home is located on a cul-de-sac and the home is oddly situated on the lot. He noted that if the home were oriented in a different manner there would have been space for a deck.

Nielsen asked if an exception to the setback could be made for the deck.

Finke noted that could be an option. He noted that Plymouth has done a similar exception because they too were having a lot of similar issues.

Reid agreed that perhaps the better option would be to allow decks to encroach into the setback a certain number of feet, using a suggestion of five feet.

Finke stated that he would believe it appropriate to then apply the encroachment to other similar districts, but adding additional regulations using the example of only those lots abutting minor collector roadways.

Reid agreed that this could be allowed making a minor change to the ordinance but noted that this would not be the right ordinance amendment.

Finke noted that builders will take advantage of the encroachment option and make the home larger.

Galzki stated that he believes that the entire ordinance should be reviewed, noting that perhaps a larger setback be required and then allowing a deck encroachment.

Williams stated that the landscape of Medina is changing, the developments being constructed are changing and therefore agreed that the ordinance as a whole should be reviewed in attempt to eliminate this issue in the future.

Nester agreed that perhaps the setback should be reviewed, but noted that she probably wouldn't support a reduction to 30 feet for decks.

Finke asked if the Commission would be in agreement with having decks extending five feet into the rear setback for homes along minor collector roads. He stated that if that is the direction, he can review the ordinance in more detail to review setbacks and lot depth.

Galzki asked if the ordinance could state a time period, using the example of every home constructed prior to July 1, 2019 could encroach and then setting new standards for homes constructed after that time to protect the building envelope.

Finke replied that could be done but that would add another level of complexity. Existing homes which did not meet the new standard would receive nonconformity protections.

Motion by Galzki, seconded by Williams, to recommend denial of the ordinance amendment related to setbacks from streets within the single- and two-family residential districts. Motion carries unanimously.

Amic stated that this issue has brought up some larger issues to review in the ordinance and believed that this would be a good time for the City to review the ordinance.

Motion by Piper, seconded by Nielsen, to recommend that the City review setbacks and lot depth in relation to major roadways.

6. **Public Hearing – Ordinance Amendment – Chapter 8 of the City Code Related to Sign Illumination**

Finke stated that this language was brought to the attention of the City following a recent sign request. He noted that commercial highway and business allow for an internally lighted sign along any roadway while the other districts would prohibit internal lighting and would only allow external lighting unless adjacent to Highway 55. He stated that CR 116 is a major roadway and perhaps it would make sense to allow internally lit signs along that roadway as well. He noted that another option would be to consider arterial roadways but noted that there are no applicable properties in those districts. He stated that another consideration was to prohibit internally lit signs within 200 feet of residential property, while the last consideration would permit internally lit signs and rely on the illumination regulations. He stated that the proposal in front of the Commission would allow internally lit signs on any arterial roadway and all other roadways except within 200 feet of residential properties.

Piper asked if there is an urgency on this topic.

Finke stated that there is a property owner on CR 116 interested in a sign, but an application has not yet been submitted.

Reid stated that the only problem she would see on CR 116 is the proximity of residential properties to the AutoMotorPlex and Loram.

Nielsen noted that the signs would still need to stay within the requirement for lumens.

Williams asked if the previously mentioned study has been completed.

Piper noted that she could follow up with that resident, although it was noted that resident was interested in street lighting.

Reid opened the public hearing at 8:20 p.m.

No comments made.

Reid closed the public hearing at 8:20 p.m.

Galzki asked the lumens of the Medina Ballroom sign.

Finke stated that some of the colors exceed 500 nits but confirmed that some elements are grandfathered in.

Galzki stated that they are about 1,000 feet from that sign and still have a soft glow from the sign at night. He believed that 200 feet would be too close.

The Commission stated that they would like to see additional information on this topic.

Reid suggested that the application be limited to a certain distance from Highway 55 as that would help to contain the internally luminated signs.

Finke stated that there would be two issues, whether the signs will be allowed and then the allowed lumens for those signs.

Amic stated that he does not prefer internally lit signs.

Williams stated that she sees the needs for an internally lit sign for a gas station that is open at night but does not see the reason for a business that is not open at night.

Galzki noted that it appears that there would need to be further discussion on the topic because a change is considered.

Motion by Williams, seconded by Amic, to recommend denial of the ordinance amendment related to sign illumination. Motion carries unanimously.

7. **Approval of the June 11, 2019 Draft Planning Commission Meeting Minutes.**

Motion by Nielsen, seconded by Amic, to approve the June 11, 2019, Planning Commission minutes as amended. Motion carries unanimously.

8. **Council Meeting Schedule**

Finke advised that the Council will be meeting the following Tuesday and Williams volunteered to attend in representation of the Commission.

9. **Adjourn**

Motion by Galzki, seconded by Piper, to adjourn the meeting at 8:42 p.m. Motion carried unanimously.