



MINUTE SUMMARY
Regular Meeting of the Edina Planning Commission
July 1, 2009, 7:00 PM
Edina City Hall Council Chambers
4801 West 50th Street

MEMBERS PRESENT:

Chair Michael Fischer, Jeff Carpenter, Nancy Scherer, Julie Risser, Kevin Staunton, Michael Schroeder, Steve Brown, Floyd Gabiel, Arlene Forrest, and Patrick Schnettler

STAFF PRESENT:

Cary Teague and Jackie Hoogenakker

I. APPROVAL OF THE MINUTES:

Commissioner Gabiel moved approval of the May 27, 2009, meeting minutes. Commissioner Brown seconded the motion. Commissioner Risser recommended a change to the minutes, accepted by Commissioners Gabiel and Brown. All voted aye; motion carried.

II. NEW BUSINESS:

**2009.0005.09 Lucachick/Cole
5920 Oaklawn Avenue, Edina**

Planner Presentation

Planner Teague informed the Commission Mr. David Lucachick and Ms. Brenda Cole are proposing to subdivide their existing property at 5920 Oaklawn into two lots. The existing home would remain, and a new home built on the new lot. The existing detached garage and existing driveway would be removed from the site. Planner Teague said the proposal requires the following: 1. A subdivision; 2. Lot width variances from 75 feet to 50 feet for each lot; and 3. Lot area variances from 9,000 square feet to 6,710 and 6,707 square feet.

Continuing, Planner Teague explained that both lots would gain access off Oaklawn Avenue. Within this neighborhood, the median lot area is 6,699 square

feet, median lot depth is 134 feet, and the median lot width is 50 feet. The new lots would meet the medians.

Planner Teague noted to address staff concern over the size of the proposed home compared to the neighborhood, the applicant agreed to reduce the building footprint to 1,864 square feet, when the City Code would allow up to 2,013

square feet. A home with an 1,864 square foot footprint would have the largest footprint in the neighborhood. The applicant intends to sell the proposed new lot.

Planner Teague concluded that staff recommends that the City Council approve the two lot subdivision of 5920 Oaklawn Avenue with the lot width variances from 75 feet to 50 feet for each lot, and lot area variances from 9,000 square feet to 6,707 and 6,710 square feet. Approval is based on the following findings:

1. Except for the variances, the proposal meets the required standards and ordinance for a subdivision.
2. The subdivision would meet the neighborhood medians for lot width, depth and area.
3. The proposal meets the required standards for a variance, because:
 - a. There is a unique hardship to the property caused by the existing size of the property which is two times the size of every lot on the block.
 - b. The requested variances are reasonable in the context of the immediate neighborhood. The existing lot is both larger and wider than most properties in the area, including every lot on the block. The proposed subdivision would result in two lots more characteristic of the neighborhood.
 - c. The proposed lots would be the same size as the lots were originally platted.
 - d. The variances would meet the intent of the ordinance because the proposed lots are of similar size to others in the neighborhood.

Approval is also subject to the following conditions:

1. The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.
2. Prior to issuance of a building permit, the following items must be submitted:
 - a. Submit evidence of Minnehaha Creek Watershed District approval. The City may require revisions to the preliminary plat to meet the district's requirements.
 - b. A curb-cut permit must be obtained from the Edina Engineering department.

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- c. A survey showing existing and proposed contours. Drainage from the new home, garage and driveway needs to drain to Oaklawn Avenue, and not toward adjacent property. A curb must be installed on the north edge of Lot 1 and south edge of Lot 2 to contain water runoff. Final drainage plans are subject to review and approval of the city engineer.
 - d. The existing garage must be removed, and a building permit issued for a new 2-car garage Lot 1.
 - e. Utility hook-ups are subject to review of the city engineer.
3. The building footprint of the new home on Lot 2 shall be limited to a footprint of 1,864 square feet.

Appearing for the Applicant

David Lucachick, property owner.

Applicant Presentation

Mr. Lucachick, 5920 Oaklawn Avenue, addressed the Commission and informed them he has lived at 5920 since 1986. Mr. Lucachick reported that he shared his subdivision plans with his neighbors and they indicated their support for the division. Concluding, Mr. Lucachick said his aim is to build a house that maintains the character of the neighborhood.

Comments and Questions from the Commission

Commissioners commented they struggle with identifying a “hardship” to support the requested subdivision; however, Commissioners suggested if approved the house that is eventually built on the “new” lot should be built without variances.

Planner Teague pointed out on this block all lots are 50 feet in width (except for the subject property). If the subdivision were denied the applicant would be denied a use everyone else has on this block.

Public Testimony

Richard Whitbeck, 6128 Brookview Avenue, addressed the Commission and stated he believes if this lot is subdivided a precedent could be set for the Brookview neighborhood.

Janey Westin, 6136 Brookview Avenue, stated she believes if the Commission/Council approves the proposed subdivision it would be a step backward, adding it would also set a precedent.

Jackie Whitbeck, 6128 Brookview Avenue told the Board if one viewed the broader area (not just the 500 foot neighborhood) there are a number of lots over 50 feet in width. Mrs. Whitbeck acknowledged that taste can't be dictated pointing out the neighborhood has no guarantee that what is constructed would fit the character of the neighborhood.

Commissioner Brown moved to close the public testimony. Commissioner Scherer seconded the motion. All voted aye; motion carried.

Commission Discussion

Commissioner Scherer commented that in this instance she can't support staff's position and defers to the current code. Commissioner Scherer said in her opinion adhering to the original plat isn't a hardship.

Commissioner Staunton commented that if he understands correctly the application before the Commission this evening is for a subdivision and asked Planner Teague if there is language in the subdivision ordinance that requires the resulting lots to comply with the zoning code. Planner Teague responded that there is a provision in the subdivision ordinance addressing variances. Commissioner Staunton asked if criteria for granting subdivision variances are different from zoning ordinance variances. Planner Teague responded in the affirmative, adding the language is slightly different. They both contain hardship standards but are worded differently.

Commissioner Grabiell noted that a few years ago the Commission and Council reviewed and approved a similar subdivision request creating lots less than 75 feet in width in the France/Ewing neighborhood and on that subdivision further restrictions were imposed. Planner Teague agreed, adding the restrictions placed on the France/Ewing subdivision were to ensure that the homes built on the new lots would match the character of the neighborhood. Continuing, Commissioner Grabiell suggested if approved to ensure that "proper" house size and placement is maintained further restrictions should be placed on both lots.

Commissioner Risser observed that so far neighborhood public testimony appears to be focused on what occurred or could occur on Brookview Avenue, adding in her opinion these two blocks aren't the same. Commissioner Risser commented that a 50 foot lot on this block where all other lots are 50 feet appears to make more sense than one lot at 100 feet. Planner Teague agreed, adding he sees a distinction between these two neighborhoods. Continuing, Commissioner Risser asked if there are any "tools" residents of the Brookview neighborhood can use to ensure that their block is protected from subdivision requests. Planner Teague responded that he doesn't believe so. A property owner has the right to apply for a subdivision; however, it doesn't mean it will be approved

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Commissioner Forrest commented that she understands where both Commissioner Grabiell and Scherer are coming from. Commissioner Forrest stated she agrees that property owners have the right to utilize their property to what's allowed under Code, but in this instance she struggles that a hardship is too large of a lot. Commissioner Forrest also pointed out if approved vegetation will be lost. Commissioner Grabiell commented that while he supports preserving trees there isn't any language in the code that would prohibit a property owner who subdivides from removing trees to accommodate a building pad, likewise, there is no code requirement prohibiting property owners from removing trees/vegetation on their single family lots.

Commissioner Staunton questioned if in this case the "letter of the law" is applied as it is laid out in Ordinance 850 is the spirit and intent of the code really being met. He pointed out 22 lots on the block are 134 X 50 - with one lot different. Commissioner Staunton reiterated does preventing this one lot from changing really meet the spirit of the code. Continuing, Commissioner Staunton added that in his opinion the subdivision ordinance was crafted to support and maintain the continuation of neighborhood character districts. Commissioner Staunton stated he appreciates the concern that if approved a ripple effect may occur elsewhere, however, in his opinion if approved it would be much more likely to create the right outcome for this block, this neighborhood. Concluding, Commissioner Staunton said he would support the subdivision request as proposed if a "footprint" condition was attached as per staff recommendation

Commissioner Brown commented that it can be perplexing navigating between two codes (810-850). Continuing, Commissioner Brown said he believes what's important here is to maintain the character of the neighborhood by ensuring, if approved, that the home(s) built "fit(s)" the neighborhood. The extra restrictions recommended by Planner Teague make sense.

Chair Fischer pointed out the Commission worked long and hard during the Comp Plan revision process recognizing the different character districts within the City and indicating in the plan that character districts are important to pay attention to and maintain. Continuing, Chair Fischer pointed out the early subdivisions in Edina were of rather small lots. He noted that sometime in Edina's history the Zoning Ordinance was changed requiring all lots to have a lot width of 75 feet. Chair Fischer pointed out that the Zoning Ordinance is a blanket deal, it's City wide and right now the "letter of the law" doesn't fit a number of neighborhoods, creating many non-conforming areas. Concluding, Chair Fischer said the change in code really places smaller lot neighborhoods at a disadvantage.

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Commissioner Grabiell moved to recommend preliminary plat approval based on staff findings acknowledging a hardship exists – the current

property owner owns adjoining lots on the block and without the benefit of a subdivision the property owner can't do what neighboring property owners do with the same space. Approval is also subject to staff conditions with the additional condition that a footprint restriction be required for both the south and north lot as per staff calculation.

Commissioner Brown seconded the motion. Ayes; Carpenter, Risser, Scherer, Schroeder, Staunton, Brown, Grabiell, Fischer. Nay; Forrest.

Commissioner Scherer acknowledged the restrictions placed on the lot(s) and asked Planner Teague if he believes the imposed restrictions are enforceable. Planner Teague responded they are enforceable. Planner Teague explained that a Resolution will be filed with Hennepin County indicating the conditions placed on the subdivision. The building department is also informed of the restrictions and the address(es) are flagged to ensure compliance with the Resolution.

2009.0004.09b Ordinance Revision PSR Zoning District

Planner Presentation

Planner Teague reported that at the June 16, 2009 City Council meeting, during the review of the 7500 York senior housing project, it was discovered that the Zoning Ordinance does not allow Efficiency Dwelling Units within the PSR, Planned Senior Residential Districts. As a result, the City Council set a public hearing date of July 7, 2009, to consider a zoning ordinance amendment to allow efficiency units within these Zoning Districts. The Council asked the Planning Commission to review and make a recommendation on the Zoning Ordinance amendment. The 7500 York project was approved by the City Council, subject to approval of a Zoning Ordinance Amendment that would allow efficiency units within the PSR Districts.

Planner Teague explained that the PSR Districts were established in 1977. The intent of the ordinance was to provide affordable housing for elderly residents. The Ordinance was drafted at the time that South Haven was proposed; which included 99 1-bedroom units that were 550 square feet in size and one caretaker unit that is 800 square feet in size. The Ordinance was later amended to allow two bedroom units up to 850 square feet in size. This change was made to accommodate a proposal to build a 7-story senior housing project at the 7500 York site. That project was never built; however, the Ordinance was still

amended. In 1984, the entire Zoning Ordinance was amended and codified. It was at that time that the specific language regarding efficiency dwelling units appears. The minutes do not reflect any discussion on that specific language.

Planner Teague concluded to address this issue, staff is recommending approval to allow efficiency units within the PSR District. The Ordinance would allow senior housing developments, such as the 7500 York project to proceed with development of efficiency units in their projects. The regulations for senior housing, including size of dwelling units, will then be further evaluated as part of the overall Zoning Ordinance re-write.

Commission Questions and Discussion

A discussion ensued with Commissioners acknowledging the noted discrepancy in the Code; however, Commissioners indicated they would like to revisit this portion of the Code during the ordinance rewrite. Chair Fischer commented that size restrictions should be reviewed on both ends.

Commission Action

Commissioner Brown moved to recommend amending the ordinance to allow efficiency units in the PSR zoning district. Commissioner Scherer seconded the motion. All voted aye; motion carried.

III. COMMUNITY COMMENT:

Janey Westin, 6136 Brookview Avenue, acknowledged the article in the Sun Current from Commissioner Schroeder and stressed to the Commission the importance of trees remaining in the city's landscape.

IV. OTHER BUSINESS:

Work Session Updates

Chair Fischer acknowledged the success of the June 10th work session with members from the Energy and Environment Commission and suggested that a work session be scheduled on July 29 (prior to the Planning Commission meeting) with chairpersons from the HPB, Transportation and Park Board invited to attend. Commissioners agreed.

Continuing, Chair Fischer suggested that at the August 12th work session Dan Cornejo, Interim City Planner and Roger Knutson, City Attorney be present. Chair Fischer commented that he would like to see the work session with the public materialize by the September work session.

V. INTERGOVERNMENTAL BUSINESS:

Chair Fischer acknowledged receipt of the Council Connection and asked Commission Liaisons if there is anything they would like to share from their boards.

Commissioner Risser informed the Commission the Carbon Disclosure Project Report is complete.

Commissioner Carpenter said the bylaw subcommittee will be forwarding to the Commission "new" bylaws for their review.

Commissioner Forrest noted that at a workshop she attended it was mentioned that "The greenest building is an existing building".

VI. ADJOURNMENT:

Commissioner Carpenter moved adjournment at 8:15 pm. Commissioner Scherer seconded the motion. All voted aye; motion carried.

Submitted by