

**MINUTES
CITY OF EDINA, MINNESOTA
PLANNING COMMISSION
CITY COUNCIL CHAMBERS
JUNE 29, 2011
7:00 P.M.**

I. CALL TO ORDER

Chair Grabiell called the meeting of the Planning Commission to order at 7:00 P.M.

II. ROLL CALL

Answering roll call were Commissioners Carpenter, Scherer, Staunton, Schroeder, Forrest, Platteter, Potts, Stefanik and Chair Grabiell.

Excused: Matt Rock

III. APPROVAL OF MEETING AGENDA

The meeting agenda was approved as submitted.

IV. APPROVAL OF CONSENT AGENDA

Minutes of the June 1, 2011 Planning Commission Meeting

Commissioner Staunton moved approval of the June 1, 2011, meeting minutes. Commissioner Scherer seconded the motion. All voted aye; motion carried

Minutes of the June 15, 2011 Planning Commission Meeting

Commissioner Staunton moved approval of the June 15, 2011, meeting minutes. Commissioner Platteter seconded the motion. All voted aye; motion carried

**2011.0006.11a Lot Division
Randy G. Doroff
4212 Branson Street
4213 Morningside Road**

Motion made by Commissioner Potts and seconded by Commissioner Scherer approving the Lot Division for Randy Doroff as recommended by Staff. All voted aye; motion carried.

V. COMMUNITY COMMENT

No comment

VI. PUBLIC HEARINGS

B-11-02 **Julie and Jeff Ryan**
4805 Sunnyside Road

A 5.6 foot side yard setback variance

Planner Aaker informed the Commission that property owners Julie and Jeff Ryan are hoping to remodel a second floor porch into a master bedroom and increase the ridge height of their garage roof to include two dormers, in order to accommodate a master bathroom. The existing area above the garage is currently attic space. All of the new spaces will be a modification within the existing building footprint. The plan will allow conversion of second floor space within the confines of the existing wall areas. The proposed improvements would have a very minor impact on the exterior look of the structure.

Planner Aaker indicated the subject property is located on the south side of Sunnyside Road and adjacent to Minnehaha Creek. The home is a two story Tudor built in 1926 with a front loading two car garage.

Planner Aaker noted that the property is designated as a Heritage Landmark as it is located within the Historic Country Club District and is subjected to a Heritage Landmark over-lay zoning district. The Heritage Preservation Board requires review of changes to street facing facades of Country Club District homes for approval of a Certificate of Appropriateness. The Heritage Preservation Board met on June 14, 2011, and approved a Certificate of Appropriateness for the project.

Planner Aaker concluded that staff recommends variance approval based on the following findings:

- 1) With the exception of the variances requested, the proposal would meet the required standards and ordinances for the R-1, Single Dwelling Unit District.
- 2) The proposal would meet the required standards for a variance, because:
 - a. The proposed use of the property is reasonable; as it is consistent with the goals of the Heritage Preservation Board.
 - b. The imposed setbacks limit design opportunities to improve an existing attic area into living space.
 - c. The intent of the ordinance is to maintain adequate spacing between properties and structures. Spacing will remain the same with all improvements within the footprint.

- 3) The unique circumstances are the property's location within a historic district and challenges with adding to a nonconforming building.

Approval of the variance is also subject to the following conditions:

- 1) Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Survey date stamped: April 27, 2004.
 - Building elevations date stamped: June 14, 2011.
- 2) Submit a copy of the plan for a Nine Mile Creek Watershed District permit. The city may require revisions to the approved plans to meet the district's requirements.

Appearing for the Applicant

Janet Lederle, TAT Architects, stated she was present on behalf of the applicants and would be happy to answer questions on the variance request.

Discussion

Chair Grabiell noted the roof would be raised one foot which required a variance. In addition, the extra dormer required a variance. Planner Aaker explained this was correct as the garage space was being changed into living space.

Chair Grabiell opened the public hearing.

Public Comment(s)

None.

Commissioner Forrest moved to close the public hearing. Commissioner Platteter seconded the motion. All voted aye; motion to close public comments carried.

Motion

Commissioner Carpenter moved approval of a 5.6 foot side yard setback variance to remodel the second floor of the home. Commissioner Potts seconded the motion.

All voted aye; motion carried. 8-0.

Site Plan Review

Commissioner Schroeder recused himself from this item.

Planning Director Teague informed the Commission that the applicant has installed accessory structures on the west side of the recently completed building. These accessory structures include a very large “air cooler” air conditioning unit. By definition, this unit is considered a structure, and therefore, must meet structure setback requirements. The required side-street setback in this instance is 35 feet. The chiller was installed with a 17.4 foot side-street setback; therefore, a 17.6-foot variance would be required for that location.

Planning Director Teague stated, however, rather than request a variance, the applicant is proposing to relocate the unit to the east side of the building to meet the required setback. The air cooler was not shown on the site plan reviewed by the Planning Commission or City Council, and was not shown on the building permit plans that were reviewed by staff at the time of issuance of the building permit. The unit was recently constructed, and planning staff received complaints shortly thereafter.

Planning Director Teague explained the request before the Planning Commission is to consider an amendment to the site plan to relocate the accessory structure to the east side of the building. Staff would further suggest that the Planning Commission consider an amendment to the Zoning Ordinance to allow utilities to be exempt from setback regulations depending on their size. The Ordinance amendment could be considered as part of the Planning Commission’s work on updating the Zoning Ordinance.

Planning Director Teague recommended that the City Council approve the site plan amendment to move the existing air conditioning unit to the east side of the new 76-unit senior housing building at 3451 Parklawn Avenue for the Ebenezer Society, on behalf of the 7500 York Cooperative.

Planning Director Teague concluded that staff recommends a site plan amendment based on the following findings:

1. The proposed plans are consistent with the approved Site Plan for the development.
2. The air conditioning unit would be properly screened, and would not impact the building or parking areas.
3. The air conditioning unit would be relocated to move further away from adjacent residential property and further away from the new building.

Approval is subject to the following Conditions:

1. In addition to meeting the previously approved site plan conditions for the site, the site must be developed and maintained in conformance with the following plans, unless modified by the conditions below:
 - Site plan date stamped June 23, 2011
 - Landscaping plan date stamped June 23, 2011
 - Building elevations date stamped June 23, 2011
2. Per Section 850.10. Subd. 3.B of the City's Zoning Ordinance, a letter of credit, performance bond or cash deposit must be submitted in the amount equal to 150% of the proposed landscaping.
3. The property owner is responsible for replacing any required landscaping that dies.
4. To verify that the unit complies with MPCA noise regulations, performance testing of daytime and nighttime standards is required. The testing must be conducted by an acoustical engineer in accordance with Minnesota Statutes Chapter 7030. The air conditioner unit must be operating at maximum capacity during the testing periods. Final test reports indicating compliance with the noise standards must be submitted to the Edina Health Department. If the regulations are exceeded, the applicant would be required to install a noise reduction kit to the air conditioning unit to comply.

Commissioner Forrest inquired if the unit were relocated to the east property line, would there be noise concerns for the residential properties to the north. Planning Director Teague suggested the applicant address this concern.

Commissioner Carpenter questioned why the air cooler was omitted from the site plan. Planning Director Teague felt this question would be better directed to the applicant. He understood that the unit was not originally planned for.

Commissioner Scherer asked if there were other options, besides moving the unit. Planning Director Teague indicated staff did explore other locations for the unit and it could not be placed on a roof due to its size and weight.

Commissioner Staunton explained the Council and Planning Commission had already approved a site plan for this development. He questioned what rules applied when approving a site plan amendment. Planning Director Teague indicated the City's code required screening for this ancillary structure from adjacent properties and nearby streets. The air conditioning unit met all the required setbacks.

Commissioner Platteter inquired if noise requirements would be met at the new location. Planning Director Teague explained staff has asked this question of the applicant and the unit would have to be tested in the new location.

Commissioner Scherer asked if the proposed arborvitae covered the unit on all four sides. Planning Director Teague noted three sides of the unit would be surrounded by arborvitae.

Commissioner Staunton questioned if noise standards were still being exceeded how the City would enforce noise regulations. Planning Director Teague stated the Health Department would take decibel readings from adjacent property lines to assure the proper noise levels were maintained. He explained this application began as a code enforcement issue. The proposed screening would bring the unit into compliance at the new location.

Commissioner Carpenter questioned if the screening and new location did not bring the noise level into compliance, what other options the applicant had. Planning Director Teague noted a noise reduction kit could be installed on the unit. The unit would have to be removed if City noise standards were not met.

Appearing for the Applicant

Kyal Klawitter, Walker and Associates of Minnetonka, stated he was the project manager of the York Assisted Living project. He thanked the Commission for their time this evening. Mr. Klawitter stated Ebenezer was looking to be a good neighbor to the community and wanted to comply with all City requirements concerning screening and noise standards for this unit.

Mr. Klawitter explained the original site plans brought to the City did not include completed engineering plans. For this reason, the air conditioning unit was omitted from previous site plan discussions. He stated there was no ill intent on his behalf. This was a simple omission and misunderstanding of the City's code. Mr. Klawitter indicated the engineers did not understand that the unit would be construed as an accessory structure therefore requiring screening and additional setbacks. He apologized for the misunderstanding.

Mr. Klawitter stated City Staff has been working diligently on this issue to find a proper solution. He noted the new location of the air conditioning unit would move the unit 230 feet from the nearest residential lot and would be properly screened. Noise levels would be taken at the new location to assure that the unit complied with the City's noise ordinance. He requested the Planning Commission be aware that the relocation of this unit would take time and affect the 50 residents in the assisted living building.

Mark Weispenning, Pope Architects in St. Paul, commented he has thoroughly reviewed the site to find the best location for the unit. He explained the air conditioner would be screened on three sides. The south side would have to remain open to allow

for the proper flow of air to the unit. Over time, the arborvitae would screen the unit from the adjacent roadways.

Discussion

Chair Grabiell commented the applicants had to know that the size and scope of this unit would not be allowed in its present location. He felt it was an embarrassment to the City Council, City staff and the applicant that this unit was operating in its current location. He questioned the expense of the noise abatement unit along with the expense to move the unit.

Mr. Klawitter indicated the expense to move the unit would be \$86,000. The noise abatement unit would be an additional \$30,000 for the equipment plus installation.

Chair Grabiell suggested larger trees be placed around this unit. Mr. Klawitter stated an existing unit was located close to the proposed location. He stated it would be a tight fit and the types of trees that could be located near the unit were limited due to the underground tanks.

Chair Grabiell asked how far the air conditioning unit would be from the assisted living building. Mr. Weispfenning estimated the unit would be approximately 100 feet from the building and 150-175 feet from the 7500 York building.

Commissioner Scherer inquired if the applicant had an estimate on when the geothermal system would be operational. Mr. Klawitter thought the system would be running in several weeks.

Commissioner Potts asked when new noise levels would be taken on the air conditioning unit. Mr. Klawitter indicated that after the site plan amendment was approved by the City, the unit would be relocated, screened and levels could then be tested in early Fall.

Commissioner Platteter recommended that sound modeling be completed before the relocation was completed to assure noise standard success. He also suggested that additional landscaping or a screen wall be added around the unit.

Commissioner Forrest expressed concern with the proposed landscaping and felt that the height of the arborvitae could be increased. She did not feel the screening offered an attractive solution for integrating the unit into the new location. Mr. Klawitter stated berms would require a substantial amount of excavation of this area.

Chair Grabiell opened the public hearing.

Public Comment(s)

Maggie Mank, 7420 Edinborough Way, thanked City staff and the project manager for addressing this issue. She recommended the Planning Commission require the sound abatement for the unit to reduce the noise as much as possible.

Pat Thompson, 7420 Edinborough Way, appreciated the new location and requested that the sound be reduced for the time being.

Linda Tripp Roberts, 7420 Edinborough Way, empathized with her neighbors due to the high noise levels coming from the chiller. She stated she was thrilled with the proposed location change. She encouraged the Planning Commission to approve the site plan change to reduce the negative noise impacts on the adjacent properties.

Susan Farr, 2722 York Avenue, spoke on behalf of Ebenezer and noted her organization was working to be a good neighbor in the City of Edina. She understood the concerns of the neighbors and stated the proper professionals have been brought in to bring about the best solution to this issue.

Chair Grabiell questioned how the noise issues would be addressed for the rest of the summer. Mr. Klawitter stated the geothermal system was being brought online which would reduce the running time for the air conditioning unit.

Chair Grabiell asked if Ebenezer would consider placing the sound reduction equipment on the unit at its new location, even if noise levels were within City standards. Mr. Klawitter stated there was a unit near the proposed location and it did not require the noise reduction equipment. He explained that if the equipment was required it would be purchased and installed.

Peter Donnino, general contractor, stated 10 foot arborvitae could be used to screen the unit. In addition, smaller trees could be planted in front of the arborvitae around the unit to further screening the chiller. He explained further how the geothermal system would complement the cooling system and assist with reduced noise levels and running time for the chiller.

Karen Wolf 7420 Edinborough Way, expressed concern with the noise reduction system. She suggested that the equipment be required to assure that all noise standards for the City were met.

Ms. Tripp Roberts indicated the neighboring properties have been patient through the construction taking place on the adjacent property. However, the noise levels were affecting people's quality of life. She questioned if the noise reduction system could be installed at this time to assist with the noise levels for the rest of the summer. Mr. Klawitter indicated the expense would not be incurred unless absolutely necessary at the new location and would add an additional 30" to the unit.

Commissioner Carpenter moved to close the public hearing. Commissioner Platteter seconded the motion. All voted aye; motion to close public comments carried.

Commissioner Scherer asked how the noise abatement requirements would be affected with two chillers in such close proximity. Mr. Klawitter stated this was taken into consideration with the two units and the noise abatement equipment would be added if necessary. He explained that sound measurements would provide further information on how to proceed.

Commissioner Scherer expressed concern with the current noise levels and projected noise levels. She recommended the noise abatement equipment be installed on the unit at this time. This would provide some relief to neighboring properties and assure that noise levels were met after the move.

Commissioner Forrest thanked the residents for their comments this evening and then addressed an email received from a resident of the 7500 York building. She commented that the noise levels projected to the 7500 York building were a concern for her.

Commissioner Carpenter expressed frustration that the unit was installed on the site in its present location without contacting the City. He felt the noise abatement equipment should also be installed at this time given the inconvenience this chiller has been to the neighboring properties.

Commissioner Staunton questioned the timeline to have the noise abatement equipment installed on the unit. Mr. Klawitter estimated the unit could be moved to the new location quicker than the noise abatement equipment could be delivered and installed. He reiterated that the operational geothermal system would assist in reduced running time of the chiller.

Commissioner Staunton commented he was on the Commission when this site plan was originally reviewed. He indicated the frustration expressed this evening was reasonable but did not feel the sound abatement equipment should be installed if not necessary.

Motion

Commissioner Staunton moved approval of the site plan amendment to move the existing air conditioning unit to the east side of the new 76-unit senior housing building at 3451 Parklawn Avenue for the Ebenezer Society, on behalf of the 7500 York Cooperative with noise abatement equipment added only if necessary. This motion failed for lack of a second.

Commissioner Forrest questioned what measures could be taken to reduce the noise for the remainder of the summer. She asked if comments had been received from the

residents at 7500 York as they were going to be subjected to increased noise levels. Mr. Klawitter commented the geothermal system would assist with reducing noise levels once operational. He explained that thermostats were controlled within each unit.

Commissioner Forrest encouraged the residents within the assisted living units to help in any way possible to reduce the current noise levels.

Jill Shavey, manager of York Gardens, stated she works closely with the residents in her building to lock in the thermostats to 71 degrees. The management team explained the issues and problems of the unit with the residents. The new location would provide the best solution to the issues at hand.

Commissioner Potts asked if there was a time limit to observing the noise standards. Planning Director Teague stated the Health Department would be responsible for enforcing this portion of City Code. The applicant has been working with the City to correct the problem so no deadline has been set.

Commissioner Potts suggested the applicant provide the City with a timeline to acquire and install the noise abatement equipment. This information would provide City Council a greater understanding that this was not a viable option.

Commissioner Platteter questioned when the unit would be moved. Mr. Klawitter stated after approval, the new location would be prepared, lines would be run and the unit would be moved as quickly as possible.

Commissioner Scherer was concerned that there were no set timelines for the movement of this unit. She asked again, how long it would take to purchase and install the noise abatement equipment. Mr. Klawitter apologized, noting he did not have a clear timeline. He estimated eight to 12 weeks.

Chair Grabiell thanked the residents for the comments made this evening and for their patience with the situation.

Commissioner Staunton moved approval of the site plan amendment to move the existing air conditioning unit to the east side of the new 76-unit senior housing building at 3451 Parklawn Avenue for the Ebenezer Society with the conditions noted by Staff, in addition to these additional conditions:

- 1. The applicant is required to plant 10 foot arborvitae to screen the unit.**
- 2. The current location of the chiller will be excavated and re-landscaped.**
- 3. Prior to the site plan amendment being considered by the City Council, the applicant shall provide the City with evidence of the timeline to purchase and install the noise abatement equipment.**

Commissioner Carpenter seconded the motion.

Vote: The Motion carried. 6-1-1 (Scherer opposed, Schroeder abstained).

Commissioner Schroeder joined the meeting at this time.

VII. REPORTS/RECOMMENDATIONS

A. Zoning Ordinance Amendment – Revisions to approved site plans.

Planning Director Teague explained the City Council directed staff, at their last meeting to draft an Ordinance that clearly defines when changes can be made to a site plan. This was a result of the Waters Project that will be reviewed by the Planning Commission at their next meeting. At this time, all changes are brought back to the Council for review to be determined how to proceed.

Planning Director Teague stated the City of Bloomington's Ordinance was reviewed and a draft Zoning Ordinance Amendment was before the Commission this evening. He reviewed the language within the Ordinance in detail. Staff recommended the Ordinance amendment be forwarded along to the Council for approval.

Commissioner Schroeder questioned if a decrease in the building size was considered a minor change. Planning Director Teague indicated this was a considerable change and the language could read an increase or decrease in building size larger than 5% would be brought back to the Council.

Commissioner Staunton asked if this would apply to a Planned Unit Development. Planning Director Teague stated that it would apply.

Commissioner Forrest recommended the square footage pertaining to a change be reduced. She felt minor changes could be an issue and should be reviewed.

Commissioner Platteter inquired if a brick change would be considered a "minor change". Planning Director Teague stated this would require the site plan to come back before the Council. The applicant receives approval and must follow the conditions for approval.

Commissioner Carpenter suggested Staff review additional neighboring communities Ordinance's regarding site plan revisions. Planning Director Teague stated he would be reviewing additional Ordinances.

Chair Grabiell was supportive of the Ordinance amendment but recommended this item be continued to the next Planning Commission.

Commissioner Staunton moved to continue discussion on the Zoning Ordinance Amendment to a future Planning Commission meeting. Commissioner Carpenter seconded the motion. All voted aye; motion carried.

VII. CORRESPONDENCE AND PETITIONS

Chair Grabiell noted receipt of the Council Connection.

VIII. CHAIR AND COMMISSION MEMBERS COMMENTS:

Commissioner Staunton provided an update on the Grandview Small Area Study to the Commission. He noted a steering committee and executive committee was in place. The group was seeking consulting experts at this time.

IX. ADJOURNMENT:

Commissioner Potts moved adjournment at 9:20 pm. Commissioner Carpenter seconded the motion. All voted aye; motion carried.

Respectfully submitted,

Heidi Guenther

TimeSaver Off Site Secretarial, Inc.