

MINUTES

CALL TO ORDER

Chair Maddy called the meeting to order at 7:01 P.M.

ROLL CALL

Present: Chair Maddy; Commissioners Eggenberger, Gault (arrived at 7:05 P.M.) and Riedel; Planning Director Darling; and, Council Liaison Johnson

Absent: Commissioners Huskins

1. APPROVAL OF AGENDA

Riedel moved, Eggenberger seconded, approving the agenda for November 16, 2021, as presented. Motion passed 3/0.

2. APPROVAL OF MINUTES

- **October 5, 2020**

Eggenberger moved, Riedel seconded, approving the Planning Commission Meeting Minutes of October 5, 2021, as presented. Motion passed 3/0.

3. MATTERS FROM THE FLOOR - NONE

4. PUBLIC HEARINGS – NONE

5. NEW BUSINESS

A. Subdivision Variance

Applicant: Zehnder Homes, Inc.

Location: 24835 Yellowstone Trail

Planning Director Darling explained the request to subdivide the property into two lots and for a variance to allow the easterly lot to be 99.65 feet wide when 100 feet is required. She noted that this property was originally two lots that were then combined into one larger lot. She stated that the lot width regulations and how they are measured have changed since the original lots were created in the 1950s. She stated that other than the lot width requirement, the subdivision is routine. Staff recommends approval of the requests, subject to the conditions as included in the staff report. There has been one letter received noting concerns with the subdivision causing a decline in their property values.

Commissioner Gault arrived at the meeting.

DRAFT CITY OF SHOREWOOD PLANNING COMMISSION MEETING

NOVEMBER 16, 2021

Page 2 of 9

Commissioner Riedel noted that one of the conditions includes removal of an accessory shed and asked if it was because if this subdivision is allowed that would leave an accessory structure on a lot that has no main dwelling.

Planning Director Darling confirmed that this was the reason for this condition and noted that it was also not compliant in terms of setbacks.

Commissioner Eggenberger asked about the well and the condition to identify the location of the well on future Lot 4.

Planning Director Darling explained that the City wants to ensure that each lot has its own functioning potable water source.

Commissioner Eggenberger confirmed that this meant that there was not City water connected to this property and if someone were to build on Lot 3 they would have to dig their own well. He asked what would happen if it was found that the well was located on Lot 3.

Planning Director Darling stated that they would have to dig a new well for Lot 4.

Commissioner Riedel asked about the right-of-way to access Lot 3.

Planning Director Darling stated that when they install a new service connection for sewer they will need a right-of-way permit in order to do so.

Eric Zehnder, Zehnder Homes, 10300 10th Avenue N, Plymouth, noted that he has been able to determine that the well for Lot 4 is located on Lot 4 and is shown on the survey.

Commissioner Riedel asked if the property owner had any objection to removal of the shed.

Mr. Zehnder stated that they do not have any objection to that condition. He noted that the current renter for Lot 4 is planning to purchase the home.

Chair Maddy asked if there was anyone present who would like to comment on this application.

Dale Schrode, 24755 Yellowstone Trail, stated that he thought his neighborhood was a mature and established area. He stated that he has liked all the settings for the home and never imagined that there would be room to squeeze another home in. He stated that this request seems to be out of place and stated that the proposed home will obstruct his view to the west and feels the limited visibility will increase the danger of entering the road. He stated that he also has concerns with changes in the landscape and the environmental impact because that small piece of woods offers a huge sanctuary for an array of wildlife, such as owls, pileated woodpeckers, wild turkeys, and deer. There is also a whole ecosystem there with tree frogs and other insects. He stated that it would be a shame to lose the existing habitat and collapse the ecosystem. He read aloud a quote from the Shorewood website about it being a 'little bit city and little bit country'. He stated that he understands that there is a plan to replant trees but that means that the habitat won't return until 50-100 years from now. He stated that he does not see this project as improving or adding benefit to the community or neighborhood and will have an awkward, misfit appearance. He asked that the City adhere to its minimum lot standards and not approve the variance for subdivision. He stated that that the neighborhood has been long established and believes it should stay that way for the next generation to enjoy.

DRAFT CITY OF SHOREWOOD PLANNING COMMISSION MEETING

NOVEMBER 16, 2021

Page 3 of 9

George Greenfield, 24715 Yellowstone Trail, asked if the Commission was aware of the nature of the wooded ravine on the west boundary of the property. He stated that about 3 or 4 years ago, the conservation district, in conjunction with the new development on the golf course, redid the drainage system that goes through the ravine from the Country Club to Lake Minnewashta. He stated that the stated size is misleading because that area cannot be disturbed without wrecking the new drainage system. He stated that it appears that the existing driveway will remain and asked if the driveway for the new home would run parallel to Yellowstone or perpendicular. He stated that, as Mr. Schrode pointed out, that will disrupt the conformity and symmetry of the neighborhood. He stated that a variance of 4 inches sounds minor, however one of the things that he believes perturbs many residents is that the City rarely acts on principle and everything is done ad hoc. He stated that 4 inches is a violation of the City Code. He gave the example of the request that was denied to divide a parcel into smaller lots along Seamans and noted that he sees a constant inconsistency in how the City acts. He stated that if the City does approve this request, he believes they should let everyone in the Deerfield Addition know that their property will be susceptible to subdivision into two lots.

Mr. Zehnder stated that he can address a few of the concerns that have been raised. He noted that if you look at an aerial photo, the house setbacks on the homes in that area are widely varied. He stated that regarding the concern about an obstructed view, there are currently a lot of trees there and they plan to leave many of them in place and the home will be built approximately 60 feet off the street. He stated that they could move the lot line 4 inches to have a conforming lot, but they felt it was a lot of work for 4 inches and felt it was easier to leave it where the original lot line division was located.

Commissioner Gault confirmed that the reason for asking for this variance was that Mr. Zehnder was using an existing property description for Parcel A.

Mr. Zehnder confirmed that was correct and this was a previously platted lot that had been combined at some point and this is just to return it to that original split.

Commissioner Gault stated that it appears as though Mr. Zehnder is asking for the variance to avoid the expense of creating new property descriptions and new surveys.

Mr. Zehnder stated that he would not say it is the expense, but just extra work, because everything has already been done.

Commissioner Gault stated that the only reason this is here is because of 4 inches.

Mr. Zehnder noted that when he purchased the property, they were under the impression that Parcel A was 100 feet wide because that is what is shown on the Hennepin County site. He stated that it was a pretty big surprise when the survey came back and it was 99.65 feet and was told by Planning Director Darling that it would require a variance.

Commissioner Riedel stated that in the addition to the cost of surveying, there is also the argument to be made that having parallel lot lines in consistency is desirable.

Chair Maddy closed the public input at 7:23 p.m. He gave an overview on how the City regulates housing and lot splits. He explained that the Commission's hands are kind of tied for saying that they do not want more homes in this neighborhood, because Mr. Zehnder has enough area for two homes per the zoning.

Commissioner Eggenberger stated that he does not see 4 inches as being enough to recommend denial of the variance request.

Eggenberger moved, Gault seconded, recommending approval of the Minor Subdivision and Variance to Lot Width at 24835 Yellowstone Trail, subject to the conditions included in the staff report. Motion passed 4/0.

Planning Director Darling that she will discuss the drainage concern that was raised by one of the residents with the City Engineer prior to bringing this to the City Council.

B. Variances for Second Driveway and to Front Yard Setback
Applicant: Zehnder Homes, Inc.
Location: 4990 Shady Island Point

Planning Director Darling gave an overview of the request for a variance to allow a new home to be built at 25 feet from the front property line rather than 35 feet and a variance to allow a second driveway where the regulations allow one. She stated that this property is unique in that it has a very narrow roadway that serves as the public street. She stated that the road is about 10 feet wide which is grounds for supporting the second driveway connection. She noted that the homeowner had submitted a letter earlier today that stated that moving the home back would require removal of a large, mature, catalpa tree that they would prefer to save and changing the location would place the home in an area with suspect soils. Staff followed up with the applicant who attested that the ground water is high on the property and is about 5 feet below the surface where they are proposing the new home. She noted that the City's requirement is that the home has to be a minimum of 4 feet above ground water. Staff found that some of the criteria were met to allow the variance for front yard setback and all criteria were met to allow the second driveway. Staff received two letters of support for the requests from nearby neighbors to the property.

Commissioner Eggenberger stated that the proposal is for the home to be further back than the existing home.

Planning Director Darling explained that the proposal is for the home to be substantially further back than the existing home.

Commissioner Eggenberger confirmed that information plays no part in this issue because they would still need a variance.

Planning Director Darling stated that if they had plans to keep the existing footprint of the home then they would not need a variance. She explained that when you tear down an old home and build a new home, it is very hard to keep to the existing footprint.

Chair Maddy stated that he thinks the Commission can recognize that their proposal would lessen the non-conformity.

Eric Zehnder, Zehnder Homes, 10300 10th Avenue N, Plymouth, explained that when he first wrote the variance application, he focused more on the fact that they are making the current situation better which he felt was a strong and compelling argument. He noted that he had lost sight of the fact that they want to save the large catalpa tree. He stated that as they move closer to the lake there is also a concern that it would be even closer to the ground water and noted that they are unsure about those soils because they tested where they would like to put the home, but did not test back further than that. He stated that only about half of the proposed new home would be past the setback and noted that it will be at 25 feet where the existing home is only

DRAFT CITY OF SHOREWOOD PLANNING COMMISSION MEETING

NOVEMBER 16, 2021

Page 5 of 9

setback 5 feet and feels that their proposal is making the situation much better. He stated that many times people try to get closer to the lake, but they are trying to get further away from the lake which he feels is unique. He stated that another thing to consider is that if the home is pushed back, they will need to add hard cover to the driveway area. He stated that the property owners have spoken to four neighbors who are in support, two of which have submitted letters to the City.

Commissioner Riedel asked where the catalpa tree was located.

Mr. Zehnder pointed the tree out on a map and noted that the property owner had already spent money to fortify the roots so it can be saved and their plans will be to fence it off to keep construction activity away from it. He stated that if the home is pushed back that tree along with a few others would definitely be lost.

Chair Maddy opened this item up for public input at 7:40 p.m., however there was no one present to give input.

Commissioner Gault stated that he understands the regulations, but the fact that the new proposal reduces the infringement by 20 feet he feels is a point he sees in favor of granting the variance.

Commissioner Eggenberger stated that he agreed that reducing the non-conformity is a favorable factor for him to vote in support of it.

Commissioner Riedel stated that he disagreed. He stated that this is not an easy case and does not think the legal non-conforming or the grandfathering concept applies here if you are removing a house because then it becomes like a new construction project. He stated that there is plenty of room on this lot for a fully conforming residence. He stated that the only reason he is hesitating is because of the potential ground water issue which could sway him. He stated that he would like more information on the ground water issue.

Commissioner Gault stated that he is curious about the other homes on this road and where they fit into the lots.

Planning Director Darling stated that she did look to see if the homes were generally meeting the setback from the public street and found the other homes in the area do, with one garage located fairly close to the street.

Commissioner Gault asked if those homes were built under the new regulations and were newer homes.

Planning Director Darling stated that she did not check the construction dates of those homes. She explained that the rules changed in the mid-1980s to the setback from the water level of the lake. She stated that now the setback is based on an elevation point for the lake so it stays consistent.

Chair Maddy stated that he has been on the Planning Commission for 9 years and has never seen anyone try to get farther from the lake. He stated that this is definitely a unique situation in the City.

Commissioner Gault asked about the rationale of the home being at an angle and noted that if the home was rotated and moved back slightly, it would probably meet the requirements.

Mr. Zehnder stated that he thinks there would still be the issue of getting closer to the lake, the catalpa tree would be in danger, and the view was why they were proposing that particular angle. He stated that it is his fault that they did not focus on the ground water issue and the catalpa tree as part of their variance application. He stated that he simply focused on the fact that they would be getting the front yard setback so much better than it currently is and further from the lake. He stated that he does not want his lack of diligence in that manner to harm the homeowners chance for the variance. He stated that it was not just a fabricated reason because of Planning Director Darling's recommendation because the ground water issue and the catalpa tree are legitimate concerns.

Commissioner Gault stated that he likes the fact that they are increasing the setback by 20 feet, but feels that Commissioner Riedel has raised a valid point about them taking down the home and being considered as new construction.

Commissioner Riedel noted that he still may be inclined to vote against this request, but feels an argument could be made for it being such a unique road that has many structures that are quite close to the small road and the neighborhood does not have consistent setbacks.

Commissioner Gault asked about the existing shed that is located in the right-of-way.

Planning Director Darling explained that that shed near the shoreline has been there since before the shoreland ordinance prohibited sheds by the lake and the City is not asking them to remove the existing shed.

Eggenberger moved, Gault seconded, recommending approval of the variance requests for front setback and a second driveway, subject to the conditions included in the staff report.

Commissioner Gault noted that the address of the property was not mentioned in the motion.

Motion amended by Eggenberger, second amended by Gault, to recommend approval of the variance requests for front setback and a second driveway, for property located at 4990 Shady Island Point, subject to the conditions listed in the staff report. Motion passed 3/1 (Riedel opposed).

**C. Variance to Minimum Home Width
Applicant: Ben and Meghan Becker
Location: 6180 Cathcart Drive**

Planning Director Darling explained that the property owners are proposing to remove all the existing structures from the site and build a new home with a variance request to build a home 20 feet wide where 22 feet is required. She stated that the new home would have two detached garages that they would use to store their personal vehicles and equipment. The structures would have cedar-stained lap siding with metal roofs. Staff recommends approval, subject to the conditions included in the staff report. She noted that although the applicant does not meet all the variance criteria, the applicant has indicated that they have designed the home to maximize solar and energy efficiency which is encouraged by the City's ordinances.

Ben Becker, 6180 Cathcart Drive, explained the thought process behind the home width is related to solar, energy efficiency and passive heating which are important to them. He stated that their architect believes that 20 feet wide is optimal to allow for passive heating as well as allow natural

DRAFT CITY OF SHOREWOOD PLANNING COMMISSION MEETING

NOVEMBER 16, 2021

Page 7 of 9

light to enter the home. He read aloud a portion of a biography written about their architect David Salmela.

Commissioner Eggenberger asked why they would not just change the design and increase it by 2 more feet.

Mr. Becker stated that it is possible, but they are respecting the architects design who feel this was the optimal size to allow light to flood it and allow for passive heating.

Chair Maddy asked if this was approved how soon they planned to break ground.

Mr. Becker stated that they would like to break ground as soon as possible.

Chair Maddy opened this item for public input at 8:02 p.m.

George Gleason, 6130 Cathcart Drive, stated that his only concern is for the water table and run-off because he has always had problems in his basement with sump pumps constantly running. He stated that when the change overs happened across the street and the new water tower went it, it made a big difference at his place, but he still gets flooded in the spring. He stated that if Mr. Becker is putting a full basement, his concern is how high it will have to be and would require extra landfill which then would cause run-off to come to his property.

There being no additional public input, Chair Maddy closed this portion of the meeting at 8:03 p.m.

Chair Maddy asked about the current amount of impervious surface versus what is being proposed.

Commissioner Riedel stated that it is 7% versus 4%.

Chair Maddy stated that is almost cutting the home in half.

Commissioner Gault stated that when he looks at A 100, it appears as though someone is planning to divide this lot which will impact the impervious surface.

A woman spoke from the audience (inaudible).

Planning Director Darling stated that the current amount of impervious surface on the property is 7.6% and they are proposing to reduce the amount of impervious surface coverage. She stated that her recollection is that this home is not proposing a basement because of the high water table in the area.

Mr. Becker stated that was correct and they were not proposing a basement even though there is currently a basement.

Commissioner Eggenberger asked how the City came up with the width requirement of 22 feet.

Planning Director Darling stated that there were several changes to State statute in the mid-1970s-to mid1980s regarding manufactured housing and mobile homes. She stated that most cities put the minimum house sizes into their ordinances at that time just to make sure that the housing stock remained on permanent foundations and was large enough to maintain stable

property values. She noted that the City's minimum house size is 22 x 30 which is about 660 square feet.

Chair Maddy stated that he does not like the minimum requirement and would like to find a practical difficulty to support the request. He stated that he feels this is a really interesting design for aesthetics and energy efficiency which he would like to encourage.

Commissioner Riedel stated that he would echo that sentiment. He stated that he disagrees with a restriction on somebody building an energy efficient, innovative home. He stated that he feels that if somebody wants to have a small home, they should be allowed to have a small home and should not be forced by the City to have a larger home. He noted that he is also struggling to find a rationale for granting the variance because this is all new construction.

Chair Maddy stated that he feels the ordinance was written to prevent depreciating housing stock which typically things like mobile homes do. He stated that this home is the opposite of that situation. He stated that the Commission could recommend denial based on a strict interpretation of the ordinance and hope that the Council reverses it, or they can say that the practical difficulty is that they are trying to do something innovative and smart.

Commissioner Gault stated that he and his wife love the low winter sun that streams through their home and love it in the summertime when it is high enough that it doesn't stream into the house and over heat it. He stated that their home is 26 feet wide, but they are not using it for passive heating. He stated that he doesn't really buy into the fact that 2 feet makes that much of a difference in the passive heating capability, particularly with the windows proposed in the design. He stated that he understands both sides of the argument, but questions where this will stop and noted his concern for consistency in rulings and recommendations on these requests. He stated that he is not adamantly opposed to the request but is also not gung ho on it.

Commissioner Riedel asked about the minimum width of 22 feet and whether any portion of the home could be more narrow than that measurement. He asked if a two-foot bump out would satisfy the requirement.

Planning Director Darling read aloud from the ordinance which states, "not less than 30 feet in length and not less than 22 feet in width over the entire minimum length. Measurements shall not take into account of overhang or other projections beyond the principle walls."

Mr. Becker stated that efficiency of resources such as the solar and passive heating is one thing but there is also efficiency of materials that should be considered. He stated that increasing it by two feet is another 200 square feet of materials and that is unnecessary for them and their needs.

Chair Maddy stated that he will vote to recommend approval of this request and would like to add discussion of the minimum requirement to the City's work plan. He stated that if people want to have a small home, he feels they should be allowed to as long as it doesn't depreciate property values.

Commissioner Riedel noted that perhaps it could just explicitly prohibit mobile homes because he thinks was the whole rationale for this language.

Chair Maddy stated that there are now some very high end manufactured homes, so he feels it is worth a conversation in the future to discuss this issue and potential improve the Code.

Commissioner Eggenberger stated that he would not want to vote to recommend denial with the hope that the City Council would overturn that recommendation.

Eggenberger moved, Gault seconded, recommending approval of the variance request to minimum home width for property located at 6180 Cathcart Drive, subject to the conditions as included in the staff report. Motion passed 4/0.

6. OTHER BUSINESS

7. REPORTS

- **Council Meeting Report**

Council Liaison Johnson reported on matters considered and actions taken during Council's recent meeting.

- **Draft Next Meeting Agenda**

Planning Director Darling stated there is a Special Home Occupation permit and a Commercial site plan slated for the December 7, 2021, Planning Commission meeting.

Commissioner Gault commented that the information regarding North Oaks included was very interesting reading and asked why it was provided to the Commission.

Planning Director Darling explained that when she first started at the City she had gotten feedback that Commissioners would benefit from having some educational materials and have her share news articles that were pertinent to Planning Commissions. She stated that this particular article was included in their packet materials because she thought there were some interesting points in the article after their land use training session provided a few weeks ago by the League of Minnesota Cities.

Commissioner Gault stated that it shows that elections have consequences with the change in their council. He stated that the prior council had approved it and the new council shot it down. He stated that he suspects that there will be a lawsuit over this issue.

Planning Director Darling noted that the article indicates that they are being sued.

8. ADJOURNMENT

Riedel moved, Gault seconded, adjourning the Planning Commission Meeting of November 16, 2021, at 8:29 P.M. Motion passed 4/0.