

EUREKA TOWNSHIP
DAKOTA COUNTY
STATE OF MINNESOTA

Eureka Special Planning Commission Meeting of January 3, 2017

Call to Order

Chair Sauber called the meeting to order at 7:01PM. Planning Commission members present were Nancy Sauber, Ralph Fredlund, Julie Larson, Donovan Palmquist, and Randy Wood. Supervisor Dan Rogers was the Town Board liaison. Township Attorney Chad Lemmons was also in attendance. See attached sheet for additional persons in attendance. Deputy Clerk Cheryl Murphy recorded the minutes.

Approval of the Agenda

Chair Sauber stated that since the date was changed this is considered a Special Meeting of the Planning Commission and there would be no approval of the agenda.

Election of a Vice Chair

Chair Sauber stated she would open the floor for nominations.

Chair Sauber nominated Commissioner Ralph Fredlund for Vice Chair. She stated that Commissioner Fredlund has always been here and she feels he would be a good Vice Chair. Commissioner Wood seconded. Motion carried unanimously. Commissioner Ralph Fredlund is our new Vice Chair of the Planning Commission to serve through April 2017.

Permit Requests

David Sellner – 24535 Iberia Avenue - Building Permit Application for Lean-To.

Chair Sauber stated that Mr. Sellner was sent a letter with the items missing from his original application. Mr. Sellner stated that the lean-to is 60 feet from the septic and 120 feet from the well and 120 feet to the center of the road. Distances to other property lines are 90 yards, 80 feet, 400 yards (North) and 100 feet (East). Mr. Sellner needs to update his application with the new information and initial and date the application.

Chair Sauber requested what the lean-to will be used for. Mr. Sellner stated he has some construction vehicles that he will be storing there. Mr. Sellner stated that it would not be for sheltering animals. Dimensions are 65 feet long by 17 feet wide for a total of 1,071 square feet.

Vice Chair Fredlund moved to send the application for David Sellner, 24585 Iberia Avenue to the Board with a recommendation for approval for a lean-to attached to his pole shed to shelter equipment. Commissioner Palmquist seconded. Motion carried unanimously.

Jeff and Linda Otto – 25580 Dodd Boulevard – Building Application for Accessory Building.

Chair Sauber stated that Mr. Otto has now included all the additional information the Planning Commission requested.

Commissioner Wood moved to send the application for a building permit application for an accessory building for personal storage for Jeff Otto, 25580 Dodd Boulevard to the Board with a recommendation for approval. Vice Chair Fredlund seconded. Motion carried unanimously.

Donovan Palmquist - Review of Accessory Building.

Mr. Palmquist recused himself for this portion of the meeting.

Chair Sauber stated that Mr. Palmquist appeared before the Planning Commission last month and the Building Inspector had some questions, so Mr. Palmquist was asked by the Town Board to come in again to clarify the use of the building and the plans.

Mr. Palmquist read a letter that he wrote to the Township stating that he has not changed or altered any of the plans at any time. Mr. Palmquist also stated that the primary use of the building would be cold storage, private art studio and safe housing of an historic ceramics collection. He stated it is not a residence or office. He also stated it is not a commercial building and it is not a manufactory of any sort. This is also not an expansion of his private ceramics studio.

Chair Sauber stated she would like to clarify a few things. Mr. Palmquist would use this accessory building for personal storage and nothing in the building would be used or any products produced in the building would be used for a business.

Mr. Palmquist stated that he is a sculptor and a painter. The reason this came about is that Mr. Palmquist was denied a permit to add on to his original building and he is out of storage room. Mr. Palmquist stated he has a giant storage container on his property and he has a collection of ceramics in there. What Mr. Palmquist is trying to do is get a private space where he can do woodworking and any number of creative things that he does for his personal self.

Chair Sauber commented that looking at Mr. Palmquist's accessory building he has applied for plumbing for a half bath, a clothes washer, a sink drain and three floor drains.

Mr. Palmquist stated that the three floor drains are so he can wash the floor.

Chair Sauber asked if that met with the Building Inspector's approval. Mr. Palmquist said the Building Inspector suggested it, as he did not want the floor drains going into the septic.

Chair Sauber indicated that as far as an accessory building, Mr. Palmquist is allowed to have a half-bath so that meets the accessory standard. Chair Sauber also stated that Mr. Palmquist is telling us that this would only be used for personal use and there would not be any business there or any storage of any products used in a business.

Mr. Palmquist stated his business is up in the Cities. He is looking to separate them.

Attorney Lemmons asked if Mr. Palmquist's site is greater than 10 acres.

Mr. Palmquist stated it was 14 acres.

Chair Sauber stated that the Planning Commission and Mr. Palmquist have made it clear for the record what the use of the building is and unless there is some reason to think otherwise, the Planning Commission takes people at their word. We have a complaint-based code in force, so if someone were to make a complaint, the building could be inspected. Chair Sauber stated she does not see any reason to question that this is an accessory building and Mr. Palmquist has told us it will not be used for any business or storage of any items for a business. It is only for personal use.

Chair Sauber moved to inform the Board that the Accessory Building for Donovan Palmquist at 27607 Grenada Avenue has been reviewed, and Mr. Palmquist has assured the Planning Commission that the building is going to be used for personal storage or ceramics. There will be no business use or storage of business items in the building, which is not allowed because of the Home Occupation Ordinance. Mr. Palmquist is having a half-bath, which is allowed in an accessory building. The Planning Commission does not see an issue with Mr. Palmquist's proposed use of the building. Commissioner Wood seconded. Motion carried 4-0 with Mr. Palmquist recusing himself.

Greg and Laura Adelmann – 8925 280th Street West – Building Permit application for a Lean-to.

Chair Sauber asked if the Adelmanns brought in the additional information that was requested. Chair Sauber asked Mr. Adelmann what would be the use of the building. Mr. Adelmann stated that it would be used as a loafing shed to keep firewood dry. Chair Sauber requested that Mr. Adelmann initial and date the application with the updated information.

Chair Sauber wanted to know if it were Mr. Adelmann's intention to apply for an Ag Building. Mr. Adelmann's property records state that his primary use is Ag Green Acres,

and he may want to fill out an Ag-Exempt Building Permit Application. Alternatively Mr. Adelman could have this building as such, it does not have to be an Ag building.

Attorney Lemmons stated Mr. Adelman can harvest trees from his own site and sell for profit, but he cannot bring trees from outside his property in as that would be a business as defined by the Ordinance and the only way you can use this is to harvest the trees on your own property. The only way you could bring trees in to your property is if you are using it for your own personal use, such as heating your home.

Chair Sauber stated that she wanted Mr. Adelman to be clear about this. That Mr. Adelman would either cut wood on his own property to sell, or any wood he brings from another property to his property would be used only for personal use, such as heating his home.

Mr. Adelman agreed with Chair Sauber about the use.

Vice Chair Fredlund moved to forward the application of Greg Adelman, 8925 280th Street for a lean-to that will be used for personal storage of wood that is brought in and for some equipment to the Board for approval. Commissioner Palmquist seconded the motion. Motion carried unanimously.

Joey Miller – 22260 Dodd Boulevard – Building Permit Application for Accessory Building and Driveway Approach. Attorney Carol Cooper representing Mr. Miller.

Chair Sauber recused herself for this portion of the meeting.

Mr. Miller stated he is applying for a permit for an 81x238 foot accessory building on the southeast corner of his property.

Vice Chair Fredlund asked Mr. Miller what the building would be used for. Mr. Miller stated it would be used for personal items.

Commissioner Wood stated that Mr. Miller currently has a 25,000 square foot building and this one would amount to about 45,000 square feet. That is a lot of personal things. Mr. Wood then asked what is the principal use of the property.

Attorney Carol Cooper stated there is a house and a business on the property and the use is residential/commercial.

Chair Sauber made a statement as a citizen that the Dakota County online records have the property listed as residential/commercial for Country Joe Racing. That is the only use the County appears to acknowledge.

Commissioner Wood asked if this would change the character of the original use by adding

on another 25,000 square feet and does it affect your neighbors? Mr. Miller stated no to both questions. Mr. Wood stated that he could not imagine having 45,000 square feet for personal use on the property. It is affecting the principal use of your neighbors.

Commissioner Wood stated he thinks it is a sham what Mr. Miller is doing. He is trying to warehouse the whole area of his residential property and how is it going to affect the principal use of the neighboring properties.

Attorney Lemmons stated that the Commission has to separate the actual building from its use. They are two separate issues.

Attorney Cooper asked if there was anything in the Ordinances that makes any of this relevant.

Commissioner Wood stated it is in the Ordinance under definition of accessory uses.

Attorney Lemmons stated that the property in question is greater than ten acres. The way the present Ordinance is written, there is no limitation as to how many buildings Mr. Miller can build on his property, because it is greater than ten acres. The use made of the structure after it is built is the real question. The use has to be subordinate to the principal use of the parcel. If Mr. Miller wants to build a building he can do so. However, how he uses that building for any use is controlled. If he uses that building for any use that is not subordinate to the principal use of the property under the definition of principal use, the use would not be permitted. Mr. Miller's property is residential and commercial.

Commissioner Palmquist asked, what if it is residential/commercial like this property is zoned?

Attorney Lemmons stated that just because it is taxed as commercial/residential by the County the County does not govern what use is made of the property. All Mr. Miller can use it for is whatever uses are allowed under the Ordinances and the only permitted uses under the Ordinances are residential or agricultural. Now if he has a Conditional Use that is a different question all together.

Commissioner Wood asked if Mr. Miller would allow the Town Board representatives to inspect the current buildings he has and the use of those.

Mr. Miller stated no.

Nancy Sauber stated that she wants Mr. Miller to restate that it would be used for personal use and not for a business.

Mr. Miller again stated it is for personal use.

Commissioner Wood asked if it would increase traffic in the area.

Mr. Miller stated no. He stated that the things he has outside can now be put inside.

Vice Chair Fredlund asked for a motion to move this on.

Commissioner Wood made a motion to ask the Town Board to deny this permit. Commissioner Wood believes that this changes the character of the principal use of the property which is residential and that is not allowed.

Vice Chair Fredlund asked for a second.

Motion died for lack of a second.

Acting Chair Fredlund moved that the Planning Commission send the application of Joey Miller, 22260 Dodd Boulevard, to the Board recommending approval for an 81x238 foot shed to be built on the SE corner of his property for personal and agricultural use only.

Commissioner Palmquist seconded the motion. Motion carries 3-1 with Chair Sauber abstaining as she recused herself.

Chair Sauber resumed her position as Chair.

Resident Inquiries

Randy Deones – Building Eligibility Tax Parcels 13-01800-75-010, 13-01800-84-020 and 13-01700-50-011.

Chair Sauber stated she wanted to clarify a question from Mr. Deones. As a Commissioner Chair Sauber stated she cannot act independently. To ask someone to research this and to come back with an answer as to how many building eligibilities there are is not the way the Planning Commission works. The Township has actually gone into court in the past because someone acted on the advice one person told him or her. The Planning Commission does not act individually; we act only as a body. Since the Zoning Administrator is relatively new, the Zoning Administrator did not feel comfortable giving you that answer.

Attorney Lemmons stated that any advice given by the Zoning Administrator is not binding by the Town.

Chair Sauber stated that she and Commissioner Fredlund did meet and went through the Kaufenberg parcels. A native housing right is based on a quarter-quarter. If a person had an empty undeveloped quarter-quarter, that person has a right to build a house. In this particular case that person does not own the whole quarter-quarter so that would be a first-come, first-serve basis.

The Planning Commission and Attorney Lemmons consulted the maps at the front of the Town Hall.

Attorney Lemmons stated that referring to the portion on the Northwest quarter-quarter of the Southeast quarter-quarter of Section 18. There is a cap of four per quarter-quarter. There are two houses there already so Mr. Kaufenberg could possibly purchase and move in two building rights and that would max out the quarter-quarter.

Attorney Lemmons stated this particular Northwest quarter-quarter of the Southwest quarter-quarter of Section 17 might already be transferred off of that property so that no longer has a native right.

Attorney Lemmons went on to state this parcel overlaps the quarter-quarter line. There are three houses build here. Some of these go to pre-1982.

Chair Sauber stated if this was originally owned by his father Eugene and it was sectioned off in 1968, that would be a pre-1982 Lot-of-Record. Whatever got sectioned off would also be pre-1982. Even if that were the case there is a house there which would be the pre-1982 Lot-of-Record building right. That has been used up.

Attorney Lemmons stated each quarter-quarter has a building right, but there are already houses here so the native right would be gone. It is all one tax parcel. There are no native rights left, but you could transfer rights in.

Attorney Lemmons went on to state that the other one looks like is part of the old railroad. That would not be buildable as it is not sufficient size and is in a quarter-quarter with other houses.

Jarod Vinar Property – Attorney Lemmons stated it has one house and this is all empty so there would be one native right.

Kenneth and Kathleen Betzold – Attorney Lemmons stated it is North of 225th Street, PID 13-001-0026-020 has no native right.

Mark and Jessica Pflaum on 225th Street. Chair Sauber stated 1451 does not show a house. If there is no house there, we don't know if it is a pre-1982 parcel. The only way it would have a right is with a pre-1982 Lot-of-Record.

Attorney Lemmons stated that on the plot map these parcels did not exist in 1982. Regarding Section 9, the 1982 parcels appear to be the West half of the West half and the East half of the West half of Section 9. Together with the small triangular portion located in the Southwest quarter of the Southwest quarter is now referred to as Longquist 1989. It is possible there was another pre-1982 parcel as well and being located in the Southeast

quarter of the Southwest quarter.

Attorney Lemmons went on to state that on 1351 it would appear there is a house on it, so there is no native right. It is the Southwest quarter of the Southwest quarter of section 9.

Attorney Lemmons stated the next parcel the Planning Commission is referring to is the Southwest quarter of the Northwest quarter of Section 9.

Chair Sauber stated this is not totally owned by the owner. If there were a house there on this property within this quarter-quarter, it would not have a native right. If there is none there this would be a first-come, first-serve.

Attorney Lemmons stated the next parcel the Planning Commission is referring to is the West half of the Northwest quarter of Section 9. The question is whether or not the house is in the Southwest quarter of the Northwest quarter or in the Northwest quarter of the Northwest quarter. If the house is in either of those quarter-quarters, then the native building rights have been used.

Chair Sauber stated that if there aren't, it would be a first-come, first-serve basis because of the overlapping of PID#130090001127. That parcel cuts across two different quarter-quarters. If there was not a house there, the native right would still be there, but it would be on a first-come, first-serve basis. Depending on where the house might be located it would affect one or the other quarter-quarters.

Attorney Lemmons stated the question being dealt with is the two building rights in the Southwest quarter of the Southwest quarter of Section 4 and the Northwest quarter of the Southwest quarter of Section 4. Attorney Lemmons stated that it appears from the map that one of the building rights in the Northwest quarter of the Southwest quarter of Section 4 was transferred on September 8, 1992, to a parcel located in the Southwest quarter of the Southwest quarter of Section 9 which is noted on the map as Schabel 1992. What appears to be a transfer of a building right in the Southwest quarter of the Southwest quarter of Section 4 appears not to have occurred because it has been crossed off.

Attorney Lemmons stated the Planning Commission is now referring to a parcel in the Northeast quarter of the Northwest quarter of Section 9, identified as Chadwick with a zero line lying westerly of the railroad. Concerning the Northeast quarter of the Northwest quarter of Section 9, there is a question of whether or not there is a house there which would mean the native building right has already been used.

Attorney Lemmons stated for the record the Planning Commission is referring to the native right belonging to the Southwest quarter of the Northeast quarter of Section 19. It appears that the right has been transferred to a parcel located in the Northeast quarter of the Southeast quarter of Section 19 identified as Pankonin, 2000.

Chair Sauber stated the transfer date was October 9, 2000.

Attorney Lemmons stated the next parcel we are referring to is located in the Northeast quarter of the Southeast quarter of Section 19. It appears to be the south half of the north half of said quarter. It appears the native right for the Northeast quarter of the Southeast quarter of Section 19 has already been used so there is no native building right.

Chair Sauber stated the next is Alan and Joan Storlie.

Attorney Lemmons indicated that the parcels being referred to are three parcels located in the Northwest quarter of Section 15. It appears to be the South half of the Northwest quarter, the North half of the South half of the Northwest quarter and the North half of the Northwest quarter all in Section 15,

Attorney Lemmons went on to say that for the record, the Planning Commission is discussing the Southeast quarter of the Northwest quarter of Section 15 which appears to have an open native building right and the other native building rights would be the Northeast quarter of the Northwest quarter and the Northwest quarter of the Northwest quarter.

Attorney Lemmons stated the Planning Commission is discussing whether the building right for the Southeast quarter of the Northwest quarter of Section 15 had been transferred to possibly the Southwest quarter of the Northwest quarter of Section 15. The Planning Commission is not sure about that.

Attorney Lemmons stated that for the record the Planning Commission is talking about whether there is a native building right in the Northwest quarter of the Southwest quarter of Section 15.

Attorney Lemmons stated that now the Planning Commission is discussing the West half of the Southeast quarter of Section 4. It appears that the native building right for the Northwest quarter of the Southeast quarter has been used. There may be an open building right for the Southwest quarter of the Southeast quarter of Section 14.

Wayne Hallcock

Chair Sauber stated that Mr. Hallcock and his Attorney are not here but they were looking for input from the Planning Commission. They and need to come before that body with what they want to do.

Attorney Lemmons stated the Township cannot answer their questions until Mr. Hallcock and his Attorney provide the Township with more information.

Town Board Liaison Report – Dan Rogers

Planning Commission Approved Meeting Minutes

Page 9 of 11

January 3, 2017

- Granted an Ag Exempt building permit for David Cook
- Granted a building permit for Joey Miller for a residential garage
- Appointed a new Planning Commission member – Julie Larson
- Fence complaint was resolved
- Dakota County Sheriff stated there have been a lot of break-ins.
- Billboard advertising Castle Rock Liquors has been removed
- Follow-up on complaint regarding Scotts Miracle-Gro

New Business

Newsletter-Jody Arman Jones

Jody stated that the newsletter would be going out the last week in January.

Old Business

Recodification

Chair Sauber stated that she thought we would have a clean copy for the Planning Commission meeting.

Attorney Lemmons' stated he instructed Ms. Bailey to send the redline copy and a clean copy. He stated there must have been a miscommunication. Attorney Lemmons' office to send over tomorrow.

Chair Sauber stated she did not see the Fence Ordinance. Attorney Lemmons' office to send tomorrow.

Chair Sauber stated she did not see the Solar Ordinance. Attorney Lemmons' office to send tomorrow.

Other changes were discussed between the Planning Commission members and Attorney Lemmons.

Chair Sauber stated she was uncomfortable moving this forward until the Commission receives a clean copy.

Impervious Surface

Chair Sauber stated when the Accessory Building Ordinance was changed from 200 percent of the primary structure it was based on the owner's acreage was intended to address non-Ag parcels. Chair Sauber stated she pointed out at the time, but it did not get changed that a person can have a non-ag parcel greater than ten. Therefore, does that mean you can have unlimited? Chair Sauber stated she does not think it was the intent of the Board members at that time. They stated they were addressing non Ag properties. She would suggest the Planning Commission propose to the Board that the Ordinance language should be amended so that 6 and above of non-ag property have a limit of 10,000 square feet. The Planning Commission could also ask the Board for some direction on impervious surface. A

percentage is probably not what we are looking for. Instead we would look at square footage.

Chair Sauber moved that the Planning Commission suggest to the Board to look at three things:

- A limit on any non-ag parcels that are greater than 6 and above square feet, unless the Board wants to change that amount.
- To look at a limit of square footage of impervious surface
- Look at language and changing or adding language.

Vice Chair Fredlund seconded. Motion carried unanimously.

Chair Sauber moved to adjourn the meeting. Vice Chair Fredlund seconded. Meeting adjourned at 9:35 PM.

Respectfully submitted,

Cheryl Murphy
Deputy Clerk

Minutes for the January 3, 2017 Special Meeting approved on May 2, 2017.