

EUREKA TOWNSHIP
DAKOTA COUNTY
STATE OF MINNESOTA

Planning Commission Public Hearing
Fence Ordinance
October 25, 2016

Please note that the recorder broke down this evening and nothing from this Public Hearing was recorded. The following is from notes that were taken

Call to Order

Planning Commission Chair Sauber called the Public Hearing to order at 8:00 PM. Planning Commission members present: Chair Nancy Sauber, Commissioner Donovan Palmquist, Commissioner Randy Wood and Commissioner Ralph Fredlund. See attendance sheet for additional residents in attendance.

Chair Sauber stated that tonight's Public Hearing meeting would be to look over the Draft Fence Ordinance. The Town Board has already adopted the first part.

Chair Sauber read from the Ordinance:

D. OTHER TERMS:

(1) Pre-existing fences. All fences constructed prior to the adoption of this ordinance shall be considered exempt from the terms of this Ordinance until 50% or more of the fence, as determined by the Building Official, is replaced. Said fences shall be governed by the provisions of Section 4, Chapter 1, Ordinance 3, Town of Eureka.

To be inserted under Exceptions after the part the Town Board already approved: *Ag fences would be exempt.*

Gary Smith – 4628 235th Street West

Mr. Smith stated that he believes the question he was going to ask has already been answered regarding Ag fences. Attorney Lemmons stated that Mr. Smith would be okay with his fence. Mr. Smith also had a question regarding a security fence and wondered if the Township would allow barbed wire on top of fences.

Chair Sauber stated that fences constructed for security purposes may include barbed wire security arms consisting of no more than three strands of barbed wire. The minimum height of the security arm shall be 6 feet above the surface and should be angled in a manner which does not endanger the public and does not overhang a neighboring property. Any portion of a security fence which abuts a residential property shall not be allowed to be topped with barbed wire.

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Mr. Smith stated that the first part of the Ordinance did not address setbacks. Chair Sauber stated that we do not have a setback for fences.

Chair Sauber stated that the applicant proposing to construct a fence is responsible for verifying the location of the property lines of the property upon which the fence is to be constructed. If the survey monuments monumenting the boundaries of the property can be located, the applicant shall have the right to rely on said monuments. If the monuments locating the boundary lines of the property cannot be located, the Building Official has the authority to, and shall require, the applicant to submit a survey prepared by a registered land surveyor locating the boundaries of the property. A survey will not be required if the owner of the property upon which the fence is to be constructed and the property owner(s) of the adjoining properties enter into a written agreement regarding location of the fence to be built. Said agreement shall be recorded with Dakota County and proof of recording shall be provided to the Town Clerk before the building permit is approved.

Lu Barfknecht – 24585 Iceland Path

Ms. Barfknecht stated her concerns:

- under D. Other Terms (1) Pre-Existing Fences. All fences constructed prior to the adoption of this ordinance shall be considered exempt from the terms of this Ordinance until 50% or more of the fence, as determined by the Building Official, is replaced. Said fences shall be governed by the provisions of Section 4, Chapter 1, Ordinance 3.
- Ord. 3, Ch 1, Sec 4 – Any structure or use existing as of September 7, 2004 and which did not conform to the provisions of the Township Ordinances as then enacted, is deemed a legal non-conforming use (grandfathered use) and may be continued subject to the following conditions. . .

Ms. Barfknecht stated she requested clarification. Does this mean that fences constructed between 9.07.2004 and the enactment of the fence ordinance mean are exempt from following the fence ordinance? The Attorney has already indicated on more than one occasion that fences constructed prior to the ordinance would not be grandfathered in if they did not conform to the ordinances in force at the time of construction, i.e. proper structure setback of 30 feet would not be considered legal non-conforming. Chair Sauber questioned why I brought the 9.07.2004 date and I pointed out because it is referenced in the ordinance language. My understanding would be that if the fence was not constructed or existed as of 9.07.2004 it is not grandfathered and is not exempt. The language as it was presented can be interpreted differently than intended and Chair Sauber agreed. Chair Sauber was going to contact Attorney Lemmons and give him a heads up that this would be discussed at the Planning Commission meeting so that it could be corrected and ready to present to the Board for the November meeting.

There needs to be clarity in the language. Does the “until 50% as determined by the Building Official” mean, a fence that exists and is in poor condition but doesn’t have to follow the ordinance until at least 50% of it is in disrepair?

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I also stated that anyone that read pre-existing prior to the ordinance are exempt is as far as some residents obviously read to and didn't read any further or those persons would have been present. Ms. Barfknecht also stated she does not agree with the wording that describes pre-existing fences and feels it needs to be re-worded.

Chair Sauber stated that fences need to be constructed to enclose a lot or tract of land, shall be constructed in a substantial, workman-like manner and of material reasonable suited for the purpose for which the fence is proposed to be used.

Chair Sauber stated that the second sentence lists suited materials and the list comes from Minnesota State Statute. Chicken wire would not comply and I am assuming most people would not consider chicken wire an appropriate material. The last part was in response to Ms. Barfknecht's question specifically about chicken wire.

Vince Mako – 27580 Iberia Avenue

Mr. Mako stated that he had a question about building a decorative six-foot garden fence to keep the deer out. I am in the middle of a large parcel of land and it is never going to be an issue with the neighbors, so why do I need a permit?

Chair Sauber stated the permit is only \$25 and you do not have to appear before the Planning Commission to get approval. While we understand your concerns it would be hard to incorporate that in the language. We will discuss with the Attorney.

Chair Sauber stated there were no other questions and suggested we close the Public Hearing. Chair Sauber will talk with the Attorney and see if we can get the Ordinance finished by November.

Chair Sauber moved to adjourn. Commissioner Palmquist seconded the motion.

The Public Hearing Meeting ended at 8:40 pm.

Respectfully submitted,

Cheryl Murphy
Deputy Clerk
Eureka Township

Planning Commission Public Hearing Meeting Minutes approved as amended on February 6, 2017