

EUREKA TOWNSHIP
DAKOTA COUNTY
STATE OF MINNESOTA

Planning Commission Meeting of November 6, 2017

Call to Order

Chair Sauber called the meeting to order at 7:00PM. Planning Commission members present were Nancy Sauber, Ralph Fredlund, Julie Larson, Randy Wood and Bill Funk. Supervisor Butch Hansen was the Town Board liaison. Township Attorney Martin Norder was also in attendance. Deputy Clerk Cheryl Murphy recorded the minutes.

Approval of the Agenda

Chair Sauber requested to add under Permit Requests the 60-day rule for Perkins. Under New Business add open permits list from the Building Official. Under Minutes Approval requesting Attorney Norder to stay and give input on minutes from May 2, 2017, and August 22, 2017.

Commissioner Fredlund moved to approve the Agenda as amended. Commissioner Wood seconded. Motion carried 4-0.

Permit Requests

Ryan Murphy – 9180 225th Street West – Building Permit Application for New Single-Family Residential Home.

Chair Sauber suggested Mr. Murphy make a few additions to his site plan. Missing was a measurement (at least 30 feet). Change from 110 feet to 135 feet from the house to the center of the road. Ryan to initial and date the changes. Also need to note distance on the west side of the house as greater than 30 feet. Distance from the back of the house to the south as greater than 30 feet and the distance on the east part of the house as greater than 30 feet. Ryan to initial and date the changes to his application.

Chair Sauber moved to recommend approval to the Board for a new single-family residential structure for Ryan Murphy, 9180 225th Street West, PIN 13-00500-50-042. Commissioner Larson seconded. Motion carried 5-0.

Jeff Sauber – 22975 Dodd Boulevard – Ag Exempt Building Permit Application for Pole Shed.

Mr. Sauber was before the Planning Commission previously and has withdrawn his old application. The three parcels involved were changed at the County to Ag. Mr. Sauber has three PIN's on his application and needs to note that the pole shed will actually be built on the middle PIN 13-00600-80-020 and to date and initial that change.

Commissioner Larson made a motion to allow Mr. Sauber to build an Ag Building on PIN 13-00600-80-020. Chair Sauber made a Friendly Amendment that it is farmed in conjunction with PIN 13-00700-01-013 and PIN 13-00700-25-010. Commissioner Fredlund seconded. Motion carried 5-0.

Joe Hendricks - 22465 Dodd Boulevard - Building Permit Application for a 3 - Car Garage.

Chair Sauber asked Mr. Hendricks if this would be for his personal storage and Mr. Hendricks replied yes it would.

Chair Sauber stated that on the application under residential garage Mr. Hendricks needs to circle "unattached" and Mr. Hendricks will also need to change his start date to after the meeting at which Town Board approves the application. Mr. Hendricks will initial and date those changes on his application.

Commissioner Larson moved to recommend approval to the Board for an unattached 3-car garage for Joe Hendricks, 22465 Dodd Boulevard, PIN 13-00600-04-012. Commissioner Wood seconded. Motion carried 5-0.

Glen and Alicia Perkins, 24729 Dodd Boulevard- Application for Remodel of Barn.

Chair Sauber stated that nothing has been heard from the Mr. Perkins or Kurt Weber for alteration and repair of an outbuilding. Therefore the Planning Commission needs to recommend to the Board that the application be denied.

Chair Sauber moved to recommend to the Board to deny the building permit application for alteration/remodel/repair of the barn at 24729 Dodd Boulevard owned by Glen and Alicia Perkins and represented by Kurt Weber, as the application had been submitted, but never represented and the 60-day rule is coming up. Commissioner Wood seconded. Motion carried unanimously.

Land Use

Alice Catlin - 24875 Dodd Boulevard - Lot Split Approval Application.

Chair Sauber stated that she spoke with Attorney Lemmons to see if a survey was needed and he stated yes. The survey they have does not show the Gustafson's new house. The Planning Commission does have the site plan for it. The Gustafsons also had a CUP from a pre-82 Lot of Record. The Planning Commission specified that it had to be a certain

distance from the lot line of what was going to be eventually split off and combined with the Catlins. Attorney Lemmons stated that would be sufficient.

Chair Sauber stated that it shows adequate setbacks. It is 173 feet from one point of the building to another point of the building and is in excess of 30 feet from the Gustafson's house to the lot line of what they are splitting off.

It was noted by Chair Sauber that the Planning Commission would recommend approval of the lot split with the condition that what is split off must be combined with the Catlins primary piece.

Chair Sauber noted that on the application, Parcel B needs to be changed from .08 acres to .8 acres. The application change needs to be initialed and dated.

Chair Sauber moved to recommend approval of the lot split for Brady and Anna Gustafson for Parcel A consisting of 5 acres with PIN 13-01800-52-015. Parcel B being split off is .8 acres with the condition that Parcel B will be combined with the Parcel that is owned by Lawrence and Alice Catlin, 24875 Dodd Boulevard, PIN 13-01800-53-010. Commissioner Fredlund seconded. Motion carried unanimously.

Resident Inquiry

Greg Sutton – Edina Realty and Bill Hanson - 5795 235th Street West – Question regarding commercial land status transferring to new owner.

Mr. Sutton stated that he has a client who will be selling his home that is currently commercial/residential. Mr. Hanson would like to make sure this is transferable to the new owner.

Chair Sauber stated that she spoke with Attorney Lemmons about this today. In order to be considered a non-conforming use, Mr. Hanson had to be legal when he started and that would mean he would have to show he existed before December 11, 1978. Chair Sauber stated that in doing some research one website said Mr. Hanson was established in 1995. That would mean that Mr. Hanson was not actually legal when he started and therefore not a non-conforming use, but a non-compliant use.

Mr. Sutton stated that Mr. Hanson's property is currently taxed as commercial and residential.

Chair Sauber pointed out that it is the taxing from the County Assessor. It has nothing to do with zoning or permitted uses.

Mr. Sutton stated that there are other properties in the neighborhood that are purely residential and they have the same non-conforming permit that Mr. Hanson has but they are not taxed commercial.

Chair Sauber stated that if they are not being taxed that way they should be.

Attorney Lemmons stated to Chair Sauber that the Ordinance language that talks about any use being present before September 7, 2004, is deemed legal non-conforming. All that means is if Mr. Hanson was non-conforming before, he is still non-conforming. Non-conforming means you were legal when you started, then the Ordinance changed making you no longer a legal use, but you are non-conforming so you can continue.

Mr. Hanson stated that he purchased a \$100 permit and had a hearing with the Planning Commission and his neighbors to register.

Chair Sauber stated that if Mr. Hanson had a CUP and it is in your file you can continue.

Mr. Hanson said that he is retiring and wants to sell the property and the potential buyer may not be interested in the commercial use. Mr. Hanson wants to change it back to residential and would like to find out what the process is.

Chair Sauber noted that if Mr. Hanson got a CUP, it runs with the land forever. If Mr. Hanson's potential buyer purchases it, it is up to that person, if you have a CUP, whether he continues the use or not. Unlike a non-conforming use, if it goes away for a year it doesn't matter because you still have the CUP that runs with the land not with the person owning the land. If the potential buyer wants to relinquish the CUP, he/she would have to appear before the Board to do so. Once the Board has approved the relinquishing of a CUP then it is just a matter of the County updating their records.

If Mr. Hanson cannot find a personal copy of the CUP he could check with the County as CUP's are attached to the deed.

Mr. Hanson had a copy of the minutes of October 2004, supporting his case.

Mr. Hanson stated that they had no further questions.

Town Board Liaison Report – Supervisor Hansen

- Building permit for Jason Curry for an add-on lean-to was approved.
- Application for an agriculture exempt building for Jeff Sauber was denied.
- Motion made to approve the annual review of the Prairie Creek Community School Conditional Use Permit.
- Motion made to table approval of the draft 2040 Comprehensive Plan until November.
- Motion made and approved to direct the Clerk to send a letter to the Metropolitan Council reflecting the motions made at the October meeting which reflect effort

being made by the Township to further investigate the possibility of providing sewer and water to the airport property.

- Review by Attorney Lemmons of the State Statute regarding procedures for closed Town Board meetings.
- Citizen Business Policy was briefly reviewed.
- Complaint Policy was briefly reviewed.
- Commissioner Funk and Supervisor Hansen to review State code.

New Business

The Planning Commission is again requesting a list of open permits from the Building Official.

Old Business

Review of Attorney Building Rights Transfer Application, Clustering Agreement, Procedures and Checklist

Two changes were made to item 6 and 7. To be discussed at December Planning Commission Meeting.

Forms Review

Changes on the following were discussed by the Planning Commission:

- Remodeling Application – Ralph Fredlund – waiting for Attorney Permission
- Building Addition Application – Ralph Fredlund – Clerk to make changes

Minutes Approval

May 2, 2017 – Planning Commission Meeting Minutes.

Attorney Lemmons to clarify a question on Page 4, Paragraph 7 regarding Lot of Record.

Commissioner Larson moved to approve the Meeting Minutes of May 2, 2017, as amended, pending an answer from Attorney Lemmons to the Planning Commission's question and Chair Sauber's confirmation of editing the Commission approved tonight. Chair Sauber seconded. Motion carried unanimously.

August 22, 2017 – Planning Commission Special Meeting Minutes – Scotts Miracle-Gro.

Chair Sauber stated that she would like to get Attorney Lemmons to check that the Findings of Fact are correct.

Commissioner Larson moved to approve the August 22, 2017, Special Meeting minutes of Scotts Miracle-Gro pending the approval of the Findings of Fact and review approval by Chair Sauber. Commissioner Fredlund seconded. Motion carried unanimously.

May 10, 2017 – Round Table Meeting Minutes

Deputy Clerk to ask Clerk to add a missing paragraph to the Round Table Meeting Minutes.

Chair Sauber moved to approve the May 10, 2017 Round Table Meeting Minutes as amended from the Planning Commission's point of view. Commissioner Wood seconded. Motion carried unanimously.

July 3, 2017 - Planning Commission Meeting Minutes – Deputy Clerk was absent, Commissioner Fredlund recorded the minutes.

Chair Sauber moved to approved the Planning Commission Meeting Minutes of July 3, 2017 provided that she give approval to the changes. Ralph Fredlund seconded. Motion carried unanimously.

September 5, 2017 – Planning Commission Meeting minutes

Commissioner Fredlund moved to approve the September 5, 2017, Planning Commission meeting minutes as amended with the removal of the word Supervisor on the first page. Commissioner Funk seconded. Motion carried unanimously.

October 3, 2017 - Planning Commission Meeting minutes

Chair Sauber moved to approve the Planning Commission Meeting minutes as amended with the stipulation that she approve them before they are posted. Commissioner Fredlund seconded. Motion carried unanimously.

Road Review Minutes October 7, 2017.

Chair Sauber moved to approve the Road Review Meeting minutes of October 7, 2017, as amended. Ralph seconded. Motion carried unanimously. Commissioner Fredlund to send amended minutes to Deputy Clerk to send on to the Town Board.

October 10, 2017 – Planning Commissioner Public Hearing – 2040 Comprehensive Plan.

Chair Sauber moved to approve the October 10, 2017 Planning Commission Public Hearing on the 2040 Comprehensive Plan as submitted. Commissioner Fredlund seconded. Motion carried unanimously.

Deputy Clerk Issues

The following points were discussed:

- When an application is denied, it still needs to be signed and sent on to the Board.
- It is to be practice that the draft minutes to be posted on the website labeled as draft.
- On applications, Zoning Administrator line needs to be signed.

Chair Sauber moved to adjourn the meeting. Commissioner Wood seconded.

Meeting adjourned at 10:10 PM.

Respectfully submitted,

Cheryl Murphy
Deputy Clerk