

EUREKA TOWNSHIP

DAKOTA COUNTY

STATE OF MINNESOTA

PLANNING COMMISSION PUBLIC HEARINGS OF SEPTEMBER 4, 2018

PROPOSED CHANGES TO THE FENCE ORDINANCE

Call to Order

The Eureka Township Planning Commission Public Hearing was called to order at 6:04 p.m. by Chair Ralph Fredlund.

Members Present: Ralph Fredlund (Chair)
 Bill Funk (Vice Chair)
 Randy Wood (Commissioner)
 Allen Novacek (Commissioner)
 Julie Larson (Commissioner)

Members Absent: None

Others Present: Butch Hansen (Town Board Liaison)
 Bob Finke (Town Clerk)
 Ranee Solis (Deputy Clerk)

See attached list for all others in attendance.

Amendment to Ordinance 3, Chapter 9, Sections 1-6

Chair Fredlund stated that the purpose of this hearing is to clarify the role of the Building Inspector and the Building Code.

Chair Fredlund prepared and presented the following proposed changes to the Fence Ordinance:

Chapter 9: Fences

The purpose of this Chapter is to establish standards for the installation of fencing and to protect the general health, safety and welfare of the residents and citizens of Eureka Township by regulating the ~~construction~~ esthetics, quality and location of fences.

Section 1 – FENCES ARE PERMITTED

Fences shall be permitted and shall be constructed in compliance with the provisions of this chapter. This chapter shall apply to lots of 3.0 acres or less in size if contiguous with one or more lots of 3.0 acres or less in size.

Section 2 – APPROVAL REQUIRED

No person or business entity shall construct or erect or cause to be constructed or erected within Eureka Township any fence without first obtaining a fence building administrative approval permit from the Building Official Township.

Section 3 – LOCATION: BOUNDARY LINE FENCES

- A. Location. All boundary line fences, including footings, shall be located entirely upon the private property of the person, or business entity constructing or causing the construction of such fence, unless the owner of the adjoining property agrees, in writing, that such fence may be erected on the division line of the prospective properties.
- B. Boundary Lines. 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 Township has the authority to, and shall require, the applicant to submit a survey prepared by a registered 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 the location of the fence to be built. Said agreement shall be recorded with the Dakota County Recorder, and proof of recording shall be provided to the Town Clerk, before the building permit fence administrative approval is approved.
- C. Traffic. On corner lots no fence shall be permitted which blocks road way intersection sight lines.

Section 4 – CONSTRUCTION

- A. Materials and method of construction. Fences shall be constructed in a substantial, workman like manner and of material reasonably suited for the purpose for which the fence is proposed to be used. Fencing material may consist of dimensional, solid, sawn, decay resistant lumber, chain link fencing material with corrosion protection or other material as permitted by the Town Board. The finished side of the fence shall face abutting properties and/or the street rights-of-way. Fences constructed for agricultural purposes operations may consist of barb wire. Electric fences shall be permitted for agricultural purposes operations. The party who constructed the fence shall, to the extent practicable, maintain said fence in a reasonable and sound condition. This shall include the cutting of grass and any other foliage which grows next to the fence, to the extent said grass and foliage are within the boundaries of the lot or tract of land enclosed by said fence.
- B. Fence Height (Residential). Fences constructed for residential purposes including security shall

not exceed a maximum height of six (6) feet. The Town shall have the right to limit the height of fences abutting a public right-of-way if in the Town's opinion the fence may interfere with traffic visibility.

- C. Security Fences (Non-residential). Fences constructed for security purposes may include barb wire security arms consisting of no more than three (3) strands of barbed wire. The minimum height of the security arm shall be six (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 barb wire. Non-residential security fences shall not exceed ten (10) feet in height.

Section 5 – EXEMPTION

Any fence whose use is part of an agricultural operation shall be exempt from the terms of this Chapter.

Section 6 – OTHER TERMS

- A. Swimming Pool Safety Fences. Fences constructed to enclose a swimming pool shall be bound by the provisions of Section 9, Chapter 4, Ordinance 3, to the extent that the provisions of this Chapter conflict with the provisions of said Section 9, the provisions of Section 9 shall supersede and override the provisions of this Chapter.
- B. Exceptions. The following fences shall not require a ~~building permit~~ fence administrative approval, except as noted, however they will be subject to all other provisions of this Chapter:
1. Any fence less than three (3) feet in height. However, said fence shall still be bound by the provisions of Paragraphs (A) and (B) of Section 3 of this Chapter, and the provisions of Paragraph (A) of Section 4 of this Chapter;
 2. Maintenance, upkeep and/or repair of fences;
 3. Any underground electric pet fencing; and
 4. Any temporary fencing installed to control snow. Fences installed at construction sites for safety purposes. Silt fencing installed to control soil erosion.

Fence Ordinance 20180705

Prepared by Ralph Fredlund

Public Speakers:

Allen Novacek – 24030 Iberia Avenue

I don't know of anyone who is in favor of a fence ordinance in any form at present. I am very certain that our State Statute very accurately covers what we need to do. From what

I've seen, the fence ordinance seems to be over-regulatory and the changes that are put before you are there, not because we're so concerned about our residents, but for much different reasons. I don't believe the fence ordinance as it is being changed, or as it was, benefits anyone in Eureka Township. I believe it takes away some of the freedoms and disregards some of the rights of ownership that should be respected by Eureka Township. One other thing that distresses me about the ordinance is the manipulative language put into the changes to call it an administrative permit, because it is illegal to require a fence permit because of State Statute. So, we have to be sneaky in calling it an administrative permit. We charge a fee for that, who benefits from that? And why do we have to know who is building a fence in this township? Why does it only apply to 2 ½ acre people? A lot of these things invade a person's right to privacy. The manipulative manner of wording this should, in and of itself, say that this thing is bad from the get-go, and just get rid of it. Eliminate the fence ordinance. We have a fence statute in the state of Minnesota and it covers the concerns that we have.

Lu Barfknecht - 24585 Iceland Path

I think these changes, and as much money as we have spent on the attorney reviewing them, and a simple piece of language that was to have been changed previously and not done, has brought a lot of this up. With the new Board and the new Planning Commission members, that's where there's maybe some change in opinion. This ordinance was brought to the attention of Eureka Township, that one should be written, back in 2012 that related to setbacks and conflicting language within our ordinances. I personally brought it to light long before an incident that came about that needed to get worked on, on the setbacks and, specifically, the fences. If I wanted to put a fence on my property I'm not going to build it 30 feet from the property line. That was brought about when I was on the Planning Commission, and the Planning Commission was tasked way back then with writing it, that did not happen. Phil Clemenson quit the Planning Commission before it could be completed so it moved on to the next one. As far as benefitting the residents in the township, I think there is great value for residents that are in the so-called non-agricultural areas in the township. And many cities and municipalities do have specific set-backs. One cannot assume that just because someone lives next door to you, that they're neighborly. The type of fence and material that they put up without an ordinance could be of any nature. I would agree that there are state statutes, I am very familiar with them when it comes to fences and the malicious erecting of said structures, so I think it does benefit the Township and residents that may not have someone who lives next door who is inclined to be neighborly. As far as the fees, if you are constructing anything, either the building official or the planning commission would go to the site to inspect it and the \$25 dollars was to recoup those costs. I don't think \$25 is an outrageous amount. If it's decided not to have a fee at all, that costs the Township for those site visits. I don't dispute anything with the changes that are laid out. I think its beneficial to many residents that perhaps live next door to someone who may not be so neighborly, and who find things to do in a malicious manner just to irritate those around them. Part of this came about because the Township failed to enforce its Ordinance with setbacks.

Nancy Sauber - 9445 225th St. W

Just going through this, I think the part about esthetics and quality is definitely needed as part of this fence ordinance. People have made the comment that this is interfering with the building code, which has been answered many times in saying that the building code doesn't even apply to fences 7 ft or less. It does not interfere with the building code. It is a zoning issue which the Township has authority to enact as it seems fit. When I was on the Planning Commission, a citizen asked the question: Why are we even doing this? Was there a problem? I said yes, there was, in fact, a problem. To me, if you are the sort of person who wants to get along with their neighbors and not cause issues, etc., I don't know why you would have any real argument with this because it makes perfect sense. This is common sense. I was here when we had the discussion about changing the size of the acreages. I would just put forth for your contemplation that a 10-acre strip with an ugly piece-meal, poorly constructed fence can be just as offensive to the next-door neighbor ten-acre owner as it would to one of 3 acres. When you say things like "this is being over regulatory" or "manipulative", I don't think it's over-regulatory by any means. It is totally within our Township's right to do this. I agree that it is a safeguard for citizens. In the past when something happened about this, the person was told to file a complaint. The setbacks on structures issue was kind of an unintended consequence of including fences as a structure, which they are. And it wasn't until this came up that we realized that 30 feet is not an appropriate setback for a fence. So, you fix it. To say that it is not legal to enact this ordinance is, in my opinion, totally wrong. I also find it unusual that a Planning Commissioner finds it necessary to speak from here (public podium) when he has all the opportunity he or she would want to speak from up there. The attorney, as was mentioned, reviewed everything. The other thing about the fence ordinance is that the boundary line fences can be a real legal issue if it's not done correctly. What is your plan for those fences that are residential in nature, that will be between 6 feet up to and including 7 feet, which are not covered by building code, nor by this ordinance? Does that mean then that we are limiting residential structures to 6 feet? What about those that fall in that gray area? And then anything over 7 feet does have to have a building permit, mainly because of footings and other things. I would like to have pointed out that those constructed for agricultural operations are exempt when they consist of barb wire. I would also like to have highlighted for citizens information, that if you have a situation in which you are not agricultural, but you do have horses and you would like to have a barb wire fence, that those individuals can come, under this ordinance, to apply to the Town Board to get the approval to do that. Which, to me, seems very reasonable. But I don't know that people in that situation would necessarily be aware of this. The fee is basically covering clerk time, there is nothing irregular about a pass-through fee, that's how townships and cities operate. Thank you for the opportunity.

Chair Fredlund asked three times if there is anyone else who would like to speak about the changes to the fence ordinance. He reiterated that there would be a separate hearing at 6:30 p.m. regarding repealing the Ordinance in its entirety.

Several citizens expressed dissatisfaction that the post cards were mailed late. Most were received just hours before the meeting.

Motion: Chair Fredlund moved to close the public input section of the Hearing, seconded by Vice Chair Funk.

Motion carried 5-0

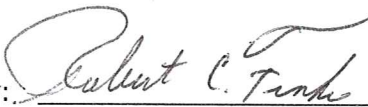
Motion: Chair Fredlund moved to continue the discussion during the Planning Commission meeting, seconded by Vice Chair Funk.

Motion carried 5-0

Respectfully submitted,



Ranee Solis, Deputy Clerk

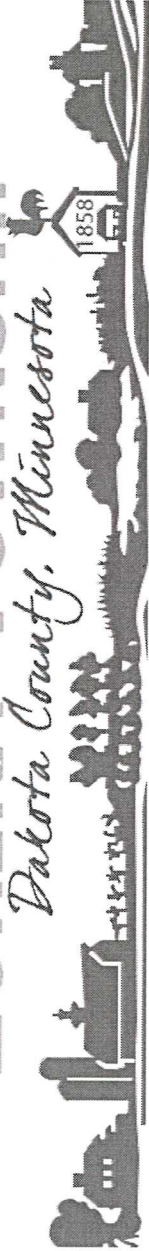
By: 
Town Clerk

and


Planning Commission Chair

EUREKA TOWNSHIP

Dakota County, Minnesota



Planning Commission Meeting

Attendance

Tuesday, September 4, 2018

6:00 PM

Printed Name

Address

Mr BARFKNECHT

24585 ICELAND PATH

Susan Bachman West

26347 Galaxie Ave.

Allean Smith

1122 PO Box Lake Park

Mary Louber

9445 225th St. W.

Gray Arman-Jones

6905 255th St. W.

Tom & Laurie Gossler

23734 Padd Blvd

Eureka Township

Public Hearing Speaker List

THANKS

September 4, 2018 - 6:00 PM

If you would like to make a comment during tonight's public hearing, please provide your name and address below. Speakers will be called in the order they are listed.

Printed Name	Signature	Address
Filen Novack	<i>Filen Novack</i>	21030 Iberia Ave
ku BARFORD	<i>ku BARFORD</i>	24585 ICELAND PATH
Nancy Sauber	<i>Nancy Sauber</i>	9445 225th St. W