

**Eureka Township
Public Hearing
March 21, 2007
Eureka Town Hall**

Request for Text Amendment to Zoning Ordinance 3

Planning Commission members present included Mike Greco, Nancy Sauber, Sharon Buckley and Clerk/Treasurer Nanett Champlain to record the minutes.

Town Board Members present included Gloria Belzer.

Citizens present: Robert Ripley, Gary Petrash, Samantha Sexton, Oren Sexton and Jeff Otto.

Planning Commission Chair, Mike Greco called the public hearing to order at 7:02 pm.

The purpose of the public hearing is to consider amending the zoning ordinance: Definition- Lot of Record. Chapter 3, Buildable Lots, Section 1- Density, Item F and Section 2 Platting of Land, Clustering, and Lot/ Parcel Splits. *See attachment of proposed language*

The Ripleys purchased property on 235th Street back in the 1980's. At the time they believed it was for two lots, both of which were buildable. In April 2006 they came before the Township and were told the lot was buildable. Sub sequentially when they came before the Township to split the property in question, it was discovered that the lot in question did not meet the ordinance definition for what constituted a lot of record. The current ordinance requires a lot to be a legally recorded document, a contract for deed, deed or a registered land survey that has been recorded in the Dakota County Records Office on or before April 12, 1982.

The Township has pursued two different avenues to address this situation. The Ripley's have requested an amendment to the Comprehensive Plan, asking that the property be rezoned and that the Township create a new type of zone in the Township- "Special Residential Zone". It would apply to this piece of property and the nine adjacent pieces in the same strip. This was considered at a Public Hearing on March 5, 2007.

Tonight's public hearing is to consider amending the townships ordinances to redefine what a lot of record is and include any survey prepared by a Registered Land Surveyor and filed in the Dakota County Surveyors Office on or before April 12, 1982. The Ripleys have such a survey. It was filed in the Dakota County Surveyor's Office in April of 1977. If the definition in the Ordinance were changed, Ripley's lot would be buildable and it would apply to any other person in the similar situation in the Township.

Chair Mike Greco explained the procedure that would be followed for the public hearing. Comments will be taken in the order presented on the speaker list.

This proposal is being presented by the Planning Commission, there is no applicant.
Chair Mike Greco opened the floor for public comment at 7:08 pm.

Orie and Samantha Sexton- 327 Archibauld Lane, Dundas, MN

Orie and Samantha Sexton are hoping to purchase a parcel of land in Eureka Township from Gary Petrash. This property was surveyed June 29, 1978. It was not recorded at the Dakota County Records Office. They want to see what they can do to build a house on this property. The survey was not recorded at the Dakota County Records Office. The Sexton's wanted to speak in favor of the proposed amendment to the ordinance, because it would help their situation also- to build on the piece of property.

The Planning Commission could not address the specific issue of the buildability of the Petrash property at the public hearing. Sextons were asked to attend a Planning Commission meeting to present their documents.

Sharon Buckley expressed concerns whether we are proposing the rewriting of the ordinance is broad enough to cover other circumstances or is it specific to the Ripley's situation.

Chair Mike called three times for public comment, hearing none Chair Mike Greco closed the public hearing portion of the meeting.

Planning Commission Discussion followed. Discussion included the two options before the Planning Commission. The Comp Plan proposal from the March 5, 2007 Public Hearing and the ordinance change proposal from tonight's public hearing.

Concerns over amending the Comp Plan included: In the last year the Township has turned down two other proposals to amend the Comp Plan based on the fact that we are in the midst of a Planning process and we didn't think it was appropriate to make those kinds of changes until the process is complete.

Even though the Comp Plan change would affect a small number of landowners that it is inconsistent to consider taking action on it.

It is illegal in the State of Minnesota to do spot zoning. To pick a piece of property that may be similar to many other properties in the Township and zone this piece differently than other properties. Met Council may not approve this proposal because they view it as spot zoning.

The proposed ordinance change from tonight's public hearing will apply to anyone with a similar situation. It does not require a Comp Plan change. There are 71 surveys filed in the Dakota County Surveyor's Office. Due to the cost of a survey, most of these surveyed properties have been acted on.

The Planning Commission felt that the amount of properties affected by the ordinance change would be limited, because they need to fit specific conditions. With creating a special single family residential zone, other property owners could request their property to be rezoned also.

The Ordinance change proposal is fair. It is not looking at a single situation and a solution to a single lot problem. It is fair to others that have the same situation that a survey was filed with the surveyor's office and not the recorder's office.

Sharon Buckley stated for the record: As many times as we have had hearing about this property and heard this issue, in the past year or more. We have never had anybody speak against this issue.

Motion seconded by Mike Greco: That the Eureka Town Board approve the proposed amendment to the Definition of “ Lot of Record” and to Ordinance 3, “Buildable Lots”, Section 1- “Density” and Section 2- “Platting of Land, Clustering, and Lot/ Parcel Splits” for the following reasons:

- 1. It provides relief for the Ripleys.** The proposed amendment acknowledges the registered land survey for these properties that was filed with the Dakota County Surveyor’s Office on April 5, 1977, established two lots of record, and thus two buildable lots. The proposed amendment also provides a mechanism for the Ripleys to return the parcels to their original boundaries and dimensions as they were established by that registered land survey.
- 2. It’s consistent with the current comprehensive plan.** The proposed ordinance amendment does not require any amendment to the township’s land use map or to the text of the comprehensive plan.
- 3. It’s consistent with previous Eureka Town Board opinions on the issue.** The proposed amendment acknowledges previous town board opinions in 1977, 1984, and most recently in April 2006, that the Ripleys had one buildable lot remaining.
- 4. It protects the health, safety, and general welfare of the public by providing an equitable solution to this situation.** By changing the definition of a lot of record, the proposed ordinance amendment provides relief to any other landowners who are similarly situated.

Motion seconded by Sharon Buckley. Motion carried by unanimous vote.

A motion by Sharon Buckley: to adjourn. Motion seconded by Nancy Sauber.

Meeting Adjourned.

Attachment

Definitions

Lot of Record

Any lot which is one unit of a plat heretofore duly approved, one unit of an Auditor's Subdivision or a Registered Land Survey, or is separately described in a deed, contract for deed, or other legally sufficient instrument of conveyance, and which ~~is~~was filed in the Office of the Dakota County Recorder on or before April 12, 1982. Also to be considered as a lot of record shall be any parcel delineated on a certificate of survey prepared by a Minnesota-licensed land surveyor, and which was filed in the Dakota County Surveyor's Office on or before April 12, 1982.

Lot, Substandard

A lot of record which does not meet the minimum lot area, structure setbacks, or other dimensional standards of this Ordinance.

Chapter 3: Buildable Lots

Section 1 - DENSITY

Lots in the Township of Eureka shall be deemed buildable if they meet each and every one of the following criteria.

- A. Minimum lot size 2 acres
- B. The lot has 33 feet of frontage abutting a publicly maintained roadway.
- C. The lot is 250 feet wide at the location where the home will be placed.
- D. A home can be built on the lot that complies with all other setback and density requirements contained in this Ordinance.
- E. The lot will support a sewage treatment consistent with this Ordinance and State, Local and Federal requirements for the same.
- F. Density requirements in the Township are as follows:

The maximum density for any new construction or for any construction on newly created lots is one home per 1/4 1/4 section, except ~~in that~~ lots which were created and/or under separate ownership from abutting lands on or before April 12, 1982, and which would have been eligible for a

building permit on December 12, 1978, may be developed to a density of four residences per 1/4 1/4 section overall. This provision shall not be construed to permit construction of residences on lots that were not created and/or under separate ownership from abutting lands on or before April 12, 1982, to a density beyond one per 1/4 1/4 section.

Section 2 - PLATTING OF LAND, CLUSTERING, AND LOT/PARCEL SPLITS

A. Lot Splits Before 1982

1. A substandard lot or a lot of record shall be deemed a buildable lot provided it meets all of the following requirements:

~~4a.~~ It Has-has 33 feet of frontage on a public right-of-way, and is 250 feet wide at the dwelling site;

~~b2.~~ Was-It was created and/or under separate ownership from abutting lands on or before April 12, 1982, ~~except that this requirement shall not apply to a lot which is one unit of a plat heretofore duly approved;~~

~~c3.~~ Its area is at least two (2) acres;

~~d4.~~ Its development for single-family residential purposes will not violate the general intents and purposes of this Ordinance, including but not limited to the prevention of pollution of applicable waters and surrounding lands, and the preservation of the health, safety, and welfare of the general public;

~~5e.~~ It would have been eligible for a building permit on December 12, 1978.

B. A substandard lot or lot of record that can be demonstrated to meet all of the requirements of Ordinance 3, Chapter 3, Section 2(A), and that after creation of the lot was subsequently consolidated with an abutting lot for the purposes of a real estate sale or county tax consolidation, shall be deemed a buildable lot provided it meets all of the following requirements:

1. The lot(s) involved in the consolidation shall be re-created to conform to the exact boundaries and dimensions as they existed when the lot of record was originally created.

2. The re-creation of the lots shall be completed through an approved lot split that shall be approved by the Eureka Township Board and filed in the Office of the Dakota County Recorder.

3. Any use or structure currently existing on the re-created lots shall conform to all building setback and driveway requirements of this ordinance.

4. The re-created lots must comply with the zoning density requirements described in this ordinance for lots created and/or under separate ownership on or before April 12, 1982.