

PLANNING AND ZONING COMMISSION MEETING – AUGUST 15, 2018

The Regular Bi-Monthly Meeting of the Andover Planning and Zoning Commission was called to order by Chairperson Kyle Nemeth on August 15, 2018, 7:00 p.m., at the Anoka County Sheriff's Office Community Room, 13301 Hanson Boulevard NW, Andover, Minnesota.

Commissioners present: Mary VanderLaan, Scott Hudson, and Nick Loehlein

Commissioners absent: Dean Daninger, Bert Koehler IV, and Jeff Sims

Also present: Community Development Director Joe Janish
Associate Planner Dan Krumwiede
Others

PLEDGE OF ALLEGIANCE.

APPROVAL OF MINUTES.

June 12, 2018 Work Session Meeting

Commissioner VanderLaan requested the following correction:

Page 7, third paragraph, replace 'Winslow' with 'former City Engineer Dewey Kasma, TKDA,'

Chairperson Nemeth requested the following corrections:

Page 3, fifth paragraph, last line, change 'details' to 'detail'

Page 3, last paragraph, last sentence, 'reviewing ~~next~~ trail'

Page 5, third paragraph, 'is developed, which is anticipated'

Page 5, fifth paragraph, second line, 'outside the MUSA'

Page 6, fifth paragraph, last line, 'possible number based'

Motion by VanderLaan, seconded by Loehlein, to approve the minutes as amended. Motion carried on a 4-ayes, 0-nays, 0-present, 3-absent (Daninger, Koehler IV, and Sims) vote.

June 12, 2018 Regular Meeting

Chairperson Nemeth requested the following corrections:

Page 3, sixth paragraph, third line, ‘Land Use goal, which is to’

Page 8, fifth paragraph, insert period (.) at the end

Page 10, first paragraph, second line, ‘neighborhood and it is’

Page 11, sixth paragraph, 1st condition, last line, ‘wider at the front yard ~~and~~ setback lines.’

Motion by Hudson, seconded by Loehlein, to approve the minutes as amended. Motion carried on a 4-ayes, 0-nays, 0-present, 3-absent (Daninger, Koehler IV, and Sims) vote.

June 24, 2018 Work Session Meeting

Chairperson Nemeth requested the following corrections:

Page 2, Line 20, ‘Commissioner Niek Loehlein’

Page 2, Line 36, ‘...location of 7th Avenue and Bunker Lake...’

Page 2, Line 27, ‘is close to the rail line, and on Bunker Lake Boulevard as one of the...’

Page 2, Line 26, ‘was referred to the Park & Rec Commissioner.’

Motion by VanderLaan, seconded by Loehlein, to approve the minutes as amended. Motion carried on a 3-ayes, 0-nays, 1-present (Hudson), 3-absent (Daninger, Koehler IV, and Sims) vote.

PUBLIC HEARING: Interim Use Permit for the Continuation of Subordinate Classroom Structures – Andover Christian Church.

Community Development Director Janish noted the purpose of this item is to hold a public hearing and take input on the request of Andover Christian Church to continue the timeframe for the removal of subordinate classroom structures on their property. He referenced the five standards that must be found to approve an IUP.

Community Development Director Janish presented the request, noting the City had previously approved Conditional Use Permit (CUP) amendments for this property for temporary structures. Community Development Director Janish stated a CUP for temporary classrooms was originally requested by Family of Christ Lutheran Church in 1998 and a four-year extension was granted in 1999. Five-year extensions were granted in 2003, 2008, and 2013. The current CUP will expire on August 31, 2018.

Community Development Director Janish displayed a site plan of the subject site as well as photographs submitted by the applicant showing exterior building elevations and the subordinate classroom structures. He stated staff has drafted resolutions for consideration that include possible findings of fact and two conditions of approval as follows:

1. The Interim Use Permit shall expire on August 31, 2023 at which time the temporary structures shall be removed.

2. Upon the issuance of the Interim Use Permit, the Building Department shall perform an inspection of the subordinate classroom structure.

Community Development Director Janish stated the next required inspection by the Fire Department is in September of 2018. If the extension is approved, the Building Department has requested to conduct their inspection at the same time as the Fire Department.

Community Development Director Janish referenced the e-mail received from Paula and Dann Mueller voicing their support and comments related to the classrooms and church property in general.

Chairperson Nemeth asked if Commissioners had questions of staff.

Commissioner VanderLaan asked about the handling of the resolution, noting the e-mail referenced asks for adjustments in the pattern of lights and placement of trees. She also asked if that should be referenced in the motion or was staff mention of these issues sufficient.

Community Development Director Janish stated the evaluation tonight is whether to continue to have subordinate classrooms on the property. The two items raised in the e-mail do not fall under the relationship of classrooms on the property but may relate to other impacts to the neighbor. He noted it may be appropriate to bring those issues to the attention of the applicant with a request to accommodate those two items.

Commissioner Hudson asked if the Building Inspector has inspected the temporary classrooms in the past. Community Development Director Janish answered there was an inspection by the Building Department at the beginning and in 2013 when the IUP was renewed. The Fire Department inspects every two to three years.

Commissioner Hudson asked whether the Building Official can inspect prior to consideration. Community Development Director Janish explained that option was raised and the church indicated there will be no problem in addressing any item that is found during an inspection.

Chairperson Nemeth referenced the background information as contained in the staff report and asked about the timing of renewal. He noted the subordinate classroom structures were originally approved in 1998 and a four-year extension was approved in 1999, which is only one year later. Community Development Director Janish stated the Family of Christ Lutheran Church may have pursued other options and then decided an extension was more appropriate.

Motion by Hudson, seconded by Loehlein, to open the public hearing at 7:20 p.m. Motion carried on a 4-ayes, 0-nays, 3-absent (Daninger, Koehler IV, and Sims) vote.

Chairperson Nemeth read the e-mail received from Paula and Dan Mueller, 1966 159th Lane NW, stating their support and asking the church to adjust its pole lighting so it does not shine into their front windows and also to plant large Pine trees on the east side of the entry.

Dr. Jim Conner, Senior Pastor at Andover Christian Church (ACC), stated he was not previously aware of either issue. He explained their parking lot lights were updated to LED and they have already contacted the installer and were assured a shield could be mounted, to keep light within the parking lot. Pastor Conner stated they will have light shields installed to address that concern. With regard to the trees, that is also a new issue and they will check into options. Pastor Conner stated they may either move trees or purchase additional trees for the east side of the entry.

Pastor Conner stated he submitted a letter explaining the importance of this permit for their congregation as well as a document (entitled 'Future Plans Regarding ACC's Temporary Youth Center, Andover Christian Church dated August 2018) that describes their intentions.

Chairperson Nemeth stated he looked over that letter and information on their future plans and understands the congregation's intent and economic factors. He noted that when renewal of this use came up before, the City had wanted to see something done as they are temporary buildings. Also, there had been a lot of discussion with Community Development Director Carlberg providing direction on the temporary status.

Chairperson Nemeth asked about their future plans and moving this forward so in five years, either the temporary classroom is no longer on the property or they are thinking about building. He reviewed the location of the four temporary structures located in Andover and pointed out that Legacy Christian will be removing their temporary structure as they have raised funds to build. He noted the ACC's temporary structure has been in place for about 20 years so he is looking for an idea on the church's future plans.

Pastor Conner stated the most candid answer is that their members realize it is temporary and while it is being maintained, there is no doubt there is a difference in quality when compared to the main building. He stated the congregation and trustees have discussed what it could be replaced with, such as a large multi-purpose space for teen activities plus restrooms. Three years ago, during those discussions, several members talked with a contractor. No plans were drawn up except for rough concepts to get an idea of the cost, which was about \$1.3 million. Pastor Conner stated that is as far as that discussion went.

Pastor Conner stated the church does not see this as a long-term solution, realize it is temporary space, and agree with that. But, it is a matter of affordability and income. He asked for the City's patience as they work though the economics of being able to replace the temporary structure.

Chairperson Nemeth stated if there is not a plan in place in five years, he would like to hear their thoughts then. Pastor Conner stated if they could predict the next five years and size of membership, he could answer that and if at a 10% growth rate, they would be in a better position. However, they cannot predict the economy or if there will be a downturn. Pastor Conner stated he is certain the City would like a commitment but he is nervous to make one that they cannot honor or would not be financially feasible for the church to undertake.

Doug Kasseth, 16777 Shenandoah Street NE, Ham Lake, Trustee at ACC, referenced an earlier question by Chairperson Nemeth and explained the first permit was for a single year and then there was a four-year extension. Mr. Kasseth stated he has been at this church for 20 years and agreed with the position as stated by Pastor Conner about there being multiple conversations on how to expand the building to get rid of the temporary buildings. However, dreams are bigger than checkbooks and some of the original ideas and plans did not accommodate the site plus the required parking spaces.

Motion by Loehlein, seconded by Hudson, to close the public hearing at 7:33 p.m. Motion carried on a 4-ayes, 0-nays, 3-absent (Daninger, Koehler IV, and Sims) vote.

Commissioner VanderLaan noted for the record she has seen this church grow and change and commended them for their work with youth in the area. She believed there was a situation in the City where youth were not served as good as they could be and this church was doing what they could in this tiny temporary space. Commissioner VanderLaan stated it is not the finest space but she has watched it over the years from the road and agree it is properly maintained as much as can be done. She stated the limitations are space and money and the Planning Commission needs to recognize the church is doing good work in the community and approval would allow them to continue that work.

Commissioner Loehlein stated when something has been reaffirmed 4-5 times and for 20 years, 'interim' is a hard term to use. However, he is supportive of the IUP for the reasons stated by Commissioner VanderLaan and so the church can continue to serve the community.

Chairperson Nemeth concurred and stated his only problem is that it is to be a temporary use. He noted this is a temporary classroom structure and while probably up to Code when brought to the property, it is on a temporary foundation. He stated he would be all right with extending one more time with direction to the church to start the process and move forward in planning and fundraising for a permanent structure. Chairperson Nemeth stated he knows that takes time but it has been almost 20 years and the church was probably aware when they purchased the property that this was a temporary structure. He noted temporary structures can negatively impact value, the exterior structure materials are not uniform, and this IUP places a burden on the Building Department and Fire Department due to required inspections. Chairperson Nemeth stated

he would like this to be the last time this comes before the Planning Commission as an IUP and that planning for a permanent structure begins.

Motion by VanderLaan, seconded by Loehlein, to recommend to the City Council approval of an Interim Use Permit for the Andover Christian Church extending the time for removal of a subordinate classroom structure on their property at 16045 Nightingale Street NW, as the five criteria have been sufficiently met, subject to conditions as outlined by staff and detailed in the resolution. Motion carried on a 4-ayes, 0-nays, 3-absent (Daninger, Koehler IV, and Sims) vote.

Community Development Director Janish stated that this item would be before the Council at the August 21, 2018 City Council meeting.

PUBLIC HEARING: Variance to Reduce Front Yard Setback for an Accessory Structure – 3174 170th Lane NW – John and Kristy Tverberg.

Associate Planner Krumwiede noted the purpose of this item is to hold a public hearing and take input on the variance requests of John and Kristy Tverberg at 3174 170th Lane NW to construct an accessory building that encroaches on the 60-foot front yard setback by 30 feet based on the variance review criteria for granting a variance under City Code 12-14-7 B.

Associate Planner Krumwiede displayed an aerial photograph of the subject site, noting the location of the proposed structure. He referenced Ordinance 12-6-5, Location and Setback Requirements, that states, ‘In all districts accessory structures shall not be located nearer the front lot line than the principal structure; except on residential lots with a lot area of one acre or more, the minimum front yard setback is sixty feet.’ The four required criteria to consider a variance were also noted.

Associate Planner Krumwiede reviewed the requested setback variance with the Commission, noting it is to build a 36-foot by 36-foot or 1,296 square foot accessory structure that encroaches the 60-foot front yard setback. The applicant would like to reduce the front yard setback for an accessory structure from 60 feet to 30 feet and to split off the current driveway to reach the accessory structure so a secondary curb cut would not be needed.

Associate Planner Krumwiede displayed several photographs of the applicant’s property. He stated the subject site is wooded and the proposed location of the accessory structure is believed to be the best location, as the applicant hopes to avoid cutting down a lot of mature trees. He displayed a survey and pointed out the location of the proposed structure.

Associate Planner Krumwiede reviewed possible findings of fact and four conditions of approval as follows:

1. All appropriate building permits shall be obtained prior to commencement of the work.
2. The accessory building shall be completed within one year of the approval of the variances. Variance approvals will be invalid after such time.
3. Any occupation of the building for dwelling or business purposes shall adhere to the City of Andover City Code.
4. The accessory structure shall be designed to be architecturally compatible with the principal structure, use, and neighborhood.

Associate Planner Krumwiede stated staff received an e-mail from one resident in favor of the applicant's request.

Chairperson Nemeth asked how a 60-foot setback is measured. Associate Planner Krumwiede stated it is measured from the property line into the applicant's property.

Chairperson Nemeth asked about the rationale for the 60-foot setback and if it is for future road expansion or safety purposes. Community Development Director Janish stated the right-of-way is established in this area and the 60-foot setback relates to views of the structure and parking of vehicles. It is not a question of safety or clear zones but whether the City is willing to deviate from the requirement.

Commissioner Hudson referenced the site plan, noting the application is for a front yard setback. He asked about the points of access and required setbacks for the properties on either side of the subject site. Associate Planner Krumwiede stated one property has access off Ivywood Street and the other has access off 170th Lane.

Commissioner Hudson asked if either neighboring property owner could construct an accessory structure closer than the 60 feet. Community Development Director Janish stated that is a potential and indicated he would check the Code book and provide an answer in a few minutes.

Motion by Loehlein, seconded by Hudson, to open the public hearing at 7:53 p.m. Motion carried on a 4-ayes, 0-nays, 3-absent (Daninger, Koehler IV, and Sims) vote.

John Tverberg, applicant at 3174 170th Lane NW, clarified that his driveway is off 170th Lane and the adjoining properties have access from Round Lake Boulevard and Ivywood Street. According to the Code, a corner lot cannot have an accessory structure extend beyond the main structure so the five-foot side setback is not applicable for those two adjoining properties. Mr. Tverberg stated there is a 15.5-foot grass lane to the structure so it is actually 85 feet off the asphalt roadway.

Community Development Director Janish used a photograph of the subject site to describe the portion of boulevard (right-of-way) and explained the setback is measured from the property line (not the edge of the asphalt).

Mr. Tverberg stated they don't want to knock down mature oak trees and want to keep as much distance as possible for the neighbor to the west to keep them happy. He prefers the proposed location for accessibility, usability, and how it looks. He stated it will also be easier and safer to back his boat into the proposed structure.

Commissioner Loehlein asked about intended uses. Mr. Tverberg stated it will be a garage to house his boat, antique tractor, and an aluminum trailer. He would like it built in the same shape, style, and color as the house.

Commissioner VanderLaan stated there is a large area to the right side of the house and asked why that location is not being used, noting it contains no trees. Mr. Tverberg stated that is the location of the drain field. Commissioner VanderLaan asked about the square footage of the house. Mr. Tverberg stated the foundation is just over 1,600 square feet. Commissioner VanderLaan stated this is an attractive neighborhood and the values have increased.

Chairperson Nemeth asked about the exterior building material to match the house. Mr. Tverberg stated the house has vinyl siding and he will match it as close as possible.

Chairperson Nemeth asked about the height of the roof peak. Mr. Tverberg stated the garage will have 10-foot high walls, an 8:12 roof pitch, and will not be taller than the existing house.

Chairperson Nemeth noted the proposed location will not require another curb cut or asphalt driveway. He asked if there will be a paved driveway extension. Mr. Tverberg stated he plans to utilize the existing driveway and eventually will install a modified driveway trap (crushed rock). He agreed there is no need for an additional curb cut as this is an asphalt roadway.

Chairperson Nemeth read the e-mail received from Barbara and Maris Schilling, 17025 Round Lake Boulevard, stating their support of the application.

Community Development Director Janish stated the side yard setback for an R-1 zoned corner lot is 40 feet. As previously indicated by the applicant, either neighbor could construct an accessory structure 40 feet from the roadway but the applicant's accessory structure is required to be set back 60 feet.

Commissioner VanderLaan asked whether the residents who submitted the e-mail share a contiguous lot line with the applicant. Mr. Tverberg stated Barbara and Maris Schilling are to the west off Round Lake Boulevard and they share a lot line.

Commissioner Loehlein stated the request is for a variance to the front yard setback from the Code required 60 feet to 30 feet but the sketch shows the nearest distance is 36 feet. Mr. Tverberg explained that is a rough sketch and while he is requesting a variance to

encroach up to 30 feet, he thinks it will be at 24 feet. He stated he wants some flexibility in case the location shifts once it is staked out by the contractor.

Motion by Loehlein, seconded by VanderLaan, to close the public hearing at 8:08 p.m. Motion carried on a 4-ayes, 0-nays, 3-absent (Daninger, Koehler IV, and Sims) vote.

Commissioner VanderLaan stated she is concerned about altering the character of the neighborhood. She noted there are other large structures on the road but none sit so far ahead of the principal structure as what is intended here. In addition, it is a good-sized building at 36 feet by 36 feet, which will also require a good-sized pitched roof. In the concepts of everything the Planning Commission has to consider, it looks to setting precedent and what the future holds. Councilmember VanderLaan stated there is not enough sewer line so it probably won't happen but should there be a lot split for this property, it would put the accessory building on a separate lot. In addition, it reverses what Andover typically does, to put accessory buildings to the side or rear of the lot, not in front of the principal structure. Councilmember VanderLaan stated if there is any intention to raise ducks or chickens, as allowed by ordinance and a current trend, there will be fencing problems as the structure would be close to the roadway and within the front yard setback. She believed the proposed location will be limiting and the applicant's not wanting to lose some trees may lean towards the economics of the project; however, that is not the over-riding reason to grant a variance. Commissioner VanderLaan stated there is a large structure across the street from the subject site but it is concealed by more trees.

Chairperson Nemeth asked what is the criteria to have an accessory structure in front of the principal structure and if it is allowable in R-1. Community Development Director Janish stated this house is set back about 100 feet so an accessory structure is allowed in the front yard with a 60-foot setback.

Commissioner Loehlein stated this property is heavily wooded, the structure will be sufficiently screened from the neighbors, and it is reasonable to branch off the existing driveway and locate the structure as proposed.

Chairperson Nemeth concurred and stated he thinks the wooded property, issues with the septic system, and large drain field that takes up the side yard, present a difficulty. He stated he likes the building materials matching the house and if the driveway is currently asphalt, he believes the extension should also be asphalt. Chairperson Nemeth stated he is not willing to make it a condition of approval but wanted to make the comment that it would be in the best interest of the homeowner to match the driveway material.

Commissioner Loehlein concurred and agreed that would be appropriate.

Commissioner Hudson stated the applicant is seeking a variance of up to 30 feet but has indicated there is some 'play' in that measurement. He stated his preference for the

building to be located farther back but as presented he thinks it will look fine and can support the application.

Motion by Loehlein, seconded by Hudson, to recommend to the City Council approval of the request of John and Kristi Tverberg for variances at 3174 170th Lane NW to construct an accessory building that encroaches on the 60-foot front yard setback by 30 feet based on the variance review criteria for granting a variance under City Code 12-14-7 B, subject to conditions as outlined by staff and detailed in the resolution. Motion carried on a 3-ayes, 1-nays (VanderLaan), 3-absent (Daninger, Koehler, Sims) vote.

Chairperson Nemeth stated this item will be considered by the City Council at its September 18, 2018 meeting.

OTHER BUSINESS.

Community Development Director Janish provided an update on Planning Commission related items considered by the City Council, noting the variances for the property located at 167th Avenue NW/Maniteau Boulevard NW and Code amendment related to accessory structures were both approved.

Community Development Director Janish stated the Planning and Zoning Commission will next meet in Work Session on August 28, 2018.

ADJOURNMENT.

Motion by Loehlein, seconded by VanderLaan, to adjourn the meeting at 8:20 p.m. Motion carried on a 4-ayes, 0-nays, 3-absent (Daninger, Koehler IV, and Sims) vote.

Respectfully Submitted,

Carla Wirth, Recording Secretary
TimeSaver Off Site Secretarial, Inc.