

**MINUTES
PLANNING COMMISSION MEETING
JUNE 23, 2016**

The meeting was called to order at 6:30 p.m.

Present: Artner, Denn, Flann, Griffin, Kotilinek, Patrick, Ulbrich; Town Board Liaison: Prudhon; Planner: Riedesel.

APPROVAL OF AGENDA (Additions / Deletions): Artner moved approval of the agenda as submitted. Ulbrich seconded. Ayes all.

APPROVAL OF MINUTES OF MAY 26, 2016: Ulbrich moved approval of the Minutes of May 26, 2016. Artner seconded. Ayes all.

WILBERT, INC., 4221 OTTER LAKE ROAD – REQUEST FOR PERMITTED USE STANDARDS PERMIT AND VARIANCE: The Planner reported that Wilbert, Inc. is requesting approval of a Permitted Use Standards Permit which would allow construction of a noise wall on the south side of the building abutting a loading ramp. The loading ramp abuts the storage silos and would be placed to reduce noise from trucks filling the silo's and properties south of the Wilbert site.

In addition, Wilbert would like to add a second cooling tower on the north side of the building. The second cooling tower would be placed adjacent to the existing tower. The current tower was approved by the Town in 1994. A right-of-way setback variance was necessary to approve the tower at that time. The tower is used to cool water used in the manufacturing process. A second tower will be used for the same purpose and will allow Wilbert to conserve water in their manufacturing process. The cooling tower is proposed to be placed on the north side of the building, 21.5 from the right-of-way. A 13.5' right-of-way setback variance must be approved to permit the tower. When the 1994 tower was approved, a dozen spruce trees were required to screen the structure from the public. One of these trees will have to be removed to place the new tower. The tower is lower in height than the building.

Section 9-6.4 of Ordinance No. 35 sets the standards which must be met in order to approve a variance. It states:

- (1) Without issuance of a variance, the provisions of this Ordinance would deprive the applicant of a reasonable use of property under the terms of this Ordinance.

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- (2) That the special conditions and circumstances do not result from the action of the applicant.
- (3) That granting the variance request will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.
- (4) That the proposed action will not unreasonably increase the congestion on public streets.
- (5) That the proposed action will not increase the danger of fire or endanger the public safety.
- (6) That the proposed action will not unreasonably diminish or impair established property values within the neighborhood or in any other way be contrary to the intent of this Ordinance.

The variance request is consistent with a previously approved variance for Wilbert. The cooling tower will be screened from view by existing spruce trees. The variance as requested meets the standards set forth by the Zoning Ordinance to approve a variance.

Craig Scheel reported that Wilbert will be conserving 1,250 gallons of water per hour with the new cooling tower. He stated that they propose to construct the new cooling tower before the hot weather, when there is a heavy demand on water.

Permitted Use Standards Permit: A Permitted Use Standards Permit must be approved by the Town in order to allow the proposed noise wall. The wall is proposed to create a noise barrier between the boundary and residential properties south of the property in Gem Lake. The wall details are currently being determined and Wilbert is working with a sound expert to design the wall. The wall is proposed to be a minimum of 100' from the closest lot line.

The Planner reviewed Section 9-3.4(a) which sets the standards which must be met in order to approve a Permitted Use Standards Permit. The use shall be planned, designed, constructed and maintained to avoid:

- (1) Unnecessary detracting from the appearance of adjacent properties or from the Town as a whole.
- (2) Aesthetic incompatibility.
- (3) Aural incompatibility.
- (4) Damage to vegetation.
- (5) Traffic pattern incompatibility.
- (6) Erosion of soil.
- (7) Unnecessary loss of existing natural features (vegetation, steep slopes, wetlands, water bodies).
- (8) Increased flood potential.

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- 9-3.4(b). No development shall be allowed which will result in unusual maintenance or repair costs of road, parking areas or utility lines.
- 9-3.4(c) Development shall be permitted only in such a manner that the maximum number of trees shall be preserved. It shall be the duty of the applicant to demonstrate that there are no feasible alternatives to the cutting of trees on the site.
- 9-3.4(d) The type and density of land use proposed for the site shall be suited to the site conditions and shall adequately correct problems due to soil limitations, including but not limited to, bearing strength, shrink-swell potential, slope stability, high ground water, or wetness.
- 9-3.4(e) The proposed use shall be sited, designed, oriented and landscaped to produce a harmonious relationship of building and grounds to buildings and properties in the neighborhood.
- 9-3.4(f) The proposed use shall show sufficient landscaping to screen undesirable features and to enhance the development.
- 9-3.4(g) The proposed use shall preserve the objectives of this Ordinance and shall be consistent with the policy and recommendations of the Comprehensive Plan.

Craig Scheel stated that if a wall is constructed to screen noise it will have to be as tall as the building which is 24' tall. The silos are 34' in height. The wall is proposed to be 24' in height and 85' long. The structure will be wood using 2'x12' treated lumber. The posts will go 5' into the ground. Ulbrich asked if the applicant has talked to an arborist regarding the use of plantings in connection with the wood wall. Craig Scheel stated that no resident would see the proposed wall. The only place it would be viewed from is the parking lot. He reported that the wall is being proposed because a resident of Gem Lake stated that when the trucks pump the pellets into the silos it is noisy. The resident stated that the noise occurs between 10:00 a.m. and 2:00 p.m. He stated that the noise comes from the pumps on the trucks and there is no way to minimize the noise. He stated that the reason they are constructing a wall, if approved, is because of the one complaint. Craig Scheel stated that the trucks come three times each week and it takes about 3 hours to pump the material. Prudhon asked if they have checked the decibels for noise during pumping. Craig Scheel stated that they have not but can do it.

Comments and suggestions included:

- Okay with the wall but concerned about the looks.
- Use vines on outside of the wall. It would require less maintenance.
- Can the wall be sprayed with foam?
- Use 2'x2' and 2'x6' wood slats as a pattern.

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- What about using pre-cast panels. It would provide a better texture.
- Would the wall create a noise tunnel.

The members informed Craig Scheel that they understand the reason for the noise wall but want to be helpful by making suggestions. They stated that it would be best if a building inspector would look at the design to be sure that the wall would function correctly and to talk to an arborist about plantings for aesthetics and which could help mute the noise.

Ulbrich moved to recommend to the Town Board to approve the request for a 13.5' right-of-way setback variance for cooling tower to be placed on the north side of the building. Artner seconded. Ayes all.

Flann moved to recommend to the Town Board that the building inspector look at the design for the proposed noise wall at Wilbert, Inc. to be sure that it will function correctly. Kotilinek seconded. Ayes all. It was noted that Wilbert will return to the July Planning Commission Meeting with an updated plan.

TEMPORARY DWELLING UNITS – DISCUSS NEW LEGISLATION: The Planner reported that the Temporary Family Health Care Dwelling legislation was signed by the Governor and will take effect on September 1, 2016. Action by communities which are not interested in supporting the amendment and would like to opt out will have to be taken by that date. The motivation for the new law is to provide transitional housing for seniors who need to recuperate after surgery or others who need professional health care. It was noted that this legislation was discussed at the last Planning Commission meeting and the matter was tabled until more is known about the legislation. The Planner reported that the League of Minnesota Cities reviewed the legislation. The law is specifically in the event that a grandmother/grandfather needs a place to recuperate from surgery. But the law has a broader effect. Anyone who needs assistance with two or more instrumental activities of daily life for mental or physical reasons may be eligible to be housed in this manner. Local governments may opt out of this program if they determine that this type of expedited land use permitting for temporary dwellings is not well suited to their community. The League advises, unless a City chooses not to participate in this program by passing an ordinance specifically opting out, the law will require the city to issue permits to qualified applicants starting on September 1, 2016. A permit can be denied for appropriate cause. The law lists the information required and the requirements that may be considered in that decision. The League of Minnesota Cities states key components, some of which are:

- Creates a new type of permit referred to as a temporary dwelling permit that has a six-month duration, with an option to extend the permit for six months.
- Requires that the permit be for a property where the caregiver or relative resides.
- Allows modular and manufactured housing (instead of just recreational vehicles) to use this permit process as long as the unit meets all of the listed criteria.
- Lists the criteria for the structure and the information required in the permit application.

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- Addresses sewer safety issues with required backflow valves and advance verification for septic service contracts.
- Requires the inclusion of site maps showing where the unit will be placed and notification of adjacent neighbors prior to application.
- Requires applications to specify the individual authorized to live in the unit.
- Applies the permit approval process found in Minnesota Statutes, section 15.99, but allows the local government unit only 15 days to make a decision on granting the permit (no extension). It waives the public hearing requirement and allows the clock to be restarted if an application is deemed incomplete, as long as the applicant is notified of how the application is incomplete within five days. A 30-day decision is allowed if the regular council meeting occurs only once a month.
- Requires unit placement to meet existing stormwater, shoreland, setback, and easement requirements. A permit exempts the units only from accessory unit ordinances and recreational vehicle parking and storage ordinances.
- Sets a default permit fee level that may be replaced by a local ordinance.
- Allows cities to pass an ordinance opting out of using this new permitting system.

A draft ordinance was reviewed. It was noted that the second line “City Of _____” should be change to “Town Of _____”.

There was information in the meeting packet relating to portable houses for disabled people. A question was asked if the maker of the units was behind the legislation.

Comments and suggestions include:

- The Town has other options, such a “Mom-in-law” apartment.
- Willing to consider on a case by case basis.
- The issue is permitting and enforcement.
- There is no public hearing required so will there be units popping up all over the place.
- Six month permit with a six month extension is a hospice situation. Are people really safe being in a temporary dwelling during this time?
- It would be better to improvise the home for these types of situations.
- This type of temporary dwelling situation is not in the best interest of the residents of the Township.

Ulbrich moved to recommend to the Town Board to adopt an Ordinance opting out of Minnesota Statute §462.3593, Section 9 allowing cities to “opt out” of those regulations. Patrick seconded. Ayes all.

SIGN ORDINANCE – HOME OCCUPATION SIGN REQUIREMENTS: The Planner reported that Viking Auto Special Home Occupation Permit was recently approved by the Town Board of Supervisors subject to conditions many of which have been in place since the business opened. Mr. Lawrence, owner of Viking Auto, would like to add a

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new monument sign to this property advertising the business. He currently has a small business sign attached to his mailbox. Currently the Town's Sign Ordinance limits signage to: identification, ground, combination wall, pedestal, real estate, election, temporary off premises, school, church, exempt and other non-business signs. Sign size is limited depending upon the type of sign. Residential identification signs are limited to 2 square feet; on-premise real estate signs are limited to 6 square feet in area. Off-premise real estate signs are limited to 16 square feet. Any sign over 11/2 square feet must be set back 10' from any lot line.

The business sign Mr. Lawrence would like to add to his property is not currently permitted by ordinance. The Sign Ordinance must be amended to allow a business related sign in a residential zone. If permitted, what regulations should be adopted? An amendment to Section 5-1 of the Sign Ordinance may be recommended if business signs are to be allowed. The following may be considered:

5-1 Residential Zoning Districts (R-1, R-2, and R-3). Types of signs allowed: Identification, ground, combination wall, pedestal, real estate, election, temporary off premises, school, church, exempt and other non-business signs.

Add: Business Signs: for home occupations or special home occupations which are permitted by Ordinance No. 35, any business related sign shall not be illuminated, shall be set back at least 10' from any property line, shall be a monument type sign and shall be complimented with landscaping. The sign display surface shall not exceed 10 square feet in area.

Comments and suggestions include:

- Variances are no longer allowed. A sign is a reasonable use with no need for a variance.
- How high would the sign be?
- The property is on a busy road and is across the street from Water Gremlin which is industrial.
- A sign is needed because the auto repair business is not visible and people cannot find the property.
- Signs permitted for home occupations may be a hindrance and create problems.
- A 2'x3' sign is reasonable. Approve that size sign the same as approving a home occupation permit.
- Whatever is decided will be allowed Township-wide.
- Add a section to the Home Occupation Permit addressing signs
- Could set a maximum height of 2 feet and width of 3 feet.
- Consider requests for signs on a case by case basis.
- The Viking Auto shop is in a "quasi-industrial" area.
- Why create anything. Have Mike Lawrence come in ask for a sign and follow variance procedures.

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- A Home Occupation is allowed by permitted use. Have the sign by a special use permit.

Ulbrich moved to deny creating a sign ordinance for Special Home Occupations requested in the Township. There was no section to the motion. Motion failed.

Ulbrich moved to continue discussion on Sign Ordinance – Home Occupation Sign Requirements to next month to allow time for staff to look at other Home Occupations and if there may be another way to address the sign issue and to check with other communities to see what they do. Patrick seconded. Ayes all.

ADULT ENTERTAINMENT ORDINANCE – CONSIDER ORDINANCE: The Planner reported that the Township does not currently permit adult entertainment in any zoning district. The use is not listed as being permitted or permitted by Conditional Use Permit. It is staff's understanding that the Town must accommodate this type of use somewhere in the Town. Staff has reviewed a copy of the Maplewood ordinance which permits the use within the manufacturing zoning districts. The use is permitted subject to several conditions. They include a minimum of 1,000' distance between uses and a minimum of 500' separation between the use and churches, schools, parks, daycares and any residential lot line. If the Town were to allow the use in the I-1 Zoning District, several sites could accommodate the use. Another option would be to allow the use in the B-2 Zone with the separation requirements using the Maplewood example. The location would be limited to the White Bear Township Theater and Landmark Bank. Restrictions in the Meadowlands PUD would prohibit this type of use as would the CUP requirements for the theater which prohibits NC-17 or equivalent movies. The Planner provided a map which shows the locations where an adult use could be allowed using the Maplewood spacing requirements. The map showed the 500' spacing requirement. The Planning Commission requested staff to use a 1,000' minimum spacing from churches, schools, parks, daycares, and residential lot lines. A 1,000' spacing minimum would eliminate any I-1 Zoning District from allowing adult entertainment. It was the consensus to table the matter and allow staff time to locate a possible location where adult entertainment would be permitted. Staff will also look at an area for an I-2 district that would allow adult entertainment.

Ulbrich moved to table the matter of Adult Entertainment Ordinance to allow staff time to investigate a site that would permit the use. Patrick seconded. Ayes all.

The meeting adjourned at 8:00 p.m.

Respectfully Submitted,

Joan J. Clemens
Recording Secretary

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