

**CITY OF PARK RAPIDS
REGULAR MEETING
PLANNING COMMISSION
SEPTEMBER 23, 2019, 6:00 p.m.
Park Rapids City Hall, 212 Second Street West
Park Rapids, Minnesota**

1. CALL TO ORDER: The September 23, 2019, Regular Meeting of the Park Rapids Planning Commission was called to order at 6:00 p.m. by Chair Bradow.

2. OATH OF OFFICE FOR ROBB SWANSON: Chair Bradow administered the Oath of Office to Robb Swanson and the Planning Commissioners and staff welcomed him.

3. ROLL CALL: Present: Commissioners Dick Bradow, Nancy Newman, Robb Swanson and City Council Member Liz Stone (arrived 6:02). Absent: Bruce Johnson. Staff Present: City Planner Andrew Mack and Planning/Administrative Assistant Carmen L. Lockhart. Others Present: Trygve Karl, Eric & Jessica Mjelde, Shirley Johnson, John and LaVonne Fischer, Jerry & Janet Munson, Mae Benjamin and Rich Coulter.

4. APPROVAL OF AGENDA: A motion was made by Newman, seconded by Bradow and unanimously carried to approve the agenda as presented.

5. APPROVAL OF PLANNING COMMISSION MINUTES OF AUGUST 26, 2019: A motion was made by Newman, seconded by Stone and unanimously carried to approve the August 26, 2019 Regular Meeting Minutes as presented.

6. PUBLIC HEARINGS:

6A. Zoning District Boundary Amendment request from Brooke Payne to rezone one parcel consisting of .24 acres at 211 Pleasant Ave from B-2 General Business District to R-B Residential – Business Transitional District. PID#32.37.03600:

Mack explained Brooke Payne is an out of state resident. This is a property that had a quadraplex in it eight years ago and sustained a fire. A determination was made by the building official in recent years that it was still capable of being renovated and to be put to use. There is a considerable amount of remodeling that would need to occur following the inspection by the city's new building official and some contractors that looked at the property.

Mack stated the use fit within an apartment or R-B District. The property was rezoned to a B-2 Downtown Business District, which accommodates apartments above or the rear of a commercial use and that is not the plan of the perspective buyer who has the land secured under purchase agreement. The use that is proposed is the same

reuse that existed prior to the fire and the appropriate zoning district with the greatest flexibility and the contiguous district is the R-B Residential Business Transitional District.

Mack stated he believes there are findings that can be made in support of this request and recommends approval of rezoning the property from B-2 to R-B.

The Public Hearing was opened at 6:04 p.m.

No Comments.

The Public Hearing was closed at 6:05 p.m.

The Findings of Facts were reviewed. The commissioners came to the following conclusions:

- 1. Is the zoning amendment consistent with the Park Rapids Comprehensive Plan? YES.*
- 2. Have there been changes in the character of development in this vicinity? NO.*
- 3. Is the amendment request a result of an error made in the Zoning Ordinance/Zoning Map or Comprehensive Plan? NO.*

A motion was made by Stone, seconded by Bradow, to recommend to the City Council approval of a Zoning District Boundary Amendment request from Brooke Payne to rezone one parcel consisting of .24 acres at 211 Pleasant Ave from B-2 General Business District to R-B Residential – Business Transitional District. PID#32.37.03600.

6B. Variance request from Eric S. & Jessica N. Mjelde, 1120 Timbers Dr. located in an R-1 Single Family Residential District for a 10 ft. side yard setback on the north side of their property to allow a house/garage addition to be placed 3½ inches from north property line, PID#32.93.02400:

Mack stated the property is located on the corner of Timbers Drive which is a circular street that goes through the Timbers subdivision. There are some unique and practical difficulties associated with this request. One being the fact that this property is the smallest lot in the subdivision and the house was situated as far north as possible on the lot in order to preserve a significant mature stand of trees on the south side of the house.

Mack explained an additional item is that the city has a storm water pond to the north and this area was created for stormwater storage before the subdivision was ever platted. The plat occurred around this city owner parcel which actually serves a larger area of drainage everywhere from along Henrietta Ave and points to the east and some of Discovery Circle drains to this area under the county road. There has also been substantial commercial development to the north which all funnels into this area. It's not

a problem most of year but has been a problem in years past especially when the frost is slow to come out of the ground. In looking at this with the city engineer a recommendation was made by the city engineer to not consider an alternative that might allow for some additional acquisition of land. The plat of the parcel to the west notches around. This parcel is smaller although it does meet the minimum lot size requirements of the R-1 District at just over 10,500 by 390 sq. ft. It is impacted by the storm water lot and the highest portion of the ground on the stormwater parcel is the southern end adjacent to the Mjelde's property. Taking these factors into consideration and after extensive review with the city engineer on this project, he has included a written memo which identifies some means to help to mitigate or reduce the impacts of any future expansion of the house. Mack stated he also built a condition of recommendation into this which not only addresses the additional proposed increase of area but also further reduces the amount of storm water from the existing house as a result of this request that would further reduce impact onto the city's storm water lot. I call it a storm water lot because we don't actually have a storm water pond constructed on this. The city engineer indicated that it would take extensive study and design engineering to come up with something long term that would serve the future needs of this area and that has never been done. Our soils are very sandy and they don't tend to hold water very long except for in that very small window of the spring time before the frost comes out of the ground which is what we've experienced as trouble here in the past.

Mack said in reviewing this the Mjelde's have looked at some options of how to address some of the discussion and concerns of the city engineer. There are two options provided tonight, to create an on-site retention area. There is currently a lower area of the property and the proposal would be to increase the depth of this and to excavate some and create either a system of overland flows of drainage through there adding downspouts and gutters onto the house with the addition, or by a series of underground drain tile systems and the landowner can talk more about the two different options. Mack said at this point this was just received today and has not had full review by the city engineer at this point and would be a part of the staff's recommended condition for approval is this were to be approved. It would be reviewed and addressed prior to the issuance of a building permit.

Mack stated in review further of the request I prepared a series of staff recommended findings with 13 findings in support of staff recommendation for approval. I'm not going to take time to read through those 13 but these could be used in lieu of your normal Findings of Fact, to either choose, if you so choose to recommend approval of this variance to the City Council. You could adopt the staff's recommended findings or you could modify them as need be. If there is not a recommendation in support of approval then you would need to develop your own findings in the other direction. Mack said staff's recommendation on the request is for approval with five listed conditions:

1. Full conformity with the requirements of the September 15, 2019 Park Rapids City Engineer.

2. Gutters and downspouts shall be installed to redirect all roof top rain water away from the City's stormwater parcel toward or directly connected to land owner on-site stormwater holding area.
3. Full review and plan approval by City Engineer for conditions 1 & 2 above prior to issuance of a building permit for the residence addition or any increase in impervious surface for the property.
4. The applicant shall apply for and receive a building permit to commence work within one (1) year from the date of final approval, or the variance approval shall expire unless an extension is approved by the City Council.
5. Approval of the Utility Easement Vacation by the City Council.

Mack advised the vacation is a separate action for the lot in the area with the green dashed line on the map. Given the fact that construction over an easement cannot be approved by city staff and there are no public utilities in there, the vacation easement needs recommended approval of that by the city engineer given the fact that there are no utilities in there other than a private service line for the gas meter to the Mjelde's house.

Bradow asked if there are any questions for staff? Stone said all her questions were answered.

Bradow asked Commissioners Newman and Swanson if they had ever been through a variance process? Newman and Swanson said no. Bradow said Stone probably has.

Bradow stated for the benefit of the members on the commission I'm going to do a brief summary here of Land Use Variances:

What is a Variance? A variance is a way that the city may allow an exception to the part of the zoning ordinance as permitted to depart from strict enforcement of the ordinance as applies to a particular piece of property. A variance is generally dimensional standard such as setback or height limits. Bradow advised in this case we have setback. A variance allows a landowner to break the dimensional zoning rule that would otherwise apply. Sometimes the owner will seek a variance to allow a particular use of their property that would otherwise not be permissible under the zoning ordinance. Such a variance is often termed a use variance as opposed to an area variance or a dimensional variance. The use variance is ... (Bradow said he was going to skip this.) Bradow continued reading - Use variances are not generally allowed in Minnesota. The state prohibits a city from permitting a variance that is not propended under the ordinance for zoning or district properly located. A granting of the variance (Bradow said and I'm going to abbreviate here) refers to practical difficulties and there are three of them. They are reasonableness, uniqueness and the last one is essential character. All three of them must be met before a variance can be granted. Also, variances are only permitted when they are in harmony and general purpose and intent of the ordinance and when the terms of the variance are consistent with the Comprehensive Plan.

Bradow said okay, Andrew, I'm looking at page 27 of the packet, so #1 reasonableness of this variance? You're telling us what when you 're saying what you're telling us in #1? Mack said okay so this page 27 is part of a four page letter presented by the applicant, so that was presented as part of the application. In terms of the reasonableness, I would refer you back to page 20 of the packet, my staff recommended findings:

4. The dwelling when originally constructed was sited at the minimum setback to the northern property line in order to preserve as substantial stand of conifer trees between the house and street on the south side of the lot.
5. The subject property is the smallest lot in the Timbers Subdivision and is further constricted by an adjacent stormwater parcel on the north side of the property.
6. The adjacent stormwater parcel on the north side of the property has experienced capacity issues during the spring melt with water standing on adjacent properties before the frost has gone out of the soil.
7. The City Engineer finds that as a result of known issues with the stormwater parcel, and given the fact that a stormwater pond has not yet been designed nor constructed on the City parcel, any addition to the residence that will further contribute water runoff to the adjacent stormwater parcel should be mitigated by creating additional on-site stormwater capacity on the property with the proposed addition to the dwelling.

The Public Hearing was opened at 6:20 p.m.

Jessica and Eric Mjelde: Jessica said hi, we are asking for a ten foot setback variance to add a third stall to our garage. When we moved here, we had a family of three and we're now a family of five and with that comes the bikes, the trikes, the car seats and the bigger vehicles. Our garage, we can't open our doors of our vehicles so the wintertime gets really cold with the kids trying to get them in and out. And with the water issues, I talked to Jon Olson, the City Engineer a lot. As you can see, we're professional parkers now. In talking to Jon Olson, basically he was telling us to find options to comply with 250 cubic feet of water storage that would possibly be the effect of this new building. We have complied with that, we've talked to landscapers, we've found different options for that. Eric said the 250 cubic feet was based on a 100 year flood or whatever but they had to figure out and that was the number they came up with. So whatever retention system or funneling thereof on our own property to divert that away from the northern you know drainage parcel, had to handle at least the 250 cubic feet which is why we had the plans drawn up. Jessica said yep, so I have talked to every single neighbor on our direct block and every neighbor around the side, or on the other side of the street. I've got a petition signed by everyone of them and I've also got letters in support of us. We have a very supportive neighborhood. We've got grandparents on every single corner and the last thing I want to do is get out of the neighborhood. Our house is perfect, we love our house the only thing is that we've grown out of the garage and we just don't fit in the garage. Eric said storage. Jessica said storage in general is our issue. There will never be a building put on that city lot. I have specifically went and talked to our new neighbors and the one whose house who

did have an issue about six years ago with that water. We were very close with the people that lived there before and last year we got new neighbors in that house. Eric said yeah, within the last year. Erica said yep, talked to them specifically and very in depth about what happened because I knew the previous owners and they are very much in support with this with the options that we have now taken in compliance with the city engineer. We will actually be positively affecting the water issue by taking care of that 250 cubic feet. And that flooding issue happened before they dug out that corner or storage swell or whatever you may want to call it at this point. But that was before and they haven't had any issues since but we are still going to be in compliance with the city engineer as well and do a drainage system. Eric said to take any drainage water from everything on our property from an impervious, impermeable structure and keep it on our property so it doesn't affect the neighbors or your guy's property, the drainage field basically and that was a directive from the city engineer and so we've taken care of that and have a couple options to go afterwards. In keeping with the character and whatnot of the neighborhood, we've gone around and looked at numerous other properties that the surveyor has put up as well too as far as the number of garage doors. There are multiple other ones that have a least two separated or even three garage doors so it wouldn't look uniquely different from the other properties and again it's not going to impact any one's particular view or obstructing the, can't think of the right term right now, character, that's why we went around to the neighbors to get their opinions on the matter too that they didn't have any major opinions or disagreements with what the plan would be with that. We just want to stay in our house and need a little bit more storage that's basically the overall reason for it, we just need your guys' approval to do so for sure. Jessica said at some point these kids are going to have vehicles too, I don't like to think about it yet but that will come too. Eric said in a snap of your fingers. Jessica asked would you guys like to look at the petition or the letters?

Bradow said yes, could you submit them for the record please? Jessica said yes. Eric said I'm a little rusty with the parliamentary procedure.

Bradow asked if anyone had any questions? Stone said she didn't have any questions. Stone told the Mjeldes I appreciate all your leg work and touching base with your community or your neighborhood. Jessica said we love our community. Stone said thank you for doing that.

Bradow said yes, I think you've done a lot of legwork here and have gone way over and above to take a look at what the city needs to have happen so that the water stays on your property and I'm sure that's not inexpensive to comply with that. Bradow said he doesn't have any further questions of you guys. Eric and Jessica said thank you.

Bradow asked if there are any other comments from the public?

Shirley Johnson introduced herself and said she just has a question on what you referred to the water pond? I directly live to the west of the property owned by the city and I would be, my home is elevated in the grassy part and I've been there for five

years and I have not seen I don't think any water in the area which has been dug out. They just did that last year or the year before, dug it out even further and I have not seen any, I don't think, any water in there. My property adjoins that property so I'm just wondering what would be the difference now? You mentioned something about a pond, storm pond, or whatever, what will that entail as opposed to what it is now? Bradow asked the storm pond on their residence premises? Shirley said no, it would be on the city property from Timbers Drive. Bradow said he will let Mack address that. Mack said the property the way it sits right now, was corrected as you said by our public works department. Shirley said right. Mack stated it was sand removed out of that area that you can see on the map to create a deeper storage area. There is, at this time, no plan to change anything further beyond that since that did help the situation. Shirley said okay. Mack said the city engineer has not been tasked by the city council to design a system and that would be a more formerly shaped pond and retention area. This is a dead-end area, there is no outlet for the water so the good thing about the area is that there is a substantial stand of trees in the area which helps it to not penetrate frost so deep into the ground so that in the spring come the melt time, it's able to accept water and seep into the ground faster because of the tree cover in the area. Shirley said there is a large tree cover area. Mack said so the direct answer is there is no plans to change that at this time. Shirley stated she fully goes along with the addition that the Mjeldes want to do. Thank you.

Bradow asked if there were any other comments from the public?

No comments.

The Public Hearing was closed at 6:29 p.m.

Bradow asked if there is any further discussion on the variance? Bradow stated he's been on the Planning Commission for a fair number of years and I've seen variances and we have denied variances such as this although this one has the most merit that I've seen. However, this is a need variance and I remember denying a variance for a couple that needed more room so are we going to approve all of these need variances from here on out into the future? Is this something we want to send to the City Council with the expectation that that's what they will do? Because it will cause problems if we approve some but not others and we have denied other variances for need purposes. And the need for space is the reason for this variance as stated by the owners.

Stone said well, I guess I feel that every situation is different and I don't necessarily fear that we would be setting a precedence by approving this one and not approving futures ones because I think that in this situation with the pond to the north they are not infringing on neighbors so I think this situation is justifiable in my opinion.

Bradow asked if there are any other comments? Newman said she agrees with Liz Stone in this situation.

Bradow said okay we have two ways we can approach this. As staff said we can accept the recommendation or findings of staff on page 20 or we can move to the Findings of Fact for the variance request on page 38. Do you have a preference on how you want to proceed? Swanson said I would think with all the leg work done and the staff recommendations being so detailed that I would feel comfortable with that. Stone asked with page 20? Bradow asked is this an agreement? Commissioners agreed. Bradow said okay so we need a motion recommending either approval or denial to the Park Rapids City Council. Lockhart said we should first go through the findings. Bradow said well I think we just said that we are going to go the first route offered by the City Planner Mack or am I mistaken in that? Mack said if the commission is to accept the staff recommendation you have a written recommendation for a motion that you could literally just read from page 20. I realize it is a bit of a departure from the way you normally read off the sheet and answer yes or no, these are in more detail and can be reflected in your minutes. Stone said okay so since this is new for us so to speak, whomever makes the motion then reads the recommendation, makes the motion with those recommendations as read? Bradow said I don't know that we are going to spend the time to read them, I think we will refer to page 20 and the section of page 20 you want included in the motion. I don't think we need to read all 13 recommendations. Stone said no, okay. Bradow said or the recommendations 1 through 5 with the staff recommended findings. Stone said okay so can I make the motion? Bradow said go ahead and make the motion.

A motion was made by Stone with the staff recommended findings on page 20 as stated.

Lockhart asked for clarification 1 through 5 and 1 through 13 on page 20 correct, is that what you are doing? Stone said that is what I'm trying to do. Stone asked am I doing this right Andrew? Mack said all you have to do is read that sentence right under the line recommendation.

A motion was made by Stone, seconded by Newman to recommend approval of the variance request to the City Council based upon the staff recommended findings subject to the following conditions 1 through 5 and 1 through 13:

- 1. Full conformity with the requirements of the September 15, 2019 Park Rapids City Engineer.**
- 2. Gutters and downspouts shall be installed to redirect all roof top rain water away from the City's stormwater parcel toward or directly connected to land owner on-site stormwater holding area.**
- 3. Full review and plan approval by City Engineer for conditions 1 & 2 above prior to issuance of a building permit for the residence addition or any increase in impervious surface for the property.**
- 4. The applicant shall apply for and receive a building permit to commence work within one (1) year from the date of final**

approval, or the variance approval shall expire unless an extension is approved by the City Council.

5. Approval of the Utility Easement Vacation by the City Council.

Staff Recommended Findings

1. The subject property is Zoned R-1 Single Family Residential District.
2. The subject property contains ¼ acre, or 10,890 s.f. of lot area and meets the minimum lot size requirements of the R-1 District.
3. The minimum lot width of 105 ft. meets the requirements of R-1 District.
4. The dwelling when originally constructed was sited at the minimum setback to the northern property line in order to preserve as substantial stand of conifer trees between the house and street on the south side of the lot.
5. The subject property is the smallest lot in the Timbers Subdivision and is further constricted by an adjacent stormwater parcel on the north side of the property.
6. The adjacent stormwater parcel on the north side of the property has experienced capacity issues during the spring melt with water standing on adjacent properties before the frost has gone out of the soil.
7. The City Engineer finds that as a result of known issues with the stormwater parcel, and given the fact that a stormwater pond has not yet been designed nor constructed on the City parcel, any addition to the residence that will further contribute water runoff to the adjacent stormwater parcel should be mitigated by creating additional on-site stormwater capacity on the property with the proposed addition to the dwelling.
8. The applicant proposes a reasonable expansion of the use of the property which cannot otherwise be permitted without approval of a variance.
9. The property owner's plight of the proposed addition is due to unique circumstances to this property, and which were not created by the landowner based upon a variety of factors.
10. The unique circumstances of the property have created a practical difficulty in the landowner's ability to construct a modest addition onto their residence and attached garage.
11. The variance can be granted without upsetting the purpose and intent of the Zoning Ordinance.
12. The variance is consistent with the Comprehensive Plan because it will provide for the rehabilitation of this dwelling that is substandard in size for a typical family in the community.

13. The variance can be granted without altering the essential character of the surrounding area due to the fact that a house will never be built on the north side of the property where the proposed house addition is requested and the existing stand of significant trees will be maintained.

**The vote was called: In favor: Stone, Newman and Swanson
Opposed: Bradow**

Bradow recommended the applicant attend the City Council meeting on October 8th for the vacation of the easement which has to happen as a condition to this.

7. INFORMATIONAL/DISCUSSION:

7A. Zoning Ordinance Matrix: Mack provided an updated matrix with track changes. There was discussion and additional changes/corrections made to the matrix as follows:

Mack said he created a prohibited section for the definition to fall under (page 60) production energy production facility so that will become a prohibited use anywhere in the community and shows up in the matrix under that definition so that was corrected.

Page 45 - Ambulance Service – remove C from R-1 District.

Page 45 - Counseling Service. . . – Highlight I's in R-B, B-1 & B-2 Districts.

Page 46 - Domestic Animal Grooming No Overnight Boarding – Highlight I in R-1A.

Page 46 - Land Alteration/Tree Removal Not Incidental to Permitted Use – Needs more review by Mack and the Urban Forestry Committee regulations.

Page 46 – Forestry Land Management & Timber Harvest – Needs more review by Mack and the Urban Forestry Committee regulations.

It was determined to start reviewing the matrix at the Food, Beverage, Indoor Entertainment - Brewery Taproom at the October meeting. (Page 47)

7B. Zoning Definitions: Mack provided some additional dealing with the solar charging requirements starting on page 59 and 60 and wind energy conservation system.

Mack said his direction is to prepare for public hearing for October meeting for CUP and IUP definitions and continue to work on everything else.

Short Term Rental Research: Mack stated he felt there was a need for more study on the short term rental and looked at a number of cities in northern Minnesota and analyzed their regulations and none are the same. One thing I wanted to point out to you is that your former City Planner Dan Walker sent information from his consultant in Two Harbors and offered some good practical advice – they made an ordinance and license/permit process as simple as possible and thought adopting an ordinance

establishing some solid rules and policies and then issuing administrative permits was the way to go and that's what they did. Mack said this body decided we wanted to go with the IUP which a couple of other cities in the study have already done. We also know that Bemidji had done it that way and has since now gone overboard prohibiting everything. Mack said what he thought was good from Two Harbors was a lot of additional standards that I didn't write up in the initial draft. They also have an application guide for approvals and they did some things right up front regarding lodging tax which needs to be paid and reported to the city on a monthly basis just like every other motel and bed and breakfast in the community that allows short term lodging for under 30 days which tracks along with state law. They addressed additional parking considerations. We are a little more relaxed on parking as we do permit some reliance for on street parking for most of our uses in the city. Mack said he thought it was interesting the owner responsibility is to post the requirements inside the dwelling so the people that are staying there had to pay attention to the rules and mind their p's and q's. There was information about disciplinary actions and possible permit revocations so this obviously went the administrative route.

Mack advised a few of the other cities went the administrative route – Nisswa, Pequot Lakes and Two Harbors.

Mack said obviously we are still trying to develop regulations. Bemidji outright prohibits them after allowing by IUP. Baxter, Grand Marais is not regulating them. Grand Rapids thinks it is far greater in the county and townships than inside the city limits, very much like Park Rapids and have done nothing but are monitoring it to decide if they need to do something or not. This is still an emerging thing over the last ten years or less has really come into its own. It was interesting that Nisswa put a limitation that they have no more than three short term rentals in any one year under an administrative procedure, but they don't have a rental license in their community either.

Mack said I think we need a little more time to digest this and see where you would like to go with it. The commissioners agreed it was nice to see how other communities are approaching it and further study and discussion needs to be considered at the October Planning Commission meeting. The grandfather clause should also be determined.

There was discussion concerning the performance standard (page 57) and the 500 ft. provision. Mack suggested expanding the standards based on the research and what type of permit would be used.

City Code Codification: Mack advised the City Clerk updates the code annually so I think that in looking at the list and where we're at on it right now I think it would be good for us to understand what we think we can accomplish before the end of the year so it can be included, what we are ready to move forward with a recommendation to the City Council so staff knows how to proceed with scheduling a public hearing. The counsel has one meeting in December and needs two readings so they should have your recommendation by the second meeting in November meaning that by October

we're needing to hold a public hearing is how that schedule would work out. Bradow asked so we have to pick some things tonight then? Mack said yes and I don't know that we will get through the matrix between now and the next meeting either or we push all of it into the next year as there is no deadline to get this work done.

There was discussion concerning the project list and the assigned priority level. Bradow said he would like to see us move some of this through to the City Council as it is going to be codified on 1-1-20, is that correct? Mack asked Lockhart the dates, Lockhart advised that is with City Clerk Vik. Mack said it is the calendar year is the cut off as to what gets done by the City Council. Bradow said if we can move a reasonable amount of items through so they can be codified and we're comfortable with doing it, I think we should do it. There was discussion concerning holding a work session meeting and meeting timing issues.

Mack read the status of items on the project list: See page 41 & 42.

Items that are done: 3, 4, 12, 14, 17 & 18.

It was determined the IUP and CUP definitions are ready for public hearing in October. Bradow suggested to continue working on the high priority items, medium and then the low priority items.

8. ADJOURNMENT: A motion was made by Stone, seconded by Newman, and unanimously carried to adjourn the meeting at 7:38 p.m.

Chair Richard Bradow

ATTEST:

Carmen L. Lockhart
Planning/Administrative Assistant