

## Kindred Planning & Zoning Commission Meeting Minutes

Wednesday, September 28, 2022 ~ 6:30pm ~ Kindred City Hall

Members present: Kersting, Lammers, Mauch, Thompson, Woller-Cornog.

Others: Auditor Arnaud, PWS Schock, Marlowe Rud, Mark Ottis, Lindsay Erickson, Nate Opgrand.

Member Kersting called the meeting to order at 6:30pm.

### 1. **Approval of meeting minutes**

**Motion to approve meeting minutes of 08-17-2022 by Lammers, second by Mauch;  
Roll Call Vote (RCV) – Motion Carried Unanimously (MCU).**

### 2. **Citizen Request: Lindsay Erickson regarding variance process**

Ms. Erickson thanked the board for allowing her the time to ask some questions regarding the variance process, specifically relating to a recently approved variance for 433 Skylane St requesting increased height and square footage on an accessory structure (see Planning & Zoning meeting minutes from 08-17-2022). Ms. Erickson referenced the intro for City Ordinance Chapter 4-1103 on Variances and asked what the applicant had identified as their proof of practical difficulty or undo hardship for the request. Member Thompson stated that it was not listed on the application. Member Woller-Cornog said based on the use of the accessory structure as a basketball arena, the height was increased to accommodate the height of the basketball hoop. Woller-Cornog also noted that SFRA-3 zoned properties allow rear yard accessory structures as these properties all overlook the airport taxiway and would not have rear yard residential neighbors. Newport Ridge development partner Mark Ottis shared that they used the City's current accessory structure ordinance (Chap 4-0610) as a guide when creating the SFRA-3 zoning district, and that the developers did not have any objections for the accessory structure's intended use with the variance request at 433 Skylane St. Applicant and Builder Nate Opgrand was also in attendance. Member Kersting shared that there was not necessarily an undo hardship, just a practical difficulty.

Ms. Erickson asked about the publishing requirements of the public hearing notices. Auditor Arnaud stated that the publishing for this specific variance was completed on August 10 & 17, with the meeting being held on the 17<sup>th</sup>; noted that the legal guidance has said that a publication on the date of the hearing/meeting satisfies the publishing requirement. She also shared the direct mailed notices of the public hearings are mailed to property owners within 150 feet of the applicant property; contact information is determined by current Cass County property tax records.

Ms. Erickson then asked about the data submission requirement of noting the proof of whether the hardship is unique to the applicant's property and if the deliberation/decision process considered how the variance would preserve or otherwise impact surrounding properties and property values. Member Kersting questioned if Ms. Erickson felt there would be a negative impact to the other properties or if there were other reasons for the questions. Ms. Erickson stated that as a new resident to Kindred and soon-to-be owner of a neighboring property to 433 Skylane St, she was inquiring in part to be prepared should she want to apply for a variance in the future. She noted that as the property she is purchasing is still under the builders name she did not personally receive the notice of public hearing. She was also told that no large structures would be allowed in the rear yards when looking at purchasing a lot in Newport Ridge, so was not anticipating having a large structure within view of her backyard. Discussed the allowance of rear yard accessory structures in SFRA-3 zoned properties and SFRA-1 zoned properties that have private taxiway access (hangar homes).

Ms. Erickson asked about the standards for approving variances. Member Kersting stated that the special condition was that the applicant wanted the extra space for a basketball court. Member Mauch noted that each variance is examined on a case-by-case basis.

Developer Mark Ottis stated that generally properties are occupied so if a proposal or variance request comes in, the public hearings are received by the owners. In this scenario, the builder is the listed current property owner and that notice did not get passed on to the builder's customer. He said this is an unfortunate experience but is a lesson learned to educate builders to pass on any public hearing notices to their customers as they'll be the occupants of the property. Mr. Ottis assured Ms. Erickson that if concerns had been brought to the P&Z board, they would have been taken into consideration.

Member Thompson noted that the meeting minutes reflect there was no opposition to the variance request. Auditor Arnaud said there was one inquiry from a neighboring property but no comments were provided. Ms. Erickson stated the meeting minutes did not note any justifications for the variance request either; noting she wants to better

understand the planning and zoning processes. Member Kersting also agreed the property ownership provided a unique situation on the receipt of the public hearing notices, but during the public hearing the focus was on practical difficulty.

Ms. Erickson noted that ordinance states the accessory structure should not be higher than the house. Discussed the height request of 21 ft (to the peak) and the height of the house at 18 ft, elevation of accessory structure was set 3 ft lower than the house so even though the measurements indicate the house is lower, the peaks are level. Ms. Erickson asked what would happen if they were off. Member Mauch said the builder would be at risk for having to correct the situation. She also asked about the process of construction starting before the variance was approved. Auditor Arnaud shared that Mr. Opgrand had acquired a building permit for the foundation only prior to the public hearing for the variance, and that a building permit for the structure was not issued until the day after the variance was approved. Mr. Opgrand stated that he used this process just in case the variance was not approved; he would have worked with the occupant to reduce the size of the structure and yet have additional concrete exposed. Auditor Arnaud stated that if proof of construction code violations were provided, the City would seek legal advice on the process to remedy them. Member Kersting thanked Ms. Erickson for attending and noted she could send in any additional questions or concerns to us for review.

**3. Ordinance Updates**

Accessory Structure Requirements for Chapters 4-0610 & SFRA-3 Chapter 4-0502-3.2f: Member Thompson said that she generally considers detached garages and sheds as accessory structures. Discussed various “accessory structure” definitions that were researched and provided by Member Woller-Cornog; she said generally these are only referring to detached garages and not attached. Although, these examples do include the total square footage for ground coverage in total calculations. The board agreed the intention would be to update the definition of accessory structures and to remove the attached garage square footage from the total ground coverage calculations. Auditor Arnaud will work with our attorney to present a formal ordinance revision at next month’s meeting.

**4. Planning Items**

Member Kersting said she attended the September City Council meeting and Council Member Adam Spelhaug said the P&Z board has been doing a good job focusing on the zoning for the city, but is encouraging the board to begin focusing on planning for the city. At that meeting City Engineer Brandon Oye mentioned Fargo-Moorhead MetroCog as a resource; they provide assistance in developing urban planning tools for the future through comprehensive and transportation plans, land use plans, and zoning updates. Mr. Ottis shared that he has been discussing this with CM Spelhaug recently as well, noting that it would be beneficial for the City to hear from the community on wants/needs for the future and that there are organizations that can assist with collecting that data from everyone in the community and putting it together into an action plan. Discussed the Kindred 2020 Plan and the need for review/updates. Mr. Ottis said that many of the positives and values identified in that plan still exist today; some of the wants have not happened as quickly as we would have liked, but progress has been made. Member Kersting said she would like to ask MetroCog to come and present to the board. Member Lammers and Woller-Cornog said they would be interested in talking with other groups who offer similar services as well; both agreed to be involved outside of P&Z meetings. Discussion on economic development as another topic the city should focus on.

**5. Permit Report**

Three new single-family residential, one lower-level remodel, and two accessory structure building permits issued since last month. Two building permits have been issued in preparation of a resident moving in a used preconstructed garage, but the Building Move Permit Application has not been completed yet.

**6. Additions**

Nate Opgrand provided an update of his plans for the property at the corner of Hwy 15 & Hwy 46. More coming soon.

Member Kersting discussed the possibility of requiring surveys with fence permits or new construction to be sure property owners are constructing within their property or required setbacks, noting there have been some issues in recent years. P&Z will always make the recommendation, but it is currently not required under ordinance.

**7. Adjournment**

**Motion to adjourn at 7:44pm by Woller-Cornog, second by Lammers; RCV – MCU.**

*(Minutes subject to board approval.) (Agenda deadline is noon Wednesday the week before the meeting.)*

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P&Z Board Member

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Tabitha Arnaud, City Auditor

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Date approved