

**CITY OF EMILY
MEETING MINUTES
PLANNING AND ZONING COMMISSION**

April 7, 2004 – 7:00 PM

1. Call to Order – 7:00 PM

2. Roll Call

Commission: John McConnell, Marie Reineck, Lorna Clodfelder, Si Brannan, Jim Nordvall (Chairman)

Staff: Charles Marohn (Zoning Administrator), Barb Hubbard (Zoning Clerk)

3. Public Hearings

Variance to Construct a Water-Oriented Accessory Structure, Application 04-10
Kai Allen on behalf of Lucille Adams

Administrator Marohn reviews the staff report and the recommended conditions.

Allen present. Indicates that he has nothing to add.

Commissioner McConnell states that it does not show exactly where it is going to go. States that it goes against the comprehensive plan and the lake associations are against boathouses, so he cannot support it. The ordinance is to reduce elements in the setback.

Commissioner Clodfelder states that her concerns are addressed in the first condition.

Chairman Nordvall asks if they can exactly identify where the location is.

Clerk Hubbard presents the drawing from the application indicating the location.

Allen states that the deck is housed in some large trees. The new structure would be 25 to 30 feet away in an open area.

Commissioner McConnell states that he needs to know how far back from the water it will be.

Chairman Nordvall states that it says it must be a minimum of ten feet.

Allen states that they will be further than ten feet back. Presents a photograph to the Commission indicating the site.

Chairman Nordvall asks for additional comment. Hearing none, the public hearing is closed.

Motion by Commissioner Reineck, seconded by Commissioner Clodfelder, to approve the variance request based following findings:

- 1. The current land use on this parcel is consistent with adjacent parcels, which are primarily residential shoreland properties including some existing water-oriented accessory structures.**
- 2. The proposed structure is a permitted use under the current Code.**
- 3. Reasonable use of the property currently exists under the Code as there is already one water oriented accessory structure on the property with a set of stairs leading down to the shore.**
- 4. The proposed structure meets the size and setback requirements outlined in the current Ordinances.**

5. **The proposed structure will be shielded from view from the lake by existing vegetation and additional landscaping and vegetation.**
6. **The parcel has 1800 feet of shoreline while the minimum lot width and shoreline required for development on GD lakes is only 100 feet.**
7. **The proposed structure is not consistent with the current Comprehensive Plan which recommends prohibiting “new water oriented structures and other structures within the shoreline setback zone unless there are not other reasonable alternatives.”**
8. **The Ordinance, strictly applied, presents an undue burden on the property considering the size of the property.**

With the following conditions included in the motion to approve.

1. **The proposed structure shall be removed should the property be subdivided in the future. Subdivision and subsequent construction of new dwelling units would clutter the shoreline and detract from the scenic value of the lake.**
2. **The existing shoreline vegetation shall be supplemented with additional native trees and shrubs to enhance the ecology of shore impact zone and to reduce visibility of the structure as viewed from the lake.**
3. **The proposed structure shall be earth-tone in color to blend in with the natural surroundings and reduce visibility of the structure as viewed from the lake.**
4. **The applicants shall submit and maintain in perpetuity a stormwater management plan containing all run-off from the proposed structure.**

Motion passed 3-1 (Commissioner McConnell opposed).

Preliminary Plat, Application 04-12
Kelly and Ann Raph

Chairman Nordvall opens the public hearing.

Administrator Marohn reviews the staff report.

Jeff Miller, Widseth Smith Nolting present. Wants to address the comments of Ken Larson. States that they met with Larson before the application was submitted. Asking for one increase in the number of accesses. In the initial meeting with Mn/DOT, Larson stated that it looked appropriate and they had done this before on Highway 6. They met with their panel and made some recommendations that were quite general. States that it was Mn/DOT's preference for no-net increase. They would consider other items, but that was their preference. Larson indicated that each access is a potential accident. That is a little skewed in a residential subdivision since the number of trips is the same and it won't impact the safety of the development. Miller presents an aerial photo showing where the accesses are. Indicates that the proposed accesses are 420 feet apart. They believe that the extra access fits with the character and it is important to them. The highway is straight here and the sight distance is good. The distance of 420 feet is close to the City's standard of 500 feet. They are hoping that they get approval for this type of development and then take that back to Mn/DOT to work out the entrance issue. It will ultimately be up to Mn/DOT to decide. On some of the other items, a site evaluation for each lot has been done and will be submitted. Miller requests clarification on the third condition. Does not think it is reasonable to orient your home and then have a backage road come in and have to re-orient the structure. Would like this condition removed. Will provide a copy of the Mn/DOT permit and the stormwater plan. The property slopes away from the highway. On the existing house, they would like to keep it there as a non-conforming structure consistent with the ordinance. The Rath's are here to answer any questions.

Chairman Nordvall asks if the house is occupied.

Kelly Rath indicates that it is and is being rented.

Commissioner Brannan asks if the road would ever come from Anna drive.

Administrator Marohn explains conditions three and indicates that there will likely be a road network to the west of this property. Indicates that is the only way that property is going to be developed, since this development does not create access to the west. An access to the parcels from the west would alleviate the long-term concerns of Mn/DOT and the city's ordinance.

Chairman Nordvall asks if they have considered one access.

Miller states that they have, but it makes the lots less attractive. There would be a driveway along the front of one and it would require a more elaborate agreement between four property owners. Having two accesses simplifies things. If they are not successful with Mn/DOT, they will need to evaluate with a single access point or not.

Commissioner Brannan asks who pays for the entrances.

Miller states that the developer does this and it must be built to the Mn/DOT standard. There is a fee and a bond for this that is released once the project is completed.

Steve Blomberg, neighbor to the north. States that he is not opposed to the plat, although nobody wants it in their back yard. Would like things to stay rural. There is a problem that the Raths are aware of with the sewer system. The drainfield is on Blomberg's property. States that they know that they were supposed to take care of this as part of the sale and he would like to see it taken care of. Indicates that he intends to subdivide and build a couple of homes and that drainfield is right where he would like to put one of them.

Commissioner McConnell states that they could require the sewer to be brought into conformity as per the ordinance.

Commissioner Brannan asks if this would be agreeable.

Kelly Rath indicates that it would be.

Miller states that they haven't located the sewer. They will verify the location and determine what needs to be done to bring the sewer into conformity.

Commissioner McConnell states that they should do away with recommended condition number three. A backage road is such a remote possibility. Is more concerned with coming to an agreement with Mn/DOT.

Chairman Nordvall asks for additional comments. Hearing none, closes the public hearing.

Motion by Commissioner Brannan, seconded by Commissioner McConnell to approve the preliminary plat based off of the following findings of fact:

- 1. The property is properly zoned for residential use.**
- 2. The one existing entrance needs to be relocated. Beyond that, the land is suitable, without significant alternation, for development.**
- 3. Lots 1, 2 and 3 have no physical constraints that would limit their ability to be developed. Lot 4 has some steep slopes in the southeast corner of the lot, but the lot has ample buildable area overall to provide for residential development.**
- 4. All lot sizes conform to the minimum 2 acre requirement.**
- 5. All lot sizes conform to the minimum 200-feet of width.**
- 6. There are existing structures on Lot 1. The house on Lot 1 is non-conforming as it encroaches into the road setback.**
- 7. The properties all contain adequate area for two sewage disposal areas.**

8. The lots are not riparian and therefore requirements for riparian properties do not apply.
9. The proposed subdivision does not include any new roads, provide access to adjacent parcels or facilitate future development of adjacent parcels. The parcel directly to the west has access off of Anna Drive and Highway 6, so this proposal does not block access for that property. The proximity of the property to existing accesses at Poplar, Anna and Mill make this an undesirable location for a new road servicing property to the west.
10. Lot lines are at standard angles and contain no unwarranted bends or jogs.
11. Each lot has at least 33 feet of access to public right-of-way, although the public right-of-way is a state highway to which access is restricted by Mn/DOT.
12. There is currently one access to the property. The ordinance requires a no-net increase in accesses on arterial roads unless accesses are spread more than 500-feet apart. The proposal adds a second access and spaces the two accesses approximately 400 feet apart.
13. Mn/DOT, in a March 17, 2004 email, expressed concern over the addition of an access and suggested that their preference that there be one consolidated access serving the property.
14. Public utility easements are not necessary as part of this subdivision. Utilities can be accommodated within the available Highway 6 right-of-way.
15. No lots will require variances for residential development.
16. There are no proposed stormwater retention components as part of the development.
17. Mn/DOT has indicated that there can be no net increase in development drainage to the highway ditch system from this development.
18. The setback from the road is 75-feet as per the current ordinance. All lots are buildable with this requirement. There is one existing structure that encroaches within this setback.
19. The proposal includes no increase in city road maintenance costs, yet will increase city tax revenue. Therefore, a cost benefit analysis shows a net benefit for the Emily taxpayer.

The following conditions are included as part of the recommendation:

1. The applicant shall provide a soils evaluation by an engineer, soils specialist or licensed sewage treatment designed indicating that Lots 2, 3 and 4 contain soils adequate for two standard individual sewage treatment systems.
2. The applicants shall provide a copy to the City of their Mn/DOT entrance permit.
3. The applicants shall prepare a stormwater management plan meeting the conditions of the Mn/DOT no-net-increase request and the requirements of Section 8.9. The plan must be acceptable to Mn/DOT District 3 Hydraulics Engineer, Bob Nibbe.
4. The existing house may be allowed to remain within the right-of-way setback as a non-conforming structure subject to all applicable regulations.
5. The conformity of the sewer system on the proposed lot 1 shall be verified. If the sewer system is not conforming, including conformance to all setbacks, it shall be brought into conformance.

Motion passed unanimously.

Variance to Construct within the Shoreline Setback and Side-Yard Setback, Application 04-13
Brian and Carmen Rettke

Administrator Marohn reviews the staff report.

Brian Rettke present. Presents a new site plan that goes back instead of going closer to the lake. Would add eight feet on the back.

Chairman Nordvall asks if the garage can be moved back to 75 feet.

Brian Rettke states that it could. When the sewer system was put in years ago, the measurements were off.

Commissioner Brannan asks the height of the new addition.

Brian Rettke states that it will be a loft.

Commissioner Brannan states that we allow a 50% enlargement that is the same height.

Chairman Nordvall states that they would need to change the elevation. Is concerned about doubling the size and not sticking to the 50% addition.

Commissioner McConnell asks if they have considered starting over and reconstructing on the property.

Brian Rettke states that they could not move the sewer.

Administrator Marohn indicates that, because of the configuration of the lot, a variance might be needed to construct on the lot if the building were reconstructed.

Chairman Nordvall states that an option is to table and ask them to come back with accurate measurements to scale that shows where the sewer and the structures are at.

Commissioner Clodfelder states that they should see if there is a way to accommodate the garage and the dwelling together.

Carmen Rettke states that the garage is in bad shape.

Commissioner Brannan asks what would happen if they went entirely behind the house.

Carmen Rettke states that they would be too close to the lot line and the sewer system.

Commissioner McConnell states that he might be able to approve something, but is not sure exactly what is going on out there. Would like to see a better drawing. According to one drawing, there is 32 feet to add on.

Chairman Nordvall states that he would like to see a concrete plan with dimensions of exactly what they want to do. Show exactly what variances are needed and show what options they have. There is not enough presented here to approve anything.

Commissioner McConnell wants to see things to scale. The drawings presented don't add up.

Administrator Marohn recommends a survey be done to clarify things.

Commissioner Brannan states that as it is it would need to be denied. It should be tabled to allow them to clarify their plans and come back next month.

Chairman Nordvall closes the public comments.

Motion to table the application in order to allow the applicants to prepare a more thorough and accurate site plan made by Commissioner McConnell, seconded by Commissioner Brannan. Passed unanimously.

4. Additions or Deletions to the Agenda

5. Open Forum - none
6. Approval of Minutes
 - a. February Regular Meeting – Motion to approve made by Commissioner Clodfelder, seconded by Commissioner McConnell. Passed unanimously.
 - b. February 17 Special Meeting – Motion to approve made by Commissioner Brannan, seconded by Commissioner Reineck. Passed unanimously.
7. Planning and Zoning Administrator’s Report
 - a. Permits
 - b. Correspondence
 - c. Violations/ General Enforcement Actions
 - d. Council Action
8. New Business
 - a. Feedback Survey

Administrator Marohn discusses developing a survey to solicit feedback from applicants for public hearings. The Commission directs Marohn to come back with an example in May.

9. Old Business
 - a. Discussion of New Land Use Ordinance

Administrator Marohn directed to advertise for a public hearing at the next regular Planning Commission meeting.

10. Adjournment – 9:17 PM

Respectfully Submitted,

Charles Marohn
Planning and Zoning Administrator