

PLANNING COMMISSION MEETING MINUTES

CITY OF GRANT

June 20, 2017

Present: John Rog, James Drost, Jerry Helander, Jeff Schafer, Jeff Geifer and Robert Tufty

Absent: None

Staff Present: City Planner, Jennifer Swanson; City Clerk, Kim Points

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF AGENDA

MOTION by Commissioner Schafer to approve the agenda as presented. Commissioner Tufty seconded the motion. MOTION carried unanimously.

4. APPROVAL OF MINUTES, April 18, 2017

MOTION by Commissioner Tufty to approve the April 18, 2017 Minutes, as presented. Commissioner Schafer seconded the motion. MOTION carried unanimously.

5. NEW BUSINESS

Introduction to Comprehensive Plan Updates – City Planner Swanson provided an update on the Comprehensive Plan updates required by the Metropolitan Council. The Comprehensive Plan is a long range plan for the City that creates a unified vision, goals and strategies for the City. The Planning Commission will be working through the process and there will be opportunities for public input. She noted a new component of this update is a water plan that must be included in the updated Comprehensive Plan.

PUBLIC HEARING, Application for Minor Subdivision, 9694 75th Street North – City Planner Swanson advised the Applicant and Owner, David Washburn (Applicant), is requesting permission to subdivide the property located at 9694 75th Street North into two (2) parcels. There is an existing homestead and several accessory buildings located on the existing property.

A duly noticed public hearing was noticed for June 20, 2017 at 7:00 PM, and notices sent to individual property owners located within ¼-mile (1,320 feet) of the proposed subdivision.

The following staff report is provided for your review and consideration of the subject application

Project Summary:

Owner & Owner:	David Washburn
PID:	2703021130001
Address:	9694 75 th Street North
Zoning & Land Use:	A-2
Request:	Minor Subdivision to create one ~29.99 Acre Lot, and one ~5.51 Acre Lot

The Applicant is proposing a Minor Subdivision (lot split) of the existing 35.5 Acre parcel into two (2) lots that could be developed with single-family residential uses in the future. No new structures are proposed as part of this application; however, the intent is to create two buildable residential lots. There is an existing homestead located on the subject property which would remain in its current configuration for now, but may be subject to redevelopment in the future. To demonstrate that both parcels are developable, the Applicant has submitted a wetland delineation for the property, septic/soil borings, and a Survey demonstrating the proposed configuration.

The City's subdivision ordinance allows for minor subdivisions and lot line adjustments as defined in Section 30-9 and 30-10. The sections of the code that relate to dimensional standards and other zoning considerations are provided for your reference:

Secs. 32-246

In addition to the dimensional standards identified in Section 32-246 of the City's Zoning Ordinance, there are some additional design standards found in Section 30-107 Lot Requirements which are summarized below:

- "Side lot lines shall be substantially at right angles to straight street lines...unless topographic conditions necessitate a different arrangement."
- The north end of the proposed westerly property line jogs slightly. The Applicant has indicated that this jog is due to the location of the existing driveway on Parcel A that they would like to keep intact. It appears that there would be sufficient area to adjust this lot line to remove the jog and still avoid the existing drive.

Staff would recommend the Applicant consider adjusting this line to comply with the ordinance.

City Planner Swanson stated the subject property is located on CSAH 12, and therefore is subject to Washington County's review and comment. Staff received an email from Washington County staff who has reviewed the proposed subdivision. Washington County is requesting an additional 15-feet of right-of-way in the form of an easement be dedicated along the frontage of the subject property. Staff would recommend including this as a condition of approval, and request that the Survey be updated to reflect the additional right-of-way.

Additionally, as previously discussed, if and when development or redevelopment of the lots occurs proper permits for installation of wells, septic systems, or driveways will be subject to review and approval of the appropriate permitting authorities.

The following draft conditions are provided for your review and consideration:

1. The minor subdivision plan shall be updated to reflect the request of Washington County for an additional 15-feet of right-of-way easement along CSAH 12.
2. The minor subdivision plan shall be updated to adjust the westerly property line of Parcel B to remove the jog and create a straight property line.
3. All future structures and improvements, accessory and principal, must comply with the city's wetland buffer setback requirements.
4. All future structures and improvements will be subject to the applicable setback rules and regulations in effect at the time of application.
5. The Applicant shall provide a written statement and identify on a corresponding exhibit which buildings will be removed, and which buildings would be classified as a 'Shed' per the City's ordinance
6. The Applicant will submit a schedule and accessory building removal plan that will be reviewed and approved by city staff.
7. The Applicant shall submit a Letter of Credit, or other form acceptable to the City Attorney, to ensure the removal of the accessory buildings is completed and that Parcel B is brought into compliance with the city's ordinances.
8. Any redevelopment of Parcel B with a new, or substantially larger, principal structure may necessitate a new septic system and at such time a septic permit must be obtained from Washington County prior to the City issuing a building permit.
9. A septic permit must be acquired from Washington County prior to the city issuing a building permit for a principal structure on Parcel A.

10. If and when a new home is proposed on Parcel A the appropriate permits to install a well must be obtained prior to the city issuing a building permit.
11. Any new access to Parcel A or Parcel B shall be subject to review and approval of Washington County.

City Planner Swanson reviewed the density calculation for this parcel and advised there will be one density unit left.

MOTION by Commissioner Tufty to open the public hearing at 7:20 p.m. Commissioner Schafer seconded the motion. Motion carried unanimously.

Ms. Jackie Thauwald, 9536 75th Street N, came forward and stated she is next door to the property and inquired where the future building sites are and stated if the jog in the plan has to be straightened out which property would that affect.

Mr. Wally Anderson, 8835 80th Street, came forward and inquired about the easement restriction per the County and asked if the lot split would be denied if the applicant does not provide the easement.

Ms. Theresa Urbanake, 11595 Grenelefe Avenue N, came forward and asked if the easement requirement is setting a precedent for other property owners on 75th Street.

City Planner Swanson referred to the plan pointing out the jog is on the applicant's lot between parcel A and B. It does not affect adjoining properties. She pointed out the proposed building site for the new parcel noting the existing structure is not being proposed to be changed. There is not a building plan at this point as the application is for the lot split.

Mr. David Washburn, Applicant, came forward and stated his intent is to sell the lot without a house. He advised he is agreeable to the conditions of approval drafted by the City Planner. He noted he can fix the jog in the lot line. One shed will remain and two will be removed.

City Planner Swanson referred to the required easement question and stated the County has review authority as it is a County road. The easement requirement has been changed to 75 feet so they are asking for an additional 15 feet of right of way. The City is agreeable to that and the County has to determine if there needs to be any compensation for the additional right of way. The City can subject the approval on working out that

issue with the County. The precedent for right of way has already been set. It is a requirement of the County and they have the jurisdiction as it is a County road. She referred to the jog in the plan advising the City ordinance does call for right angles to avoid confusing property lines. In this case the line jogs so the pond is not on both properties.

MOTION by Commissioner Tufty to close the public hearing at 7:39 p.m. Commissioner Schafer seconded the motion. MOTION carried unanimously.

MOTION by Commissioner Tufty to recommend approval of minor subdivision, 9695 75th Street North, as presented. Commissioner Helander seconded the motion. MOTION carried unanimously.

This item will appear on the June 29, 2017 City Council meeting agenda.

B. PUBLIC HEARING, Application for Variance from Road Setback for Garage Construction, 9051 Lansing Avenue North – City Planner Swanson advised the Applicants and Owners (“Applicants”), Jon and Michelle Weaver, have requested a variance from front yard setback to construct a new accessory structure (detached garage) on their property. The Applicants live on the property in the existing principal structure that contains an attached garage. There are extensive wetlands and sloping topography on the site which constrains the area available for construction of any new accessory structure(s).

The following staff report summarizes the requested variance, and existing conditions of the site.

Project Summary

Applicant & Owner: Jon & Michelle Weaver	Site Size: 9.86 Acres Location: 9051 Lansing Avenue North Existing Home: Constructed in 1991 Zoning & Land Use: A-2
Request: Variance from front yard setback to construct an accessory structure (detached garage) on the subject property. The location of the proposed detached garage is in front of the principal structure and would encroach approximately 41.2’ into the required front yard setback.	

As referenced above, the Applicants have requested the following variance:

- Structural Setback from front yard lot line on Lansing Avenue, which serves as the primary frontage and access to the existing principal structure.
- In addition to the requested variance, Staff has identified an additional potential setback encroachment associated with the proposed structure. The survey prepared by Cornerstone Land Surveying, Inc., dated May 8, 2017 identifies an approximate wetland boundary based on aerial data. As shown, the proposed location of the detached garage would encroach into the city's wetland buffer requirements and structural setbacks from a wetland buffer. This is further discussed in subsequent sections of this report.

The following summary of the requested variance and proposed project is as follows:

- The proposed Accessory Structure (detached garage) would be accessed from the existing driveway, and no new curb-cuts/drives are requested as part of this application.
- The proposed Accessory Structure (detached garage) is 24' x 24', or 576 square feet. The purpose of the Accessory Structure is for storage of personal property such as cars, garden equipment, etc., and is therefore defined as a "*detached residential accessory building*" per the City's ordinances.
- There are no other existing accessory buildings on site.
- The proposed Accessory Structure is located in front of the principal structure.

City Planner Swanson advised Section 32-60 establishes the criteria for granting and review of variance requests. In addition to a site plan and development plans, the variance application process requires the Applicants to prepare a statement of reasons why the request is made describing the hardship (or practical difficulty) where a hardship is defined in Section 32-59 as, "the proposed use of the property and associated structures in question cannot be established under the conditions allowed by this chapter or its amendments and no other reasonable alternate use exists; however, the plight of the landowner must be due to physical conditions unique to the land, structure or building involved and are not applicable to other lands, structures or buildings in the same zoning district...Economic considerations alone shall not constitute a hardship."

The applicant has provided a brief narrative describing the practical difficulty of their property to construct an accessory building/detached garage which is provided in application.

City Planner Swanson noted staff would agree with the Applicants that the site has natural and physical constraints which limit the buildable area onsite, particularly the wetland complex and significant slope/topographic changes on the site. As such staff

believes the variance is reasonable and constitutes practical difficulties which are not present on other similarly zoned and guided properties within the city.

The following draft findings related to the hardship (practical difficulty) are provided for your review and consideration:

- The buildable area on the subject property is constrained by natural features including a large wetland and significant sloping topography.
- There is a significant area of land, which would otherwise be buildable, in the designated right-of-way for both Lansing Avenue and Highway 96 which further constrains where any lot improvements could be located.
- The site constraints on site are not self-created, are the result of the natural landscape or are associated with a public improvement.

Draft Conditions:

- Must submit description of how the proposed Accessory Structure is consistent in character and color to the principal structure.
- A wetland edge determination should be made to establish the boundary of the wetland and determine the square footage affected by the encroachment.
- The wetland buffer area shall be averaged, and that portion which is impacted should be mitigated with additional protected buffer area on site. The additional buffer should be placed into an easement that should be identified on an updated Certificate of Survey, or on a separate exhibit, and then should be recorded with the property and the approved variance.
- A building permit should be obtained prior to any site work being completed.
- A grading permit should be obtained from the City Engineer, if applicable.
- The Applicant shall be responsible for obtaining any required permits from BCWD.

Staff is seeking a recommendation from the Planning Commission regarding the requested variance and the potential variance to wetland setback as identified in this staff report. Staff recommends approval of the variance, and if the Planning Commission agrees, requests the Planning Commission make a recommendation to the City Council to approve the variance from front yard setback and wetland setbacks with draft conditions and findings as presented by staff.

Commissioner Rog asked if there is the possibility of a smaller structure so there is no encroaching of the wetlands. City Planner Swanson advised she did look into shifting the structure but she doesn't believe there is any way to get the structure outside of the

setbacks. There may be the potential to shift the structure to get out of the buffer area. There is a condition and finding referring to the wetland edge and effort to get out of the buffer. The difference with encroaching in the buffer is that the same thing can be accomplished with buffer averaging. Staff is not recommending a wetland delineation and buffer averaging is a very common practice. Grading will not be in the wetland and must be at least 40 feet away. There is a 50 foot buffer around the wetland and the structure is 60 feet from the wetland so there is a 10-15 feet encroachment. This is the City's buffer standard. Buffer averaging really does not even really have to be done based on the topography of the property.

MOTION by Commissioner Schafer to open the public hearing at 8:08 p.m. Commissioner Tufty seconded the motion. MOTION carried unanimously.

Ms. Toni Meglitsch, 9150 Lansing, came forward and stated she has been here for forty years. The water table was much higher and there wasn't a house there. The septic and drain field was moved. She expressed concern about the stability of the ground.

MOTION by Commissioner Tufty to close the public hearing at 8:11 p.m. Commissioner Schafer seconded the motion. MOTION carried unanimously.

Mr. Jon Weaver, Applicant, came forward and stated he would prefer not making the garage smaller. The pond level has gone up and down over the years and the proposed structure does not come close to the wetland area. The proposed location is the only flat area for the structure and there is only one access to the property.

MOTION by Commissioner Giefer to recommend approval of variance request, 9051 Lansing Avenue North, as presented. Commissioner Tufty seconded the motion. MOTION carried unanimously.

PUBLIC HEARING, Application for Variance from Maximum Height of Fence, 6990 117th Street North – City Planner Haskamp advised the Applicant and Owner, Chuck Lucius (Applicant), is requesting a variance from the maximum fence height requirements to allow for the installation of an 8-foot fence on the subject property at 6990 117th Street North. Approximately 30-acres of the subject property is in the City of Grant, and approximately 10 acres of the subject property is located in the City of Dellwood. As stated within the Applicant's narrative (Attachment A: Applicant & Narrative) the Applicant recently obtained a Conditional Use Permit (CUP) from the City of Dellwood to install the proposed eight (8) foot tall fence along the property lines of the portion of their property located in the City of Dellwood. While the City of Dellwood processes fences in excess of 6-feet through a CUP process, the City of Grant does not permit fences above 6-feet located on a property line, and as a result the Applicant has requested a variance from this standard.

A duly noticed public hearing was published for June 20, 2017 at 7:00 PM, and individual property owners were notified within ¼-mile (1,320-feet) of the proposed project location.

The following staff report summarizes the requested variance, and existing conditions of the site:

Project Summary

Applicant & Owner: Chuck Lucius	Site Size: PID 0603021140001 – 39.99 Acres (Grant) PID 0503021230003 – 9.79 Acres (Dellwood)
Address: 6990 117 th Street North	Zoning & Land Use: A-1
Request: The applicant is requesting a variance from the maximum height of a fence along a property line to allow for the installation of an eight (8) foot fence along the northerly and westerly property lines of the subject property.	

The following summary of the requested variance and proposed project is as follows:

- The Applicant is proposing to construct and install an 8-foot tall agricultural style fence along the northerly (front lot line) and westerly property line (side lot line, generally) on the parcel located in the City of Grant (See Attachment A: Application & Narrative for Fence Detail). The proposed fence would be constructed on the property line, and there is no setback proposed based on the submitted drawing.
- Fences are permitted along front lot lines if less than 36” tall, but are not permitted within a public right-of-way. Therefore, a variance would be required to permit construction of any fence along the front lot line, based on the proposed location as identified on Attachment B.
- The portion of the fence considered to be on the side lot line is permitted to a maximum height of 6-feet. A variance from the 6-foot maximum would be required to permit the installation of an 8-foot fence in this location.

Section 32-60 establishes the criteria for granting and review of variance requests. In addition to a site plan and development plans, the variance application process requires the Applicants to prepare a statement of reasons why the request is made describing the hardship (or practical difficulty) where a hardship is described as, “the proposed use of the property and associated structures in question cannot be established under the conditions allowed by this chapter or its amendments and no other reasonable alternate use exists; however, the plight of the landowner must be due to physical conditions unique to the land, structure or building involved and are not applicable to other lands,

structures or buildings in the same zoning district...Economic considerations alone shall not constitute a hardship.”

The applicant has provided a brief narrative describing the practical difficulty of their property to construct an accessory building/detached garage which is provided in Attachment A: Application and Narrative.

City Planner Swanson advised Section 32-59 defines a hardship as the following: “Hardship means the proposed use of the property and associated structures in question cannot be established under the conditions allowed by this chapter or its amendments and no other reasonable alternate use exists; however, the plight of the landowner must be due to physical conditions unique to the land, structure or building involved and are not applicable to other lands, structures or buildings in the same zoning district; these unique conditions of the site cannot be caused or accepted by the landowner after the effective date of the ordinance from which this chapter is derived or its amendments. Economic considerations alone shall not constitute a hardship.” To evaluate this request, this definition must be considered during the analysis to determine if the proposed variance(s) meet the threshold as provided within the definition. The following summary analysis of the Applicant’s narrative (Attachment A) is provided for the review and consideration by the Planning Commission:

- *The property currently is a working farm, and the Applicant would like to fence the property with an Agricultural fence to secure the site, and ensure safety.*

There are many “working” farms, horse board operations and similar agricultural and livestock uses in the City of Grant. Since this type of use is permitted, or conditionally permitted, this cannot be considered a unique condition to the site which is a required consideration in granting a variance. The desire to maintain the safety of the site is important; however, the city’s ordinances would permit the installation of an 8-foot agricultural fence provided it was located outside of the yard setbacks, along the front and side lot lines (i.e. fence outside of front yard setback at least 150-feet from the centerline of CSAH 7, and fence setback at least 20-feet from westerly property line). Therefore, given that there are options available to permit a fence up to 8-feet tall, it cannot meet the standard as established that “no other reasonable alternate use exists.”

- *The Applicant would like to continue the existing fence type/style to make it cohesive with his fence on easterly property line.*

The Applicant indicates in their narrative that they recently received approval to construct the same 8-foot tall fence style on the portion of the property located in the City of Dellwood. While staff can appreciate the desire to install the same fence type,

it again fails to meet the City's definition which requires "these unique conditions of the site cannot be caused or accepted by the landowner" meaning that the issue cannot be self-created. In this case, the Applicant approached Dellwood first, and is now attempting to use that approval as a basis and justification for their variance application in Grant. Unfortunately, the recent approval in Dellwood cannot be reasonably used as justification in the City of Grant's analysis of a variance because it is the same property owner/Applicant who must understand the rules and ordinances of each City in which the proposed project is located.

- *The Applicant has stated that adjacent properties (specifically the property to the south, which would be the subject property's rear property line) have the same style fence and they are just proposing to install the same fence for consistency.*

Staff cannot verify whether a fence of similar type was installed, nor do we know the height of the subject fence on the adjacent parcel since it is not a part of this application. Additionally, since a survey for the adjacent property is not a part of this Application review, it is impossible to know the precise location of the fence on the adjacent property and whether or not it meets the setback requirements that may have permitted the installation of an 8-foot fence on that property. Further, this cannot be used as justification for a variance by the very definition of a hardship/practical difficulty provided above, since that would negate the 'unique' circumstances that must be present to approve a variance.

- *The Applicant provided no justification to permit the installation of the fence in the public right-of-way on 117th Street North.*

The Applicant's narrative did not address the desire to install the fence along the front property line which would be located within the right-of-way easement for 117th Street North.

Based on the justification provided in the Applicant's narrative, there does not seem to be a hardship that can be established that is unique to the subject property. Staff does not believe there is adequate defense to grant a variance from the fence height standards, or location, since the Applicant could simply move the fence outside of the required yard setbacks and still construct the desired fence to the desired 8-foot height after obtaining a certificate of compliance and a building permit. If the Applicant strongly desires to have the fence on the property line, then they could reduce the height of the fence to 6-feet and again would simply need a certificate of compliance and possibly a building permit. Based on these two available alternatives, staff would not recommend granting a variance from the maximum fence height or fence location requirements.

City Planner Swanson added that if the Planning Commission disagrees with staff and recommends a variance for height and location, then the Application materials should be submitted to Washington County for their review, comment and approval. The proposed location of the fence on the front lot line appears to be located within the CSAH 7 right-of-way, which is a County Road and therefore they would need to approve of the proposed location and fence height.

Commissioner Schafer noted the City has to follow the code as written and should follow the recommendation from staff.

MOTION by Commissioner Tufty to open the public hearing at 8:30 p.m. Commissioner Schafer seconded the motion. MOTION carried unanimously.

Mr. Charles Lucia, Applicant, came forward and explained he has fifty acres of farmland and not yard. The referred to the plan noting the green line already has an 8 foot fence. He is trying to match the fence that was already there. He did get approval from the City of Dellwood and would like to complete the fence and can't move it back to meet the setbacks. He wants to put the fence behind the tree line or they would have to all be cut down. There are people who use that right of way to throw trash and setting the fence back would give the neighbors his property. He would like to find the edge of the property and clean the area up. He noted he has planted pine trees inside the portion of the fence that has been completed and would do that all the way around to protect the crops inside. He respectfully requested approval to put the fence up outside the setback area.

Mr. Steve Urbane, 11595 Grenelefe, came forward and stated his property butts up to the applicant's property. He was interested in seeing what type of fence was being proposed. There are valuable oak trees that and he would hate to see them destroyed. If the fence does go up he would like to make sure it is done right and moving the fence back would protect the trees.

Mr. Lucia advised he does not want to knock down the trees either. If the fence line is inside the trees will not be damaged. He stated he is willing to do that but does not want the edge of his property to be a junk pile or give up that portion of his property. He would be happy moving the fence back and letting grass and bushes grow there. The first fence in that area is not perfectly aligned but is the property line. There is a second wire fence setback from property line that seems to accumulate the junk. He is not interested in having a debate about whose property it is if the fence is installed per the setbacks.

City Planner Swanson stated the City does not have difference fencing standards for different types of land use. If the setbacks are met the fence can be installed and would not require a variance. The space outside of that fence can be memorialized so it is clear that is part of Mr. Lucia's property.

Ms. Lori Ranke, 11495 Grenelefe, came forward and stated there is a 100-foot tree there and she does not want that damaged.

Mr. Curt Knifer, 11 Bay hill, came forward and stated his property borders the Dellwood property and there is already an eight foot fence there. It looks great and is well maintained.

MOTION by Commissioner Tufty to close the public hearing at 8:55 p.m. Commissioner Schafer seconded the motion. MOTION carried unanimously.

City Planner Swanson advised that based on discussions the neighboring property owners and applicant are going to have the recommendation would be to table this applications. If the neighbors do not come up with a solution the application can come back to the Planning Commission for a recommendation to the City Council.

MOTION by Commissioner Geifer to table application for variance, 6990 117th Street N, to the next regular Planning Commission meeting. Commissioner Tufty seconded the motion. MOTION carried unanimously.

6. OLD BUSINESS

There was no old business.

7. ADJOURNMENT

MOTION by Commissioner Tufty to adjourn the meeting at 9:05 p.m. Commissioner Schafer seconded the motion. Motion carried unanimously.

Respectfully submitted,

Kim Points
City Clerk