

MINUTES OF MEETING
SOUTH ST. PAUL PLANNING COMMISISON
July 8, 2020

MEETING CALLED TO ORDER BY CHAIR YENDELL AT 7:00 P.M.

Present: Angela DesMarais
 Tim Felton
 Jason Frankot
 Justin Humenik
 Ruth Krueger
 Matthew Thompson
 Stephanie Yendell
 Michael Healy, City Planner
 Monika Mann, Community Development Support Specialist

Absent: None

- 1) APPROVAL OF AGENDA – Krueger/Thompson (7-0)
- 2) APPROVAL OF MINUTES – June 3, 2020 – Motion to approve the minutes as presented – Huminek/DesMarais (7-0).
- 3) NEW BUSINESS

 None.
- 4) PUBLIC HEARINGS
 - A) Setback Variance for a Proposed Home Addition at 2324 Florance Lane

Mr. Healy presented the staff report. Staff received an application from Joseph and Ashley Gobely, the owners of 2324 Florance Lane, for a 6-foot front yard setback variance from the average front setback of the block. The applicants wished to build a two-story addition onto their single-family home but will need a variance to do so. The ground floor of the addition would be a 3-car garage. The top floor of the addition would have living quarters. The applicant currently has a one car garage and desires to have a three car garage to better suit the family's needs.

The City Code does not offer a designated front yard setback but states that a building or an addition may not be closer than the average setback of the other structures on the same side of the street that face the same street. The street through the neighborhood where the applicant lives is a diagonal street. The properties along the applicants block are oddly shaped in that the front property lines are parallel with the road while the rear property lines are not parallel with the road. Some of the houses on the applicant's block face southeast while others face southwest. The average setback of the block is 32.52 feet. The owners has proposed a setback of 29.7 feet for one corner of the addition. 29.7 feet is the minimum setback the owner needs for the addition to fit on the property.

Staff have reviewed the variance using the required variance criteria and feel comfortable supporting the variance. Staff recommended a number of basic conditions with the approval of the variance. Staff noted that a

Planning Commission Minutes

July 8, 2020

Page 2 of 6

condition could be added that the additional must have living quarters above the garage with at least two windows facing the street so to give the addition the appearance of tuck under garage.

Chair Yendell ask for clarification on whether staff had written in the condition that the applicant must have living quarters above the garage with at least two windows facing the street. Mr. Healy stated that the condition was written as a potential condition and that staff could include this in the resolution for the City Council if the Planning Commission recommends including it.

Commissioner Frankot asked about the approximate valuation of the project. Mr. Healy stated that the applicant would need to provide this information when they applied for a building permit.

Chair Yendell opened the public hearing.

The applicant, Joe Goble, spoke on the application. Mr. Goble stated that the anticipated cost of the project was between \$60,000 and \$90,000.

Chair Yendell asked if the applicant was familiar with the conditions outlined in the staff report. The Applicant confirmed that he was familiar with the conditions and that he intended to have living quarters with windows above the garage as seen in the building plans.

No one was present to speak on the item nor had correspondence been receive on the item.

Chair Yendell closed the public hearing.

Commissioner Frankot thanked the applicant for reinvesting in the community.

Chair Yendell stated she wished for the additional condition to be included in the resolution.

Commissioner Thompson shared the sentiment of wanting to have the additional condition in writing.

Commissioner Felton asked Chair Yendell if she was concerned that windows would be not be added to the addition if the living quarters condition was not included. Chair Yendell shared that if the condition was not included and windows were not include on the second floor, the garage would not have a cohesive look with the tuck under style of the neighborhood.

Commissioner Felton stated he was against the living quarters addition but would still vote to approve the item.

Commissioner Frankot asked if new engineering plans would be required if the applicant did not use the 2nd floor of the addition as living quarters. Mr. Healy explained that the City code does not distinguish between a garage and a house when it comes to setbacks. Commissioner Frankot explained that his question had to do with whether or not the plans for the project would need to change substantially if the owner decided not to have living quarters on the second floor of the addition. Mr. Healy stated that he was not concerned about the applicant changing the use of the second floor of the addition.

Chair Yendell explained that she was not concerned about the property being used in a different manner than was proposed, rather that her intention behind having the living quarters condition in writing was to have the City's expectations laid out in writing.

Motion to recommend approval a 6-foot front yard setback variance with the conditions as written and without the additional condition requiring second floor living quarters – Felton/ Frankot (7-0)

B) Proposed Ordinance Repealing and Replacing the City’s nonconformity ordinance to align with State Statutes.

Mr. Healy shared the staff report. Staff proposed to repeal and replace the City’s nonconforming ordinance which no longer properly tracks with state statute. Staff brought the item forward per the recommendation of the City Attorney. The subject code section had not been significantly updated since 1992 when the City last overhauled its City Code. Non-conformities are primarily regulated by the state. State law supersedes any local ordinance that the City might have so the intention of the repeal and replace ordinance is to have the local ordinance in alignment with the state law. Minnesota’s non-conformity statute was revised in 2004 and the City’s ordinance should be revised to reflect that. The biggest change in statute is that a grandfathered structure can now be improved and replaced in addition to being repaired and maintained. Grandfathered structures still cannot be expanded. Staff and the City Attorney recommended a motion of approval for the proposed repeal and replacement of the City’s nonconformity ordinance.

Chair Yendell opened the public hearing.

No one was present to speak on the item nor had correspondence been receive on the item.

Chair Yendell closed the public hearing.

Motion to recommend approval of the repeal and replacement of the City’s nonconformity ordinance – Frankot/Felton (7-0)

C) Proposed Ordinance Amendment Establishing a New Solar Energy Ordinance

Ms. Mann shared the staff report. Staff brought forward a proposed update to the City’s existing solar ordinance in accordance with the City’s 2040 Comprehensive plan which encourages the ordinance to be updated. The existing ordinance is short and lacks definitions or performance standards to regulate solar energy systems. In addition, the code requires a conditional use permit for any active solar energy system (i.e. photovoltaic solar panel). At some point, a policy decision was made to stop requiring conditional use permits for active solar energy systems. However, the code was never amended to reflect this informal policy decision which leaves staff in a gray area.

The comprehensive plan encouraged an update to the existing solar ordinance to make solar energy systems a permitted accessory use in all zoning district, create performance standards with height exemptions for roof mounted solar energy systems, and require pollinator friendly landscaping under a ground mounted solar energy systems or solar gardens.

The ordinance staff proposed would create definitions for the common solar energy related terms, classify solar energy systems as a permitted accessory use in all zoning district, and create performance standards for roof mounted and ground mounted solar energy systems. Staff did not include language that would allow solar

Planning Commission Minutes

July 8, 2020

Page 4 of 6

gardens and did not include a regulation requiring pollinator friendly landscaping underneath ground mounted solar energy systems.

Staff had previously reviewed draft performance standards with the City Council at a worksession. The City Council had stated several preferences but wanted the Planning Commission to do a “deep dive” and work more on the performance standards. A number of the performance standards had not been set in stone and staff was seeking input from the Planning Commission on a number of performance standards as part of the discussion on the item.

Commissioner Felton asked for the current setbacks for accessory structures. Ms. Mann explained that the setbacks depend on the lot configuration but the setbacks are generally between 3 and 8 feet. Commissioner Felton asked for confirmation that a ground-mounted solar energy system could be placed 3-8 feet from a property line, depending on the setback. Ms. Mann confirmed that was the case. Ms. Mann encouraged the commissioner to keep in mind that while the ordinance does allow a ground mounted solar energy systems if it adheres to the setbacks, ground mounted solar energy systems are rare in residential districts. Commissioner Felton stated that he believed the setbacks should be greater.

Commissioner Krueger asked how many solar energy systems existed in town. Ms. Mann estimated there were 20 to 30 properties in town with roof-mounted solar energy systems and one property with a ground mounted solar energy system.

Chair Yendell asked if the majority of the solar energy systems in town were commercial or residential. Ms. Mann stated that most of the solar energy systems were residential.

Commissioner Kruger encouraged ground mounted solar energy systems to be limited to the commercial districts.

Chair Yendell asked if ground mounted solar energy systems require a conditional use permit under the existing ordinance. Ms. Mann stated that under the current ordinance, any active solar energy system technically required a conditional use permit.

Commissioner Frankot asked for clarification on whether or not an entire rear yard could be filled with solar panels. Ms. Mann clarified that ground mounted solar energy system cannot exceed 200 square feet in area without receiving approval for a large system by conditional use permit.

Chair Yendell opened the public hearing.

No one was present to speak on the item nor had correspondence been receive on the item.

Chair Yendell closed the public hearing.

Commissioner Huminek provided background on the 2014 Conditional Use Permit case for a ground mounted solar energy system.

Commissioner Felton reiterated his comment that the setbacks for ground mounted solar energy systems should be greater than the standard accessory structure setbacks.

Planning Commission Minutes

July 8, 2020

Page 5 of 6

Commissioner Frankot asked about the city's liability for public safety issues with ground mounted solar energy systems. Ms. Mann explained that the height of ground mounted systems was intended to prevent safety issues that could arise.

Chair Yendell stated she did not feel comfortable with exempting ground mounted solar energy systems from lot coverage requirements and shared concerns about lots being cluttered.

Commissioner Kruger shared that more time was needed to vote on the item.

Mr. Healy requested that Ms. Mann clarify whether any of the surrounding communities banned ground mounted solar energy systems in residential districts. Ms. Mann explained that no communities banned ground mounted solar energy systems in residential districts. Mr. Healy made the point that if the city were to start banning ground mounted solar energy system in residential districts, this would make the proposed code more stringent than South St. Paul's current regulations. This would go against the comprehensive plan's goal of encouraging solar energy systems.

Chair Yendell stated that the commission was not looking to ban the use, but rather to control the use in residential areas.

Mr. Healy advised the Planning Commission against requiring additional conditional use permits and variances for items that could be addressed administratively with adequate performance standards.

Chair Yendell reiterated the Planning Commissions was not comfortable with that.

Mr. Healy asked Ms. Mann if there were any cities in the surrounding communities that allowed roof-mounted solar energy systems but required a conditional use permit for ground mounted solar energy systems. Ms. Mann stated that there were no communities with such rules that she had encountered and that this is likely because ground mounted solar energy system are incredibly rare in residential districts.

Mr. Healy suggested that the Planning Commissioner could modify the proposed language to require larger setbacks that would disqualify smaller lot from having ground mounted solar energy systems.

Commissioner Frankot asked how many panels needed to be used to generate adequate power. Ms. Mann stated she did not have an exact number of panels or size. Ms. Mann explained that solar energy systems are not meant to power an entire house, but rather to reduce the amount of energy used from the traditional power grid.

Commissioner Krueger shared her support for 15 foot property setbacks for ground mounted solar energy systems.

Commissioner Felton asked if the Planning Commission could vote to approve the core of the ordinance but have a condition that would require the city council to further research and discuss the height and setbacks of ground mounted solar energy systems. Mr. Healy responded by explaining that such a motion would be unusual since the Planning Commission was specifically asked by the City Council to finish drafting the performance standards. Typically, if the Planning Commission feels that they need more time to study the issue, the correct approach would be to table the item and request additional information for more discussion at a future meeting. Mr. Felton recommended tabling the item.

Motion to table the item until the August 5th Planning Commission Meeting – Felton/Krueger (7-0)

Planning Commission Minutes

July 8, 2020

Page 6 of 6

5) OTHER BUSINESS

None.

6) ADJOURNMENT

Motion to adjourn- Krueger/ DesMarais (7-0).