

**MELROSE PLANNING AND ZONING COMMISSION
REGULAR MEETING
THURSDAY, APRIL 8, 2010 – 6:30 P.M.**

AGENDA

1. Call to Order/Roll Call/Pledge of Allegiance
2. Approval of Agenda
3. Approval of Minutes
4. Public Hearing – 6:30 p.m.
 - a. Variance Request for Setback Encroachment: Applewood Homes, LLC – R-2, Moderate Density Residential
5. Reports
 - a. First Quarter Building Permit Report
6. Action Items
 - a. Variance Request for Setback Encroachment: Applewood Homes, LLC – R-2, Moderate Density Residential
7. Unfinished Business
 - a. Review of Responses to City's Request for Proposals for Planning Documentation Update
8. New Business
 - a. Review of Residential Rear Yard Setback Comparisons
 - * b. Agenda Distribution
9. Informational Items
 - * a. 1989-2010 Zoning Ordinance Update
10. Issues by Planning and Zoning Commission Members and/or Staff
11. Adjournment

* Amendments

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A.I. #1 CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE

The Melrose Planning and Zoning Commission met in a Regular Meeting on Thursday, April 8, 2010 at 6:30 p.m. at the Melrose City Center pursuant to due notice being given thereof. Present were Commission Members Henry Ahrens, Randy Dufner, Tony Klasen, Jeanne Kraemer, Dave Rodahl, and Kevin Thomes, along with Community Planning/Development Director Gary Walz, Public Works Director John Harren, and Human Resource Technician Diane Gruber as the Recording Secretary. Also present were Don O. Anderson, George Servatius and Nellie Servatius who were in attendance for the Public Hearing. Commission Member Tim Gillet was absent. Chair Thomes called the meeting to order.

The Pledge of Allegiance was recited.

A.I. #2 APPROVAL OF AGENDA

A motion was made by Mr. Rodahl, seconded by Mr. Dufner and unanimously carried to approve the agenda as amended.

A.I. #3 APPROVAL OF MINUTES

A motion was made by Mr. Ahrens, seconded by Mr. Rodahl and unanimously carried to approve the minutes from the Commission's February 14 Regular meeting as submitted.

A.I. #4 PUBLIC HEARING

- a. Chair Thomes opened the Public Hearing.

The Commission, acting as the Board of Adjustments and Appeals, held a Public Hearing to consider the request of Applewood Homes, LLC, Albertville, Minnesota, for a Variance from Sections 400. District Lot Regulations and 401. Minimum Lot Requirements by District, which stipulate the prescribed minimum rear yard setback at 35 feet for the construction of a principal structure (single family residence) in the R-2, Moderate Density Residential District, to allow a maximum setback encroachment of 10 feet for part of the proposed residence. Director Walz reported that due to the unique configuration and sloping topography of this corner lot, house design and placement are restricted resulting in the need for this request to accommodate part of the structure.

Director Walz presented the Affidavit of Publication of the Hearing Notice which was published in the Melrose Beacon on March 27, 2010, the Affidavit of Posting of the Notice which was posted on March 26 and the Affidavit of Mailing of the Notice which also occurred on March 26.

Don O. Anderson of Applewood Homes, LLC, Albertville, Minnesota (Developer) was present at the Public Hearing to address questions regarding the request.

Commission Member Ahrens stated that he would be abstaining from discussions and actions on this matter due to a potential conflict of interest resulting from his employer supplying the materials for this proposed project.

Director Walz presented and reviewed the Planning Report noting that the Developer has constructed five homes in the City of Melrose. All of them were constructed in Daylight Court and all of them had site plans drawn for the Developer by Kremers Building and Design, Inc., Swanville, Minnesota, (Kremers). He noted also that Kremers did the staking and framing for the Developer's homes in Melrose. Each of the site plans showed the required 35 foot front yard setback and, with one exception, side and rear setbacks of 10 feet each. Since the proposed structures built on those Daylight Court lots for the Developer had actual setbacks that equaled or exceeded those required by the City's Zoning Ordinance, which were not drawn on the site plans, there was no need to redraw them. However, it is unknown if the Developer or Kremers ever contacted City staff about the City's setback requirements or whether staff ever informed the Developer or Kremers that the submitted site plans, while having structures meeting or exceeding the required setbacks, contained erroneous minimum side yard and rear yard setback data.

Director Walz reported that the proposed site is an irregularly shaped, three-sided corner lot containing 18,841 sf located along CR #168 at the entrance to the Daylight Court development. The topography of the lot slopes approximately eight feet downward from CR #168 to the north end of the lot. The 2006 record drawings for the 2005 Daylight Court Improvement Project show an eastward facing home on this proposed development site. A northward oriented home, which would have the ability to meet required setbacks, would have an approximate downward driveway slope of six feet from garage floor to street level and possible drainage issues. Director Walz reported that with an eastward facing orientation, which resolves the steeply sloping driveway and possible drainage concerns, and the lot surrounded by the required front, rear and side corner setbacks, only 4,524 sf (24%) of the lot's 18,841 sf are available for principal structure construction. The proposed structure with its easterly orientation will encroach a maximum of 10 feet into the required rear yard (west) setback with a total structure encroachment equaling about 216 sf or 1.5% of the site's total required setbacks. The proposed single family residence with an eastward orientation meets or exceeds all planning and zoning requirements with the exception of the required 35 foot rear yard (west) setback requirement. Director Walz also reported that the Variance, if granted, would not alter the essential character of the neighborhood nor impact the adjacent lot.

While not applicable to this situation necessarily, the City's Zoning Ordinance provides for the opportunity to vary from Section 400 – District Lot Regulations and 401 – Minimum Lot Requirements for irregularly shaped lots such as those with a rear lot that forms a point or a rear lot line that is less than 10 feet in length.(Definition 023.08 Lot Line, Rear) In addition, Section 402.02 – Additional Regulations provides for a reduction in front and/or rear setbacks in all districts except C-1 and R-MH to accommodate new structure construction where adjacent structures have front and/or rear setbacks which vary from those required. However, the Zoning Ordinance does not address relief for this unique situation.

Director Walz reported that a review of randomly selected neighboring communities and several others indicates that the City of Melrose has some of the largest front and rear setbacks.

Director Walz noted that he had met with Matt Hill, an affected property owner residing at 535 North Eleventh Avenue East. Mr. Hill's concern was if the Variance is granted to allow the proposed house 10 feet closer to the west property line than allowed by the setback requirements, whether when a home is built on the lot between his house and the Developer's lot, if a Variance might also be given to move that home closer to his lot. Director Walz reported to the Board that his response to Mr. Hill was that he did not envision the granting of the Developer's Variance request as forming a basis for a similar request for the future owner of the home site located between the Developer's lot and Mr. Hill's lot or elsewhere in Daylight Court. In light of his discussion with Director Walz, Mr. Hill did not object to the Variance request. Director Walz reported that he also received an email from affected property owners Brian and Michelle Beeman residing at 530 North Eleventh Avenue East. He noted they were in favor of the proposed Variance. However, they requested the continued placement of a minimum of three trees on each lot in Daylight Court, as had originally been noted in the development agreements between the Plat Developer, Celebration Properties, Inc., and some of the lot purchasers. Director Walz noted that this is an issue between Celebration Properties and the property owners and does not involve the City.

The Public Hearing was closed at 6:50 p.m.

A.I. #5 REPORTS

- a. Director Walz presented the Building Permit Summary Log for First Quarter 2010 noting that it had been a relatively quiet quarter; however, he added that, to date, there appears to be increased activity in the second quarter.

[Although not available for the Commission's meeting, the following information was supplied to the Members at a later date. It is included here as a matter of record and for future reference purposes. The total number/value of building permits issued in the first quarter for the past four years were:

<u>2010</u>	<u>2009</u>	<u>2008</u> *	<u>2007</u> *
7 permits/\$86,100	18/\$8,657,700	19/\$3,723,256	14/\$99,834

**Note: Prior to 2009, building permit totals included permits issued for demolition, moving, zoning, and signs. These are no longer included because these activities are not subject to the Building Code nor does Building Official Dan Marthaler get involved in them.]*

A.I. #6 ACTION ITEMS

- a. Director Walz reported that there were three main criteria that the Commission, acting as the Board of Adjustments and Appeals, should consider when determining whether or not to grant the request of Applewood Homes, LLC for a Variance from the rear yard setback requirements to allow the construction of a single family residence on Lot 1 Block 1 Daylight Court. They are as follows: 1) whether the use being requested is reasonable; 2) whether the situation is unique to this property; and 3) whether the essential character of the neighborhood would be altered if the Variance were granted. He also noted that the Findings of Fact need to be determined for presentation to the Council when recommending approval or denial of this Variance request.

A motion was made by Mr. Rodahl to approve the Variance request according to the Findings of Fact and to request Council concurrence. (See attached Findings of Fact) Mr. Rodahl noted that he did not feel it was unreasonable to decrease the rear lot setback to 25 feet, and that by demanding that the homeowner meet the required setbacks thereby requiring a northward re-orientation of the front of the home which would result in a six-foot driveway slope which would be a safety concern for the homeowners as well as street traffic would be created. In addition, he noted that all three hardship criteria were satisfactorily addressed including reasonable use (residential construction), circumstances unique to the property (oddly-shaped corner lot with steeply sloping topography and required large setbacks), and non-alteration of the neighborhood's essential character (which the home will complement).

The motion was seconded by Mr. Klasen with a roll call vote as follows:

FOR: Commission Members Rodahl, Klasen, Dufner, Kraemer, and Thomes

AGAINST: None

ABSTAINING: Commission Member Ahrens

ABSENT: Commission Member Gillet

A.I. #7 UNFINISHED BUSINESS

- a. In initiating the discussion to review the responses received to the City's Request for Proposals (RFPs) for the Planning Documentation update from CR Planning, Municipal Development Group, and Bonestroo, Director Walz presented a summary of the objective components of these responses. He noted that all the respondents have good credentials and that Short Elliott Hendrickson had chosen not to submit a response to the RFP. He also noted that each proposer was asked to include the submission of the necessary maps in its proposal cost.

The Commission reviewed the RFP responses in light of the summary prepared by Director Walz. It was observed that the range of proposed costs was accompanied by a similar range of estimated consulting hours to complete the Project – as the proposed costs increased so did the consultants' anticipated hour commitment. It was noted that while the proposals were requested on a not-to-exceed basis, they generally do not come in under the proposed cost. A discussion ensued regarding whether a higher costing proposal with more consultant hours would yield a better result for the City. The general consensus was that Bonestroo, as the City's engineer, and as a result of its acquisition of the planning firm of Dahlgren, Shardlow and Uban, which consulted with the City on its 1998 Comprehensive Plan, was in a better position due to its knowledge of and experience with the City to provide the required services with less time and at less cost.

It was noted by a Commission Member that the City of Freeport had prepared in-house its own comprehensive plan without the assistance of an outside consultant. The Member also noted that the City of Freeport desired to save money for what it considered a state-mandated endeavor the results of which were destined to sit on a shelf. Director Walz noted that since the City's Comprehensive Plan does identify the City's vision along with its goals and strategies for growth and development, the City of Melrose does use its Comprehensive Plan as a guideline in its decision-making related to land use, development, and future growth. He went on to state that the City's Comprehensive Plan plays an integral role in shaping the City's future and determining the type of community it is and will become. A concern that was raised by some Commission Members was whether staff would have adequate time to undertake the Comprehensive Planning process with a qualified consultant much less without one. Staff noted that while working with a consultant on the Project including the updating of the Comprehensive Plan would require sharing the staff portion among several staff members, they thought it was doable depending on any possible future staff reductions. Staff questioned the availability of time and its ability to successfully undertake the Comprehensive Planning update without consultant assistance.

It was noted that in addition to the planning project set-aside funding for this planning documentation update project, staff was hopeful that if the update proceeded soon, this could be augmented by at least \$5,000 as a result of the City's ongoing participation in the Healthy Communities Partnership Program with the Initiative Foundation which ends about June 2011.

During the discussion, Mr. Klasen expressed concerns about this expenditure of funds in light of the economy and the City's challenging financial situation. While the Commission concurred with him, the Members saw their duty as being the recommendation to the Council of a consultant for a project they believe important to the community but the determination of the expenditure of the appropriated funds as belonging to the Council.

A motion was made by Mr. Dufner and seconded by Mr. Rodahl to make recommendation to the Council to enlist the services of Bonestroo to update the City's planning documentation in accordance with the proposal received March 24, 2010 in the amount of \$45,770 with a roll call vote as follows:

FOR: Commission Members Dufner, Rodahl, Kraemer, Ahrens and Thomes
AGAINST: Commission Member Klasen
ABSENT: Commission Member Gillet

A.I. #8 NEW BUSINESS

- a. Director Walz stated that while preparing the Planning Report for the Variance request received from Applewood Homes, he observed that many communities have reduced front and rear setbacks for single family residential districts when compared to those of Melrose. However, he noted that he did not believe this would be an issue for most lots in Melrose.

Public Works Director Harren agreed that the City's setbacks are larger than most; however, he noted that Daylight Court is a newer development and that perhaps there could have been a different floor plan that fit this lot and its setback requirements. He felt that to avoid further requests, the current setback requirements should be reviewed and possibly modified. The Commission chose to delay such consideration until the Zoning Ordinance is reviewed.

- b. Director Walz reported that City staff has begun distribution of the Council and Utilities Commission agendas electronically through an FTP (file transfer protocol) process and inquired if Commission Members would consider this same distribution process. Public Works Director Harren noted that this process saves staff time and paper costs.

The Commission agreed to give this a try; however, the Members requested that because of the large number of documents used by them at most meetings, that a power point or overhead projector be used at the meeting to display maps and pertinent information related to specific items of discussion.

A.I. #9 INFORMATIONAL ITEMS

- a. Director Walz reported that staff continues to update the Commission members binders with the Zoning Ordinance update and that they will hopefully be ready for distribution in the near future.

A.I. #10 ISSUES BY PLANNING AND ZONING COMMISSION MEMBERS

- a. Commission Member Ahrens inquired as to who enforces matters like the tree issue in Daylight Court. Director Walz noted that in this situation it is between the original plat developer, Celebration Properties, and the lot purchasers. The City was unaware of this agreement since it is not a party to it.

A.I. #11 ADJOURNMENT

A motion was made by Mr. Dufner, seconded by Mr. Klasen and unanimously carried that the meeting be adjourned at 8:15 p.m.