

November 14, 2017

The Scandia Planning Commission held their regular monthly meeting on the above date.

The following were in attendance: Commissioners Travis Loeffler, Tom Noyes and Chair Dan Squyres. Absent: Commissioner Jan Hogle. Staff present: City Administrator Neil Soltis, City Planner Sherri Buss and Deputy Clerk Brenda Eklund. Mayor Christine Maefsky and Council member Chris Ness were also in attendance.

Chair Squyres called the meeting to order at 7:04 p.m.

APPROVAL OF AGENDA, MINUTES

Noyes, seconded by Loeffler, moved to approve the agenda as presented. The motion carried 3-0.

Loeffler, seconded by Noyes, moved to approve the September 5, 2017 and the October 3, 2017 minutes as presented. The motion carried 3-0.

PUBLIC HEARING: MINOR SUBDIVISION AT 20205 OXBORO LANE CALLED SONNEN ADDITION. NANCY SONNEN, APPLICANT (PC RESOLUTION NO. 11-14-17-01)

Nancy Sonnen has applied for a Minor Subdivision to subdivide an existing 6.1-acre parcel at 20205 Oxboro Lane to create 2 lots, a 4.1-acre and a 2.0-acre parcel. The larger Lot 1 includes an existing home and Lot 2 is vacant.

Planner Buss summarized her staff report with details of the request. The use of the property is consistent with the goals of the Comprehensive Plan, and meets the standards and density for new parcels. A wetland delineation report was completed, along with a septic review approved by the County. Buss explained that it's reasonable to collect a park dedication fee of \$3,000 for the new lot in lieu of park land.

Buss stated that there is nothing unique with this minor subdivision and recommended approval. A resolution with findings and 7 conditions of approval was prepared.

Chair Squyres opened the public hearing at 7:09 p.m.

LeeAnn Weight, 20127 Oxboro Avenue, asked for clarification of the resulting density. An aerial map with ¼-¼ section markings was viewed and explained that Lot 2 results in 3 buildable lots on the east section. Under current zoning, there is potential for one additional lot to be created in the ¼-1/4 section where the Weight's property is located.

There were no further comments and Chair Squyres closed the hearing.

Commissioners Loeffler and Noyes stated that this was a simple and straightforward minor subdivision.

Loeffler, seconded by Noyes, moved to adopt PC Resolution No. 11-14-17-01, Approving a Minor Subdivision called Sonnen Addition at 20205 Oxboro Lane as presented. The motion carried 3-0.

The recommendation to approve the Minor Subdivision will be presented to the City Council at their November 21, 2017 meeting.

PUBLIC HEARING: VARIANCES FOR NEW CONSTRUCTION AT 18605 LANGLY COURT. MICHAEL LAUMANN, APPLICANT FOR PROPERTY OWNERS BOB AND JANE MARTSCHING (PC RESOLUTION NO. 11-14-17-02)

Michael Laumann of Michael Paul Design & Build, on behalf of property owners Bob and Jane Martsching, has applied for variances to construct a new single-family dwelling at 18605 Langly Court. The property is located within the Shoreland Overlay of Big Marine Lake. There is an existing home on the 0.42-acre parcel that is setback 26.76 feet from the Ordinary High Water Level, and 5 feet from the northern property line. The setbacks for the proposed home would be 52 feet from the east OHWL, 10 feet from the northern property line, the southern side of the home 50 feet from the OHWL, 52 feet from the wetland to the south, and 11 feet from the road right-of-way. Variances from the 100-foot OHWL setback, 75-foot wetland setback, and 40-foot ROW setback are needed. The existing home is currently served by the City's 201 sewer system, and the new septic tanks, proposed to be located approximately 20 feet from the ROW, will also require a variance.

Planner Buss presented her staff report with details of the request. The proposed structure is generally consistent with the goals of the Comp Plan to protect water resources by locating the new home further from the lake than the existing home, and outside the 50-foot Shore Impact Zone. Lot coverage meets the 25% maximum allowed. The proposed dwelling will not alter the character of the area as existing homes on adjacent parcels are setback a similar distance from the lake. Two existing sheds will be removed and an existing fence in the ROW will be relocated. The City Engineer will require a detailed grading plan to address drainage. The Watershed provided comments that will require a vegetative buffer as part of their permitting for stormwater management.

Buss concluded with a recommendation for approval based on meeting the criteria for variances, with findings and 12 conditions. Buss noted that the condition to remove the 2 existing accessory structures should be added into the resolution, as it was inadvertently left out.

Chair Squyres opened the public hearing at 7:26 p.m.

Brandon Babcock of Michael Paul Design & Build, 2900 Plymouth Road, Minnetonka, asked for clarification of the septic system setback. The tank location was not shown on the survey. Planner Buss explained that the County requires 10 feet from a structure and from a parcel boundary, and proposed that 30 feet from the low-quality wetland would be reasonable. Administrator Soltis added that since the City needs access to maintain the tanks, they could be moved closer to the road. A 5-foot setback from the parcel boundary and the ROW was determined to be acceptable. Buss noted that the resolution should be revised with this language.

Jane Martsching, 5671 57th Street Circle, asked if they can remove the cottonwood trees on the lot. Planner Buss explained that trees greater than 6" in diameter within 100' of the lake should be part of a tree removal plan for administrative review to determine a tree replacement plan for the property. Trees removed as part of the new construction area do not need to follow this procedure. Martsching asked if the house could be moved any further south to increase the distance from the north property line, now meeting the 10' side yard setback. This would give more room for the neighbors. Buss said that moving south is limited by the OHWL here and cannot encroach any closer than 50 feet.

There were no further comments and Chair Squyres closed the hearing at 7:41 p.m.

Language was clarified to include within the resolution approval of the septic tanks located a minimum of 5 feet from the ROW and 30 feet from the wetland.

Loeffler, seconded by Noyes, moved to adopt PC Resolution No. 11-14-17-02, Approving Variances for 18605 Langly Court as amended with the above language as part of the variances for the septic tanks, and the added condition to remove the 2 accessory buildings prior to approval of the building permit. The motion carried 3-0.

The recommendation to approve the variances will be presented to the City Council at their November 21, 2017 meeting.

PUBLIC HEARING: INTERIM USE PERMIT FOR A COMMERCIAL KENNEL AT 21775 MANNING TRAIL. PATRICIA NIELSEN WILKIE, APPLICANT (PC RESOLUTION NO. 11-14-17-03)

Patricia Nielsen Wilkie has applied for an Interim Use Permit for a Commercial Kennel to be operated at her residence at 21775 Manning Trail. The zoning code defines a Commercial Kennel as having 4 or more dogs over 6 months of age which are boarded, bred, trained, or offered for sale. Nielsen Wilkie stated in her application that she has 37 Shetland Sheepdogs on the property housed indoors, and they run in a large fenced yard 3 times a day. She has bred and shown the dogs for over 50 years, and at this property for the past 40 years. There are no separate kennel buildings. Nielsen Wilkie has requested to have up to 40 dogs on the property. She anticipates a maximum of 2 litters of puppies each year.

Planner Buss presented her staff report with details of the request. The applicant does not meet the threshold for a state license for a commercial kennel (having 5 or more litters per year) and did not require an inspection from the MN Board of Animal Health. Staff requested a local veterinarian and Deputy Yetter visit the kennel site and complete a report about the conditions. In general, the inspections found that the conditions are adequate for the health and well-being of the dogs. Dr. Randall's report noted that he has been caring for the applicant's dogs for over 10 years and has not treated the animals for any problems caused by neglect or abuse.

Buss explained that the property is 9.7 acres in size and was approved for an Administrative Exception from the minimum lot size of 10 acres. The facilities and setbacks meet the ordinance standards. Solid waste is currently placed in an on-site digester and composted. Puppies use potty pads that are hauled away by the trash service.

Buss concluded with a recommendation to approve the IUP with findings and conditions written into a resolution. The IUP will terminate with a change in ownership or if the property owner ceases to board, breed or offer dogs for sale for one year. Conditions to address waste management and impacts to neighbors, such as noise, were included in the resolution. Condition #12 stated that the City may inspect the kennel to evaluate compliance.

Chair Squyres opened the public hearing at 7:52 p.m.

Applicant Patricia Nielsen Wilkie, 21775 Manning Trail, stated that over the 25 years that she has bred the dogs, she has averaged 0.56 litters a year with 1.8 puppies a year. She trains and shows the dogs in agility and conformation, and occasionally sells the dogs. She stated that all are obedience trained. She does not board or take in rescue dogs. She stated that the complaint to investigate her property came from the local assessor.

Loretta Thorson, 21980 Manning Trail, said that as a neighbor, she did not even know the dogs were there and has no objections.

Scandia Deputy Brandon Yetter, explained that a complaint was received one year ago about the number of dogs on the property. The recent site visit showed conditions much improved over the past year. He observed many dogs housed in 23 different crates and sees this as a lot of pets in the home. The last litter occurred 2 ½ years ago he reported. Yetter used the Board of Animal Health checklist and criteria to inspect the conditions, but recommended the City have Keith Streff from the Animal Humane Society inspect before the application goes to the City Council for a more comprehensive report on the conditions. Yetter felt Streff could more properly make recommendations for the number of allowed dogs. Yetter stated that a planned visit by Steff was not allowed by the applicant. Buss noted that the veterinarian's visit and report was the appropriate substitute for the Humane Society inspection.

There were no further comments and Chair Squyres closed the hearing at 8:01 p.m.

Chair Squyres asked why some of the dogs were in the crates. Nielsen Wilkie stated that the trustworthy dogs are out at all times, but the dogs that get into things are kenneled up overnight and while she is at work. She lets them out while she is at home and able to watch them. The dogs all get a chance to be outdoors in the fenced area while she is home. She explained that she had a prior confrontation with Streff and felt verbally abused by him, and therefore did not allow him to come onto her property because of his rude behavior toward her. She would agree to an alternative inspector.

Chair Squyres reported on the site visit that found conditions be clean with many dogs loose and some in cages. The dogs looked to be in good health, happy and cared for. Commissioner Noyes stated his agreement to this assessment.

Commissioner Loeffler asked if there will be continuous inspections. Staff answered that a complaint would warrant an inspection, but the City may inspect conditions via the Deputy who can ask for other assistance. Loeffler asked if the visits would be drop-in; no, notice to the property owner is necessary before entering. Loeffler said he would be concerned that the

applicant would clean up conditions before the visit and not accurately reflect daily conditions. He also said that an inspection from a professional other than the owner's vet would give a more unbiased report. Staff noted that Dr. Randall is a state licensed professional and would accurately report on conditions. The health records of the dogs could be inspected to check if the dogs are well cared for. Chair Squyres stated that the health of the dogs cannot be changed overnight and it would be difficult to fake the care they receive. Nielsen Wilkie added that a vet is mandated to report any abuse or neglect to the state which would trigger an investigation.

Commissioner Loeffler stated that his thoughts on this are regular inspections by a third party, unbiased inspector. Buss stated that the conditions here are similar to the conditions placed on the Booth IUP for a commercial kennel in 2016.

Noyes, seconded by Squyres, moved to adopt PC Resolution No. 11-14-17-03, Approving an Interim Use Permit for a Commercial Kennel at 21775 Manning Trail. The motion carried 3-0. Discussion: Loeffler asked if the inspection must be noticed to the owner – yes, to enter private property, and inspections can occur via a complaint. Squyres said that the vet inspection is sufficient to assess the conditions of the kennel and animal health. The above motion carried 3-0.

The recommendation to approve the Interim Use Permit will be presented to the City Council at their November 21, 2017 meeting.

CONTINUED DISCUSSION ON SHORELAND ORDINANCE

Planner Buss continued to lead the discussion on the shoreland ordinance update. Accessory Dwellings use was added into Section 6.3 in replacement of guest cottages.

Section 6.4, placement of structures and sewage treatment systems on lake lots will continue with the current setbacks in the City's ordinance, with the exception of setbacks from unclassified water bodies (wetlands). Instead of the current blanket setback of 75', Council has supported a change to establish setbacks using distances comparable to those in the Watershed Districts wetland buffers which use the quality of the wetland to determine the setback. Under those standards high quality wetlands require 100' buffer with the lowest quality at a 25' buffer. Since the state has adopted a new buffer law in 2015 that requires a minimum 30' buffer width, this will be the minimum required setback for the lowest quality wetland to be consistent with state rules. Buss explained the addition of a de minimus provision that exempts small wetlands up to 400 square feet, or up to 1,000 square feet if approved by the City, from the setback requirements. After discussion of the de minimus intent the recommendation was to treat encroachments into the setback of up to 5% of the area of the wetland as de minimus and not require a variance.

Section 6.41 B., allowing deck additions without a variance if certain criteria are met, will be removed; property owners should go through the variance procedure.

Height of structures concluded to leave the current 35' maximum used in the development code definition with the addition of a picture illustrating an example of the measurement.

Paragraph 7.12 was removed – screening access ramps and parking areas. Language was added to 7.1 and 7.2 to make placement of impervious surfaces such as parking areas, stairways, lifts and landings subject to lot coverage.

The DNR model allows one water-oriented accessory structure that does not comply with OHWL setbacks in Section 7.3, within certain parameters. Commissioners were in consensus to remove this section to remain consistent with the current ordinance. They reasoned if storage is needed on lake properties, a variance should be requested.

The Planning Commission will continue to discuss the shoreland ordinance update with the implementation of the discussed changes at their next meeting.

DISCUSSION ON CONCEPT REVIEWS FOR CONDITIONAL USE PERMITS AND REGULATING SOLAR ENERGY SYSTEMS

The discussions on ordinance reviews related to conditional use permits and solar energy systems was tabled to a future meeting.

ADJOURNMENT

Loeffler, seconded by Squyres, moved to adjourn the meeting. The motion carried 3-0.

The meeting adjourned at 9:07 p.m.

Respectfully submitted,

Brenda Eklund
Deputy Clerk