



City of Medicine Lake

January 19, 2022

City of Medicine Lake Council Minutes

Present: Mayor Scott Marks; Councilors Jo Meyer, Connie Shaffer, Chris Heim, Ron Tomczik; City Clerk Therese Polum; Public Works Superintendent Chris Klar.

Council Absent: None

Other attendees: Leslie Englert, Gary Englert, John Bergford (TEA2 Architects), Clint Carlson, Jesse Swanson, Susan Wiese, Ruth Hovey, Dave Hutton, Dan Nepp (TEA2).

Mayor Marks called the meeting to order at 6:00 p.m. The Pledge of Allegiance was recited. Roll call was taken.

CIP Construction Oversight Contract and CIP Approving Plans and Specifications and Advertise for Bids Chris Heim presented the following items

- CIP advisory committee approves of the engineering design, agreement for professional services, and bid process.
- Bid process will open January 20. Process includes a pre-bid meeting for all bidders, bid opening March 16, 2022 at 10:00am, and award of bid within 90 days of bid opening. Council has the right to not award the bid.
- Milestones for the project include: Note - due to state bonding, contractor will not be given notice to proceed until on or near July 1, 2022.
 - Milestone 1: All underground utilities shall be completed by October 31, 2022 with temporary asphalt patching.
 - Milestone 2: Street work and first pavement lift shall be completed by September 1, 2023.
 - Milestone 3: Substantial completion including final wear course and restoration shall be complete by October 31, 2023.
 - Final project acceptance will early winter 2023 or potentially spring of 2024.
- Proposed that Chris Klar will track his hours spent on this project.
- State bond update includes a meeting with Representative Ryan Winkler, and communications with Senator Latz, and the chair of the budget committee of the state bonding program Senator Bakk.
- **Motion to approve the Agreement for Professional Services with SEH for full construction services dated 1/19/2022 at a cost of \$481,887 forwarded by Councilmember Shaffer and seconded by Councilmember Meyer. With all in favor, the motion carried.**
- **Motion to approve resolution 22-04 approving plans and specifications and ordering advertisements for bids 2022 street and utility improvements forwarded by Councilmember Shaffer and seconded by Councilmember Meyer. With all in favor, the motion carried.**

Variance Request for 201 Peninsula Road

Brad Scheib, City Planning Consultant presented on the Variance request for 201 Peninsula Road.

Brad Scheib presented the Council Report for 201 Peninsula Road. Gary and Leslie Englert, the owners, and their architect John Bergford with TEA2 Architects are present. This is a request for multiple variances including street side, and lakeside variances.

- A slide show presentation was displayed on the council chambers tv screen and each slide was discussed in detail. Slides were included in the packet.
- Existing conditions and proposed conditions were shown and discussed in detail.
- Buildable area per city code was discussed and presented on the slides. And discussed in detail.
- Variance area was shown on the displays and discussed in detail.
- Proposed additions were presented including distances to street edge; street to right-of-way line and distance to side property lines.
- Discussion pursued to define for the council what the right-of-way line is compared to the edge of street pavement.
- Expansion permits were discussed in detail with regards to the letter from Julie N. Nagorski, DeWitt LLP law firm; representing Ms. Elizabeth Borns.
- A history of expansion permits was explained to the council including the following:
 - Created 10 years ago
 - Intent is to address existing non-conforming structures to enable them to expand but not increase the variance dimension.
 - In this case, the variance dimension is changing thus a variance is required. Brad Scheib has consulted with the City Attorney, and they feel the variance approach is the correct approach to take.
 - Criteria for an expansion permit is essentially the same as a variance; with the exception that a variance requires a practical difficulty test.
 - The expansion permit would be needed if they created more square footage within a setback that is non-conforming but maintain the dimension causing the variance.
 - In this case the dimension to the public right-of-way is changing hence a variance is required.
 - Brad Scheib recommends that the City should review our ordinances with regard to expansion permits.
- Questions with regards to a potential lawsuit was discussed and Brad Scheib said we will discuss that in a bit.
- Discussion continued on the specific areas that will be closer to the public right-of-way including: garage and living space, (approx. 550 sq. ft.)
- 2500 sq. ft. footprint is proposed, including the garage. The existing footprint is roughly 2000 sq. ft.
- Side yard setbacks were discussed next. The 7ft. side yard setback will be maintained.
- A few modifications to landscaping and patio pavers will be adjusted to meet the 4ft required side yard setback.
- Lakeside setback was discussed next. Roof line will be a bit higher, resulting in a 3 sq.ft. variance request. Roof eaves will encroach 1.5ft into the lakeside setback beyond the 2 ft allowed.
 - Deck was discussed next: variance is requesting an additional 3ft into the lakeside setback; for a total of 7 feet into the lakeside setback. 4ft is allowed by code, additional 3ft requires a variance.
- All Variances are incorporated into the one resolution.
- Renderings were presented including setbacks and preliminary landscaping.

- Architectural detail was carefully considered with the result of a high aesthetic to the home consistent with the city design guidelines.
- Council asked if this home will be closer to the street than the neighboring house; Brad Scheib confirmed this house will not be as close to the road as the neighboring home at 189 P.
- Mr. Carlson expressed that the driveway will be closer to the road.
- Renderings were continued to be presented displaying all sides of the home.
- Mayor Marks opened the meeting to the public and stated to limit people's comments to 4 minutes.

Brad continued the presentation by discussing the council report.

- Drainage issues are always a concern with reconstruction. The homeowner is required to maintain drainage on their property and not increase drainage to public lands or onto adjacent property.
- A drainage plan will be required as a condition of the variance.
- There is no concern about the plans to not be able to accommodate drainage water on site.
- Trash and recycling area was discussed, and adjustments shall be made to bring this area to code.
- Sight line impacts to 189P was raised with respect to the windows facing the neighboring home. This is a consideration, not a condition or requirement.
- Brad presented that Mr. Carlson has great concern with regard to the driveway. Mr. Carlson shared his disagreement and concerns in an email to Brad sent 1/19/22 at 3:43pm and forwarded to the City Council on 1/19/22 at 4:06pm. Mr. Carlson also shared his concerns at the planning commission public hearing.
- If approved; the proposed driveway will be 18-20.5' from the public right-of-way. Yes, this is a short driveway and the homeowner will have to be aware of this. Nothing in the code specifies a minimum driveway length.
- A concern of Mr. Carlson is that this plan creates greater opportunities for violations to occur with regards to parking.
- The City has parking laws that need to be enforced.
- It is of Brad's opinion that this variance will not further exasperate the current violations to the city street parking laws. The City has laws and processes in place to keep parking out of the public right-of-way.
- Brad confirmed that the driveway is proposed to be in the same location however it will be approximately 10 feet shorter in length.
- Mr. Carlson expressed his concerns as follows:
 - Mr. Carlson has presented to the council numerous times over several years with regards to parking violations and parking enforcement.
 - It is an important concern that parking violations in this area may prevent or impact Mr. Carlson from entering and exiting his driveways at 202 and 204.
 - Mr. Carlson stated again that street parking needs to be enforced.
 - Mr. Carlson stated he has photos of his hardship.
 - Mr. Carlson stated at 202 he has two brick pillars on either side of his driveway and he has had to contact people to move their vehicles so that he can enter and or exit his driveway.
 - His most difficult time entering or exiting his driveway when someone is parking across the street is when he is pulling a trailer or boat. He cannot get out of his driveway without someone moving their vehicle from across the street.
 - His brick pillars were on his property when he bought the property 42 years ago, this is his existing condition.
 - Mr. Carlson stated his opinion that proper parking and setback are not proposed, and he disagrees with the variance approval.

- Mr. Carlson stated again that he has photos of his concerns.
- Councilmember Heim stated he does not understand the argument that this proposed driveway impacts other homeowners. He expressed that all homes need a driveway. Heim does not understand Mr. Carlson view's that this driveway causes a parking violation.
- Councilmember Heim stated that he does not understand that Mr. Carlson wants to block someone from building a home because it is hard for Mr. Carlson to back out of his driveway when someone is parked in specific locations entirely on their property. They currently are not allowed to park in the public right-of-way.
- Mayor Marks stated that when someone is parked directly across from his house he also has a hard time backing out from his driveway.
- Brad confirmed the proposed driveway is about 50' feet from the garage to the street edge.
- Typical car is 15-18 feet.
- Brad suggested that he summarize the concern for the council:
 - The concern is if this is approved, and the property has a shorter driveway; the possibility of the homeowners to violate street parking is greater. Over time they may obtain more toys, such as boats etc... and the temptation to violate the street parking may be greater due to the shorter driveway.
- Brad suggests that this is not a reason to deny the variance. This is an enforcement issue that currently exists in the city.
- Mayor Marks stated that today he drove around the City and he notices several boats parked in the public right-of-way.
- Connie stated that at the time of year when boats are pulled or launched the city allows boats to be in the public right-of-way as a transitional state. However it is not allowed as a long term storage solution. Chris Klar is doing better at enforcing trucks etc in the public right-of-way.
- Councilmember Heim asked Mr. Carlson if his concern is that the homeowners will park their boat within the public right-of-way?
- Mr. Jesse Swanson answered and stated that he thinks Mr. Carlson's concern is that they will have a tighter driveway so the ability to the owners to have guests park on the street is greater.
- Mayor Marks stated the city has signs allowing owners street parking on one side of the street for use for large gatherings.
- Heim stated that he believes Street permits are issued with consideration for driveways and mailboxes.
- The council stated that cars are allowed to be parked in the right-of-way with a permit when an event needs it.
- Councilmember Heim stated that is in support of enforcing street parking however he does not think that in this case it is cause for denying the variance.
- Councilmember Meyer stated that in the past with regards to parking violations the council has directed Mr. Carlson and others to first have a neighborly conversation about parking violations, and if that does not work to call the Hennepin County Sheriff. The council is not in the business of enforcing parking violations. That is the responsibility of the sheriff's office.
- Mr. Carlson stated that there is a disconnect from where he is coming from and he would like to show his photos.
- Mr. Carlson stated that last summer people were parking on both sides of the street within the right-of-way.
- Mr. Carlson suggested in the past that the council put a paper on the vehicles that are in violation.
- Councilmember Heim stated that that this issue is a separate issue not related to the variance.
- Brad suggested that the applicant be allowed to present at this time.

John Bergford with TEA2 presented that he is the architect and project manager and he offers a thank you to the city council for allowing this variance request to be heard today. Mr. Bergford presented the following:

- We are exciting about this project, which is a modest addition resulting in a dramatic transformation to their home.
- This represents a significant enhancement to the home, the community and neighborhood.
- This home will provide a long term home for the owners.

Mr. Englert shared that he would like to use his time to express thank you to both the planning commission and to Brad for their time to review the project and to help the owners to understand the requirements. And thank you to the council for allowing this on today's agenda. Mr. Englert stated that he is hopeful to start construction this spring and is watching the timing of the street project closely to see how that all factors in.

Councilmember Shaffer asked Mr. Englert to address the concerns that were raised such as is he comfortable asking his guests to park down the street at the Jevne parking and walk to his house for events; will he keep his boat parked according to the laws, does he anticipate parking challenges?

Mr. Englert responded that he will abide by the parking laws, he does not anticipate that he or his guests will violate parking regulations. He uses a boat service for his boat thus his boat currently is never at his property. He stated that in the future as he potentially acquires a new boat or toys etc. he has 49' in his driveway to work with before his driveway meets the street edge. Mr. Englert also addressed the drainage concern and stated he completely agrees that he will address his water with a drainage plan. That was his expectation from the beginning of the project. He stated that when his neighbor at 189 was remodeling he also was concerned with drainage and mentioned this at a planning commission meeting; thus he completely expects that his water is his water and a drainage plan will be developed.

Mrs. Englert shared that they discussed building a two story large home but decided they want single level living, and feel that this is a modest plan that will enhance the neighborhood. She expressed that they put their heart and soul into the plan with great consideration to the neighborhood.

Mayor Marks asked Brad to summarize. Mr. Carlson asked for more time to present his written presentation and photos. Councilmember Heim stated that he supports Mr. Carlson's topic and concern however those concerns are not linked to this variance.

Brad summarized as following:

- Planning commission recommend approval with conditions as presented. The planning commission vote was unanimous.
- The presented resolution encompasses all variances and is consistent with the recommendation to approve with conditions.
- Variance can be approved, partially approved, or not approved.
- Conditions are specific and are specified in the variance resolution.
- Brad presented all 9 conditions with the council and discussion pursued.
- Brad presented the 4 key finding with the council and discussion pursued.

Brad then discussed the practical difficulties test: this is a state statute test

- What they are proposing is a reasonable use of the property?
- Are there conditions unique to the property that create a need for the variance request?
 - Line of sight is based on neighbor properties
 - Line of sight that is close to the street shrinks the buildable area

- Does it fit within the surrounding area?

Brad then discussed the appeals process. His understanding is the board of appeals for the City of Medicine Lake would be the city council. Appeal would present additional information, and ultimately it can go to the courts. He believes 30 days from action per city code is time for appeal. The City has insurance as part of the League of Minnesota Cities, that is covered, however time would be required.

Councilmember Heim asked for more information regarding the lakeside deck line of sight. John Bergford answered the questions and brought up the diagrams presenting this topic.

Councilmember Tomczik said he would like to hear more from Mr. Carlson regarding the street parking, and he is wondering who pays Brad's fees. Councilmember Shaffer answered that Brad's fees are covered by the City's comprehensive management plan escrow fees. Councilmember Tomczik said he will abstain from voting for two reasons: Mr. Carlson wanted to show his photos and was denied three times; and councilmember Tomczik wanted to see the site himself.

Councilmember Heim wishes we had guidance for potential home buyers that we could include when a home goes up for sale. He would like potential buyers to understand the rules of this community such as 20 mph, no street parking, building requirements etc.

Mr. Carlson expressed again that he feels the planning commission and city council did not listen to his comments, and he feels that his comments were not included in the planning commission minutes. Councilmember Shaffer stated that she felt Mr. Carlson's points were covered in the minutes. Mr. Carlson stated that his comment regarding permeable pavers for extra parking on 201 was not included in the planning commission minutes. Councilmember Shaffer stated that the existing hardcover extension (L-shape area adjacent to street) area in the right-of-way is being removed. Brad stated that this lot has capacity to add parking in the future as it is less than the code of 40% impervious.

Motion to approve resolution 22-05 approving variances from section 3100.5 and 1000.5 of the zoning code to allow construction of an addition within the street yard setback and lake side setbacks at 201 Peninsula Road forwarded by Mayor Marks and seconded by Councilmember Heim. Councilmember Tomczik abstained. Mayor Marks, Councilmember Shaffer, Meyer, and Heim in favor, the motion carried.

Motion to adjourn forwarded by Mayor Marks seconded by Councilmember Meyer. Mayor Marks, Councilmembers Shaffer, Meyer, Tomczik, and Heim in favor. Motion carried at 7:39 p.m.

Respectfully submitted,

Therese Polum
City Clerk

Approved on March 7, 2022