

FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION

MINUTES April 21, 2009

A regular meeting of the Fairbanks North Star Borough Planning Commission was held in the Assembly Chambers, Borough Administration Offices, 809 Pioneer Road, Fairbanks, Alaska. The meeting was called to order at 7:00 p.m. by Tom Marsh, Chairman.

MEMBERS PRESENT: Tom Marsh Tom Temple
 Jennifer Peterson David Pruhs
 Umit Spencer Kevin McCarthy
 Michael Wenstrup

MEMBERS ABSENT: Ian Hebert
 Brian Flemming
 Nello Cooper

OTHERS PRESENT: Bernardo Hernandez, Director of Community Planning
 Doug Sims, Planner III
 Melissa Kellner, Planner II
 Jill Dolan, Asst. Borough Attorney
 Marnie Long-Boehl, Secretary

A. ROLL CALL

B. MESSAGES

1. Chairperson's Comments:

- a. **Mr. Marsh** stated that we had a presentation on variances and the persons who came in late, please review the presentation handout and the audio will be on the Website.
- b. **Mr. Marsh** reminded everyone of the Retreat in two weeks on May 5, 2009 and encourages everyone to attend. **Mr. Hernandez** discussed the agenda for the retreat.
- c. **Mr. Hernandez** informed everyone that the Charter School rezone and State property rezone, located near the Old Steese off of Sky Ridge Road, is going before the Assembly on May 23, 2009.
- d. **Mr. Hernandez** announced that we are going to have a Conditional Use for a nuclear power plant, location near Ester, on May 19, 2009.

2. Communications to the Planning Commission

3. Citizen's Comments – limited to three (3) minutes

- a. Agenda items not scheduled for public hearing.
None
- b. Items other than those appearing on the agenda.
None

C. *MINUTES

D. APPROVAL OF AGENDA AND CONSENT AGENDA

Approval of Consent Agenda passes all routine items indicated by asterisk (*) on agenda. Consent Agenda items are not considered separately unless any Planning Commission member or citizen so requests. In the event of such request, the item is returned to the general agenda.

MOTION: To approve agenda and consent agenda, including minutes of previous meeting by **Mr. Temple**, seconded by **Ms. Peterson**.

Objections

Ms. Spencer noted that on Page 10 of the minutes she believes that she said "if the facts are never to be weighed instead of the Title."

Mr. Marsh asked if there were any objections to that change.
None.

MOTION APPROVED

E. CONSENT AGENDA ITEMS

None

F. PUBLIC HEARING

V2009-006 A request by Michael Kimball for a setback variance of five (5) ft to the front yard Rural Residential requirement of twenty five (25) feet for an existing detached garage located twenty (20) feet from the east lot line fronting Hillside Drive on Lot 15, Block 2 Vue Crest Subdivision. **(located west of Hillside Drive, north of Crest Drive)**

Melissa Kellner presented the staff report. Based upon staff analysis, the Department of Community Planning recommended denial of the proposed variance.

Mr. Marsh asked if there were any questions for staff.
None

PUBLIC HEARING OPENED

Mike Kimball, resides at 407 Hillside Dr, handed out letters from nearby residents. Nine years ago he wanted to build a garage on his lot. After dirt work was done, he measured 25 feet from the edge of the road and placed a marker for the concrete guy. I know little of zoning, easements, setbacks, and Lot lines. I know now that the edge of the adjacent road is pretty much never the same as the Lot line. It's my intention to adhere to the rules. I was upset to find out that I did not properly identify the Lot line. Moving it would be expensive. The structure has been there for nine years and there has been no complaints, no problems with plowing, no issues with right of way, no issues at all. That seems to demonstrate that the intent of the setback rules has not been compromised. The house is for sale. Banks will not lend on property with a variance denial. Denial will cause significant hardship for me and anyone that follows me – assuming a new owner can be found.

In preparation for this meeting, I attended a previous meeting and heard repeatedly that there are facts and rules and no other aspects of the case shall be considered. I heard a Commission member respond “Well if that is true- what is the purpose of the Commission. Why are the respected members of the Commission here – when the Planning Staff and Legal Council are more than capable of examining the facts and rules and rendering a decision. Do we not have Commission members so that each circumstance can be examined on a case by case basis and the Commission can apply interpretation and common sense?”

Mr. Marsh asked if there were any questions for the applicant.

Mr. Temple asked if it was just the over-hang that was in the 5 foot setback or the foundation as well.

Mr. Kimball replied “The corner of the foundation.”

Mr. Temple asked if the over-hang doesn't go to the length of the building – Correct.

Mr. Kimball responded – yes it does.

Mr. Temple asked about the section that he kept the firewood – does it go along the whole length of the shop.

Mr. Kimball answered yes.

Mr. Temple wanted to clarify that it's not just that section but its part of the main building – If that section were gone where you keep the wood – would it still encroach into the setback?

Mr. Kimball replied correct. There's no way of identifying the Lot line, I don't see markers or anything.

Mr. Temple asked if he thought about getting a surveyor.

Mr. Kimball replied that the last plot plan showed the plus/minus 20 foot – it's pretty clear. I now know that the edge of the road is never the Lot line – from the edge of the road its 25 feet.

Mr. Marsh asked if there were any other questions.

Mr. Pruhs referred to the lot topography and asked if that was the only location that you could physically construct this improvement.

Mr. Kimball replied probably not – in its current location it probably could have been constructed within confines of the 25 foot rule but again he thought he was meeting that rule.

Ms. Spencer asked how wide the right of way is – the road of your property.

Mr. Kimball replied that he didn't know about the right of way.

Mr. Marsh stated – 50 foot right of way.

Mr. Marsh asked if there were any further questions.
None.

PUBLIC HEARING CLOSED

MOTION Move to approve V2009-006 by **Mr. Temple**, seconded by **Ms. Peterson**.

Discussion

Ms. Peterson stated that this is another unfortunate situation that we have a code and the code tells us that we can't grant a variance for pecuniary reasons. The applicant is before us for pecuniary reasons unlike in our last meeting where one could argue that the lot would of made it a hardship because there wasn't much buildable space - this lot doesn't have that either. Unless the law is changed – I don't see how we can grant this and future variances of this kind.

Mr. Marsh asked if there was anybody to comment.

Mr. Pruhs responded that he must concur with **Ms. Peterson**.

Ms. Spencer concurs with **Mr. Pruhs** and **Ms. Peterson**.

Mr. Temple comment that we sympathize with the applicant. He concurs with the Staff report and will be voting in denial.

Mr. Wenstrup agrees with what everyone says and will be voting no.

ROLL CALL

Zero (0) in Favor:

Seven (7) Opposed: **Mr. McCarthy, Ms. Peterson, Mr. Pruhs, Ms. Spencer, Mr. Temple, Mr. Wenstrup, Mr. Marsh.**

Mr. Temple moved that we accept the three (3) Findings of Fact as proposed in the Staff Report and seconded by **Mr. Pruhs**.

Mr. Marsh asked if there were any discussion on the Findings.

Mr. Marsh stated that the findings are unanimously adopted to support the vote.

Mr. Hernandez asked the Chair to mention that there is 15 days to Appeal the decision.

Mr. Marsh added that there is 15 days to Appeal the decision.

MOTION TO APPROVE, Denial.

G. UNFINISHED BUSINESS

H. NEW BUSINESS

I. COMMISSIONER'S COMMENTS

1. FMATS

Ms. Peterson added that they received some State money to mitigate the fact that we didn't get any funding through the stimulus. We have the go ahead to begin the planning for two-way on Cushman as well as on Barnette up to First. We are dealing with some Smart Growth applications and are involved with the Yankovich trail. **Mr. Hernandez** added that we are doing the long range transportation plan and we hired a contractor. One of the first goals is to try to make our planning of roads consistent with Smart Growth.

2. Title 17 Rewrite Project

Mr. Hernandez said there were no changes since the last report.

3. Vision Fairbanks Update

Mr. Hernandez stated that we are beginning to work on the Design Standards and the Administration has told us we can go forward with this. We are going to be writing up the Ordinances that you will see and be making recommendations on to the Borough Assembly.

4. North Pole Land Use Plan

Mr. Hernandez commented that we have a good group of residents in North Pole that are working on some different land use regulations. It will be going before City Council next month. On the April 29th, the City of North Pole will have a work session.

5. Comprehensive Plan Advisory Board (CPAB)

Ms. Peterson said that they finalized their positioning paper in support of requiring zoning permits for GU-1. **Mr. Hernandez** stated that it should be coming up on the May 19th meeting under New Business.

6. Other Commission Comments

Ms. Peterson mentioned the fact that the cell tower ordinance went before the Assembly and we are looking forward to a joint work session with the Assembly the first part of June. **Ms. Spencer** included that she would like us to provide some information on the nuclear power plant before the meeting to prepare us knowledge wise.

I. ADJOURNMENT

There being no further business the meeting was adjourned at 7:30 p.m.