

FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION

MINUTES
November 17, 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 Brian Flemming
Nello Cooper Michael Wenstrup

MEMBERS ABSENT: David Pruhs Ian Hebert
Kevin McCarthy Pamm Hubbard

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

A. ROLL CALL

B. MESSAGES

1. Chairperson's Comments:
None
2. Communications to the Planning Commission
3. Citizen's Comments – limited to three (3) minutes
 - a. Agenda items not scheduled for public hearing.
 - **Jim Richardson**, resides at 1032 8th Avenue, would like to review the corner visibility requirement on fencing. He has offered his services to get a commission together and attend meetings as a member – he has discussed this with **Mr. Hernandez**.
 - **Mr. Richardson** took a survey of his neighborhood and has noted that there are 20 problems within less than 20 blocks of his house.
 - **Mr. Richardson** asked if the 30 foot triangle requirement should be in residential or commercial or everywhere. Should we reconsider it – he would like to see it reconsidered.
 - 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

None

MOTION APPROVED

E. CONSENT AGENDA ITEMS

F. PUBLIC HEARING

V2010-005 A request by Lee Ann Reiss for a setback variance of 1 foot to the required 5 foot setback on the northwest side yard, 4 feet to the required 5 foot setback on the southeast side yard, and 2.2 feet to the required 5 foot rear yard setback for an existing single family home located 4 feet from the northwest lot line, 1 foot from the southeast lot line and 2.8 feet from the rear lot line of Lot 5A, Block 83 Fairbanks Townsite in the Two Family Residential zone. **(located southwest of Sixth Ave and northwest of Cowles Street)**

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

Mr. Marsh asked if there were any questions for staff.

Mr. Marsh asked a question about a slide concerning 730 Berentsen Lane – is this the address?

Ms. Kellner responded with “It’s the applicants mailing address”.

Mr. Marsh stated that the original cabin was built 4 feet on one corner from the property and asked if that has changed. Was one side granted Grandfather Rights and not the other?

Mr. Hernandez replied that is a question to ask the applicant.

Ms. Kellner stated that Grandfather Rights would have to be granted for the whole structure.

Ms. Dolan clarified that the addition or the enlargement for the rest of the structure would dissolve the Grandfather Rights for the entire property.

Mr. Marsh asked if there were any other questions for Staff.

PUBLIC HEARING OPENED

Lee Ann Reiss, resides at 730 Berentsen Lane, stated the house on Sixth Avenue is rental property. She researched the property with the Borough, Building Committee, and Title Company. She found no information on this property of when the additions were built. She looked over Title 18 and felt that her property met the provisions for approval of this variance. She did not cause the special condition of the original setbacks for this property. This lot is difficult to build a standard size house for a family in this residential zone area. It has a sub-standard lot size.

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

Mr. Marsh asked **Ms. Reiss** how long she owned the property.

Ms. Reiss replied with approximately six years or seven.

Mr. Marsh asked if she has done any additions to the property.

Ms. Reiss replied no but she did have the fencing installed.

Ms. Peterson asked why she is seeking a variance now.

Ms. Reiss responded that when she installed the fence she discovered it was not in compliance.

PUBLIC HEARING CLOSED

MOTION Move to approve **V2010-005** with three (3) Findings of Fact by **Mr. Temple**, seconded by **Ms. Peterson**.

Discussion

Mr. Temple concurs with Staff recommendations. This is the appropriate action to approve this since the Planning and Zoning granted permission to build on this lot back in 1953. He is in support of approval.

Mr. Cooper agrees with Staff recommendations. Based on the lot's small size it requires some consideration.

Ms. Peterson added that she is happy to see that the applicant is not waiting on a pending sale and this is a proactive variance request. She concurs with Staff.

Mr. Marsh is amazed at the small lots around town that happened in the early days. This is not an adequate size lot and it's undersized for zoning.

Mr. Marsh asked if there was further discussion.

ROLL CALL

Six (6) in Favor: **Mr. Cooper, Ms. Peterson, Mr. Flemming, Mr. Temple, Mr. Wenstrup, Mr. Marsh**

Zero (0) Opposed:

MOTION TO APPROVE, PASSED.

PUBLIC HEARING

RZ2010-001 A request by E. Andrew and Anita L. Bryan to rezone Lot 1, Section 18, Township 1 South, Range 2 East from Rural and Agricultural-5 to Rural Farmstead-2 or other appropriate zone. **(located east of Cloud Road and south of Porter Ave)**

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

Mr. Marsh asked if there were any questions for Staff.

Ms. Peterson asked about the Rural Farmstead lots to the north – how big are the lot sizes.

Ms. Kellner answered with “they range in size between 1.9 to 2.8 acres and there is one large lot that is 18 acres in size”.

Mr. Temple asked if there were any other 1.8 acre lots or less in this general area.

Ms. Kellner described the lot sizes from the overhead map.

Mr. Temple asked about the section to the north that is RF-2 – how many acres is that.

Ms. Kellner replied that it’s over 100 acres.

Mr. Marsh asked if there were any questions for Staff.

PUBLIC HEARING OPENED

E. Andrew Bryan, resides at 2118 Moore Lane, North Pole, Alaska, explained how he could put in a road to access the lots off of Porter. He described which roads were paved and which were not paved. He described a slough that ran through the property and it was not an active slough. His plan is to subdivide into two acre lots.

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

Ms. Peterson asked about the soil conditions and if he thought that standard septic systems could be installed on each subdivided lot.

Mr. Bryan replied that the property has big spruce trees on it and there is only one area (about 2 acres) that is low on Porter. He said that he always drills before getting ready to build to check for permafrost. He said that he has a large septic system for a 5 bedroom house on his own residence in the neighborhood and has no problems.

Mr. Hernandez had the applicant point out his lot on the overhead.

Mr. Bryan added that there is a dead slough on the property.

Mr. Cooper asked how many lots is this going to be subdivided into.

Mr. Bryan said a possibility of seven lots.

Mr. Cooper asked about access to the lots.

Mr. Bryan described how access to the lots would work. He could add a road for access.

Mr. Marsh was concerned with the lot size and the soil conditions – he wanted to make sure there is adequate space on each lot for septic and water. Does the area you live in require mounded septic?

Mr. Bryan explained that he has a lift station on his property.

Mr. Marsh asked about the slough on the overhead and if it only has water during break-up.

Mr. Bryan replied that no water ever flows in the slough.

Mr. Cooper asked if **Mr. Bryan** has ever done a soil analysis.

Mr. Bryan stated that he has not.

Mr. Hernandez explained that the applicant's home is not in the same Tanana Mucky Soil - your lot has better soils.

Mr. Bryan replied that the property is heavily treed with birch and large spruce.

PUBLIC HEARING CLOSED

MOTION Move to approve **RZ 2010-001** with two (2) Findings of Fact by **Mr. Temple**, seconded by **Ms. Peterson**.

Discussion

Mr. Temple concurs with Staff recommendations. He has a concern that this is a spot zone. He supports the rezone.

Mr. Cooper is concerned about the size of the lots and if they can handle the water run-off's in March and April.

Mr. Hernandez announced if there is any concern at all, he would be happy to have Staff look at this again and postpone until next meeting.

Mr. Marsh is concerned if we approve RF-2 and he can go down to 2 acre lots – we should make sure that they are good buildable lots before subdividing. He thinks RF-2 is appropriate but not two acre lots throughout.

Ms. Peterson does not think that this is a perfect zone for this lot but it's not imperfect. There is the RF-2 to the north and it's what the applicant wants - if it fits within our Comprehensive Plan.

Ms. Dolan wanted to caution the Commissioners against using the property to the north as your basis – it has different soil classifications of better soils. Discussing the Comprehensive Plan and the soils is appropriate – you should look at properties that have similar soils and land use classifications.

Mr. Marsh asked if there was any further discussion.

Mr. Cooper would be happy to hear more soil analysis.

Mr. Marsh asked **Mr. Hernandez** what additional information can Staff provide for this property.

Mr. Hernandez would like to look at the soils again – there might be another zone more appropriate. He wants to offer this opportunity to let Staff look at this again and postpone this now until next meeting. He is concerned about this being residential with this kind of soils. Need to look a little harder into this.

Ms. Peterson asked if Staff discussed the soils in the process and why did they recommend approval.

Mr. Hernandez said part of Staff was not available to look over this rezone.

Mr. Flemming asked if looking at the soils – what are we looking at – you can't go out there and do soil tests. Are you going to look at all the homes that are in Tanana Mucky Silt?

Mr. Hernandez needs to look at other zones with that kind of soil than what we recommended for this rezone. Maybe it is not appropriate for this lot giving the slough is going through it.

Mr. Wenstrup made a motion to postpone until Staff has a chance to review.

Mr. Marsh asked if that would be until our next meeting on December 8th.

Mr. Temple seconded the motion.

Mr. Marsh asked if there was any further discussion on this motion.

Ms. Peterson added that it is very rare that Staff asked to postpone and she will vote for postponement.

Mr. Flemming does not want just the soil factor to be the only determination for this property.

Mr. Marsh said that Staff said he could subdivide into three lots – with RF-4 he could subdivide into four lots and RF-2 would be seven lots.

Mr. Cooper believes that RF-2 is inappropriate and anything smaller than RF-4 would be better. He would prefer to give Staff time to look into this than voting on it now. He would not be in support at this time.

ROLL CALL

Five (5) in Favor: **Mr. Cooper, Ms. Peterson, Mr. Flemming, Mr. Temple, Mr. Wenstrup**

One (1) Opposed: **Mr. Marsh**

MOTION TO APPROVE, Postponed.

G. UNFINISHED BUSINESS

H. NEW BUSINESS

1. Remand and reconsideration of variance 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)

Mr. Temple called point of order – he said that it looks like no one is here to comment on this remand – the sole reason for the remand is to give the applicant the opportunity to have 30 seconds to state his case for reconsideration. Why go through the reading if there is no one to comment.

Ms. Dolan said the instructions from the Assembly was to hold a remand hearing and we should do the formality and read the item into the record and making sure that we have given someone an opportunity to come forward. If no one comes forward then your action would be a motion to uphold your previous decision. You need to have a hearing.

Mr. Temple asked if the applicant received notice of this hearing.

Ms. Dolan said to read this into the record and discuss later.

Ms. Long-Boehl read the description of the remand into the record.

Ms. Dolan announced that the Commissioners heard this variance on April 21, 2009 and two of the Commissioners here tonight were absent at that meeting. They reviewed the records and testimony and for the record would like this Commission to confirm that they have familiarized themselves with the records.

Mr. Flemming stated “yes”.

Mr. Cooper stated “yes”.

Ms. Dolan stated that after the Commission recommended denial for the variance; Mr. Kimball appealed to the Board of Adjustment. The Board of Adjustment heard the case and they determined that there was a procedural error and that Mr. Kimball technically only received 2.5 minutes instead of 3 minutes to testify. So they remanded it back to the Planning Commission to give Mr. Kimball his additional 30 seconds. So tonight you are re-opening this matter for 30 seconds to give him his opportunity to speak.

Mr. Hernandez made an appeal to the Clerk's office and the address he left at the Clerk's office was a PO Box for all correspondence for this remand. We sent him a notice for an additional 30 seconds at this meeting.

Mr. Temple asked what the Board of Adjustment was.

Ms. Dolan stated it still is the Borough Assembly but when they hear appeals they are called the Board of Adjustment. They do not take public testimony but do an on-the-record appeals hearing.

Mr. Marsh stated that the applicant or his representative is not present. Do we have a motion to uphold our prior decision?

MOTION: To uphold our prior decision for variance **V2009-006** by **Mr. Temple**, seconded by **Ms. Peterson**.

Mr. Marsh stated that Mr. Kimball or his representative was not present to present argument to change our prior decision.

Mr. Temple questioned the two addresses for Mr. Kimball.

Ms. Dolan stated that Mr. Kimball asked the Clerk's office to have all correspondence for the remand mailed to his PO Box.

ROLL CALL

Six (6) in Favor: **Mr. Cooper, Ms. Peterson, Mr. Flemming, Mr. Temple, Mr. Wenstrup, Mr. Marsh**

Zero (0) Opposed:

MOTION TO APPROVE, Uphold the prior decision for Denial.

I. COMMISSIONER'S COMMENTS

1. FMATS

- **Mr. Wenstrup** said that they had a six hour work session involving long range transportation planning going out to 2035. There will be a public hearing this Thursday between 4:00 and 7:00 pm. We have 3 people in charge of clearing sidewalks of snow. The technical committee passed for a reconstruction of South Cushman which should begin in January for 15th Street through Mitchell – fixing the road and sidewalks. DOT is going to be re-designing the whole intersection of Airport and Cushman. We are trying to get built the Birch Hill bike path and they are wondering who is responsible for the maintenance. DOT does not want to take care of the maintenance. They talked about a round-about on University at Tanana Drive and Alumni Drive. They are looking at getting more bus shelters built around town.

2. Title 17 Rewrite Project

- **Mr. Hernandez** said that we had a series of meetings with the Board. They are taking a little break right now but will be getting back to it soon.

3. Vision Fairbanks Update

- **Mr. Hernandez** stated that we have passed this ordinance on to the new Mayor to introduce to the Borough Assembly.

4. North Pole Land Use Plan

- **Mr. Hernandez** stated that we have passed this ordinance on to the new Mayor to introduce to the Borough Assembly.

5. Comprehensive Plan Advisory Board (CPAB)

- **Ms. Peterson** advised that we now have draft maps for our Land Suitability Mapping Project.

6. Other Commission Comments

- **Mr. Hernandez** addressed Mr. Richardson's letter concerning the fence and the corner visibility triangle. He stated that Mr. Richardson is correct in saying that we have situations where we have corner visibility triangles and a lot of them are related to AASHTO's standards. Maybe the AASHTO's standards are not appropriate for smaller residential streets. They may be appropriate for larger intersections with more vehicle traffic. They might not be appropriate at stop signs or lighted signals. Mr. Richardson made some valid points. He would like to see 3 or 4 meetings to discuss this issue and find a better and more appropriate visibility triangle regulation. He asked for a volunteer from the Planning Commissioners. If we do find that the visibility triangle needs to be changed; we can bring it before the Mayor and see if he would sponsor an ordinance and then have the Planning Commission have a public hearing on it.

- **Mr. Wenstrup** volunteered.
- **Mr. Hernandez** updated us on the reactions he had from the public about the Grandfather Meetings. He said that Staff held six meetings in Fairbanks, Salcha, Ester, Goldstream, Two Rivers, and North Pole. They heard a lot of commentary that we had not considered before regarding Grandfather Rights and we will look at it again and recommend some changes to the ordinance. We will let the people know when they can see the revised ordinance. We will look into cost of applications for lot sizes.
- **Ms. Peterson** asked if these changes were made, would the people be on board with the Grandfather Rights.
- **Mr. Hernandez** replied no, people want to stay the same and have us not mess with their rights. They don't think they should have to prove they have Grandfather Rights – they think the Borough should have to prove it.
- **Mr. Hernandez** asked the Commissioners if they would like to have a public hearing on the Grandfather Rights.
- **Ms. Dolan** added that it would be up to the Assembly at this point. Bernardo would have to get permission from the presiding officer now.
- **Mr. Marsh** added that it sounds like we are in agreement.

I. ADJOURNMENT

There being no further business the meeting was adjourned at 8:50 p.m.