

CITY OF HERMANTOWN  
PLANNING & ZONING COMMISSION  
August 17, 2021 Meeting Summary  
7:00 PM

**1. ROLL CALL**

Members Present: Joe Peterson, Valerie Ouellette; Samuel Clark; Shannon Sweeney Jorgenson; Beth Wentzlaff; Buckley Simmons; and John Geissler

Members Absent: Corey Kolquist.

Others Present: Eric Johnson, Community Development Director; Tony Marino, 3760 Johnson Rd.; Lisa Smith, 4761 Johnson Rd.; and Randy Blomquist, 3791 Alder Ave.

**2. APPROVAL OF AGENDA**

Motion made by Valerie Oullette to approve the August 17, 2021 agenda as presented. Seconded by Buckley Simmons. Motion carried.

**3. APPROVAL OF MINUTES**

Motion made by Samuel Clark to approve the July 20, 2021 minutes as presented. Seconded by Beth Wentzlaff. Motion carried.

**4. PUBLIC DISCUSSION**

Tony Marino, 3760 Johnson Road – presented an option where the Keene Creek Subdivision project could be accessed by way of the future City trail utilizing the Carlson Road right of way for a trail rather than a road. Asked P&Z to take it into consideration.

Lisa Smith, 4761 Johnson Road – echoed Tony Marino’s comments and stated concerns about the narrow conditions of Johnson Road.

Jim Samberg, 3789 Johnson Road – echoed Tony Marino’s comments and asked City to coordinate with developer on an alternative design to the project road design.

**5. PUBLIC HEARING**

5A. An application by Russ Bradley for a Special Use Permit for the construction of a twinhome/duplex at 5106 Hermantown Road. The property is located in a R-3 Residential zoning district.

Eric Johnson, Community Development Director, presented the application of Russ Bradley, who has the option to purchase a portion of the property located at 5106 Hermantown Road which is zoned R-3, Residential. This property was previously proposed to have a 5 lot subdivision of it back in 2019, however the property owner chose not to move forward with that project.

The property currently has an existing house and two outbuildings located on it. The applicant is proposing to subdivide the property into 3 total lots and purchase two of the lots; one with the existing house and the other for the purpose of constructing a two-family home. The existing property owner will retain the lot with the existing outbuildings respectively, with this lot being slated to be developed in the future. The parcels have access onto Hermantown Road and the lot sizes range from 0.5 acres to 4.12 acres in size.

### **Findings of Fact and Recommendations**

Staff recommends approval of the special use application to construct a two-family dwelling, subject to the following:

1. The applicant shall construct public sewer and water services at their own cost.
2. Prior to issuance of a building permit, the applicant will submit a site plan showing the lot dimensions and location of the two-family residence relative to the side lot lines.
3. Erosion control measures shall be utilized and remain in place throughout the construction period, and shall not be removed until vegetation is established on the site.
4. Prior to issuance of a building permit, all necessary permits shall be obtained.
5. The applicant shall sign a consent form assenting to all conditions of this approval.
6. The applicant shall pay an administrative fine of \$750 per violation of any condition of this approval.

Motion made by Shannon Sweeney Jorgenson to approve the application by Russ Bradley for a Special Use Permit for the construction of a twinhome/duplex at 5106 Hermantown Road. Seconded by Beth Wentzlaff. Motion carried.

5B. An application by Russ Bradley for a Variance of 6 feet to the rear yard setback for the construction of a twinhome/duplex at 5106 Hermantown Road. The property is located in a R-3 Residential zoning district.

Eric advised the commission that the subject parcel is a triangle shaped lot with frontage on Hermantown Road and Lavaque Road. The proposed parcel has approximately 220 feet of frontage along Hermantown Road with the parcel ranging in depth from 95 feet to 240 feet. In addition, due to the sloping of the topography from west to east, a building footprint generally running perpendicular to Hermantown Road works best with the site topography.

Randy Blomquist, 3791 Alder Avenue – asked the Planning Commission why the variance is justified when it appears that the home could be located in order to fit within the building setbacks. Eric responded that staff worked extensively with the applicant to fit the home within the setback area but due to excessive topography on the property it was difficult to do. Eric further advised the P&Z that based on the provided information, they have the ability to act on the request as they believed.

### **Findings of Fact and Recommendations**

Staff finds the application meets the requirements for a Variance and recommends approval of the Variance, subject to the findings of the Staff Report and the following conditions:

1. The 6' Variance from the 40' rear yard building setback is approved.
2. No wetland impacts are allowed in the building of the house nor for the creation of yard space.
3. The proposal meets the requirements of Section 515, "R-3, Residential" of the Hermantown Zoning Ordinance.

4. The proposal meets the requirements of Chapter 6, “Variances” of the Hermantown Zoning Ordinance.
5. The applicant shall sign a consent form assenting to all conditions of this approval.
6. The applicant shall pay an administrative fine of \$750 per violation of any condition of this approval.

Motion made by Valerie Oullette to approve the application by Russ Bradley for a Variance of 6 feet to the rear yard setback for the construction of a twinhome/duplex at 5106 Hermantown Road. Seconded by Buckley Simmons. Motion carried 5-1.

## 6. CONTINUING BUSINESS

### 6A. Discussion on prohibited uses within Airport Zoning District 2.5.

Eric updated P&Z on the creation of Airport Safety Zone 2.5 and MNDot’s requirement of prohibiting vulnerable populations within this zone. Proposed prohibited uses within the zone include:

- 1.1.1. Childcare or daycare centers;
- 1.1.2. State licensed residential care facilities and housing with service establishments serving 6 or less persons;
- 1.1.3. State licensed adult daycare facility serving 12 or less persons;
- 1.1.4. State licensed group family daycare facility serving 12 or less children;
- 1.1.5. Public or private hospital;
- 1.1.6. Public or private school;

The Joint Airport Zoning Board (JAZB) held a public hearing on June 21, 2021 to present the proposed draft amendment for public comment. There was one public comment received asking if nursing homes would be prohibited within the Zone 2.5.

There was continued discussion between the City and JAZB regarding the prohibition of nursing homes within Safety Zone 2.5. City staff informed JAZB that any changes other than what had been previously discussed with the P&Z and City Council would need to be brought to each group in order to solicit comments and direction. The meeting dates are August 17, 2021 for P&Z and September 7, 2021 for City Council.

JAZB subsequently informed the City that they would revise the prohibited issues within Zone 2.5 to the following:

- 1.1.1. Childcare or daycare centers;
- 1.1.2. State licensed residential care facilities and housing with service establishments serving 6 or **more** persons;
- 1.1.3. State licensed adult daycare facility serving 12 or **more** persons;

1.1.4.State licensed group family daycare facility serving 12 or **more** children;

1.1.5.Public or private hospital;

1.1.6.Public or private school;

It was JAZB’s opinion that by changing prohibited groups from a less than scenario to a more than scenario that it would prohibit nursing homes. Hermantown responded that by utilizing this language, that the prior users which were previously prohibited are now allowed. Furthermore, the City suggested that a definition of nursing home be established and agreed upon by JAZB in order to prohibit the use rather than utilizing modified language as the means to prohibit.

At the August 5, 2021 meeting, JAZB voted to utilize their language identifying prohibited uses for the draft zoning ordinance, with the understanding that each member community could enact more prohibitive language should they desire. JAZB then voted to submit the draft zoning ordinance with the prohibited language to MnDOT for their review.

Based on this decision by the JAZB it is the recommendation of City staff that we take no further action regarding this matter and await the decision by MnDOT regarding the draft submitted to it. Once MnDOT’s response is provided then we will analyze the response and make recommendations to the Planning and Zoning Commission.

Beth Wentzlaff commented that she had been at the JAZB public hearing and that she concurs that nursing homes fall under the definition of vulnerable populations and should be prohibited within Airport Safety Zone 2.5.

Eric said he would keep P&Z updated on the progress of the JAZB draft ordinance.

#### 6B. Update on Planned Unit Development Ordinance

Eric provided an update on staff’s and the City Attorney’s work to clarify the submittal process as well as streamline language within the updated ordinance. The revised ordinance is scheduled to go to the September 7 and 20 City Council meetings.

### 7. NEW BUSINESS

Eric informed P&Z about the change in ownership of Golden Oaks Senior Living facility and the new owner’s request for the City to consent to the transfer in ownership. In addition, Eric informed P&Z of the subsequent request by the new owner’s attorney to cancel the Development Agreement and Special Use Permit and instead utilize a Zoning Certificate to permit the use. Staff is in the process of drafting a Zoning Certificate to permit/regulate the use of this property.

### 8. COMMUNICATIONS

21-124 Email from Bart & Lisa Smith regarding Carlson Rd. Extension

21-141 Email from Jake Perry regarding Carlson Road Extension.

### 9. COMMISSION MEMBER REPORTS

Joe Peterson – None.

Corey Kolquist – Absent  
Valerie Ouellette – None.  
Samuel Clark – None.  
Shannon Sweeney Jorgenson – None.  
Beth Wentzlaff – None.  
Buckley Simmons – None.  
John Geissler – Invitation to the Boulder Trail grand opening on August 24.

**ADJOURN**

Motion made by Buckley Simmons to adjourn the meeting. Seconded by Samuel Clark. Meeting adjourned at 8:13 pm.

Officiated by:

Transcribed by:

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Joe Peterson, Chairman

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Mary Melde, Administrative Assistant