

***PLANNING AND ZONING COMMISSION WORKSHOP MEETING
MARCH 8, 2016***

The Workshop Meeting of the Andover Planning and Zoning Commission was called to order by Chairperson Daninger on March 8, 2016, 6:00 p.m. at the Andover City Hall, 1685 Crosstown Boulevard NW, Andover, Minnesota.

Commissioners present: Chairperson Daninger, Commissioners Bert Koehler IV, Kyle Nemeth, and Scott Hudson

Commissioners absent: Timothy Cleven, Jeff Sims, Steve Peterson

Also present: Community Development Director Dave Carlberg
Associate City Planner Brett Angell

OATH OF OFFICE – COMMISSIONERS SCOTT HUDSON & BERT KOEHLER IV

Mr. Carlberg administered the Oath of Office to Commissioners Scott Hudson and Bert Koehler IV.

DISCUSS SUBORDINATE CLASSROOM STRUCTURES

Mr. Carlberg reviewed the information on subordinate classroom structures with the Commission. These structures are utilized by schools and churches in the community. A recommendation by the Commission was sent to the City Council and there was a split vote. Subordinate classroom structures were originally allowed by a Conditional Use Permit (CUP). The code amendment, adopted in 2014, allowed subordinate classroom structures for both churches and schools by the granting of an Interim Use Permit (IUP). The Fire Marshall is inspecting them every two years. The City Council has asked for additional review by the building official. Meadow Creek has requested 2 years, which would expire in 2017, because they are proposing to build an addition to their church. The classroom structures will be looked at for any building code concerns as well. Two other churches are coming up for review in 2018 and 2019. If deemed unsafe they could be ordered to repair or remove them.

Commissioner Koehler asked for clarification as to whether or not the structures were being reviewed based on the code that was in place at the time the structure was placed or

current code. Mr. Carlberg responded that structures cannot be held to current code unless modifications are made to the structure. Commissioner Koehler asked if there is a “happy medium,” and if the building department could recommend a gradient more than black and white. Mr. Carlberg stated that when the two-year review takes place, a list of items to be fixed can be given as a condition of being able to continue to use the structure.

Commissioner Koehler noted that ADUs require a permanent foundation and inquired if subordinate classroom structures had the same requirement. The response given by Commissioner Nemeth was that the structures have to withstand wind loads and that some do have blocks and they also do have to be anchored. He continued by expressing concern over why the City would be so quick to let these structures live on in perpetuity when the City requires ADUs to have permanent foundations. Mr. Carlberg noted that there have not been any new subordinate classroom structures put in place for many years.

Commissioner Koehler stated that if a building inspector goes out and deems a subordinate classroom structure to be unsafe, he believes that a church or school should not be allowed to keep it. However, if it meets the inspection, it should be allowed to stay.

Chairperson Daninger stated that was why the vote was split by the City Council. The Commission’s recommendation to the Council was 5 years with a 2-year extension.

Commissioner Koehler commented that if a structure is truly temporary, how could a church or school come back again and again, requesting to continue to utilize the structure and if so, then is it really considered temporary. Mr. Carlberg explained that any church or school that came with a new request for a subordinate classroom structure would need to plan for permanency right away, as it is designed to be a temporary structure. Commissioner Nemeth noted that a subordinate classroom structure takes on a more permanent look but it is not permanent, because of the underpinnings.

Mr. Carlberg stated in 2018, the City will need to know what direction to go with this issue because that is when these structures will come back around next for a decision.

DISCUSS ACCESSORY DWELLING UNITS

Mr. Carlberg reviewed the previous discussions related to accessory dwelling units (ADU), stating that originally a resident approached the mayor at the Night to Unite event about the issue. There were a series of several work sessions. The Council liked the direction the Commission was going and advised against establishing a minimum lot size because there are some smaller lots in the R-1 district of the City. In summary, the Council felt the recommendations were solid. Since then Mr. Carlberg went to a housing forum in New Brighton where he learned that the Minneapolis regulations are already

being revised, noting that the city of Minneapolis is requiring separation of 20 feet between the main house and the ADU. Mr. Carlberg asked the Commissioners if there was a desire to add this provision to the draft regulations.

Commissioner Koehler inquired about the possibility of considering 10 feet between the main dwelling and the ADU. Mr. Carlberg replied that there are potential fire code issues if the dwellings are too close and windows might need to be eliminated. He also stated that the Minneapolis code has restricted the height on ADUs as well. The current restriction on residential dwellings in the City of Andover is 35 feet in height.

Commissioner Nemeth said that he would like to see the distance be more than 10 feet.

Commissioner Koehler wondered how this restriction might affect building plans for someone with physical challenges.

Commissioner Hudson inquired if the language in the regulations would be dependent upon the building code.

Mr. Carlberg indicated that if fire rated walls were needed, there could be no windows. He further clarified by stating that if a wall is next to a wall, then it is almost an attached unit. By having more distance between the dwellings, it would discourage breezeways or carport structures.

Commissioner Koehler stated that he did not have a strong feeling on the matter of how many feet.

Chairperson Daninger commented that based on city of Minneapolis, the distance of 20 feet allows a resident to pull a car up in between the two dwellings. A distance of 15 feet would also allow this to occur.

Commissioner Koehler asked if consideration should be made to leave the distance between dwellings out of the regulations or if it should be taken into account.

Commissioner Nemeth said that he felt that consideration should be made as to how the lot is situated and wondered if there might be additional concerns with a narrow lot.

Chairperson Daninger suggested that there be no minimum number of feet, stating that he would rather have a resident come in requesting a variance and they can show a practical difficulty.

Chairperson Daninger posed the questions, “What drives this?” and “What is the why?”

Mr. Carlberg replied that it is for safety and windows. If a practical difficulty can be identified, a variance and conditional use permit (CUP) can be utilized.

Commissioner Hudson pointed out that an ADU could be grandma's house now and then down the road it would become a pure rental.

Commissioner Koehler then recommended that 20 feet be a part of the regulation, since the Commission seems to be in agreement that there should be a number, as long as there is a mechanism to address individual challenges.

Commissioner Nemeth asked if Fred Patch, Chief Building Official had reviewed the proposed regulation. Mr. Carlberg confirmed it had been reviewed.

Commissioner Nemeth asked about the requirement of two off-street parking spaces. Mr. Carlberg stated that two spaces are the minimum, but that more are permitted. He concluded by commenting that many of these driveways in the rural area of the City are very long and could accommodate multiple vehicles.

DISCUSS SOLAR ENERGY SYSTEM REGULATIONS

Mr. Carlberg updated the Planning Commission on a request recently received by the City, to install a freestanding solar energy system on a residential property. This request prompted City staff to investigate regulations of other cities related to solar energy systems. The one proposed would cover over 400 square feet and would be located in the backyard on the ground.

Mr. Carlberg stated that the design is like a table facing south and that on a small lot it would almost be as large as an accessory dwelling. Example regulations from the cities of Lakeville and Rosemont were distributed. Both required screening and had height and setback regulations. Mr. Carlberg recommended that staff draft regulations using the examples presented. He continued by saying that commercial buildings utilizing solar systems require screening, but there are no regulations for residential property. Commercial rooftop equipment has to be screened from all properties. However, the focus of this matter is residential solar energy systems.

Commissioner Nemeth asked if this would be handled as a CUP. Mr. Carlberg replied that instead of requiring a CUP he believed this would be considered as part of a building permit process instead. He stated that solar energy systems are becoming more popular, noting that there are special rebates on solar energy systems.

Chairperson Daninger commented that this issue would be on the Commission's "radar" now and they will be digging into the issue at future meetings.

Mr. Carlberg stated the staff will draft regulations for a future meeting.

Commissioner Nemeth commented that he liked Rosemount's definitions and questioned Lakeville's restriction of 120 square feet. He inquired if there was a set size for solar panels. He also recommended providing a number that is easily divisible.

Mr. Carlberg stated that staff could call around to see what the standard square footage is of solar panels and if there is an industry standard.

Chairperson Daninger confirmed that he liked the Lakeville regulations. He expressed questions around whether in a residential application, if there could be more panels allowed on a bigger lot and that the usage would be permitted only for the residence and not for re-sale.

Commissioner Koehler agreed that the solar energy should not be for re-sale and questioned if it could be utilized for a garage and that he would really want to understand what the purpose is. He commented that some people use solar energy to power air conditioners over the summer months.

Chairperson Daninger commented that if a natural gas or electric bill is high, it may be an indication that a resident is growing something in their basement.

Commissioner Nemeth stated that solar systems can be strong enough to power a residence through cloudy days by storing energy in batteries.

Commissioner Koehler inquired about battery storage and if there should be a limit on the number of storage containers or how big the batteries can be, where they are stored and if there should be a structure around the storage.

Commissioner Nemeth asked if there are any national or state electrical codes that would come into play.

Mr. Angell stated that solar panels are often used to power water heaters and once batteries are filled, they shut off.

Mr. Carlberg commented that square footage is going to be the key in determining the regulations, along with the amount of solar panels that are intended for use on one residential property.

Mr. Angell asked about liability for broken panels and whether or not solar system panels could be installed in the front yard.

Mr. Carlberg recommended that solar panel systems be limited to the rear yard or rooftop only, and that screening would be required.

DISCUSS ANIMAL REGULATIONS

Mr. Brett Angell reviewed the draft ordinance on Animal Regulations. It came about as a result of concerns raised by a resident of chickens that were wandering into the yards of neighbors.

To address nuisance noise regarding roosters, the word “crowing” could be added after the word “howling” in the regulations. It was noted that chickens are not allowed in R-4 housing areas.

Chairperson Daninger expressed that there needs to be a measurement tool in the regulation.

Commissioner Koehler inquired if the issue of noise in the night from the loading dock at Target applied in this case, with so many decibels over 10 minutes in a 60-minute period. Mr. Carlberg replied that in that case, MPCA standards apply, and in this case, it would be considered a nuisance.

Mr. Angell stated that the City receives about three complaints per year about roosters.

Chairperson Daninger described a scenario around enforcement if a neighbor reports a dog is barking.

Commissioner Koehler asked what the “yardstick” could be in this case.

Chairperson Daninger commented that it is important for staff to know what they can refer to when they get a call from a resident. Mr. Angell agreed that having a code reference is helpful. At this time a courtesy letter is all that can be sent. He felt that it is best to keep the code general and refer to all animals, and not call out chickens. He mentioned that the City Council did talk briefly about the issue at their February Workshop meeting.

Chairperson Daninger referred to previous discussions about invisible fences and how the term restraint was part of that discussion.

Mr. Carlberg stated that poultry is permitted and when there is a complaint, the dog and cat code is referenced, but there is not enough there in the code for enforcement. At the Council Workshop meeting there was discussion about roosters and crowing.

Mr. Angell explained that if the City wants to do a chicken ordinance, then it would have to be a separate chicken ordinance.

Commissioner Koehler noted that the city of New Brighton recently enacted a chicken ordinance and there was a lot of negativity by residents around that process. He recommended that staff consider getting a copy.

Mr. Angell stated that if the City would seek to enact a chicken ordinance there would need to be a public hearing.

Chairperson Daninger stated that under the current ordinance a resident could have 500 chickens, but if they are quiet and do not go across the road, it is currently okay.

Mr. Angell said that 95% of calls are for three chickens, and they usually cannot be seen.

Commissioner Nemeth inquired if the animals under section 5 referred to both domestic and wild animals. He also noted that it refers to “barking” and wondered about the sounds made by other animals kept by residents. Mr. Carlberg suggested adding the language “and other similar noises.”

Commissioner Nemeth asked about violations being a misdemeanor rather than a citation. Mr. Carlberg stated that there is a need to talk to the attorney about that matter.

Chairperson Daninger indicated that this issue will come back to the Commission at another work session.

OTHER BUSINESS

Mr. Carlberg asked the Planning Commission if they would like to continue to receive paper copies of the City code and referenced that all codes are currently on the City’s website and that the cost to print the ongoing updates is significant.

Commissioner Nemeth requested to continue receiving paper updates while the other Commissioners would utilize the website.

It was confirmed that the online version has a search function.

ADJOURNMENT

Motion by Nemeth, seconded by Koehler, to adjourn the meeting at 7:37 p.m. Motion carried on a 4-eyes, 0-nays, 3-absent (Cleven, Sims, Peterson) vote.

Respectfully Submitted,

Marlene White, Recording Secretary
TimeSaver Off Site Secretarial, Inc.