

CITY OF APPLE VALLEY  
PLANNING COMMISSION MINUTES  
FEBRUARY 17, 2010

**1. CALL TO ORDER**

The City of Apple Valley Planning Commission meeting was called to order by Chair Churchill at 7:00 p.m.

Members Present: Jeannine Churchill, Tom Melander, David Schindler, Keith Diekmann, Ken Alwin, Tim Burke and Paul Scanlan

Members Absent: None

Staff Present: Community Development Director Bruce Nordquist, City Planner Tom Lovelace, Associate City Planner Kathy Bodmer, City Attorney Sharon Hills, Assistant City Engineer David Bennett and Department Assistant Barbara Wolff

**2. APPROVAL OF AGENDA**

Chair Churchill asked if there were any changes to the agenda. Hearing none she called for a motion.

MOTION: Commissioner Schindler moved, seconded by Commissioner Diekmann, to approve the agenda. The motion carried 7-0.

**3. APPROVAL OF MINUTES OF FEBRUARY 3, 2010**

Chair Churchill asked if there were any changes to the minutes. There being none, she called for approval of the minutes.

MOTION: Commissioner Burke moved, seconded by Commissioner Diekmann, to recommend approval of the minutes of the February 3, 2010, meeting. The motion carried 7-0.

**4. CONSENT ITEM**

--NONE--

**5. PUBLIC HEARING**

**A. Consideration of Ordinance Amending Section 155.351(C) - to regulate the materials that may be used to construct a fence.**

Associate City Planner Kathy Bodmer stated that this is a request to consider amendments to the zoning chapter of the City Code related to fence materials. The draft ordinance would amend Section 155.351(C) to clarify the materials that may be used to construct a fence in Apple Valley.

The Code Enforcement Department received an inquiry last fall concerning a property owner who had installed hex-netting fencing, commonly referred to as “rabbit or chicken fencing” along the property line. The current fence regulations state that temporary fencing materials may not be used, but does not specifically identify allowable permanent fencing materials. The new provisions would require fencing materials that are “widely accepted in the fencing industry” and prohibit hex wire net fencing and other materials originally intended for other purposes.

The reason for prohibiting the smaller gauge wire fencing is that it is not durable and therefore not suitable for permanent boundary fencing.

However, there may be cases when materials like hex-wire may be acceptable. The ordinance contains an exception to the prohibition to allow hex-wire fencing to be used to protect a garden, or to support live plantings under certain conditions.

Bodmer asked the Planning Commission for any questions or comments.

Commissioner Alwin asked if barbed wire fencing fell under the welded wire category.

Bodmer replied that it does not. She stated that a separate section of the fence ordinance currently regulates that; barbed wire fencing is only permitted in agricultural zoning districts.

Commissioner Alwin asked if it needs to specifically be prohibited in this section.

City Attorney Sharon Hills stated it does not because the other section of the ordinance specifically says it is prohibited.

Chair Churchill hearing no further comments from the Planning Commission, asked for comments from the public. Hearing none, she stated that although it is not the policy of the Planning Commission to take action on an item on the night of its public hearing, this is a housekeeping item, and no issues have been raised. She called for a motion.

MOTION: Commissioner Burke moved, seconded by Commissioner Melander, to recommend approval of the draft ordinance amending Section 155.351(C) regulating the materials that may be used to construct a fence. The motion carried 7-0.

## 6. LAND USE/ACTION ITEMS

- A. **Consideration of a setback variance from the minimum required front yard building setback of 30 feet to allow for construction of a 7'-4" x 11'-4" entry addition to encroach 3'-4" into the front property setback area in the “R-3” (Single Family Residential/11,000 sq. ft. minimum lot area) zoning district.**

City Planner Tom Lovelace stated that the petitioner is requesting a front yard setback variance of 3'-4" from the required setback of 30 feet to allow for the construction of a 7'-4" x 11'-4" front entry addition at 5760-138<sup>th</sup> Street Court West.

The Stark residence is located in the Greenleaf Sixth Addition which was developed in the early seventies. The two-story home was constructed in 1974 and has a relatively flat front elevation. Over the years, significant improvements have been done to the property that includes a three season porch, above ground pool, and furnace and window replacement.

The applicant is proposing to construct an 83 sq. ft. enclosed entry addition and 85 sq. ft. concrete patio with an overhead trellis along the front elevation. The entry addition will encroach into the front yard setback area 3'-4" and the patio 4 feet. City code currently allows a patio to extend up to 8 feet into the front yard setback area; however, because the proposed entry addition is considered part of the structure it cannot extend into the front yard setback area without first obtaining a variance. A variance is a legally permitted deviation from the literal requirements of the city code. A variance may be granted in instances where strict enforcement would cause undue hardship, the circumstances are unique to the individual property under consideration, and the granting of the variance will be in keeping with the spirit and intent of the applicable ordinances, goals and policies of the comprehensive plans, and will not alter the essential character of the neighborhood. It appears that the proposed variance would be consistent with the comprehensive plan's goals and policies that encourage residents to make improvements to their homes. Also, enhancements such as front entryways have been encouraged as a way to help update the city's existing housing stock. The proposed variance request is consistent with similar front additions that have been approved by the City.

Furthermore, building setbacks are established to provide adequate space, light, and air, as well as safety from fire and for aesthetic reasons. The City has established setbacks in the "R-3" zoning district based upon abutting uses and their impact to adjacent properties. It does not appear that granting this variance will have a significant impact on the neighboring properties.

Lovelace asked for comments and questions from the Planning Commission.

Chair Churchill hearing no comments from the Commission asked the petitioner if they would like to make any comments.

Randy Buffie, of Randall M. Buffie Architect, Inc., architect representing Mr. and Mrs. Stark, approached the Planning Commission. He presented a visual plan layout of the first floor of the Stark residence and explained the benefits of the proposed addition. He also displayed a picture of a similar home with a similar addition that is located one block over. He thanked the Commission for their consideration.

Chair Churchill, hearing no comments from the Planning Commission, asked for a motion.

**MOTION:** Commissioner Alwin moved, seconded by Commissioner Burke, to recommend approval of a variance of up to 4 feet from the required front yard building setback of 30 feet in the "R-3" (Single Family Residential) zoning district to allow for the construction of a 7'-4" x 11'-4" front entry addition at 5760-138<sup>th</sup> Street Court West due to the following:

- 1) The granting of the variance will not alter the general character of the locality.

- 2) The granting of the variance would be consistent with the comprehensive plan's goals and policies that encourage residents to make improvements to their homes as a way to help update and enhance the city's existing housing stock and livability.

The motion carried 7-0.

## **7. OTHER BUSINESS**

### **A. Review of the Upcoming Schedule and other Updates**

Community Development Director Bruce Nordquist reminded the Commission that the annual business meeting will take place at the next meeting of March 3, 2010.

## **8. ADJOURNMENT**

Hearing no further comments from the Planning Staff or Planning Commission, Chair Churchill asked for a motion to adjourn.

MOTION: Commissioner Diekmann moved, seconded by Commissioner Burke, to adjourn the meeting at 7:18 p.m. The motion carried 7-0.