

EUREKA PLANNING COMMISSION
MEETING CONTINUED FROM MARCH 3, 2008
MARCH 5, 2008

Chair Mike Greco called the meeting to order at 8:31 p.m. This meeting was a continuation of the regular Planning Commission meeting of March 3, 2008. Commissioners present were Sharon Buckley, Mike Greco, Kenny Miller, Ken Olstad, and Nancy Sauber. Audience members included Lonnie Malwitz, Gayle Malwitz, George Kohler, Russ Matthys, Supervisor Gloria Belzer, Geoff Benedict, Cheryl Engelman, Melissa Engelman, Leah Engelman, Grace Engelman, and Dean Engelman.

2. Other Land Use and Zoning Items

A. Glory to Glory Academy Conditional Use Permit (CUP)

Minutes of this portion of the meeting were taken by Town Clerk Nanett Champlain and are attached.

B. Polly Johnson- Lot of Record Verification (application withdrawn)

The Johnsons left early because they did not understand that their issue would not be taken before the public hearing for Glory to Glory, Mike Greco stated. They asked Clerk Nanett Champlain to withdraw their application, but they did not put anything in writing to that effect. The Johnsons had provided the Commission with a lot of record verification form to verify a building right in a ¼ ¼ section. The Township does not require this form to be filled out for that purpose, Mike stated. If it is a native building right in question, the process is basically that the citizen comes in, says he thinks he has a building right, asks can the Township confirm this, the map is checked and it is determined that, yes, there is a building right or, no, there is not a building right. The confusing thing with this particular request is that there were attachments provided regarding their lot of record claim that there are lots of record on this property. Mike expressed the opinion that the Commission should clarify for the record *via* a motion that this application is not necessary for the verification of a building right in a ¼ ¼ section and that it is not properly filled out to request a verification of a lot of record. Nancy Sauber asked a question as to which ¼ ¼ section were the Johnsons talking about. There was one that was marked “building right from this quarter-quarter”, but isn’t that partly owned by Eckdahls, Nancy asked. Mike replied that, yes, it is partly owned by the Eckdahls, but there is no house in that ¼ ¼ and that Nanett says that nothing has been clustered from that ¼ ¼. Mike clarified that he is not saying that by the motion the Commission is saying that there is a building right; he just wanted to clarify that the application is not necessary for what the Johnsons are seeking, and that it is not filled out properly, on the other hand, to verify the lots of record on their other claim. Mike stated that he does not want this to be misconstrued as that there is a buildable lot. Mike shared an email addressing this issue that he sent to Polly Johnson after she had emailed him after the last meeting. Mike asked Nanett to place a copy of this email in the Johnsons’ file. The email states: “As Nanett has already explained to you, the building right on the back forty is straightforward and you simply need to apply for a building permit to act on it. Determining that, indeed, there is a building right there will be part of the discussion of the building permit that same night, but, based on the information I have seen, the building right in that ¼ ¼ is still available to the first landowner in the ¼ ¼ to claim it. Because you don’t own the entire ¼ ¼ section, however, this building right cannot be clustered to another location on the farm. It must be used on the parcel where it exists. The issue of the lots of record your father and grandfather

believe exist on the farm is more complicated. I am happy to meet with you and your father to discuss this and explain why, based on the information I have seen, there does not appear to be a lot of record under Township Ordinances. If you want an official answer from the Township on this issue, you will need to submit a lot of record verification form as well as proof that the lots in question were properly recorded at the County Recorder's Office or filed at the County Surveyor's Office as Township Ordinances require." Mike said that for everybody's benefit, this email should be placed in the file so that the Commission knows what has happened thus far. Nanett Champlain pointed out the Johnsons' property on the map and explained the situation. Mike said that he agreed with Kenny Miller that it is better to research this and make sure that the origin of the other houses and when they were built is known. Mike moved that, for the record, the application for the lot of record verification that the Commission received from Julie and Peter Johnson is not the appropriate method of determining whether there is a building right remaining in that ¼ ¼ section, and, second, that the application is not completed properly to determine whether there are lots of record available on the Johnson farm. At this point the Commission is basically rejecting the application as incomplete and is making no determination about whether there is a building right available. Ken Olstad seconded the motion. None of the documents provided, Mike stated, indicate that the surveys or any instrument of conveyance (as stated in the Ordinance) were properly recorded with the Dakota County Recorder's Office or were properly filed with the Dakota County Surveyor's Office, as required by the Township's Ordinance. There simply is no attachment provided that satisfies those requirements. The application, Mike commented, refers to the parcels where they think there is a building right remaining. It does not refer to any of the parcels where they claim there are lots of record. The motion passed unanimously.

C. Mark Buffington letter

Mike talked to Supervisor Cory Behrendt, and Cory will talk to attorney Trevor Oliver. Cory agreed that this letter is something that should be acted on quickly to keep this moving, Mike said. Mike suggested the Commission consider a policy that stipulates the proper course of action in cases such as this. What happened this time, Mike said, is that Nanett emailed him and Building Inspector Scott Qualle saying that she had received an email from the County saying that this building is on this property and it does not look as though it has a permit. Scott made contact with the resident, which is totally appropriate, Mike stated. He is the Building Official and if someone builds any structure without a permit, it is completely within Scott's purview to say that the person needs a permit for that. The landowner did not respond one way or the other. He said, "Thanks for the information, " and hung up. Mike told Nanett to put it on the agenda and to notify Mr. Buffington as a courtesy that it was going to be on the agenda and that if Mr. Buffington wanted to be present, he could come to the meeting. The Township then received the three-page certified letter. Mike expressed the opinion that everything done was appropriate, but that there ought to be a policy in place that says this is what is done in a situation such as this. If the Township does not want the Building Inspector calling and just wants to send a letter requesting the citizen's appearance at the Planning Commission, or wants it to go to the Board first, this can be stated in the policy. Mike asked whether he should bring this to the Board and should ask that the Board come up with a policy to clarify procedure in such an instance. The Commission agreed that he should do so.

D. Other land use and zoning items

1. Mike received a phone call from a Phil Bloomberg who represents a Christian radio station and who would like to know if the ordinances on radio towers could be bent slightly so that he could do what he wants. Mike called him back, but received only an odd busy signal and then was disconnected. Kenny Miller said that he would follow up on this issue.

2. Teardown/Conversion and Rebuild of a Residential Building

Mike had typed up what his understanding was of what the Commission had agreed to about this policy. The Commission went through what Mike had written, asked some questions, made some changes, and directed Sharon, in Mike's absence, to pass this policy on to the Board for review.

3. Other Business

A. Board Report

1. Hatrick Annexation: The Commission had recommended making contact with the Regans. Mike believed that someone from the Board followed up on that, but he did not know the outcome.

2. Building Inspector: Mike passed along Scott Qualle's recommendation that the Township give former Building Inspector Bob Hegner an end date and also the Commission's concern about the money that Bob was paid for inspections he had not done yet and would not be performing. A Board member was going to follow up with the attorney about this.

3. Ordinance Update Meetings: The Board gave general approval to schedule any meetings deemed necessary for ordinance updates and for one meeting with the attorney. The meeting with the attorney has been requested through Cory Behrendt, and it is hoped that both attorneys will be able to attend. Monday, March 17, 2008, is the tentative date for this meeting.

4. Website: Ken Olstad will take over the management of the Township website.

5. Annual Meeting Presentation: The Board suggested 5-10 minutes with a handout with more detail. Mike will put this together.

B. Organizational/Administrative Issues

1. Permit Forms Update: Ken Olstad reported that Waldron Associates, the Township's building inspection firm, has checklists and instructions for permit applications. Ken will attempt to combine this information with what the Township has on its website. Ken presented a sample of his efforts in this regard for the Commission to consider. The Planning Commission approved of this example; Ken will continue to work on the rest. Kenny Miller made the suggestion of having hard copies available at the Town Hall. Mike suggested having a document holder for this purpose. The Commission believed that this was a good idea.

2. Planning Commission Report at the Annual Meeting: There was nothing more to add to what is already planned. Mike will make the presentation.

C. Ordinance Update Round II

Mike said that there is a possibility for three other ordinance items, not necessarily for this round. One is the lighting requirements ordinance that Sherri Buss (landscape architect with TKDA) suggested during the Glory to Glory CUP process. Mike commented that these might be

appropriate for larger applications such as the Christian Center, but perhaps not necessarily appropriate as general requirements for someone putting up a light in his backyard, for example. There may be a way that these requirements could be put in place for the larger applications such as Glory to Glory.

The second one concerns moving text on signs. Lakeville has just passed such an ordinance and the Commission could consider that for Eureka. (This subject had come up during the Glory to Glory CUP application.)

The third item, Mike said, was in thinking about the Comprehensive Plan process. [sic] (Conditional Use Permitting process) Mike's point was that the process undergone with the Glory to Glory Christian Center worked, but that it took a lot of time and effort on his part and on the part of the applicants. In most places, Mike commented, the way that it would work is that there would be a meeting with the city staff, perhaps even a couple of meetings, before an application would actually be made. This would be much more efficient, Mike offered. There could be built into the comp planning process [sic] a meeting whereby the applicants come to the Planning Commission first, the Commission tells them these are the basic requirements for this sort of application and these are the things the Commission would be interested in addressing. The applicants could talk to the Township's landscape architect or planner or engineer, whomever they needed to talk to. This would all be done before the actual application is submitted, so that the 60-day rule would not apply at this stage. Nancy Sauber asked, if the applicants have this meeting with staff and since they have not formally applied, who pays for the staff's time. Mike replied that with a lot of communities, the applicants may receive, say, two hours of consultants' time at the community's expense and anything beyond that is at the applicants' expense. It may be to the applicants' benefit to pay for any extra time because the better the work is done up front, the less hassle down the line. If the applicants choose not to take advantage of further meetings with staff, then there may be more coming back before the Commission to provide further detail, such as what happened with the Glory to Glory CUP. Not all applicants will have the quality of team working for them as Glory to Glory did, Mike offered, and it would be to everyone's benefit to make this process work more smoothly. Ken Olstad asked whether this preliminary meeting with staff would be a requirement or a recommendation. Mike suggested that requiring that applicants must at least do a preliminary presentation on the conceptual plan is worth adding. Beyond that, they would have the option of meeting further with Township staff. Sharon Buckley commented that, no matter what is done ahead of time, there would still be some re-working, based on public input from the public hearing. The main thing, Mike commented, is the applicants' understanding of what will be asked for; there is nothing in the Ordinances that would suggest that the Glory to Glory applicants would have had to come in with all the documentation that they did come in with. For example, currently, the Ordinance asks for screening, but does not ask for a landscaping plan. It would be helpful to have procedures set out that work well.

Mike said that he would give the Commission the information on the moving text signs before the March 17th meeting with the attorneys; it already has Sherri Buss' submittal on the lighting requirements. He will also email this information to attorney Trevor Oliver.

D. Septic Inspections

Scott Qualle had asked about having the County do these for the Township, so Mike Greco talked to Michael Rutten at the County. The response was that the County staff is really not set up to do this. They are happy to work with the Township's septic inspectors to mentor them or train them, but they will not be the Township's septic inspector. Michael Rutten expressed confidence in Scott Qualle and those staff that Waldron had working in this area. For now, Mike suggested that we leave things as they are and let Scott know that if he or his staff need assistance, the County is more than willing to work with them.

E. Training

1. Training Attended: Nancy Sauber and Sharon Buckley tried to go to the meeting in Cannon Falls with the State Demographer and the State Economist, but were stopped by intermittent whiteouts, and turned back. Sharon has called to inquire whether the meeting actually took place that day and whether it may have been rescheduled, but received no reply. Mike Greco stated that his boss knows one of the presenters well, and if there would be a power point available, he would perhaps be able to procure that for the Commission to see.

2. Upcoming Training: There are no upcoming trainings scheduled.

Sharon Buckley moved to adjourn. Kenny Miller seconded the motion. The meeting was adjourned at 9:52 p.m.

Submitted by,
Nancy Sauber, Recorder