
CITY OF EMILY

PLANNING COMMISSION/BOARD OF ADJUSTMENT

AGENDA

Tuesday, December 6, 2022, 6:00 pm

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Additions or Deletions to Agenda
5. Open Forum
6. Public Hearings
7. Approval of Minutes
 - A. November 1, 2022, regular meeting
8. New Business
 - A. Permit extension request for permit 20-31 of an accessory structure
9. Old Business
10. P&Z Administrator's Report
11. Adjourn

This agenda is not exclusive. Other business may be discussed as deemed necessary.

1 **MINUTES**2 **EMILY PLANNING COMMISSION/BOARD OF ADJUSTMENT**3 **REGULAR MEETING**4 **November 1, 2022**

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7 **1. CALL TO ORDER**

8 The meeting was called to order by Commissioner Koch at 6 pm.

9 Pledge of allegiance was recited.

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11 **2. ROLL CALL**12 PRESENT: Greg Koch (Chairperson), Donna Jones, Bill Spiess, Denise Vukelich and David
13 Johnson, attended remotely.

14 Council: Gary Hanson (Liaison)

15 Staff: Brittney Cotner, Zoning Administrator (Sourcewell) and Sue Fahrendorff, Planning &
16 Zoning Clerk17 Attendance: Patty Carlson, Peter Carlson, Mike DesMarais, Tom Meyer & Roger Iskierka,
18 attended remotely.19 **3. ADDITIONS OR DELETIONS**20 Commissioner Koch requested an addition to the agenda under new business regarding
21 cannabinoids.22 **4. OPEN FORUM**

23 None

24 **5. PUBLIC HEARINGS**

- 25
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- 26
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- 27 a. Variance application V-22-07 to allow for a deviation of the setback requirements to
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- 28 construction of a dwelling, septic system, deck, and driveway. Owner/Applicant:
-
- 29 Michael DesMarais.

30 Cotner gave background information: The applicant is requesting a variance to
31 construct a 40' X 30' dwelling structure with a 10' wide attached deck within the
32 OHW setback. The dwelling is requested to be 60 feet from the OHW where 75 feet
33 is required. The deck would be an additional 10 feet lakeward. The subject property
34 PID 21250532 is located on Mary Lake. The request is due to a large wetland
35 located on the roadside of the property. The applicant is requesting an additional
36 deviation from the wetland setback for the septic system to be placed 5 feet from
37 the wetland where 25' is required. This requirement is the City's alone. Staff
38 confirmed there is no MPCA required setback for a septic to a wetland so long as it
39 is not in the wetland.40 During open forum, Peter Carlson addressed the Planning Commission regarding
41 the variance application. Carlson stated he understands the lot may require a
42 variance to be buildable, but the current variance request is too much, and he is not
43 in favor of the variance.44 Michael DesMarais, applicant, stated wetland fill has been preliminarily approve
45 by the Minnesota Wetland Conservation Technical Evaluation Panel (TEP board)
46 which is consistent with their process. DesMarais stated neighbors' views wouldn't

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47 be impeded upon with the current plan since neighbors' houses would be 8-10 feet
 48 different from his current proposal. DesMarias stated the house would have 3
 49 bedrooms and the holding tanks are estimated to be pumped 2-3 times per year. A
 50 drainfield is not an option on the property because of the wetland area. The
 51 holding tanks would be 5 feet from the wetland and 15 feet from the dwelling. The
 52 home would have a tuck-under garage with access from the west.

53 Commissioner Spiess and Commissioner Johnson stated they are not in favor of
 54 the deck being within the lake setback. Commissioner Spiess stated the deck
 55 should be on the side of the house, not towards the lakeside.

56 DesMarias stated there is an easement of 10 feet on his property and his neighbor
 57 to the west of the property, but a shared driveway couldn't be agreed upon.
 58 Planning Commission stated they would like a copy of the easement
 59 documentation as additional support.

60 Commissioner Koch did a site visit to the property and took measurements and
 61 would be comfortable with a 68 foot setback as it would be in line with the
 62 neighbors, and a wetland setback of half the usual setback requirements.

63 Commissioner Jones stated her main concern was the preservation of the wetland.
 64 Commissioner Vukelich stated the preliminary approval from TEP to allow fill to
 65 the wetland was as a positive sign that the impact to the wetland would be
 66 minimal. Commissioner Johnson stated the TEP documents appear as though the
 67 approval is contingent upon variance approval.

68 Closed Public Hearing Forum. Cotner stated the findings of facts.

69 **Findings of Fact:**

- 70 1. The subject property is located at TBD S Shore Drive (PID 21250532).
- 71 2. The subject property is zoned, "Shoreline Residential" and is located within the
 72 shoreland overlay zone on an GD lake.
- 73 3. The variance approval authorizes the applicant to construct a 40' X 30' dwelling extending
 74 within the lake setback. The dwelling would be 68 feet from the Ordinary Highwater Mark
 75 where 75 feet is required and 17 feet from the wetland delineated edge where 25 feet is
 76 required.
- 77 4. The applicant establishes there are practical difficulties, as defined in this chapter, in
 78 complying with the official control;
 - 79 a. How? The large wetland on the property creates a limited building envelope which would
 80 not support a dwelling structure without deviation from the zoning ordinances.
- 81 5. The plight of the landowner is due to circumstances unique to the property not created by
 82 the landowner;
 - 83 a. How? The large wetland on the property creates a limited building envelope which would
 84 not support a dwelling structure without deviation from the zoning ordinances.
- 85 6. The variance will not alter the essential character of the locality;
 - 86 a. How? The approved deviations would keep the proposed dwelling in line with existing
 87 dwellings on neighboring properties. The use of a dwelling is consistent with the
 88 neighboring properties.
- 89 7. The strict interpretation of this chapter would be impractical because of circumstances
 90 relating the large wetland area located on the property not created by the landowner.
- 91 8. The deviation from this chapter with any attached conditions will still be in keeping
 92 with the spirit and intent of this chapter and the Comprehensive Plan.
- 93 9. The variance will not create a land use not permitted in the zone. Single family dwellings are a
 94 permitted use in the "Shoreline Residential" Zone.
- 95 10. The variance is not for economic reasons alone, but reasonable use of the property does not
 96 exist under this chapter.

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 98 **MOTION BY COMMISSIONER SPIESS TO GRANT V-22-07 WITH A 68**
 99 **FOOT LAKE SETBACK AND 17 FOOT WETLAND SETBACK WITH THE**
 100 **CONDITION THAT DOCUMENTATION OF THE TEP OFFICAL APPROVAL**
 101 **BE PROVEDED TO THE CITY. SECONDED BY COMMISSIONER JONES.**
 102 **ROLL CALL VOTE-KOCH, JONES, SPIESS, JOHNSON AND VUKELICH**
 103 **VOTED AYE. THE MOTION CARRIED.**

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 105 **6. APPROVAL OF MINUTES**

- 106 a. September 6, 2022, regular meeting

107
 108 **MOTION BY COMISSIONER SPIESS TO APPROVE MINUTES WITH THE CORRECTION**
 109 **OF MOTION ON PAGE 4, LINES 175-178 CORRECTING MOTION CARRIED TO BE 4-0.**
 110 **SECONDED BY COMMISSIONER VUKELICH. ROLL CALL VOTE-KOCH, JONES,**
 111 **SPIESS, JOHNSON AND VUKELICH VOTED AYE. THE MOTION CARRIED.**

112
 113 **7. NEW BUSINESS**

- 114 a. Cannabinoid Discussion: Planning commission discussed the topic of Cannabinoid is
 115 something to be aware of and consider regulations being implemented by the
 116 Planning Commission. No motion made as the City Council is considering a
 117 moratorium.

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 119 **8. OLD BUSINESS-NONE**

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 121 **9. P & Z ADMINISTRATOR'S REPORT**

122 Cotner stated there has been a slight decrease in the number of permit applications over the past
 123 few months, however with the weather holding out, it remains steady. Since the last meeting,
 124 (September) there have been 18 new Land Use and 5 SSTS permit.

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 126 **10. ADJOURN**

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 128 **MOTION BY COMMISSIONER VUKELICH SECONDED BY COMMISSIONER JONES TO**
 129 **ADJOURN THE MEETING. ROLL CALL VOTE-KOCH, JONES, SPIESS, JOHNSON &**
 130 **VUKELICH VOTED AYE. THE MOTION CARRIED.**

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 132 Meeting adjourned at 7:15 pm.

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 134 Respectfully submitted,

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 137
 138 Sue Fahrendorff,
 139 Planning & Zoning Clerk

Hi Brittney,

Thank you for the latest extension. I appreciate the consideration. I need to ask what my options are as I may not meet the new deadline. Personal injuries have taken me from work and from working on this project. The loss of 2-3 months this summer of not being able to get around physically, first with a back injury and now with a foot injury and the wearing of a clunky boot, means slow or no, progress, especially now that the remainder of the work requires a ladder.