

ARLINGTON PLANNING & ZONING BOARD
MEETING MINUTES
OCTOBER 2, 2008

The meeting was called to order at 7:00 p.m., Chairman Nagel presiding.

Members Present: Grabitske, Haggemiller, Kreft (arrived late), Chairman Nagel, Pinske, Councilmember Curt Reetz

Members Absent: Hislop, Kramer, Mielke

Also Present: P&Z Administrator Cynthia Smith-Strack, Mayor Kreft

It was the consensus of the Committee that the agenda stood approved with the following additional item:
6A) Bruch Accessory Structure.

Motion by Pinske, seconded by Grabitske, and passed by unanimous vote to approve the minutes from the August 14, 2008 meeting as presented.

Chairman Nagel recessed the regular meeting to hold a public hearing.

Conditional Use Permit: 23259 401st Avenue, Mike Neisen, d/b/a M J Neisen Asphalt

Chairman Nagel called to order the public hearing regarding the request for a Conditional Use Permit from Mike Neisen, d/b/a MJ Neisen Asphalt, 23259 401st Avenue. Smith-Strack stated the reason a CUP was needed was to define the location and amount (intensity) of outdoor storage related to the operation of a heavy equipment storage/repair facility. The Committee reviewed the site plan that had been submitted by Neisen, along with some pictures that Smith-Strack had taken to show the existing conditions on the property. Reetz expressed his concerns about granting the CUP request, due to past situations and/or ordinance violations by the property owner. Haggemiller also expressed his concerns. The unsightliness of the property was discussed. It was noted that there was no one present and no written comments either for or against (including the applicant) the CUP had been received.

Chairman Nagel adjourned the public hearing and reconvened the regular meeting.

Discussion continued on the Neisen CUP request, which included allowing the storage (in bins) of new construction products (gravel, dirt, sand, etc.) but not used products (blacktop and/or concrete debris, old tires and spare parts), and number and types of vehicles (repair, construction, operational/non-operational, licensed/non-licensed) to be allowed, and to disallow construction dumpsters. There was also some discussion about whether the property is or is not connected to city services. Smith-Strack commented that she does not favor fencing around the structures. Some discussion was held on whether or not the existing business type was appropriate for the area. It was also noted that individuals have been seen living above the one structure again, which is not allowed and has been addressed several times in past years.

Motion by Grabitske, seconded by Reetz, and passed by unanimous vote to postpone further discussion on the Neisen CUP request until the November 6th meeting.

Chairman Nagel recessed the regular meeting to hold a public hearing.

Zoning Ordinance Amendment: Board of Zoning Appeals and Adjustments

Chairman Nagel called to order the public hearing regarding the Zoning Ordinance Amendment related to the Board of Zoning Appeals and Adjustments. It was noted that there was no one present and no written comments had been received. Smith-Strack reviewed the proposed changes (clarity issues) to Section 16 of the Zoning Ordinance No. 169 related to the Board of Zoning Appeals and Adjustments.

Chairman Nagel adjourned the public hearing and reconvened the regular meeting.

Haggenmiller introduced the following resolution and moved for its adoption:

PZ RESOLUTION NO. 11-2008

**A RESOLUTION RECOMMENDING THE CITY COUNCIL APPROVE ORDINANCE 229,
AN ORDINANCE REPEALING AND REPLACING SECTION 16 OF ORDINANCE 169,
THE ARLINGTON ZONING ORDINANCE, RELATING TO THE BOARD OF ZONING
APPEALS AND ADJUSTMENTS**

WHEREAS, the City of Arlington placed Ordinance 169 into effect several years ago; and

WHEREAS, the Arlington Planning Commission finds portions of Ordinance 169 relating to the Board of Zoning Appeals and Adjustment is not up to date; and

WHEREAS, the City of Arlington initiated an amendment to Ordinance 169, the Arlington Zoning Ordinance to allow the updating of standards related to the Board of Zoning Appeals and Adjustment; and

WHEREAS, the Arlington Planning Commission has reviewed and studied the issue and developed text to be included in Ordinance 229; and

WHEREAS, a public hearing was properly noticed and held on October 2, 2008 by the City of Arlington Planning Commission; and

WHEREAS, the proposed ordinance is itemized in Exhibit A which is attached to this resolution.

NOW, THEREFORE, BE IT RESOLVED, that the Arlington Planning Commission recommends the City Council approve Ordinance 229, a copy of which is attached as Exhibit A.

The motion for the adoption of the foregoing resolution was duly seconded by Kreft and upon poll being taken thereon the following voted in favor thereof: Grabitske, Haggenmiller, Kreft, Nagel, Pinske, Councilmember Reetz; and the following voted against the same: None; and the following abstained from voting: None; and the following were absent: Hislop, Kramer, Mielke.

Adopted by the Planning & Zoning Committee of the City of Arlington this 2nd day of October, 2008.

Signed: /s/ Lowell Nagel
Chairperson

Attest: /s/ Cynthia Smith-Strack
Planning & Zoning Administrator

Whereupon the resolution was declared duly passed and executed.

**EXHIBIT A
CITY OF ARLINGTON
ORDINANCE NO. 229**

**AN ORDINANCE REPEALING AND REPLACING SECTION 16 OF ORDINANCE 169, THE ARLINGTON ZONING
ORDINANCE, RELATING TO THE BOARD OF ZONING APPEALS AND ADJUSTMENTS**

- I. THE CITY COUNCIL OF THE CITY OF ARLINGTON, MINNESOTA TO PROMOTE THE PUBLIC SAFETY, HEALTH, AND WELFARE, HEREBY ORDAINS SECTION 16 OF ORDINANCE 169 SHALL BE REPEALED AND REPLACED BY THE FOLLOWING:**

SUBDIVISION 1. CREATION AND MEMBERSHIP.

A Board of Zoning Appeals and Adjustment is hereby established and vested with such administrative authority as is hereinafter provided. The Planning Commission shall serve as the Board of Zoning Appeals and Adjustment. The Board shall serve without compensation.

SUBDIVISION 2. POWERS.

- A. Board of Zoning Appeals and Adjustment decisions shall be advisory to the council who will make the final determination.*

- B. *The Board of Zoning Appeals and Adjustment shall hear requests for variances from the literal provisions of the zoning ordinance in instances where their strict enforcement would cause undue hardship. The Board shall make a recommendation to the Council to either grant or deny the variance. Such recommendation shall include findings of fact as required under Subdivision 3 of this Section.*
- C. *The Board of Appeals and Adjustment shall also hear requests for reconsideration of zoning applications where it is alleged there has been an error in the administration of the zoning ordinance.*
- D. *The Board of Adjustment and Appeals may recommend the imposition of conditions to ensure compliance and to protect adjacent properties.*
- E. *The Board of Adjustment and Appeals shall not recommend and the City Council shall not permit as a variance any use of land that is not allowed under this Ordinance for the property in the zone where the affected person's land is located.*
- F. *The Board of Adjustment and Appeals shall have such other additional powers as are given to Boards of Adjustment and Appeals by Minnesota law.*

SUBDIVISION 3. FINDINGS OF FACT.

A variance shall not be recommended for approval by the Board or granted by the Council unless the Board first considers the following standards.

- A. *An 'undue hardship' exists. "Undue hardship" as used in connection with the granting of a variance shall mean all three of the following conditions exist: the property in question cannot be put to a reasonable use if used under conditions allowed by this Ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. The Board/Council shall make a written finding of fact that supports each of the aforementioned conditions exist.*
- B. *Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the Ordinance.*
- C. *Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.*
- D. *Variances shall be granted for earth sheltered construction as defined in Mn. Stat. 216C.06, Subd. 14 as may be amended, when in harmony with the zoning ordinance.*

SUBDIVISION 4. PROCEDURE.

- A. *Application for any adjustment permissible under the provisions of this Section shall be made to the Zoning Administrator, in the form of a written application for a building permit or for a permit to use the property or premises as set forth in the application. An application for an adjustment shall be accompanied by payment of a fee set by resolution of the City Council from time to time, in addition to the regular building permit fee.*
- B. *The Zoning Administrator shall review the application for completeness. If the application is found not to be complete, the Zoning Administrator shall specify in writing, within fifteen (15) days of the filing of the application, what items are needed to make the application complete.*
- C. *Upon receipt of a complete application, such officer shall set a time and place for a public hearing before the Board of Zoning Adjustment on such application. At least ten (10) days before the date of the hearing, a notice of the hearing shall be published once in the official newspaper.*
- D. *In recommending any adjustment or variance under the provisions of this Section, the Board of Zoning Adjustment shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of the regulation to which the adjustment or variance is granted, as to light, air, and the public health, safety, comfort, convenience and general welfare.*
- E. *No permit shall be issued under the provisions of this Section unless and until a recommendation of the Board of Zoning Adjustment, as aforesaid, is approved and confirmed by the City Council. In reporting its recommendation to the City Council, the Board of Zoning Adjustment shall report its findings with respect thereto and all facts in connection therewith, and shall specifically and fully set forth any adjustment or variance granted and the conditions designated. Upon receipt of such report, the City Council either shall by resolution approve and confirm the decision, with or without changes, whereupon the permit as applied for may be issued; or shall refuse to approve and confirm the decision. In all cases in which adjustments or variances are granted under the provisions of this Section, the Board of Zoning Adjustment and the City Council shall require such evidence and guarantees as it may deem necessary to insure compliance with the conditions designated in connection therewith.*

F. *If an adjustment or variance is granted under this Section, the applicant shall have six (6) months from the date the application is approved in which to comply with all conditions as set out in said adjustment or variance approval. If the conditions are not complied with within said six (6) month term, then the approval shall be considered void and the application process would have to be initiated again. The City will not be considered to be under any obligation to approve any such new application, simply on the basis that a prior application had been approved.*

II. **BE IT FURTHER RESOLVED THIS ORDINANCE SHALL BECOME EFFECTIVE UPON PUBLICATION.**

Adopted by the City of Arlington on the ____ day of _____, 2008.

James R. Kreft, Mayor

Attest: _____
Matthew Jaunich, City Administrator

Discussion was held on the Bruch accessory structure and whether it had been built per the specifications of the CUP. Some concerns were expressed about the roof pitch, overall structure height, the size of the garage door in the front and the fact there were no windows on the front of the structure as had been presented at the time of the CUP hearing. Smith-Strack will follow up with the Building Official to see if the construction plans included windows on the front of the structure or not.

Smith-Strack presented Ordinance 231 – Establishing a Planning Agency. She explained that the proposed ordinance would replace Ordinances 42 and 114, as the nature of the Planning Commission and the administrative process has changed. The proposed changes were reviewed in detail. It was noted that the number of members was being decreased to seven.

Smith-Strack spoke on the need to create a Public/Institutional District. She stated that there are some land use issues with the Sibley Medical Center/Clinic and the current zoning of same. She explained how a public/institutional district would work and help with future land use issues for churches, schools, etc. It was the consensus of those present to move forward with this concept and hold a public hearing at the November meeting.

The August and September Building Permit Reports from Building Official Haslip were reviewed. Discussion was held on various properties/permits.

Nagel commented on the school and baseball signs in Memorial Park. He felt they should be moved to school property as they do not fit the veteran's theme in the park. It was also suggested to move and/or find a more suitable location for the Lions' sign and the sign pertaining to dogs.

Reetz expressed concern about following up with nuisance properties and properties that have CUP's (conditions) on them. Smith-Strack will discuss this subject matter with the police chief.

Brief discussion was held on individuals living above Neisen's Community Hall and the shop on Hwy 5 again. Smith-Strack will check with Attorney Arneson on this; he was given a key to do random site checks.

Motion by Pinske, seconded by Grabitske, and passed by unanimous vote to adjourn the meeting.

PZ Adm. Cynthia Smith-Strack

Chairman Lowell Nagel