

## **Breezy Point Planning Commission/Board of Adjustment**

**September 10, 2024**

### **Regular Meeting**

The regular meeting of the Breezy Point Planning Commission/Board of Adjustment was called to order by Commission Chair Marcy Weaver at 7:00 p.m. Those in attendance included members Joe Ayers, Lee Brisbin, Roger Theis, Teddy Zierden, Board Chair Marcy Weaver, Planning and Zoning Administrator Peter Gansen, Deputy Clerk Deb Runksmeier and Public Works Supervisor Joe Zierden.

#### **Approval of Agenda**

Motion Ayers/Zierden to approve Agenda, Motion Carried 5-0.

#### **Open Forum**

No one spoke.

#### **Approval of 8/14/2024 Regular Meeting Minutes**

Motion Theis/Brisbin to approve the minutes as written, Motion carried 5-0.

#### **New Business**

##### **A. Variance Application V-24-010 - B&C Construction LLC**

The Commission Chair Weaver noted the applicant was present.

Planning and Zoning Administrator Gansen read the staff report into record.

See staff report on file.

The Chair asked if there were any questions pertaining to the staff report.

There were none.

The Chair asked if the applicant to state their name and address and to summarize the request before the Commission.

Chris Cullen, B & C Construction, 8156 County Road 11, Breezy Point MN.

Cullen, I did apply for a variance that was approved last year.

I did not realize there was a six month sunset clause however I understand why that is. The building plans have changed some, the building will be slab on grade. It is going to be built with SIP construction and an affordable home for one level living.

Cullen, I believe there is a high demand for one level dwellings. I realize there have been zoning changes that effects the considerations of allowing lots for residential structures in relationship to the size of the lot and zoning district.

Theis, is it a one car garage.

Cullen, it is going to be a wider garage with one opening, so it could be considered a one-and-a-half stall garage.

Theis, does the County approve the sewer and well.

Cullen, yes I already have an approved design for septic system.

The Chair asked the Commission if they had any concerns or questions pertaining to the application at this time.

There were none.

The Chair called for audience comment.

There were none.

The Chair closed the public comment period and opened the meeting to Board deliberation.

The Chair then read the findings of fact questions to the Planning Commission for consideration.

The Chair noted the applicant has been before the Planning Commission at a prior meeting. The Commission is very familiar with the property and asked the Commission if they had any concerns or would like to review.

Theirs, can we require the applicant build to the plan that was submitted.

Gansen, yes they would be required to build to the application on how it was submitted, however it could also be added as a condition.

Cullen, it will be the same I have to order it as a kit and once its ordered there is no changing it.

Theis, I know I have seen other times where the applicant was approved but did not build what they were approved for.

The Chair, yes we certainly can add this as a condition.

**Recommended condition**, the applicant must build to the plans submitted and approved by this variance.

Brisbin, it appears the lot needs to be a minimum of 16,000 square feet.

Gansen, correct if the lot was 16,000 square feet they would get a permit over-the-counter and not require variance.

The lot is a couple hundred square feet shy of a conforming lot.

Gansen spoke about why ordinances attempt to mitigate the size of a lot required for a residential unit. It also adds a mechanism of review for the planning Commission to look at each lot and determine if the infrastructure in the area would support the proposed use.

The Chair asked the Commission if there were any further discussion regarding the findings.

See findings on file.

None.

The Chair asked for a motion.

**Ayers made a motion to approve.**

The Chair asked if that was in addition to the recommended condition.

Ayers, yes.

**Brisbin seconded.**

**All members voting 5-0 to approve Variance Application V-24-010.**

**Conditions:**

**1. Applicant must build to the plans submitted and approved by this variance.**

See file for findings and notice of decision.

**Variance Application V-24-011 - Greg Brendemuehl**

The Commission Chair Weaver noted the applicant was present.

Planning and Zoning Administrator Gansen read the staff report into record.

See staff report on file.

Chair, asked if the Commission had any questions on the staff report.

Theis, is this lot serviced by municipal sewer.

Public Works Supervisor, yes the lot has a City connection available.

Gansen, thank you we will update the staff report to reflect that.

Commissioner Zierden, does this change the minimum lot size dimensions.

Gansen, it does not. 75 feet is still the required width. It would change the required lot area but the lot already meets that requirement.

Chair, it appears everything else meets minimum standards aside from the lot width.

Theis, is it 30% impervious surface coverage.

Gansen, yes in this zoning district they are allowed more than the other zoning districts and they also get a 5% bump up because the lot is served by City sewer.

The thought being, since additional yard area is not required for a drain field area the property could utilize this area for additional building.

The Chair asked if there were any other questions pertaining to the staff report.

There were none.

The Chair asked the applicant to state their name and address and to summarize the request before the Commission.

Greg Brendemuehl 267 Front Avenue, St Paul MN.

Brendemuehl, I grew up in Southern Minnesota and came up here golfing with some friends. I enjoyed the area, I like it so much I decided to buy a lot here and would like to build a little home here.

Theis, is this two stories.

Greg, yes in the back part.

Theis, the elevations appear to have sidewalks on the elevation drawings are these included in the 30 percent coverage.

Greg, yes the sidewalks and overhangs are all figured into the impervious amounts.

Runksmeier adjusted the presentation slide to the plan view.

Greg spoke about the general layout of the residence.

Brisbin, is there a blueprint for the interior of the house.

Greg spoke in general about the layout.

Gansen, if there is something additional the applicant would like to submit we would enter that into the record.

Brisbin, as far as setbacks it appears everything is met.

Gansen, correct. The proposed size of the residence meets ordinance requirements. The Commission should look at the dimension of the lot. The applicant's variance request is from the minimum lot width allowed for residential dwelling, which it is short of by approximately ten feet.

If the applicant is denied the lot will be considered unbuildable. It would not be allowed a residential unit.

Theis, the shed will be moved.

Zierden, this is an architectural rendering that is conceptual in nature.

Theis, so there will be no sidewalks.

Zierden, the applicant does not have to have a sidewalk. The rendering is conceptual in nature. The applicant does not propose a sidewalk on the plans.

There was variable discussion regarding impervious surface requirements.

Gansen, please note the shed is classified as a storage shed per ordinance so it can be located 3 feet from the property line per ordinance. And yes if the applicant maxes out the impervious surface coverage, that would be it. Otherwise, the only other option would be to come before the Commission with an impervious surface request.

Theis, I have no more questions at this time.

The Chair called for audience comment in favor or opposition of the request and to state their name and address.

Anthony Socher, 30276 Pinewood Drive, Breezy Point MN.

Anthony, I own the property to the Northeast and have a contract for deed with the property to the South.

I am opposed to the variance request because we are making an exception to rules to allow the applicant to build. This sets a precedence for the neighborhood as well. This would put houses five feet from my yard and every time someone pulled into the driveway they would shine their lights into my bedroom.

There are rules and characteristics to this neighbor. The reason I moved up here is because I do not want a neighborhood to grow up around me. If this variance is granted they would be getting approved for a want and not what the property is supposed to be.

Chair, is your concern the size of the home or that a home may be placed on the lot. Because the proposed residence is meeting all setbacks that are required of any other lots in the area. The variance is needed because the lot does not meet the current minimum required lot width.

Anthony, I have problem because the house is being pushed five feet closer to my property line.

Zierden, so you are concerned the building is getting closer to your lot line.

Anthony, yes and it also sets precedence to build larger than what is allowed, all they have to do is ask for a variance.

Zierden, the proposed residence is actually meeting all ordinance requirements related to the structure. The variance is needed for lot width being around 10.9 feet short of the required width.

Anthony, so you are telling me if I buy Peterson's property I could just build a house on that as well if it doesn't meet the minimum size.

Zierden, potentially, but first you would need to request a variance from the minimum lot size to proceed.

Zierden, the lot was platted in the 1960s like the rest of the lots in the neighborhood. Lot size requirements have changed since then and the applicant is requesting a variance from the minimum lot width to build a structure that meets all setback requirements.

If application is denied we would be telling the applicant they could build nothing. That is essentially saying all lots in the area that are similar in size that they could never build. The Planning Commission exists to review these requests on an individual basis and make decisions based on the merit of each application.

Zierden, if I am understanding you correctly you are saying that he should not be allowed to build anything.

Anthony, no I think he could build a smaller home.

Zierden, the proposed house does meet all ordinance requirements.

Chair, what Commissioner Zierden is saying is the applicant would need a variance even to build a tiny home.

The variance request is for minimum lot width.

Anthony, I understand that. However, if I bought an unbuildable lot I would never think I could build anything on it. Like Peterson's lot is 1000 feet to small, I would never take a risk and think I could build on it.

Zierden, that is the difference. The applicant took the risk and bought this property and is asking for a variance in order to build.

Theis, are you concerned about any slope of the land that would create runoff problems.

Anthony, yes its sloped and stormwater would come towards my property. My driveway is almost on his property line.

There was various discussion regarding the distances of the driveway and the property lines.

The Chair asked for any other public comment.

None.

The Chair closed the public comment period and opened the meeting to Board deliberation.

None.

Chair then read the findings of fact questions to the Planning Commission for consideration.

See findings on file.

**With 1 condition**, the applicant must build to the plans submitted and approved by this variance and remain under the imperious surface allowed by ordinance.

The Chair asked the Commission if there were any further discussion regarding the findings.  
None.

The Chair asked for any other additional Board discussion on the site plan layout or impervious surface coverage. If we deny this lot we are essentially saying this is an unbuildable lot, even though we have allowed development on many other lots in the area in regard to similar size and situation. The lot width is what is based on the 1960 platt.

Theis, I am going to bring to the attention the gutters that they appear to drain towards the road. Can there be condition placed on this to mitigate this concern.

Gansen, yes. When it comes to stormwater, it is not legal for construction projects to drain stormwater onto the neighboring properties or change drainage pattern that effects their neighbors. Albeit this is often a situation that would require a civil litigation between the effected properties. Unfortunately, this is one of the most common complaints when it comes to construction, is erosion and runoff control etc.,

If the Commission is not comfortable with the plans submitted in this application. The Commission can deny the application and require them to resubmit with professionally prepared stormwater management plans. This is a common requirement on lakeshore propertys but not quite as common in non-lake shore areas such as this.

This could also be sufficed by a condition to require all stormwater management to be contained onsite.

Zierden, could we ask for a swale to be placed on the south property line or would it be more simple with a condition.

Gansen, I would recommend the condition because requiring something specific like a swale can put the Commission in the designer seat. I would rather see that condition left open to the applicant to design the system that would achieve the stormwater management required.

Zierden, summarized that we are looking at the dimensions of the project which must meet ordinance requirements and stormwater management.

Chair, summarized the request is for a residential unit allowance that would not be allowed because the lot does not meet the minimum lot width.

Brisbin stated there is two story blue home down the road and asked the public works supervisor if he saw that and if that house is on a 65 foot wide lot.

Public Works Superivsor Zierden, yes I think all the residential lots and houses are fairly similar in this area.

Brisbin, I wanted to check if they were also on 65 foot wide lots.

Gansen, likely yes and a variety. Because when this was platted in 1962 they platted to the size they wanted as lot size requirements did not exist.

Brisbin, I noticed that house was a lot taller, where as this house is wider.

Chair, the foot print and plans in the application meets todays setbacks.

The Chair recapped the request again. The variance is for the lot dimension size allowance for a residential use. The proposed residence meets all applicable setbacks.

Brisbin, have variances been allowed on other lots in this situation.

Gansen, yes.

Chair, yes frequently.

Gansen summarized, the proposed build-out is in conformance with all other ordinance requirements including the driveway setback. If the applicant was requesting to build outside of their setbacks etc., staff would be recommending denial as it would not fit the lot. However the plans proposed today appear to meet ordinance requirements, eg., setbacks and imperious surface allowance.

The Chair asked for a motion.

**The Chair made a motion to approve with 2 conditions.**

**Zierden seconded.**

**All members voting yes (Weaver, Ayers, Zierden) 3-2 voting no (Brisbin, Theis) to approve Variance Application V-24-11.**

**Conditions:**

1. The applicant must build to the plans submitted and approved by this variance and remain under the imperious surface allowed by ordinance.
2. All stormwater runoff must be managed on the subject property.

See file for findings and notice of decision.

**B. Conditional Use Permit Application C-24-004 - City of Breezy Point**

The Commission Chair Weaver noted the applicant was present.

The Chair asked for the staff report.

Gansen read the staff report into record noting Public Works Supervisor Zierden is present to answer any questions related to the City's perspective on the project design features.



See staff report on file.

The Chair asked if there were any questions relating to the staff report.

Zierden, is this survey for the City's property or the private property.

Gansen, it is survey of the private property boundaries. The City owns everything surrounding the private property.

Theis, what kind of fence is this and color.

Public Works Supervisor, its regular chain link and galvanized.

The Chair asked if there were any more questions relating to the staff report.

Zierden, I think I need a little more background of where this project is located.

Gansen, the project site is delineated on the color coded maps.

Zierden, I was thinking about parking.

Gansen, the request is related solely to the height of a fence.

There was various discussion regarding the layout of the gardens.

The Chair specified we are here to discuss the height of the fence.

The Chair asked the applicant to state their name and address and to summarize the request before the Commission.

Joe Zierden, Public Works Supervisor, City of Breezy Point.

Public Works Supervisor, the Parks Commission identified this as a project and identified the site for the Community Garden Project.

The height of the proposed fence for the garden is due to the high potential for deer.

Ayers, how will the selection of the gardeners be determined.

Public Works Supervisor, that will be determined at tomorrow's meeting and probably not finalized until next spring.

Zierden, the purpose of the fence is for animal deterrence.

Public Works Supervisor, correct 8 feet in hopes to keep most animals out of the garden space.

The Chair called for audience comment in favor or opposition of the request and to state their name and address

Greg Harvey, we own the properties surrounded by the City property and if the City was willing we would be willing to sell these lots.

Zierden, are the lots vacant.

Greg, yes.

Zierden, thank you for that however this Commission is not the venue for those considerations. I would advise you express that desire to the City Council.

Gail Arne, 32692 North Woods Circle, Breezy Point MN.

Gail, I am the chair of the Parks and Rec Board. Because of the new City Hall build we would look to do most of our beautification efforts and activities in this area.

We are very excited for the project to begin and let me know if you have any questions.

Chair, what prompts this particular fence height.

Gail, yes mostly in consideration to deer. We contacted other areas and deer will jump over a six foot fence. Then they have to put two feet of barbed wire around it and then it looks like a prison fence. We really want this to look like an inviting place, so we wanted to go for an 8 foot fence.

Theis, asked about the orientation of the gardens.

Gail went into detail about the layout of the site plan for the garden plots and the layout of the project in general.

Chris Cullen, asked about rezoning some land on the other side of the airport as this property doesn't seem to fit the residential zoning class.

The Commission confirmed, there have been no rezoning requests relating to that area.

The Chair asked for any other public comment.

None.

The Chair closed the public comment period and opened the meeting to Board deliberation.

Chair then read the findings of fact questions to the Planning Commission for consideration.

See findings on file.

The Chair asked the Commission or Staff if there were any further discussion regarding the findings or conditions.

None.

**Theis made a motion to approve.**

**Zierden seconded.**

**All members voting 5-0 to approve Conditional Use Permit Application C-24-004.**

**Conditions:**

**None.**

See file for findings and notice of decision.

### Old Business

#### **A. None.**

The Chair called for staff reports.

### Staff Reports

Gansen updated the Commission on the City Administrator resignation and the interim process.

There will likely be a variance application at the next meeting if the applicant can get their survey completed before the submittal deadline.

The next PC meeting is Tuesday, October 8th.

That concludes the staff report.

The Chair asked for any Commissioner reports.

### Commissioner reports

#### **A. None.**

There being no further business the meeting adjourned at 8:11 p.m.

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Submitted by Peter Gansen  
Planning & Zoning Administrator.