

**MINUTES OF MEETING
DELLWOOD CITY COUNCIL
MAY 12, 2020**

The regular monthly meeting of the Council of the City of Dellwood was held on May 12, 2020. The meeting was held by way of teleconferencing as provided by Minnesota Statute 13D.021. The U.S. Health and Human Services Department, on January 30, 2020, declared a Public Health Emergency in response to COVID-19. On March 13 President Trump declared COVID-19 to be a National Emergency. On March 20, Minnesota Governor Walz issued an Executive Order which is effective through April 16, 2020. Mayor McGill has determined that an in-person meeting is not practical because of a health pandemic. Accordingly, no Members of the Council or City Staff were physically present at the regular meeting location. All Council Members were able to participate in the meeting, could hear each other and did discuss business which came before the Council. All votes were conducted by roll-call. Due Notice of the Meeting to be held by teleconference was duly given as required by law.

Present: Mayor Mike McGill, Councilpersons – Elsbeth Howe, Scott St. Martin, Greg Boosalis and Brady Ramsay were present by telephone, as well as City Clerk Joanne Frane, Treasurer Brian Beich, City Planner Nate Sparks, and City Attorney Richard Copeland. Also Present: Ken and Kathy Kohler, their attorney Mark Duea; Benjamin and Michele Hanson, and Laura Lewis.

Mayor McGill called the meeting to order at 5:30 p.m.

Mayor McGill asked for approval of the Agenda. Upon motion by St. Martin, duly seconded Ramsay, the Agenda for this meeting was approved. McGill, Ramsay, Howe, Boosalis and St. Martin all voted in favor of the motion.

Mayor McGill asked for approval of the Minutes of the April 14th Council meeting. Upon motion by McGill, second by Howe, the Council approved the Minutes as submitted. McGill, Ramsay, St. Martin, Boosalis and Howe all voted in favor of the motion.

Mayor McGill asked for approval of the Minutes of the April 13th Board of Review meeting. Upon motion by McGill, second by Howe, the Council approved the Minutes as submitted. McGill, Ramsay, St. Martin, Boosalis and Howe all voted in favor of the motion.

Kohler Planter Boxes: The first item of business was the matter involving the Planter Boxes on the Kohler property. Some months ago, the city Inspector issued an Order requiring the planter boxes to be removed from the side yard setback area adjacent to the property line. Mr. Kohler had appeared at a previous Council meeting and claimed that the planter boxes were not structures within the meaning of the City Ordinance. The matter has lingered for several months without any action being taken, and the boxes are still in place. Kohler's attorney Mark Duea urged the Council to exercise its discretion and find that the planter boxes do not violate the intent of the Ordinance, that they are not the type of structures which the Ordinance seeks to prohibit, and that other structures on various other properties in the City appear to be in violation of the Ordinance, but have not been addressed by the City.

Mr. Copeland responded that the language in the Ordinance is clear, that a side yard setback is an area within 30 feet from the side property line which is unobstructed by a structure of any kind. The definition of Structure in the Ordinance means anything which is built, constructed, erected, whether temporary or permanent in character. Fences and retaining walls are addressed in separate Ordinances.

Mr. Copeland also noted that the city has always addressed all complaints received by the City regarding an alleged Ordinance violation, and those which are otherwise known to the City Officials. The City has never engaged in selective prosecution of Ordinance violations. There may be instances in the City where violations exist which the City Officials are not aware. The City is not required to seek out perceived violations and to take measurements, but does respond where complaints have been made. After further discussion, Ramsay made the motion to allow Kohler 20 days from today to either remove the planter boxes from the set back area or to file an Application for a Variance. The motion was seconded by Boosalis, and the following votes were taken:

McGill:	Aye
Howe:	Aye
Ramsay	Aye
Boosalis	Aye
St. Martin	Aye

Mr. Copeland noted that if the supporting boards were removed a garden could remain in place. It is the structure of any kind which is prohibited.

LUA-35 Apple Orchard Road: The next item of business was the Variance request of Mr. and Mrs. Hanson of 35 Apple Orchard Road to allow for an attached garage to be located partially within the side yard setback area. The Planning Commission held a public hearing on this matter and recommended approval with certain conditions. The Memorandum of City Planner Nate Sparks is on file. The Planning Commission determined that there were practical difficulties present which prevented the Applicants from complying with the strict requirements of the Ordinance. The neighbors to the south, where the Variance would lie, have notified the City that they are in favor of the Variance request. The City has received no other objections or comments. Ramsay moved to approve a Resolution approving the Variance as recommended by the Planning Commission. A copy of the Resolution is attached to these Minutes. St. Martin seconded the Motion and the following votes were taken:

McGill:	Aye
Howe:	Aye
Ramsay	Aye
Boosalis	Aye
St. Martin	Aye

The Resolution passed by unanimous vote.

KEJ Road Contract: The next item of business was the consideration of the Road Contract with KEG Enterprises, Inc. The current contract has lapsed and KEG has asked that it be renewed. A copy of the proposed Contract is on file. It is similar to the expiring contract with a slight increase in costs which has been reflected in the budget approved by the Council. St. Martin moved to approve the proposed Contract to be effective from April 15, 2020 through April 14, 2021.

Boosalis seconded the motion and the following votes were taken:

McGill:	Aye
Howe:	Aye
Ramsay	Aye
Boosalis	Aye
St. Martin	Aye

The Resolution was adopted by unanimous vote of the Council.

WBYC – Wedding Date Change: The next item was a request by White Bear Yacht Club to change the date of a wedding event which was originally approved for June 27, 2020. Due to COVID 19 the event has been rescheduled to June 5, 2021.

McGill moved to approve the change with the City retaining the right to impose noise restrictions on noise levels which the City deems appropriate to protect the peace and welfare of adjacent property owners, which restrictions may be lower than those levels allowed under MPCA Rules or City Ordinances. Howe seconded the motion. The following votes were taken:

McGill:	Aye
Howe:	Aye
Ramsay	Aye
Boosalis	Aye
St. Martin	Aye

Vadnais Heights Economic Development – Temporary Gambling Permit: The next item was the Application by Vadnais Heights Economic Development Corporation for a temporary gambling permit to conduct a raffle at WBYC on June 29, 2020. Mr. Copeland stated that the Application appears to be in order. The Applicant has submitted proof of its good standing as a non-profit in the State of Minnesota under Chapter 317A of Minnesota Statutes. The City received a written statement from the Applicant confirming that Applicant does not conduct gambling events more than 5 days nor award prizes in excess of \$50,000 in any calendar year. The Permit shall be approved with no waiting period. St. Martin moved to approve the Permit. Ramsay seconded, and the following votes were taken:

McGill:	Aye
Howe:	Aye
Ramsay	Aye
Boosalis	Aye
St. Martin	Aye

April 2020 Claims and Receipts List.

The Claims and Receipts List for the month of April 2020 was reviewed and discussed. Upon motion by St. Martin, second by Ramsay, the Claims and Receipts List for April 2020 was approved unanimously as submitted.

The following votes were taken:

McGill:	Aye
Howe:	Aye
Ramsay	Aye
Boosalis	Aye
St. Martin	Aye

REPORTS:

St. Martin reported on the Code Red Program through the Washington County Sheriff’s Office.

Ramsay reported extensive repairs are needed to the culvert at Lookout Road. A quote of \$35,000 has been received. He is receiving another quote. He noted that a culvert at Eldorado Circle is being inspected for possible repair work.

Brian Beich reported a current balance in the City’s bank account of \$452,571.00 after payment of April claims.

McGill reported 6 remodel permits, one 1 new home construction at 11 LaCosta Drive.

There being no further business, Boosalis moved to adjourn, second by Ramsay. The Council Members voted unanimously by roll-call to adjourn the meeting.

The meeting was adjourned at 6:55 p.m.

Respectfully submitted,



Joanne Frane
Dellwood City Clerk / Administrator

CITY OF DELLWOOD
WASHINGTON COUNTY, MINNESOTA

RESOLUTION 2020-06

A RESOLUTION APPROVING A VARIANCE FOR AN ATTACHED GARAGE
AT 35 APPLE ORCHARD ROAD

WHEREAS, Ben Hanson (“the Applicant”) has made a request for a variance to allow for the construction of a new garage in the City of Dellwood (“the City”); and

WHEREAS, the subject site (“the Property”) is located at 35 Apple Orchard Road Road and is legally described as:

Lot 8, Block 4, Dellwood Hills Plat 1, Washington County, Minnesota

WHEREAS, the Dellwood Zoning Ordinance requires structures to meet 30 foot side yard setbacks; and

WHEREAS, the house on the Property currently does not have a garage; and

WHEREAS, the applicant proposes to construct a 30’ x 24’ attached garage; and

WHEREAS, the proposed garage would be setback 16 feet from the south property line; and

WHEREAS, the Dellwood Planning Commission held a duly noticed public hearing on October 20, 2020 and tabled the request seeking plan modifications; and

WHEREAS, the Dellwood Planning Commission reviewed revised materials on November 17, 2020 and recommended approval of the request; and

WHEREAS, the Dellwood City Council reviewed the request at the May 12, 2020 meeting; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Dellwood hereby approves the variance based on the following findings of fact:

1. There are practical difficulties present in meeting the strict requirements of the Zoning Ordinance due to the location of the existing house and driveway.
2. The proposed variance is consistent with the Comprehensive Plan.
3. The proposed garage is a reasonable use and is not out of character with the area.
4. The proposed site is a reasonable location for this structure, would utilize the existing driveway, and provide compatibility with the architecture of the house.

BE IT FURTHER RESOLVED that the City Council of the City of Dellwood hereby approves the variance with the following conditions:


1. The proposed new construction shall be substantially similar to the plans reviewed by the City Council including but not limited to the attaching of the garage to the house and the size of the garage door.
2. The garage design and color shall match the existing house.
3. The garage shall meet a 16 foot setback to the south property line, at minimum.
4. The depth of the garage may be 24 feet.
5. The shed on the property shall be removed.
6. Any and all comments from the City Attorney, City Engineer, and Sewer Inspector shall be addressed.
7. All fees and costs incurred by the City regarding the review of this request and implementation of this approval shall be reimbursed by the Applicant.
8. The Applicants shall apply for a building permit within one year or this approval is void.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF DELLWOOD THIS 12TH DAY OF MAY, 2020.

APPROVED


Mike McGill
Mayor of Dellwood

Attest:


Joanne Frane
City Clerk

Attached:

Exhibit A - Survey
Exhibit B - Plans

EXHIBIT A – SURVEY

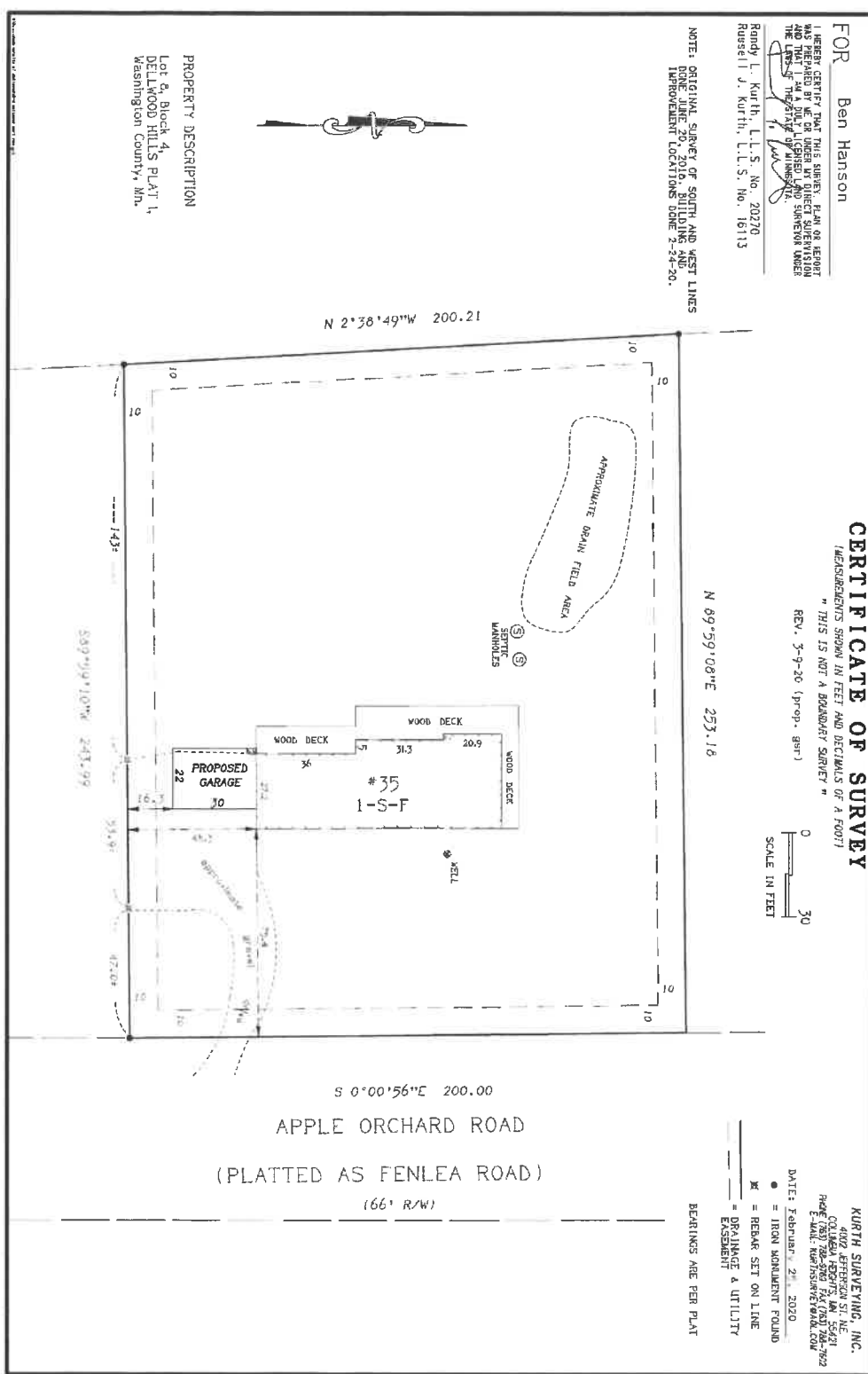
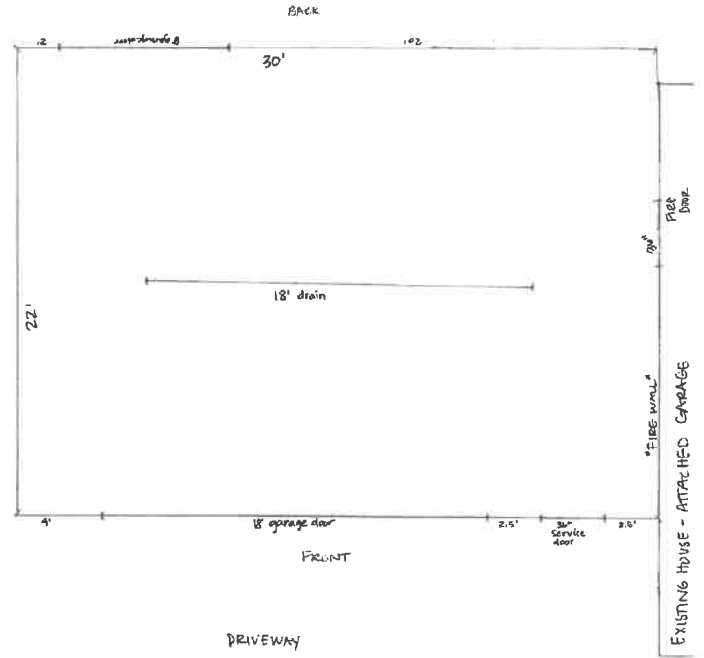
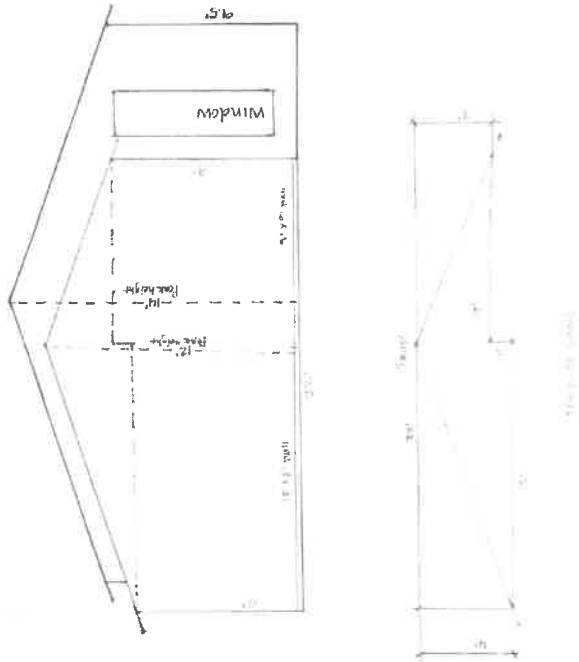


EXHIBIT B - PLANS



PRIVILEGE
 GARAGE 22' x 30'
 FRONT GARAGE DOOR 18' x 8'
 FRONT SERVICE DOOR 36"
 FIRE SERVICE DOOR - TO HOUSE 36"
 BACK GARAGE DOOR 8' x 7'

