Please refer to Planning Commission Rule #25: Any action taken during this meeting is subject to reconsideration during this meeting or at the next. A request for reconsideration at the next meeting must be submitted in writing by a Planning Commissioner (who voted on the prevailing side) by the close of business the day following the meeting.

**Roll Call, Opening Statements, Agenda and *Consent Agenda.**

Commissioners Present: Eric Mueling  John Perreault  
Chris Guinn  Charles Whitaker  
Doug Sims  Kerynn Fisher  
Mike Kenna  Toni Abbey  

Commissioners Absent & Excused: None  

**APPROVAL OF THE AGENDA AND CONSENT AGENDA**

**MINUTES**


Audio Track 1  

**AGENDA AND CONSENT AGENDA APPROVED**

**APPEALS**

1. **Appeal of AM2020-001:** An appeal by Susan Clifton, representing the Estate of Joseph J. Max, of the denial of a request for amnesty relief for an existing lot with a lot size of 59,400 sq.ft. instead of the required 80,000 sq.ft. in the Rural Estates (RE-2) zone for the property North 180.07’ Lot 74 Section 14 T1S-R2W (located at 2341 Nussbaumer St., on the north side of Dale Road, west of Ravenwood Ave.). *(Staff Contact: Kellen Spillman)*  

Audio: Track 1, 2, 3  

**FINDINGS OF FACT**

1. The lot size violation does not qualify for legal nonconforming lot status (grandfather rights). On August 8, 2019, the FNSB Community Planning Department did not affirm (denied) legal nonconforming lot status because it appears to be created with
a 59,400 sq. ft. lot size via warranty deed on July 7, 1971, after the establishment of minimum lot size requirement of 80,000 sq. ft. on November 13, 1969.

2. The lot size violation existed as of July 21, 2010 as evidenced by the Warranty Deed recording the description July 7, 1971.

3. Per FNSBC 18.116.030 (B) “For purposes of amnesty relief, a violation is not intentional or willful if it is based on a good faith error of law or fact. Violations that are less than 50 percent of the required size, area or distance are presumed to be in good faith.” The lot size violation is less than 50 percent of the required lot size, at approximately 26%.

4. The lot size violation does not appear to pose a danger to the public health, safety and welfare of borough residents because the lot has an area of 59,400 sq.ft., which is more than an acre and could potentially support an onsite septic system and well. This lot size is larger than past DEC guidelines of 40,000 sq. ft.

5. The lot size violation of 20,600 sq.ft., or approximately 26% of the required 80,000 sq.ft., is less than 75% of the required lot area.

6. A lot requesting lot size amnesty, must meet the FNSBC Title 18 definition of “lot” because FNSBC 18.116.020(A) states “…any... lot that is in violation of this title with respect to the numerical regulations pertaining to... lot area, and which has received affirmative recognition of amnesty relief under this chapter, may continue…”

7. The lot does not comply with all other FNSBC platting requirements because it was not legally created under the FNSB Title 17 subdivision regulations in effect when the description of the lot was recorded with a Warranty Deed on July 7, 1971.

8. FNSB Title 18 defines a “lot” as being legally created. Therefore, if a property was not legally subdivided or otherwise legally created, it is not a “lot” as currently defined by FNSBC Title 18 and cannot qualify for amnesty relief.

9. The definition of a lot in title 18 requires that a lot be established by plat, subdivision, or otherwise permitted by law, adequate for occupancy, providing yards, buildable area, and off street parking. Amnesty is not available unless the lot complies with “all other” FNSB platting and zoning requirements. The lot does not meet the lot area requirement, but complies with all other requirements, and therefore is available for amnesty.

AM2020-001 APPEAL APPROVED
[SEVEN IN FAVOR/ ONE OPPOSED]
This decision may be appealed in writing to the Office of the Borough Clerk within fifteen (15) days to the Fairbanks North Star Borough from the date the Notice of Decision was mailed.

New Business, Excuse Future Absences, Commissioner’s Comments and Adjournment.

Audio: Track 4

Further information may be obtained from FNSB Department of Community Planning at 459-1260.