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**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0057**

Woodland Gale Owners' Association, LLC, et al.,
Appellants,

vs.

City of Woodland,
Respondent.

**Filed August 17, 2020
Affirmed
Connolly, Judge**

Hennepin County District Court
File No. 27-CV-18-10164

Douglas J. McIntyre, Thomas H. Priebe, Foley & Mansfield, P.L.L.P., Minneapolis,
Minnesota (for appellants)

George C. Hoff, Justin L. Templin, Hoff Barry, P.A., Eden Prairie, Minnesota (for
respondent)

Considered and decided by Worke, Presiding Judge; Connolly, Judge; and Smith,
Tracy M., Judge.

UNPUBLISHED OPINION

CONNOLLY, Judge

Appellants-landowners challenge respondent-city's denial of their request for a
variance, arguing that the district court erred in concluding that respondent (1) was allowed

to rely on the written resolution it adopted a month after the meeting at which it voted to deny the variance and (2) provided adequate support for its denial of the variance. Because our independent examination of the record leads us to the conclusion that respondent's decision was reasonably supported by the evidence and was not arbitrary, capricious, or unreasonable, we affirm.

FACTS

Appellants Woodland Gale Owners' Association, LLC, and Homestead Partners, LLC, are the owners of two noncontiguous pieces of property located about 730 feet apart horizontally and 50 feet apart vertically in Woodland, a small city on the shore of Lake Minnetonka. The upper property has a family residence. The lower property, which is too small to be buildable, has a small nonconforming building (the building) 14.4 feet from the lake. Originally a pump house, the building now functions as a cabana. There is an easement for water pipes between the residence and the building; the easement crosses property that appellants do not own. Woodland's residents use private sewage disposal systems rather than a city-wide sewage system.

In the summer of 2017, appellants sought a building permit to add plumbing to the building so that persons using the lakeshore on the lower property would have toilet facilities closer than 730 feet away; they described this as an "interior modification of a non-conforming structure." In September, appellants were informed that, because the plumbing would change the building's nonconforming use to another nonconforming use, they needed a variance, not a building permit.

In October 2017, appellants submitted a variance application to respondent, giving the present use of the building as “storage of boating and lawn items” and seeking “to install a toilet, sink/shower for public health, safety and welfare reasons.” The application was accompanied by photographs showing that most of the building’s interior is finished living space. A small inside area is unfinished storage space and is the intended site of the plumbing installation.

In November 2017, respondent’s city council (the council) made a site visit to the building and decided to hold a public hearing on the variance application. Following a staff report on the variance application, further consideration of it was postponed until the public hearing, which was held at the April 2018 council meeting.

One of the three council members present at that meeting functioned as the “acting mayor.” After conducting and closing the public hearing, he said:

I would like to make a motion and read it into the record.

I move findings of fact as follows: That the proposed variance would result in a fundamental change of use and that the proposed use would materially increase the frequency and duration of the occupancy of the structure, resulting in unreasonable increases in artificial light pollution and man-made noise on the shore which is contrary to Woodland’s 2030 [comprehensive] plan.

Based on these findings of fact, I further move that the variance application be denied because it is not consistent with the comprehensive plan and does not put the property to use in a reasonable manner.

After his motion was seconded, he and the two other council members present voted in favor of it. At the next meeting, in May 2018, the council adopted a resolution, or written statement, outlining its reasons for denying the variance.

In June 2018, appellants brought this action, seeking a reversal of the denial of the variance. The parties made cross-motions for summary judgment. The district court, after concluding that (1) it could consider the May 2018 resolution as well as the minutes of the April 2018 meeting; (2) the denial of the variance was not arbitrary and capricious, and (3) respondent properly directed appellants to apply for a variance rather than a building permit or a conditional use permit, granted respondent's motion for summary judgment and denied appellants' motion.

Appellants challenge the summary judgment decisions, arguing that respondent should not be allowed to rely on the resolution adopted at its May meeting and that respondent does not provide adequate support for its denial of the variance.

D E C I S I O N

Standard of Review

In reviewing a district court's review of a municipality's decision, this court "[does] not give any special deference to the conclusions of the [district] courts, but rather engage[s] in an independent examination of the record and arrive[s] at [its] own conclusions as to the propriety of the city's decision." *Mendota Golf, LLP v. City of Mendota Heights*, 708 N.W.2d 162, 180 (Minn. 2006); *see also Clear Channel Outdoor Advert., Inc. v. City of St. Paul*, 675 N.W.2d 343, 346 (Minn. App. 2004) (noting that interpretations of state statutes and existing ordinances are questions of law that this court reviews de novo, while the decisions of a municipal body are reviewed to determine whether the evidence reasonably supports them and whether they are arbitrary, capricious, or unreasonable), *review denied* (Minn. May 18, 2004). "In reviewing actions by a

governmental body, the focus is on the proceedings before the decision-making body, . . . not the findings of the [district] court.” *Carl Bolander & Sons Co. v. City of Minneapolis*, 502 N.W.2d 203, 207 (Minn. 1993).

1. The May 2018 Resolution

Appellants argue that only the materials in the record in April 2018, when the vote to deny the variance was taken, not the written resolution explaining the denial that the council adopted in May 2018, should have been considered by the district court and may be considered by this court. The district court rejected this argument, quoting Minn. Stat. § 15.99, subd. 2(c) (2018):

If a multimember governing body denies a request, it must state the reasons for denial on the record and provide the applicant in writing a statement of the reasons for the denial. If the written statement is not adopted at the same time as the denial, it must be adopted at the next meeting following the denial of the request but before the expiration of the time allowed for making a decision under this section. *The written statement must be consistent with the reasons stated in the record at the time of the denial.*

(Emphasis added.)

The district court observed that respondent followed the procedure in the statute; it did not adopt the document from which a council member read his motion at the April meeting, and it did adopt a written statement of the reasons for denial at its next meeting in May. Given that the legislature specifically provided the procedure respondent followed, this court has no basis for deciding that respondent was not entitled to follow that procedure and disregarding the resolution adopted in accord with the procedure.

Appellants also argue that respondent cannot rely on the May resolution because it contained reasons that were not included in the much shorter statement read at the April meeting. But not every reason advanced for a denial needs to be convincing; if just one of the reasons given for a municipality's denial of a land-use request satisfies the rational-basis test, the denial is not arbitrary. *Trisko v. City of Waite Park*, 566 N.W.2d 349, 352 (Minn. App. 1997), *review denied* (Minn. Sept. 25, 1997). Not all reasons given for a denial must be legally sufficient and supported by facts in the record. *Hubbard Broad., Inc. v. City of Afton*, 323 N.W.2d 757, 765 n.4 (Minn. 1982).

The district court construed the statutory language with the aid of *Black's Law Dictionary* 279 (5th ed. 1979), which defines "consistent" as "harmonious," "compatible," and "not contradictory," and concluded that:

The fact that the [May] Resolution contains additional information o[n] the reasons for denying [appellants'] variance request does not, by itself, mean the Resolution is not consistent with the reasons stated in the record at the time of the denial. As long as the additional information is harmonious, compatible, and not contradictory, the written record complies with Minn. Stat. § 15.99, subd. 2(c).

Moreover, the resolution is an amplification rather than a contradiction of the statement made at the April meeting. The resolution explained how the proposed variance would fail to comply with respondent's code and comprehensive plan in several ways, *e.g.*: (1) adding a bathroom to a pump house located less than 15 feet from the lake would result in more people spending more time in the building and would not support "preservation of open space, scenic views, natural topography and habitat, wetlands, lakes, indigenous vegetation and trees, and rehabilitation of existing housing units"; (2) the installation of a

septic system would create “an unnecessary risk of contamination to . . . Lake [Minnetonka]”; (3) it would “materially increase the frequency and duration of occupancy of the accessory structure [pump house], resulting in unreasonable increases in artificial light pollution and manmade noise on the shore”; (4) it would “convert the structure from a pump house to a dwelling/guesthouse” that would violate both the city code requirements for setback from the lake and Minn. R. 6120.330, subp. 3(A)(1) (2019); (5) “[a]llowing [appellants] to circumvent these prohibitions by converting an existing accessory structure into an entirely different, and materially increased use mere feet from the lakeshore is not a reasonable use of the property”; and (6) “the addition of restroom facilities. . . when combined with the heater, air conditioner, pizza oven, and refrigerator . . . [already] existing . . . and/or shown on [appellants’] plans, would convert the property into a Dwelling as defined by City Code (‘a building having running water and cooking and toilet facilities . . .’).” The resolution reflects and is consistent with the proposal made at the April meeting; therefore, the district court correctly decided that respondent may rely on it as evidence of its reasons for denying the variance application.

2. The Denial

Appellants argue that there was no factual support for the denial of the variance voted on by the council in April and further explained by the resolution it adopted in May. But appellants offer no support for the view that the damage caused by a variance must be proved before the variance can be denied, and caselaw indicates a different standard.

A municipal decisionmaking body has a broad discretionary power to deny an application for variances. The fact that a court reviewing the action of a municipal body may have

arrived at a different conclusion, had it been a member of the body, does not invalidate the judgment of the city officials if they acted in good faith and within the broad discretion accorded them by statutes and the relevant ordinances. Based upon an independent examination of the record, we must determine whether the City's denial of . . . [the] application . . . was reasonable.

VanLandschoot v. City of Mendota Heights, 336 N.W.2d 503, 508-09 (Minn. 1983) (citation omitted). The standard in that case was what the city council “could have rationally concluded” or “could have found” as a basis for its denial of variances, not what those opposing the variances proved would happen if the variances were granted. *Id.* at 509.

The record reflects that, at the November 2017 meeting, the council considered (1) the environmental risks of having a sewage line close to the lakeshore, (2) the possible requests of other pump house owners to seek similar variances, (3) the difficulty of enforcing a requirement that the pump house not be used as a residence, (4) the comprehensive plan's mandate of open shoreline, and (5) the fact that “Woodland is not a city of shoreline cottages.”

At the April 2018 meeting, the council heard from a representative of Minnesota Pump Works that there have been overflows of septic systems and considered the results of a system failure leading to discharge into the lake. The council also considered that the building now looks like a studio apartment and, with the installation of a bathroom, could be used as such, and that the variance would result in a fundamental change of use of the building that would lead to increases in artificial light and manmade noise on the shoreline, which would conflict with respondent's comprehensive plan.

Respondent's record of the process resulting in a denial of the variance refutes appellants' argument that the denial lacked reasonable support, and we affirm the district court's affirmance of the denial.

Affirmed.