This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).

STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0163

Ellsworth Fretham, et al.,
Appellants,

vs.

City of Minnetonka,
Respondent.

Filed July 26, 2021
Affirmed
Larkin, Judge

Hennepin County District Court
File No. 27-CV-20-8052

Patrick B. Steinhoff, Thomas F. DeVincke, Malkerson Gunn Martin, LLP, Minneapolis, Minnesota (for appellants)

Paul D. Reuvers, Aaron M. Bostrom, Iverson Reuvers, Bloomington, Minnesota (for respondent)

Considered and decided by Reyes, Presiding Judge; Larkin, Judge; and Bjorkman, Judge.

NONPRECEDENTIAL OPINION

LARKIN, Judge

On appeal from summary judgment, appellant-landowners challenge respondent-city's denial of their preliminary plat application, which would have subdivided a

residential lot. The city denied appellants' application because it did not satisfy a city ordinance governing minimum lot width at setback. We affirm the grant of summary judgment for the city.

FACTS

Appellants Ellsworth and Jayne Fretham own real property located at 16856 Sherwood Road, Minnetonka, Minnesota (the property). The property contains one single-family home and is located on a cul-de-sac. On January 23, 2020, the Frethams' son submitted a preliminary plat application to respondent City of Minnetonka (the city), requesting to subdivide the property into two single-family residential lots. The proposed new lots were labeled Lot 1 and Lot 2. The Frethams planned to keep the current home on Lot 1 and to build a new home on Lot 2.

The city planning commission recommended that the city council deny the Frethams' application because Lot 2 would not have a minimum "lot width at setback" of 110 feet as required by a city ordinance. The planning commission and the Frethams had used different methods to measure the proposed lot width at setback. Thus, the planning commission measured the lot width at setback of Lot 2 as 96 feet, whereas the Frethams measured the lot width at setback as 110 feet. The planning commission explained the discrepancy as follows:

> The plan submitted by the applicant suggest[s] that the proposed lots would be 110 feet in width. However, the width measurement illustrated on the plan is not taken at the required 35-foot front yard setback. Rather, it is taken 70 feet from the front property line. This measurement location is contrary to both the direction outlined in code and to the city's historical practice of measuring lot width.

The city council denied the Frethams' application because the proposed lot would not meet the minimum lot width at setback. The city council explained the proper method for measuring lot width at setback for properties located on a cul-de-sac as follows: "The midpoint of the front property line is found, and the required 35-foot setback . . . is established perpendicular from this midpoint. The width measurement is then taken between side property lines tangential to this established setback point." The city council determined that "proposed Lot 2 does not meet the required lot width at the setback, the measurement of which is outlined in code and supported by historical city practice."

In June 2020, the Frethams commenced an action in district court, seeking declaratory relief and judicial review of the city's decision. They asked the district court to reverse the city's denial of their preliminary plat application and to approve the application as a matter of law. The Frethams eventually moved for summary judgment on their claims. The district court denied that motion and determined that the city properly denied the Frethams' preliminary plat application because the city's method for measuring lot width at setback was supported by the plain language of the ordinance and the city's historical practices. The district court entered judgment for the city. The Frethams appeal.

DECISION

On appeal from summary judgment, we "review the record to determine whether there is any genuine issue of material fact and whether the district court erred in its application of the law." *Dahlin v. Kroening*, 796 N.W.2d 503, 504 (Minn. 2011). When

the material facts are not in dispute, we review the district court's application of the law de novo. *In re Collier*, 726 N.W.2d 799, 803 (Minn. 2007).

The interpretation of a city ordinance is a question of law. *Med. Servs., Inc. v. City of Savage*, 487 N.W.2d 263, 266 (Minn. App. 1992). When the material facts are undisputed and the issue involves only the application of city ordinances, the city's decision is subject to de novo review.[1] *Meleyco P'ship No. 2 v. City of West St. Paul*, 874 N.W.2d 440, 443 (Minn. App. 2016).

Courts construe ordinances based on the principles of statutory construction. *Chanhassen Estates Residents Ass'n v. City of Chanhassen*, 342 N.W.2d 335, 339 n.3 (Minn. 1984). When interpreting a statute or ordinance, a court first examines its language to determine if it is ambiguous. *State v. Vasko*, 889 N.W.2d 551, 556 (Minn. 2017). An ordinance is ambiguous if it "has more than one reasonable interpretation." *Id.* If an ordinance is ambiguous, we "may apply the canons of statutory construction to determine its meaning." *Id.* But if "the words of a statute or ordinance in their application to an existing situation are clear and free from ambiguity, judicial construction is inappropriate." *Chanhassen Estates*, 342 N.W.2d at 339. Additionally, when "various sections of the ordinance relate to the same subject matter and to each other, they should be construed together." *Id.*

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[1] The Frethams cite caselaw applying the rational-basis and arbitrary-and-capricious standards to municipal land-use decisions. Those standards apply to review of a city's fact-finding or policy-making decisions; review of a city's interpretation of an ordinance is de novo. *State by Minneapolis Park Lovers v. City of Minneapolis*, 468 N.W.2d 566, 569 (Minn. App. 1991), *review denied* (Minn. July 24, 1991).

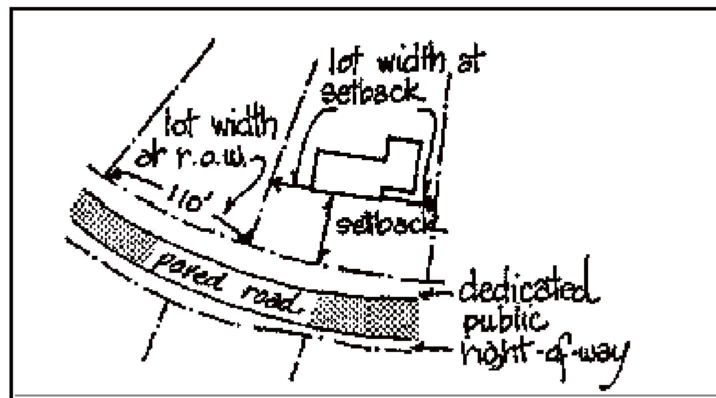
The ordinance at issue here governs design standards for residential lots. The property is located in an R-1 low-density residential district. In R-1 zoning districts, the minimum lot width at setback is 110 feet. Minnetonka, Minn., Code of Ordinances § 400.030(6)(a)(1) (2021). "Lot width at setback" is defined as "the horizontal distance between side lot lines as measured at the required front yard setback established by this ordinance." Minnetonka, Minn., Code of Ordinances § 300.02(83) (2021). The minimum front yard setback for R-1 zoning districts is 35 feet "from the right-of-way of local and neighborhood collector streets." Minnetonka, Minn., Code of Ordinances § 300.10(5)(b) (2021). Therefore, to comply with the ordinance, Lot 2 must have a width of at least 110 feet when measured from the 35-foot front yard setback.

The parties dispute the proper method of measuring lot width at setback under the ordinance. The Frethams measured the 35-foot front yard setback from an off-center point on the boundary between the lot and the cul-de-sac. The city measured the 35-foot front yard setback from the center of the lot's boundary with the cul-de-sac. As a result of measuring the 35-foot front yard setback from different points on the lot's boundary with the cul-de-sac, the Frethams' measurement satisfies the minimum lot width at setback, but the city's measurement does not. The crux of the dispute here is the city's contention that the 35-foot setback line must be measured from the midpoint of the property's boundary with the cul-de-sac.

As to that dispute, each side contends that the ordinance is unambiguous regarding how to measure lot width at setback on a cul-de-sac lot. The Frethams argue that the ordinance does not contain text expressly describing the proper method and that, therefore,

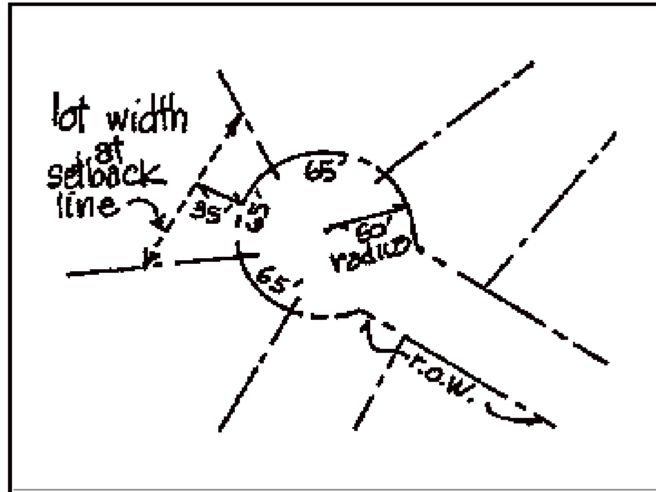
the method they selected is consistent with the plain language of the ordinance. The Frethams further argue that their measurement complies with the ordinance because their lot-width line "intersects with, and is tangential to," the 35-foot setback line. However, the Frethams acknowledge that their approach—which allows the 35-foot front yard setback to be measured from any point on a lot's boundary with a cul-de-sac—can result in different lot-width-at-setback measurements within a single lot.

The city argues that the plain language of the ordinance shows that the city's method of measuring the 35-foot front yard setback from the center of a lot's boundary with the cul-de-sac is the only reasonable method. Although the ordinance does not contain text expressly explaining how to measure lot width at setback on a cul-de-sac lot, the ordinance provides clear guidance in the form of hand-drawn illustrations that reference lot width at setback. For example, the following illustration, labeled as Figure 10, appears immediately before the definition of "lot width at setback":



Minnetonka, Minn., Code of Ordinances § 300.02, Figure 10 (2021).

Also on point is the following illustration, labeled as Figure 4, which appears immediately after the definition of "cul-de-sac":



Minnetonka, Minn., Code of Ordinances § 300.02, Figure 4 (2021).

The city relies on those illustrations—particularly Figure 4—as support for its methodology. The Frethams counter that Figure 4 merely illustrates the definition of "cul-de-sac" and does not purport to demonstrate the proper method of measuring lot width at setback. We are not persuaded by the Frethams' argument. Although Figure 4 accompanies the definition of "cul-de-sac," and not the definition of "lot width at setback," it contains a line labeled as "lot width at setback line." Various sections of an ordinance should be construed together when they relate to the same subject matter. *Chanhassen Estates*, 342 N.W.2d at 339. Because Figure 4 expressly references lot width at setback, it is relevant when determining the correct method of measuring lot width at setback for a cul-de-sac lot.

We recognize that Figure 4 does not include text that expressly explains how to measure lot width at setback and that the 35-foot setback line is not labeled as being measured from the midpoint of the boundary line. Nonetheless, the figure clearly conveys that lot width at setback is measured by locating the midpoint of the lot's boundary against

the cul-de-sac, measuring 35 feet from that midpoint, and then measuring a perpendicular line to determine the lot width.

Moreover, that method is reasonable because a zoning ordinance "must always be considered in light of its underlying policy." *Frank's Nursery Sales, Inc. v. City of Roseville*, 295 N.W.2d 604, 609 (Minn. 1980). Here, the purpose of the ordinance is to "encourag[e] the planned and orderly development of residential . . . uses of land," Minnetonka, Minn., Code of Ordinances § 300.01(2)(a) (2021), and to "establish[] physical standards, design requirements, and procedures for the platting and subdivision of land," Minnetonka, Minn., Code of Ordinances § 400.010(2) (2021). Measuring the 35-foot setback line from only one location on a lot's boundary with a cul-de-sac leads to consistent results, planned and orderly development of residential land, and established standards for the platting and subdivision of land.

But the Frethams' approach—which allows strategic selection of the location of the 35-foot setback measurement along any point on a lot's boundary against a cul-de-sac—enables manipulation of lot widths at setback. It therefore undermines the purpose of encouraging the planned and orderly development of residential uses of land and the establishment of design requirements for the subdivision of land. For that reason, we reject the Frethams' proposed plain reading of the ordinance as unreasonable.

In sum, the ordinance is not ambiguous because the relevant language and diagrams are subject to only one reasonable interpretation regarding the proper method of measuring lot width at setback: the lot width at setback must be calculated by locating the midpoint of the lot's boundary against the cul-de-sac, measuring the 35-foot setback line from that

point, and measuring the lot width at a perpendicular angle to the setback line. The Frethams did not use that method when determining that the width of Lot 2 would be 110 feet. Instead, as the city determined, the proper measurement establishes a lot width at setback of 96 feet, which does not meet the minimum lot width at setback of 110 feet. Because Lot 2 would not comply with the ordinance, the city did not err by denying the Frethams' preliminary plat application to subdivide the property.

The Frethams' arguments on appeal do not persuade us otherwise. For example, the Frethams argue that Figure 4 shows a "symmetrical, regular-shaped" lot at the end of a cul-de-sac and "says nothing useful about the proper way to measure the width of an irregular lot like Lot 2." But nothing in the ordinance suggests that the shape of a cul-de-sac lot affects the method to measure lot width at setback.

The Frethams also argue that the city and the district court improperly relied on unwritten "historical practices" to deny their preliminary plat application. They assert that the planning commission recommended denial based only on those historical practices and that the city's reliance on Figure 4 was an "after-the-fact justification" of its decision. But the city council cited Figure 4 in its resolution denying the application. Moreover, when reviewing summary judgment, we need not adopt the district court's reasoning and "may affirm a grant of summary judgment if it can be sustained on any grounds." *Doe 76C v. Archdiocese of St. Paul*, 817 N.W.2d 150, 163 (Minn. 2012).

In conclusion, because the city's denial of the Frethams' application is supported by the only reasonable interpretation of the city's ordinance governing minimum lot width at

setback, the city properly denied the Frethams' application. We therefore affirm the district court's grant of summary judgment to the city.

Affirmed.