

**BOARD OF ADJUSTMENT/PLANNING COMMISSION  
CITY OF LAKE SHORE  
CITY HALL  
MINUTES  
JULY 11, 2011  
7:00 PM**

Commission Chair Earl North called the meeting to order at 7:00 p.m. Members of the commission present: Earl North, Dick Miles, Dave Baldwin, Mark Nelson and Lee Martin; Alternates Ron Muehlbauer, Tom Diemert and John Poston were available; Council Liaison Susan Amacher; Zoning Administrator Teri Hastings; City Engineer Mark Hallan and City Clerk Patti McDonald. There were 5 people in the audience. A quorum was present and the Commission was competent to conduct business.

MOTION BY MARK NELSON TO APPROVE THE MINUTES FOR APRIL 11, 2011 BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. LEE MARTIN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

**PUBLIC HEARING**

Conditional Use Permit - Phillip Saari requested a conditional use permit to move more than 10 cubic yards of material within the bluff impact zone and more than 50 cubic yards of material within the shoreland zone. The purpose of the request is to widen an existing driveway that is located within a bluff and to construct a new home and conforming septic system which will meet all setback requirements. The property is described as Lots 8, 9 and the north 50 feet of Lot 10, Block 22, Tingdale Brothers Sherwood Forest. The property is adjacent to 1497 Allan-A-Dale Road. The property is zoned Medium Density Residential.

Phillip and Karen Saari came before the commission to explain their application for a conditional use permit. Earl North stated for the record that the Saari's are his immediate neighbors to the north.

The following documents became part of the record – Notice of mailing, notice of publication, notice of public hearing, signed application and attachments and staff reports. There was one phone call received for clarification of the application.

Teri's staff report indicated the following: The applicant is requesting a Conditional Use Permit to move more than 10 cubic yards of earth within the bluff impact zone and more than 50 cubic yards within the shoreland zone (within 1000 feet of the lake). The applicant is proposing to move approximately 478 cubic yards of earth. This property does fall within the Lake Margaret Overlay District and will need to meet those requirements of the ordinance. The applicant has a vacant lot that he has owned for over 20 years. The property has difficult topography and does have a bluff that is indicated by the shaded area. The current driveway bisects the bluff. The driveway was constructed prior to the 1989 DNR regulations being adopted by the city (1991). The applicant is wishing to construct a modest home, deck and porch. The applicant has also shown an attached garage that may be constructed in the future. Since this application is dealing with earth movement, my comments will be brief and will defer to the city engineer for his assessment of the application. Teri sent the initial survey to the city engineer and he has given some preliminary comments that she forwarded to the property owner and Stonemark. The applicant is willing to make the necessary changes or provide information to address all the concerns. Please expect some revisions to this survey as those changes are done. It will be very important for members to view the site to get a firsthand look at the topographic issues for this property.

Excavation required for lawfully permitted structures, drives, septic systems are exempt from the earth movement requirements. Typically excavation outside of the footprint (i.e. excavation to create a walkout) would be included in the 50 cubic yard limit. The applicant is not requesting to construct a walkout nor will the home have a basement. The applicant would like to widen the driveway by four feet (driveway is currently is 10' wide) to accommodate a drive of adequate width for safety and snow plowing/banks. It is unclear if the widening of the driveway is a tapered four feet to the existing drive or complete cut of four feet. *The Saari's would like to stabilize the hill that is being tapered.* There would be some excavation in the northwesterly corner of the property to allow for the home construction and proper grade. Section 7.13: 2 indicate the following conditions must be met:

- Grading within the Shore Impact Zone, including the placement of fill material along the shoreline, shall not be authorized if the grading creates or expands a shoreline recreation area, such as a beach. Beach Sand blankets are prohibited except for resorts.
- The smallest amount of bare ground is exposed for as short a time as feasible.
- Four inches of topsoil is placed, temporary ground cover such as mulch is used and permanent ground cover such as sod is planted.
- Methods to prevent erosion and trap sediment are employed.
- Fill is stabilized to acceptable engineering standards and must not create an unstable slope.
- Plans to place fill or excavated material on steep slopes must be reviewed by a qualified professional for continued slope stability and must not create finished slopes of 30% or greater.
- Fill or excavated material must not be placed in bluff impact zones.
- Fill placed in Public water below the ordinary high water line requires a Department of Natural Resources Waters Permit and a Corps of Engineers Permit.
- Excavation in the bed of Public waters requires a Department of Natural Resources Waters Permit and a Corps of Engineers Permit.
- Only clean fill consisting of sand, gravel or rock will be allowed where contact with water is anticipated. Mineral soil may be allowed elsewhere.
- Alterations to topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties

Section 7.13: 5,A states that roads, driveway and parking areas shall meet structure setback and shall not be placed within the bluff and shore impact zones unless other reasonable and feasible placement alternatives do not exist. If no alternatives exist, they may be placed within these areas and be designed to minimize adverse impacts. Teri believes that utilizing the existing driveway is the most reasonable and feasible alternative with minor grading to allow for a safer driveway for the property owner.

The survey does show a stormwater plan and silt fencing for erosion control.

It should be noted on the survey that there is an encroachment from the neighbor to the north. This encroachment does not cause an issue with the proposed home.

The proposed use is an appropriate use within R-2 zoning district and is compatible with surrounding properties. The proposed use if done properly will not be injurious to the public health, safety, decency comfort, appearance or prosperity of the City.

The proposed use will should not substantially diminish or impair property values but rather enhance them nor will it impede normal and orderly development of the surrounding property.

The City Engineer's staff report indicated the following: Following are review comments for the Philip Saari conditional use permit certificate of survey, dated July 5, 2011, second revision, which is attached.

1. Floor elevation of the proposed cabin is shown at 1210.0'. No garage floor elevation is shown. Typically a garage floor is below the finished floor to the residence for drainage and carbon monoxide/venting reasons. What is the proposed finished floor to the garage?
2. Storm water runoff from the garage and driveway **will run** south to the wetland/pond area. Surface run off flows perpendicular to contours. The flow arrows showing surface runoff running alongside the garage to the proposed stormwater pond cannot happen unless a swale is provide to direct runoff. Based on the existing contours, a retaining wall will be required along the south of the garage to allow a swale to be constructed and direct impervious surface storm water runoff to be directed to the proposed stormwater pond.
3. The stormwater pond is shown with the 1208' contour on the lake side and the 1210' contour on the uphill side. There should be sections showing how the proposed stormwater pond on a hillside will work. A note calling for 3:1 sloped sides and 1' deep does not show how the system can be constructed on the site. Stormwater ponds on hillsides often are filled in by the homeowner after they find mowing the steep bank on the uphill side is a pain.
4. Terraced retaining walls will be a minimum of 15' in height. Depending on the retaining wall design (gravity, cantilevered, reinforced tie-back) the excavation area will be considerably further north than the dashed line shown. Once a retaining wall type and design is completed, only then can a final excavation quantity be calculated and the true location of the upper excavation disturbance limits be shown. Note, the retaining wall design must allow for the surcharge that will occur for the septic tanks to be located as shown.
5. The forcemain from the proposed cabin to the septic tanks should be routed around the final retaining wall design, and not be subject to loading from retaining systems or interference with retention grids. Since a grinder pump likely be required to lift sewage from the proposed cabin to the tanks, the system design should be checked to make sure additional tank size and dosing tank meet 7080 requirements for this type of system. Forcemain from the grinder pump to septic tank is recommended to be insulated wherever it does not have 8 feet or more of soil cover, as it will hold liquid all the time. The forcemain to the drainfield should be designed to drain back to the dosing tank to prevent freezing.
6. A well in this location will not be accessible in the future. The well driller will likely recommend moving the well just south of the garage so in the future a truck can be backed up to the well to service the pump. Well location should be reviewed with an installer and then coordinated with the septic system design and locations.
7. Silt fence should be shown between the lake and the proposed stormwater pond location. Silt fence along the north side of the proposed cabin will be further north to allow for OSHA slopes on the foundation excavation limits.
8. Existing gravel driveway is shown 10 feet wide. There will be hundreds of truck movements across this road during construction to remove the earth, deliver concrete, retaining wall materials and building supplies. The road will likely require improvements and be wider as construction proceeds at this site. If the applicant is proposing to widen the driveway by 4 feet, then a 14' granular surfacing should be shown and allowance for disturbed area and contour modifications should be shown.

9. The amount of earth material to be removed (650 cubic yards) is much less than the amount of earth to be disturbed and then replaced. There is no room on this site to store excavated materials and then backfill. Construction of the retaining wall system alone will require considerable earth material (100 to 150 cubic yards, depending on type of wall design) to be removed and then placed behind the wall.
10. Distance between proposed sewer forcemain and the neighbor's well to the north should be a minimum of 50 feet if it is a deep or confined well. Other Department of Health requirements may be applicable depending on the well construction and/or materials use to construction the sewer forcemain.

As noted to the Commission members during the meeting, the above items are for the property owner's designers or contractors to taken into consideration as they work through and develop final plans for the property.

Mr. Saari said the plan is to construct 28' x 38' cabin with an attached garage that is 28' x 24'. Their intention is to build with a minimized amount of dirt being moved. The easterly property will have a tiered retaining wall to help with the stabilization of the bluff. They are setback from the wetland approximately 30' and would like to maintain that setback. They don't want to widen the driveway; they want to taper it to create as less erosion as possible.

Dave Baldwin asked for clarification of the stormwater pond on the site plan. Instead of building a bowl for catchment, they will build a berm to slow the water where the bank drops off. He asked for confirmation of the garage; on the site plan it is shown as being proposed. The garage will now be constructed during the building process. He asked if the driveway will be Class V. Mr. Saari said they would like to use Class V rather than asphalt.

Dick Miles asked if on the south side of the garage there would be a wall that gently moves to water to the ponding area. He was concerned about the distance between the sewer force main and the well. Teri said the sewer line should be 50' from the well unless it is air tested; then it can be 20'. Teri said there is a site evaluation on file with the sewer tanks on the south side of the drive; she said that everything will be flip flopped from the original design.

Mark Nelson asked if Earl will abstain from any action with the application. He spoke with the city administrator and he has nothing to benefit from the outcome, so he will remain a voting member of the commission.

Lee Martin asked if there will be a basement. There will be a partial basement. He asked if the property will be leveled off around the house. Lee is concerned about the stormwater pond. Teri said they would rather do the berm to slow the runoff and relieve the possible ponding area.

Earl North said the excavated material will be taken off site. The dirt from the north side of the driveway will be taken to the south side to stabilize the driveway. The engineer's note #4 would increase the amount of dirt from the excavated site and returned when the retaining wall is complete. Mark Hallan explained that the wall needs forethought before construction.

**MOTION BY LEE MARTIN TO APPROVE THE CONDITIONAL USE PERMIT FOR PHILLIP SAARI FOR LOTS 8, 9 AND FIFTY FEET OF LOT 10; SITE PLAN DATED 6-28-11; REVISED 7-5-11; AS IT MEETS THE PROPERTY AND LAKE, POND ARE SUITABLY PROTECTED FROM STORMWATER AND EROSION. THAT THE 11 ITEMS NOTED ON PAGE TWO OF TERI'S STAFF REPORT ARE INCORPORATED INTO THE CONSTRUCTION PROCESS. 1) GRADING WITHIN THE SHORE IMPACT ZONE, INCLUDING THE PLACEMENT OF FILL MATERIAL ALONG THE SHORELINE, SHALL NOT BE AUTHORIZED IF THE GRADING CREATES OR EXPANDS A SHORELINE**

RECREATION AREA, SUCH AS A BEACH. BEACH SAND BLANKETS ARE PROHIBITED EXCEPT FOR RESORTS. 2) THE SMALLEST AMOUNT OF BARE GROUND IS EXPOSED FOR AS SHORT A TIME AS FEASIBLE. 3) FOUR INCHES OF TOPSOIL IS PLACED, TEMPORARY GROUND COVER SUCH AS MULCH IS USED AND PERMANENT GROUND COVER SUCH AS SOD IS PLANTED. 4) METHODS TO PREVENT EROSION AND TRAP SEDIMENT ARE EMPLOYED. 5) FILL IS STABILIZED TO ACCEPTABLE ENGINEERING STANDARDS AND MUST NOT CREATE AN UNSTABLE SLOPE. 6) PLANS TO PLACE FILL OR EXCAVATED MATERIAL ON STEEP SLOPES MUST BE REVIEWED BY A QUALIFIED PROFESSIONAL FOR CONTINUED SLOPE STABILITY AND MUST NOT CREATE FINISHED SLOPES OF 30% OR GREATER. 7) FILL OR EXCAVATED MATERIAL MUST NOT BE PLACED IN BLUFF IMPACT ZONES. 8) FILL PLACED IN PUBLIC WATER BELOW THE ORDINARY HIGH WATER LINE REQUIRES A DEPARTMENT OF NATURAL RESOURCES WATERS PERMIT AND A CORPS OF ENGINEERS PERMIT. 9) EXCAVATION IN THE BED OF PUBLIC WATERS REQUIRES A DEPARTMENT OF NATURAL RESOURCES WATERS PERMIT AND A CORPS OF ENGINEERS PERMIT. 10) ONLY CLEAN FILL CONSISTING OF SAND, GRAVEL OR ROCK WILL BE ALLOWED WHERE CONTACT WITH WATER IS ANTICIPATED. MINERAL SOIL MAY BE ALLOWED ELSEWHERE. 11) ALTERATIONS TO TOPOGRAPHY MUST ONLY BE ALLOWED IF THEY ARE ACCESSORY TO PERMITTED OR CONDITIONAL USES AND DO NOT ADVERSELY AFFECT ADJACENT OR NEARBY PROPERTIES. DAVE BALDWIN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

#### **NEW BUSINESS**

Yard/grass maintenance issue – Every so often, Teri receives a complaint about the condition of a property in regard to the length of grass or lack of mowing or general upkeep. Most often, she reminds people that most people consider this area as being ‘up north’ and manicured lawns are discouraged. Natural vegetative conditions are preferred. However, the problem arises when we have new construction and the area is disturbed and there is a loss of the native vegetation and the property becomes unsightly (to most anyway). How to regulate this is the dilemma or is it even a significant enough issue to create ordinance? Teri found countless lawn maintenance ordinances and some that deal with native vegetation areas, but none that quite address this situation.

Teri said there is nothing in the ordinance, so for the most part when there is a complaint she sends a letter and the property is usually is mowed. She said the house in question was constructed in about 2006 or 2007; this home didn’t ever have any landscaping after it was built and there is pretty much only weeds growing. She said Lake Shore properties are not thought of as a typical suburban neighborhood. Teri said that the city isn’t encouraging manicured lawns on the lake. Susan Amacher said that neighbors are probably concerned about property values. Dick commented that building permits are time specific and there appears to be trash left from the building process. Teri said that there is one year to complete the project. Could the cleanup be attached to the permitting process?

Earl referred to the article in the Brainerd Daily Dispatch regarding the inspections of the condition of the properties in Brainerd. The Brainerd Council didn’t do anything to enforce what the original intent of inspections were not easily policed or ... He said that Lake Shore is a rural setting and this doesn’t happen too often. Teri said that the complaints are few and she can continue to write letters when there is a complaint. Linda Martin asked if there are critters living there. Teri said that would be a public health issue if there were animals involved.

**OLD BUSINESS** – There was no old business.

## **REPORTS**

City Engineer – Mark Hallan asked when the Saari's proceed with the permit will they file a grading process. Teri said our inspector will follow up on the permits. She said that when she met with the Saari's that they didn't want to build the garage right away; however, as the process went on they decided to complete the process. The alternates had a few questions for clarification on the CUP application.

Chairman – Earl North said that he asked Teri a while back about changing the times for the Board of Adjustment meeting. He did this after talking to surrounding cities and he suggested to start earlier in the afternoon or move it to an earlier time during the business day. Having no major feedback and talking to the council he would like to propose 9:30 a.m. on Monday. Dave Baldwin said this is a topic for this group and referred to the open meeting law. He said that the comment Earl made was antagonistic about his comment coming back to Teri weeks later. Earl said that the email had every commission members name on it asking for comments or suggestions. Dave said that the majority of the folks are lake shore people and are not here during the week.

Teri shared her past experience working in Crosslake; she said that the demographics were similar to Lake Shore and if the meeting was held on Monday morning the people that are up for the weekend are more inclined to stay over Sunday evening.

Mark Nelson asked about the compensation for the City Engineer or Attorney (if their services are needed). It is no different than what is charged during the day. Susan appreciates that it would be better held closer to the weekend. She really feels that any member of the commission or the alternates should attend the site visits on Thursday before the meeting. Dick Miles agrees with attending the tour with the group. Mark Nelson said that the tour is really supposed to be done as an individual and doesn't feel conversation about the application should take place. Teri said that the tour is advertised as a meeting of this body. No decisions can be formulated at that time. Earl said the process does require some integrity.

Earl said the time change was researched and there is no reason that it cannot be changed 9:30 a.m. on Monday. The next meeting will be at 9:30 a.m. for the next month that business takes place.

Dave Baldwin asked about Sherwood Forest. John Poston is the new owner and said that he is remodeling and actively looking for a restaurant tenant. There is also building on the Spicola property.

Council Liaison – Susan Amacher had nothing to report.

Zoning Administrator – Teri Hastings said that the Land and Water tour was held today and the Lake Margaret Stakeholders worked very hard on this successful project. It went very well. Earl said that the City is very blessed with an excellent City Administrator and City Clerk.

**PUBLIC FORUM** – There was no public forum.

**MOTION BY MARK NELSON TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF JULY 11, 2011 @ 8:27 PM. LEE MARTIN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.**

Transcribed by Patti McDonald  
Lake Shore City Clerk

There are no recorded minutes for this meeting as there was a software error that occurred as it was shut down. Verified by the City Administrator and City Clerk.