

**BOARD OF ADJUSTMENT/PLANNING COMMISSION
CITY OF LAKE SHORE
CITY HALL
MINUTES
JUNE 11, 2012
9:30 AM**

Commission Chair Earl North called the meeting to order at 9:30 a.m. Members of the commission present: Earl North, Dick Miles, Dave Baldwin, Mark Nelson and Lee Martin; Council Liaison Susan Amacher; Zoning Administrator Teri Hastings; City Engineer Mark Hallan and City Clerk Patti McDonald. Alternates Tom Diemert and John Ingleman were available in the audience. There were 8 people in the audience. A quorum was present and the Commission was competent to conduct business.

MOTION BY DAVE BALDWIN TO APPROVE THE MINUTES FOR MAY 14, 2012 BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. DICK MILES SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY

PUBLIC HEARING

Variance - Robert and Margaret Hanlon requested a variance for the construction of a 1740 square foot (footprint) dwelling with an attached 440 square foot garage, and an 8' wide patio lakeside on a nonconforming lot. The applicant has presented two options; option A has a 75' setback for the home and setback of 17' from the traveled roadway. Option B has a proposed setback of 69' from the lake and a 22' setback from the traveled roadway. Option B will encroach onto the sideyard setback to the west. Impervious coverage limits will be maintained by both options. The property is described as Lot 10, Ozonite Park (8242 Harold Lane). The property is zoned Medium Density Residential (R-2).

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 were two comments received one from Fred Hauenstein who has no objections to the project and one from Dennis and Kay Gerber with concerns for the project; the three were in the audience.

Paul Herkenhoff and Darrick Anderson from Westwood Professionals and Theresa St Omatt St Omatt Design came before the commission to explain the Hanlon application. Paul stated that they agree there is a concern with the setback from the paved roadway as Teri's staff report indicates. Theresa tried to keep the footprint as small as possible to make the main living on the main floor.

Mark Hallan said that the proposed well is shown less than 50' from the sewer however, said there is sufficient space for placement of a well as the property is served by city sewer. He said that there isn't a problem with drainage and that it is a uniform slope to the lake and should be easy to work with. He said the drainage can be properly addressed.

Dave Baldwin asked about options A & B. Earl said that option B is the preferred preference for the city; the applicant's representatives have no objection to option B. Teri said there is a purchase agreement pending the variance approval. Dave had no further questions.

Earl North stated a majority of the structure is within the building envelope, something the commission has not seen for quite a time. In addition moving the structure forward as in option B, places a majority of it within the building envelope. Earl addressed a concern that had been expressed regarding the drainage and that the buyer should be fully informed about surface water going onto the lot from adjacent properties and the structure needs to be 3 foot above the OHWM. and the drainage will have to be dealt with sometimes. The representatives verbally acknowledged Earl's statements.

Dick Miles questioned the west side drawing that was received this morning and asked if the patio is covered. It is not a covered patio.

Lee Martin had no questions.

Mark Nelson asked if this is city sewer. Yes, it is. He asked if the well could be 20 feet from the sewer line if it is pressure tested. Yes, it could. Mark said that the home fits into the lot very well. Teri said that the McNeill property impervious coverage was questioned at the site visit and they received a variance with less lot square footage with similar impervious coverage. Dave Baldwin questioned the reason for the variance. It is the setback from the lake in option B. Patio's can be setback at 50' from the lake.

Teri's Staff report indicated the following: The applicant is requesting a variance to construct a home with an attached garage on a nonconforming lot. The lot is a pre-existing platted lot of record. The lot is approximately 11,400 square feet. The proposed home has a footprint of 1470 square feet with a 400 square foot attached garage. The proposed variance does include an 8' wide patio on the lakeside. Two options have been proposed. Option A, dated 5/17/12 shows the dwelling setback at 75' from the lake and option B dated 5/18/12 shows a setback of 69' from the lake.

Harold Street encroaches onto the subject property by approximately 6'. This encroachment is a concern because of the distance from the garage to the traveled roadway. Option A has a setback from garage to the roadway of 17' and option B has a setback of 22'. A suburban vehicle is 18' in length and I would recommend option B due to the increased setback from the roadway for safety reasons. There should be adequate room to park a vehicle in the driveway.

The proposed home is a two story with an attached garage. The elevation drawings do not indicate a basement. Based on the elevation drawings it is not clear if the home will have a basement. The lowest floor elevation needs to be 3 feet above the OHW.

The maximum amount of impervious surface will not be exceeded with either option A or B. The maximum impervious surface is calculated at 23.9% for option A and 24.8% for option B. Moving the house lakeward increases the driveway area therefore, increasing the impervious surface. It should be noted that the city road encroachment is not included in the impervious coverage calculation.

The property is served by municipal sewer and a private well. A possible well location has been included on the site plan.

The applicant has submitted an erosion control plan with a proposed depression for stormwater. The city engineer will review this plan. In addition a landscape/screening plan has been submitted as well. It appears two trees possibly four trees may need to be removed for the construction of the home.

STAFF RECOMMENDATION

The variance should be approved as the property is nonconforming and practical difficulties have been identified due to the lot size. The variance is in harmony with the purpose and intent of the ordinance. Effort has been made to meet the setbacks as much as possible. The variance is consistent with the comprehensive plan and proposes to use the property in a reasonable manner.

MOTION BY LEE MARTIN TO APPROVE THE VARIANCE REQUEST OF ROBERT AND MARGARET HANLON AT 8242 HAROLD LANE, LOT 10 OZONITE PARK FOR CONSTRUCTION OF A RESIDENTIAL DWELLING AND GARAGE AT A SETBACK OF 69 FEET FROM THE LAKE; 24.5 FOOT SETBACK FROM THE ROAD. IT MEETS THE IMPERVIOUS COVERAGE THE PROPERTY IS SERVED BY CITY SEWER. CERTIFICATE OF SURVEY DATED 5/17/12. MARK NELSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Variance - John Donnelly requested a variance to construct a 24'x24' single story garage at a setback of 11' from the Pebble Beach Road right of way. The application will involve the filling of a wetland. The property is legally described as Lots 4 and 5, Block 1, First Addition to Shore Acres (across from 9060 Pebble Beach Road). The property is zoned R-2, Medium Density Residential.

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 were no written comments received regarding the application. There is a concern with the drainage issues in the area. Teri said if the application is approved, before the zoning permit is issued, there will have to be verification from the Cass County Soil and Water District that the wetland issue is taken care of.

Pat Betcher is the contractor for the project. He said they are not asking to fill in the wetland; however, there is water behind the garage. He said they meet filling of 400 feet of wetland allowable by the county. He said that the owner is willing to put the garage entrance to the south; he will blend in with the neighboring properties. He will only take out the trees that are needed. They are asking for an eleven foot setback from Pebble Beach Road.

Mark Hallan said that Pebble Beach Road was built over a wetland. He said there are a lot of organics on the property that have been put there over the years. Pat said the garage will be slab on grade. Mark said that there will have to be fill added to hold a slab on grade garage in place. He said the soil conditions are poor and until the county does something with their ditching system the overall drainage is and will continue to be an issue.

Teri's Staff report indicated the following: The applicant is seeking a variance to construct a 24'x24' single story garage at a setback of 11' from Pebble Beach Road right of way. The lot is 16,685 square feet. The applicant does have his principal structure across the street. A majority of the property is considered wetland where the garage is to be constructed. The proposed garage will be on Lot 4, Block 1, First Addition to Shore Acres, therefore, a lot of record. The property owner also owns Lot 5, Block 1; First Addition to Shore Acres. The lots have been combined for the application.

The applicant has provided a certificate of survey from Landecker and Associates dated 5-11-07. The wetlands were delineated on 4-23-07 by Landecker & Associates. Travis Mills created the site plan from the 2007 survey in 2012.

There is an overhead Minnesota Power line that runs along the property. The contractor has spoken with a representative of Minnesota Power (see letter from Pat Betcher, contractor). Teri also contacted Lori Silgjord from Minnesota Power to verify the information but have not heard back from her yet.

The proposed garage would be at a setback of 11' feet from Pebble Beach; however, the proposed garage would be another 15' from the actual roadway. This would allow adequate parking of a vehicle in the driveway. There is an existing driveway apron on the lot which is used for storage of boat lifts etc. The property owner will be able to meet the sideyard setback of 15' and the setback from CSAH 77 of 50'.

Elevation drawings have not been provided, however, the applicant has stated the garage will have a 4/12 pitch roof with 8' sidewalls. The siding will either be lap or log.

In order to construct the garage, wetlands will need to be filled. If the variance is approved, the contractor will need to provide documentation to the Planning & Zoning Office of proper authorization from the Cass County Soil & Water Conservation District for filling of the wetland area. The contractor has not submitted the amount of fill needed to construct the garage. In talking with Kelly Condiff, SWCD, the applicant would need to go through the process of sequencing for the wetland fill which includes avoidance, minimize etc. The area to be filled will need to be staked including the building pad (area beyond footprint for construction). The county will need additional information relating to the wetland delineation.

The Pebble Beach area has several garages that have been constructed on the "back lots" however, the concern is with the continual filling of wetland and drainage. The area of Pebble Beach is known for stormwater problems, construction of the garage with filling of the wetland area may increase the problem.

The garage is an allowable use within R-2, medium density residential district.

STAFF RECOMMENDATION

The property owner does have practical difficulties with the property given the setbacks from CSAH 77 and Pebble Beach Road. The wetland issue makes it more difficult. A garage is a reasonable use of the property but if the construction of the garage and the filling of the wetland area create more of a problem with runoff for adjacent properties, the variance should be denied. The comprehensive plan states the following:

Require that wetlands and natural drainage systems are maintained and preserved, unless approved by federal authorities, when accommodating new growth or redevelopment.

Limit development on unsuitable soils, including steep slopes, bluffs, wet soils, floodplain soils, and other environmentally-sensitive areas.

Dave Baldwin asked about the setback from the bituminous pad for parking. If it was at a setback of 11 feet it would require 427 sq feet of fill. He moved it 6 feet forward to meet the 400 sq foot of fill.

Lee Martin said if the garage was moved closer to Pebble Beach Road could the entrance be moved to the side of the garage. Pat said that the customer is agreeable to that.

Mark Nelson asked if the neighbors had a mound sewer system to the East. Teri said all the systems in the area are mound systems. The normal setback is 30 feet from the road right of way

on a city street. Teri said the building envelope is very limited. Mark gave examples of similar requests.

Earl North commented that the property is a wetland. The county needs to approve the variance. Earl has empathy with the owner regarding the shortage of storage and the property is what it is with the wetland. He suggested that the variance language includes a sunset with either approval or denial of the variance details by Cass County. Earl said that the county demands will be added to the variance approval of the city. He wants all construction to stay within the 24' X 24' request. He asked about a silt fence during construction and Teri said that she would rely on the Soil and Water District of Cass County's requirements or conditions. Mark Hallan gave his thoughts on what the county may require. He also said the current location is what was reviewed by the power company.

Lee Martin asked if Cass County should look at this before the City approves the application. Teri asked Kelly Condiff and he said the City should act on it first. Earl said it is before the commission and they must act on the variance.

Dave Baldwin asked if Mr. Donnelly would consider a shed. Pat said he would like to store a car.

Tom Diemert asked what if the board approves the application and they discover they need more than 400 sq feet filled in. Teri said there is a process to buy exemption credits to allow more fill. The homeowner is willing to purchase wetland credits. Dave Baldwin asked whose jurisdiction this falls under. Teri said that it will be both the city and the county.

There were no comments from the audience.

Lee Martin asked if the DNR gets involved. No they don't. He asked if this will become a problem for the city at some point. Teri said this is why we ask for the expert opinion of the Cass County Soil and Water District.

Susan Amacher said that this going to the County is a level of confidence that this commission should rely on.

Mark Nelson referred to the dock wars and the DNR was involved because they were below the OHW.

Pat Betcher asked what the minimum setback would be if they wanted to move closer to Pebble Beach Road. Teri said that the request before the commission has to be acted on. He would have to come back before the commission with a new request. Mark said that the face of the garage would be 24' from the edge of Pebble Beach Road pavement and 26' from the traveled road.

Dave Baldwin asked if the homeowners to the north wanted to build. They would need a variance with the wetland implications. Earl said that diverted water from one property to another is a problem for the property that the water is diverted from. Mark Hallan said that Donnelly's own lots 4 and 5 and could work into the process with the county.

MOTION BY MARK NELSON TO APPROVE THE VARIANCE REQUEST OF JOHN DONNELLY FOR GARAGE PLACEMENT WITH A SETBACK BEING DESCRIBED AS 24 FEET FROM THE EDGE OF THE BITUMINOUS SURFACE OF PEBBLE BEACH ROAD TO THE FACE OF THE GARAGE; THAT ALL THE CASS COUNTY SOIL AND WATER DISTRICTS REQUIREMENTS ARE MET. CONTINGENT UPON THE APPROVAL OF

THE WETLAND EXEMPTION FROM CASS COUNTY. THAT THE GARAGE IS PLACED AS DESCRIBED ON THE SITE PLAN DATED APRIL 30, 2012 AND ALL SETBACKS ARE MET. LEE MARTIN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

NEW BUSINESS – There was no new business.

OLD BUSINESS – There was no old business.

REPORTS

City Engineer – Mark Hallan had nothing to report.

Chairman – Earl North had nothing to report.

Council Liaison – Susan Amacher had nothing to report.

Zoning Administrator – Teri Hastings said that there will probably be a meeting in July.

PUBLIC FORUM – There was no public forum.

MOTION BY LEE MARTIN TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF JUNE 11, 2012 @ 10:39 AM. MARK NELSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Transcribed by Patti McDonald
Lake Shore City Clerk