

**BOARD OF ADJUSTMENT/PLANNING COMMISSION
CITY OF LAKE SHORE
CITY HALL
MINUTES
JULY 9, 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, and Lee Martin; Alternates Tom Diemert and John Ingleman; Council Liaison Susan Amacher; Zoning Administrator Teri Hastings; City Engineer Mark Hallan and City Clerk Patti McDonald. Dave Baldwin and Mark Nelson were absent. There were 5 people in the audience. A quorum was present and the Commission was competent to conduct business.

MOTION BY LEE MARTIN TO APPROVE THE MINUTES FOR JUNE 11, 2012 BOARD OF ADJUSTMENT/PLANNING COMMISSION WITH ONE CORRECTION. DICK MILES SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY

PUBLIC HEARING

Variance – Eldon and Mary Lee requested a variance to construct 26’x40’ pole building at a setback of 86 feet from Agate Lake where a 100’ setback is required and setback of 15’ from Agate Lake Road Right of Way where a 30’ setback is required. The property is described as That Part of Lot 4, Block 1 Agate Lake Beach (site address 9462 Agate Lake Road). The property is zoned 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.

Eldon Lee and Kevin McCormick of Land Design Solutions came before the commission to explain the Lee’s application. There is 57,000 square feet; however, it is very narrow. The existing impervious surface is minimal. The proposed structure is well outside the shore impact zone and there are no drainage problems. The total of impervious surface after the building would increase to 6%.

Mark Hallan said that Agate Lake Road is fairly low and the garage floor elevation isn’t shown; he said it would probably have to be at 1216.5 so the drainage runs around the garage. The garage would be slab on grade. The NE corner would need considerable fill. Eldon Lee said that it could be moved north on the lot; but he prefers the location on the application. Mark said that if the proposed berm was constructed it would disturb more of the soil. Mark commented that the building height be set high enough not to cause problems.

Tom Diemert asked about the proposed berm indicated on the certificate of survey. Eldon Lee said that their lot does rise to the lake; however, this year with all the rain the wetland is holding water. They may not construct the berms as there is established vegetation between the proposed structure and the lake. Earl North suggested less tree removal and the berm would disturb more of the area.

John Ingleman asked where the door of the garage is. Eldon explained that it would be three doors facing the road.

Lee Martin said that this would be the closest building to Agate Lake Road and thinks it would look bad and there is no proposed screening from the road. Eldon said they would use earth tone colors on the building. Kevin said that the road is in the proper spot so if the road was ever paved the utilities would be properly placed. Teri said there is no requirement for rear screening on the lot.

Dick Miles asked if this will be a storage facility. Yes, it will be for storage.

Earl asked about the certificate of survey being that the lake is Agate Lake and not Lake Hubert. Kevin said yes it is. Kevin will make corrections to the certificate of survey for the Lee file.

Teri's Staff report indicated the following: The applicant is requesting a variance to construct a 26'x40' garage or pole barn at a setback of 86 feet from Agate Lake and a setback of 15 feet from the road right of way of Agate Lake Road. The property is zoned R-2, Medium Density Residential; Agate Lake is considered a Recreational Development Lake. The lot size for a RD lake is 40,000 square feet and the lake setback is 100'.

The Lee property has an area of 53,000 square feet plus however it is uniquely shaped. The property does not have very much depth, approximately 128 feet and a 155 on the opposite side. The property is quite wide, approximately 350'. Due to the lack of depth, there is a very small building envelope.

The applicant has indicated the garage will be a single story garage with a 5/12 pitch and 8' sidewalls. The property owner originally had thought he would construct a pole barn however, after receiving cost estimates it appears a stick built garage is more economical. The property owner has provided elevation drawings of the proposed garage.

The proposed location of the garage will require some tree removal and brush removal. The location should still have ample screening from the lake and from the roadway. If the variance is approved, a condition should be placed in maintaining the shoreline screening.

The location of the garage will require some fill in one corner; however the site is fairly level with minor elevation changes.

The property does have some wetlands which are shown on the survey. There is a 30 setback from wetlands which the proposed garage will meet.

The Survey does indicate the lake name as Hubert which is incorrect. The lake name is Agate.

The property is currently at 5% impervious surface and with the proposed garage the impervious surface will be 6% which is well within ordinance requirements.

The proposed garage is shown with a setback of 15' from the road right of way; however, the gravel surface of the roadway is approximately 35' from the proposed garage. It should be noted the applicant is planning on using the garage/pole barn for storage so parking may not be as critical. Elevation drawings indicate the garage door locations will be on the road side of the structure.

The property owner will need to have a compliance inspection done on the septic system if the variance is granted. A compliance inspection from 2005 and 2008 are on file. The system was constructed in 1991.

The property owner proposes to use (garage) the property in a reasonable manner. There are circumstances unique to the property not created by the land owner which is the lot depth that prevents the property owner from meeting all setback requirements. The proposed garage will maintain the essential character of the area and is in harmony with the purpose and intent of the ordinance.

MOTION BY LEE MARTIN TO APPROVE THE ELDON AND MARY LEE VARIANCE AT 9462 AGATE LAKE ROAD PER CERTIFICATE OF SURVEY DATED 6/12/12. THE PROPOSED GARAGE WILL MAINTAIN THE ESSENTIAL CHARACTER OF THE AREA AND IS IN HARMONY WITH THE PURPOSE AND INTENT OF THE ORDINANCE. REMOVE/ELIMINATE THE BERMS AS DESCRIBED ON THE SURVEY. REQUIRE A SEWER COMPLIANCE INSPECTION AND SUPPLY A CERTIFICATE OF COMPLIANCE TO THE CITY. JOHN INGLEMAN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Variance – Carl and Kathleen Chalgren requested a variance to construct a 32’x26’ garage at a setback of 3’ from the southerly side lot line. The proposed garage would replace the existing 20’x20’ garage at a 3’ setback. The property is described as Part of Lot 25 & Lots 26 & 27, Birchwood Hills and Lot 4, Block 1, Livingston’s Gull Lake Lots (site address is 8471 Birchwood Hills Road). The property is zoned 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.

Don Hummer came before the commission to explain the Chalgren application. He said that the garage would be used for storage and has storage space above the garage. Don said he would use silt fence as not to disturb the shoreline. He said that they don’t want to disturb the oak tree; however, they will have to remove it and an Elm tree and the soil will be compacted. He doesn’t want to have to disturb the septic line. The garage fits the spirit of the house. The neighbors don’t have any objections.

Mark Hallan said there are no real summary calculations of impervious surface. Carl added a 50 foot lot. Teri said that 20% is allowable and they are within the limit.

Lee Martin said the 2010 survey shows the garage and he asked if it will still be placed in that location. Don wants to angle the garage slightly. Lee said that it is a fairly tall structure and he is concerned about the neighbor. Don said the neighbor is fine with the project.

John Ingleman asked if the driveway will stay the same. Don said the driveway will not change.

Tom Diemert asked if the current garage will be taken down. It will be taken down and replaced with the new garage. Tom asked if the setback is at 3 feet what is the overhang. It will be a 2 foot overhang.

Dick Miles asked about the retaining wall right behind the garage. That will be removed and it will be replaced with a brick retaining wall. Dick is concerned about disturbing the septic. Don said that the excavator said that there shouldn’t be any concern. Everything should be accessible from the driveway. The last sewer inspection was 7/2/07, so an inspection will be required.

Teri’s Staff report indicated the following: The applicant has made application for a 32’x26’ garage at a setback of three feet from the southerly side lot line. The proposed garage of 32’x26’ will replace the existing 20’x20’ garage that is currently setback three feet from the property line.

The garage does move away from the sideyard to a setback of 6.9 feet. The applicant/contractor should be asked about the width of the overhang. The overhang of the garage should not encroach onto the neighboring property. It appears from the elevation drawings that the overhang will be 2'.

The proposed garage will be a story and a half. It will be constructed out of similar material as the home. Elevation drawings have been included.

The impervious coverage for the property with the proposed garage would be 18.6%. This is within the ordinance guidelines of 20%.

The property has two septic systems. The sewer line for one of the systems crosses near the front of the existing garage. This line will need to be moved to accommodate the proposed garage. The drainfield will also need partially located due to the garage expansion. The contractor for the project is aware of the matter. A compliance inspection will be required for both systems prior to a zoning permit being issued. The property is served by a deep well which is located within "L" portion of the home.

The applicant and contractor have reviewed alternative locations for the proposed garage. Locating the garage on the northerly side of the property will have more of an impact on the site with tree loss (screening). The Chalgren's recently purchased additional property for screening and have planted additional pines on the property. The adjacent property owner to the south has their garage located along the same side as the proposed location for the Chalgren garage so it is a logical location.

The proposed variance will maintain the essential character of the locality with little disruption of the existing site.

The proposed variance is not inconsistent with the city's Comprehensive Plan. The proposed garage will improve the appearance of the property while keeping items associated with a lake home stored inside versus outdoors.

The proposed garage is a use allowed by the ordinance and is a reasonable use within the R-2 zoning district.

STAFF RECOMMENDATION

Recommend approval of the variance based upon the information contained in the staff report.

MOTION BY TOM DIEMERT TO APPROVE THE VARIANCE REQUEST OF CARL AND KATHLEEN CHALGREN TO REMOVE THE OLD GARAGE AND REPLACE WITH A 32 X 36 GARAGE LOCATED 3 FEET FROM THE PROPERTY LINE. REQUIRE A SEPTIC INSPECTION AND CERTIFICATION OF COMPLIANCE; THE LATERAL SUPPORT OF THE SEPTIC REMAINS UNDISTURBED DURING CONSTRUCTION. THE REQUESTED VARIANCE IS IN HARMONY WITH THE PURPOSE AND INTENT OF THE ORDINANCE; THE VARIANCE IS CONSISTENT WITH THE COMPREHENSIVE PLAN; THE PROPERTY OWNER PROPOSES TO USE THE PROPERTY IN A REASONALBE MANNER; THERE ARE UNIQUE CIRCUMSTANCES TO THE PROPERTY NOT CREATED BY THE LANDOWNER AND THE VARIANCE WILL MAINTAIN THE ESSENTIAL CHARACTER OF THE LOCALITY. DICK MILES SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

NEW BUSINESS

Lot Split – Arnold Lubrecht – Teri’s staff report indicated the following: The applicant has approximately 4.2 acres of land and is requesting to split the property into two tracts. The property is currently physically divided by CSAH 77 and the applicant would like to split the property as such. The property has three zoning districts. The lake tract (tract A) is zoned R-2, Medium Density Residential which has a minimum lot size of 30,000 square feet and a buildable area of 15,000 square feet. The lot width for the R-2 district is 100 feet. Tract B is currently zoned R-1, Low Density Residential which has a lot size of 40,000 square feet and 20,000 square feet of buildable area. The lot width for the R-1 district (General Development) is 150 feet. The third zoning district is open space which is the designated wetland area on Tract B. Both Tracts A&B meet the ordinance requirements.

The applicant has submitted a survey by a licensed surveyor. Legal descriptions have been prepared for the property.

The property does not contain any bluffs but does contain a steep slope on Tract B. The steep slope has been labeled and the building envelope has taken into account the steep slope. Tract B also contains wetlands. There is a 30’ setback from a wetland however, due to the steep slope this is not an issue. Tract B does not have any lake frontage (Roy Lake).

All existing structures and improvements are shown on the survey. Tract A does show an existing dwelling with associated improvements. The dwelling was constructed with a variance and does comply with the variance granted in 1992.

Monuments have been placed marking the corners of the property. The existing septic system and well are indicated for Tract A and there is sufficient area on the site for a secondary system. A site for a subsurface treatment system (septic system) is not shown for Tract B however, I do not see any problems with locating a system for Tract B.

Building envelopes are shown on each of the tracts.

STAFF RECOMMENDATION

Recommend approval of the lot split as presented. The proposed tracts meet the requirements of the ordinance

Arnold Lubrecht said they have had the lot for 20 years and he would like the flexibility to either sell it off or use the lot for something else.

MOTION BY LEE MARTIN TO APPROVE THE LUBRECHT LOT SPLIT PER THE REGISTERED LAND SURVEY. BOTH THE LOTS MEET THE REQUIREMENTS OF THE CITY ORDINANCE. JOHN INGLEMAN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

OLD BUSINESS – There was no old business.

REPORTS

City Engineer – Mark Hallan had nothing to report.

Chairman – Earl North said that Zorbaz has completely covered the entire patio area with impervious material. Susan thought it was supposed to roll up. Earl said that it looks permanent. It appears he hasn’t done anything to control the water/drainage. Teri said that the deck is already considered impervious surface at Zorbaz. She was of the understanding that he would cover the

deck during July and on rain days. Susan asked if there is something that should be done about Zorbaz.

Earl said that the second property on the channel that Lateral was fined for have put stone going down to the lake to create a path. He said they didn't come before the commission for approval he doesn't appreciate that they aren't applying for permits before the fact. Teri said that for every land owner that doesn't abide by the city ordinance; there are more that do. She said she will look into the complaint. Teri said they are allowed to construct a 4-foot path.

Council Liaison – Susan Amacher had nothing to report.

Zoning Administrator – Teri Hastings said the next public meeting for the trail is on August 2, 2012 at 6:00 p.m. There will be a meeting in August.

PUBLIC FORUM – There was no public forum.

MOTION BY LEE MARTIN TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF JULY 9, 2012 @ 10:39 AM. JOHN INGLEMAN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Transcribed by Patti McDonald
Lake Shore City Clerk