

**BOARD OF ADJUSTMENT/PLANNING COMMISSION
CITY OF LAKE SHORE
CITY HALL
MINUTES
JULY 8, 2013
9:00 AM**

Chairman John Ingleman called the meeting to order at 9:00 a.m. Members of the commission present: John Ingleman, Dave Baldwin, Dick Miles, Mark Nelson and Tom Diemert; Council Liaison Susan Amacher; City Zoning Administrator Teri Hastings; Engineer Dave Reese and City Clerk Patti McDonald. Alternate Roger Smeby was available in the audience. There were 7 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 JUNE 10, 2013 BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. DICK MILES SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

PUBLIC HEARING

Variance – Karen Kirschner and James Danielson requested a variance to rebuild the existing home on the same footprint (less than 75 feet from Upper Gull Lake and less than 15' from the northern side lot line). The applicants request includes a second story addition over the entire home along with an expansion of the garage area. The applicants also need a variance to exceed the maximum amount of impervious surface. The property is described as Part of Government Lots 9 and 10, Section 9, Township 135 and Range 29. The property is zoned Medium Density

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.

Teri's staff report indicates the following: The applicant is requesting a variance to demolish the existing dwelling and to construct a new dwelling with an enlarged garage along with adding a second story over the home and garage. The existing structure encroaches on the sideyard setback and is approximately 38 -50 feet from Upper Gull Lake. The property currently exceeds the amount of impervious surface (29.5%). The applicant is proposing to decrease the impervious by .3% for a total of 29.2%.

It should be noted that there is a 33 foot wide road easement that runs through the property. There is 1,947 square feet of bituminous road surface that is calculated into the impervious surface calculation. If this amount were taken out of both the land and impervious surface calculation then the impervious amount would be closer to 25%. The site plan does include a stormwater plan with a runoff area on the south side of the property which the surveyor indicated was a natural drainage area for the property.

There is adequate area on the property to rebuild a conforming home that would meet all setback requirements and most likely the impervious coverage limit. The building envelope is shown on the survey. There are no unique circumstances with the property that would require a variance. Nor has the applicant identified any unique circumstances on their application. The property is served by city sewer. Under Section 4.4 Nonconforming Uses; it is allowable to rebuild a nonconforming structure provided it is the exact same dimensions. In this case the applicant is adding a second story and additional square footage to the attached garage.

The survey does show the existing structures on each side of the Kirschner/Danielson property. The existing dwelling sits forward of the dwelling to the north and slightly behind the dwelling to the south. The City of Lake Shore does not recognize the string line test.

Elevation drawings have been included in the packet. The drawings show an enclosed area as a patio. It should be noted that if the variance is approved as submitted that any improvements such as decks, patios or additions will require variances.

STAFF RECOMMENDATION

Recommend denial of the variance as there are no practical difficulties identified that would prevent the same structure from being constructed meeting all setback requirements and reducing the amount of impervious surface. The property owner would be using the property in a reasonable manner (residential) however; the property owner would continue to encroach severely on the neighbor with a setback of 1.7 feet. The home could be constructed for a conforming setback of 15 feet.

Mike Jackson, Franklin Builders came before the commission to explain the variance request. He said that the request is to rebuild on the same foot print of the existing home.

Mark Nelson said he thinks the home can be moved over to meet the side yard setback. There are no large trees in the way; there is enough room on the property and it would no longer encroach on the neighboring property. The property is on city sewer. Karen asked how many feet would this be. Right now it is less than two feet and the requirement are 15 feet from the side lot line. Mark said this is the perfect opportunity to get the property more compliant; he said he doesn't have as big a problem with the lake setback.

Dick Miles said ideally this request doesn't meet any of the typical guides that the commission has for granting a variance. This is the perfect time to get the structure back in compliance with city rules and regulations. Mike said that he was under the impression that if they built on the same footprint they could rebuild on the same location. This would be the case if it was exactly the same. The plan is to add a second story and expand the garage.

Teri Hastings said the current home doesn't have a roof overhang on the side property line; how much of an overhang is shown on the proposed drawing. Mike Jackson said it is 12". Teri said that it would then be 7" from the property line and during construction they would have to encroach on the neighbor's property.

Dave Baldwin said that his opinion is similar to the others.

Tom Diemert said that in defense of the request, they didn't build the house where it is. Karen said they would prefer to renovate but it is not structurally feasible. Tom Diemert explained what the exact foot print means.

John Ingleman said he is less concerned about the impervious surface as 6% of it is the road. He would consider less than 75' from the lake, but agrees with the sideyard setback being met. Mike said that the driveway is steep and it would be difficult to move the structure back. John said that if the home is moved back that impervious surface is lost.

Mark Nelson said that the sideyard shift is the obvious one. The building envelope is shown and using the string line test by moving the home back from 36' to 56', this would clean up the property. It would be less impervious surface and move the home back.

Teri said that if there is an opportunity to move a home back even ten feet to get the structure out of the shore impact zone it is encouraged.

MOTION BY MARK NELSON TO TABLE THE KAREN KIRCHNER AND JAMES DANIELSON REQUEST FOR VARIANCE UNTIL THE AUGUST 12TH BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING FOR THEM TO SUBMIT A REVISED SITE PLAN (FROM THE SITE PLAN DATED 6/21/2013) TO MEET THE SIDEYARD SETBACK OF 15' AND MOVE THE HOME 20' BACK OR STRINGLINE TEST WITH THE NEIGHBORING HOMES, WHICH EVER IS GREATER. DAVE BALDWIN SECONDED THE MOTION. Karen is concerned about the added 20' back from the OHW because of the neighboring home. Teri said there application is June 7th and the 60 day rule requirement falls before the August 12th meeting date. The applicant's agreed to waive the 60 day rule requirement. MOTION PASSED UNANIMOUSLY.

Ordinance Amendment - The Lake Shore Planning Commission considered an ordinance amendment dealing with impervious surface giving credit for the use of pervious materials for commercial and residential properties within the city. The ordinance was sent to the DNR for their comment and there were no comments received. The ordinance was also sent to the city attorney with no comments received.

Dick Miles said the formatting of the ordinance is missing section 5.4, which may be done on purpose. He asked if there is a MPCA standard that requires professional installation. Teri said they are not licensed, but should have experience installing the material. Mark Nelson said to be a landscaper in Minnesota you have to be licensed or registered with the Department of Commerce and this probably meets that requirement.

Dave Baldwin asked what other city's in the surrounding areas are doing. Dave Reese said that Crosslake usually require a licensed engineer to approve the system and have city approval. He said the system is designed to the specific property. Dave Baldwin asked if there is maintenance required. He said that some people may not follow the maintenance plan. Teri said that the best way is to educate the user. She said the ordinance change is being cautious by only giving a percentage of credit. The zoning inspector will review the construction portion. Dave is concerned with concrete surfaces. Teri said that what she envisioned was more use of the pavers. The engineer said what he has seen are pavers and bituminous surface. He said there have been requests to remove concrete and use crushed rock, but eventually it fills in with sand and pine needles, etc.

MOTION BY DICK MILES TO RECOMMEND APPROVAL OF THE ORDINANCE AS WRITTEN AND FORWARD IT TO THE CITY COUNCIL FOR ADOPTION. TOM DIEMERT SECONDED THE MOTION. MOTION PASSED WITH DAVE BALDWIN OPPOSING.

NEW BUSINESS

Lot Split – Ingrid Anderson applied for a lot split. The property contains almost 4 acres of land and over 400 feet of shoreline. The property is zoned Medium Density Residential which has a minimum lot size of 30,000 square feet for a General Development Lake (Gull Lake). A minimum of 15,000 square feet is required to be buildable area. The property does contain a bluff. The surveyor has not calculated this area out of the lot size and has been requested to do so. Teri expects each tract to meet the minimum standard after deducting the bluff area (approximately 10,000 square feet). Each tract has over 100 feet of shoreline as required (200 feet and 205 feet). Tract A has a lot area of 82,562 square feet and Tract B has a lot area of 86,916 square feet.

The building envelope is shown for both tracts. Tract B does contain two existing structures. The structure near the lake is a dwelling which the current owner plans to retain. The other structure is the former Swedish Timber House (retail store). The owner plans to relocate or remove this structure. If the lot split is approved, a condition should be placed on approval with a time frame for removing/relocating the structure (one year?). It should be noted that the driveway on Tract A is closer than 10 feet to Tract B. The zoning ordinance does require a 10 foot setback for driveways (new as of 2009).

The survey does have a licensed surveyor's signature and contains the legal description of Tract A and Tract B.

The bluff area has been identified along with the 30 foot building setback. Contours of the property are also shown. It should be noted there is a natural drainage area on the property as evidenced by the sloughing of the bluff.

The property is served by onsite septic system. There are two systems located on Tract B. Soil borings were done for each of the systems when installed in the late 1990's and suspect Tract A would have similar soils that are suitable for an on-site system. If the retail building is removed from Tract B; the septic system would need to be properly abandoned.

Monuments have been placed on the property corners.

STAFF RECOMMENDATION

Recommend approval of the lot split as it meets the minimum requirements of the subdivision ordinance for the R-2 zoning district for a general development lake.

Gary and Mattie Kurilla came before the commission to request a lot split for Ingrid Anderson.

Dave Baldwin asked if it is all residential property. Teri said it is zoned R2 and is on a general development lake.

Tom Diemert asked if the Swedish Timber House is being removed. Teri said that the concern is that it slightly encroaches on the 15' sideyard setback. Mattie said there are several people interested in moving the structure.

MOTION BY MARK NELSON TO APPROVE THE LOT SPLIT AS IT IS IN SUBSTANTIAL COMPLIANCE WITH THE SUBDIVISION ORDINANCE FOR THE R2 ZONING DISTRICT FOR A GENERAL DEVELOPMENT LAKE ACCORDING TO SITE PLAN DATED 6/27/13. DAVE BALDWIN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Site Plan Review – The Lake Shore Village Association wishes to construct garage units on their property. The units are owned (condominium ownership) and the land is owned in common by the association. In order to construct the garage units, a re-plat will be required. Stonemark Land Surveying is in contact with Cass County on their requirements for formatting of the plat (and type). The location of some of the garage units will require a variance as they will be closer than 50 feet to the county right of way. The grey shaded area on first site plan shows the existing driveways and parking area along with the existing county roadway. The second site plan shows the proposed location of the garage units. The property is served by city sewer. There is a wetland to the west of the proposed garages.

Jay Raimann came before the commission to review a request to build garage units at the Lake Shore Village condominium site. A re-plat will be required in order to construct the garage units. Jay said that people still come into the parking area and park to walk to the lake, the association

has been before the city for approval to close off the Interlachen Road access and move the entrance to behind the condo units and enter from Kraemer Lane. They will put shrubs and trees in the portion that they closed off.

John Ingleman asked for clarification of where the garage units are to be placed on the property. Jay explained where the 6 garage units would sit and there are units shown on the site plan that are for future garage units. He pointed out that the corner of the proposed garage being built is 2' from the lot line. Teri said that when the commission reviews a variance the property itself is taken into consideration. There is also a wetland on the property with a 30' setback contributing to a limited building envelope. She said that we would want to make sure the garage units have useable access in and out.

Mark Nelson said since this is preliminary feedback he has plenty. He doesn't want to convince the commission to see things his way; he just wants the commission to see why they are granting a variance encroaching on any road right-of-ways. He is not going to be alright with granting a variance on the road right of way. He said that the snowmobile trail got cut off right there and it still bothers him. He said there has been no improvement to the property since the liquor store or grocery store closed. They look abandoned; he doesn't see any cars there ever. Teri said that there are year round residents that park behind the building. Mark said there are other places on the property and to build the garage units on their own property and not encroach on the right-of-way. Dave Baldwin commented on the Bar Harbor garages not being any different. Teri said they did get a variance to build the Bar Harbor garages. Mark doesn't think that the garages would make the units more marketable.

Jay said the property has been upgraded lately. There is one year round resident and he explained the rest of the units are seasonal. He said they are considering the future of the property. He is sorry for the snowmobile trail, but everyone is not a snowmobiler.

Tom Diemert asked how many condos are owned. They are all owned. Two of them are for sale. Mark said that ownership is not what bothers him; it's the encroachment to the right of way impeding possible trails and public use of the right of way. Dick asked if the garages can't be moved back to the setback. Teri said that the setback is the only issue and they would have to amend their plat and come back before the commission.

Mark made the comment that the city needs more land for parking. Teri said the city is working with Cass County on tax forfeited property on the south side of the city while working on the trail project.

Tom Diemert agrees that the garages should be moved to the 50' setback. John said he also thinks that it is troubling to be that close to the road. He would like to see it move back.

Dave Reese said that the landscaping would also be moved out. He said meeting the setback would give more options for everyone in the future. The amount of pervious surface created will shed off quite a bit of water into the wet land and he suggests a landscaping plan with the final building layout when they return.

OLD BUSINESS

Update on Zorbaz Noise – Teri said that committee meeting for July 6th at 11:00 p.m. was cancelled due to the weather. Dave Baldwin said he and Lee Johnson went to the property for 15 minutes and the Zirbes are very content with this year's noise level. Dave said there were a lot of people at Zorbaz on Saturday night (with Friday night being Zorbaz biggest night ever). Teri asked if you could hear anything. There was no music heard; he said you could hear an

occasional voice. This year has been much better than year's past. Teri will touch base with the Zirbes.

REPORTS

City Engineer – Dave Reese said that Bishop's Landing has a drainage issue they are working on with the city. They are also working on road infrastructure.

Chairman – John Ingleman had nothing to report.

Council Liaison – Susan Amacher had nothing to report.

Zoning Administrator – Teri Hastings had nothing to report.

PUBLIC FORUM – Dave Baldwin asked if there is anyway for the city to put a tax on food and liquor to help support the trail. Teri will put it on the agenda for the Trail 77 Team committee. Mark Nelson asked if he could be put on that committee. Dave Baldwin may be interested in a position on the trail committee too.

Teri commented that she recently biked from Baxter to Nisswa on the Paul Bunyan trail and it was crowded.

Mark Nelson asked if anyone could encourage John Allen to fill in the holes that were dug a few years ago at his storage building along County 77. Teri will follow up with John Allen

MOTION BY DAVE BALDWIN TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF JULY 8, 2013 @ 10:53 AM. DICK MILES SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Transcribed by Patti McDonald
Lake Shore City Clerk