

**BOARD OF ADJUSTMENT/PLANNING COMMISSION  
CITY OF LAKE SHORE  
CITY HALL  
MINUTES  
AUGUST 12, 2013  
9:00 AM**

Chairman John Ingleman called the meeting to order at 9:00 a.m. Members of the commission present: John Ingleman, Mark Nelson and Tom Diemert; Alternate Roger Smeby, Council Liaison Susan Amacher; City Zoning Administrator Teri Hastings; City Engineer Dave Reese and City Clerk Patti McDonald. Dave Baldwin and Dick Miles were absent. There were 4 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 JULY 8, 2013 BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. TOM DIEMERT SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

**PUBLIC HEARING**

Variance – Karen Kirschner and James Danielson requested a variance to rebuild the existing home (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 property is described as Part of Government Lots 9 and 10, Section 9, Township 135, Range 29. The property is zoned Medium Density Residential (site address is 1014 Point Narrows Road).

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 resubmitted the variance that was heard last month. The applicant is wishing 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 Planning Commission denied the first application due to the close proximity of the structure to the adjacent property to the north. The revised plan shows a conforming setback of 15' from the side lot line and an increased setback from the lake at approximately 50' from Upper Gull Lake. The revised plan will require the removal of at least two trees. The property currently exceeds the amount of impervious surface (29.5%).

Please recall there is a 33 foot wide road easement that runs through the property. There is 1947 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 still shows the drainage area on the south side of the home.

The proposed home is more centered with the neighboring homes on each side while still maintaining the privacy that was important to the property owners. The back corner of the garage will impact the existing retaining wall. It should be noted that there appears that the natural runoff from the roadside of the home runs to the direction of the garage. The engineer can comment more about drainage issues with the property.

The elevation drawings have not been revised to show the updated home. If the variance is granted, the elevation drawings should be submitted prior to the issuance of the permit. The elevations drawings should be very close to the first submission.

#### STAFF RECOMMENDATION

Recommend approval of the variance as the proposed home will be in harmony with the existing homes in the neighborhood. The property owner is proposing to use the property in a reasonable manner. There are unique circumstances with the property in that the city roadway does intersect the property. A condition requiring updated elevation drawings prior to the issuance of the permit.

Mike Jackson, Franklin Builder's came before the commission to explain the revision from last month's meeting to the Kirschner/Danielson variance application.

Tom Diemert asked what the lake setback is. It is now 50' from the OHW.

Mark Nelson said that the revision accomplished what was asked for. He was concerned about the neighbor's view being blocked and this plan worked that out. Teri commented that the impervious surface was also reduced.

John Ingleman asked about the corner of the garage being so close to the retaining wall. Mike said they may have to revamp that slightly.

Roger Smeby likes the plan; however he is still concerned about the driveway runoff. Mike said the will work on that.

MOTION BY MARK NELSON TO APPROVE THE VARIANCE REQUEST OF KIRSCHNER/DANIELSON AS PRESENTED IN THE APPLICATION AS IT IS IN COMPLIANCE WITH THE CONDITIONS SET AT THE JULY 8<sup>TH</sup> MEETING. PER THE REVISED CERTIFICATE OF SURVEY DATED 8-2-13. TOM DIEMERT SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Variance – Tony and Jill Michel requested a variance to construct a second story addition over the existing dwelling and attached garage which is at a setback of less than 75 feet from the lake and to construct a 10'x45' addition to the rear (street side). A variance is needed to exceed the maximum amount of impervious surface allowed (25%). The property is legally described as Lots 20 and 21 Schaeffer's Point (1142 Schaeffer's Point Road). 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. Teri read into the record one written comment in favor of the variance from Keith Tomlinson.

Teri's staff report indicates the following: The applicant requested a variance to construct a second story over the existing dwelling and attached garage. The applicant also wishes to construct a 10'x45' addition on the street side of the home. The representative of the owner, Gary Severson, stated the structure will be torn down to the foundation. The existing dwelling is at a setback of 55' from Gull Lake. The property was granted a variance in 2002 that was not acted upon for the second story addition and rear addition. A conditional use permit was granted in 2005 for the same application with a reduction in impervious surface. Elevation drawings have been submitted with the proposed improvements.

The property currently exceeds the maximum amount of impervious surface allowed by ordinance. The site currently is at 37.8% impervious surface. The applicant is proposing to

remove some of the impervious surface (noted as the shaded area on the stormwater plan). The property owner could eliminate some of the driveway to further reduce the impervious surface. The other reduction in impervious surface is to utilize a pervious material. The applicant has not provided information on what pervious material will be used, who will install etc. The applicant will need to comply with the ordinance recently passed in order to receive the credit for pervious. There is no obvious drainage problems observed at the property. The majority of the property is fairly level, the boat ramp does contribute runoff into the lake. After the proposed reductions in impervious surface the lot total for impervious is proposed at 26.5%; still 1.5% above what the ordinance allows. The city engineer will need to verify these numbers. A stormwater plan has been submitted that will need to be reviewed as well.

The existing home meets the sideyard setback of 15' on the northerly property line (26.3') however; the existing home is only 6.9' from the southerly side lot line. The adjacent home and driveway also encroach into the sideyard setback as well.

The proposed improvements will be in harmony with the ordinance. The property owner is proposing to use the property in a reasonable manner. The property is unique in that it does have 20,000 square feet (conforming lot prior to 2009) however, it has a depth of 164'-156' and the city road does run through the property. To require rebuilding the home meeting all setbacks would be difficult due to the septic system and the roadway.

The septic system is conforming and a recent (7/2013) compliance inspection is on file. The compliance inspection documents the septic tank is pumped regularly. There is no alarm for the lift and one should be installed. Regular maintenance is critical for the system as this is the only site on the property for a conforming system. If the variance is approved, the existing septic tank, lift tank and pressure bed should be marked by fencing to insure construction equipment, supplies etc. are not placed on them. It may be very difficult for demolition and construction to occur and not to impact the septic tank and lift.

#### STAFF RECOMMENDATION

Recommend approval of the variance for the Michel's with the following conditions:

- Septic tank, lift and pressure bed be fenced off prior to demolish and during construction.
- Reduction in impervious surface to 25% -with an as built survey to be submitted after construction verifying the amount of impervious surface.

It should be noted that any improvements to the property most likely will require a variance in the future.

The city engineer's comments: The well house is not present that is shown on the May 17, 2002 Westwood survey. Mark could not see a well casing on the property. Was the well relocated and if so, where is the new well located on the property?

There are a significant number of very large mature trees on this property that are not shown on any of the plans. Placing a round circle on the storm water management plan and calling it a "rain garden" without regard to tree locations and related root structure to these trees should be questioned. The mature trees on this property are a huge asset. The storm water management plan needs to account for tree and root locations/depths unless the Owners and planning on taking out some trees (their choice). The storm water management plan will likely not be constructed as shown once the Owners become aware of impacts on existing trees.

Changing the existing concrete boat ramp to "pervious surface" needs a specific design and more information. A pervious surface supporting the existing metal track system on the **sloped** ramp to the lake is going to be an interesting design to remain functional. Not that it cannot be done, but

the design needs to show how this system would work between existing retaining walls on a slope to the lake.

The proposed residence has 5 bedrooms. The May 17, 2002 survey shows a “possible mound sewer system location”. Has an ISTS design been submitted indicating how a compliant system would be constructed on this property? Well location on lot 19 should be shown on any ISTS design.

The existing structure is an original center cabin (approx. 24' x 46') on CMU foundation with additions on each side constructed on concrete slabs on grade. Structures International plans do not indicate if the owner is proposing to completely replace the existing foundation system. One would think that a home of this size (two story) and cost would not be constructed on concrete slabs on grade. The additions on each side were likely constructed on slab on grade foundations due to the adjacent location of very large trees. Again, owners choice on how to reconstruct but with all the new plumbing associated with the master bedroom the existing concrete slab on grade will mostly be removed so the contractor will likely be looking at a new foundation system. This new foundation construction would be within side yard and lakeshore setback areas.

Tony Michel and Gary Severson of Structures International came before the commission to explain the variance application.

Tom Diemert asked about the second story being added to the structure with one differing comment in the application stating that the structure will be torn down to the foundation. Gary Severson said the garage will be left standing and the home will be torn down to the foundation. A second story will be added to the garage and the new structure. If frost footings are needed there is a process to add this to the existing foundation. Gary said they are trying to do this as least eventful as possible.

John Ingleman asked if the impervious surface includes the street encroaching on their property. It is taken out of the calculation on the certificate of survey.

Mark Nelson asked if Schaefer's Point residents are connected to city sewer. They are not with no future plans. Mark asked if there should be a secondary site for a drainfield. Teri explained an alternative way to replace a system without a secondary location; secondary locations are required for newly created lots. The engineer's comments referred to the well location on the property. Teri provided the recent sewer compliance that indicated where the well is located (it is a drilled large casing well).

Mark Nelson asked if the well is located close to the front door; the lift station appears to be too close. Teri said that it is far enough away; however, the tank will have to be relocated. Mark asked if the boat ramp is used. They do use the boat ramp; some of the concrete could be removed and the track will still be functional. Teri read the engineer's comment regarding the concrete boat ramp. Dave Hochmyar, DH Docks was sent a copy of the application regarding the boat ramp and he had no problems. Dave Reese said that the condition of the soil would have to be taken into consideration when putting together the plan for pervious surface. Gary Severson said they will take this into consideration. Dave asked if the septic designer is aware of the pervious surface being added so close to the drainfield. Gary wasn't sure; however, he will advise him.

Tom Diemert asked if grass could replace the concrete on the boat ramp to get 100% pervious replacement. Teri said it is certainly allowable.

**MOTION BY MARK NELSON TO APPROVE THE MICHEL VARIANCE APPLICATION (SITE PLAN DATED 5-17-02) AS PRESENTED ON THE PLAN REVIEWED 8-12-13; AS IT**

MEETS THE REQUESTED SETBACKS; ALL THE WELL AND SEWER SETBACKS REMAIN COMPLIANT; THE SETBACK FROM THE LAKE NOT TO CHANGE; WITH THE DECK BEING NO BIGGER OR CLOSER TO THE LAKE. IT IS TO BE INSPECTED WHILE CONSTRUCTION IS IN PROGRESS WITH DOCUMENTATION OF THE MEASUREMENTS. IMPERVIOUS CALCULATIONS REDUCED TO MEET THE 25% ALLOWABLE AS POSSIBLE AS DISCUSSED 8-12-13 (NOT TO EXCEED 26.5%). TOM DIEMERT SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

### **NEW BUSINESS**

Site Plan Review - Lee Wangstad is proposing to purchase the four lots which are currently zoned residential and rezone them to Neighborhood Commercial. Mr. Wangstad would like to combine the lots to create two larger lots for commercial purposes. The minimum lot size for neighborhood commercial is 40,000 square feet with a buildable area of 20,000 square feet. The proposal would meet this requirement. In addition, Mr. Wangstad would like to construct a building on the easterly property for a welding shop. Mr. Wangstad has provided conceptual drawings of the proposed building.

Lee Wangstad came before the commission to explain that he is looking for a commercial site to construct a business. He lives in Fairview Township and would like to build in Cass County as he is working with the Cass County EDA. He likes the lots that are available right at the beginning of Lake Shore with the high traffic count and visibility. He said it's a welding business which will include boat repair. He also has a magazine marketing business which will have an office on the site. The proposed building will be a metal structure with a desirable look.

Roger Smeby asked how much berm he would take off. The front berm will remain the same and he will probably add more trees. He would remove the top ridge line toward the back where there are already dead trees and slope the back. He is proposing two building sites on the property. Teri said the potential rezoning would be neighborhood commercial. He is proposing to create two lots and use one of them. Mark Nelson asked if it would be spot zoning. Teri doesn't think so and considers it as a desirable spot given the surrounding properties. Dave Reese asked if there is an existing easement. Lee said there is an existing easement and he considers it properly placed.

Tom Diemert asked if how much area is affected with the rezoning change. Teri said just the four residential lots. Mark Nelson asked if this is setting precedence by allowing this. Teri said that this property is somewhat of a peninsula and this would be considered by ordinance.

Lee asked if it could potentially be one lot, is this allowable? Yes it is.

Roger asked where the fill would come from. He would balance the site with existing dirt on the property.

Lee will talk with Teri as to what his next step should be.

### **OLD BUSINESS**

Update on Zorbaz – Noise – Teri reported that the Zirbes have had issues with the noise. Lee J said he hasn't done anything different. Michelle Zirbes has commented that if the committee does go out to visit the site that no noise would be heard. Teri will keep the commission posted.

### **REPORTS**

City Engineer – Dave Reese said that WSN is working on a few drainage projects for the city.

Chairman – John Ingleman had nothing to report.

Council Liaison – Susan Amacher had nothing to report.

Zoning Administrator – Teri Hastings said that Larry Anderson has resigned his alternate position from the committee.

**PUBLIC FORUM** – There was not public forum.

MOTION BY ROGER SMEBY TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF AUGUST 12, 2013 @ 10:20 AM. TOM DIEMERT SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Transcribed by Patti McDonald  
Lake Shore City Clerk