

**BOARD OF ADJUSTMENT/PLANNING COMMISSION  
CITY OF LAKE SHORE  
CITY HALL  
MINUTES  
FEBRUARY 08, 2010  
7:00 PM**

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

MOTION BY LEE MARTIN TO APPROVE THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MINUTES FOR DECEMBER 14, 2009 AS PRESENTED. DICK MILES SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

**PUBLIC HEARING**

Variance - Wesley & Anne Robertson requested a variance to construct a 1,910 square foot single story addition onto the rear of the existing nonconforming structure. The addition will be 46' from Lake Margaret and will impact the toe of the bluff. The property is described as Lot 1, Block 10, Tingdale Brothers Sherwood Forest (site address is 8301 Robinhood Way). 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 regarding this application.

Wesley Robertson came before the planning commission to explain his project. He said that they would like to add bedrooms and laundry to get the laundry out of the garage.

Earl said that one of the challenges in 2006 was that the bluff would be unstable with the construction of the addition.

Dave Baldwin asked what would happen with the bluff. Wes said that the bluff doesn't come down to the corner of the addition and they had a cone at the site visit showing this.

Dick Miles asked for a breakdown of the livable and garage space. The garage is 1,320 square feet and the addition is 553.4 square feet and the existing home is 870 square feet. All the soil is sand and there will be 3 feet of gravel added all the way around.

Mark Nelson didn't have concerns; except for the water table level. He was impressed that the bluff vegetation was growing from last year.

Lee Martin didn't have any problems with the plans and said it isn't going to interfere with the lake. Lee thought that the newly adopted ordinance could be reviewed specifically section 4.4 regarding a one-time expansion to a structure. Teri said that this section means without a variance. The ordinance doesn't limit how many times a variance request can be made. Anne said that they are on Terry Stumvoll's list for sewer compliance inspection.

Earl North asked Wes to clarify where the swale will be added. Wes said the swale will be against the bluff and the 3-foot trench with 6 inches of rock will be all the way around the structure. Earl asked if the well was defined. There were no re-clarifications, as we typically haven't asked for that before 5 years. Earl is concerned about the sand excavation. He will do the excavation while it is still frozen. Earl commented that the garage is too big. Wes said that two months ago he was at meeting where the commission approved a larger garage on a much smaller lot.

Teri's staff report indicated the following: The applicant is requesting a variance to build an addition and an attached garage onto the existing nonconforming dwelling. The addition and garage are approximately 1,910 square feet and will be to the rear of the home. The addition is approximately 46 feet from Lake Margaret. A portion of the addition would encroach into the bluff impact zone. The property owner has stated there will not be any excavation into the bluff itself. Excavation that will be needed can be used as backfill per the property owner. According to the elevation drawings submitted, the addition will be single story.

The survey has been updated to show the proposed addition, however, there has not been any additional field locations done to the survey since 2006. The addition that was approved in 2008 is shown on the survey but not field verified by the surveyor. Dave Loch's inspections reports are on file and they indicate compliance with what was approved other than the roof overhang on southeasterly portion of the home. The amount of impervious surface is currently 2.2% and with the proposed improvements it will be 4.4 % well within the city guidelines. If the applicant were to improve the driveway it would increase the impervious surface to 7.3% again within the city requirements.

The Lake Margaret Overlay Ordinance does pertain to this property. Due to winter conditions, it is not possible to view the shoreline. Past reports indicate the shoreline is mostly vegetated with natural grasses; however, there is an area with a beach sand blanket. The overall shoreline is approximately 408 feet and 755 must be in a natural state (approximately 306 feet). Teri believes the property meets the naturalized requirement but again this would need to be verified in the spring. The proposed addition is 1,910 square feet, a stormwater plan is required if more than 5000 square feet is disturbed on the site. Erosion and stormwater runoff should still be addressed by the applicant. A condition should be made verifying erosion is controlled and runoff are adequately handled during construction and after all improvements are completed.

A compliance inspection is on file; however, a compliance inspection is required again for 2010. The septic system design and installation is for a four-bedroom type 1 home and should be able to accommodate the proposed addition. If the variance is approved, a condition stipulating the compliance inspection should be submitted to the Planning & Zoning office no later than June 15, 2010.

The size of the addition is not unreasonable given the overall size of the property. The applicants have stated they have reviewed alternative locations on the property for an adequately sized home but due topography issues felt the best option was to utilize the existing dwelling and expand it. Existing constraints include low elevation preventing frost footings and clearing a heavily wooded area for a home and disturbing the revegetation on the bluff to gain access to the lake. The proposed addition and garage are not the same size as the original variance that was denied by the board nor do they impact the toe of the bluff as the original variance.

The applicants have indicated they will be planting six trees to replace the three that will need to be taken down to accommodate the addition and plan to construct a swale around the home to catch any runoff. If the variance is approved, a time frame for completing the swale around the home should be stated and made a condition.

The variance approved in December of 2008 included that the bluff be reestablished with vegetation indigenous to the area within 3 years (December 2011). The Robertson's did hydroseed the bluff as they had indicated. It was observed at several routine inspections that the bluff was being sprinkled. Photos were taken of the bluff in October 2009 and new vegetation was growing.

City Engineer Mark Hallan's concern was that the proposed driveway would go over the septic tank and would have to be relocated. The proposed addition at the existing grade would be at the 1205 contour; which would require more digging to accommodate the swale that is indicated on the survey. Wes explained that he would put the foundation at grade and it would be backfilled to create the swale. The driveway around the septic tank was just drawn in and not necessarily was the driveway will be. Teri said that it was probably drawn in as the most logical access to the garage and it would be difficult to back out of the garage without backing onto the septic tank.

MOTION BY LEE MARTIN TO APPROVE THE VARIANCE REQUEST OF WESLEY AND ANNE ROBERTSON AT (8301 ROBINHOOD WAY) PER SURVEY DATED JANUARY 12, 2010 AS THE VARIANCE WILL NOT ALTER THE ESSENTIAL CHARACTER OF THE AREA AND STRICT INTERPRETATION WOULD BE IMPRACTICAL DUE TO THE LIMITING TOPOGRAPHY (LOWER ELEVATION TOWARDS THE CENTER OF THE PROPERTY AND THE BLUFF) OF THE PROPERTY. IT WOULD BE IMPRACTICAL TO DEVELOP A SECOND AREA ON THE PROPERTY AT THIS TIME. WITH THE CONDITION THAT A SPECIFIC EROSION CONTROL AND STORMWATER PLAN BE SUBMITTED TO PLANNING AND ZONING. SUBMIT CLARIFICATION TO THE CITY AS TO THE LOCATION AND EXTENT OF THE SWALE AS REFERENCED IN THE VARIANCE APPLICATION. INSURE THE CITY THAT THE BLUFF AND THE ENGINEERS COMMENTS CONCERNING THE BLUFF WILL NOT IMPEND ON THE BLUFF. COMPLIANCE INSPECTION CERTIFICATE PROVIDED WITHIN TWO MONTHS. DAVE BALDWIN SECONDED THE MOTION. MOTION PASSED WITH EARL NORTH BEING THE ONLY NO VOTE.

**NEW BUSINESS** – There is no new business.

**OLD BUSINESS** – Rental of Residential Homes – Earl said that the standing language for residential rentals was inadvertently removed from the ordinance. It was suggested at the meeting that brought this to the commission's attention that different ordinances could be looked at and brought forward for discussion. There were two suggestions one from Emily MN and one from Pacific Grove CA. Earl said that he would like to see added an annual registration fee and a penalty fee for not registering. Mark Nelson asked if this would become an enforcement nightmare. Earl said there are a myriad of issues for regulating the enforcement, etc. Earl said, absent of a disturbance issue it is a civil issue. Teri said that one benefit to registering the property is the city will know where the issues are and who is responsible. Earl spoke with a few people regarding the subject and he heard very compelling arguments for and against the ability to rent a residential home.

Chris Bush (Birchwood Hills Road) said their experience next door is like a resort. Chris's comment to the city after viewing the internet and how much this is happening is that the city

needs to get a handle on this situation before it gets out of control. He gave scenarios of what happens next to his place and most of the time it is a big party. He said there is no control put on the behavior of the residential renters as compared to what would be allowed at places like Quarterdeck. He said it is very difficult to have a neighborly discussion with renters that turn over weekly. He said he thinks it will get out of control.

Dave Baldwin asked whose domain does this fall under. He is referring to his experience with St. Cloud and the student rentals. He said that it is getting under control by fining the landlords.

Dick Miles knows owners of St. Cloud rentals and he said the registration process has worked for that community.

Teri said she thinks the city definitely needs to do something and we have some good tools to work with. Mark asked what Nisswa has and Teri said that they still have the 4 rentals per year. Teri said with in the last year it hasn't been an issue and with the internet it has become easier for the owner to recoup some of losses.

Chris Bush asked if it is stated in the ordinance about devaluing your neighbor. Earl said that the county is also looking for direction, as this is a new issue for everyone.

The committee directed the city attorney to draft an ordinance using Emily MN as a template with recommended changes; including registration. Change language in number 2. Limit the number of rentals to 4 times per year. Add punitive action for disruption assessed to the property owner. Ask the city attorneys advice for mitigation.

## **REPORTS**

City Engineer – Mark Hallan had nothing to report.

Chairman – Earl North asked about the Twaddle's. Teri said she received an email from them and will follow up with them and let the committee know. Earl asked about a dirt berm that he has seen that doesn't seem to be appropriate. Teri will have Dave Loch follow up on this when he returns from vacation.

Council Liaison – Doug Miller was absent.

Zoning Administrator – Teri Hastings called for election of officers, specifically the chair position.

**MOTION BY LEE MARTIN TO NOMINATE EARL NORTH TO THE CHAIR POSITION. DAVE BALDWIN SECONDED THE MOTION. WITH NO OTHER NOMINATIONS. MOTION PASSED UNANIMOUSLY.**

Earl called for nominations for a vice chair.

**LEE MARTIN NOMINATE MARK NELSON. DECLINED.**

**MOTION BY EARL NORTH TO NOMINATE DICK MILES. DECLINED.**

**MOTION BY DICK MILES TO NOMINATE LEE MARTIN TO THE VICE CHAIR POSITION. MARK NELSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.**

Teri said that Larry Anderson on Nottingham Road wants to put a pitched roof over two boathouses that are less than 15 inches apart. Teri allows converting to a pitched roof. He wants to take out two common walls and make one large boathouse. He would like to add onto the boathouse that is further back to be inline with each other. Teri said that this would be considered a 15' expansion and asked what would happen when the next person comes along and asks to expand one foot. One option is to put one roof, but maintain the two walls. If he wants to align the two, he could cut the one back. He can make repairs to the siding. Teri will let Larry know his options.

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

MOTION BY DAVE BALDWIN TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF FEBRUARY 8, 2010 @ 8:46 PM. LEE MARTIN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Transcribed by Patti McDonald  
Lake Shore City Clerk