

**BOARD OF ADJUSTMENT/PLANNING COMMISSION
CITY OF LAKE SHORE
CITY HALL
AGENDA
APRIL 12, 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; Alternate Tom Diemert; Council Liaison Susan Amacher; Zoning Administrator Teri Hastings and City Clerk Patti McDonald. Mark Nelson and City Engineer Mark Hallan were absent. There were 2 people in the audience. A quorum was present and the Commission was competent to conduct business.

MOTION BY DAVE BALDWIN TO APPROVE THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MINUTES FOR FEBRUARY 8, 2010 AS PRESENTED. DICK MILES SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY. Earl corrected the permit summary valuation for March year to date; it should be \$147,620.00.

PUBLIC HEARING

Variance Request – Eric Peterson requested a variance to construct a 30'x34' garage at a setback of less than 60 feet from the road right of way of County Highway 77 (Interlachen Road) and a sideyard setback of less than 30 feet. The property is described as part of Government Lot 3, Section 16, Township 135, Range 29. The property address is 7993 Interlachen Rd. The property is zoned Neighborhood Commercial.

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. LeAnn from Causeway was at the site visit and followed up with a phone call to Teri with no objections.

The Engineer's memo indicated the following: Construction of the garage at the 6" set back will require excavation onto the adjacent property. Tree roots will also be cut and while the trees may remain the stressed condition may cause the trees to die off in the future. The agreement between the property owners should address tree removal that will be required for a distance of 6 to 8 feet onto the adjacent property.

Storm water runoff currently runs off the adjacent property onto the Peterson property and then out to County 77 ditches. The new garage structure will create a small dam and storm water will need to be directed around the new structure. The agreement should allow some shaping of contours on the adjacent property to properly divert water around the new structure and not run up against the back wall. Gutters on the new structure would also help in managing storm water along the sloped grades.

The site plan also notes proposed sign and fence locations along with the proposed garage location. These items are not mentioned in the application and are likely left over from some past request.

Eric Peterson came before the commission to explain his project. He said the garage would not be visible to any of the Causeway units. There are minimal trees to be removed. The property right behind the garage is dedicated green space that cannot be developed. Causeway does not object to the property line setback. Causeway asked Eric to provide a document stating that they

would not be responsible for any water damage due to erosion. The front view siding would match the home and the back siding would be maintenance free.

Dave Baldwin asked if there would be a soffit. Eric said that it would be flush with the building. Teri said it is a variance all the way around, with or without the soffit.

Lee Martin asked about the 15-foot setback from the right of way on county 77, would there be a problem if the county did any further improvements. Teri said that it is a 100-foot right of way.

Earl North said there should be a good understanding that there would be encroachment to the neighboring property during the construction. There should be a letter on file with the city that there could be considerable drainage to the garage.

Tom Diemert asked why he didn't put the garage to the other side of the property. There are three parking spots on that side. The sewer is on that side and either side would need a variance.

Teri's staff report indicated the following: The applicant is requesting a variance to construct a 30'x34' garage at a setback of less than 60 feet from the road right of way from County 77 (Interlachen Road) and a sideyard setback of less than 30 feet. The property is currently zoned Neighborhood Commercial. The property currently has a dwelling with an attached garage.

The property is currently .6 of an acre or approximately 26,000 square feet. The property is in the shape of a triangle which does pose some limitations for setbacks. The maximum of amount of impervious coverage is 40% for the NC district. The applicant has provided a survey and with the proposed improvements the impervious surface is at 28.5%.

The applicant is proposing a setback of 15 feet from the road right of way. There is a nice buffer of trees from the proposed garage to the highway. The building will be approximately 50 feet from the actual roadway. The northeast corner of the garage would be 6" inches from the side lot line. The adjacent property is owned by Causeway on Gull and is dedicated green space. The proposed building would not impact further improvements to the Causeway property. The setback does cause concern of how the garage would be constructed and possibly maintained. Construction activities will impact the adjacent property and the applicant should be prepared on how this will be handled. The City did issue a variance in 2001 for a garage at a setback of 1' from a residential property with a dwelling in the area of Harold Lane.

The applicant has stated the western side of the garage will be sided with ½ log sided and the three other sides with maintenance free siding with the color matching the dwelling. The applicant may utilize a metal roof the same color as the home with a steep pitched roof.

The applicant has looked at alternative locations for the garage on the property. The septic system is located on the western portion of the lot and does limit the area but it could be located in this area. A variance from the side property line may still be needed. The garage if located in this area would be more visible and possibly have a more visual impact on the property than the proposed location.

Access into the garage should be adequate with minor modifications to the existing driveway.

The surrounding property is zoned for commercial use (Causeway on Gull) and is adjacent to their storage facilities etc. The nearest residential property is across the street on the corner of County 77 and Miller Lane. The property across the street has a garage at a setback similar to the Peterson request.

The shape of the property along with the neighborhood commercial setbacks make it difficult to meet all setbacks for an additional structure. The property is being utilized as a business and a residence and has proven to be compatible within the city. The variance for an additional building does not exceed the impervious coverage limits set by the ordinance and is quite close to the residential standard for impervious surface. There is not a great deal of additional property in the city zoned commercial that is available for a business. The applicant has done a good job of utilizing the property for both uses.

MOTION BY LEE MARTIN TO APPROVE THE VARIANCE REQUEST BY ERIC PETERSON AT 7993 INTERLACHEN ROAD TO CONSTRUCT A 30' x 34' GARAGE AT A SETBACK OF LESS THAN 60 FEET (15 FEET) FROM THE ROAD RIGHT OF WAY FROM COUNTY 77 AND A SIDEYARD SETBACK OF LESS THAN 30 FEET (6 INCHES). THE VARIANCE IS DUE TO THE UNIQUE CONFIGURATION OF THE LOT; THE PROPOSED GARAGE WILL NOT ALTER THE ESSENTIAL CHARACTER OF THE AREA AND IS NOT FOR A LAND USE NOT ALLOWED BY ORDINANCE. ERIC WILL HAVE THE GARAGE STAKED BY A SURVEYOR BEFORE CONSTRUCTION BEGINS. A LETTER OF UNDERSTANDING BETWEEN CAUSEWAY AND ERIC PETERSON WILL BE PROVIDED RECOGNIZING THAT THERE WOULD BE ENCROACHMENT TO THE NEIGHBORING PROPERTY DURING CONSTRUCTION AND RESTORATION. DICK MILES SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Ordinance Amendment-Rental of homes – The Lake Shore Planning Commission considered an ordinance amendment that proposes to regulate rental of residential homes within the city. Earl indicated that the purpose of the ordinance amendment is the inadvertent omission of the rental of private homes from the last ordinance revision. Teri read the changes to the ordinance into record.

Earl North explained the process for public comment regarding the ordinance amendment of rental of homes in Lake Shore.

Earl recommended for section 8.9.3 the length of stay should be no more than 1 time in a seven-day period. Lee asked if Saturday-to-Saturday would be considered less than this suggestion. Dave Baldwin asked if a resort would have to adhere to this language. Teri said that resorts that utilize private homes such as Grand View Lodge may be impacted but otherwise no impact. Dave wanted clarification of a long-term lease in section 3.2 subd. 130. Teri said that if there is enforcement issues after this amendment is adopted the ordinance could be revised at that time.

Earl suggested that section 8.9.8 the property cannot be rented more than 6 times in a calendar year. Earl asked if there should be a penalty if there is a failure to register. Teri said that it would fall under any other violations of the ordinance. The commission agreed that rental of homes would be allowed in all residential zoning districts.

Dick Miles questioned the registration process. He would like to register them for the number of people that they are allowed to house. Dick said that as part of the registration process the owner should remind renters to be considerate and polite to the neighbors.

Tom Diemert asked about the complaint process. Earl said a police officer would be sent and absent of any civil disobedience the disagreement would be between property owners.

Teri read Chris and Suzette Bush's comments into the record. They would like the rentals to be no more than one time in a one-month period and no more than four times per year. They would recommend that the owner of the property accompany guests at all times.

With no further comments Earl called for a motion.

MOTION BY DAVE BALDWIN TO AMEND THE ORDINANCE DEALING WITH RENTAL OF PROPERTY IN LAKE SHORE WITH THE SECTION 8-9-3 BEING NO MORE THAN ONE TIME IN A SEVEN DAY PERIOD. SECTION 8.9.8 BEING NO MORE THAN SIX TIMES PER YEAR AND ALLOWED IN ALL RESIDENTIAL ZONING DISTRICTS. TOM DIEMERT SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

NEW BUSINESS

Sketch Plan Review – Ted Matzen would like to purchase property (Tract B, Registered Land Survey #38) and construct a home and guest home on the peninsula portion of the property. The property contains 20 plus upland acres. The setback for the proposed structures is approximately 50 feet where a 150 setback is required. There is adequate area in the rear of the property for a conforming dwelling/dwellings; however, there most likely would not be a substantial view of the lake/wetland area. The size of the home would be 2600 square feet with an attached garage of 728 square feet (26x28). The guest home would be 1600 square feet with a 576 square foot garage (24x24).

The site plan does not show the location of where a conforming septic system may be located nor is there any information on soils. It appears there may be room for a septic; however, this would need to be addressed before a formal application would be considered.

Hardship for the variance, the applicant would need to identify the hardship for the location of the home and guest home along with size of the guest home.

The site plans shows a road out to the peninsula, how would this be constructed? What impacts would the driveway have? How close to OHW (ordinary high water mark) would the driveway be?

The applicant would need to address access into the property- an easement from Causeway may needed for the small triangular piece between Lost Lake Road and the platted right of way.

Ted Matzen and Architect Mark Cross came before the Commission looking for an idea to create a couple of building sites on the peninsula for a house and a guesthouse. They would leave the rest of the property undeveloped. A previous plan submitted was to put condominiums on the site. They are asking for a 50 foot setback rather than the 150 foot setback that is required.

The Engineer's memo indicated the following: Teri's staff report asks some very pertinent questions about the driveway shown on the site plan. This driveway is over a 1/4 mile in length with 900 to 1000 feet on side slope towards the wetlands in the shore impact zone. Construction of a driveway out to the peninsula portion of the property will require 1,000's of cubic yards of material to be cut and filled to create just a drivable lane. To create an access road so fire trucks can access the peninsula to provide fire protection will require certain design parameters be met so crews can safely and properly respond to an emergency call. An extensive review of road design with erosion control and drainage plan would be needed to determine if a proper access road is even feasible for this property given the various site topography and conditions.

Mark Cross addressed the driveway concerns. He said there is a graded road on a portion of the property and he agreed that there are some sensitive areas that need to be crossed to get to the peninsula. Earl asked if a bluff determination has been done for the property. Mark Cross said that it didn't appear to be needed. Earl said that he would have a hard time approving two houses on a piece of property that can't support one dwelling.

Tom Diemert asked if there are any other buildable sites on the property. Mark Cross said not really they are all low-lying areas.

Dick Miles said that the natural environment areas are in place for reasons. He said it would be hard to justify throwing our rules out and not remain consistent with the city's zoning.

Ted Matzen said this is an excellent place to build the house and he wouldn't want to disturb the environment. Earl said he is an informed buyer and Ted understands the issues with the property.

Dave Baldwin asked if there is room for a well and septic on the peninsula. Teri said that it appears that it could be; however, she doesn't know the soils.

Lee Martin agrees that he would have a hard time supporting two homes on the peninsula. Earl said that Ted would have to demonstrate a hardship that would allow the proposal. Dick Miles asked what the response would be to the city engineer's concerns for the driveway. Mark Cross said that it is a driveway and isn't sure that it would have to be paved or any wider than the neighbors driveway that is 12 feet. Mark Cross said that they are looking for a reasonable use of the property. He said with the right amount of respect the environmental concerns can be met.

OLD BUSINESS – There was no old business.

REPORTS

City Engineer – Mark Hallan was absent.

Chairman – Earl North said that he appreciates what Doug Miller put into this committee as the Council Liaison and welcomes Susan as the new liaison.

Council Liaison – Susan Amacher had nothing to report.

Zoning Administrator – Teri Hastings had nothing to report.

PUBLIC FORUM – Dave Baldwin asked if there is anything in the ordinance regarding wind generator use. Teri said that there are none; however, it has been talked about at the area planners monthly meetings and she can keep the commission updated if anything is settled on.

MOTION BY LEE MARTIN TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF APRIL 12, 2010 @ 8:15 PM. DICK MILES SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Transcribed by Patti McDonald
Lake Shore City Clerk