

**BOARD OF ADJUSTMENT/PLANNING COMMISSION
CITY OF LAKE SHORE
CITY HALL
MINUTES
NOVEMBER 10, 2014
9:00 AM**

Chairman John Ingleman called the meeting to order at 9:00 a.m. Members of the Commission present: John Ingleman, Earl North, Roger Smeby, Dick Miles, Alternate Kevin Egan and Council Liaison Susan Amacher; City Engineer Mark Hallan; City Zoning Administrator Teri Hastings and City Clerk Patti McDonald. Alternates Pat Hastings and Eric Peterson were absent. Tom Diemert was absent. There were 5 people in the audience. A quorum was present and the Commission was competent to conduct business.

MOTION BY EARL NORTH TO APPROVE THE MINUTES FOR SEPTEMBER 8, 2014 BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. KEVIN EGAN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

PUBLIC HEARING

Variance - Roger and Donn Beaubien requested a variance to build a 2600 square foot home with a 800 square foot second story, 840 square foot attached garage and a 1144 square foot art studio/accessory structure at a setback of less than 150' from Ray/Bass Lake and setback of less than 30 feet from the top of bluff. The property is described as Lot 18, Block 1, Fawn Forest. The property is zoned Medium Density Residential. The property is located just south of address 7752 Lost Lake Road.

The following documents became part of the record-Notice of mailing, notice of publication, signed application and attachments and staff report. There were two comments received and read into the record regarding this application. One letter was from Tim and Cindy Moore (7837 Lost Lake Road) supporting the project and the other was from Bill and Pat Radovich (7752 Lost Lake Road) in support of the project.

Roger and Donn Beaubien (7765 Lost Lake Trail) came before the Commission to explain their application. The site is between two developed homes and is about 4 acres, a good portion of the property is wetland and the property includes a bluff. The Radovichs will deed a portion of property to the Beaubiens for their driveway; however, they don't own the land yet. The home would have a partial full basement at the north end which would be used for utilities and storage.

John Ingleman asked if there were any comments from the audience. There were none.

Kevin Egan said the site is challenging and they have worked well putting together the application. He asked about the proposed rain gardens. Roger said if it's necessary to capture the water before it enters the wetland they will design 3 rain gardens. The soil is very sandy on the property. Kevin asked that given the nature of the soil would there be a need for an erosion control plan. Teri said that her staff report indicates they would. Roger said since there is a partial basement they would use the excavated materials to fill in the depression on the north side of the structure; he said there shouldn't be a lot left to store anywhere.

Earl North asked if there has been an opinion from the DNR. Teri didn't receive comment from the DNR.

Mark Hallan said the foundation plan doesn't indicate where the basement area is. He said the first floor plan is critical to establish the balance of the elevation. The roof design indicates two valleys that will drain down the bluff; there should be a plan to contain the roof run off. On the studio there is a garage door shown; if the proposed driveway is used to enter the garage it will be over the septic system. Roger said that it would be his hope on occasion to use the driveway through the wetland with his tractor; they wouldn't develop the driveway any further. It wouldn't have regular use. There really isn't an alternate site for a septic system. The well setback is sufficient.

Earl North said that the report from Martin Joyce indicated the ground was saturated [at 6 feet] and the sewer system would have to be a mound. He said that the Committee has remained pretty zealous about protecting the setbacks from the top of bluff. He can agree to one for the home; but not necessarily for the art studio. He said the studio could be moved closer to the building envelope (approximately 14 feet). Roger said it is positioned on a flat surface, if it is moved back it would be more of a slant and with the adjustment the garage door would be up off the ground. He said they would have to redesign the studio to move it back 14 feet. Donn asked if there is a compromise to the 14 feet. Mark Hallan said from the standpoint of the grading the studio could be made smaller. He said the finished contours haven't been established. He said it appears if they moved back the 14 feet the floor elevation would have to be dropped about a foot and do some grading. Roger said they could look at that.

Roger Smeby said the bluff needs to be well protected during construction and he said rain gardens should be required. He suggested no tree removal on the bluff side. Roger B. said they would plant more trees.

Dick Miles said this is a well planned application. He said as long as they are allowing an incursion into the bluff he doesn't have a problem with both the home and the studio. He wants them to take the advice of the city engineer. Roger B. said they included in the plan that they will maintain the natural vegetation with a small lawn/yard around the home. His goal is to manage the water before it goes over the bluff.

Robert Eliason (7738 Lost Lake Road) said he's talked with Roger and he also had similar problems with the topography of his property. Roger is very concerned about mitigating the impact of the bluff impact zone. This property lost one large white pine during the storm last summer; he also said that there are a few white pines on the property that when they mature will mitigate the property.

John Ingleman agrees with the application plan. There were no more comments regarding this application.

Teri's staff report indicated the following: The applicants are requesting a variance to construct a home and attached garage with a footprint of 3527 and a 1144 square foot detached art studio (accessory structure) at a setback of less than 150' from Ray/Bass Lake (Natural Environment Lake) and less than 30' from the top of the bluff. The setback from the bluff varies from 12 to 21 feet for the dwelling and 16 feet for the art studio. The lake setback varies from 95' for the dwelling at the closest point and 136 feet for the art studio. The dwelling and art studio will meet the 30' setback requirement from the wetland.

The lot is quite large and exceeds the required lot area for a natural Environment Lake. A lot on a Natural Environment lake is required to have 80,000 square feet and 40,000 square feet of buildable area. Lot 18 has 147,743 square feet; the buildable area has not been calculated. The property has unique topography with a large wetland area at the shore, two large wetland areas to the west of the proposed building site and a bluff. This topography severely limits the area for building.

The applicants have had Martin Joyce, septic site evaluator to the property to do soil borings and to design a septic system. The proposed system is shown on the survey along with a proposed well location. All improvements are staked on the property.

The land area between the bluffs and the wetlands is not very large and the applicants should be asked how he plans to proceed with construction. Will the art studio be constructed first? Where will building materials be placed during construction? Where will excavated material be stored; on site or will it be hauled off site? The applicant will be very close to the top of bluff; what precautions will be taken to insure the integrity of the bluff? What erosion control measures will be utilized during construction? The applicant does indicate he plans on constructing rain gardens for stormwater, one of them would be in the northeast corner but this is near the well so this may need to be adjusted.

The applicants have indicated there will be a partial basement along the northeast end of the building and garage area. The basement area will be approximately 900 square feet. The area chosen for the basement was due to the elevation in that area and the least amount of disturbance. The rest of the home will be at grade with in-floor heat.

The applicants would like to have an 8'x12' patio on the lakeside on the home. The patio would be constructed out of pavers. The patio would be located in front of the living room area.

The applicants have submitted elevation drawings of the proposed home and the art studio. The proposed home does not exceed the height requirement of the city and should fit in with the character of the neighborhood.

The survey indicates the amount of impervious surface for the site to be 4.6% with the proposed improvements and driveway.

The applicants have addressed landscaping and screening. In addition, the applicants have noted the removal of numerous trees from the site that were located in the proposed building site and those that were damaged from the storm this past summer.

STAFF RECOMMENDATION

Practical difficulties are found with the property due to the bluff and wetlands which creates a very narrow building envelope. A home with a garage is a reasonable use of the property. The art studio could be considered unnecessary. The applicants have appeared to have taken into consideration the environment and the neighborhood with their planning process. The proposed improvements are a permitted use in the R-2 district. The home would be maintaining the essential character of the area. The applicants have appeared to have taken into consideration the environment and the neighborhood with their planning process. A condition requiring an erosion control plan prior to construction and a more definitive plan of the rain gardens/stormwater should be submitted and approved prior to the issuance of the permit.

MOTION BY KEVIN EGAN TO APPROVE THE VARIANCE APPLICATION OF ROGER AND DONN BEAUBIEN TO ALLOW THE DISTANCE FROM THE LAKE AND DISTANCE FROM THE TOP OF BLUFF CONDITIONED UPON THE SUBMISSION OF A SATISFACTORY EROSION CONTROL PLAN TO THE PLANNING AND ZONING ADMINISTRATOR AND A SATISFACTORY WATER RETENTION/RAIN GARDEN PLAN; THERE WILL BE NO TREE REMOVAL FROM THE WEST SIDE OF THE PROPERTY. DICK MILES SECONDED THE MOTION. MOTION PASSED WITH EARL NORTH BEING THE ONE DISSENTING VOTE.

Ordinance Amendment - Subsurface Treatment Systems - The Lake Shore Planning Commission considered an ordinance amendment that adopts standards for Subsurface Sewage Treatment Systems. The city is required to adopt an SSTS (Subsurface Treatment System) ordinance that is at least as stringent as the county's ordinance if the city is to have an SSTS program.

Teri said this is a housekeeping item to amend Chapter 8, Section 54.1 to amend the City of Lake Shore Cost as it related to private waste water treatment system.

MOTION BY EARL NORTH TO RECOMMEND TO THE CITY COUNCIL TO ADOPT ORDINANCE NO. 2014-03, FIRST SERIES, AN ORDINANCE AMENDING THE CITY CODE AS IT RELATES TO PRIVATE WASTEWATER TREATMENT FOR THE CITY OF LAKE SHORE. KEVIN EGAN SECONDED THE MOTION. MOTION PASSED.

NEW BUSINESS

Site Plan Review - Renee Rivard is seeking a site plan review for a potential variance. There is currently a nonconforming structure on the property. The property has a conforming septic system and a deep well.

The property **does not** have a building envelope due to the bluff. The bluff setback and the road setback overlap each other; therefore there is not a buildable area on the property. The applicant has proposed two plans which are fairly similar. Both plans show a 24'x24' attached garage. Both homes have a foot print of approximately 1000-1200 square feet. Both plans have second story living space. The existing home is approximately 500 square feet. The septic system would need to be altered to accommodate a new dwelling.

Teri said the bluff determination rules have changed since the site plan used (2004) was submitted. Mark said it is 15 feet closer to the lake than the prior bluff setbacks.

Renee Rivard and Donn Johnson came before the Commission for a site plan review. The offer on the property is contingent on the advice they receive from the Commission. They would actually be taking down only two trees. She supplied a photo of the property. She showed the Commission where the structure and garage could be positioned on the site. The sewer system was discussed and a Type I system is required. The basement was built in 1940 and isn't in good condition so it would have to be rebuilt. Earl said this is an existing condition as compared to the earlier bluff setback variance. Mark Hallan said the new plan shows that it would need a basement. He also said the final plan may have the deck 14 feet up. He said the final plan should fit the slope. Renee said the well will be located closer to the road. Kevin said more detail is needed before the Commission can pass judgment.

OLD BUSINESS – There was no old business.

REPORTS

City Engineer – Mark Hallan had nothing to report.

Chairman – John Ingleman had nothing to report.

Council Liaison- Susan Amacher had nothing to report.

Zoning Administrator – Teri Hastings had an update on the Miller appeal. The date has passed for the Miller's to appeal the Council's decision to uphold the Commission's decision in district court.

PUBLIC FORUM – There was no public forum.

MOTION BY EARL NORTH TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF NOVEMBER 10, 2014 @ 10:00 AM. DICK MILES SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Transcribed by Patti McDonald
Lake Shore City Clerk