

**BOARD OF ADJUSTMENT/PLANNING COMMISSION
CITY OF LAKE SHORE
CITY HALL
MINUTES
DECEMBER 8, 2014
9:00 AM**

Vice Chairman Earl North called the meeting to order at 9:00 a.m. Members of the Commission present: Earl North, Dick Miles; Alternates Kevin Egan and Pat Hastings; Council Liaison Susan Amacher; City Engineer Mark Hallan; City Zoning Administrator Teri Hastings and City Clerk Patti McDonald. John Ingleman, Tom Diemert and Roger Smeby were absent. There were 12 people in the audience. A quorum was present and the Commission was competent to conduct business.

MOTION BY DICK MILES TO APPROVE THE MINUTES FOR NOVEMBER 10, 2014 BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. KEVIN EGAN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

PUBLIC HEARING

Variance - Renee Rivard requested a variance to demolish an existing nonconforming structure on a nonconforming lot and to rebuild a new dwelling with partial basement and second story at a setback of less than 30' from the top of bluff (the dwelling will be 77' from Upper Gull Lake) and to construct a 576 square foot garage at a setback of less than 30' from the top of bluff and less than 30' from the road right of way. The property is legally described as Lot 3, Pine Point (site address is 8020 Ridge Road). The property is zoned Medium Density Residential (R-2).

The following documents became part of the record-Notice of mailing, notice of publication, signed application and attachments and staff report. Renee Rivard and Donn Johnson were unable to attend the BOA meeting; they sent 4 representatives to represent them: Cindy Hidde, Stonemark Land Surveying; John Rardin, Rardin Excavating and Steve and Patty Rivard. Renee also sent an email stating to mitigate runoff and erosion they will add rain gardens, gutters flowers, trees and will not alter any vegetation down to the lake. They will keep the south driveway in its natural state to reduce the impervious surface. The well and septic system will be updated.

Cindy Hidde with Stonemark Land Surveying came before the Commission to answer any questions regarding the Rivard application for variance.

Teri's staff report indicated the following and was read into the record: The applicant is seeking a variance to construct a 1085 square foot home (footprint), an 8'x8' deck and a 576 square foot detached garage. The proposed home and deck would meet the sideyard setback and the lake setback but would not meet the bluff setback. The proposed garage would not meet the setback of 30' from the road right of way nor would it meet the 30' setback from the bluff. The property has a very small building envelope (widest point is approximately 8'). The property does have an existing structure on the property which is nonconforming. The existing structure is not in good condition and sits on the northerly portion of the property. The applicants can legally rebuild the existing structure but cannot expand it without a variance.

The property is nonconforming in size with 15,445 square feet. The current impervious coverage is at 10.1% and the proposed impervious coverage is at 21.1%. Since the impervious coverage exceeds 21%; a stormwater plan is required. The impervious coverage could be reduced by eliminating some of the proposed driveway or by utilizing pervious pavers. Turning the garage would also reduce the driveway area. The driveway length would be approximately 22 feet long and would necessitate cars backing out onto the street. This may not make the most sense for this property as this road does have a fair amount of traffic. Teri spoke to the applicant about the impervious coverage and the options. The applicant would be willing to submit a stormwater plan (to be approved by the city) or reduce the impervious coverage. Since the proposed home would be encroaching into the bluff, methods to control erosion during construction and afterwards are critical to this application.

The proposed footprint of the home is modest. The proposed home would have a partial basement on the lakeside which would be a walkout due to the topography. The home does have a second story. Elevation drawings of the proposed home have been submitted. Teri believes the location of the proposed home is logical given the constraints of the property.

The septic system can be upgraded to a type 1 system, although the septic system serving the dwelling is considered conforming. The applicant is working with Jon Rardin for expansion of the existing system to accommodate the proposed home. The applicant has spoken to do a well driller and the proposed location of a new well has been marked with a blue flag in the vicinity of the neighbor's well to the north.

The property has unique topography with most of it considered as a bluff. The neighborhood contains a mixture of homes and home types along with a nearby resort. Several of the homes have been built close to the roadway due to the unique topography of the area (the road is aptly named).

City Engineer Mark Hallan said he looked at the plan for more than constructability; he said that a proposed garage elevation from corner to corner is almost 4 feet of grade difference. If you pick a proposed garage elevation of 1,240 (or what they pick) it will need to have a 30 to 40 foot area by the road that will have to be taken out to fit the garage. He commented that this can be mitigated. The well shown belongs to the property to the north (the new well was indicated with a blue flag at the site visit). There is an alternate well location on the site plan.

John Rardin will answer the questions of the elevations. Mark Hallan said the bituminous will have to be removed because the new garage will not match up to the road. John said they will leave a berm along the road. He said they will use the existing elevation for the walk out. Teri said they are trying to maximize as much of the land contours as possible with minimal impact.

Pat Hastings asked if it's a drive through garage; he is concerned about backing out of the garage onto Ridge Road. Cindy said the intent is to go all the way through the garage, although there will be a circle driveway and some of it will be grass. Teri said the impervious surface was at 21.3%; however, they have reduced it to less than 20% with a possible reduction. This wouldn't require a stormwater plan by city standard although Renee will contact Kelly Condiff of Cass County Soil and Water Conservation to discuss a plan. Teri spoke with Darrin Hoverson from the DNR and commented they have done a good job of minimizing impact and made the suggestion to use coconut logs for stabilization of the bluff area until there is stabilization of the vegetation. Pat asked if the new well will be up by the neighbors well. Yes, it would.

Kevin Egan said the request for variance is for bluff setback and road setback. He agrees that the property is unique and would accept the variance with a stormwater plan. He asked to see the site evaluation of the septic system.

Earl North concurs with the DNR and city zoning administrator's method of using coco logs or some kind of plywood batter boards to stabilize the bluff before they start construction. He said a well seal from the MDH should be provided to the State with the discontinuance of the well. He suggested using the similar type of soil if they need to import soil during the project. Earl said he wasn't sure if a stormwater plan could be required with the impervious calculation under 20%. Teri said that it could as they are seeking a variance.

Earl asked for comment and/or clarification of the land surveyor's determination of bluff and is it reflective of the latest changes to or consistent with the city's requirements, (including county and state). Cindy said she used the City of Lake Shore Ordinance that is provided on the city's website. Teri confirmed the ordinance is the codified version of the ordinance.

Steve Rivard asked if the temporary coconut logs are required for proceeding with the project. Mark Hallan said that a hay bale with a silt fence would work better for erosion control than the coconut logs or bio rolls. Earl said the city would support the City Engineers recommendation. Steve asked about the well seal. Teri said it is a requirement from the MN Department of Health. Steve asked if the rain garden is part of the stormwater plan. Teri said that it is.

Reed Wickstrom asked if the stormwater run off would be mitigated because the land is sand rather than clay. Teri said that she had examples of sites that natural run off does occur. She said the city tries to take extra protection when a variance/construction is applied for where a bluff has been determined. The current owner had taken much concern in protecting the erosion on the property. Reed said that his concern is government vs. owner property rights; what he sees with this property is a very minimal chance of erosion that would adversely affect the water. Cindy Hidde said that it would always depend on how much rain there is or how saturated the ground is. The City Engineer agreed. Reed asked if this property has already had erosion problems. Earl said at the site visit it appears that the soil is stable. Teri gave an example that during construction and there isn't proper erosion control in place there could be a problem. Reed backs the property owner 100%. Teri said that Renee is willing to do what's right for the property and will protect the property as needed. Reed is also concerned about backing out onto Ridge Road. Teri said that is a valid concern and the drive through haven't been eliminated.

Earl asked if Cindy's latest change to the site plan could be dated.

Patti Rivard said they are really excited to begin their project and will comply with what is asked of them.

STAFF RECOMMENDATION:

The property has unique topography with most of it considered as a bluff which creates practical difficulties for building a conforming structure. The proposed home would be an improvement from the existing structure but would keep the harmony of the neighborhood. Most homes are modest in size in this neighborhood and some are sited with close proximity to the road due to the topography of the area. The property would be put to a reasonable use (home and garage).

Depending upon the discussion with the impervious coverage: the commission may want to condition of approval upon a satisfactory (to the city engineer) erosion control plan and

stormwater plan and upon submittal of the site evaluation and design for upgrading the existing septic system.

MOTION BY KEVIN EGAN TO GRANT BOTH THE SETBACK VARIANCE REQUESTS OF RENEE RIVARD WITH THE CONDITION TO PROVIDE A STORMWATER PLAN SATISFACTORY TO THE CITY AND TO PROVIDE AN EROSION CONTROL PLAN SATISFACTORY TO THE CITY. ONE LAST CONDITION REQUIRING A SITE EVALUATION PLAN SHOWING THE SEPTIC EXPANSION AND AN ALTERNATE SEPTIC LOCATION. PAT HASTINGS SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Variance - Kristi and John Bahnemann requested a variance to demolish an existing nonconforming structure on a nonconforming lot and to rebuild a 2,272 square foot home and attached garage at a setback of less than 75' from Gull Lake, construct 540 square foot paver patio at a setback of 39 feet from Gull Lake and to exceed the maximum of amount of impervious surface. The property is legally described as Lot 4, Ozonite Park (site address is 8215 Harold Street) and is zoned Medium Density Residential (R-2).

The following documents became part of the record-Notice of mailing, notice of publication, signed application and attachments and staff report. There was a voicemail from Denny Gerber, 8251 Harold Lane, is concerned about over building on small lots, he said the building could be moved back and downsized. He said the impervious coverage should not be exceeded and is concerned about runoff to the lake. Patrick Kline, 8204 Harold Lane, is concerned that the impervious surface is too much even for a 100 foot lot; the structure is too large for the property, which is 75' of lakeshore. He is concerned that his view to the east will be blocked if the structure is built. Greg Klosner, 8229 Harold Street, said the variance concerns should be judged by the same fair standards. In 2005, he applied for a variance and explained how his request was denied. He feels the structure is too big for the neighborhood. Teri heard from Darrin Hoverson the DNR hydrologist and he felt the application for the structure was excessive and thought allowing a variance to the impervious surface shouldn't be granted.

Teri's staff report indicated the following: The applicants are requesting a variance to demolish the existing nonconforming structure and to rebuild a 32'x50' two story home with a 24'x28' attached garage and a 12 foot lakeside patio. The proposed home would be at a setback of 51' from Gull Lake. The majority of the existing home is at this setback. The proposed patio is 39 feet from the lake. The garage will meet all setbacks. The home will also meet the sideyard setback at 15'.

The lot is a nonconforming lot with a lot area of 12,411 square feet and only 75' of shoreline. The existing amount of impervious surface is 12.1% and the proposed amount of impervious surface is 31%. The maximum amount of impervious surface is 25% with a stormwater plan otherwise it is 20%. This is a significant increase. There are some options available to the applicant to reduce the impervious coverage:

- Reduce the size of the home
- Move the home further into the building envelope thereby reducing the amount of driveway area
- Utilize pervious materials for the driveway, patio and sidewalk.

The survey does show a proposed run off area on the lakeside of the home. There is also runoff calculations provided. The city engineer will comment on this item as to whether or not it is sufficient.

The applicant is also proposing a home with a second story. Elevation drawings have not been submitted so I am assuming it will be a full two story. Given the size of the lot and the location of the home this could be a lot of bulk for this property/neighborhood. The home to the east does sit further back away from the lake so adding a full two story home in front could cause some issues for the adjacent property.

The property is served by city sewer. The survey does denote the location of the step station (part of the city sewer system) to the west of the proposed driveway. Earlier in the report I indicated the home could be moved away from the lake, moving back the home 10' from the lake **would not** impact these utilities.

It should be noted there is a shed located in northeast corner of the property. The survey indicates the shed is to be removed. Any approval given should include removal of the shed.

John Bahnemann and Cindy Hidde, Stonemark Land Surveying came before the Commission to explain the application. John said that his initial goals are to minimize the violations that exist. He doesn't want to move back and take down a number of mature trees. They bought the property in 2006 and are here for the long term. He commented that the neighbors are all close as this was a former resort.

Pat Hastings asked how deep the garage is. It is 28 feet; they require 26 feet for their boat. They are willing to consider a reduction in impervious surface for the sidewalk and deck.

Earl North commented that 30% impervious surface is quite large and the city has tried to mitigate the amount of impervious surface; especially with new builds (essentially what this is as a tear down). Earl thought the structure could be moved back into a good part of the building envelope and still not impede with Harold Lane for the driveway. He suggested reducing the impervious surface to a more normal/allowable number. John gave an example of a neighboring property that was allowed 25% on a smaller lot. Earl said that the ordinance doesn't say that if you have this much you can do this or that; it has requirements and Earl suggested moving toward a more reasonable compromise. The violation toward the back also exists, but Earl said the committee is willing to look at tradeoffs that improve the use of the property to get the applicant most of what they desire (within reason). Earl personally has a concern for the neighbor.

Pat Hastings asked how much square footage would have to be reduced to reach 25%. The Engineer said it would be around 742 square feet. Teri said by moving back some of the impervious surface would be reduced just with the driveway; they could also use pervious pavers for the patio and the sidewalk.

Kevin Egan said that if the Bahnemann's pulled the application today, he could work with Teri to steer him in the right direction as to what to do for a more agreeable application. John said they aren't impeding the view of the two closest neighbors. The front of the proposed deck is 3 feet behind the current patio. Dick Miles said the structure is larger than what exists. Kevin said if they don't pull the application they run the risk of a denial. Earl said that because of the calendar issue the Commission would deny the request allowing the applicant to revise their submission, and come back without paying an additional fee (stipulated in the denial).

Reed Wickstrom asked how big the garage is and suggested that it could be revised. It is two stall at 28 feet. Pat Hastings said that the plan could be adjusted to allow for a 3 stall garage with only one being 28 feet.

STAFF RECOMMENDATION

Recommend denial of the variance application at this time (possibly to allow the applicant to revise the plan and resubmit). There are practical difficulties with the property that may necessitate a variance; however, the proposed plan exceeds the amount of impervious surface allowed and this can be reduced to stay within the ordinance requirements. In addition, without elevation drawings it is difficult to determine the impact the proposed home would have on the adjacent properties and neighborhood.

Earl asked if John understood that with a denial the Commission is creating an opportunity to resubmit without additional fees. John asked if the denial would hurt, in any way, his future submittal. Kevin Egan said the denial is without prejudice. Earl said there are no penalties or bias; it allows them to resubmit somewhat at their own timeframe without additional costs.

MOTION BY KEVIN EGAN TO DENY THE REQUESTED APPLICATION OF THE BAHNEMANN'S WITH THE OPPORTUNITY FOR THE APPLICANT TO COME BEFORE THE COMMISSION AGAIN AT NO COST TO THE APPLICANT. WITH THE CONDITION THAT THE APPLICANT REDUCE THE IMPERVIOUS SURFACE AND SETBACK ISSUES AND THE SIZE OF THE PROPERTY/STRUCTURE. DICK MILES SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

NEW BUSINESS

Site Plan Review - Living Savior Lutheran Church requested a site plan review to receive feedback on a potential project. The property is zoned medium density residential. A church is a conditional use with this district. The proposed project does not entail a building other than a proposed pavilion. The proposed use will not require a conditional use permit; however, other issues may trigger a CUP such as excavation.

Glen Gustafson, Land Development Committee of Living Savior Church came before the Commission to get feedback to utilize the lot to the north of the Church. They would work on the project on a gradual basis as funds become available.

Pat Hastings asked the City Engineer if it's the cities goal to reduce ingress and egress off of city roads. Mark said that this is a county road and Dave Enblom would determine that. Teri said the one shown is the existing entrance. Kevin Egan said that what he hears is the possibility of moving the driveway to Little John Road. Teri said it may have been discussed in the past and that there haven't had any issues to date. Earl said there used to also be an entrance on Little John Road and the Church quit using it because of concerns from the neighbors.

Earl's concerns are with the neighbors to the west and thought there could be some screening/buffer if the playground and a fire pit were constructed.

Pat Hastings asked where the drainfield is located and if there is an alternate site for a septic system. Teri will check the site plan; it could be added to the as builts on file.

Earl said if more parking is paved it would add to the impervious surface. Teri said if more bituminous is added another storm water pond could be added. The one that is on site has been sufficient.

Glen said that a pavilion is drawn on the plan; they would come before the Commission when they decide to build that.

Kevin commented that a full landscaping plan could be provided upon application.

Teri said nothing proposed requires a CUP. They are accessory uses and would require a zoning permit. The site plan could be fine tuned to include the proposed additions.

Earl North disclosed there are members of the Commission that are members of the Church; there is no bias.

Reed Wickstrom said to work with the neighbors for the screening. He also asked about facilities provided for the park. Glen said that there are portable facilities indicated.

Site Plan Review - Rebound Lodge (Lost Lake Lodge) - The applicant is seeking a site plan review for the possibility of redeveloping the lodge. The resort would be expanded and the resort units would be owned with the ability to rent units through a designated management company. This process would be considered A Common Interest Community (A CIC Plat) similar to the process with Lake Shore Village. The applicant submitted a development plan, existing survey conditions and proposed. The information includes impervious coverage calculations and density calculations.

Brett Lease owner of the Lodge asked Tom Steffen to represent them for the site plan review. They would like to redevelop the resort to create a CIC and expand the number of units; they would form a new company and allow Prairie Bay to run the restaurant. Travis Miller will explain the existing condition and the proposed construction. They have a concept plan over the next 3 - 5 years. They intend to take down cabins 1, 2, 3 and 4; build 6 or 7 twins with a total of 22 units. They would like advice solely to amend the current CUP to build a new building. What do they need to do to build this building no matter what? They would still come in with plans.

Earl noted for clarification that the Commission would not allow new construction and coming back to clean up the paperwork. It is suggested to come before the Commission with a full plan. Teri is not comfortable with building without a plan; she said they could come before the Commission to amend their CUP. Tom said that they would do everything they needed to do to comply with the cities requirements.

Kevin is not comfortable with piece mill approvals. He realizes they are trying to get something done by June and are not the only resort thinking about this as a way to survive.

Tom doesn't feel this is piece mill. He said they have the available density and impervious. They just want to tear down a cabin and put up a twin home for a model. Teri said if they intended to rent they would be compliant with the ordinance. Tom said it would be rented to guests with no ownership.

Pat Hastings asked about the capacity of the drainfield. Teri said there are many systems on the property. She spoke with Martin Joyce and it may require a different level of certification for the septic system. Tom said the over 10,000 gallon trigger wouldn't be from building the twin home. Teri said she needs to make sure that the system for the twin home would accommodate the new structure. Pat asked if the city's long range goal is for city sewer; there is city sewer runs to Causeway. Teri said she isn't sure if there is additional capacity for expansion. Teri asked if a bluff determination been done? Tom said that as far as he knows there is not a bluff and that determination could be added.

Earl said as far as the existing conditions he said that by taking down and adding to the property, the impervious calculations don't add up. Travis handed out the proposed changes to the Commission and explained the additions to tier one, two and three and the density calculations. The impervious surface with the addition of the new twin home would go up to 21.1% in tier one, Gull Lake. Tom explained that the drainfield that cabin number one (that will be removed) is the one that the new unit will be expanded and hooked up to.

Kevin still feels that this is a piece mill approval. Tom said they still want to build this one twin home unit regardless if the long term plan is approved. Earl suggested that they submit application for what they are seeking; they could submit application for a CUP to build the twin home. Teri said the bluff determination and septic design to add one more unit would have to be indicated on the site plan. Pat asked about riparian rights and dock issues. Teri doesn't foresee any issues, but will contact the DNR for comment.

Reed Wickstrom asked if the unit will look different than what is there. Tom Steffan said they will have the same exterior appearance as the cabins already there.

Earl said he doesn't understand the impervious surface calculations on tier one of Gull Lake; he suggested making the site plan current upon submittal.

OLD BUSINESS – There was no old business.

REPORTS

City Engineer – Mark Hallan had nothing to report.

Chairman – John Ingleman was absent. Earl North recognized Dick Miles with a certificate for his years of service to the Planning Commission for the City of Lake Shore. Earl also recognized Susan Amacher as the Liaison to the Planning Commission.

Council Liaison – Susan Amacher had nothing to report.

Zoning Administrator – Teri Hastings said there is an inquiry as to building apartments in the city. She said, in reviewing the ordinance before the revision in 2009 there used to be a standard planned unit development section. It changed to either doing a rural conservation subdivision or a shoreland conservation subdivision (if Lost Lake Lodge moves forward would fall under the latter). There is no standard for apartments within the ordinance. This should be examined for 2015. Earl suggested asking our neighboring communities and/or hiring a consultant.

Teri is still working on the Gullwood situation. Earl said they could consult with the DNR for the conditions before and after and what can be done to correct some of the actions that have been done.

2015 Calendar was included for review and acceptance of the Commission. The Commission agreed to accept the calendar for the 2015 year.

PUBLIC FORUM – Reed Wickstrom said that he understands that the zoning ordinance was changed and codified in 2012. Teri said the city ordinances were codified in 2011 and there were no changes to the zoning ordinance. He said we are out of sync with what the DNR says for a bluff determination. Earl said they will have to take it under consideration. Teri said the zoning ordinance was revised in 2009 and may have changed the bluff definition. Reed said they haven't changed since 2009 and feels it was changed arbitrarily. Earl said that with understanding and

noting Reed's concerns he has asked questions that cannot be answered right now; he said that there has never been anything done willy nilly. He said the Commission will take his comments and review them. Reed said he contacted Heidi at the Brainerd DNR and she said there has been no changes; he is also waiting for a response from Darrin Hoverson. Earl said that Reed's concerns are duly noted and the Commission will review the ordinance.

MOTION BY KEVIN EGAN TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF DECEMBER 8, 2014 @ 10:51 AM. DICK MILES SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Transcribed by Patti McDonald
Lake Shore City Clerk