

**BOARD OF ADJUSTMENT/PLANNING COMMISSION
CITY OF LAKE SHORE
CITY HALL
MINUTES
MAY 11, 2015
9:00 AM**

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

Approval of the April 13, 2015 Regular Meeting Minutes – MOTION BY KEVIN EGAN TO APPROVE THE MINUTES FOR APRIL 13, 2015 BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. ROGER SMEBY SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

PUBLIC HEARING

Variance – Brad Miller requested a variance from the Lake Shore Land Use Ordinance relating to the minimum dwelling width. The applicant is proposing to demolish the existing structures and construct a new dwelling with a width of 20' where a minimum of 24' is required. The proposed home and attached garage would meet all setback requirements and impervious coverage requirements. The property is legally described as Lot 13, Pine Harbor (site address is 9178 Pebble Beach Road) and is zoned medium density residential.

The following documents became part of the record – Notice of mailing, notice of publication, signed application and attachments and staff report. There were no written or verbal comments regarding this application.

John Koupal of Start to Finish Builders came before the Commission to explain the changes to the application from the past. They are asking for a variance to the dwelling width as in the past they were requesting a variance from the sideyard setbacks. Teri stated that there has been an updated sewer site design.

Kevin Egan is comfortable with the revisions to the final plan. Roger Smeby also agrees to the new plan. Teri said there are water retention areas shown and asked if they will still follow through with that. John said that he will discuss with the owner what they will do moving forward.

Mark Hallan asked if the owner is using the existing well. John said they are not. The new well is designed in the front of the structure. Mark was satisfied with the location.

Teri's staff report indicated the following: The applicant has resubmitted the variance application with modifications from the previous plans. The new proposal is to demolish the existing home and garage and to build an entirely new structure within the building envelope. The proposed home and attached garage will meet all requirements of the ordinance with the exception of home size. The home does not meet the **minimum** width for a dwelling. The ordinance requires a minimum width of 24 feet; the proposed width of the Miller dwelling is 20 feet.

The proposed home will have a second story. Elevation drawings have been submitted.

The survey shows a composite deck at setback of 75'; the impervious coverage matrix indicates a concrete patio. The ordinance does allow for at grade patios to be at a setback of 50' from the lake. Decks are required to be 75 feet from the lake. The proposed plan with either deck or patio complies with the ordinance.

Previously, a septic design was submitted for the property which will accommodate four bedrooms. The septic designer had been out to property again this spring to review the property with the proposed changes. A revised septic design has been submitted. The design shows the septic tanks in the area noted as septic area with the proposed drainfield (mound) to be located across the road. There is not enough area to keep the mound on the side with the home due to the slopes required for the mound. There are several systems along Pebble Beach Road that have their systems located across the road. A new well will also need to be drilled. Teri asked the contractor to provide information on the location of a new proposed well. She believes it should be on the north side of the home.

Floor plans have also been submitted. The floor plans do indicate the garage being attached to the home. The floor plans depict four bedrooms which can be accommodated with the proposed septic design.

There is a power line that dissects the proposed home, the owner or contractor will need to work with the power company on rerouting the line.

The survey shows the proposed impervious surface at 17.0 % which is within ordinance requirements. The city engineer can verify these numbers for accuracy. The applicant has indicated two stormwater depression areas on each side of the home and notations indicate there will be gutters on the home.

The new design requires demolishing the existing cabin which was not located in line with the property lines but rather angled toward the southerly part of the lot which made it difficult in adding onto the existing cabin.

STAFF RECOMMENDATION

The Planning Commission has dealt with 50' lots and the need to upgrade the existing cabins on those lots. Most often the Planning Commission sees a request to reduce the sideyard setback requirement to accommodate a new structure. In this case, after several attempts the property owner is seeking a variance from the minimum required dwelling width while complying with all other ordinance requirements. The rationale for a minimum dwelling width was to eliminate single wide manufactured homes from being placed on the lake. State law does not allow cities to prohibit manufactured homes.

The proposed home will meet the purpose and intent of the ordinance. Recommend approval of the variance request.

MOTIOIN BY KEVIN EGAN TO GRANT THE VARIANCE REQUESTED (AT 9178 PEBBLE BEACH ROAD) TO DEMOLISH THE EXISTING STRUCTURES AND CONSTRUCT A NEW DWELLING WITH A WIDTH OF 20'; WITH THE CONDITION THAT THE OWNER SUBMIT A WATER RETENTION PLAN TO BE APPROVED BY THE PLANNING AND ZONING ADMINISTRATOR. GLEN GUSTAFSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Ordinance Amendment – Subsurface Treatment Systems – The Lake Shore Planning Commission will be considering an ordinance amendment that adopts standards for Subsurface Sewage Treatment Systems.

The following documents became part of the record – Notice of mailing, notice of publication, signed application and attachments and staff report. There were no written or verbal comments regarding this application.

Teri said that the ordinance was revised last fall and it wasn't satisfactory to the state and they required that we adopt the language used in the county subsurface ordinance..

MOTION BY GLEN GUSTAFSON TO ADOPT THE ORDINANCE AMENDMENT TO THE SUBSURFACE TREATMENT SYSTEMS AS PRESENTED. ROGER SMEBY SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

NEW BUSINESS – 8222 & 8226 Gullwood Road – The properties have constructed winding sidewalks down the bluff to the lake. Sidewalks are acceptable provided they are not wider than 4' in width and can be constructed without much disturbance to the landscape. In the shore or bluff impact zone; 10 cubic yards of earth movement is allowed. In addition, one property has a patio with pavers and the other has a leveled area where a swing is sitting. Patios have a 50' setback from the lake and are typically not permitted within the bluff impact zone. Teri asked our city engineer, Mark Hallan to review the properties to determine an estimate of earth movement. The Planning Commission may require the properties to reduce the size of the sidewalks to conform to the ordinance and to remove the patio. As far as restoration, we may need the opinion of the engineer to determine if this is feasible. The Planning Commission may consider a financial penalty for the property owners.

8226 Gullwood Road – lake access path, patio and grading within the bluff impact zone – David Wilt the property owner came before the Commission. Teri said there has been more than 10 cubic yards of dirt moved; the path is greater than 4 feet in width and a patio constructed in the bluff impact zone. She said there has been quite a bit of vegetation removed. David said he was allowed to make a 4 foot path to the lake and allowed a 32 square foot landing at the lake. Teri said he could put a path to the lake with a landing. David Wilt didn't state he was going to remove more than 10 cubic yards from the area. Mark Hallan visited the site; he said that there was definitely 10 cubic yards moved both around and brought in. He described the switchback landings. He said the rock walls that were built along with the crushed rock fill make the path 10 to 12 feet in width. He said the patio was put in a more level area near the lake. Kevin asked Mark what could be a realistic mitigation process. Mark said the sidewalk could be saw-cut to 4 feet all the way down; although it isn't saving much. The rock walls shouldn't be removed at the risk of disturbing the bluff again. He would leave the switch backs alone. The fire ring area is independent of the switch backs and could be removed and re-vegetated as the photo shows that was submitted with the staff report.

Pat Hastings asked if the city ordinance allows a patio area within 50' from the ordinary high water mark. Teri said that is correct; unless it is in the bluff impact area. Teri said that the patio could be any size as long as it meets the impervious surface allowed if it isn't in the bluff impact zone. Pat doesn't have a problem with the patio and felt it was the smartest place to put the patio.

David Wilt asked the definition of a bluff. He said he looked it up and felt that his property has a 20% incline rather than 35%. It was determined a bluff on the engineered site survey. Pat is just saying that he thought David put the patio in the most logical position.

Kevin said the sidewalk is surrounded by crushed stone and larger rocks; should this be brought in to further mitigate. Mark said moving the varying rock area doesn't really gain anything. He said the water runs off the sidewalk soaks right into the ground.

Kevin asked about the vegetation that was removed. David said that he removed the trees that were uprooted from a storm. Kevin asked if he mows the hill. David said that he uses a trimmer, but doesn't mow. Teri said that the hill will re-grow if it is left alone. She said that its good stewardship when a tree goes down, a new one should be planted.

Roger thinks that the hill and the grass should all go back to natural vegetation; not removing the fire pit.

John Ingleman asked if there is an allowable width near the lake. Teri said that it is 20' wide. David thought he could trim or prune trees to have a view. Teri said he is allowed to trim and prune.

Kevin said we are trying to recapture the function of the bluff. Teri said that native grasses put down longer roots to prevent water runoff and stabilize the shoreline.

John Ingleman said he is with Roger and would like the vegetation go back to natural. He would like a written commitment that this will happen. He said he agrees with Pat where the patio is located.

Glen Gustafson also agrees with where the patio is and the removal would not benefit the bluff stabilization.

Kevin said there was a problem there and he doesn't have a firm go ahead in how to resolve it. David said he came in to talk to Teri to find out what was allowable for him to do. John Ingleman said the allowable width of 4 feet was clearly exceeded. Pat said he agrees with the engineer's comments and feels better today about what is before the Commission than he did when he first read the file. He feels the ordinance isn't clear, re: design. There is now a permitting process to help mitigate this happening again.

No questions from the audience. Kevin said he understands that this is an after the fact variance. Teri said it would be an after the fact conditional use permit for the dirt moving. The earth moving work was done after he spoke with Teri about stairs and she suggested a path rather than stairs.

Kevin suggested that David Wilt apply for an after the fact conditional use permit to exceed movement of more than 10 cubic yards of earth within the bluff impact zone; he would also have to apply for a permit for the patio. Will David need to provide a survey with the application? Kevin asked would it be necessary and John Ingleman wanted to know how they would determine if David would need rain gardens for the runoff. Pat said the real concern is the water coming off the sidewalk and how can it be slowed down. Mark said he doesn't anticipate there is a large stream of water going into the lake or concentrating into one spot near the shore. Teri said when they visited the site there was no visible runoff.

8222 Gullwood Road – lake access and grading – Andrew and Stacy Ryan came before the Commission to discuss what they can do to mitigate their project. They followed the plan of the 4 foot path that David was allowed. They used a wheel barrow to move the dirt they used and some of the path ended up being greater than 4 feet. They didn't intend to have a landing area as

large as it is; however, it ended up that way so they put their swing set there. They are willing to let the manicured portion go back to natural. Stacy said that the reason they started the path is because the stairs are falling apart and an elevator was out of the question financially. Andrew said in hindsight he is sorry he didn't ask the city; they looked on line and found they could put a 4 foot path without a permit.

Roger said that they really removed an excessive amount of vegetation. They are willing to talk to the DNR to re-vegetate the bluff with natural vegetation. Teri said their path for the most part is only 4 feet in width. The retaining wall cannot be over 4 feet. Once again the problem is more than 10 cubic yards of dirt was moved.

The Commission agreed to allow the Ryan's to submit a vegetation plan to mitigate erosion problems in the future. They will work with Teri and the DNR to complete.

MOTION BY KEVIN EGAN TO DIRECT THE RYAN'S TO WORK WITH CITY STAFF TO DEVELOP A VEGETATIVE PLAN AND AN EROSION PLAN PER DISCUSSION. PAT HASTINGS SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Site Plan Review – Zorbaz is seeking a site plan review for possibly adding additional decking on the property. The owner is looking at upgrading some of the kitchen facilities (new ovens and refrigerators) so with that possibly he would like to get some feedback from the Planning Commission. The owner has a couple of ideas so there is not an updated site plan.

Teri had attached is a copy of an older site plan from the file (disregard the proposed decking that is shown on the plan). The building is setback over a 100' from the lake. Impervious surface and parking are issues with this property. The property is served by city sewer.

The existing deck has been converted slowly to more of a 3-season porch. The seating on the existing deck should be reviewed and possibly an adjustment made to the number ERC's (Equivalent Residential Connections) charged to the business for the sewer system. Seating is used to calculate the ERC's for a restaurant/bar.

Lee Johnson came before the Commission to get feedback for expansion at Zorbaz. He said that with the availability of the shuttle buses he needs to expand seating. There will no parking lost. He said they wouldn't be creating anymore impervious surface. He said this is part of a greater plan and needs somewhat of an idea before he purchases \$30K worth of kitchen equipment. The proposed north end deck wouldn't be a covered deck. Pat Hastings asked if the two proposed decks on the lake side have patio underneath them. There are shrubs under one of them. The plan meets the 75' setback.

Teri asked what the seating capacity is. He just had the fire marshal out and he can get that number. He said it is approximately 125 inside and 75 outside on the deck.

John Ingleman is concerned about the deck expansion on the west side and maybe the gazebo. He is not concerned about the north deck expansion. Lee J said that the expansion over the gazebo would be used to service the upper deck. A lot of this is in the dreaming process. Pat asked the limiting factors of commercial property besides impervious surface (40%) commercial, the parking and sewer capacity. Teri said those are the main factors. Pat asked if the ordinance should be changed to be inline with what the DNR allows for impervious surface for commercial waterfront. Teri said that can be a talking point down the road; the city now recognizes pervious materials.

John Ingleman doesn't think this really would be a difficult application. Pat thought a drainage plan could be incorporated into a plan for expansion. Lee J has been approached about shoreline restoration.

Lee J asked what the amount of seating can be expanded to. Teri said that the new seating will have to be looked at for calculating sewer usage.

OLD BUSINESS – There was no old business.

REPORTS

City Engineer – Mark Hallan said that Teri has been forwarding material from Lost Lake Lodge for a future meeting.

Chairman – John Ingleman has nothing to report.

Council Liaison – Earl North was absent.

Zoning Administrator – Teri Hastings had an application to forward to the council for approval from Wayne Anderson expressing an interest in sitting on the Planning Commission.

PUBLIC FORUM – There was no public forum.

MOTION BY GLEN GUSTAFSON TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF MAY 11, 2015 @ 10:32 AM. KEVIN EGAN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Transcribed by Patti McDonald
Lake Shore City Clerk