

**BOARD OF ADJUSTMENT/PLANNING COMMISSION
CITY OF LAKE SHORE
TELEPHONIC AT LAKE SHORE CITY HALL
MINUTES
SEPTEMBER 14, 2020
9:00 AM**

Commission Members phoning in: Jim Woll, Arla Johnson, Bob Toborg, Glen Gustafson and Gene Hagen; Council Liaison John Terwilliger; City Engineer Joe Dubel and City Zoning Administrator Teri Hastings and City Clerk Patti McDonald. Absent were and Alternates Pat Hastings and Shawn Hansen. A quorum was present and the Commission was competent to conduct business. There was no one in the audience at City Hall.

Others present on the phone call Kirsten Arneson, Randy Westman and Brian Schultz, Schultz Engineering; Marilyn Taylor, Mary Miller, Fred Stienbach.

City Planning and Zoning Administrator Teri Hastings was present at City Hall to coordinate the telephonic conference of the September 14, 2020 Lake Shore Board of Adjustment/Planning Commission. Practicing proper social distancing present at city hall were Teri Hastings, Jim Woll and Patti McDonald.

Jim Woll called the meeting to order at 9:00 a.m. Jim went over the rules to be followed for the telephonic meeting.

Approval of the August 10, 2020 Regular Meeting Minutes – MOTION BY GLEN GUSTAFSON TO APPROVE THE MINUTES FOR THE AUGUST 10, 2020 BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. GENE HAGEN SECONDED THE MOTION. ROLL CALL VOTE PASSED UNANIMOUSLY.

PUBLIC HEARING –

Variance – Randy and Kirsten Arneson requested a variance for the purpose of constructing a 244 sq. ft addition which will be within the 30' bluff setback but no closer than the existing front of the home and within the 15' sideyard setback. The proposed addition will meet the 75' lake setback and all other ordinance requirements. The property is described as Lots 17 and 18, Block 19, Tingdale Brothers Sherwood Forest (site address is 8684 Interlachen 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.

Kirsten Arneson explained the project to the Commission. She went over the photos she supplied showing the reason for the placement of the addition.

There were no questions or concerns from the Commission or the City Engineer.

Teri's staff report indicated the following: The applicant is requesting a variance to construct an addition on the south side of the home that will be 19' from the top of bluff where a 30' setback is required and a sideyard setback of 12' where a 15' setback is required. The addition will meet the

75' lake setback and will not exceed the maximum amount of impervious surface. The applicant was issued an over the counter permit for the addition between the home and garage in July.

The home was constructed in 2002 prior to the current bluff setback (the previous setback from the top of bluff was 0). The proposed addition will not have a basement and will only need to excavate for the footings (see elevation drawings). The proposed addition will not go closer to the bluff than the existing front of the home. If the variance is approved, silt fence should be installed along the bluff to prevent any erosion taking place during construction.

The addition extends 6' lakeward, 2' to the rear and 6' to the south. The septic tank is located near the westerly portion of the addition. The septic tank needs to be 10' from the structure. As proposed, it will meet this requirement, however, if the addition were to be expanded then it would be marginal if the addition would meet the needed setback from the septic tank.

The well is located at the top of bluff and should not be impacted by the proposed construction.

The impervious surface for the property is at 20.4% and with the proposed addition, will not exceed the impervious surface maximum.

The property does have a conforming septic system and enough area for a secondary system if necessary. The system is located on the south western portion of the property.

There are two small outbuilding located on the south side of the property, the applicant should be asked if these structures will remain on the property. The applicant should consider additional screening along this property line if the variance is approved.

The proposed addition is an appropriate use in R-2 zoning district and is compatible with the neighborhood and will not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the city.

STAFF RECOMMENDATION

Recommend approval of the variance for the proposed addition since it appears there is adequate area to protect the integrity of the bluff for the construction of the addition. A condition should be made that silt fence and other erosion controls measures should be implemented during construction to protect the bluff.

MOTION BY GLEN GUSTAFSON TO APPROVE THE ARNESON VARIANCE REQUEST AS PRESENTED WITH THE CONDITION THERE ARE PROPER EROSION CONTROL MEASURES IN PLACE BEFORE THE PROJECT BEGINS. ARLA JOHNSON SECONDED THE MOTION. ROLL CALL VOTE PASSED UNANIMOUSLY.

Conditional Use Permit – Randy and Pam Westman requested a conditional use permit for moving more than 50 cubic yards earth within the shoreland area (the earth removal is proposed in the rear yard or roadside of the property). The Property is described as Lot 11, Gullwood (site address is 8314Gullwood 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 comments received. There was one verbal comment from the Harbor property to the south at 8308 Gullwood Road, the project could possibly improve the snow removal situation during the winter months.

Randy Westman and Brian Schultz, Schultz Engineering came before the Commission to explain the project saying the home and the lake side of the project is complete. Brian was hired to evaluate and design the street side of the property for improvement.

Joe Dubel was concerned about the 2 to 1 rather than 3 to 1 tiering of the slope. Brian said that he agreed that it would traditionally be 3 to 1, but to achieve the project he is very comfortable with going 2-1/2 to 1. Joe is satisfied with the latest version of the landscaping plan.

Arla Johnson asked if the items being questioned were addressed. They have been.

Jim Woll asked if there is concerns with excavating in the right-of-way. Joe Dubel didn't have any concerns with this project. Jim asked Randy if there will be an erosion control blanket underneath the rock surface. Brian said that it wouldn't be needed where the rock is being placed.

Teri's staff report indicated the following: The applicant is requested a Conditional Use Permit to move more than 50 cubic yards of earth within the shoreland zone (within 1000 feet of the lake). The applicant is proposing to move approximately 3500 cubic yards of earth. The applicant would like to remove the "hill" in the back or rear of the property. The rationale for removing the hill is to allow for better site lines while exiting the property onto Gullwood Road. The applicant is also building a detached garage and the earth removal will help facilitate the construction of the garage. The proposed garage is shown on the grading and drainage plan.

The applicant has submitted a grading and drainage plan for the property. The plan does reference an earlier submission for the landscaping and raingarden plans (Backyard Reflections). It should be noted that the area to be excavated will be within the road right of way. There is also a power line pole that will be in the area to be excavated. The property owner should be asked how this will be addressed.

The area of the proposed to be excavated out will impact the existing drainfield, Raymond Schrupp, licensed designer and installer indicated the same design will be utilized and in the same location except at a lower elevation. There is adequate area for a new system on the property.

The impervious surface with the detached garage (not currently constructed) will be at 24.98%. The maximum amount of impervious surface is 25%.

The applicant has also submitted an erosion control and sediment plan. Listed below is a portion of the city ordinance as it pertains to grading within the shoreland area:

Grading within the Shore Impact Zone, including the placement of fill material along the shoreline, shall not be authorized if the grading creates or expands a shoreline recreation area, such as a beach. Beach Sand blankets are prohibited except for resorts.

The smallest amount of bare ground is exposed for as short a time as feasible.

Four inches of topsoil is placed, temporary ground cover such as mulch is used and permanent ground cover such as sod is planted.

Methods to prevent erosion and trap sediment are employed.

Fill is stabilized to acceptable engineering standards and must not create an unstable slope.

Plans to place fill or excavated material on steep slopes must be reviewed by a qualified professional for continued slope stability and must not create finished slopes of 30% or greater.

Fill or excavated material must not be placed in bluff impact zones.

Fill placed in Public water below the ordinary high-water line requires a Department of Natural Resources Waters Permit and a Corps of Engineers Permit.

Excavation in the bed of Public waters requires a Department of Natural Resources Waters Permit and a Corps of Engineers Permit.

Only clean fill consisting of sand, gravel or rock will be allowed where contact with water is anticipated. Mineral soil may be allowed elsewhere.

Alterations to topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties

The proposed earth moving will remove a significant number of small trees and brush that act as a buffer between the road and the neighbor to the south. The landscaping plan submitted does not address the rear portion of the yard. Will additional trees be planted in this area? Will this area be seeded or sodded? What type of vegetation will be replaced? The Planning Commission may want to require a landscaping plan for tree replacement.

The proposed use is an appropriate use within R-2 zoning district and is compatible with surrounding properties. The proposed use if done properly will not be injurious to the public health, safety, decency comfort, appearance or prosperity of the City.

The proposed use will should not substantially diminish or impair property values but rather enhance them nor will it impede normal and orderly development of the surrounding property.

STAFF RECOMMENDATION:

Approval of the conditional use permit is recommended contingent upon the city engineer's review and comments and that the ordinance requirements are followed as outlined above and the plans are followed as submitted including all erosion control measures and stormwater plans. Teri recommends a landscaping/revegetation plan for the rear of the property to be submitted prior to any permit being issued for the earth moving.

MOTION BY GLEN GUSTAFSON TO APPROVE THE CONDITIONAL USE PERMIT OF RANDY AND PAM WESTMAN. GENE HAGEN SECONDED THE MOTION. ROLL CALL VOTE PASSED UNANIMOUSLY.

NEW BUSINESS –

Site Plan Review – Betsy and Fred Steinbach – The applicant is seeking a site plan review for a potential subdivision of land. The applicants have provided a narrative of the history of the property. The largest issues with the property are the creation of 2 substandard lots (75' of shoreline versus the required 100'). The DNR will also have input on the substandard lots. The second issue is bringing the road up to city standards which includes paving. Teri believes the applicants are willing to include right of way for a future road (as shown on the old proposed plat but continue to use the existing dirt road serving the cabins.

The city does have on file compliance inspections for the septic systems serving the properties.

Teri read Darrin Hoverson's, MN DNR Hydrologist, comments into the record, he ultimately feels the owners have sufficient shoreline to work with to move forward.

Fred Steinbach, Marilyn Taylor and Mary Miller are on the line seeking feedback from the Commission to determine whether they move forward with their project.

Fred explained the history of the property; he said they aren't seeking the variance to change the way they operate the property. Marilyn Taylor and Mary Miller support the property as it was established and presented to the Commission.

Jim Woll asked if the property would have been recorded in 1974 been acceptable as presented. Teri said, yes, it would have. He asked if the DNR could overrule a decision of the Commission. She explained how the DNR and/or the City Council could do that. She gave an example of how the DNR suggested that if the city moved forward with an application, there could be conditions on the property to not allow any new buildings or variances the help mitigate the new requirements meaning there could be no variances for the substandard lots).

Arla asked for clarification whether Teri meant the restrictions for variances would be for Lots A and B only. Teri said that the remaining the lots would meet the requirements, so they would have enough area.

Joe Dubel understood the DNR's response as to stretch the lots of cabin A and B. That is what they meant. Fred commented that if that was done, one of the cabins on Lot A or B would be outside the lot lines.

Teri explained the options that the applicants could move in, the typical lot and block method with the substandard lots (option they are proposing); a different variation of the lot and block method or a common interest community. She told the Commission the applicants are seeking feedback as to what direction they should move in.

Gene Hagen asked how long the existing road is that is on the property. Marilyn said it's about a quarter mile.

Arla is concerned how this will impact future decisions if presented with the same exceptions. Teri explained that the Commission would have to show practical difficulty for making their decision; she said that this may be a unique situation being an old divided resort, they can show the history of how it was divided in 1974 and its continued use.

Bob Toborg asked if it was this is a recorded plat. Teri said it was subdivided in 1974 and not recorded.

Jim Woll said, given the history of this property, he supports the plan as submitted as presented provided that Teri shares the DNR's comments with the petitioners; that they evaluate all of the scenarios that might come up to try to achieve a conforming lot, barring that, given the uniqueness of the history, he doesn't feel they would be establishing a precedence in the future as it relates to future requests for 75' lots. Glen agrees with Jim.

OLD BUSINESS – There was no old business.

REPORTS

City Engineer – Joe Dubel had nothing to report.

Chairman – Jim Woll had nothing to report.

Council Liaison – John Terwilliger had nothing to report.

Zoning Administrator – Teri Hastings said she had an additional item from Tim Bianchi requesting a one-year extension to his variance that was approved last year.

MOTION BY GENE HAGEN TO APPROVE TIM BIANCHI'S REQUEST TO EXTEND HIS VARIANCE ACTION FOR ONE YEAR. ARLA JOHNSON SECONDED THE MOTION. ROLL CALL VOTE PASSED UNANIMOUSLY.

PUBLIC FORUM – There was no public forum.

MOTION BY ALRA JOHNSON TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF SEPTEMBER 14, 2020 @ 10:00 AM. GLEN GUSTAFSON SECONDED THE MOTION. ROLL CALL VOTE PASSED UNANIMOUSLY.

Transcribed by Patti McDonald
Lake Shore City Clerk