

**BOARD OF ADJUSTMENT/PLANNING COMMISSION
CITY OF LAKE SHORE
LAKE SHORE CITY HALL
MINUTES
APRIL 12, 2021
9:00 AM**

Commission Members in attendance: Jim Woll, Arla Johnson, Glen Gustafson and Gene Hagen; City Engineer Joe Dubel, City Zoning Administrator Teri Hastings and City Clerk Patti McDonald. Absent were Commission member Bob Toborg; Council Liaison John Terwilliger; Alternates Shawn Hansen and Pat Hastings. A quorum was present and the Commission was competent to conduct business. Brian Thorup, Jeff Thorup and Jeremy Johnson; and Tom Shurson were in the audience at City Hall.

Jim Woll called the meeting to order at 9:00 a.m.

Approval of the March 8, 2021 Regular Meeting Minutes – MOTION BY GLEN GUSTAFSON TO APPROVE THE MINUTES FOR THE MARCH 8, 2021 BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. ARLA JOHNSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

PUBLIC HEARING –

Variance Request – Brian Thorup – Brian Thorup requested a variance to demolish an existing nonconforming structure and rebuild a new 904 square foot dwelling lakeward of the existing structure at a setback of less than 30 feet from the top of bluff and less than 15 feet from the sideyard setback. The proposed dwelling does include a screen porch and a lakeside deck. The property is legally described as Lots 17 and 18, Block 11 Tingdale Brothers Sherwood Forest on Gull Lake. The property is zoned R-2, Medium Density Residential and the site address is 8471 Nottingham Road.

The following documents became part of the record – Notice of mailing, notice of publication of public hearing, signed application and attachments and staff report. The DNR phoned Teri to say this is a better request. There were no written comments received regarding this application.

Brian Thorup gave a brief summary of his project and the changes to the application bringing the request into an agreeable option to build their home. Jeff Thorup echoed Brian's comments.

Joe Dubel asked if the new request was submitted to the DNR. Teri replied that it was. Joe had nothing further.

The Commission had no concerns with the revised variance application.

Teri's staff report indicated the following: The applicant has submitted a revised variance application for consideration by the Planning Commission. The applicant is still requesting a variance from the bluff setback and side yard setback however, the dwelling is moved 3 feet away from the lake than the existing dwelling and the deck is at the same setback as the existing deck. The proposed structure is 26'x36' with an attached screen porch, lakeside deck and side deck. The applicant is intending to retain the cabin located on the north side of the property. The applicant will keep the proposed structure at the same sideyard setback as the existing structure which is 9'. It should be noted that the proposed structure will meet the 75' setback.

The lot is 30,951 square feet and has a buildable area of 11,138 square feet. The building envelope is shown on the survey and there is ample area to build a conforming structure. The existing impervious surface is 3.3% and with the proposed structure it is at 14.5% which is below the ordinance maximum of 25%. A drainage plan is not required since the impervious surface is less than 20% (drainage plan required when impervious surfaced is between 20%-25%) however, some thought should be given to how runoff will be managed.

The cleanouts for the septic system are shown on the survey along with the well location. The applicant has stated that if the system cannot be used for the proposed home, a new system will be installed. A compliance inspection will be needed for the existing system or a site evaluation and design for a new system.

The applicants have stated in their application that the proposed location will have less impact than if they were to build a conforming structure. The applicant sited less impact to trees, elevation and view for the adjacent property. While, there is area to meet the setbacks of the ordinance, the applicant has revised the structure location to better fit with the ordinance. The city has allowed other dwellings to be constructed at the same setback as previous structure. Utilizing the existing footprint will eliminate some tree removal of the site. In addition, the proposed structure does have a larger footprint than the existing structure but it is not overwhelming for the site.

The applicants have submitted elevation drawings of the home. The home is a single- story walkout home which is not much different from the existing structure. The proposed structure should fit into the neighborhood well.

The existing home currently has good screening with leaf on conditions and is well vegetated along the shoreline. If the variance is approved, a condition requiring the shoreline vegetation remain should be included in the approval along with the existing vegetation within the shore impact zone.

STAFF RECOMMENDATION

Recommend approval of the revised variance application as submitted since the property owner has moved the proposed dwelling back from the lake as requested. The proposed variance will maintain the essential character of the area request better fit the intent of the ordinance.

MOTION BY GENE HAGEN TO APPROVE THE REVISED VARIANCE APPLICATION OF BRIAN THORUP AS PRESENTED. GLEN GUSTAFSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Variance Request – Thomas Shurson – Tom and Vicki Shurson requested a variance to construct a 16'x24' garage addition with living space above and to include living space above the existing garage at a setback of less than 15' from the sideyard setback and less than 30' from the top of the bluff. The property is legally described as Part of Lot 22, Block 1, Fawn Forest. The property is zoned R-2, Medium Density Residential and the site address is 7708 Lost Lake Road.

The following documents became part of the record – Notice of mailing, notice of publication of public hearing, signed application and attachments and staff report. There were three written comments read into the record regarding this application.

Robert and MaryAnn Eliason had concerns regarding the setbacks of the structure. Robert suggested that the large trailer be removed; they use dark sky approved lighting fixtures for all new or existing lighting; and removal of the trees downslope of the bluff be prohibited to protect the

integrity of the slope. Teri sent them a copy of the plans along with a survey and didn't hear back from them.

Sharon Gregoire, 7733 Lost Lake Trail, was concerned about allowing a variance of the required setbacks. Teri addressed her concerns as well.

Dave Segler, 7671 Lost Lake Trail, sent a letter of support for the Shurson variance application.

Tom Shurson came before the Commission to explain his project stating they plan on this being their forever home soon. He said he has spoken with Robert Eliason and assured him he will build with proper erosion protection in place.

Glen Gustafson asked for confirmation of what Tom explained about the erosion control, asking if this is what Teri mentioned in her staff report. Teri said, yes, it is. Robert Eliason also requested no more vegetation removal on the slope of the bluff and to use dark sky lighting. Tom agreed to that; however, he was not quite sure what dark sky lighting is, but will look it up.

Joe Dubel confirmed the importance of erosion control during the disturbance of the soils. He asked if the Shurson's are installing gutters as well. Tom said, they are installing gutters.

Teri's staff report indicated the following: The applicant has made application for an addition to an existing garage. The original home and garage were constructed in 2002 with a variance. The applicant (not the original property owner) is requesting a garage addition with living space above. The proposed footprint of the addition is 16'x24' with a zero setback from the top of the bluff. The applicant will also be adding an area of additional driveway that will have a side yard setback of 3 feet.

The property is 3.5 acres in size; however, it has a very small building envelope and is irregular in shape causing difficulty for building a conforming structure. The existing garage is 24'x24'. The property does not have another location to build a conforming storage building or garage.

There is a wood shed on the property that the property owner will remove.

The applicant is also proposing living space above the existing garage. The living space will not add additional impervious surface or expand the footprint of the existing structure and is a reasonable way to add living space without creating additional impacts on the setbacks.

The applicant has been asked how they will protect the bluff during construction. The applicant did indicate the grade will not change for the proposed addition. If the variance is approved a condition requiring an erosion control plan and methodology on how construction will take place to protect the bluff should be required.

The impervious surface for the property is currently 2.8 % and is proposed at 3.2% so well under the 20% allowed. The applicant should be asked how runoff will be handled from the roof as to prevent any erosion down the bluff or the impact the adjacent property to the east.

There is a current septic system compliance inspection on file for the property. The number of bedrooms (3) will not change with the proposed addition. Bedrooms are used in the calculation of the size of the septic system.

Elevations of the structure (proposed) have been included in the packet as well as the floor plan.

STAFF RECOMMENDATION

Recommend approval of the variance for the garage/addition as the addition would not alter the essential character of the area. There are unique circumstances with the lot, not created by the land owner (small, irregular shaped building envelope in comparison to the lot size) causing difficulty siting a conforming structure.

Proposed Condition: Submittal of an erosion control plan and methodology on how construction will take place to protect the bluff.

MOTION BY GLEN GUSTAFSON TO APPROVE THE VARIANCE APPLICATION OF THOMAS SHURSON FOR THE GARAGE/ADDITION AS THE ADDITION WOULD NOT ALTER THE ESSENTIAL CHARACTER OF THE AREA. THERE ARE UNIQUE CIRCUMSTANCES WITH THE LOT, NOT CREATED BY THE LANDOWNER, WHICH CAUSE DIFFICULTY SITING A CONFORMING STRUCTURE. WITH THE CONDITION TO SUBMIT AN EROSION CONTROL PLAN AND METHODOLOGY ON HOW CONSTRUCTION WILL TAKE PLACE TO PROTECT THE BLUFF; NO REMOVAL OF TREES ON THE SLOPE OF THE BLUFF; AND USE DARK SKY LIGHTING. AS PRESENTED. ARLA JOHNSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

NEW BUSINESS –

Lot Split – Melissa Raasch – Teri’s staff report indicated the following: The applicant is applying for a lot split. The applicant has approximately 2.48 acres of land is requesting to split the property into two tracts. The property is zoned Low Density Residential (R-1) which has a minimum lot size of 40,000 square feet and a buildable area of 20,000 square feet. The lot width for the R-1 district is 150 feet. Both Tracts A&B meet the ordinance requirements.

The applicant has submitted a survey by a licensed surveyor. Legal descriptions have been prepared for the property.

The property does not contain any bluffs. The area of the right of way for Tract A does have some elevation which will should be taken into account for constructing the driveway. There are no wetlands on either tract.

Both tracts are currently vacant and do not have any improvements.

Monuments have been placed marking the corners of the property.

There is a notation on the survey as to the type of soils found on the site. This type of soil should be suitable for a sub-surface treatment system (septic system).

Building envelopes are shown on each of the tracts.

Jim Woll asked if this was the Hendrickson development.

Joe Dubel had no concerns with the application.

STAFF RECOMMENDATION

Recommend approval of the lot split as presented. The proposed tracts meet the requirements of the ordinance.

MOTION BY GLEN GUSTAFSON TO APPROVE THE RAASCH LOT SPLIT AS PRESENTED. GENE HAGEN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

OLD BUSINESS –

Site Plan Review - Jethro Carpenter – Teri’s staff report indicated the following: The applicant is seeking a site plan review for the subdividing property. The property is 34 acres with 21.9 acres of upland area. The property is located east of the Causeway multi plex units on the east side of Lost Lake Road and north of the Anderson Gravel Pit. The property is located on Spider Lake which is considered a Natural Environment Lake (NE); the Minnesota Department of Natural Resources determines a lake classification. A Natural Environment Lake has a minimum lot size of 80,000 square feet and a minimum buildable area of 40,000 square feet. The topography of the property is difficult. It has steep slopes, bluffs and wetlands. The applicant would like to subdivide the property and potentially connect to the city’s municipal wastewater systems.

The applicant has submitted two scenarios, the first which is a lot/block development. This proposal as submitted is difficult to determine if it meets the city requirements because it is lacking in information in several areas. However, this scenario does show potential boardwalks for each lot over wetlands (thick black lines) and potential docks.

The second option shows a planned unit development approach (called a conservation design in Lake Shore’s ordinance). However, the applicant is requesting that the city change its ordinance to follow the DNR guidelines for sewer properties. Below are the tables for Natural Environment Lakes that show lot size for non-sewered areas and sewer areas. The City of Lake Shore has chosen specifically not to adopt the DNR’s more lenient lot size for sewer areas of the city. The city has had a municipal wastewater system since 1991 and has updated the Comprehensive Plan and Zoning Ordinances several times since 1991 and has chosen not to adopt the sewer lot size classification for any of the lake types (General Development, Recreational Development, and Natural Environment).

Natural environment lake – **No sewer**

A.

Lot Type	Riparian Lot Area (sf)	Riparian Lot Width (ft)	Nonriparian Lot Area (sf)	Nonriparian Lot Width (ft)
Single	80,000	200	80,000	200

Natural environment lake – **Sewer**

Lot Type	Riparian Lot Area (sf)	Riparian Lot Width (ft)	Nonriparian Lot Area (sf)	Nonriparian Lot Width (ft)
Single	40,000	125	20,000	125

The table below shows the difference in units allowed nonsewered versus sewered based on the subject property land area.

Tier	Total Area	Suitable Area	Base Density- Non Sewer Lake Shore	Base Density DNR Sewered
Tier 1	1,040,551	525,173	6.56	13.66
Tier 2	254,449	254,449	3.18	6.36
Tier 3	7567	7567	.094	.282
Total Units			10	20

Below are excerpts from the City Comprehensive Plan as it relates to development and the applicant’s request to change the lot size for sewered areas. It is concluded that changing the lot size is not in keeping with the Comprehensive Plan.

Community Character

- “The City strives to maintain the characteristics that distinguish it from other communities in the region...”
- Maintain ordinances to limit high density or multi-family structures to those areas that are compatible with and have the infrastructure to support this type of development

Land Use/Planning & Zoning

- Our community’s brand, or identity, is made up of the scenic beauty, recreational amenities and a rural feel. All new development should reinforce this brand by preserving or enhancing this rural character that distinguishes Lake Shore from other local communities. To maintain this quality of life, the City of Lake Shore’s Board of Adjustments/Planning Commission will strive ensure all new developments are compatible with these community desires
- Maintain concise regulations establishing standards, requirements, and procedures for subdividing land.
- Maintain standards for conservation design for subdivisions and large tracts using the principle of density instead of lot size
- Require that areas within proposed developments that are unsuitable for development be protected as open space

Environment

- The City must actively protect and enhance the natural resources, including those under new development pressure.
- Require that wetlands and natural drainage systems be maintained and preserved when accommodating new growth or redevelopment.
- Limit development on unsuitable soils, including steep slopes, bluffs, wet soils, floodplain soils, and other environmentally-sensitive areas.
- Identify areas that would not be compatible with development, suitable for increased density, or areas that should be left as open space and then zone these areas accordingly. Direct development, through the use of appropriate zoning classifications, to areas that are more suitable.

Government Services, Public Safety

- Maintain zoning strategies that ensure Lake Shore remains a predominantly residential/recreational community
- Maintain Ordinances to ensure that new development and redevelopment is consistent with the Comprehensive Plan

In conclusion, it is not the function of the city to “make the development work financially” for the developer by amending ordinances to increase density. The property is best suited for a conservation development due to the unique topography of the property which consists of steep slopes, bluffs, and wetlands. Preservation of these areas is encouraged within the Comprehensive Plan. A development proposal should be submitted that meets the existing ordinances.

Mr. Carpenter was not in attendance to answer any concerns or questions of the Commission.

Arla Johnson asked if Teri spent more time with Mr. Carpenter regarding this application after the last meeting. Teri said she spent less time with him for the revised site plan. She is meeting at the site with the DNR, Mr. Carpenter and his surveyor on Wednesday this week. Darrin Hoverson from the DNR has some concerns regarding the OHW. Arla said it would be difficult to make any recommendations or decisions today if Teri is meeting with these people soon; she would like to wait for more information to come from that meeting. Jim Woll confirmed no decisions would be made today as this is a site plan review. He said the Commission could offer feedback to Mr. Carpenter letting him know that we want to follow the Lake Shore rules, that we don't issue variances for plat developments, etc. Teri said, yes, when they meet at the site to determine the OHW and this is established, it will fine tune the land area and density available. Teri said it is important to remember that Mr. Carpenter is asking the city to change its ordinance to a lot size for sewer areas that we haven't entertained in 30 years. Nothing in the ordinance or recently adopted Comprehensive Plan would point to entertaining such a move.

Arla Johnson asked if Mr. Carpenter wants to move forward with the 20 units, would an ordinance change need to take place. Teri confirmed that it would. Teri explained the process and timeline of an ordinance change. Arla stated a request like this hasn't been presented regarding a variance from an ordinance and felt we may be very reluctant to change if for one development proposal.

Teri would like to steer Mr. Carpenter in the direction of presenting a development that meets our city ordinance and the City Comprehensive Plan.

Joe Dubel doesn't have any comments at this point.

Jim Woll concluded that Teri can let Mr. Carpenter know that his information supplied for the Commission was:

1. Reviewed by the Planning and Zoning Commission.
2. Commission is not (at this time) amenable with something not consistent with city code.
3. There is not a desire at this time to recommend any changes to the Planning and Zoning Ordinance to the City Council.

REPORTS

City Engineer – Joe Dubel had nothing to report.

Chairman – Jim Woll had nothing to report.

Council Liaison – John Terwilliger was absent.

Zoning Administrator – Teri Hastings updated the Commission on the Zoning Ordinance review and update by Sourcewell. Sourcewell asked if the city would delay the review and revisions as they cannot work on the project right now. They did say that the city could find someone else to update the zoning ordinance if we need to. Teri asked the Commission if they would like to move

forward with an amendment to the ordinance for 'Shouse's' as this was going to be a change in the ordinance update. Gene suggested to put a hold on the Shouse updates.

PUBLIC FORUM – There was no public forum.

MOTION BY ARLA JOHNSON TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF APRIL 12, 2021 @ 9:41 AM. GLEN GUSTAFSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Transcribed by Patti McDonald
Lake Shore City Clerk