

**BOARD OF ADJUSTMENT/PLANNING COMMISSION
CITY OF LAKE SHORE
LAKE SHORE CITY HALL
MINUTES
JULY 8, 2024
9:00 AM**

Commission Members in attendance: Chair Jim Woll, PJ Smith, Sean Weldon, Alex Kuhn, Alternate Kevin Egan, Council Liaison John Terwilliger; City Engineer Dave Reese; City Zoning Administrator Teri Hastings, and City Clerk Laura Fussy. Dave Riegert, alternate was present in the audience. Absent was commission member Pat Hastings. A quorum was present, and the Commission was competent to conduct business. There were 3 people in the audience.

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

Approval of the June 10, 2024, Regular Meeting Minutes – MOTION BY KEVIN EGAN AND SECONDED BY PJ SMITH TO APPROVE THE MINUTES FOR THE JUNE 10, 2024, BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. MOTION PASSED.

PUBLIC HEARING –

Variance – Eric and Penny Lundgren – Eric and Penny Lundgren are requesting a variance to demolish the existing dwelling which is nonconforming (61feet from the OHW and within the bluff setback) and build a new home and attached garage at a setback of less than 50’ from the top of bluff. The proposed home is 1736 square feet on the main level; 1195 square feet on the lower level (partial walkout), 196 square feet and 988 square foot attached garage. The proposed home will meet the lake setback and sideyard setbacks except for the seasonal porch. The property is adjacent to a public access (Canterbury Lane so there is a 30-foot setback. The seasonal porch will be fifteen feet from the access.

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 was one email received from Kurt and Stephanie Nelson in support of the request. There were no other written comments or inquiries received regarding this application from the public or the DNR.

Eric and Penny Lundgren came before the Commission to briefly explain their request and answer any questions.

Teri’s staff report indicated the following: The property is a pre-existing lot which was platted in 1927 prior to any zoning standards. The existing dwelling was constructed in 1961 prior to bluff standards and lake setbacks. The existing home is a walkout at a 61-foot setback from Lake Margaret.

The applicants began working on plans for a new home in 2022. A survey was done by Stonemark in January of 2022 showing a 30-foot top of bluff setback (attached). The applicants have updated the survey to show the 50-foot bluff setback.

The applicants have submitted elevation drawings of the proposed home. A portion of the home will have a walkout basement. The applicants do not plan to excavate further into the bluff for the walkout but will utilize the area left from the demolished dwelling for the walkout portion of the home. The applicants have cited drainage and topographical issues that would make it unreasonable to meet the 50-foot setback for the new structure. Moving the home further away from the lake would also impact the design of the septic system and will create more intensive excavation and require extensive restoration efforts from the demolition of the existing dwelling. The applicants understand that a retaining wall on each side is needed; currently there are two wing walls on each side of the structure.

The lot is 28,061 square feet. The current impervious surface is at 12.8% and with the proposed improvements the impervious surface will be approximately 17%. The ordinance allows 20 % of the lot surface to be impervious surface and 25% with a stormwater plan.

The applicants have had a septic site evaluator and designer to the property to complete a septic system design. The complete site evaluation and design is on file, but I have included the site plan for the system in the packet.

The applicants are proposing a deck on the lakeside of the home which will meet the 75' setback requirement.

The applicants have not submitted an erosion control plan for the property. What methods will be used to protect the bluff and lakeside from erosion during construction. If the variance is approved, an erosion control plan should be submitted prior to the issuance of the permit.

The property is well screened at the rear of the property; some tree removal will be required for the installation of the septic system. The bluff should not be disturbed and must be protected during demolition and construction. The applicant should be aware that vegetation removal is not allowed on the bluff.

STAFF DIRECTION:

The Planning Commission may decide to approve the application, deny the application, or table the application if further information is required. If the decision is for approval or denial the findings of fact should be cited (listed below).

FINDINGS OF FACT:

- The applicant establishes that there are practical difficulties, as defined in this Ordinance, in complying with the official controls, and
- The strict interpretation of the Ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the landowner, and (the lot is a pre-existing lot with a nonconforming structure constructed in 1961; the topographic characteristics of the property create difficulty in siting the home, maintaining drainage and vegetative screening).
- The deviation from the Ordinance with any attached conditions will still be in keeping with the spirit and intent of this Ordinance and the comprehensive plan, and (the proposed home will fit in with the neighborhood, similar type houses and setbacks).
- The Variance will not create a land use not permitted in the zone, and (a home and garage are a permitted land use within the R-2 zoning district)
- The Variance will not alter the essential character of the locality, and (the improvements as proposed will not alter the essential character (lake homes) in the neighborhood.
- The Variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.

The property owner Eric Lundgren gave a brief summary of the project and the various challenges that they have and the request for the variance. He stated that they have been working on a plan to either add to the property or tear down and rebuild. Before the setback changed, they had already had a survey complete with a walkout basement. Now that the new setback is in place, it requires a variance. Eric stated that with the new setback the issues that arose consist of the topography and the location of the septic system.

Dave Reese agreed with the staff report's recommendation and stated the reasons for the variance seemed reasonable.

Jim Woll stated the bluff should not be disturbed and protected during demolition and construction.

Kevin Egan stated it was good variance from his perspective.

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

MOTION BY PJ SMITH AND SECONDED BY KEVIN EGAN TO APPROVE THE VARIANCE REQUEST OF ERIC AND PENNY LUNDGREN AT 8397 NOTTINGHAM ROAD TO INCLUDE THE FOLLOWING FINDINGS OF FACT:

- The applicant establishes that there are practical difficulties, as defined in this Ordinance, in complying with the official controls, and
- The strict interpretation of the Ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the landowner, and (the lot is a pre-existing lot with a nonconforming structure constructed in 1961; the topographic characteristics of the property create difficulty in siting the home, maintaining drainage and vegetative screening).
- The deviation from the Ordinance with any attached conditions will still be in keeping with the spirit and intent of this Ordinance and the comprehensive plan, and (the proposed home will fit in with the neighborhood, similar type houses and setbacks).
- The Variance will not create a land use not permitted in the zone, and (a home and garage are a permitted land use within the R-2 zoning district)
- The Variance will not alter the essential character of the locality, and (the improvements as proposed will not alter the essential character (lake homes) in the neighborhood.
- The Variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.

MOTION PASSED.

Variance – Ron and Deb Peters – Ron & Deb Peters request a variance to construct an addition approximately 28'x26' and a 10' wide deck all at a setback of less 75' from Gull Lake. The requests also involves a parking pad at a setback of less than 10' from the side lot line and a new roof with a 11/12 pitch (no living space). The property is legally described as Lot 1, Block 1, Gull Lake Narrows (site address is 8187 Harold Lane) and is zoned medium density residential (R-2).

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 was one email received from Troy and Jennifer Stenerson who live directly north of the property stating they are in 100% support of Ron and Deb's variance request. There were no other written comments or inquiries received regarding this application from the public or the DNR.

Jim Kraemer was the third-party representative for the applicants. Jim stated that the owners wish to make this a full-time residence and more wheelchair accessible. The survey shows how there really is no buildable envelope and why they would like to add an addition and expand the garage.

Teri's staff report indicated the following: Ron and Deb Peters are requesting a variance to construct an addition approximately 28'x 26' and a 10' wide deck all at a setback of less than 75 feet from Gull Lake along with a garage expansion of 344 square feet. The request also involves adding a parking pad at a setback of less than 10 feet from the side lot line. The lots in this area are pre-existing nonconforming lots which means they were created before today's current lot standards and setbacks. There are two small triangular areas for a building envelope (an area that meets all setbacks) on the property. The shape of the lot is unusual with an irregular shape along the road right of way.

The proposed additions would meet the sideyard setback of 15' but the southerly addition would be approximately 54 feet from the lake and 19 feet from the road right of way. The garage addition would be 57 feet from the lake and 21 feet from the road right of way and the current home is 51 feet from the lake and 23 feet from the right of way. Both additions would not go any closer to the lake than the existing home.

The applicants are planning on a major renovation of the home (interior) along with doing a new roof with a steeper pitch and decorative dormer on the lakeside. The proposal also includes a covered entry to the home. Elevation drawings have been submitted.

The lot area is 14,955 square feet (most lake lots have 20,000 square feet and currently the ordinance requires 30,000 square feet) and has a current impervious surface of 23.2%. With the proposed improvements, the impervious surface would exceed 25%. The applicants are proposing to utilize pervious materials for the driveway and sidewalk on the roadside of the home which gives them a 50% credit for that area. Utilizing the pervious material will bring the impervious surface to 24.8%. A stormwater plan has been submitted for the property along with the drainage calculations.

The property is served by municipal sewer and a private well. Andy Schwartz, Wastewater Superintendent has been made aware of the proposed improvements and did not have any issues.

STAFF DIRECTION:

The Planning Commission may decide to approve the application, deny the application, or table the application if further information is required. If the decision is for approval or denial the findings of fact should be cited (listed below).

FINDINGS OF FACT:

- The applicant establishes that there are practical difficulties, as defined in this Ordinance, in complying with the official controls, and
- The strict interpretation of the Ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the landowner, and (the lot was created before today's standards for lot size and setbacks and the lot shape is irregular)
- The deviation from the Ordinance with any attached conditions will still be in keeping with the spirit and intent of this Ordinance and the comprehensive plan, and (the proposed home will fit in with the neighborhood, similar type houses and setbacks; the applicants have complied with meeting as many of the ordinance requirements as possible (impervious surface and sideyard setbacks).
- The Variance will not create a land use not permitted in the zone, and (a home and garage are a permitted land use within the R-2 zoning district)
- The Variance will not alter the essential character of the locality, and (the improvements as proposed will not alter the essential character (lake homes) in the neighborhood and similar.
- The Variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance (the property was platted prior to today's standards and could not meet the current requirements).

PJ Smith stated it is a really tough area. Kevin also stated that there was not much more that could be done.

Jim Woll asked Teri if the street right-of-way issue that was brought up with the neighbor's new construction last year would be an issue again and Teri stated the street is where it belongs. She also stated that Andy Schwartz Lake Shore's wastewater contact work with their contractor to make sure there were no issues on that end.

Dave Reese was asked if he had any comments on the stormwater plan and he stated that it is good that there is a stormwater plan in place.

Kevin Egan asked if there is going to be any long-term capacity concerns on the drain field and Dave had no concerns at the moment.

MOTION BY KEVIN EGAN AND SECONDED BY SEAN WELDON TO APPROVE THE VARIANCE REQUEST OF RON AND DEB PETERS AT 8187 HAROLD LANE TO INCLUDE THE FOLLOWING FINDINGS OF FACT:

- The applicant establishes that there are practical difficulties, as defined in this Ordinance, in complying with the official controls, and
- The strict interpretation of the Ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the landowner, and (the lot was created before today's standards for lot size and setbacks and the lot shape is irregular)
- The deviation from the Ordinance with any attached conditions will still be in keeping with the spirit and intent of this Ordinance and the comprehensive plan, and (the proposed home will fit in with the neighborhood, similar type houses and setbacks; the applicants have complied with meeting as many of the ordinance requirements as possible (impervious surface and sideyard setbacks).
- The Variance will not create a land use not permitted in the zone, and (a home and garage are a permitted land use within the R-2 zoning district)
- The Variance will not alter the essential character of the locality, and (the improvements as proposed will not alter the essential character (lake homes) in the neighborhood and similar.
- The Variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance (the property was platted prior to today's standards and could not meet the current requirements).

MOTION PASSED.

NEW BUSINESS –

Lot Split: Dave Hochmayr – Dave Hochmayr is applying for a lot split for Lot 3, Block 12 and Part of Lot 14, Block 12 of Tingdale Brothers Sherwood Forest on Gull Lake. The applicant owns a large area of land between Balsam Lane, Nottingham and Robinhood Way (see map with green highlighted area) and would like to reconfigure the lots. The property is zoned R-1, Low Density Residential which has a minimum lot size of 40,000 square feet (a little less than an acre). The buildable area for this zoning district is 20,000 square feet with a minimum width of 150'.

Teri's staff report indicated the following: The proposed lot does have an unconventional configuration, but it makes more sense to combine Lot 3 with part of Lot 14 rather than have Lot 3 as a stand-alone lot. The lot area of Parcel is 40,104 square feet.

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

Parcel A does not contain any bluffs or wetlands. All existing structures and improvements are shown on the survey along with well and septic location.

Parcel A has a minimum of thirty-three feet of frontage on a public roadway.

Monuments have been placed marking the corners of the property. The existing septic system and well are indicated on the survey and there is sufficient area on the site for a secondary system.

Building envelopes are not shown on the survey. Contour information and an aerial photo of the wooded vegetation are attached.

STAFF RECOMMENDATION

Recommend approval of the split as the proposed lot meets the minimum lot size requirement of 40,000 square feet and lot width of 150 feet.

PJ Smith asked if it seemed more like a lot consolidation then a lot split and asked if Lot 3 would be buildable on its own which Teri stated with being it only 50ft wide it would need a variance.

Kevin asked if these lots were going to be sold individually and Teri was not sure if that was the plan. The applicant was thinking about the property in the future and what can be done with them at a later time.

Dave Reese stated Lot 3 could be used as a driveway access or putting in a septic system.

There were no further concerns from the public or commission.

MOTION BY PJ SMITH AND SECONDED BY ALEX KUHN TO APPROVE THE LOT SPLIT OF PARCEL A FOR DAVE HOCHMAYR AT 1438 BALSAM LANE.

MOTION PASSED.

Lot Split: Dave Hochmayr – Dave Hochmayr is applying for a lot split for Lots 6-8 and Lot 11, Block 12 and Part of Lots 14 and 15, Block 12 of Tingdale Brothers Sherwood Forest on Gull Lake. The applicant owns a large area of land between Balsam Lane, Nottingham and Robinhood Way (see map with green highlighted area) and would like to reconfigure the lots. The property is zoned R-1, Low Density Residential which has a minimum lot size of 40,000 square feet and the buildable area for this zoning district is 20,000 square feet with a minimum width of 150'.

Teri's staff report indicated the following: Parcel A consists of Lot 9 and the north half (approximately) of Lot 11, Block 12. Parcel A has an area of 3.92 acres and Parcel B has an area of 7.15 acres. Again this a unique split since it is only splitting Lot 11 and then combining several other lots together.

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

Parcel A does not contain any bluffs or wetlands. All existing structures and improvements are shown on the survey along with well and septic location.

Parcel A and Parcel B have the minimum of thirty-three feet of frontage on a public roadway.

Monuments have been placed marking the corners of the property. The existing septic system and well are indicated on the survey and there is sufficient area on the site for a secondary system.

Building envelopes are not shown on the survey. Contour information and an aerial photo of the wooded vegetation are attached.

STAFF RECOMMENDATION

Recommend approval of the split as the proposed lot meets the minimum lot size requirement of 40,000 square feet and lot width of 150 feet.

There were no additional comments from the commission regarding the application.

MOTION BY ALEX KUHN AND SECONDED BY SEAN WELDON TO APPROVE THE LOT SPLIT OF DAVE HOCHMAYR AT 1430 BALSAM LANE.

MOTION PASSED.

OLD BUSINESS – There was no old business.

REPORTS

City Engineer – Dave Reese stated the street improvement projects are almost complete. The wastewater improvements on Esther and Harold Ln has not started. Fritz Loven Bridge is in the works and progressing with

the Minnesota State Engineer. Alex asked Dave about Vermont Road and the construction happening on that road. Teri and Dave stated it was part of their chip sealing project to extend the life of the road.

Chair – Jim Woll had nothing to report.

Council Liaison – John Terwilliger had nothing to report.

Zoning Administrator – Teri Hastings spoke about the discussion with the mayor and council regarding compensation for alternates that attend committee meetings.

PUBLIC FORUM – There was no public forum.

MOTION BY KEVIN EGAN AND SECONDED BY PJ SMITH TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF JULY 8, 2024, AT 9:28 AM. MOTION PASSED.

Transcribed by Laura Fussy
Lake Shore City Clerk