

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

Commission Members in attendance: Sean Weldon, PJ Smith; Pat Hastings and Gene Hagen; Council Liaison John Terwilliger; City Engineer Joe Dubel; City Zoning Administrator Teri Hastings and City Clerk Patti McDonald. Absent were Commission Chair Jim Woll, and Alternates Alex Kuhn, Glen Gustafson, and Pam Poston. A quorum was present, and the Commission was competent to conduct business. There were 4 people in the audience.

Vice Chair Gene Hagen called the meeting to order at 9:00 a.m.

Election of Officers –

MOTION BY PJ SMITH AND SECONDED BY SEAN WELDON TO NOMINATE JIM WOLL AS CHAIR OF THE PLANNING COMMISSION. MOTION PASSED.

MOTION BY PAT HASTINGS AND SECONDED BY SEAN WELDON TO NOMINATE PJ SMITH AS VICE CHAIR OF THE PLANNING COMMISSION. MOTION PASSED.

Approval of the December 11, 2023, Regular Meeting Minutes – MOTION BY SEAN WELDON AND SECONDED BY PAT HASTINGS TO APPROVE THE MINUTES FOR THE DECEMBER 11, 2023, BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. MOTION PASSED.

PUBLIC HEARING –

Variance – John N. Allen – John N. Allen requested a variance to construct a 4,182 square foot principal structure at a setback of less than 75’ from Gull Lake and 14’ from the northerly side lot line, in addition, the applicant is proposing to construct a sport court and covered entry at a setback of less than 30’ from the road right of way, and less than 30’ from the delineated wetland. The property is described as Lot 1, Pine Harbor (site address is 9110 Pebble Beach Road). The property 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 were a few inquiries received regarding this application. Danica Dircks the area DNR Hydrologist was sent the entire application last week and Teri has not had any further comments from her. She had a phone conversation with Gordon Glendenning (9072 Pebble Beach Road) on 1/2/24, which is north of this property; he had questions regarding the setbacks. He was sent the elevation plans and said he had no further concerns. Jane Koldon, (9126 Pebble Beach Road) was concerned about the structure getting too close to the shoreline and is against any building closer that 75 feet from the shore.

John Allen came before the Planning Commission to answer any questions they may have. He summarized his application for a variance. He said the site hardship is that the city has allowed variances to neighboring homes as they are just as close to the water; he would comply with the sideyard setbacks. He stated that his entire site is contiguous and has more than 40 acres; the setting of the facility would be consistent with the cabin culture look along that beach and the sport court will make it a more attractive situation on the other side of the road.

Peggy Johnson, 9084 Pebble Beach Road, asked for confirmation of the setback. Teri answered that it is 55-feet. She is not opposed to the variance.

John Allen said he is not asking for any more of a setback than the neighboring structures.

Teri Hastings commented that the property to the south was rebuilt as a two-story home in 1994 with a variance at a 50' setback from the lake and 5 feet from the sideyard setback. She said properties on the south portion of the Pebble Beach plat have their properties split by Pebble Beach Road; most of the homes are at a setback from the lake of 50 feet or less. She said that there are wetlands on the rear portion of the split properties that is between Pebble Beach Road and the County 77, and it is important to note that John is not applying for any wetland fill, so the wetlands will stay intact.

Kris Driessen said they are replacing a one room cabin with a much larger structure. She asked if the boat tracking will go down to the water. John Allen answered that it is going down to the water. Teri said that marine rail tract system is allowed by the MN DNR.

Teri's staff report indicated the following: The applicant requested a variance to rebuild a new home which includes boat storage in approximately the same location as the previous structure and to construct a sport court on the west side of Pebble Beach Road. The existing home was demolished earlier this year but is shown on the survey. The applicant's previous dwelling was nonconforming due to the lake and sideyard setbacks. The applicant is proposing to move the structure further from the lake than the previous structure to a setback of 55' from Gull Lake. The structure will meet the sideyard setback of 15' from the property line to the south and one corner (northeast) will be 14' from the side lot line.

The sport court proposed on the west side of Pebble Beach will meet the setback of Pebble Beach Road except for the covered entry. The sport court will not meet the 30' wetland setback. The city did not have a wetland setback until 2009, the setback was initiated by the city (this is not a DNR requirement, and the intent was for structures that would be occupied such as dwellings). If the variance is approved for the sport court, measures will need to be taken during construction to protect the wetland. A wetland exemption (400 sq ft) is an option for the applicant.

The lot size for the property is 39,606 square feet with only 6,920 square feet of buildable area due to the wetlands on the property; in addition, Pebble Beach Road dissects the property which creates practical difficulties (meeting additional setbacks and reducing the buildable area).

The applicant has stated in his application (see below) that the proposed lake setback is consistent with many of the properties along Pebble Beach Road.

This property is on Pebble Beach where multiple variances have been granted to multiple properties because of the wetlands and both the shallow widths and the short depths of the 1920's subdivision. Many properties on the Pebble Beach shoreline, both north and south of this site, have nonconforming sites due to this hardship.

Applicants submittal either substantially complies, or completely complies with the side yard setback requirements and Right of Way setbacks. Applicants submittal for the lake side setback considers that it is a greater setback than the existing structure and mirrors with the stringline test setbacks to the contiguous properties to the north and south. Further, it is considerably more than multiple properties on Pebble Beach now. Therefore, the variance has a softer property touch than numerous other properties within the Pebble Beach area and would create a site consistent with existing conditions on Pebble Beach.

Many of the homes along Pebble Beach Road have been reconstructed over the past 20 years and many are two-story structures. The city has used the impervious surface to balance the building size to lot size. The applicant is at 24.9% impervious surface and will utilize pervious pavers for the driveway to further reduce the amount of impervious surface. The maximum amount of impervious surface allowed is 25% by ordinance. A stormwater plan has been submitted which shows four areas for stormwater retention.

Elevation drawings have been submitted for the structure. The new home will have two stories and will not exceed the 25' height limit.

The applicant has considered other options for building on site (see below):

The home's design was downsized to substantially fit within the building's setback areas. The use in part as a classic boat storage facility requires certain depth and width requirements. Enforcing the lakeside setback, would place this property behind the significantly nonconforming neighbor to the south whose home would then block views, sun, and air flow. This would be a punitive and perverse land use penalty.

A site evaluation and design for a septic system has been submitted by David Rasinski. The system will be located on both sides of Pebble Beach Road. The septic tanks (2450-gallon septic tank and 800-gallon lift tank) will be located on the east side of Pebble Beach Road (near the vicinity of the existing tanks shown on the survey). The septic tank will be 15' from the structure. The treatment area will be located on the west side of Pebble Beach Road.

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 dissected by a roadway creating less building area and the property contains wetland area further diminishing the building envelope).**
- 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 **(the uses as proposed 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 as stated by the applicant.**
- The Variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.

There were no further concerns from the public or the Commission. City Engineer, Joe Dubel had no concerns with the variance request.

MOTION BY SEAN WELDON AND SECONDED BY PJ SMITH TO APPROVE THE VARIANCE REQUEST OF JOHN N. ALLEN AT 9110 PEBBLE BEACH ROAD AS PRESENTED BASED ON THE FINDINGS OF FACT THAT HAVE BEEN INDICATED IN THE STAFF REPORT. MOTION PASSED.

NEW BUSINESS – There was no new business.

OLD BUSINESS – The Zoning Ordinance has been approved by the DNR.

REPORTS

City Engineer – Joe Dubel had nothing to report.

Chair – Jim Woll was absent.

Council Liaison – John Terwilliger had nothing to report.

Zoning Administrator – Teri Hastings updated the Commission on the Solar Subcommittee. They will meet on Wednesday, January 10th. They will be reviewing the draft ordinance and potentially holding a public hearing in March or April.

Teri Hastings presented Gene Hagen a Certificate of Appreciation for serving 6 years on the Planning Commission.

PUBLIC FORUM – There was no public forum.

MOTION BY PJ SMITH AND SECONDED BY SEAN WELDON TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF JANUARY 8, 2024 @ 9:22 AM. MOTION PASSED.

Transcribed by Patti McDonald
Lake Shore City Clerk