

**BOARD OF ADJUSTMENT/PLANNING COMMISSION
CITY OF LAKE SHORE
LAKE SHORE CITY HALL
MINUTES
JULY 10, 2023
9:00 AM**

Commission Members in attendance: Chair Jim Woll, PJ Smith, Sean Weldon, Gene Hagen and Pat Hastings, Council Liaison John Terwilliger; City Engineer Joe Dubel; City Zoning Administrator Teri Hastings, and City Clerk Patti McDonald. Absent were Alternates Glen Gustafson, Pam Poston, and Alex Kuhn. A quorum was present, and the Commission was competent to conduct business. There were 5 people in the audience.

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

Approval of the June 12, 2023, Regular Meeting Minutes – MOTION BY GENE HAGEN AND SECONDED BY PJ SMITH TO APPROVE THE MINUTES FOR THE JUNE 12, 2023, BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. MOTION PASSED.

PUBLIC HEARING –

Variance – Terry and Mary Falk – Terry and Mary Falk requested a variance to construct 868 square foot (footprint) two story addition including basement at a setback of less than 75 feet from Gull Lake but not less than the existing dwelling from the lake. The addition will meet the sideyard setback and will reduce the overall impervious surface on the property to meet ordinance requirements. The property is legally described as Lot 2, Block 3 of Auditors Plat of Rocky Point (site address is 9314 Interlachen Road) and is zoned medium density residential.

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 no written comments received regarding this application from the public or the DNR. There were a couple of inquiries regarding the application.

Terry and Mary Falk came before the Commission to answer questions regarding their application.

Jim Woll asked if the Falk's had any questions, concerns or issues with the conditions set forth in Teri Hastings staff report. They did not.

Teri's staff report indicated the following: The applicant is requesting a variance to construct an addition on the southeast side of the home. The home is nonconforming because it is less than 75 feet from Gull Lake and it less than 15' from the northwest side property line. The proposed addition will be located where there currently is 12'x12' living space/four season porch. The new addition will be a two-story addition with a basement. The applicant is also proposing to add a window/window well on the lakeside of the home.

The existing home setback makes it difficult to construct a conforming addition. The 75' setback line is near the rear (roadside) of the existing home. The existing home is 50' from the lake.

The applicants have submitted elevation drawings of the home with the proposed addition. The proposed additions and new roof line will not exceed the 25' height requirement.

The current impervious surface for the property is 26.6% which exceeds the maximum allowed by ordinance. The applicant is proposing to remove a portion of the existing driveway (shown on survey). The removal of the driveway and the proposed addition will bring the amount of impervious surface into compliance at 24.7%. The applicant has included a stormwater plan as required.

The septic system serving the property was constructed in 1991 and a current certificate of compliance is on file. However, the septic tanks are located in the center island of the existing driveway and will need to be

relocated for the driveway improvements. The drainfield will also need to be added on to in order to bring it into compliance with the number of bedrooms served. A site evaluation and design for this work is also on file.

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).

If the variance is approved the following conditions should be included:

- Stormwater plan to be implemented (including native plantings and screening) no later than 6 months after completion of the addition.
- No additional tree removal unless dead, dying, or diseased or pose a hazard.

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 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 Variance will not create a land use not permitted in the zone, and
- The Variance will not alter the essential character of the locality, and
- The Variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.

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

MOTION BY GENE HAGEN AND SECONDED BY SEAN WELDON TO APPROVE THE VARIANCE REQUEST OF TERRY AND MARY FALK AT 9314 INTERLACHEN 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 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 Variance will not create a land use not permitted in the zone, and
- The Variance will not alter the essential character of the locality, and
- The Variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.

The motion includes the following conditions.

- Stormwater plan to be implemented (including native plantings and screening) no later than 6 months after completion of the addition.
- No additional tree removal unless dead, dying, or diseased or pose a hazard.

MOTION PASSED.

Variance – Korey Bannerman – Korey Bannerman requested a variance to demolish the existing improvements and construct a new 3891 square foot dwelling with an 890 square foot attached garage, an 1860 square foot second story, with decks and a 1200 square foot detached garage at setbacks of less than 30 feet from the platted

easement of Wienzel Point Road and the traveled bituminous surface of the road. The proposed improvements will meet the lake setback, the southeasterly sideyard setback and impervious coverage limits. The property is described as Part of Government Lot 6, Section 4, Township 135, Range 29 (site address is 1061 Wienzel Point Road) and is zoned R-2 Medium Density Residential.

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 no written comments received regarding this application from the public or the DNR. There was one inquiry and request for plans with no comments received.

There were no concerns from the Doug Kaspar (neighbor) or current owner that were in the audience.

Jim Woll asked for confirmation that both buildings will be demolished. Teri Hastings answered, yes, they both are being demolished.

Pat Hastings said this is a large structure and is concerned with the drainage from the home as designed. Teri Hastings said this can be addressed as a condition prior to issuance of a permit. Doug Kaspar, the neighbor that Pat was referring to, said this will be a huge change to see all of this, he isn't here to stop anything. Doug said he doesn't anticipate any drainage; he hasn't had issues in the past.

Pat Hastings asked the Engineer for his opinion. Joe Dubel said there isn't enough information on the site plan. Because this is a variance, it wouldn't hurt for the applicant to create a stormwater plan.

Jim Woll would like to see a landscaping plan that would show the mature trees that will be removed, plus any additional trees, and the trees being retained.

Teri's staff report indicated the following: The applicant is requesting a variance to demolish the existing buildings on the property and build a new home and detached garage with living space above. The overall finished square footage of the proposed home is 6263 square feet which includes the upper level and covered deck. The home also includes an 890 square foot attached garage and mechanical room with 671 square feet of deck. The detached accessory structure has a footprint of 1200 square feet which is allowed by ordinance.

The property 63,492 square feet so approximately 1.5 acres. There are no wetlands on the property nor are there any identified bluffs.

The proposed improvements will meet the 75-foot lake setback, the sideyard setback of 15' but will not meet the setback from the right of way easement. A 30' setback is required from right of way for the home and detached accessory structure.

The right of way easement was part of the Wienzel Point plat that was developed in 1961. The easement dissects the property creating an unusual situation. In addition, the traveled roadway (bituminous) is not entirely within the right of way easement. The proposed dwelling is at a 30' setback from the traveled roadway and the proposed accessory structure is 26' from the traveled roadway.

There is also an easement across the applicant's property that serves the adjacent property to the southeast which inhibits the building envelope for the property.

The property is served by city sewer. The survey does not indicate the location of a new well. The old well will need to be sealed and a new well drilled to serve the home. The well shall be located outside of the ROW easement and meet state standards for separation from all sanitary sewer lines.

The proposed impervious surface for the property is 17.8 %. A stormwater plan is required if the impervious surface is between 20%-25%. The applicant should be asked how drainage from the proposed improvements

will be managed to ensure that it is not directed to adjacent properties, the lake or roadway. The stormwater runoff should be managed on site.

The applicant has submitted elevation drawings. The proposed improvements meet the height requirement of the city's ordinance.

The applicant should be asked about landscaping and tree removal for the property.

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.

If approved potential conditions:

- No additional tree removal on the lakeside unless the tree poses a hazard, dead or diseased.
- The old well shall be sealed and documented; a new drilled well shall be located outside of the ROW easement and meet state standards for separation from all sanitary sewer lines.

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 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 Variance will not create a land use not permitted in the zone, and
- The Variance will not alter the essential character of the locality, and
- The Variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.

MOTION BY PJ SMITH AND SECONDED BY GENE HAGEN TO APPROVE THE VARIANCE REQUEST OF KOREY BANNERMAN AT 1061 WIENZEL POINT 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 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 Variance will not create a land use not permitted in the zone, and
- The Variance will not alter the essential character of the locality, and
- The Variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.

The approval will include the following conditions: A stormwater plan approved by the Joe Dubel and Teri Hastings; and a landscaping plan to be reviewed by Joe Dubel, Teri Hastings, Jim Woll and Doug Kaspar (1058 Wienzel Point Road) prior to the issuance of the zoning permit.

MOTION PASSED.

NEW BUSINESS – There was no new business.

OLD BUSINESS –

Ordinance Revision – The Planning Commission reviewed the proposed ordinance revision from where they left off on page 148 for preliminary plats.

There was discussion as to how the definition of Steep Slopes is defined for calculating setbacks for building a structure. The sense from the Commission is this should be revised. Teri suggested that the DNR’s definition of steep slopes can be identified in our ordinance. Teri Hastings will reach out to the DNR to confirm their interpretation of steep slopes.

Teri Hastings said that another item discussed last month during the review was the placement of water-oriented storage sheds by the lake; she reviewed the draft and didn’t find it listed, so going back to the DNR’s ordinance where they allow 250 square feet for storage by the lake; the Commissions consensus was that was too large and suggested allowing up to 120 square feet. Pat Hastings suggested to remain consistent with the other communities surrounding the lake.

Teri distributed a letter from the DNR that was reviewed. Teri will work with Widseth to see if the new definitions would impact what is already existing in the city. Teri will also discuss with the DNR changes as to how they will affect what is existing.

Teri Hastings will make the changes that have been discussed and redistribute for review with the possibility of scheduling a public hearing in September.

Solar Subcommittee Update – Planning Commission members Jim Woll, PJ Smith, and Pat Hastings; Chris Olson, Crow Wing Power; Travis Jacobson, TM Electric; Todd Wicklund, Brainerd Public Utilities; Dave Winkleman, Winkleman Solar; and Andy Stewart, Lake Shore City Council. Teri will confirm with the members what date works for the committee’s first meeting.

REPORTS

City Engineer – Joe Dubel said the Gull Lake Trail is moving forward. The bridge portion will be started closer to the end of August. The CSAH 77 roundabout is complete. Teri Hastings asked how the paved access crossing CSAH 77 just west of the roundabout was allowed; this is a dangerous crossing on a corner.

Chair – Jim Woll had nothing to report.

Council Liaison – John Terwilliger had nothing to report.

Zoning Administrator – Teri Hastings had nothing to report.

PUBLIC FORUM – There was no public forum.

MOTION BY PAT HASTINGS AND SECONDED BY PJ SMITH TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF JULY 10, 2023, AT 9:50 AM. MOTION PASSED.

Transcribed by Patti McDonald
Lake Shore City Clerk