

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

Commission Members in attendance: Chair Jim Woll, Sean Weldon, PJ Smith, 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 three people in the audience.

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

Approval of the September 11, 2023, Regular Meeting Minutes – MOTION BY PJ SMITH AND SECONDED BY GENE HAGEN TO APPROVE THE MINUTES FOR THE SEPTEMBER 11, 2023, BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. MOTION PASSED.

PUBLIC HEARING –

Variance: Kyle and Meleah Holbrook – The Holbrook’s requested a variance to construct a 24’x18’ attached garage at a setback of less than 30’ from the road right of way of Pine Point Road and less than 30’ from the top of bluff. The property is described as Lot 26 and Part of Lot 25, Pine Point (site address is 8088 Pine Point 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 no written comments or inquiries received regarding this application from the public or the DNR.

Meleah Holbrook came before the Commission to answer any questions regarding her application.

Dave Kuzusko, neighbor to the north, was in the audience and in support of the project.

The comments from Joe Dubel, City Engineer and Pat Hastings were addressed in Teri Hastings staff report.

Teri Hastings staff report indicated the following: The applicant is requesting a variance to construct a 432 square foot attached single story garage at a setback of less than 30 feet from the right of way of Pine Point Road and less than 30 feet from the top of bluff. Currently, there is not a garage on the property. Most of the lots in this area are pre-existing nonconforming lots which means they were created (1927) before today’s current lot standards and are grandfathered in. The original structure was built in 1945.

The garage addition will sit behind part of the existing home (away from the lake). The majority of the home is within the bluff setback and the right of way setback and is not located within any part of the building envelope. The building envelope for this lot is in the middle of the property (highlighted area in yellow on the survey). The site plan shows an expanded parking area/driveway which may require the removal of some trees based on the survey. This parking area will be within the bluff impact zone. The site has very limited area for parking and this area would be the most logical for onsite parking. The well serving the property is just off the edge of this parking area; it is recommended that the property owner protect the well with bollards are something similar to prevent damage from vehicles backing out or vehicles plowing.

As noted above, no part of the home located within the building envelope. Part of the existing patio is located within the right of way Pine Point Road. Pine Point Road has a 33' wide right of way and extends all the way to the lake. The city does not encourage the vacation of right of ways that extend to the water (DNR does get involved in these matters), but the road is not built beyond the home location is wooded.

The applicant does show some landscaping around the perimeter of the home that would extend into the ROW of Pine Point Road.

The proposed garage is a reasonable size given the constraints of the lot and is the only logical place for a garage.

The lot area is 40,011 square feet and has a proposed impervious surface of 11.62%. The amount of impervious surface does not require a stormwater plan, but the applicant has provided proposed stormwater plan with retention areas.

The property is served by an on-site septic system (ssts) and well. A certificate of compliance is on file for the septic system.

The proposed garage will be a single-story garage according to the elevation drawings submitted.

Garages can be deemed a necessity since they provide storage of yard and garden equipment and preserve the aesthetics of the neighborhood.

There were no further questions or concerns of the Planning Commission and City Engineer.

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 (topographic characteristics of the property severely limit the area to build a conforming garage)
- 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 (a garage is a permitted land use within the R-2 zoning district)
- The Variance will not alter the essential character of the locality, and (the garage 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 (a garage can be considered a reasonable use of the property to store typical equipment used to maintain a residential property such as lawn and snow equipment and vehicles).

MOTION BY PAT HASTINGS AND SECONDED BY SEAN WELDON TO APPROVE THE VARIANCE FOR KYLE AND MELEAH HOLBROOK WITH THE FOLLOWING FINDINGS OF FACT: 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 (TOPOGRAPHIC CHARACTERISTICS OF THE PROPERTY SEVERELY LIMIT THE AREA TO BUILD A CONFORMING GARAGE). MOTION PASSED.

Conditional Use Permit: Tyler Falk (represented by Nor-Son) – Tyler Falk requested a conditional use permit to construct a 784 square foot garage addition to the existing garage. The total square footage of the proposed garage is 1360 square feet. A conditional use permit is required for detached accessory structures between 1201 square feet and 2000 square feet. All ordinance requirements will be met. The property is legally described as Lot 15, Shaffers Upper Gull Lake Addition (site address is 7741 Lost Lake Trail). 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 no written comments or inquiries received regarding this application from the public or the DNR.

Amy Dircks came before the Commission to answer any questions regarding the project. Amy did not have any comments to add to the application that weren't addressed in Teri Hastings staff report.

Joe Dubel asked whether the SSTS needs additional attention. Teri said they will put in a new system, and there is a site evaluation and design by a licensed professional on file.

The applicant is requesting a conditional use permit to construct a 784 square foot garage addition onto the existing detached garage meeting all setbacks. The applicant requires a conditional use permit because the detached accessory structure will exceed 1200 square feet. The ordinance allows up to 2000 square feet of detached accessory by conditional use permit.

The proposed garage will have a dark brown siding similar to the existing garage and home. The property owner is doing updates/remodeling to the property which include dormers on the home and repainting the hill hiker (lift to the lake). The proposed garage addition will be single story matching the existing detached garage and will be connected with a 160 square foot area between the two garage spaces allowing for a roof line that will create cohesive look. Elevation drawings for the garage addition have been submitted.

The property is nicely treed, and the proposed garage should not be an eyesore to adjacent properties or other neighbors. The proposed garage will be located approximately 170 feet from Lost Lake Trail. The garage will also exceed the side yard setback of 15' and will be 21' at the closest point.

The surveyor has calculated the impervious surface at 16.8 % with the proposed improvements. It should be noted that additional driveway area is being added to accommodate the garage addition and an adjusting the driveway to avoid a 24" red pine. A stormwater plan is not required since the impervious surface will be less than 20%.

The property owner will need to install a new septic system due to the location of the existing drainfield. A site evaluation and design for a new septic system has been submitted by a licensed professional.

In permitting new conditional use permits, the Planning Commission may impose, in addition; to the standards and requirements expressly specified by the ordinance, additional conditions that the Planning Commission

considers necessary to protect the best interest of the surrounding area or the city as a whole. This may include the following:

Increasing the required lot size or yard dimension.

Limiting the height, size, or location of buildings.

Controlling the location and number of vehicle access points.

Increasing the street width.

Increasing or decreasing the number of required off-street parking spaces.

Limiting the number, size, location, or lighting of signs.

Requiring berming, fencing screening, landscaping, or other facilities to protect adjacent or nearby property.

The following should be met for the conditional use to be approved: the use must be appropriate for the zoning district (medium density residential). The use with conditions would be compatible with the city's Comprehensive Plan. The use with conditions would be compatible to neighborhood. The use would not be injurious to the public health, safety, welfare, decency, order and comfort, convenience, appearance, or prosperity of the city.

In addition, the Planning Commission should consider the following:

- The Conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair values in the immediate vicinity.
- The Conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
- The Conditional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- The Conditional use will have vehicular approaches to the property which are so designed as not to create traffic congestion or indifference with traffic on surrounding public thoroughfares.
- Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use.
- Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner, that no disturbance to neighboring properties will result.
- The Conditional use will not result in the destruction, loss, or damage of a natural, scenic, or historical feature of major significance.
- The Conditional use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.

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 that have been listed above.

MOTION BY PJ SMITH AND SECONDED BY GENE HAGEN TO APPROVE THE CONDITIONAL USE PERMIT OF KYLE FALK AS THE USE COMPLIES WITH THE COMPREHENSIVE PLAN; AND THE USE IS COMPATIBLE TO THE NEIGHBORHOOD. MOTION PASSED.

NEW BUSINESS – There was no new business.

OLD BUSINESS – Teri Hastings said that Jim Woll and herself finalized the draft Zoning Ordinance and forwarded the document to the DNR for their approval. The DNR should have quick turnaround with their decision as the city incorporated the requirements they presented into the ordinance revision. Teri said that the Commission can either hold a public hearing as a special meeting or hold the public hearing within the regular Planning and Zoning Meeting in November. If the Zoning Ordinance is approved, it would move forward to the Lake Shore City Council meeting in November for the final approval. A consensus of the Commission is to hold the public hearing at their regular Planning and Zoning meeting in November.

REPORTS

City Engineer – Joe Dubel said he should hear final notice regarding the piers for the boardwalk. He said once the piers are installed, the boardwalk will move rather quickly. Completion will depend on the weather.

Chair – Jim Woll had nothing to report.

Council Liaison – John Terwilliger had nothing to report.

Zoning Administrator – Teri Hastings said she sent notice to the Solar sub-committee and the meeting would probably take place the third week in October.

PUBLIC FORUM – There was no public forum.

MOTION BY SEAN WELDON AND SECONDED BY GENE HAGEN TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF OCTOBER 9, 2023, AT 9:21 AM. MOTION PASSED.

Transcribed by Patti McDonald
Lake Shore City Clerk