

**BOARD OF ADJUSTMENT/PLANNING COMMISSION
CITY OF LAKE SHORE
CITY HALL
MINUTES
SEPTEMBER 9, 2019
9:00 AM**

Paul Strong called the meeting to order at 9:00 a.m. Members of the Commission present: Paul Strong, Gene Hagen, Arla Johnson, Roger Smeby and Glen Gustafson; Council Liaison John Terwilliger; City Engineer Joe Dubel; City Zoning Administrator Teri Hastings and City Clerk Patti McDonald. Shawn Hansen was available in the audience. Alternates Pat Hastings and John Ingleman were absent. A quorum was present and the Commission was competent to conduct business. There were 6 people in the audience.

Approval of the August 12, 2019 Regular Meeting Minutes – MOTION BY GLEN GUSTAFSON TO APPROVE THE MINUTES FOR THE AUGUST 12, 2019 BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. ARLA JOHNSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

PUBLIC HEARING –

Variance – Tim Bianchi requested a variance for the purpose of constructing a 3.7'x10' addition which will be within the 30' bluff setback (26' from the top of bluff). The proposed addition will meet the 75' lake setback and all other ordinance requirements. The property is described as Part of Government Lot 6, Section 21, Township 135, Range 29 (site address is 8446 Interlachen Road) and is zoned medium density residential and low density residential.

The following documents became part of the record – Notice of mailing, notice of publication, signed application and attachments and staff report. There were no written or verbal comments regarding this application.

Tim Bianchi came before the Commission to answer any questions regarding his application.

Gene Hagen asked if he constructed the house. Tim said he purchased the home.

Glen Gustafson asked about Teri's comment regarding silt fence. Teri explained the use.

Paul Strong asked if Tim has future plans to bump out the deck. Tim said that they plan to add a screen porch that wouldn't be in the bluff impact zone and meet all the other setbacks.

Teri's staff report indicated the following: The applicant requested to construct a small addition on the lakeside of the home, the addition will be within the bluff impact zone-26' from the top of the bluff where a 30' setback is required. The addition will meet the 75' lake setback and the 15' sideyard setback. The dotted area on the survey indicates the building envelope for the property.

The home was constructed in 1985, prior to the bluff rules being implemented by the MN DNR (1989-adopted by Lake Shore in 1991). It appears that there may have been significant grading on the lakeside when the home was constructed which by definition no longer meets the defined bluff criteria. The bluff is only on the western portion of the property and where the proposed addition will be located.

The well is located close to the proposed addition. Wells are required to be located 1' from the overhang of a structure. If the variance is approved, care will need to be taken not to impact the well or water line.

The impervious surface for the property is at 14.3% and with the proposed addition, will not exceed the impervious surface maximum.

The property does have a conforming septic system and enough area for a secondary system if necessary. The system is located on the eastern side of the home.

The proposed addition is an appropriate use in R-2 zoning district and is compatible with the neighborhood and will not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the city.

STAFF RECOMMENDATION

Recommend approval of the variance for the proposed addition since it appears there is adequate area to protect the integrity of the bluff for the construction of the addition. A condition should be made that silt fence and other erosion controls measures should be implemented during construction to protect the bluff.

MOTION BY GLEN GUSTAFSON TO APPROVE THE BIANCHI'S VARIANCE WITH THE CONDITION THAT SILT FENCE AND OTHER EROSION CONTROL MEASURES ARE IMPLEMENTED DURING THE CONSTRUCTION. GENE HAGEN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Conditional Use Permit – Shawn Perry requested a conditional use permit for moving more than 50 cubic yards earth within the shoreland area for the purpose of constructing a new driveway and parking area. The Property is described as part of Government Lots 1 and 7, Section 4, Township 135, Range 29 (site address is 7381 Upper Roy Lake Road) and is zoned medium density residential and low density residential.

The following documents became part of the record – Notice of mailing, notice of publication, signed application and attachments and staff report. There were no written or verbal comments regarding this application.

Shawn Perry and Tim Ramereth from WSN came before the Commission to answer any questions regarding the application.

Paul Strong questioned the parking pad on the grading plan and what the plan is for the garage. Shawn explained that once the parking area is done, they plan to remodel the home; then construct (the future) two story garage with parking on the upper level facing the lake with storage on the lower level.

Glen Gustafson asked how the current excavating work will be done. Shawn said he hasn't determined that yet as they have solicited bids to perform the work. Tim Ramereth said most likely an excavator.

City Engineer Joe Dubel noticed a 37 percent grade and he would like to see some riprap or rock used to slow down drainage into the lake. Tim Ramereth said it is shown on the erosion control plan. Joe doesn't see any problems with the application. Shawn said the landscaping plan is not done yet; he will work with a landscape architect.

Teri said there was a lot of effort put into the planning of this application.

Teri's staff report indicated the following: The applicant requested a Conditional Use Permit to move more than 50 cubic yards of earth within the shoreland zone (within 1000 feet of the lake). The applicant is proposing to move approximately 683 cubic yards of earth. The applicant is proposing to move the existing driveway which encroaches onto the adjacent property. The

property has difficult topography and does have a bluff that is indicated within the dashed area (it is the south side of the home) on the survey. The existing home was constructed prior to the city keeping records. The owner would like to build a larger parking area and garage closer to the home. Since this application is dealing with earth movement, Teri's comments will be brief and will defer to the city engineer for his assessment of the application.

The applicant is proposing a pathway to the lake that he states will meet ordinance requirements (4' in width max and less than 10 cy of earth movement). The plan also indicates several retaining walls/boulder outcroppings and these must also comply with the ordinance. Retaining walls over 4' in height must be engineered.

The area of the proposed garage will impact the existing drainfield, it is the property owner's intent to install a new system on top of the hill. There is adequate area for a new system on the property.

The impervious surface currently is at 7.88% and with the proposed improvements will be at 12.42%.

The survey does show a stormwater plan and silt fencing for erosion control. Listed below is a portion of the city ordinance as it pertains to grading within the shoreland area:

- Grading within the Shore Impact Zone, including the placement of fill material along the shoreline, shall not be authorized if the grading creates or expands a shoreline recreation area, such as a beach. Beach Sand blankets are prohibited except for resorts.
- The smallest amount of bare ground is exposed for as short a time as feasible.
- Four inches of topsoil is placed, temporary ground cover such as mulch is used and permanent ground cover such as sod is planted.
- Methods to prevent erosion and trap sediment are employed.
- Fill is stabilized to acceptable engineering standards and must not create an unstable slope.
- Plans to place fill or excavated material on steep slopes must be reviewed by a qualified professional for continued slope stability and must not create finished slopes of 30% or greater.
- Fill or excavated material must not be placed in bluff impact zones.
- Fill placed in Public water below the ordinary high-water line requires a Department of Natural Resources Waters Permit and a Corps of Engineers Permit.
- Excavation in the bed of Public waters requires a Department of Natural Resources Waters Permit and a Corps of Engineers Permit.
- Only clean fill consisting of sand, gravel or rock will be allowed where contact with water is anticipated. Mineral soil may be allowed elsewhere.
- Alterations to topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties

The applicant should be asked if any trees will be replanted on the property as there is a significant area of disturbance on the property. The Planning Commission may want to require a landscaping plan for tree replacement.

The proposed use is an appropriate use within R-2/R-1 zoning district and is compatible with surrounding properties. The proposed use if done properly will not be injurious to the public health, safety, decency comfort, appearance or prosperity of the City.

The proposed use will should not substantially diminish or impair property values but rather enhance them nor will it impede normal and orderly development of the surrounding property.

STAFF RECOMMENDATION:

Approval of the conditional use permit is recommended contingent upon the city engineer's review and comments and that the ordinance requirements are followed as outlined above and the plans are followed as submitted including all erosion control measures and stormwater plans.

MOTION BY ARLA JOHNSON TO APPROVE THE CONDITIONAL USE PERMIT CONTINGENT UPON THE CITY ENGINEER'S REVIEW AND COMMENTS AND THAT THE ORDINANCE REQUIREMENTS ARE FOLLOWED AS OUTLINED ABOVE AND THE PLANS ARE FOLLOWED AS SUBMITTED INCLUDING ALL EROSION CONTROL MEASURES AND STORMWATER PLANS. ROGER SMEBY SECONDED THE MOTION. MOTION PASSED. Paul Strong recused himself from the vote.

NEW BUSINESS –

Site Plan Review – Brian Halverson received a variance last spring from the city however, one of the conditions was to complete wetland delineation. The wetland delineation was done and the wetland locations have impacted the proposed location of the home. The property owner has moved the location of the home to accommodate the wetlands. The property owner has contacted Kelly Condiff from Cass County Soil & Water Conservation District to work through the wetland process. The property is allowed to one-time exemption to fill up to 400 sq. feet of wetland. The area to be filled is shown on the site plan. The property owner is seeking a site plan review before he comes in for an amended variance for the new location. The home will be closer to the main channel than the previous variance.

Paul Strong asked which side the variance was granted for. Teri said it was on both sides, but with the wetlands being more on the south side the home needed to be shifted more to the north (9'3"). Teri said the size of the structure has been decreased. She said this is a difficult site even being 4 lots.

Joe asked the size of the home. The proposed house is 2,519 square feet with the garage; the home is probably 1,800 to 1,900 square feet.

Glen Gustafson asked if there would be any landscaping. Brian said they will probably keep a very small yard with a path to a fire pit toward the shoreline. Teri said the property did lose a lot of trees from a past storm.

Paul asked if there were any concerns with Brian proceeding with a variance change application. The Commission had no concerns. It was suggested that Brian talk to his neighbors for their thoughts.

OLD BUSINESS – There was no old business.

REPORTS

City Engineer – Joe Dubel had nothing to report.

Chairman – Paul Strong had nothing to report.

Council Liaison – John Terwilliger had nothing to report.

Zoning Administrator – Teri said she provided the Commission with a copy of the approved Comprehensive Plan.

Teri said the follow up from last month regarding. What other communities are doing to ensure compliance with the ordinance, specifically setbacks. Nisswa doesn't have a formal process for

identifying setbacks; they do have to have them staked out before a variance. Rob Mason from East Gull Lake tries to visit the site, but nothing formal.

Teri had a conversation with Paul's father regarding his experience with setbacks in Florida, which could be a recommended change here for lake lots; they require a survey after the footings are done before the construction can proceed. Joe said if a survey of footings would be needed, they would most likely need a formal survey. He said it isn't a stretch to have them come back to take a few measurements if a survey is already done. He suggested that we include a current survey on new building on lake lots. Teri said it would require an ordinance change and she has a proposal in for next year for a zoning ordinance review and revision.

PUBLIC FORUM – Paul Strong was married since the last meeting. Congratulations Paul!

MOTION BY ARLA JOHNSON TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF SEPTEMBER 9, 2019 @ 9:36 AM. GLEN GUSTAFSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Transcribed by Patti McDonald
Lake Shore City Clerk