

CALL TO ORDER: Chairman Werneiwski called the meeting to order at 7:00 p.m.

PRESENT: Chairman Bob Werneiwski, Commissioners Barbarajean Brandt, Dan Dyb, Scott Hemink, Walter Linder and John McGary

ABSENT: Commissioner Kent Carlson

OTHERS PRESENT: Council Liaison Keith Kask and Zoning Coordinator Gus Karpas

MINUTES OF March 17, 2009

Motion by Commissioner Dyb seconded by Commissioner Werneiwski, to approve the minutes of March 17, 2009 as presented. Motion carried 3-0-3. Commissioners Hemink, Linder and McGary abstained.

1. PUBLIC HEARINGS

VARIANCE – Chris and Diahann Potter, 19685 Lakeview Avenue, (R-3, 20,000) variance to demolish the existing non-conforming home and construct a new home on the non-conforming footprint with an additional garage addition onto the south side and a screened porch addition on the north side of the footprint which would exceed the maximum permitted impervious surface area and would encroach into the required front and lake yard setbacks.

Section 1350(2)(a) of the Shoreland Ordinance permits a maximum impervious surface area of twenty-five percent. The proposal is to exceed the permitted impervious surface area by five and a half percent.

Section 1310.02 of the Zoning Ordinance requires a minimum front yard setback of thirty-five feet in the R-3 Residential District. The proposed construction would be setback thirteen feet, five inches from the front property line. A variance of twenty-one feet, seven inches is sought of the required front yard setback.

Section 1310.02 of the Zoning Ordinance requires a minimum lake yard setback of one hundred feet in the R-3 Residential District. Council action on July 5, 1972 granted a reduced setback for Lots 7 through 11 of Grandview Point Second Addition. The amended lake setback requirement is sixty-seven feet, six inches. The proposed construction would be setback forty-four feet from the ordinary high water level. A variance of twenty-three feet, six inches is sought of the required lake yard setback.

Zoning Coordinator Karpas said the applicants are requesting to demolish the existing non-conforming structure and construct a new structure on the non-conforming footprint. In addition they would like to add a one hundred and seventy-eight square foot garage addition on the north side and a one hundred and seventy-three square foot screened porch addition onto the existing non-conforming footprint. The variances being sought are to continue the existing encroachments into the required front and lake yard setbacks and to exceed the maximum permitted impervious surface area.

Karpas said the existing impervious surface area on the property is 35%. The request would reduce the amount of impervious surface area by approximately 4.5%. He said there is

approximately nine hundred square feet of impervious surface on the property that belongs to the Grandview Homeowner's Association and of the proposed 30.5% of impervious surface area, only 25.6% is directly related to the applicant.

He said the proposal would convert the home from a one story walkout to a story and a half walkout. The overall height of the structure will increase from approximately fifteen feet to twenty-eight feet, four inches.

He said he recommended approval of the variance requests, he felt the lot conditions in terms of dimensions and size, along with the placement of the existing home and the application of the required setbacks hinder the ability to reasonably redevelop or expand the use on the property. The lot area and existence of Association owned impervious surface area on the lot creates a practical difficulty in terms of compliance with the impervious surface requirements.

The circumstances causing the need for the variance were not caused by the homeowner since the property was platted and developed prior to the city's current ordinance requirements regulating setbacks and impervious surface. The existing structure exists as a non-conforming structure and the proposed alteration would not expand the existing front setback encroachment, would reduce the existing lake encroachment and reduces the percentage of impervious surface on the property.

The requested variances for front and lake yard encroachments, along with continuance of the footprint within the required bluff setback would not alter the essential character of the locality.

The proposed alteration of the existing non-conforming footprint with the additional garage area to the south and screened porch on the north would have minimal impact on the surrounding character as each addition sets back further than the existing home on the front and lake sides of the property and both comply with their respective side yard setbacks.

Staff feels granting the variance request which would increase the height of the structure within the required front and lake yard setbacks would not negatively impact the character of the neighborhood and would enhance the look of the existing structure.

The requested variance to exceed the maximum permitted impervious surface area is in keeping with the spirit and intent of the ordinance. The applicant has taken steps to reduce the impervious surface by 4.5%. There does not appear to be any way the applicant can bring the property into compliance with the ordinances due to the existence of Homeowner Association impervious surfaces on the property which accounts for 4.7% of the 5.5% overage.

Karpas referenced an email submitted by Jim Strampe, 19700 Lakeview Avenue, expressing concerns about the size of the proposed structure and the impact it could have on their structure with windows looking down into their home.

Mark Warner, Warner Home Restoration, presented the request. He said the uniqueness of the property, in terms of being so narrow makes it difficult to develop. He said the property owners need additional space and the only way to gain it is through the addition of a second story. The design was intended to create the littlest amount of impact on the surrounding area. He felt the design was in keeping of the character of the neighborhood. Addressing the concerns of Mr.

Strampe regarding the proposed home looking into his home, he said the only window that is not decorative in nature, was the master bedroom window.

Chairman Werneiwski opened the public hearing.

Jim Strampe, 19700 Lakeview Avenue, said his concerns were not intended to prevent the property owners from developing a nice structure for the lot. His primary concern is the fact the second story would look directly into his home. He was additionally concerned that the proposed home would be larger, blocking his view of the sky on that side of his house. He said there are options for him to expand the existing wall on the front side of his home, but didn't believe that was the best solution. He said he has heard other concerns brought up by neighbors who aren't in attendance of the meeting.

Ben Nelson, the applicant's architect, said they worked hard to keep the profile of the home contained as much as possible. They understood that a full two story structure would have a negative impact on the neighborhood.

Doug McDougal, 19705 Lakeview Avenue, asked if the applicant thought about gaining the need space by going deeper into the ground. He said he was not personally concerned about the proposed height since his home is located a ways away from the proposed structure.

Mr. Warren said the option of going deeper was considered, but there would be issues associated with the garage floor, and going more than one foot lower than the existing grade would have create water issues. He said the intent was also to use as much of the existing foundation as possible.

The Planning Commission discussed the increase in height and sought clarification on the exact change in height. Zoning Coordinator Karpas referenced the plans submitted by the applicant indicating the height would increase just over thirteen feet from what currently exists.

Mr. Strampe asked if the increase in height could be limited to nine feet. Mr. Warren said it would be difficult because, due to the narrowness of the lot, the pitch of the roof needs to be steeper to get usable room underneath it.

Chairman Werneiwski asked what the proposed roof pitch would be. Mr. Warren said a 12/16 pitch, noting the narrowness of the lot required that steep of a pitch.

Hearing no further public comment, the hearing was closed.

Commissioner Brandt said her general sense was that the home was too large for the property. She clarified the encroachment issues with the proposed garage and porch additions. She asked about the existing decking on the rear of the home. Mr. Warren said a majority of it would be removed. Brandt asked about the height of the proposed screened porch. Mr. Warren said about twenty-one feet overall. Brandt said the proposed structure would look much higher on the lakeside than what currently exists.

Mr. Nelson noted the second floor is actually embedded into the roof structure in an effort to keep the overall height lower.

Commissioner Dyb asked about the existing and proposed impervious surface area on the property. Zoning Coordinator Karpas explained that the impervious surface area proposed on the survey excluded areas owned by the Homeowner's Association. He said the correct percentages are included in the Staff Report, which takes into account all the proposed impervious surface area.

Commissioner Linder said he understands the difficulty associated with developing property and appreciates the efforts made by the applicant to maintain essentially the same footprint. Though he feels that some of the variances are appropriate, he agrees the home is too big for the lot and placed too close to the street. He believes the walkout on the lakeside of the home would give an imposing feel and would stand out. Commissioner Hemink commented he thought the trees on the bluff would help conceal the home. Linder noted that trees tend to disappear, especially during construction projects. He said the character of the roof doesn't seem like the right house for the lot.

Chairman Werneiwski feels it is a beautiful home. He said when he visited the site he was struck by the narrowness of the road and packed nature of the homes. He feels the proposal would be a little out of place. He liked the reduction of impervious surface and the efforts to keep the home a story and a half, even though it appears to be a full three stories on the lakeside.

Commissioner Dyb feels all the variance requests are reasonable taken individually. He feels the applicants have submitted a great design. He's concerned that the sum of all the changes are too great, noting that the character of Grandview Point is unique. He feels the proposal would put too much mass near the narrow road. He said the home is a lot to ask for a neighborhood which has characteristically one story walkouts.

Commissioner McGary likes the architecture of the proposal, but agrees it looks too close to the street. He said that even though the lakeside of the home may seem high, it falls within the city's requirements. He asked about creating a dual pitch on the entire home, as was done over the master bedroom, as a way of lowering the overall height of the structure. Mr. Nelson said that design could be explored.

Commissioner Hemink noted the hard work the applicants put in to reduce the overall impervious surface on the property. He said he was ok with the proposed length of the home, but said his core issue was the proposed height of the home which would be located only twenty feet off the road. He said the proposed height is too much for the narrowness of the road and discussed a scenario in which the home across the street mimicked the proposed height, which would create a tunnel like affect. He agreed the lakeside of the home would be big, but not inconsistent with other homes on the lake.

ACTION: Motion by Commissioner Dyb to recommend the City Council deny the variance requests to construct a new single family home on the existing non-conforming footprint with an additional one hundred and seventy-eight square foot garage addition onto the south side of the new structure and a one hundred and seventy-three square foot screened porch addition on the north side of the new structure that would encroach twenty-one feet, seven inches into the required thirty-five foot front yard setback, encroach twenty-three feet, six inches into the required sixty-seven foot, six inch lake yard setback, encroach thirty feet into the required thirty foot bluff setback and which would exceed the maximum permitted impervious surface area by

five and a half percent, as shown on the submitted site plan at 19685 Lakeview Avenue. The applicant has not demonstrated an undue hardship and design alternatives exist that would lessen the impact on the character of the neighborhood. Commissioner Linder seconded the motion. Motion carried 5-1. Commissioner McGary was opposed to the motion.

ORDINANCE AMENDMENT - To consider the amendment of the Shoreland Management Ordinance, rescinding the recently adopted standards for shoreline conservation, including the provision for maintaining the recreational use of the lake through aquatic plant management.

Zoning Coordinator Karpas presented the request noting that the Council had discussed the recent action by the Planning Commission to continue the public hearing and their recommendation to the Council. They directed the Commission reopen the public hearing and to make a recommendation on the ordinance so the Council can discuss it at their May 4th meeting.

Chairman Werneiwski opened the public hearing. Hearing no public comment, the hearing was closed.

Council Liaison Kask said the DNR was looking to consolidate its control over the lakes statewide and recently announced their plan to sunset exclusions to their existing rules. As part of that announcement, the DNR indicated they would be putting together a management plan. He said the Council was approached by residents who were apprehensive about the DNR's intentions and were concerned they would not be able to enjoy the same level of control. They thought an ordinance by the city would help give them clout in raising their concerns with the DNR. Kask said that the Administrative Law Judge assigned to take comment on the proposed rule change said the City's ordinance may be in violation of State Statutes. The city had subsequent meetings with the DNR, in which the DNR expressed their desire for the ordinance to be rescinded.

Commissioner Brandt asked if there were other cities involved with the rule change. Kask said he was not sure, but saw a number of larger groups comprised of Homeowner's Associations at the hearings.

Commissioner Linder said as a user of Carson's Bay, he would like to see less milfoil, but doesn't believe "picking a fight" by developing an ordinance contrary to DNR's rules is a reasonable use of city resources. Kask said that was never the city's intention, rather it was used as a tool to see if the DNR was willing to work with the city.

Commissioner Hemink asked if there was a downside to maintaining the ordinance, but not going through the expense of filing an appeal. Chairman Werneiwski doesn't believe there's a downside to keeping the ordinance on the books. Commissioner Linder agreed, noting the ordinance could be rescinded at any time if the city was forced to do so in the future.

ACTION: Motion by Commissioner Dyb to recommend that the City Council not rescind Ordinance 13-50, an ordinance establishing standards for shoreline conservation, including the provision for maintaining the recreational use of the lake through aquatic plant management. Commissioner Linder seconded the motion. Motion carried 6-0.

VARIANCE – John and Erin Wheaton, 4215 Northern Road, (R-3, 20,000) variance to construct a partial second story onto an existing non-conforming footprint which would encroach into the required rear and south side yard setbacks.

Section 1310.02 of the Zoning Ordinance requires a minimum rear yard setback of fifteen feet in the R-3 Residential District. The proposed construction would be setback eight feet, one inch from the rear property line. A variance of six feet, eleven inches is sought of the required rear yard setback.

Section 1310.02 of the Zoning Ordinance requires a minimum south side yard setback of fifteen feet in the R-3 Residential District. The proposed construction would be setback two feet, six inches from the rear property line. A variance of twelve feet, six inches is sought of the required south side yard setback.

Section 1310.02 of the Zoning Ordinance requires a minimum front yard setback of thirty-five feet in the R-3 Residential District. The proposed construction would be setback thirty-four feet, two inches from the rear property line. A variance of ten inches is sought of the required front yard setback.

Zoning Coordinator Karpas said the applicants are requesting to construct a partial second story addition over an existing non-conforming footprint, with the exception of a one foot cantilevered area on the northeast portion of the home, which extends into the rear yard. As part of the project the roofline of the existing garage will be altered. The variances being sought are to continue the existing encroachments into the required front and south side yard setbacks and to cantilever an additional foot into the rear yard setback.

He said the existing impervious surface area on the property is 45.3% and would not be altered with the request.

He said he recommended approval of the variance requests, he felt the lot conditions in terms of dimensions and size, along with the placement of the existing home and the application of the required setbacks hinder the ability to reasonably redevelop or expand the use on the property. He said the application of the required setbacks would create a building pad only ten feet in width making it difficult to expand the home in compliance with the ordinance. The size of the lot is less than one third the minimum required for the R-3 Zoning District.

The circumstances causing the need for the variance were not caused by the homeowner. The property was platted and developed prior to the city's current ordinance requirements regulating setbacks. The existing structure was constructed in 1910 and exists as a non-conforming structure. The proposed alteration would not expand the existing encroachments.

The requested variances for front, side and rear yard encroachments would not alter the essential character of the locality. The proposed alteration is contained within the existing non-conforming footprint and the circumstances requiring the variance is not unique to the property, but tends to be an issue on properties that were platted and developed prior to the adoption of the city's zoning provisions.

John Wheaton presented the request. He said the goal was to add some additional living space. He noted his lot is one of the smallest in the city and there is no way the existing home,

or addition, can be brought into compliance with the ordinances. He said he has spoken with both of his neighbors and there are supportive of the request.

Commissioner Linder asked about the one foot cantilever off the rear of the home. Mr. Wheaton said it was to add some architectural interest on the backside of the home rather than just have a flat wall facing the neighbor.

Chairman Werneiwski opened the public hearing.

David Gross, 20245 Lakeview Avenue, said he has no problem with the request and recommends approval. He said, as the neighbor most affected by the proposed cantilever, he likes the intended architectural detail.

Commissioner Linder asked if Mr. Gross had any concerns about the shading in that area and the impact it may have on his garden. Mr. Gross said he didn't and noted the area is already pretty shady.

Hearing no further public comment, the hearing was closed.

Commissioner Hemink was supportive of the request and feels it is in keeping with the neighborhood. He said he spoke with the neighbor on the other side of the property that was also supportive. He felt the design would not negatively impact any of the adjacent neighbors.

Commissioner McGary was in favor of the request. He said his only question was about the proposed cantilever, but feels his concerns have been addressed. He is not opposed to the proposed height since it is within the ordinance requirements.

Commissioner Dyb was supportive of the plan as submitted. He feels the request is reasonable and the design would have little or no impact on the neighborhood.

Chairman Werneiwski had no issues with the plan and was supportive of the request.

Commissioner Linder discussed the proposed massing on the rear of the property, noting he did not believe it was out of character. He said initially he thought the proposed cantilever off the rear of the structure was too much, but now understands the rationale behind it.

Commissioner Brandt said she had spoken with some of the neighbors who were all in support of the request. She believes the cantilever will add interest to the design.

ACTION: Motion by Commissioner Linder to recommend the City Council approve the variance requests to construct a partial second story onto an existing non-conforming footprint that would encroach ten inches into the required thirty-five foot front yard setback, that would encroach seven feet, four inches into the required ten foot south side yard setback and would encroach eight inches into the required fifteen foot rear yard setback, as shown on the submitted site plan at 4215 Northern Road. A hardship exists in the dimensions of the lot and the placement of the home, which prevents development of the lot without variances. Commissioner Dyb seconded the motion. Motion carried 6-0.

NEW BUSINESS

None

LIAISON REPORT

Council Liaison Kask introduced himself to the Planning Commission members who may not have known him. Kask briefly discussed his philosophy on what he viewed the role of a Liaison was. He said he would not like to be asked what the Council would do on certain situations since his role was to observe the proceedings.

Kask summarized the Council's recent discussions on lifeguard services and the issues with the Fire Board.

Kask said the Council approved the request from Verizon Wireless for the new tower on the City Hall campus and approved the request by Minnetonka School District for the expansion of the elementary school. The request to restripe the parking lot at the Deephaven Education Center was continued to allow for further discussion on additional safety measures that are proposed by the School District.

ADJOURNMENT

Motion by Commissioner Dyb to adjourn the meeting. Commissioner Linder seconded. The motion carried 6-0. The meeting adjourned at 8:50 p.m.

Respectfully submitted,
Gus Karpas
Zoning Coordinator