

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

PRESENT: Chairman Walter Linder, Commissioners Barbarajean Brandt, Scott Hemink, and John McGary

ABSENT: Commissioners Kent Carlson and Bob Werneiwski

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

MINUTES OF July 21, 2009

Motion by Commissioner Hemink, seconded by Commissioner McGary, to approve the minutes of June 16, 2009 as presented. Motion carried 4-0.

PUBLIC HEARINGS

VARIANCE – Dominic and Angela Gallagher, 18505 Minnetonka Boulevard, (R-2, 40,000)

variance request to construct an addition to the west side of the existing non-conforming structure which would encroach into the required west side yard setback.

Section 1310.02 of the Zoning Ordinance requires a minimum west side yard setback of twenty-five feet in the R-2 Residential District. The proposed construction would be setback twenty feet, three inches from the west property line. A variance of four feet, nine inches is sought of the required west side yard setback.

Zoning Coordinator Karpas presented his staff report. He said the request was to expand the master bedroom area by adding a bathroom and additional closet space. The proposed addition would maintain the existing encroachment. He said he recommended approval for the request and outlined his findings.

Fritz Hartman, brother-in-law of the applicant presented the request. He said the family is growing and there is a need to create an additional bathroom. Chairman Linder noted the property appears to be for sale. Mr. Hartman said the property is still under contract with a realtor for another month.

Chairman Linder asked if a variance approval transfer with a property. Zoning Coordinator Karpas said it does not, unless constructed or under construction.

Chairman Linder asked why the proposal was to build off the side of the home, rather than the rear. Mr. Hartman said the location is somewhat dictated by the location of the plumbing utilities.

Commissioner Hemink clarified the floor plan with the applicant. He commented the proposed location would be logical in terms of the internal plumbing.

Chairman Linder opened the public hearing. Hearing no public comment, the public hearing was closed. He asked for the Commissioner's thoughts.

Commissioner Hemink commented the adjacent property slopes upwards and is densely wooded negating the visual impact of the addition. He noted the request would maintain the existing encroachment. He was supportive of the request. Karpas asked as recommended by Staff with a one story condition. Hemink said yes.

Commissioner McGary feels there is a reasonable buffer along the property. He doesn't believe the proposed addition would be a nuisance and feels the request is a reasonable request which does not increase the degree of encroachment. He is supportive of the request.

Chairman Linder said the addition is very modest in size and well secluded and will not create a negative impact whatsoever. He still questions the need to place it alongside the existing home, rather to the rear of it where a variance might not be needed. He believes the question of a hardship supporting the need for a variance is outweighed by the small size and non-obtrusive location of the addition. He is supportive of the request.

Commissioner Brandt said she was in favor of the request since it seems reasonable and the existing encroachment is not increased.

ACTION: Motion by Commissioner McGary to recommend the City Council conditionally approve the variance request to construct an addition to the west side of the existing non-conforming structure which would encroach four feet, nine inches into the required twenty-five foot west side yard setback, as shown on the submitted site plan at 18505 Minnetonka Boulevard, based on the findings of staff, including the condition that the addition be no greater than one story in height. Commissioner Linder seconded the motion. Motion carried 4-0.

VARIANCE – Mitch and Nancy Landis, 19025 Lake Avenue, (R-3, 20,000) variance request to demolish an existing non-conforming structure and construct a new single family home which would encroach into the required east side yard setback.

Section 1310.02 of the Zoning Ordinance requires a minimum side yard setback of ten feet in the R-3 Residential District. The proposed construction would be setback five feet from the west property line. A variance of five feet is sought of the required west side yard setback.

Zoning Coordinator Karpas presented his staff report. He said the request was to construct a new structure to replace an existing non-conforming structure. The proposed structure would lessen the degree of encroachment along the east property line, reducing the encroachment by seven inches. This was done on the advice of staff to permit enough area between the structure and property line to allow for construction and continued maintenance of the structure.

He said he recommended approval for the request and outlined his findings.

Mitch Landis presented the request. He said they are looking to downsize and tried to maintain the cottage look which is prevalent in the neighborhood. He said the width of the homes profile would be no different than what currently exists when viewed from the street. He said the width of the home was also somewhat dictated by lumber sizes which typically come in even foot integrals. He noted the only portion of the home which would be five feet off the line was the garage. The bulk of the home would be nine feet off the line.

Chairman Linder asked if the driveway layout was even feasible for a side loading garage. He asked about the width of the driveway. Mr. Landis said there was about twenty three feet between the garage doors and the property line and the design would include a turn around to permit cars to back out. Linder asked if the location of the driveway has changed. Mr. Landis said it had not and that the proposal lessened the amount of driveway along the property line.

Mr. Landis added that the home was moved forward to offset the windows of the proposed home from those on the home on the adjacent lot.

Chairman Linder asked why the garage encroaches more than the living area of the home. Mr. Landis said it was to facilitate a side loading garage.

Commissioner Hemink summarized the code requirements, noting a twenty-five foot wide garage could be constructed without a variance, provided it was front loading.

Commissioner McGary asked if the neighbor to the west had any concerns. Zoning Coordinator Karpas said he spoke with her and her main concern was how the mechanicals would be vented from the house.

Commissioner Hemink asked about the proposed at-grade patio. Zoning Coordinator Karpas said the city does not have a required setback for patios.

Commissioner McGary asked about the location of mechanical room. Mr. Landis said it has yet to be determined, but since it would be a forced air system, he believed it would be centrally located. McGary asked about the proposed fireplace flue that extended from the foundation on the west side of the home. Chairman Linder noted this was not shown on the plan.

Commissioner Hemink noted the master bedroom was also a cantilevered. He asked if this would impact the new owner of that home, once it sells. Mr. Landis said it was designed with that consideration in mind, with no windows.

Chairman Linder opened the public hearing.

Zoning Coordinator Karpas read correspondence from Jodette Kostron, 3815 Deephaven Avenue, in opposition to the request into the record.

Hearing no further public comment, the public hearing was closed.

Commissioner Brandt asked about the height of the structure in comparison with the adjacent structures. Mr. Landis presented a visual of the home on either side of the property. He said it is difficult to visually tie in the heights of the adjacent structure since one is located uphill and the other downhill. Brandt asked if the adjacent property would be looking up or down at the cantilevered areas. Mr. Landis said both up and down based on the neighbor.

Commissioner McGary discussed the concept of dividing a piece from the adjacent property and attaching it to the subject since the applicant owns both of them, thus meeting the setback. Mr. Landis said he would have an issue complying with the minimum lot area requirement.

Commissioner Brandt noted the lot conditions are similar to others in the neighborhood and granting a variance based on architectural design could cause issues in the future. She said

she's undecided about the request at the moment. Mr. Landis said the only way to comply with the setback is with a front loading garage. Brandt agreed a side loading garage has a better appearance.

Chairman Linder commented he feels what the applicant is doing would be good, but questions if a front loading garage is even an issue. He's still undecided on which way to fall. Nancy Landis said a front loading garage would aesthetically look like a townhouse with no front yard. Chairman Linder said he doesn't see how that would be detrimental and said he was also troubled by the cantilevers.

Commissioner McGary said the lot is skinny which creates difficulty in its development. He said someone will eventually build on the lot even if a variance is not approved at this point. He agrees a front loading garage would have an apartment building look to it, and once constructed, would be in place for many years, so he can appreciate the desire for a side loading garage. He feels that is a better option. He feels the request would be an improvement to the property and would lessen the encroachment. He said there may be other option available, but this is one of the better ones. He said he is in favor of the request with the condition that the fireplace along the west side of the structure be flush with the foundation.

Commissioner Hemink said he visited the property and the key issue with him is that requiring the applicant to comply with the setback creates a house that's less appealing. He noted there are a number of other lots in the neighborhood with similar dimensions, and if they are developed with strict adherence to the code, it could be detrimental to the city. He is also concerned about the cantilevers.

Chairman Linder said he is leaning in favor of the request provided the fire place is tucked back into the foundation. He believes the "apartment style" concern is overblown, but said the lot has a narrow building width and the nature of the variance is reasonable. He thinks the design looks nice and generally complies with guidelines for minimum setbacks needed to enable an amount of access to permit construction and continued maintenance.

ACTION: Motion by Commissioner Brandt to recommend the City Council conditionally approve the variance request to demolish an existing non-conforming structure and construct a new single family home which would encroach five feet into the required ten foot east side yard setback, as shown on the submitted site plan at 19025 Lake Avenue, based on the findings of staff. The motion is conditioned that the fireplace located on the west side of the home be flush with the foundation. Commissioner Linder seconded the motion. Motion carried 4-0.

NEW BUSINESS

Appointment of Vice Chair

Zoning Coordinator Karpas said the Planning Commission needs to appoint a new Vice Chair due to the departure of Vice Chair Dan Dyb. He said they could do this tonight or wait for the next meeting when the absent Commissioners were present. The Commission agreed to do at this meeting.

Motion by Commissioner Hemink that Walter Linder be appointed Vice Chair. Commissioner Brandt seconded the motion. Motion carried 4-0.

Regulation of Play Structures

Commissioner Brandt asked what constitutes new business and what is the protocol for discussing new business, particularly how do we revisit play structure regulations. Zoning Coordinator Karpas then raised a concern over a new play structure in Commissioner Brandt's neighborhood. Zoning Coordinator Karpas also said, as an advisory body, the Commission could draft an ordinance and pass it on the Council, or make a motion asking them to revisit the issue. He feels the second option is the best since the Commission may want some guidance prior to investing a lot of time creating ordinance language the Council never intended on discussing.

Chairman Linder said the Commission is already on record as believing they should be regulated, noting it went through the ordinance process and the Council decided not to regulate them. Commissioner Brandt said the residents of Deephaven are very interested in the regulation of Play Structures and would like the Council to revisit the topic due to vagueness when the topic was returned to the Planning Commission.

Commissioner Hemink said his initial thought is there is a potential spider web of trouble trying to define what a play structure is.

Council Liaison Kask said there are avenues for addressing this issue at the Council level. He said he will raise it at the next meeting to get a feeling as to whether the Council would like to address the issue.

Impervious Surface Requirements

Commissioner Hemink asked if there has been any consideration given to permitting permeable pavers as a way to lessen the impact of the hardcover regulations.

Zoning Coordinator Karpas said there have been discussions in the past, but the city has been reluctant to accept permeable pavers since they have to be installed correctly to be effective and at this time there is no established state inspection process.

Commissioner Hemink discussed other options such as French Drains and Rain Gardens as a way to permit additional impervious surface on properties while controlling runoff.

Recognition of the Service of Dan Dyb

Chairman Linder expressed disappointment in the departure of Dan Dyb from the Commission. He feels Commissioner Dyb's experience and guidance will be missed.

Motion by Chairman Linder that the Commission commends the long and dedicated service of Dan Dyb to the Planning Commission. Commissioner Brandt seconded the motion. Motion carried 4-0.

LIAISON REPORT

Council Liaison Kask summarized the action taken by the Council on the request of the Potter's to construct a new single family home on Lakeview Avenue. He said the revisions to the plan addressed the neighbor's concerns and the Council found a practical difficulty in the narrowness of the lot and the limitations it created in developing the property.

ADJOURNMENT

Motion by Commissioner Linder to adjourn the meeting. Commissioner McGary seconded. The motion carried 4-0. The meeting adjourned at 8:45 p.m.

Respectfully submitted,
Gus Karpas
Zoning Coordinator