

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

PRESENT: Chairman Bob Werneiwski, Commissioners Barbarajean Brandt, Kent Carlson, Scott Hemink, Walter Linder (7:01) and John McGary

ABSENT: None

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

MINUTES OF November 17, 2009

Motion by Commissioner Hemink, seconded by Commissioner Werneiwski, to approve the minutes of November 17, 2009 as presented. Motion carried 6-0.

PUBLIC HEARINGS

VARIANCE – Jon and Mary Monson, 20260 Lakeview Avenue, (R-3, 20,000) variance requests to enclose two screened porches, remove an existing roofed porch on the lakeside of the structure and construct an addition on the west portion of the existing non-conforming home which would encroach into the required west side, corner lot and lake yard setbacks.

Section 1310.02 of the Zoning Ordinance requires a minimum west side yard setback of fifteen feet, a corner lot side yard setback of twenty-five feet and a lake yard setback of one hundred feet in the R-3 Residential District.

The requested variances are to enclose the west side screened porch which encroaches approximately fourteen feet into the required one hundred foot lake yard setback, to enclose the east side screened porch which encroaches approximately twenty-seven feet into the required one hundred foot lake yard setback, to remove an existing enclosed porch that encroaches thirty-five feet into the required one hundred foot lake yard setback and to construct a new fifty square foot addition that would encroach seven feet into the required one hundred foot lake yard setback and eight feet into the required twenty-five foot west side corner lot setback.

Zoning Coordinator Karpas presented his staff report. He said the request was to enclose two existing screened porches, remove an existing roofed porch and to construct a small addition. The proposed addition would not increase the existing encroachment. He said he recommended approval for the request and outlined his findings. He said he felt it was a reasonable modification and kept the character of the home.

Jon Monson said he and his wife plan on living in the home and feels it is a beautiful, iconic structure. Mr. Monson summarized the construction history of the home noting it was built in 1892 and modified a number of times since then. He said the goal was to be as non-evasive as possible while addressing the limitations of the home. The desire is to bring the structure up to today's living standards. He discussed the proposed alterations noting the only change to the footprint would be the right-angle addition to expand the kitchen. Mr. Monson informed the Commission that he and his wife have decided to keep the lakeside porch and that it would not be removed as part of the project.

Commissioner Hemink asked about the exterior of the porches and proposed addition. Mr. Monson distributed colored photos showing the proposed exterior. He said the intent is to continue the existing look of the exterior. Hemink asked about the existing construction taking place on site. Mr. Monson said it was all interior work and does not require a variance.

Commissioner Linder asked about the proposed addition being built into the west side porch and if the intent was to have the remainder of the porch serve as a porch. Mr. Monson said it was.

Commissioner Carlson asked about the proposed hardcover and how the applicant intended to bring the property into compliance. Mr. Monson said a portion of the existing limestone patio would be removed to comply with the ordinance.

Chairman Werneiwski asked if there would be any modification to the existing garage. Mr. Monson said there would not.

Commissioner Brandt clarified the garage was attached. She asked if the boathouse exempt from the accessory structure definition because the staff report indicated that there would be one accessory structure on the property, implying one would be added, rather than one existing. Mr. Monson said the boathouse currently existed and no new accessory structures were proposed.

Chairman Werneiwski opened the public hearing.

Jim Alberston, 4225 Northern Road, said he was in favor of the request and felt the modification would be an asset to the community.

David Gross, 20245 Lakeview Avenue, spoke in favor of the request stating the plan was nice and would improve the structure.

Carrie Bell, 4235 Northern Road, said she was in total support of the request.

Hearing no further comment, the Public Hearing was closed.

Commissioner Hemink said he was comfortable with the plan and noted it keeps the appearance of the home intact.

Commissioner McGary was in favor of the plan.

Commissioner Carlson was in favor of the request and likes the idea of keeping the structure rather than building a new structure on the site.

Chairman Werneiwski was in favor of the request.

Commissioner Linder was supportive of the request and is happy to see the proposal maintains the look of the home.

Commissioner Brandt was in support of the request and commented that the existing integrity of the property and structure has been appreciated by the applicant.

ACTION: Motion by Commissioner Carlson to recommend the City Council approve the variance requests to enclose the west side screened porch which encroaches approximately fourteen feet into the required one hundred foot lake yard setback, to enclose the east side screened porch which encroaches approximately twenty-seven feet into the required one hundred foot lake yard setback, to remove an existing enclosed porch that encroaches thirty-five feet into the required one hundred foot lake yard setback and to construct a new fifty square foot addition that would encroach seven feet into the required one hundred foot lake yard setback and eight feet into the required twenty-five foot west side corner lot setback. Commissioner Werneiwski seconded the motion. Motion carried 6-0.

VARIANCE – Kevin and Rebecca Klodt, 3765 Northome Road, (R-1, 60,000) variance requests to partially demolish an existing non-conforming home and construct a new single family home which would encroach into the required front, north and south side and lake yard setbacks.

Section 1310.02 of the Zoning Ordinance requires a minimum front yard side yard setback of fifty feet, north and south side yard setbacks of thirty feet and a lake yard setback of one hundred feet in the R-1 Residential District.

The requested variances are to encroach eleven feet, four inches into the required fifty-foot front yard setback, to encroach fourteen feet, two inches into the required thirty foot south side yard setback, to encroach three feet, eight inches into the required thirty foot north side yard setback and to encroach six feet, nine inches into the required one hundred foot lake yard setback.

Zoning Coordinator Karpas presented his staff report. He said the request was to partially demolish the existing home and construct a new home, while maintaining the existing encroachments. He said he recommended approval for the request and outlined his findings.

John Bell spoke on behalf of the applicants who were in attendance. He said the applicants purchased the property about ten years ago and were aware of previous variances that were granted on the site. He outlined a request the applicants brought before the Commission previously that exceeded the encroachments that had been approved, which was later withdrawn due to a lack of support from the Commission. He described the proposed project and how it compared to what existed and the previous submittal, noting the proposal would maintain the existing encroachments. Mr. Bell discussed the proposed floor plan, noting that a large portion of the new living space would not be visible since it would be in the basement. He said the proposed second story would be smaller than the main floor. He said the proposed impervious surface was in compliance with the ordinance and the structure was designed in a manner to keep a low profile. He said the exterior has not been finalized but would most likely be brick and stone with lap siding. Mr. Bell said a hardship exists in the size of the lot, which is a third of the required size and the corresponding setbacks.

Commissioner McGary asked if the entire foundation was being replaced. Mr. Bell said only the garage foundation was being replaced, lower than the existing foundation, which will require two steps down to get into the new basement area.

Commissioner Linder asked for clarification on the lake setback. Mr. Bell said the proposed structure encroaches on the north side and then the shoreline angles away from the structure as it moves to the south.

Commissioner Hemink asked about the proposed cantilevered balcony and how they are handled in the ordinance. Zoning Coordinator Karpas said the ordinance currently allows for encroachments up to two and a half feet for items such as eaves and chimneys, but is silent on cantilevered balconies. Hemink asked how much the balcony would encroach into the lake setback. Mr. Bell said approximately two feet.

Commissioner Brandt asked if the proposed balcony would encroach further into the required lake yard. Mr. Bell said it would not and explained the design of the balcony versus the existing porch which has posts running all the way to the ground. He said the proposed encroachment is reduced in this area over what currently exists.

Commissioner Linder asked about the at grade patio on the lakeside of the home. Mr. Bell said it would be a flagstone patio and is included in the hardcover calculations.

Chairman Werneiwski opened the public hearing.

Zoning Coordinator Karpas summarized separate letters from Jim Wyer, address unknown and Ms. Laura Miles, 3790 Northome Road, opposed to the granting of the variances.

Ms. Jane Hall, 3650 Northome Road, feels the applicants have done a good job in designing a home that would maintain the existing encroachments. She asked about the proposed shop area shown on the plan. Rebeccah Klodt said it would be for crafts and gardening. Ms. Hall expressed concern about parking on Northome Road during construction. Kevin Klodt said it would be monitored closely and there is a plan in place to use the paved area that runs alongside the property. Ms. Klodt added that landscaping of the front yard will not be done until after the project to allow for more off-street parking. Ms. Hall noted she had been on the Planning Commission in the past and while on the Commission tried to devise ordinances to allow the enhancement of smaller lots like this one. Ms. Hall asked about the drainage on the south side of the property. She feels the City Engineer should review the plan to ensure the adjacent property doesn't have a drainage issue on their driveway. She thinks the plan is great and a very attractive home and is in support of the request.

Ms. Goodwin, 3805 Northome Road, said she and her husband are in support of the proposal as presented.

Hearing no further comment, the Public Hearing was closed.

Commissioner Brandt confirmed the height was being increased only slightly. Mr. Bell said the height would be increased only about three feet. Brandt said she was in favor of the request.

Commissioner Linder commented that he thought maintaining the existing encroachments is a good thing, though he has some concerns about the increased massing due to the addition on the southeast portion of the home. He feels there will be a fair amount of building on the lot. He noted it is significantly less than the variances previously requested by the applicants. He noted the small size of the lot presents difficulty in development and that the applicants were able to

maintain the existing encroachment and design a home with a flat roof that limits its impact. He is supportive of the request.

Chairman Werneiwski supports the request and appreciates the care taken in maintaining the existing encroachments.

Commissioner Carlson supports the plan. He liked the design and appreciated the neighbor comments.

Commissioner McGary is in support of the request, though there could be massing concerns. He noted there would be little to no tree loss and that the neighbors were in support.

Commissioner Hemink agreed that, size wise, the structure would increase in mass, but would be in keeping with the neighborhood. He feels the applicants compromised by keeping within the existing encroachments. He supports the request.

Commissioner McGary would still like some clarification on how cantilevers are handled in the ordinance. Council Liaison Kask said an argument could be made that they function as an eave which is permitted to encroach thirty inches into required setbacks.

ACTION: Motion by Commissioner Linder to recommend the City Council approve the variance requests to construct a new home which would encroach eleven feet, four inches into the required fifty-foot front yard setback, to encroach fourteen feet, two inches into the required thirty foot south side yard setback, to encroach three feet, eight inches into the required thirty foot north side yard setback and to encroach six feet, nine inches into the required one hundred foot lake yard setback, as shown on the submitted site plan at 3765 Northome Road, based on the findings of staff and that the dimensions of the lot hinder the ability to develop the property and the proposal would not alter the essential character of the neighborhood. The motion is conditioned that the cantilevered deck overhangs extend no more than thirty inches into the lake setback. Commissioner Werneiwski seconded the motion. Motion carried 5-0.

NEW BUSINESS

Cell Tower Notification Radius

Chairman Werneiwski informed the Commission that Councilmember Crockett would like to have a discussion about public notification procedures for telecommunication tower requests.

Zoning Coordinator Karpas said he has already taken a preliminary look at the issue, comparing the City of Deephaven's three hundred and fifty foot notification requirement with those of neighboring cities. He said he has also done a couple of maps showing the number of properties that would be included based on differing notification radiuses. Karpas said his intent was to bring an ordinance amendment to the Commission increasing the notification radius to one thousand feet. He said he would bring this information to the next meeting.

Commissioner Brandt voiced some concerns she had about public involvement in the process and asked for clarification on the public hearing process. She said it was her understanding that the public was not allowed to speak at the City Council on this request.

Councilmember Kask said the official public hearing is held at the Commission level. Any participation at the Council level is up to the Council. He said on this particular issue, the public was allowed to speak at the Council. The only time there was a limitation on public participation was at the meeting following the one in which the applicant received approval. The applicant was asked to come back before the Council to discuss camouflaging the pole. It was at that point the public was limited to the subject at hand, camouflaging the pole, and not allowed to revisit the original site approval since the Council was notified by legal counsel it could not do so.

Council Liaison Kask discussed the structure of the city's ordinance which limits the placement of towers to city owned properties. Commissioner Brandt asked if residents impacted by the placement of a tower on city owned property would have an opportunity to speak on the proposal. Kask said they would.

Commissioner Carlson asked if it would be proactive to address the issue of towers in Thorpe Park before the city is faced with an application. Council Liaison Kask said it would be easier to analyze the use of all the city parks and determine if they are suitable or desirable for the placement of a telecommunications tower.

It was asked if the revenue gained through a tower on park land went directly to the park fund. Council Liaison Kask said he is conceptually opposed to a revenue stream earmarked for any one use.

Commissioner Hemink would like to include a discussion on city parks with the proposed ordinance change and does not feel there should be a public hearing scheduled on the proposed amendment until the Commission has had some time to discuss it first.

Commissioner Brandt said she would like clarification on the Federal Communications Act and when the city has met its obligation to it.

Zoning Coordinator Karpas said he would provide some draft language a map of city owned properties for the Commission at their next meeting.

Residential Play Structures

Commissioner Brandt expressed frustration that the issue of residential play structures has not been readdressed. She would like to receive Council feedback on whether they would support regulation.

Zoning Coordinator Karpas said that any citizen can bring up an issue on the Matters from the Floor portion of the Council meeting. This may be a good way to put it in front of the Council and get their thoughts.

LIAISON REPORT

No report.

ADJOURNMENT

DEEPHAVEN PLANNING COMMISSION

TUESDAY JANUARY 19, 2010

7:00 P.M.

PAGE 7

Motion by Commissioner Carlson to adjourn the meeting. Commissioner Linder seconded. The motion carried 6-0. The meeting adjourned at 8:40 p.m.

Respectfully submitted,
Gus Karpas
Zoning Coordinator