

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

**PRESENT:** Chairman Bob Werneiwski, Commissioners Barbarajean Brandt, Kent Carlson, John McGary and Pete Onstad

**ABSENT:** Commissioners Scott Hemink and Walter Linder

**OTHERS PRESENT:** Council Liaison Josh Hackney and Zoning Coordinator Gus Karpas

**MINUTES OF September 20, 2011**

Motion by Commissioner Carlson, seconded by Commissioner McGary, to approve the minutes of September 20, 2011 as presented. Motion carried 4-0-1. Chairman Werneiwski abstained since he was not in attendance at the September meeting.

**PUBLIC HEARINGS**

**VARIANCE – Request from Karl Forsman, 3840 Deephaven Avenue,** to construct a detached garage which would encroach into the required front and rear yard setbacks.

The proposed garage would encroach nine feet, six inches into the required thirty-five foot front yard setback and encroach seven feet into the required fifteen foot rear yard setback.

Zoning Coordinator Karpas presented his staff report noting the existing garage on the property was a single stall and undersized. He said he recommended approval of the request because the proposed use is in harmony with the purpose and intent of the ordinance, the proposed use the property is reasonable since the property currently has a small one-stall garage and any construction on the property would not be permitted by the zoning ordinance, that the plight of the landowner is due to circumstances unique to the property and not created by the homeowner due to the lot area and dimensions creating a practical difficulty in placing the proposed garage within the ordinance requirements and the existing garage is not suitable to serve the needs of the property, the request is reasonable given the need for a usable garage on the property and that the requested variance would not alter the essential character of the locality since the size of lots in the area a number of the properties have been developed with encroachments within the required setbacks.

Karpas said he received one phone call from a neighbor who was not opposed to the request, but questioned what the garage would be used for and one response in writing opposed to the request which has been provided for the Commission. Karpas read the letter into the record.

Karl Forsman addressed the Commission. He said the existing home and attached garage are small and the intent was to construct a new two stall garage for winter parking and storage. He said he did his best to scale back the design to fit the lot.

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

Commissioner McGary said typically variances in front of the Commission tend to front on the adjacent street, which in this case would be Park Avenue. He felt fronting the structure along

Deephaven Avenue was more appropriate in this case. He feels the request is reasonable but felt the structure could be moved further to the north to bring it more into compliance with the setbacks. He sees the practical difficulty in the dimensions of the lot and the need for storage.

Commission Onstad agreed with McGary. He is in favor of the request and feels the request is reasonable. He said sight lines are difficult in this area, especially the curve on Deephaven Avenue. He feels the structure is set back appropriately not to cause any vision problems while driving. He asked if the property would have two driveways. Mr. Forsman said it would not and the garage would use an existing paved area currently used as a parking area.

Commissioner Carlson asked if the upper level would be used for storage. Mr. Forsman said it would since storage is limited in the house. Carlson asked if there were any plans to connect the structure to sewer or water. Mr. Forsman said there were no plans to do so, but he planned on running electricity to the structure. Carlson said the request is not unusual to the area and he was supportive.

Chairman Werneiwski said he agreed with what has already been said by the other Commissioners. He sees a need for the structure and feels the applicant has done the best he could given the property conditions. He was generally supportive of the request.

Commissioner Brandt agreed the garage is necessary, but didn't believe the proposal was practical and would have an aesthetic impact on the neighbors. She noted the garage seems to be centered on the applicant's lot which would negatively impact the neighbor's property. Mr. Forsman said the garage was lined up with the garage on the neighboring property. Brandt asked if there would be additional asphalt added to the property. Mr. Forsman said there would not. Brandt reiterated she didn't believe the proposed structure was the most attractive option for the neighbors and though she feels a variance is warranted she feels the garage could be moved closer to the house or even attached to it. Mr. Forsman said he could not move the structure closer to the house and still have access to the garage. He said the design of the structure was to match the roofline of the existing home.

Motion by Commissioner Werneiwski, seconded by Commissioner Onstad, to recommend the City Council approve the variance requests to encroach nine feet, six inches into the required thirty-five foot front yard setback and encroach seven feet into the required fifteen foot rear yard setback for the proposed detached garage as presented for 3840 Deephaven Avenue. Motion carried 4-1. Commissioner Brandt voted nay.

**VARIANCE** – Request from Doug McNaught, 19820 Lakeview Avenue, to construct a new roof over an existing non-conforming single family home and to expand the existing non-conforming garage which would encroach into the required front, north side, south side and lake yard setbacks and exceed the maximum permitted impervious surface area.

The proposed alterations would encroach eleven feet, ten inches into the required thirty-five front yard setback, encroach five feet, eleven inches into the required fifteen foot north side yard setback, encroach three feet, five inches into the required fifteen foot south side yard setback, encroach thirty-five feet, eleven inches into the required one hundred foot lake yard setback and exceed the maximum permitted impervious surface area by 9%.

Zoning Coordinator Karpas presented his staff report. He noted the majority of the project would take place over the existing non-conforming footprint with the only further encroachments are into the required front and side yard setbacks for the proposed garage expansion. He said he recommended approval for the request because the proposed use is in harmony with the purpose and intent of the ordinance, the applicant proposes to use the property in a reasonable manner since the placement of existing home was constructed in a non-conforming manner and any alteration would not be permitted by the zoning ordinance, that the plight of the landowner is due to circumstances unique to the property and not created by the homeowner since the lot area creates a practical difficulty in placing/altering a home within the ordinance requirements and the existing structure exists as a non-conforming structure and even though the proposed alterations would increase two of the existing encroachments and increase the overall impervious surface area, the request is reasonable given the need for a usable garage on the property and that the requested variance would not alter the essential character of the locality. The existing home is a flat roofed structure, by altering the roof to a pitched roof, the structure will fit more closely with the character of the neighborhood. The increase in garage area will have minimal visual impact.

Zoning Coordinator Karpas said he had not received any correspondence regarding the request.

Doug McNaught introduced himself and his contractor Jon Monson and indicated they were available for any questions.

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

Commissioner Brandt asked about the size of the proposed driveway and whether it would be enlarged. Mr. Monson said the property owners were interested in maintaining the character of the existing stone fence which limits the size of the driveway. He said the driveway would use the same curb cut and then flare out as it approaches the garage. Monson said the intent was to expand the existing carport to make it usable. Brandt said she was concerned that the driveway "marries" up with the garage. She asked about the property line in terms of the location of an existing timber wall. Mr. Monson said the property line was just on the other side of the wall and that the entire wall was on the applicant's property. Brandt feels the proposal would be attractive.

Commissioner McGary feels the project would be an overall improvement to the neighborhood which outweighs the drawbacks of increased impervious surface. He feels the pitched roof would be an improvement, though he would be interested in seeing a reduction in the proposed impervious surface area. Overall he is in favor of the request and feels it is within the character of the neighborhood and would improve Cottagewood as a whole.

Commissioner Onstad asked if the boathouse was included in the impervious surface calculation. Mr. Monson said it was. Onstad said it is a difficult situation to balancing lot size with the character of the neighborhood. He feels the project would be an improvement to the area and he supports the request.

Commissioner Carlson questioned whether the proposed garage would be adequate to serve the property since it is smaller than a typical two-stall garage and seems pretty tight. Mr.

Monson said it would be adequate. Carlson commented that proposed dormers looked nice and asked if there would be access to those areas for storage. Mr. Monson said storage would be added above the garage area. Carlson said he was in favor of the request.

Chairman Werneiwski said he liked the aesthetics of the design. He asked if there were any way to reduce the impervious surface. Mr. Monson said the only way would be a reduction in the deck, but commented it is not overly large as it exists and to narrow any more would reduce its usability. Werneiwski asked if there was any landscaping plastic or similar ways to reduce the percentage. Mr. Monson said there was not and noted the existing stairway accessing the boathouse were already narrow. Werneiwski feels the proposal is an improvement though the increase in impervious surface is a negative. He said impervious surface is always a battle on smaller lots and in this case he was in favor of the request.

Motion by Commissioner Carlson, seconded by Commissioner Werneiwski, to recommend the City Council approve the variance requests to encroach eleven feet, ten inches into the required thirty-five front yard setback, encroach five feet, eleven inches into the required fifteen foot north side yard setback, encroach three feet, five inches into the required fifteen foot south side yard setback, encroach thirty-five feet, eleven inches into the required one hundred foot lake yard setback and exceed the maximum permitted impervious surface area by 9% for the proposed roof alteration and garage expansion as presented for 19820 Lakeview Avenue. Motion carried 5-0.

## **NEW BUSINESS**

**ORDINANCE AMENDMENT** – Discuss the potential amendment of the city's Planned Unit Development Ordinance.

Zoning Coordinator Karpas said representatives from St. Therese have approached the city regarding the development of their property into a senior housing campus. The proposed development would potentially include a multi-unit structure and a number of duplexes. The specific site plan has not been completed nor has the number of units been determined.

The issues involved with the proposed concept are the number of acres they would like to include in the development and the number of units permitted.

Section 1300.2(1) defines the PUD 1 District as the St. Therese property and limits the number of acres and units permitted for development. The ordinance permits a maximum of six acres for development and a maximum permitted density of six units per acre. St. Therese would like to potentially increase the number of acres to fourteen for the proposed development. Since the number of proposed units has yet to be determined, it is not known at this time if they are seeking any alteration to that requirement.

The discussion tonight is to get the Planning Commission's thoughts on increasing the number of acres permitted for development and whether they would be willing to amend the ordinance or waive the requirement for the number of units permitted per acre since the proposal for a multi-unit structure would exceed the allowable density.

Karpas said he does not believe increasing the area available open to development creates any issue with spot zoning since it would not be giving the property an unfair advantage over other

properties in the city. The limitation was originally set for a number of reasons, one being the potential future expansion of the school. There would be benefits to permitting a larger development area including it provides a more significant tax benefit for the city, the proposed project would be managed by a group separate from the Parish and the property would still be owned by the Parish.

Chairman Werneiwski feels any change would be premature without an actual plan. Zoning Coordinator Karpas said the intent was to set the parameters for development and noted that all the concepts that have come before the city for that property have always exceeded the number of acres and units. Commissioner Carlson said it would be difficult to develop a senior project under the current regulations.

Commissioner Brandt asked if this was being expedited by the church due to the recent concept presented to the Commission in the commercial district. Commissioner Carlson said this has been a discussion at the church for a number of years and they recently put out a request for proposals.

Commissioner Onstad asked about amending the ordinance and whether it was an all or nothing proposition in terms of acres. Zoning Coordinator Karpas said the Commission could do what it wants such as allow the use of all the land, some of the land or choose not to change the ordinance from the amount of land permitted now.

Chairman Werneiwski reiterated he would like to see a proposal before amending the ordinance, if anything to avoid having to revisit the issue once an application is received to further amend the ordinance. Zoning Coordinator Karpas said he would like to avoid the perception that the ordinance is being tailored to meet the desires of an applicant. Werneiwski said he liked the idea of assisted living and that it seems appropriate for that site.

Commissioner Carlson said a number of cities have flexible Planned Unit Development ordinances which base their regulations on specific site plans, giving the city flexibility. He used the example of a development which had a memory care component which would have a number of smaller units that increase the overall density while not really using more land.

Commissioner Onstad said he had two concerns. The first is trying to figure out what acreage would be used for a proposed development and the potential of amending the ordinance to allow greater density only to see the property sold to a private developer who does not develop senior housing.

Chairman Werneiwski was supportive of loosening the requirements to allow flexibility in site plan review.

Commissioner Brandt feels there should be no changes at this time. Commissioner McGary feels any changes should be based on the development's location in relation to the property lines. Brandt noted there are other issues that need to be considered with a large development such as utilities and deliveries which are disruptive to neighboring residential properties.

Council Liaison Hackney noted the church is not a new member to the community and wondered why they didn't provide input while the ordinance was being developed.

Commissioner McGary said he would rather see a well planned fourteen acre development than an overly dense six acre development.

Zoning Coordinator Karpas said he would pass the Commission's thoughts on amending the ordinance to the Council. He summarized the discussion as the Commission being willing to allow flexibility in the ordinance to allow diversity in development but did not feel a change was appropriate at this time without a specific proposal before the city. The Commission agreed to that summary.

## **OLD BUSINESS**

**ZONING AMENDMENTS** – Discuss City Council reaction to the proposed Zoning Ordinance amendments for accommodating the new Liquor Ordinance.

Zoning Coordinator Karpas said that prior to scheduling public hearings and holding meetings on the proposed property rezoning and amendments to the Zoning Ordinance as outlined in "Option A" presented to and accepted by the Planning Commission at their September meeting, he felt it would be prudent to inform the Council on the Commission's intentions.

The Council was supportive of Option A with one exception. They did not believe the property along Highway Seven should be rezoned. In essence, they are willing to permit the sale of wine and beer in the existing C-1 District and limit the sale of intoxicating liquor to the existing C-2 District.

This decision was based on the Council's perception of voter's intent when they cast their ballot for approving liquor sales in the city. They felt most voters were under the impression that a vote for permitting liquor sales in the city was directly related to a restaurant use and not uses such as bars and liquor stores.

The Council also felt it should be the city's responsibility to establish business hours within the city and have them specified in the ordinance with the caveat that they could either be shortened or lengthened by the Council during the Special Use process.

Karpas said he would schedule a public hearing for the November meeting.

## **FENCES**

Commissioner Brandt again asked the Commission to consider a review of the fence ordinance. She's concerned that as the ordinance is written fences that have a negative impact on neighboring properties are being permitted. She discussed a fence that was recently placed along Minnetonka Boulevard which she believes was placed contrary to the ordinance. She noted that for years she has felt the city should evaluate the existing fence ordinance and make changes where necessary based on resident comments.

The Commission agreed to look at amendments that clearly define the permitted height and how that height is measured.

## **LIAISON REPORT**

Council Liaison Hackney informed the Commission that the City Council unanimously approved the variance requests from Steven Streeter for a new home at 20240 Lakeview Avenue. He said Mr. Streeter presented a drainage plan which used an underground cistern for water storage. The proposed cistern has the capacity ability to take one hundred percent of the runoff from the roof during a one inch rain. The water would then be used for irrigation. He said Mr. Streeter provided calculation showing that the effective impervious surface area would be reduced to sixteen percent with the system.

## **ADJOURNMENT**

Motion by Commissioner Carlson to adjourn the meeting. Commissioner Werneiwski seconded. The meeting adjourned at 8:25 p.m.

Respectfully submitted,  
Gus Karpas  
Zoning Coordinator