

DEEPHAVEN PLANNING COMMISSION

TUESDAY OCTOBER 17, 2006

7:00 P.M.

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

PRESENT: Chairman Dan Dyb, Commissioners Joan Budd, Jeff McKinney, Warren Nelson, Josh Sparber and Bob Werneiwski

ABSENT: Commissioner Walter Linder

OTHERS PRESENT: Councilmember Kim Crockett and Zoning Coordinator Gus Karpas

MINUTES OF August 15, 2006

Motion by Commissioner Werneiwski, second by Commissioner McKinney, to approve the minutes of August 15, 2006 as presented. Motion carried 4-0-2. Commissioners Budd and Dyb abstained.

PUBLIC HEARINGS

VARIANCE – Bob and Colleen Wilson, 3860 Talton Place, (R-3, 20,000) variance requests to build a new home located within the required front and corner lot, rear yard setbacks. The requested setback variances are for nine feet, seven inches of the required thirty-five foot front yard setback and for ten feet of the required twenty-five foot corner lot, rear yard setback.

Bob Wilson presented the request. He said he and his wife Colleen have been residents of Deephaven for fourteen years and would like to remain. He said the intent of the proposed home is to keep the Cape Cod look they currently have with their home on Minnetonka Boulevard. He discussed the document he submitted for the request.

Mr. Wilson believes variances are warranted based on the shape and area of the lot. He noted that the lot is triangular and tapers to a width of thirteen feet. He said the home is in character with the surrounding neighborhood and care has been taken to site it on the property so that it matches the setback of other homes on Talton Place. He said the front face of the home complies with the setback and that only the front porch encroaches into the setback.

Mr. Wilson discussed the required rear yard setback and said a hardship is created with the increased setback required for corner lots. He said the road behind his property is undeveloped and heavily wooded. The proposed structure would comply with the required rear yard setback if not for the platted road. He said that once you take into account the forty-foot wide road and the proposed fifteen-foot setback, the proposed structure would be fifty-five feet away from the adjacent property line.

Mr. Wilson said the proposed structure would comply with the required side yard setback on the north side. Mr. Wilson introduced Mike Sharrett of Sharrett Design.

Mr. Sharrett said he designed the home so that it could be used long term, as the Wilson's grow older. It is essentially a single level that was kept purposely small. In way of example, he

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explained that though a three-stall garage would be preferable, there is only a two-stall garage proposed. He said there are no multiple living areas such as a dining room and a formal dining room. He said the massing of the structure was a consideration and that the gables were designed so they were low lying. The intent was to make the home look organic to the neighborhood and appear as an older home that has underwent renovation.

Chairman Dyb opened the public hearing. Zoning Coordinator Karpas read an email from Brian and Leontine Larson, 18920 Park Avenue, in support of the request. Hearing no further public comment, the public hearing was closed.

Commissioner Werneiwski said he was supportive of the request and asked about the trees located on the northeast corner of the property. Mr. Wilson said the trees, unfortunately, would have to be removed for the garage.

Chairman Dyb said he was supportive and felt the property presented unique challenges in regard to lot size and shape, along with the increased setback required for the undeveloped road. He would like to see a survey with contours showing the existing and proposed grade. Mr. Sharrett said there would not be much change in the existing grade and that the intent was to nestle the home into the existing topography.

Commissioner Nelson felt the applicant did a good job in limiting the massing and does not see any problems with the request. He echoed Dyb's comments regarding a survey showing the elevations needs to be submitted to clarify any potential issues with runoff.

Commissioner Sparber said he was impressed with the scale and design of the proposed structure and the care taken to keep the integrity of the property. He likes that the applicant limited the size of the garage. He is in support of the request and appreciates the thoroughness of the application.

Commissioners Budd and McKinney were in support of the request.

ACTION: Motion by Commissioner Nelson to recommend that the City Council approve the variance request to encroach nine feet, seven inches into the required front yard setback and to encroach ten feet into the required corner lot, rear yard setback. A hardship exists in the size and shape of the lot and the increased setback requirement for the undeveloped road. The home has been designed and placed on the property in keeping with the essential character of the neighborhood. Commissioner Dyb seconded the motion. Motion carried 6-0.

VARIANCE – Mike and Karol Zegarac, 3608 Therese Street, (R-3, 20,000) variance request to build a new detached garage within the required corner lot, side yard setback. The requested setback variance is for twenty-five feet of the required twenty-five foot corner lot, side yard setback.

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Mike Zegarac presented the request. He said his wife has owned the property for approximately twenty years. He said his situation is similar to the previous applicant in that his property is adjacent to an undeveloped road that requires a greater setback from the property line. He said he has been working with the City Administrator and Public Works Committee to petition for a vacation of the street and was told to apply for a variance before making a formal application.

He said he realizes that his request does not meet all the criteria for a variance but believes his situation is unique due to the undeveloped road. He doesn't believe a road would ever be rebuilt in that location. The proposed location of the garage in the northwest corner of the property would enable direct driveway access from Therese Street. The location was also determined based on plans to expand the home in the future. He feels the placement of the garage up to the property line would have no effect on the right-of-way.

Mr. Zegarac said he understands the concern about granting variances that would set precedence, but he believes his situation is unique.

Chairman Dyb opened the public hearing. Zoning Coordinator Karpas said he spoke with Leslie Hexum, 17875 Highland Avenue, who was concerned with how close the structure would be placed to his property line which abuts the Zegarac's rear property line. After reviewing the plan, Mr. Hexum said he didn't have any concerns with the proposed location. Hearing no further public comment, the public hearing was closed.

Commissioner McKinney said he was not in favor of putting the proposed structure on the property line. He believes there are design alternative, which could facilitate the construction of the garage, which would not require such a large variance. His concern is due to the fact that the structure could not be built or maintained without going onto the adjacent city owned property. He doesn't believe the Zegarac's have the right to use property they do not own. Mr. Zegarac reiterated that he believes the situation is unique.

Commissioner Budd was not in favor of a zero setback. She could support a variance for a reduced setback but feels the request is asking for too much. She asked the applicant why they needed the requested setback. Mr. Zegarac said it would provide for a more direct access to Therese Street and would not interfere with future expansion plans. Budd said she agrees that the undeveloped road is unique but that a zero setback is too much to ask for.

Commissioner Sparber feels there are development alternatives that would pull the garage off the property line. He said that even though the trail through the property has not been formally developed it still serves a purpose to the neighborhood and is very important. He noted there is also an issue with the location of a city sewer line through the property. He would support a reduced setback, but not a zero setback.

Commissioner Werneiwski said a zero setback is too aggressive. He agrees with the other Commissioners in that he would look favorably on a reduced setback. He understands the

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uniqueness of the situation but believes a property is a property line and the setbacks are based on those lines.

Commissioner Dyb agreed. He said the property is what it is regardless of the uniqueness. He would also support a reduced setback of some sort, but not a zero setback.

Commissioner Nelson commented the fact the road is undeveloped has provided a value and benefit to the Zegaracs. He said he understood the reasoning used by the applicants, but the reality is that even though it appears to be their property, it's not. He doesn't see an undue hardship for a zero setback, though he would support a reduced setback.

Chairman Dyb asked the Commissioners their opinion on what a reasonable setback would be. A majority of the Commissioners agreed a setback ranging from seven and a half feet to ten feet would be appropriate for the proposed garage.

The Commission discussed the process and whether a new plan would need to be submitted to the Planning Commission for action before going on to the City Council. Council Liaison Crockett said the Council would typically like the Commission to review any amended plan prior to sending it to Council, but feels this situation is unique in that it is for a detached garage rather than an entire house. She feels the Council would have no problem envisioning an amendment in their mind's eye. Zoning Coordinator Karpas said the applicant would continue on to the Council with the recommendation from the Planning Commission and could chose to amend the plan at the Council level. At that time, the Council can determine whether the applicant has to return to the Planning Commission.

ACTION: Motion by Commissioner Dyb to recommend that the City Council deny the variance request to encroach twenty-five feet into the required corner lot, side yard setback. A clear undue hardship has not been demonstrated to justify the need for a variance in the configuration presented to the Commission. The Commission feels that the Council should, however, consider granting a variance for a reduced setback ranging from seven and a half feet to ten feet based on the unique situation present on the applicant's property. Commissioner Nelson seconded the motion. Motion carried 6-0.

ORDINANCE AMENDMENT – Recommendation to the City Council on an amendment to Section 1310.10(1)(d) of the zoning ordinance adding language defining a connection between an accessory structure and principle structure.

Zoning Coordinator Karpas gave an overview of the proposed ordinance. He said the ordinance was previously before the Commission and amended to its current format based on the comments received at that meeting. Changes include a requirement that the connection be fully enclosed and contain frost footing and the inclusion of a maximum length for the connection.

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Commissioner Budd said she was concerned that limiting the length to a specific number would limit design alternatives. She feels the maximum length could also be tied into the dimensions of the accessory structure.

The Commission discussed the length issue and agreed. It was determined that the maximum length of a connection would be no more than fifty percent the maximum dimension of the accessory structure to be connected.

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

ACTION: Motion by Commissioner Dyb to recommend that the City Council adopt Ordinance 13-43, amending Section 1310.10(1)(d) of the Zoning Ordinance, adding language defining a connection between an accessory structure and principle structure. The motion is to incorporate the new language limiting the maximum length of a connection to a maximum of fifty percent of the maximum dimension of the accessory structure to be connected. Commissioner Werneiwski seconded the motion. The motion carried 6-0.

LIAISON REPORT

Council Liaison Kim Crockett informed the Planning Commission that the Council has reviewed a number of ordinances acted on by the Planning Commission. She said the revisions to the subdivision ordinance were approved, the ordinance requiring fences around pools was not adopted. She said the Council is still working on the ordinance requiring a minimum setback for swimming pools. She said the format of that ordinance has changed slightly to address additional items such as screening.

Councilmember Crockett discussed the status of the home occupation located on Lake Avenue. She said the homeowner is trying to obtain Homestead status to make his business legal. The Council has directed the City Assessor to work with the homeowner to see if Homestead status is feasible.

ADJOURNMENT

Motion by Commissioner Dyb to adjourn the meeting. Commissioner McKinney seconded. The motion carried 6-0. The meeting adjourned at 8:30 p.m.

Respectfully submitted,
Gus Karpas
Zoning Coordinator