

**DEEPHAVEN PLANNING COMMISSION
TUESDAY, APRIL 21, 2015
MINUTES**

CALL TO ORDER: Council Liaison Darel Gustafson called the meeting to order at 7:00 p.m.

PRESENT: Commissioners John Studer, Jim Anderson, Bill Sharpe and Council Liaison Darel Gustafson

ABSENT: Commissioners Kent Carlson, Brandon Gustafson, Bob Werneiwski and Gen McJilton

OTHERS PRESENT: Administrator Dana Young and Mayor Paul Skrede

Oath of Office

Mayor Skrede administered the Oath of Office to Commissioners John Studer, Jim Anderson and Bill Sharpe.

Commission Minutes

Chairman Gustafson recommended postponing action on the March 17, 2015 until the next Planning Commission meeting since the majority of the new commissioners were not present at the March 17th meeting.

PUBLIC HEARINGS

Variance request, Rod Komis, 18374 Heathcote Lane – Request to encroach into the minimum required front yard setback for the construction of a new attached garage onto an existing non-conforming home.

Section 1302.04(3) of the city ordinance requires a minimum front yard setback of fifty (50) feet from the front property line. The requested front yard setback for the proposed attached garage is forty-one (41) feet. A variance to encroach nine (9) feet into the required front yard setback is being sought.

Chairman Gustafson asked for the staff report on this application.

Administrator Young stated that the applicant is proposing to demolish the existing non-conforming detached garage, which currently encroaches twelve feet, two inches (12'-2") into the required 50 foot front yard setback and construct a new attached three stall garage that would lessen the current encroachment into the front setback by a little over three feet. In all other respects, the applicant is compliant with setback standards. In addition, the front of the proposed garage would be set over nine feet further back from the street than the existing home.

He stated that in the variance application, the applicant states that the location of the existing house is built into the slope of the lot that limits development options. The main living spaces are located on the lower level of the house and a new garage, if located at the 50' setback, would substantially reduce access to the light and air for the main living spaces of the house.

He stated that former Zoning Coordinator Gus Karpas recommended approval of the application submitted by Rod Komis for the variance request of Section 1302.04 (3) of the zoning ordinance to encroach nine (9) feet into the minimum required fifty (50) foot front yard setback for the demolition of the existing non-conforming detached garage and construction of a new attached garage on the existing non-conforming single family home as presented at 18374 Heathcote Lane. He also presented the findings supporting the review and approval of the variance request.

Chairman Gustafson asked if there were any questions of staff.

Commissioner Studer asked if the City of Deephaven had a tree ordinance.

Administrator Young stated that the city did not.

Chairman Gustafson asked if there were any questions of the applicant.

Commissioner Studer asked about the sheet drainage off of the driveway.

The applicant stated that the runoff goes towards the northwest corner of the lot. He stated that they intend to raise the grade of the driveway to lessen the pooling of water in this area.

Chairman Gustafson opened the hearing for public comment. Hearing no comments, the public hearing was declared closed.

Chairman Gustafson asked each Commissioner to comment on the proposed request.

Commissioner Studer stated it was a good use of the site, the applicant is moving towards conformity, the garage looks nice, and although they are adding more impervious surface, it is well-handled.

Commissioner Anderson stated that the reorientation of the garage is aesthetically pleasing and it brings the garage back off the front property line by nine feet.

Commissioner Sharpe stated that the project looks nice and he has no issues with the request.

Chairman Gustafson stated that he visited the site and agrees with the other Commissioners that it lessens the existing variance.

Planning Commission Action:

Motion by Commission Sharpe to accept the recommendation and findings of Staff and recommend that the Council approve the application by Rod Komis for the variance request of

Section 1302.04 (3) of the zoning ordinance to encroach nine (9) feet into the minimum required fifty (50) foot front yard setback for the demolition of the existing non-conforming detached garage and construction of a new attached garage on the existing non-conforming single family home as presented at 18374 Heathcote Lane.

The motion for approval is based on the following findings: (a) the proposal meets the intent of the ordinance and is in harmony with the orderly development of the city. The applicant is seeking to demolish an existing non-conforming garage and replace it with a new garage attached to an existing non-conforming single family home, reducing an existing encroachment; (b) the request is consistent with the Comprehensive Plan's Housing Elements Goals and Policies which promotes the development and redevelopment of residential property within the city; (c) the proposal is a reasonable use of the property, removing an accessory structure in need of repair and attaching it to the principal structure. The proposal would allow the property to be used in a more reasonable manner; (d) the principal structure was constructed in its current location in 1952, nearly twenty years prior to the adoption of the current setback standards; and (e) the proposal would not alter the essential character of the neighborhood. The proposed garage would be pulled back from the street and the design of the home would more closely resemble others in the immediate area.

Motion seconded by Commissioner Studer. Motion carried 4-0.

Variance request, Tom and Elizabeth Nicol, 20225 Lakeview Avenue – Request to exceed the maximum permitted impervious surface area for the construction of rear yard patios and a new front walkway at 20225 Lakeview Avenue.

Section 1350.06(2)(a) of the city ordinance permits a maximum impervious surface area of 25%. The proposed impervious surface area sought by the applicant is 29.8%. A variance to exceed the maximum impervious surface area by 4.8% is being requested.

Chairman Gustafson asked for the staff report on this application.

Administrator Young stated that Tom and Elizabeth Nicol are proposing to construct a 298 square foot dining patio, a 335 square foot patio with a fireplace, and a 45 square foot front walkway. The additional hardcover would increase the impervious surface area from 24.1% to 29.8%, 4.8% above the required 25% standard. The applicant proposes the installation of a cistern and rain garden as a means to mitigate the effects of the increase in impervious surface area. They have calculated that the system will result in a mitigated percent of hardcover of 15.9%. He stated that the City Engineer has not been contacted as of yet about verifying the potential impact of the cistern, rain garden and the mitigated percent of hardcover. He stated that the City Engineer will present his review to the City Council. He added that two emails have been received from neighbors on the project – one in support of the project and one in opposition due to concerns over the impact that hardcover has on storm water runoff.

He stated that former Zoning Coordinator Gus Karpas recommended approval of the application submitted by Tom and Elizabeth Nicol for the variance request of Section 1350.06 (2) of the Shoreland Management Ordinance to exceed the maximum permitted impervious surface area by

4.8% for the construction of two at-grade patios at the rear of the existing home and a new front walkway as presented at 20225 Lakeview Avenue. He also presented the findings supporting the review and approval of the variance request.

Chairman Gustafson asked if there were any questions of staff.

Commissioner Studer asked if cisterns were commonly used in the City to mitigate drainage issues.

Administrator Young stated that there have only been two cisterns approved for use by the City Council to help offset impervious surface standards. One was located on Lakeview Avenue and the other on Summerville Road.

Commissioner Anderson asked if the City Engineer certifies the effectiveness of the cistern and rain garden.

Administrator Young stated that the City Engineer will give his opinion based on his expertise as a certified engineer but they don't actually certify or stand by any of their work or recommendations.

Commissioner Studer asked about the gutter system on the house.

Tom Nicol stated that the gutters will be installed as part of this project. He stated that the rain garden has been added as a storm water control mechanism that is over and above the cistern system.

Commissioner Sharpe asked if the impervious surface percentage is going to increase from 24.1% to 29.8% with the additional hardcover, and then decrease down to 15.9% due to the addition of the cistern and rain garden.

Tom Nicol stated this is exactly what is proposed. He added that a cistern with a designed capacity of 141 cubic feet should be sufficient to reduce the impervious surface to a mitigated percentage of hardcover of 15.9%. Their cistern will be able to contain 202 cubic feet.

Todd Irvine, landscape architect, added that three-quarters of the runoff from the roof will be captured in the cistern. The cistern is not a contained structure but actually drains water through the cistern into the ground.

Chairman Gustafson opened the hearing for public comment. Hearing no comments, the public hearing was declared closed.

Chairman Gustafson asked each Commissioner to comment on the proposed request.

Commissioner Studer stated that the proposed mitigation system is a great idea and the overall plan well thought out. He stated that he was supportive of the request with the approved engineering.

Commissioner Anderson stated that he would want the City Engineer to review the storm water calculations. He added that the system would help to mitigate the effects of runoff as addressed in the one email opposing the project due to concerns over additional hardcover.

Commissioner Studer stated that the applicant is mindful of runoff and has gone above and beyond what has been requested.

Chairman Gustafson stated that he did talk with the applicant and noted that the applicant did not sell off 2,000 s.f. of his property to the adjoining property as indicated under the staff's findings of support for the variance. He stated that if this had been the case, the applicant would have created their own need for the variance.

Planning Commission Action:

Motion by Commission Anderson to accept the recommendation and findings of Staff to recommend to the City Council the application submitted by Tom and Elizabeth Nicol for the variance request of Section 1302.04(3) of the Shoreland Management Ordinance to exceed the maximum permitted impervious surface area by 4.8% for the construction of two at-grade patios at the rear of the existing home and a new front walkway as presented at 20225 Lakeview Avenue, subject to the City Engineer's review of the drainage impact from the cistern and rain garden.

The motion for approval is based on the following findings: (a) the proposal meets the intent of the ordinance and is in harmony with the orderly development of the city; (b) the request is consistent with the Comprehensive Plan's Housing Elements Goals and Policies which promotes the development and redevelopment of residential property within the city; (c) the proposal is a reasonable use of the property. There are currently no outside "spaces" consistent with other residential properties. Installation of a cistern and rain garden mitigates the effects of the increased impervious surface area; (d) the subject property is below the minimum required lot area for the R-3 Zoning District and was permitted a subdivision combination in 2012, where 2,000 square feet was removed from the subject property and attached the adjacent property, thus reducing its size further. This limits the ability for the current owner to create outdoor space; and (e) the proposal would not alter the essential character of the neighborhood. The proposed use is consistent with those in the neighborhood and typically found on residential properties. The improvements are at grade and would have no visual impact.

Motion seconded by Commissioner Sharpe. Motion carried 4-0.

Variance requests, Cyclone Construction, 19500 Rosedale Avenue – Request to encroach into the minimum required front and west side yard setbacks for the construction of a new home on an existing non-conforming foundation at 19500 Rosedale Avenue.

Section 1302.04(3) of the city ordinance requires a minimum front yard setback of fifty (50) feet from the front property line. The requested front yard setback for the proposed front porch on the reconstructed single family home is forty-three feet, eight inches (43'-8"). A

variance to encroach six feet, four inches (6'-4") into the required front yard setback is being sought.

Section 1302.04(3) of the city ordinance requires a minimum west side yard setback of twenty (20) feet from the west property line. The requested west side yard setback for the proposed single family home is eighteen feet, five inches (18'-5"). A variance to encroach one foot, seven inches (1'-7") into the required west side yard setback is being sought.

Administrator Young stated that the applicant is requesting to remove the existing garage structure to its foundation and construct a new, two-story garage which would maintain the existing non-conforming west side yard setback of eighteen feet, three inches (18'-3"). Section 1302.04(3) of the City Code requires a minimum west side yard setback of twenty (20) feet from the west property line. A variance to encroach one foot, nine inches (1'-9") into the required 20 foot west side setback is requested.

The request includes the addition of an open front porch that creates a new encroachment into the front yard setback by six feet, five inches (6'-5"). The requested front yard setback for the proposed reconstructed single family home would be forty-three feet, eight inches (43'-8"). A variance would be needed to encroach six feet, five inches (6'-5") into the required 50 foot front yard setback is requested. It is staff's understanding that the existing single family home will be taken down to the caps and reconstructed. The new home will be in compliance with all setback and height requirements.

He stated that former Zoning Coordinator Gus Karpas recommended approval of the application submitted by Cyclone Construction for the variance requests of Section 1302.04 (3) of the zoning ordinance to encroach six feet, five inches (6'-5") into the minimum required fifty (50) foot front yard setback for the proposed front porch and to encroach one foot, nine inches (1'-9") into the minimum required twenty (20) foot west side yard setback for the demolition and reconstruction of a non-conforming garage with a new second story addition as presented at 19500 Rosedale Avenue. He also presented the findings supporting the review and approval of the variance request.

Chairman Gustafson asked if there were any questions of staff. There were no questions for staff.

Homeowner David Ballcer and Ryan Seifert of Cyclone Construction were present to answer questions from the Commission.

Ryan Seifert acknowledged that the home will be taken down to the cap foundation and the two story home will be built up from there and the front porch would add a covered entrance to the house.

Commissioner Anderson asked if they have checked the condition of the foundation.

Ryan Seifert stated that they don't intend to do any foundation work as the foundation is in excellent condition. Removing the existing foundation and constructing a new foundation would cost an additional \$50,000.

Commissioner Anderson asked if the applicant has had any interaction with the neighbors on this project.

Ryan Seifert stated that they have talked with the neighbors on both sides.

Mrs. Ballcer added that they have met with the neighbors to see if they are comfortable with the project and noted that the neighbors have been great. She added that she grew up in this area and is looking forward to returning.

Chairman Gustafson opened the hearing for public comment. Hearing no comments, the public hearing was declared closed.

Chairman Gustafson asked each Commissioner to comment on the proposed request.

Commissioner Studer stated that it is a reasonable use and the porch makes sense. He stated he is in support of the request.

Commissioner Anderson stated that this will be a different use for this neighborhood to go from ranch homes to a two story house. He felt that it was an upgrade. He added that he would limit the front porch such that it would not be allowed to be finished off. He stated that he doesn't want to see the porch become part of the interior.

Chairman Gustafson stated that this exact issue had been discussed at the last Council meeting and invited Mayor Skrede to speak to this issue.

Mayor Skrede stated that in the past, we have said that we don't want to see walls form on decks or porches. He stated that the Council felt that this might tie homeowner's hands so that the approved language that could be added to any motion approving a similar project would be that any future additional enclosure would have to be revisited by the Planning Commission and City Council

Commissioners Anderson, Sharpe and Gustafson stated that they were in favor of the project.

Planning Commission Action:

Motion by Commission Studer to accept the recommendation and findings of Staff and recommend the Council approve the application of Cyclone Construction for the variance requests of Section 1302.04 (3) of the zoning ordinance to encroach six feet, five inches (6'-5") into the minimum required fifty (50) foot front yard setback for the proposed front porch and to encroach one foot, nine inches (1'-9") into the minimum required twenty (20) foot west side yard setback for the demolition and reconstruction of a non-conforming garage with a new second story additional as presented at 19500 Rosedale Avenue, subject to the condition that any future

enclosure or modification of the front porch would be brought back for the review of the Planning Commission and City Council.

The motion for approval is based on the following findings: (a) the proposal meets the intent of the ordinance and is in harmony with the orderly development of the city. The applicant is seeking to demolish an existing non-conforming portion of the home and replace it with additional living space, while not increasing the degree of dimensional encroachment; (b) the request is consistent with the Comprehensive Plan's Housing Elements Goals and Policies which promotes the development and redevelopment of residential property within the city; (c) the proposal is a reasonable use of the property and only seeks to continue the existing use currently on the property, with the addition of a second story to add additional living space. The proposed porch provides a covered entrance to the home and architectural interest; (d) the west side of the home is placed within the existing setback requiring a variance for any replacement of the garage, while the placement of the home right at the required setback does not permit the construction of a protected entryway to the home without the issuance of a variance; and (e) the proposal would not alter the essential character of the neighborhood. The proposed structure setbacks are consistent with those currently in place in the neighborhood.

Motion seconded by Commissioner Sharpe. Motion carried 4-0.

LIAISON REPORT

Chairman Gustafson stated that the City Council approved two variance requests on April 6th and discussed clarifying language on future enhancements and held the Board of Appeals meeting on April 20th.

ADJOURNMENT

Motion by Commissioner Anderson to adjourn the meeting, seconded by Commissioner Sharpe. The meeting adjourned at 7:47 p.m.

Respectfully submitted,
Dana Young
City Administrator