

**DEEPHAVEN CITY COUNCIL MEETING
MONDAY, APRIL 1, 2019
MINUTES**

1. CALL MEETING TO ORDER: Mayor Paul Skrede called the meeting to order at 7:00 p.m.

PRESENT: Mayor Paul Skrede, Councilmember's Melissa McNeill, Kent Carlson, Tony Jewett, and Steve Erickson

STAFF: Police Chief Cory Johnson, Zoning Coordinator Dale Cooney, and City Administrator Dana Young

2. PLEDGE OF ALLEGIANCE

The Council recited the Pledge of Allegiance.

3. APPROVE CONSENT AGENDA

Motion by Councilmember Erickson to approve the Consent Agenda, consisting of the following items:

- A. Approve March 18, 2019 Council Minutes
- B. Approve Verifieds

Seconded by Councilmember Jewett. Motion carried 5-0.

4. MATTERS FROM THE FLOOR

There were no Matters from the Floor this evening.

5. PUBLIC HEARING

A. Public Hearing to receive public comment regarding the City of Deephaven's Storm Water Pollution Prevention Program. Comments will be included in the City's annual report to the Minnesota Pollution Control Agency.

Administrator Young stated that one of the main requirements of the Storm Water Pollution Prevention Plan (SWPPP) is to hold an annual hearing to solicit public comments on the plan. He stated that the City has been required since 2003 to develop a Storm Water Pollution Prevention Plan to reduce pollution entering into area water bodies by establishing best management practices. He noted that our SWPPP and related documents are available for public review on the City webpage.

Mayor Skrede opened the public hearing for public comments. Hearing no comments, Mayor Skrede closed the public hearing.

6. PLANNING & ZONING REQUESTS

A. Consider variance requests of James and Lori Wehmann to exceed the maximum permitted building coverage and exceed the maximum permitted grade alteration in order to construct a new house on the property at 3580 Northome Road

Zoning Coordinator Cooney presented the staff report. He said the property owners have applied for variances to construct a new house on the R-1 property at 3580 Northome Road. Cooney said that, as proposed, the project would exceed the maximum permitted building coverage, and exceed the maximum permitted grade alteration. He noted that the property is 158,300 square feet in size, which is 2.6 times larger than the minimum required lot size for the district. Cooney said the property is host to 3,941 square feet of accessory structure footprint including a boathouse, a cottage, and a garage. He said that while the principal structure itself is under the maximum building coverage limitations, the accessory structures on the property create a combined building coverage that exceeds zoning code limitations.

Cooney said that Section 1302.03(2) of the zoning ordinance limits the maximum building coverage for R-1 properties to 8,000 square feet. He said the applicants are proposing a building coverage of 10,339 square feet and are seeking a variance of 2,339 square feet from the maximum allowable building coverage. Cooney stated that with 9,934 square feet of existing building coverage, the existing conditions on the property are nonconforming and the applicant is proposing to expand the nonconformity by an additional 405 square feet. He noted that both the existing and proposed principal structures are well below the building coverage limitations, but the 3,941 square feet of existing accessory structure footprint area (which is 49% of the allowable building coverage) creates a building coverage overage for the property. Cooney said that the accessory structures are legal nonconforming, and no changes are currently proposed for the accessory structures.

Cooney said that in the opinion of staff, the scale of the property (at 158,300 square feet in size, it is the second largest R-1 property) coupled with the existing nonconforming conditions, justifies the modest increase in building coverage.

Cooney said that Section 1312.04 of the zoning ordinance requires a variance for any grade alteration greater than three feet at any point. He said the applicant is proposing grade alteration of up to 7 feet, and is seeking a variance of 4 feet from the maximum permitted grade alteration. Cooney said the areas that exceed the 3 foot limitation are primarily along the south side of the property near the proposed driveway area and the walkout level by the pool. He said the existing grading in the lake yard does not accommodate a walkout level and the grade is being pulled back to allow for a nearly full walkout level on this side of the house.

Cooney said the principal justifications for land alteration restrictions are to limit properties from circumventing the house height limitations by building up the grade around a property, or altering overall drainage patterns in a significant or detrimental way. He stated that neither of these concerns are the case in this proposal.

Cooney said that he recommends approval of the variance requests of James and Lori Wehmann to exceed the maximum permitted building coverage by 2,339 square feet, and to exceed the maximum permitted grade alteration by 4 feet for the property at 3580 Northome Road, as proposed, based on the following findings:

Is the variance in harmony with the purpose and intent of the ordinance?

Yes. The purpose of the building coverage ordinance is to limit the overall scale of buildings on a property. Due to the large property size, and the existing nonconforming conditions, the modest increase in building footprint is in harmony with purpose and intent of the ordinance. The grading changes are not intended to circumvent the house height limitations and do not alter the overall drainage patterns in a significant or detrimental way, which meets the purpose and intent of that ordinance.

Is the variance consistent with the comprehensive plan?

The request is consistent with the Comprehensive Plan's Housing Elements Goals and Policies which encourages safe, healthy and quality housing that respects the natural environment of the community.

Does the proposal put property to use in a reasonable manner?

Yes. A single family home in proportion to the size of the property is reasonable. The grade changes, given the overall scale of the property and the project, are also putting the property to use in a reasonable manner.

Are there unique circumstances to the property not created by the landowner?

Yes. The property currently has 3,941 square feet of legal nonconforming accessory structure footprint area, which accounts for 49% of the allowable building coverage. The property itself is 158,300 square feet in size, which is 2.6 times larger than the minimum required lot size for the district.

Will the variance, if granted, alter the essential character of the locality?

No. The proposal would not alter the essential character of the locality. The scale of the proposed building footprint is comparable to the existing building footprint. The overall drainage pattern of the property will be maintained with the proposed grade changes.

Cooney said the Planning Commission held a public hearing at their March 19 meeting and on a 4-1 vote, with Webster voting against, recommended approval of the request as proposed based on the recommendation and findings of staff, with the conditions that (1) the hardcover on the property shall not exceed 17.96%, and (2) that the southern driveway for the property be removed.

Cooney concluded the staff report.

Councilmember McNeill asked about the existing conditions survey. Cooney said that it was provided for the City Council.

Councilmember Carlson said that this was a beautiful property with significant grade changes and that the proposal fits well with the property. He said that the property is over 2.5 times larger than the required lot size.

Councilmember Jewett said that this request could be avoided by making a slightly smaller house or removing accessory structures. He said that the property owners could rebuild on the existing house pad and that he would have no trouble with that. Councilmember Jewett said that he understands the desirability of keeping the accessory structures with existing running water and sewer, but that he was not sure about using the accessory structures to justify the building coverage variance. He said that during the election cycle, he heard a lot from residents about allowing houses that are too big. He said that it would be a modest change to keep the house at the existing footprint size.

Councilmember Carlson said that the property is large enough to be subdivided to create two lots and that the house plus the boathouse would meet the ordinance requirements. Councilmember Jewett asked what would happen to the other accessory structures if it were subdivided. Councilmember Erickson said that those structures would go with the new property.

Councilmember Jewett said that he had a hard time with the building expansion approved at the February meeting, and that he would be okay with the existing building footprint on this property, but not the expanded footprint.

Councilmember McNeill said that she understands and shares some of Councilmember Jewett's concerns and that she heard similar feedback during the election. She said that this is a unique situation with the accessory structures.

Councilmember Erickson said that the lot is over 2.5 times the normal lot size and that this is a big piece of land. He said that the house would be proportionate to the property and would only be able to be seen from the water since the property is well-screened by trees.

Councilmember Carlson said that this house is not a huge house like some others around the lake. He said that the footprint is 6,300 square feet.

Mayor Skrede said that he understands the shoehorning in of large houses on smaller properties, but that is not the case in this situation. He said that he could not justify making the homeowner come back to subdivide the property just to make it fit within the rules.

Motion by Councilmember Carlson to recommend approval based upon the recommendation, findings, and conditions of the Planning Commission. Motion was seconded by Councilmember Erickson. Motion carried 4-1 with Councilmember Jewett voting against.

7. UNFINISHED BUSINESS

A. Discuss Open House for 2019 Minnetonka Blvd Resurfacing Project

Councilmember Erickson stated that with the Open House scheduled for this Thursday, he and Councilmember Carlson have been working with Bolton & Menk and Toole Design on the proposed designs and exhibits for the Open House. He stated that he thought they were in pretty good shape for the meeting. He stated that the City Engineer has estimated the cost on a full reclamation for this section of Minnetonka Blvd at \$1,150,000, with \$950,000 for the street resurfacing and \$200,000 for drainage corrections and pinch point corrections. He stated that alternate traffic routes will be presented at the meeting and the City Engineer's project link is ready to be installed on the City webpage.

Mayor Skrede noted that an article on the project has appeared in the Sun Sailor, which didn't include all of the project details. He stated that a lot of the material that was used in the article was taken from comments he made back at the February Mayor's Forum. Councilmember Erickson noted that we didn't have much information on the project at that time.

Councilmember Erickson stated that the progress of the project would be updated weekly on the City website.

Councilmember Carlson stated that with the duration of the project estimated at between 8 to 10 weeks, the project updates should provide helpful information each week on what sections of the street are under construction. He further noted that the current estimate of \$1,150,000 is pretty much in line with the engineer's earlier estimate of \$1,100,000.

Mayor Skrede stated that what he is hoping to get out of this meeting are resident comments and questions on the rest of the city streets to be resurfaced this year. He noted that Easton Road may require storm water mains, which was apparent after the recent spring flooding. He stated that we have a ten year schedule of streets to be resurfaced that may be subject to change depending on the need for sewer or storm water infrastructure under the street.

Administrator Young suggested holding a Special Council meeting prior to the next meeting to discuss the feedback from the Open House and to discuss project financing.

Councilmember McNeill stated that she is certain that we will get specific questions regarding drainage.

Mayor Skrede stated that he is hopeful that we will get perspective on some of the issues that have been discussed the last 6-12 months. He stated that it is much more important to get questions at this meeting than answers.

Further discussion was held on the proposed survey and on the Open House format.

B. Other

There was no other Unfinished Business this evening.

8. NEW BUSINESS

A. Review Franchise Agreement and Franchise Fee with CenterPoint Energy

Mayor Skrede noted that he had been contacted by CenterPoint Energy on the need to renew the Franchise Fee ordinance with CenterPoint Energy.

Administrator Young stated that the proposed ordinance is relatively straightforward and presented to Council review this evening. He stated that he would have a final draft ready for Council adoption on April 15.

Further discussion was held on the proposed length of the ordinance and whether a 15 or 20 year term was most appropriate. Administrator Young recommended a 15-year term for the proposed ordinance.

B. Other

Mayor Skrede stated that he has asked Councilmember Jewett and Carlson to review the possibility of allowing boat lifts on dock slips and buoys at the City marinas, which was an issue that had been brought to the City Council's attention by Dean Friesen at the last Council meeting.

Councilmember Erickson provided a summary of the meeting that he and Administrator Young attended before the Senate Subcommittee to discuss and answer questions on the proposed Northome Bridge Bonding Bill.

9. DEPARTMENT REPORTS

A. Police Department

Police Chief Johnson provided a review of the March Police Incident Report.

B. Excelsior Fire District

Councilmember Erickson provided a brief summary of the Excelsior Fire District Board meeting held on March 20th. He noted that the Board appointed Ken Prillaman as Interim Fire Chief.

C. Public Works

Administrator Young provided an update on recent and upcoming public work activities.

D. Administration

Administrator Young provided a brief summary on the following items:

- April Mailings
- Upcoming dates of interest
- 2020 Budget
- Shuck Park Improvement Update
- Rink closures
- Update on 2019 contract renewals

Mayor Skrede suggested that the City Council should look into potential runoff issues relating to the drainage of private hockey rinks.

Councilmember Jewett noted similar concerns regarding the drainage of pools.

10. ADJOURNMENT

Motion to adjourn by Councilmember Erickson, seconded by Councilmember McNeill. Motion carried 5-0. The meeting adjourned at 8:27 p.m.

Respectfully submitted,
Dana Young
City Administrator