

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

**PRESENT:** Commissioners Jim Anderson, Kent Carlson, Gen McJilton, Melissa McNeill, Bill Sharpe, John Studer, and Bob Werneiwski

**ABSENT:** None.

**OTHERS PRESENT:** Council Liaison Darel Gustafson and Zoning Coordinator Dale Cooney

### **OATH OF OFFICE**

New Planning Commissioner Melissa McNeil took the Oath of Office.

### **MINUTES OF APRIL 19, 2016**

Motion by Commissioner Werneiwski, seconded by Commissioner Anderson, to approve the minutes of April 19, 2016. Motion carried 7-0.

### **PUBLIC HEARINGS**

**Consider the conditional use permit request Signs Unlimited of Plymouth to install commercial signage at 19400 State Highway 7** – Section 1115.04 of the Deephaven Sign Ordinance states that no sign shall be erected, altered, reconstructed, maintained or moved in the city without first securing a Conditional Use Permit from the city in accordance with Section 1320 of the City's Ordinances. The content of the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit.

Chairman Carlson introduced the agenda item.

Zoning Coordinator Cooney summarized the staff report. Cooney said that Coldwell Banker Burnet will be installing new signage on the building at 19400 State Highway 7. He said that Signs Unlimited of Plymouth, contractor for the business, is requesting a Conditional Use Permit to install a 17.53 square foot illuminated business identification sign that would be attached to the building. Cooney said that the city zoning code requires a Conditional Use Permit to install the new sign.

Cooney said that the proposed illuminated sign would face east, which faces away from nearby residential properties. He said that Section 1305.03 regulates business hours that interior and exterior lighted signs permitted to businesses may operate during business hours only.

Cooney said that the zoning code states that the size of a sign may not exceed 15 percent of the wall area of the front façade of the structure on which it is located and in no case exceed 100 square feet for all other types of signs. He said that the front façade of the property is approximately 1560 square feet in size and that the proposed sign equals 1.1% of the front façade area.

Zoning Coordinator Cooney said that no other signs for the business have been proposed. He noted that there is an existing monument sign in the south side yard of the property (facing State Highway 7) and that the sign contains two faces, each with 52.75 square feet of signage for a total of 105.5 square feet of signage. Cooney said that the monument sign was approved via a special use permit in 1994.

Cooney said that he recommends conditional approval of the conditional use request to install a 17.53 square foot illuminated building sign for the property at 19400 State Highway 7. He said that there is a need to advertise the business and upon review of the application, it was determined there would no negative impact on the development of the community, the character of the community or on the health, safety and general welfare of the occupants of surrounding lands. He said that he proposal would not

impact traffic conditions or impact property values. Cooney said that the recommendation is conditioned that the hours of illumination be as outlined in Section 1305.03 of the ordinance.

Cooney concluded his staff report.

Chairman Carlson opened the public hearing.

Jennifer White Young of 20035 Lakeview Avenue asked if there was any consideration for dark sky compliant regulations on illuminated signs. She said that the city recently approved a very bright LED sign for the Midas/SpeedDee location at 19300 State Highway 7 that she felt was much too bright.

Chairman Carlson said that this was a request for 19400 State Highway 7 signage. Young said that she thought the comment was relevant since the discussion was about illuminated signs within the city.

Hearing no other public comments, Chairman Carlson closed the public hearing.

Chairman Carlson surveyed the commissioners for comments. They expressed a consensus support of the application. Chairman Carlson entertained a motion to recommend approval.

Commissioner Anderson made a motion to recommend conditional approval of the conditional use permit request to install a 17.53 square foot illuminated building sign for the property at 19400 State Highway 7 based on the findings of staff. The recommended approval would place the following condition on the business: a) the hours of illumination be as outlined in Section 1305.03 of the ordinance. Motion was seconded by Sharpe. Motion carried 7-0.

**Consider request of TLC Remodeling, Inc. for a variance from the minimum side yard setback for the expansion of a non-conforming accessory structure at 4814 Vine Hill Road** – Section 1302.04(3) of the zoning ordinance requires side yard setbacks of 20 feet. The applicant proposes a north side yard setback of 3 feet, 6 inches for garage.

Chairman Carlson introduced the agenda item.

Zoning Coordinator Cooney summarized the staff report. Cooney said that TLC Remodeling, Inc. is requesting a variance expand an existing non-conforming accessory structure at 4814 Vine Hill Road. The expansion would require a variance of the side yard setback. Cooney said that the project proposes a 16'x18' garage addition which would sit 3 feet, 6 inches off of the property line. He pointed out that the existing garage sits 2 feet, 4 inches off of property line and that the expansion would sit approximately 14 inches further back than the closest encroachment. He said the garage expansion is difficult without some type of encroachment.

Cooney said that the zoning ordinance requires side yard setbacks of 20 feet and that the applicant proposes a north side yard setback of 3 feet, 6 inches for garage. He said that the applicant is seeking a variance of 16 feet, 6 inches from the minimum required side yard setback. Cooney said that the proposal was otherwise zoning code compliant.

Cooney said that he recommends approval of the variance request to encroach 16 feet, 6 inches into the minimum required side yard setback for the proposed expansion of the existing garage at 4814 Vine Hill Road, as presented. Cooney said that his findings are based on the review and approval process in section 1315 of the ordinance:

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

The purpose and intent of the ordinance is to allow the orderly development and redevelopment of property within the city and when the ordinance standards cannot be met, it outlines the procedures to vary from these standards. The applicant is seeking to vary from the stated setback standards of the

ordinance to improve an existing non-conforming garage constructed in 1940, per Hennepin County tax records.

(b) Is the variance consistent with the comprehensive plan?

The request is consistent with the Comprehensive Plan's Housing Elements Goals and Policies which promotes the redevelopment of residential property within the city.

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

The expansion of the non-conforming garage is reasonable. The proposed encroachments are due to the non-conformities of the existing structures.

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

The existing garage was constructed in 1940, prior to the setback standards that are in place today. The current encroachments are legal non-conformities, and it is difficult to improve the garage without expanding these setback encroachments.

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

The proposal would not alter the essential character of the locality. The property is in an area where these types of non-conformities are not uncommon. The proposed project is a modest expansion of existing conditions.

Cooney concluded his staff report.

Carlson asked if the applicant would like to make any comments. Jim Sale of TLC Remodeling, the applicant, said that he was available for questions.

Julie Muscha, property owner at 4814 Vine Hill Road, said that she was trying to maintain the character of her 1940's house.

Chairman Carlson opened the public hearing. Hearing no public comments, Chairman Carlson closed the public hearing.

Chairman Carlson surveyed the commissioners for comments. They expressed a consensus support of the application. Chairman Carlson entertained a motion to recommend approval.

Commissioner Sharpe made a motion to recommend approval of the variance request to encroach 16 feet, 6 inches from the minimum required side yard setback to expand the existing non-conforming accessory structure at 4814 Vine Hill Road based on the findings of staff. Motion was seconded by McJilton. Motion carried 7-0.

**Consider request of JALIN Design, LLC for variances from the front setback, and maximum impervious surface coverage, in order construct a new house on the R-3 lot at 4210 Water Street** – Section 1302.05(3) of the zoning ordinance requires a front yard setback of 35 feet. Applicant is requesting a front yard setback of 32 feet, 9 inches. Section 1302.05(2) of the zoning ordinance limits the maximum impervious coverage of the property to 25%. Applicant is proposing an impervious surface area of 29.9%.

Chairman Carlson introduced the agenda item.

Zoning Coordinator Cooney summarized the staff report. Cooney said that JALIN Design, LLC, architect for the property owners has applied for variances to construct a new house on the R-3 parcel at 4210 Water Street. He said that the lot area is 7,982 square feet in size. The applicant is requesting a reduced front yard setback as well as a variance to exceed the maximum impervious surface area.

Cooney said that the zoning ordinance requires a front yard setback of 35 feet. He said the applicant is requesting a front yard setback of 32 feet, 9 inches and is seeking a variance of 2 feet, 3 inches. He noted that the previous house on the property was located approximately 19 feet from the front lot line. Cooney said that both the house immediately to the north and immediately to the south have front yard encroachments that are closer.

Cooney said the zoning ordinance limits the maximum impervious coverage of the property to 25%. He said that the applicant is proposing an impervious surface area of 29.9% and is seeking a variance to exceed the maximum impervious surface area by 4.9%. The previous conditions on the property were 38.7% impervious. Lots of similar sizes have been granted variances for comparable amounts of excess hardcover.

Cooney said that the applicant did not propose stormwater mitigation as part of the application materials. He said the zoning code requires stormwater mitigation for those impervious areas over 25%. Cooney added that the mitigation will be required to handle a 1" rain event, and the performance credit given for stormwater mitigation practices shall be 75% of calculated volume retained.

Cooney said that the zoning code permits egress window wells to encroach the minimum extent required by building code. He pointed out that as currently shown on the plans, the proposed window wells would exceed this allowance, both in depth and width. He said that he would condition any approval on compliance with this restriction and that the proposal is otherwise zoning code compliant.

Cooney said that he recommends approval with conditions of the variance requests by JALIN Design, LLC for variances to encroach 2 feet, 3 inches into the minimum required front yard setback and to exceed the allowable maximum impervious surface area by 4.9% for the property at 4210 Water Street, as presented.

He said that this approval would be conditioned that...

- The window wells on the proposal are reduced to be zoning code compliant.
- The applicant submits plans, specifications, and calculations for all required stormwater management practices and that the required stormwater management practices meet the requirements and specifications of the city engineer.
- The applicants enter into a maintenance agreement with the city to ensure the long-term operation and maintenance of the stormwater management improvements. The maintenance agreement shall be executed and recorded against the parcel.

Cooney noted his findings which were based on the review and approval process in section 1315 of the ordinance:

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

The purpose and intent of the ordinance is to allow the orderly development and redevelopment of property within the city and when the ordinance standards cannot be met, it outlines the procedures to vary from these standards. The applicant is seeking to vary from the stated setback and impervious surface standards of the ordinance in order to construct a new house on an undersized lot. The requested variances remain in harmony with the purpose and intent of the ordinance.

(b) Is the variance consistent with the comprehensive plan?

The request is consistent with the Comprehensive Plan's Housing Elements Goals and Policies which promotes the redevelopment of residential property within the city.

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

The proposal puts the property to use in a reasonable manner. The use of the property would be consistent with other similar sized properties in the community. Apart from the requested variances, which are reductions from previously existing conditions, the proposal is otherwise zoning code compliant.

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

The property is an undersized lot, but of a size that is consistent with other single-family properties in the neighborhood. The undersized property creates difficulties in meeting both the dimensional standards of the ordinance, and also meeting the hardcover restrictions of the ordinance.

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

The proposal would not alter the essential character of the locality. The proposal is of a similar size and scale to other single-family houses within the neighborhood.

Cooney concluded his staff report.

Chairman Carlson opened the public hearing.

Jennifer White Young of 20035 Lakeview Avenue said that while the linear square footage is less than previously existed, those were one story structures. She said they are proposing a roughly 4,000 square foot house on a small lot. She said that mass on the property is considerably more than what was there before. She said that the single car driveway would probably get changed to a two car driveway in the future which would increase the hardcover. She said that she is frustrated with the mass of the houses and that they are allowed to mitigate. She said the house is overkill for that lot and that they are not asking for less than what was there before.

Chairman Carlson closed the public hearing.

Commissioner Anderson asked the applicant about the stormwater requirement. Jeff Lindgren of JALIN Design, the applicant, said that these types of requirements are common now. Anderson asked if they had explored the design concepts for stormwater. Lindgren said that they had not explored the stormwater solution because of the upfront costs and they wanted to be able to react to any changes that might be required of the variance request before designing the system.

Commissioner Studer said that he sympathized with the massing on the 7,900 square foot lot. He said that he was not sure why the applicant didn't just meet the zoning requirements since they are not asking for very much. He said he shared the concerns about the driveway. He said that he thought it was a lot of house for a small lot. He said that he recognized that there were other houses in the area that were as large as this one.

Commissioner McJilton said that there was no reason why the house could not have been made to fit the lot without variances. She said that she is concerned that no attempt was made to design the stormwater mitigation.

Commissioner Werneiwski said that he shared the concerns of having the large house on the small lot. He said that he was not completely against the application though.

Commissioner Sharpe said that the application is not to decide the mass of the house, but that it does feel like a lot of house on a small lot.

McJilton said that she did not see any site limitations that would keep the house from meeting the restrictions.

Commissioner McNeill said that her only concern was not seeing any stormwater management plans with the application.

Chairman Carlson said that the lot is at an angle such that the driveway actually meets the front setback on a portion of the driveway. He said the massing and design of the house are large for the lot. But, he said that they meet the height limitations and building footprint limitations, and that it is difficult to say that the house should be smaller. He said that he understands the concerns since there are a number of houses in the community that meet the city's criteria but seem larger than they should be. Carlson said that the stormwater that comes off of this property and neighboring properties will flow almost directly to rocky beach. He said any pollutants would discharge directly into the lake. Carlson said that, in this case, the applicants could design a stormwater mitigation plan that would positively impact that runoff. He said that he would like to see the stormwater mitigation plan designed and reviewed prior to the city council meeting.

Sharpe said that there are ordinances regarding width and height that the applicant is conforming to. He said that he might think the house is too big, but that that would be an opinion and not the letter of the law. He said more needs to be done on mitigation.

Anderson said that he would want to make sure the stormwater packet is complete prior to submission to the city council.

Carlson asked about the front setback. Jeff Lindgren said that they were trying to push the house forward to be more consistent with the neighboring properties. He said that they could not push it any closer because the driveway grade would have then had to exceed 10%. He said that was the limiting factor in trying to move the house any further forward.

Werneiwski said that he was not as concerned about the stormwater management. He said that he agrees with Sharpe that it seems big, but meets the requirements and should be approved. Werneiwski said that it did not seem like overkill to him.

Werneiwski made a motion to recommend approval with conditions of the variance requests by JALIN Design, LLC for variances to encroach 2 feet, 3 inches into the minimum required front yard setback and to exceed the allowable maximum impervious surface area by 4.9% for the property at 4210 Water Street, as presented.

The approval would be conditioned that:

- The window wells on the proposal are reduced to be zoning code compliant.
- The applicant submits plans, specifications, and calculations for all required stormwater management practices prior to City Council review.
- That the required stormwater management practices meet the requirements and specifications of the city engineer.
- The applicants enter into a maintenance agreement with the city to ensure the long-term operation and maintenance of the stormwater management improvements. The maintenance agreement shall be executed and recorded against the parcel.

Motion was seconded by Sharpe. Motion carried 6-1 with McJilton voting against.

**Consider request of Streeter + Associates for variances from the lake yard setback, and maximum impervious surface coverage, in order construct a new house on the R-3 lot at 20200 Lakeview Avenue** – Section 1302.05(3) of the zoning ordinance requires a lake yard setback of 100 feet. Applicant is requesting a lake yard setback of 79 feet, 7 inches. Section 1302.05(2) of the zoning ordinance limits the maximum impervious coverage of the property to 25%. Applicant is proposing an impervious surface area of 41.2%.

Chairman Carlson introduced the agenda item.

Zoning Coordinator Cooney summarized the staff report. Cooney said that Streeter + Associates, have applied for a variances to construct a new house on the R-3 parcel at 20200 Lakeview Avenue. He said the 15,019 square foot property has an existing non-conforming house that encroaches into the lake yard setback and exceeds the maximum impervious surface coverage. He said that the new house proposes to slightly reduce the existing lake yard setback, and reduce the existing hardcover. Cooney said that significant stormwater mitigation is also proposed. Cooney said that the applicant is also proposing to modify existing non-conforming lakeshore improvements.

Cooney said that the zoning ordinance requires a lake yard setback of 100 feet, and that the applicant is requesting a lake yard setback of 79 feet 7 inches and is seeking a variance of 20 feet, 5 inches. He said that the existing house sits slightly closer towards the lake, at 78 feet, 10 inches. Cooney noted that the overall magnitude of the encroachment of the proposed house remains comparable to existing conditions.

Cooney said that the porch/deck areas, as proposed, encroach into the lake yard and side yard setback. He said that the city has typically allowed at grade improvements to encroach into these areas, and that as proposed, these improvements are less than 1 foot off the ground, which staff would consider an at-grade improvement. Cooney asked that the Planning Commission make a recommendation on this point.

Cooney said that the zoning ordinance limits the maximum impervious coverage of the property to 25%. He said the applicant is proposing an impervious surface area of 41.7% and is seeking a variance to exceed the maximum impervious surface area by 17.4%. Cooney said that the aggregate walkways in the survey must be clear rock with landscape fabric underneath to be considered pervious.

Cooney said that the property is currently at 48.3% hardcover, and that a 6.6% hardcover reduction is proposed. He said that the applicant has proposed a cistern/water storage system for the property and that the proposed stormwater mitigation would handle a volume several times greater than that required by city code.

Cooney said that recognizes the precedent set by the city in making allowances for existing hardcover on substandard lots and also appreciates the robust stormwater mitigation system proposed for the property. However, he said that he finds allowing over 40% hardcover on a 15,000 square foot lot to be somewhat in excess of the spirit of the ordinance.

Cooney said that the zoning ordinance limits the maximum building coverage on an R-3 property to 4,500 square feet. He said that as proposed, the total area for structures on the property is 4,563 square feet. Cooney said that his calculation includes the house, decks, steps and landings. He said that, that since most of the proposed decking is less than 1 foot above grade, it could be considered non-structural in this case, thereby meeting the building coverage restrictions. He said that the Planning Commission should make a recommendation on whether they feel it meets the requirements of the law or if they would require a reduction in size or a variance.

Cooney said that property currently contains a legal non-conforming lake yard deck. He said that State law allows legal non-conforming structures to be continued through repair, replacement, restoration, maintenance, improvement, but not including expansion. Cooney said that the proposed changes will reconfigure this area, and therefore require a variance. He said that the applicant will need approval from the LMCD for the proposed dock location. Cooney noted that the proposed shoreland grading is not in a bluff area, and is therefore permitted by city code.

Cooney said that the applicant is proposing a number of walls and retaining walls for the property and that the City Engineer has requested more information regarding these walls. He said that retaining walls less than 3 feet, 6 inches are not defined as structures within the city code, and are therefore allowed to encroach into the setbacks. He said that, as proposed, the retaining walls would not exceed 3 feet in height.

Cooney said that as proposed, the retaining walls would be installed on the lot line of the property and that there is not a way to install these walls without impacting the adjacent property. He said that a construction easement agreement will be required before any building permit would be issued.

Cooney said that short curb wall is proposed within the lake yard setback and that the small retaining wall will serve to separate the lake area from the formal lawn. He said that this short retaining wall (less than 3'-6") would not be considered a structure under the current zoning requirements.

Cooney said that he recommends approval with conditions of the variance requests of Streeter + Associates to encroach 20 feet, 5 inches into the lake yard setback, to exceed the maximum impervious surface coverage by 17.4%, and to modify the non-conforming lakeshore improvements in conjunction with the construction of a new house on at 20200 Lakeview Avenue, as presented.

He said that his recommendation was conditioned that:

- The applicant receives construction easement agreements for the east and west lot line retaining walls prior to beginning construction.
- The applicant complies with the requirements of the City Engineer.
- The aggregate walkways shown in the plans must be clear rock with landscape fabric underneath.
- The applicants complete the required stormwater management improvements to meet the requirements and specifications of the city engineer.
- The applicants enter into a maintenance agreement with the city to ensure the long-term operation and maintenance of the stormwater management improvements. The maintenance agreement shall be executed and recorded against the parcel.

Cooney noted his findings which were based on the review and approval process in section 1315 of the ordinance:

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

The purpose and intent of the ordinance is to allow the orderly development and redevelopment of property within the city and when the ordinance standards cannot be met, it outlines the procedures to vary from these standards. The applicant is seeking to vary from the setback and impervious surface standards on the lot. As proposed, the property would slightly reduce the existing non-conformities.

(b) Is the variance consistent with the comprehensive plan?

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

The proposal puts the property to use in a reasonable manner. The use of the property will remain a single family house, and the property is otherwise zoning code compliant.

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

The property is an undersized lot, and some allowances for impervious surface coverage are made for such lots. The existing house and hardcover are in excess of what is proposed.

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

The proposal would not alter the essential character of the locality. The property is of a similar size to other single-family properties in the neighborhood.

Cooney concluded his staff report.

Gabriel Keller of Peterssen/Keller Architecture, architect for the project, showed a digital representation of the proposed house. He said that the object was to create a house as small as possible for the site given

the constraints of modern living. Keller said that they are providing a cistern for stormwater management. He also said that water will drain through the deck even though it counts against the hardcover on the property.

Chairman Carlson asked how far the deck extended outward beyond the roofline. Keller said eight feet. Steven Streeter, applicant, said that the deck is only 6 inches above the ground. He also said that there would be gutters installed on the entire house and directed to the cistern.

Werneiwski said that he was not a big fan of cisterns since if the tank is full it does not provide any mitigation. Streeter said that the cistern is tied to the irrigation system and will automatically turn on to sprinkle the lawn and use any stored water unless the tank is empty.

Chairman Carlson opened the public hearing.

Tyler Middleton of 20355 Lakeview Avenue said that he respects the applicants work, and that the mitigation is adequate for the needs. He said that he lives downhill from the houses, and that he is at the bottom of the hill where all of the water goes and pools near his property. He said the culvert on the property to the west that is constantly clogged. He said that there is not enough stormwater management being done by the city to control these issues. He said that the cumulative effect of exceeding hardcover is making the issue worse.

Dan Feidt of 20180 Lakeview said that he lives next door to the proposal. He met with the applicant to discuss the plan and is supportive of it in general. He said that he has three items he wanted to be addressed: 1) he wanted to make sure the retaining wall would not run all the way down to the lake, 2) that the landscaping on the property would not impact his lake view, and 3) that the house be pushed closer to the original location so that the setback would be further west.

Chairman Carlson closed the public hearing.

Sharpe asked about moving the setback of the house. Keller said that it would depend on the turning radius into the garage, and that he could not answer the question at this time. Streeter said that it meets code now, but if they can get the garage to work they would be willing to move it.

McJilton said that she is not a fan of cisterns, but that she was happy to hear that it was tied to the irrigation system. She said that she was happy to see that the applicant was working with the neighbors to work out issues that are beyond what the city is able to enforce.

Studer said that he was happy to see that there was a reduction in hardcover, even though it was still high. He said that he wondered about a non-mechanical stormwater management system that would infiltrate. Studer said the driveway area would benefit from some type of infiltration system, but that the applicant has met the city's requirements.

Carlson asked about the service deck and asked if it was covered or uncovered. Keller said that it was partially covered. Carlson asked about the aggregate paths, and asked if the paths needed to be stone. Streeter said that they could be mulch.

Carlson asked about the cistern capacity. Streeter said that he did not remember exactly, but that it was part of the plans and was oversized. Carlson said that he favored infiltration systems since it is easy to tell if they are working or not.

Studer asked if the gutters were the only way to get the water to the cistern. Streeter said that there are catch basins and that the gutters feed the catch basins. He said that he didn't remember the actual numbers, but that the net hardcover on the property would be about 17%.

Carlson said that the property might be getting closed to the building coverage limit for the property. He said that the uncovered deck area could keep them under that limit.

Carlson asked the other commissioners about the deck that is 6 inches above grade and if that would be considered a structure, or if it could be considered an at-grade improvement. The consensus from the commissioners was that it was an at-grade improvement and would not be considered under the building coverage limit or the lake setback requirements.

Sharpe made a motion to recommend approval with conditions of the variance requests of Streeter + Associates to encroach 20 feet, 5 inches into the lake yard setback, to exceed the maximum impervious surface coverage by 17.4%, and to modify the non-conforming lakeshore improvements in conjunction with the construction of a new house on at 20200 Lakeview Avenue, as presented.

He said that his recommendation was conditioned that:

- The applicant receives construction easement agreements for the east and west lot line retaining walls prior to beginning construction.
- The applicant complies with the requirements of the City Engineer.
- The aggregate walkways shown in the plans must be clear rock with landscape fabric underneath, or preferably replaced with mulch.
- The applicants complete the required stormwater management improvements to meet the requirements and specifications of the city engineer.
- The applicants enter into a maintenance agreement with the city to ensure the long-term operation and maintenance of the stormwater management improvements. The maintenance agreement shall be executed and recorded against the parcel.

Motion was seconded by McNeill. Carlson made a friendly amendment to require any changes in the house location be reflected in the plans submitted to the City Council. Motion carried 7-0.

**Ordinance 13-74, Amending Section 1310.10 regarding Accessory Structure Standards and Storage Containers** – Changes proposed to Section 1310 to clarify that storage containers are regulated by Chapter 5. Public Health and Safety of the City Code of Ordinances.

Chairman Carlson introduced the agenda item.

Zoning Coordinator Cooney summarized his staff report. Cooney said that the ordinance amendment was proposed by Mayor Skrede and Councilmember Kask in an effort to restrict the unlimited keeping of shipping or storage container units on a property. Cooney said the units are inconsistent with the character of the community are currently unregulated. An ordinance restricting the keeping of these types of storage containers on a property for more than 60 days was recently passed by the City Council and is located in the Nuisance section of Chapter 5 of the City Code of Ordinances. Cooney said that this additional ordinance would prevent residents from making the claim that these items were accessory structures not subject to the 60 day timeline.

Cooney concluded his staff report.

Commissioner Studer asked if garbage dumpsters were included in the 60 day restrictions, since construction projects will take longer than 60 days. Cooney said that they would not be restricted to 60 days.

Commissioner McJilton said that she had done remodeling recently and had used a pod to store her items on her property while that took place. She said that she was not in favor of a 60 day restriction. Commissioner Sharpe expressed similar concerns.

Cooney said that he felt that the thinking behind the restriction was that these types of units are movable and could be stored off-site. McJilton said that this would be very inconvenient if someone remodeling their house needed to access their items during the construction phase. She asked if perhaps there could be a variance from this timeline.

Councilmember Gustafson said that he was in full support of the ordinance and that an individual's remodeling project should not have to have a negative impact on the neighbors. He said that there are many companies nearby that provide storage units off-site.

Studer asked if exceptions could be made for properties with active building permits. Studer said that someone could buy a shed from Menards and use it for the same purpose.

Chairman Carlson opened the public hearing.

William Tapper of 4765 Maple Chase drive said that this particular issue was caused by a neighbor of his parents. Tapper said the fundamental issue of the ordinance is if a neighbor should be able to have a shipping container indefinitely on a property. He said that the keeping of these storage containers should be a temporary situation.

Cooney said that the 60 day restriction had already been passed by the City Council, and that the ordinance in front of the planning commission only stated that these types of units were not to be considered accessory structures.

McNeill asked about enforcement capabilities. Cooney said that it would be complaint based. Typically, the city would send a letter and work with the resident, but that in extreme cases the city could issue a citation or remedy the situation themselves. McNeill asked when the 60 day timeline would start. Cooney said once the ordinance was passed, the 60 day clock would start on any existing violations. McNeill pointed out that the property that has these storage containers has an active building permit and has for some time. She said that requiring a permit would not necessarily solve the problem.

Chairman Carlson closed the public hearing.

Carlson made a motion that the Planning Commission recommend adopting ordinance 13-74. Motion was seconded by McJilton. Motion carried 7-0.

#### **LIAISON REPORT**

Council Liaison Gustafson said that there was a request to extend the timeline for an approved variance to build a garage. Gustafson said that the city council conversation was about not permitting variance extensions. He said that the applicant could start construction by doing something minor, but not have started the project in actuality.

Carlson asked if the idea was to require regular progress on a project, since that would be hard to define.

Sharpe said that the city would then be in the project management business.

Anderson asked if the council wanted not to extend the variance. Gustafson said that there should be some kind of agreement that the applicant shares the burden in completing the project in a timely manner.

Carlson said that Edina struggled with many open permits on projects. McJilton said that she thought the open permit was a bigger issue than the variance extension.

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Anderson asked about how this is enforced. McJilton said that she suspects that these permits linger, and that there should be a time limit on these permits. Anderson asked how the city would enforce completion on a project for someone who might not be able to finish a project for financial or other reasons.

Carlson suggested that city staff investigate Edina's regulations, and Minnetonka's regulations, and perhaps that of at least one other city.

**ADJOURNMENT**

Motion by Chairman Carlson to adjourn the meeting. Motion seconded by Commissioner Anderson. Motion carried 7-0. The meeting adjourned at 8:45.

Respectfully submitted,  
Dale Cooney  
Zoning Coordinator