

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

**PRESENT:** Vice Chairman John Studer and Commissioners John Daly, Melissa McNeill, Bill Sharpe, and Cindy Hunt Webster.

**ABSENT:** Bob Werneiwski

**OTHERS PRESENT:** City Council Liaison Tony Jewett and Zoning Coordinator Dale Cooney

**MINUTES OF August 15, 2017**

Motion by Sharpe, seconded by McNeill, to approve the minutes of August 15, 2017 as written. Motion carried 6-0.

**PUBLIC HEARINGS**

**Consider the variance requests of Kent and Mary Carlson, for the property at 20505 Lakeview Avenue, to encroach 3 feet into the minimum required front yard setback, and to exceed the maximum permitted grade alteration by up to 1 foot in order to build a new house on the property**

Studer introduced the agenda item.

Cooney presented his staff report. He said that Kent and Mary Carlson, property owners, are requesting variances to encroach in the minimum required front yard setback and to exceed the maximum permitted grade alteration in conjunction with the construction a new house at 20505 Lakeview Avenue.

Cooney noted that Section 1302.05(3) of the city ordinance requires a minimum front yard setback of 35 feet. He said that the applicants are proposing a front yard setback of 32 feet and are seeking a variance of 3 feet from the minimum required front yard setback. Cooney noted that the existing house is setback 7 feet, 6 inches from the property line, and the proposed house would significantly reduce the non-conforming footprint.

Cooney said that Section 1312.04 of the zoning ordinance requires a variance for any land alteration greater than three feet at any point. He said that the applicants are proposing land alteration of up to 4 feet, and are seeking a variance of 1 foot from the maximum permitted land alteration. Cooney stated that the proposed grading will fill in a tuck-under garage area of the original house and, as proposed, will return this disturbed area of the property to a more even topographic layout.

Cooney noted that the principal justifications for land alteration restrictions are to prohibit 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 said that neither of these concerns are the case in this proposal.

Cooney said that Section 1310.03 of the zoning ordinance requires that a single family residential dwelling must be a minimum of 25 feet wide at its narrowest dimension. He said that the applicant is proposing a house that has a dimension of 12 feet, 10 inches for the area that connects the main living area to the garage. He said that a variance of 12 feet, 2 inches from the minimum required house width is required. He noted that the city has typically allowed these types of narrow areas in a house as long as the main body of the house exceeds house width requirements, as it does in this particular situation.

Cooney said that he recommends approval of the variance requests to encroach into the minimum required front yard setback by 3 feet, to exceed the maximum permitted grade alteration by 1 foot, and for a variance of 12 feet, 2 inches from the minimum required house width for the property at 20505 Lakeview Avenue, as proposed based on the following findings:

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

Yes. 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 grade alteration standards on the lot. As proposed, the property would significantly reduce the front yard setback non-conformity and bring the grading of the lot to a more even and natural state. Both of these outcomes are in harmony with the purpose and intent of the ordinance.

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

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

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

Yes. The proposed house and grading are reasonable for the property, and are comparable in scope and scale to surrounding properties.

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

Yes. The existing tuck under garage carved out a large low area on the property. For the house, the existing lot is oriented towards the street such that the front setback is also the narrow dimension on the lot. This created difficulties in siting the house without encroaching into the front setback. The proposed encroachment is a significant reduction from existing conditions.

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

The proposed grading and setback variances would not alter the essential character of the locality. The overall proposal is of a scope and scale similar to other homes within the area.

Cooney concluded his staff report.

Studer opened the public hearing.

Kent Carlson, applicant, stated that the house is designed to be perpendicular to the neighboring property to the south. He said that the grading infill is to eliminate the tuck under garage. He said that they are also raising the lower level of the house and creating a crawl space. Carlson said that the house will sit low on the site.

Webster asked what parts of the house were in the narrow area. Carlson said that area was a mudroom, a powder room, and stairs to the second level.

Webster asked about the drainage for the property. Carlson said that the property would drain towards the new raingarden that is situated at the end of Lakeview Avenue.

Studer closed the public hearing.

Daly said that his only concern was that the property was so close to being conforming within the setbacks, he was not clear as to why it was not just made to conform.

Motion by Sharpe to recommend City Council approve the variance requests based on the recommendation and findings of staff. Motion was seconded by McNeill. Motion carried 6-0.

**Consider the variance request of Phil Smith, for the property at 20035 Manor Road, to exceed the maximum permitted grade alteration by up to 4 feet in order to regrade areas of the currently vacant property**

Studer introduced the agenda item.

Cooney presented his staff report and said that Smith Partners, Inc. recently purchased the property at 20035 Manor Road. He said that in anticipation of starting construction this fall, the applicant is requesting a variance to exceed the maximum permitted grade alteration in conjunction with the construction a driveway and a new house on the property. Cooney stated that Section 1312.04 of the zoning ordinance requires a variance for any land alteration greater than three feet at any point. He noted that the applicant is proposing land alteration of up to 7 feet, and is seeking a variance of 4 feet from the maximum permitted land alteration.

Cooney said that the property was created via the subdivision process in 2007, but has remained vacant since then. He said that the lot is surrounded by wetlands, is steeply graded in some areas, and has many topographic challenges. Cooney said that the creation of a driveway requires significant grade alteration to access the building pad area of the lot. He said that the proposed driveway area leading to the building pad is bowl shaped and slopes towards the adjacent wetland. Cooney noted that while a driveway could be built to comply with the 3 foot grading limitation, the resulting driveway would have a grade in excess of 10% which would create safety concerns, particularly during the winter. He said that a portion of the south façade for the proposed home would also exceed the grading limitations by less than 1 foot.

Cooney noted that 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 said that neither of these concerns are the case in this proposal.

Cooney said that the property contains portions of two wetlands, however the topography creates significant separation between the wetlands buildable area of the house. He said that the wetland boundaries were approved by the Minnehaha Creek Watershed District on June 30, 2017. He noted that the Minnehaha Creek Watershed District will review the survey and issue permits at the building permitting phase.

Cooney stated that the property currently has access to City of Shorewood sewer and water.

Cooney said that he recommends approval of the variance request to exceed the maximum permitted grade alteration by 4 feet for the property at 20035 Manor Road, as presented based on the following findings:

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

Yes. The purpose and intent of the ordinance is 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, neither of which is the case in this proposal.

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

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

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

Yes. In light of the topographic conditions, the proposed grading is reasonable to make this raw property both buildable and accessible.

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

Yes. The property has significant topographic challenges as it drops off steeply towards the adjacent wetlands. It has never been graded for residential purposes, and therefore additional regrading is required to create driveway access and a buildable area.

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

The proposed grading alterations would not alter the essential character of the locality. The overall proposal is of a scope and scale similar to what exists today on nearby properties in this community.

Cooney concluded his staff report.

Studer opened the public hearing.

Phil Smith, applicant, said that he lives next door to the property at 20045 Manor Road. He said that the bowl shaped area is more severe than you might imagine just by looking at the survey. He said that once the vegetation grows in, the area will look natural.

Sharpe asked Smith to describe the grading in the area. Smith said that it was bowl shaped, such that you had to deal with not just a hillside, but a downward slope in two directions. He said that cutting a 15 foot wide area (12 feet for the driveway and a small area on each side) into the slope quickly creates the need to cut up to 7 feet in some areas.

Sharpe asked about the drainage. Smith said that the area is steeply sloped on all sides and is surrounded by wetlands. He said that the water currently goes straight downhill. Smith said drainage will not change at all and still drain towards the wetland area.

Studer said that he thought this was a reasonable approach to a home and that he did not see an issue with the variance.

Webster asked if this was a spec house. Smith said that it was. Webster said that she had concerns with the large proposed parking area. Smith said that the driveway is 180 feet long and that there needs to be a turnaround area for cars and delivery vehicles. He said that backing out was not an option.

Jewett asked about construction parking. Smith said that the property is on a bit of an odd private road. He said that some parking will need to take place on the private road.

Studer closed the public hearing.

McNeill asked about the house plans. Cooney said that the plans submitted were draft plans and that the applicant was aware that changes to the proposal that impact the grading variance would require him to come before the city again.

Motion by Studer to recommend City Council approve the variance request based on the recommendation and findings of staff. Motion was seconded by Sharpe. Motion carried 6-0.

## **NEW BUSINESS**

### **Planning Commission Vacancy: Interview candidate Doug Nagle to fill vacancy on the Planning Commission.**

Nagle said that he lives at 20145 Cottagewood Avenue. He said that he was neighbors with former Planning Commissioner Jim Anderson. He said that he remodeled the cottage he lives in and added two bedrooms and that it has become a gathering place for his family. Nagle said that he was born and raised in Minnesota and spend much of his live in Saint Louis Park. He said that he is an engineer and has

started 3 businesses but that he is cutting back on work and will turn his current business over to his partners at some point. Nagle said that his father was a general contractor and built a number of homes and that he enjoys doing that kind of work in his spare time.

Webster said that she has known Doug for over 25 years and that he is both very smart and very ethical. She said that he would be a great fit on the Planning Commission.

McNeill asked if his travel schedule would interfere with his Planning Commission obligations. Nagle said that it might but that, as the business owner, he was able to manage his own schedule.

Motion by Webster to recommend Doug Nagle for appointment to the Deephaven Planning Commission. Motion was seconded by Sharpe. Motion carried 6-0.

#### **LIAISON REPORT**

Councilmember Jewett said that the variance request for 19960 Lakeview Avenue porch expansion was approved. He said that there was some concerns that the original approval was for an open deck that was expanded to include walls.

Cooney said that he did not find original plans, but that comments from neighbors indicated that the original variance request was for a screened porch.

Jewett said that the city approved the levy for 2018 and that the capital improvement levy was in order to keep up with road maintenance without issuing bonds. He said that both Vine Hill Road and Park/Deephaven were repaired this year.

#### **OTHER BUSINESS**

Cooney explained the Pines neighborhood rezoning meeting notice that was included in the packet. He said that Planning Commissioners are encouraged to be at the meeting to hear first-hand the neighbor concerns regarding preserving the character of the neighborhood.

Daly asked about the percentage of houses in that area that are within Minnetonka. Cooney estimated that 55% to 60% of the neighborhood is within Minnetonka. He said that Minnetonka residents were not notified about the meeting.

#### **ADJOURNMENT**

Motion by Studer to adjourn the meeting. Motion seconded by Sharpe. Motion carried 6-0. The meeting adjourned at 7:42.

Respectfully submitted,  
Dale Cooney  
Zoning Coordinator