

**SHOREVIEW PLANNING COMMISSION  
MEETING MINUTES  
April 30, 2013**

**CALL TO ORDER**

Chair Solomonson called the April 30, 2013 Shoreview Planning Commission meeting to order at 7:00 p.m.

**ROLL CALL**

The following Commissioners were present: Chair Solomonson, Commissioners Ferrington, McCool, Proud, Schumer, Thompson and Wenner.

**APPROVAL OF AGENDA**

MOTION: by Commissioner Wenner, seconded by Commissioner Schumer to approve the April 30, 2013 Planning Commission meeting agenda as submitted.

VOTE:                   Ayes - 7                   Nays - 0

**NEW BUSINESS**

**VARIANCE - EXTENSION**

**FILE NO.:               2414-11-07**  
**APPLICANT:            JAMES GRUBER**  
**LOCATION:               3289 EMMERT STREET**

**Presentation by City Planner Kathleen Nordine**

In May 2011, a subdivision was approved dividing this property into two parcels. In April 2011, the Planning Commission recommended approval of the minor subdivision with a variance to reduce the required front yard setback to 40 feet. In April 2012, the Planning Commission granted a one-year extension for the variance. The minor subdivision has been recorded. Parcel 2 has sold, and parcel 1 is on the market. The applicant seeks a three-year extension for the variance. Staff believes the time frame is reasonable due to the real estate market, and the fact that the owner has made a good faith effort to sell the property.

Commissioner Wenner noted two spellings for the applicant. The correct spelling is GRUBER.

Commissioner Schumer stated that there is no reason to not approve this request. Ms. Nordine explained that if not approved, the minor subdivision has been recorded as such the vacant lot is of record. Without the variance extension, the required setback may make this lot unbuildable.

**Mr. Jim Gruber**, Applicant, 5545 Alden Avenue, St. Paul, stated that the request is related to the real estate market and the time it is taking to sell this lot.

**MOTION:** by Commissioner Schumer, seconded by Commissioner Thompson to extend the variance approved for Parcel 1 (3308 Victoria Street) reducing the front yard setback for a future home on the property to 40 feet. The subdivision and Resolution have been recorded at Ramsey County and the property is being marketed for sale. Said extension is for a three-year period to April 26, 2016. Conditions attached to the variance approval shall remain in effect.

**VOTE:** Ayes - 7 Nays - 0

**PUBLIC HEARING - CONDITIONAL USE PERMIT/VARIANCE**

**FILE NO.: 2481-13-08**  
**APPLICANT: THOMAS & LINDA RITCHIE**  
**LOCATION: 5186 LEXINGTON**

**Presentation by City Planner Kathleen Nordine**

The application is to reconstruct a detached garage on the property. The subject garage is larger than the maximum size permitted. The property is greater than one acre. The intent of the Conditional Use Permit is to review the proposal in terms of the Development Code standards and consistency with the Comprehensive Plan. The variance is to maintain the existing 4.5-foot setback from the side property line.

The property is zoned R1, Detached Residential and in the Shoreland Management District of Turtle Lake. The lot consists of 1.05 acres with a width of 56 feet. It is developed with a single-family home of 2,250 square feet and an attached garage of 616 square feet. The detached garage they are seeking to rebuild is 735 square feet.

The Development Code provides that accessory structures on parcels greater than one acre may exceed the maximum area permitted with a Conditional Use Permit. The existing detached garage would be demolished and rebuilt using the current concrete foundation and changing the roof from a lean-to style to a pitched roof. The exterior would be consistent with the house. Existing vegetation along the property line would be maintained.

Staff finds that the proposal complies with the location, height, design and screening requirements for a detached accessory structure. It is consistent with the Development Code and Comprehensive Plan. There is reasonable difficulty with the narrow lot width. The character of the neighborhood would not be impacted.

Notices were sent to property owners within 350 feet. One response was received in support of the project. The Building Official has noted that fire rated construction is required. Staff is recommending the public hearing; approve the variance, and forwarding the application to the City Council with a recommendation for approval.

Commissioner McCool asked if it would be possible to have a 10-foot setback from the property line. Ms. Nordine answered that would not be possible because of the second detached accessory structure.

City Attorney Filla stated that he has reviewed the public notices, and the public hearing is in order at this time.

Chair Solomonson opened the public hearing.

**Mr. Tom Ritchie**, Applicant, stated that the new garage will be parallel to the second accessory structure. The view of neighbors will not change. He has talked to his neighbor about the best way to build the new structure. The garage needs to be replaced because of the water damage.

MOTION: by Commissioner Schumer, seconded by Commissioner Wenner to close the public hearing.

VOTE: Ayes - 7 Nays - 0

Commissioners commented on the fact that this application will be a good improvement to the property and their appreciation for the consultation with the neighbor.

MOTION: by Commissioner Schumer, seconded by Commissioner Ferrington to adopt Resolution 13-39 approving a variance to reduce the 10-foot side yard setback to 4.5 feet and recommend the City Council approve the Conditional Use Permit submitted by Thomas and Linda Ritchie, 5186 Lexington Avenue, to reconstruct a detached accessory structure on their property, subject to the following conditions:

1. Approval of the conditional use permit is subject to approval of the variance to maintain the existing 4.5-foot setback from the side property line.
2. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
3. The exterior design and finish of the addition shall be consistent with and complement the home on the property.
4. The existing vegetation along that portion of the south side property line adjacent to the proposed structure must remain and be maintained.
5. The applicant shall obtain a detached accessory structure permit for the structure.
6. The applicant shall obtain a building permit for the structure. The structure shall comply with the Building Code standards pertaining to one-hour fire resistance construction.
7. The structure shall be used for the personal storage of vehicles, recreational vehicles, trailers, household and lawn equipment.
8. The structure shall not be used in any way for commercial purposes.

Said approval is based on the following findings of fact:

1. The proposed accessory structure will maintain the residential use and character of the property and is, therefore, in harmony with the general purposes and intent of the Development Ordinance.
2. The primary use of the property will remain residential and is in harmony with the policies of the Comprehensive Guide Plan.
3. The conditional use permit standards, as detailed in the Development Ordinance for residential accessory, are met.
4. The structure and/or land use conform to the Land Use Chapter of the Comprehensive Guide Plan and are compatible with the existing neighborhood.
5. Practical difficulty is present as outlined in Resolution 13-39 approving a side-yard setback variance.

VOTE:                      Ayes - 7                      Nays - 0

**PUBLIC HEARING - CONDITIONAL USE PERMIT**

**FILE NO.:**                      **2482-13-09**  
**APPLICANT:**                      **MICHAEL R. KEENE**  
**LOCAITON:**                      **5345 HODGSON ROAD**

**Presentation by Senior Planner Rob Warwick**

This application for a conditional use permit is to exceed the maximum area permitted for a detached accessory structure in order to build a new garage measuring 28 feet by 40 feet, or 1,120 square feet. The combined floor area for all accessory structures would be 1,750 square feet, which exceeds what is allowed by Code without a Conditional Use Permit.

The property consists of 2.59 acres with a lot width of 100 feet. It is zoned RE in the Shoreland Overlay District of Turtle Lake. It is developed with a single-family home with an attached two-car garage. The home is 1,685 square feet; the attached garage is 624 square feet. The driveway off Hodgson Road is shared with two other adjoining lots.

Code allows a detached garage of 750 square feet or 75% of the dwelling unit foundation area, whichever is more restrictive. The proposed new garage would be 1,120 square feet or 66% of the foundation area of the home. The combined area would be 1,744 square feet, which exceeds the more restrictive of 1,200 square feet or 90% of the foundation area allowed.

Staff finds that the proposal complies with conditional use permit criteria. The principal structure will remain visually dominant due to the lot size, the dwelling size and the location of the garage. The proposed new detached garage will be 200 feet from the home. Staff is recommending a landscaping plan to be approved prior to a building permit. The proposed new garage will be 17 feet from the south property line. Existing vegetation on the north will mitigate visual impact.

Notices were sent to property owners within 350 feet. One comment was received in support of the application. Staff recommends forwarding the proposal to the City Council for approval with the conditions listed in the staff report.

Commissioner McCool expressed concern about screening and asked what landscaping staff is recommending. Mr. Warwick responded that the screening is good between Hodgson Road and the structure. Staff would like to see added screening to the north to break up the mass of the building seen from nearby homes.

Commissioner Ferrington asked the reason for the proximity of the proposed garage to the driveway. Mr. Warwick explained that topography is the issue. More complicated grading would be needed to move the location.

City Attorney Filla stated that proper notice has been given for the public hearing.

Chair Solomonson opened the public hearing. There were no comments or questions.

MOTION: by Commissioner Schumer, seconded by Commissioner Thompson to close the public hearing.

VOTE: Ayes - 7 Nays - 0

Commissioners expressed their support of the project and stated that concerns about landscaping, placement of the new structure and size had been addressed.

Commissioner McCool expressed some concern about the total floor area of all garages at 103% of the house foundation area. He stated that he can support the project because of the distance between the garage and the house.

MOTION: by Commissioner Schumer, seconded by Commissioner Wenner to recommend the City Council approve the Conditional Use Permit submitted by Michael Keene, 5345 Hodgson Road, to construct a detached garage on the property, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted with the application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The exterior design and finish of the garage shall be compatible with the dwelling.
3. A minimum setback of 10 feet is required from the side property line.
4. The applicant shall obtain a building permit for the structure.
5. The applicant shall submit a final site grading plan and a landscape plan for approval by the City Planner prior to issuance of a building permit for the detached garage.

6. The project is subject to the permitting requirements of the Rice Creek Watershed District. The applicant shall obtain the necessary RCWD permit prior to issuance of any City permits for the project.
7. The structure shall be used for storage of household and lawn supplies, vehicles and equipment.
8. The structure shall not be use in any way for commercial purposes.

Said approval is based on the following findings of fact:

1. The proposed accessory structure will maintain the residential use and character of the property and is, therefore, in keeping with the general purposes and intent of the Development Ordinance.
2. The primary use of the property will remain residential and is in harmony with the policies of the Comprehensive Guide Plan.
3. The conditional use permit standards, as detailed in the Development Ordinance for a residential accessory, are met.
4. The structure and/or land use conform to the Land Use Chapter of the Comprehensive Guide Plan and are compatible with the existing neighborhood.

VOTE:                      Ayes - 7                      Nays - 0

**APPEAL**

**FILE NO.:                      2483-13-10**  
**APPLICANT:                      MICHAEL MORSE**  
**LOCATION:                      1648 LOIS DRIVE**

**Presentation by City Planner Kathleen Nordine**

The applicant is appealing an administrative decision to not process an application that was previously submitted and denied. This application for a variance is the same or substantially the same as the one previously denied. City Code requires a six-month time period before an application can be resubmitted. Section 202.010 (C) specifically states that, “No application for the same or substantially same request shall be made within six months from the date of denial.”

The applicant submitted an application for four variances, which were denied December 17, 2012. The applicant appealed the Planning Commission decision to the City Council. The City Council denied the appeal on February 4, 2013.

The applicant states that the application should be processed because changes have been made to the proposal:

1. The size of the structure has been reduced from 1100 square feet to 959 square feet.
2. The height has been reduced from 15 feet to 14 feet.
3. The length of the structure was reduced from 50 feet to 43.5 feet.

A variance is no longer required for height, as the height is less than the house. Also, the proposed garage is smaller than those of some neighbors. Placement of the garage is in the same location as the old garage as shown by submitted photographs, which is 2.5 feet from the side property line.

Staff believes the plan and variances requested are substantially the same as the previous application. The required variances are the same or substantially the same: 1) exceed the maximum area allowed; 2) exceed the maximum combined area for accessory structures; and 3) reduce the required 5-foot setback from the side property line to 2.5 feet. Staff recommends denial of the appeal.

**Mr. Michael Morse**, 1648 Lois Drive, Applicant, stated that part of the denial is based on character of the neighborhood. His proposed change of 957 square feet is 3 square feet smaller than an existing garage six houses to the east. That garage is larger than the existing home. He is trying to resolve all issues to move forward.

Commissioner Ferrington asked about plans for a new addition to the home. Mr. Morse stated that he has been told that would have no bearing on the current application. Commissioner Ferrington suggested completing the addition first.

Ms. Nordine stated that a variance would still be needed even if there was an addition on the house.

Commissioner McCool stated that the essence of the application is the same--a structure that is larger than allowed and too close to the property line. The same variances are being requested.

Commissioner Thompson sympathized stating that it is clear the applicant is making an effort to make his proposal more acceptable for a variance. She asked if staff sought the advice of the City Attorney regarding the interpretation of "substantially the same." City Attorney Filla answered, yes, and stated that briefs for the pending legal action are due May 15, 2013. He would not anticipate guidance from the court until June.

Commissioner Ferrington stated that with pending litigation, she does not believe the application should be moved forward.

**MOTION:** by Commissioner Proud, seconded by Commissioner Wenner to deny the appeal and uphold staff's interpretation that the variance application submitted on March 13, 2013 by Mike Morse, 1648 Lois Drive cannot be processed because the application is the same or substantially the same as his previous variance application, File No. 2468-12-31, which was denied on February 4, 2013, by the City Council. No application for the same or substantially the same request can be made within six months of the date of denial.

**VOTE:**                      Ayes - 7                      Nays - 0

**MISCELLANEOUS**

**City Council Assignments**

Commissioners Wenner and McCool will respectively attend the May 6th and May 20th City Council meetings.

**Workshop**

The Planning Commission will hold a workshop on May 28, 2013, immediately prior to the regular meeting, at 6:00 p.m.

**ADJOURNMENT**

MOTION: by Commissioner Schumer, seconded by Commissioner Ferrington to adjourn the meeting at 8:07 p.m.

VOTE:                   Ayes - 7                   Nays - 0

ATTEST:

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Kathleen Nordine  
City Planner