

REPORT ON CITY COUNCIL ACTIONS

Presentation by City Planner Kathleen Castle

The City Council approved the following items as recommended by the Planning Commission:

1. Major Subdivision, Donald F. Zibell, 3422 Chandler Road
2. Conditional Use Permit, Russell Weaver & Peggy Huston-Weaver, 4344 Snail Lake Boulevard
3. Minor Subdivision, Todd Sharkey Land Development, 4965 Hanson Road

NEW BUSINESS

PUBLIC HEARING: CONDITIONAL USE PERMIT

FILE NO: 2578-15-21

APPLICANT: MARLOWE HAMERSTON/KARIN HAMERSTON

LOCATION: 771 LARSON LANE

Presentation by City Planner Kathleen Castle

This application is to request a Conditional Use Permit (CUP) to build a water oriented accessory structure to replace an existing structure that is in poor condition. The property is located on the south shore of Turtle Lake and zoned R1, Detached Residential. The property is also located in the Shoreland Management Overlay District. An existing single-family home is on the property and consists of 1,306 square feet. There is a detached garage of 616 square feet. The proposed water oriented accessory structure is 200 square feet.

There is no building permit on file for the current accessory structure, which is believed to be built in the early 1970s. The new structure would be in the same location and the same size as the existing one. It is used to store life jackets, paddles, water tubes and other water recreation gear. Viewed from the water, the width would be 10 feet, the height would be 10 feet, and the setback from the OHW would be 14.5 feet. The setback from the side property line is 20 feet.

The Development Code for the R1 District requires that a second accessory structure on a parcel of less than one acre must be 150 square feet or can be up to 288 square feet with a Conditional Use Permit. Also, the total area of all accessory structures cannot exceed 90% of the dwelling foundation area, or 1200 square feet, whichever is less.

The Shoreland Management District allows one water oriented structure on the lakeside of a home. The maximum area allowed is 250 square feet. The maximum width viewed from the water is 12 feet, and the maximum height is 10 feet. There is a minimum side yard setback of 20 feet. Existing vegetation along the eastern property line will provide screening. Staff finds that the proposed structure conforms to the Comprehensive Plan and Development Code. Using the same location will minimize site disturbance. An accessory structure must be 31 feet from the Shoreland Impact Zone, unless there is practical difficulty. Practical difficulty

does exist in that the topography of the property makes it difficult to locate the structure further from the shoreline. Also, other properties have similar structures in the Shore Impact Zone.

Property owners within 350 feet were notified of the proposal, and legal notice was published in the City Newspaper. One comment was received in support. Staff is recommending the Commission forward an approval recommendation to the City Council with the conditions listed in the staff report.

Commissioner Ferrington noted a number of retaining walls on the lakeside of the property that would make it difficult to change the location of the shed.

Commissioner Peterson expressed concern that there are many water oriented structures within the Shore Impact Zone. He asked if it would be possible to move the structure out of the Shore Impact Zone. Ms. Castle responded that there are very few requests for water oriented structures. In this neighborhood, many of them are non-conforming. However, when a new application is received, the proposal must comply with the Shore Impact Zone setback, unless there is practical difficulty identified by the Planning Commission.

Commissioner McCool expressed concern about the accuracy of measurements on the survey. If the house is 14 feet from the lot line, it is difficult to see how the shed is another 6 feet from the lot line. Ms. Castle explained that the applicant took the measurements; they have not been confirmed by a surveyor. She further stated that when visiting the site, it was difficult to determine the exact east lot line. The setback and property lines must be marked and confirmed in order to obtain a building permit. If the measurements are not accurate, the application would have to be resubmitted with a request for a variance.

Commissioner McCool asked if screening from the lake has been discussed. Ms. Castle stated that staff believes screening vegetation would interfere with the use and function of the structure.

Chair Solomonson asked for clarification that no variances are needed for the Shoreland Impact Zone setback. Ms. Castle stated that the practical difficulty criteria are not the same as that of a variance.

City Attorney Kelly stated that the public hearing has been properly noticed.

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

MOTION: by Commissioner Doan, seconded by Commissioner Ferrington to close the public hearing at 7:28 p.m.

VOTE: Ayes - 6 Nays – 0

MOTION: by Commissioner Doan, seconded by Commissioner Ferrington to recommend the City Council approve the Conditional Use Permit request submitted by Karin Hamerston on behalf of Marlow Hamerston to replace an existing 200 square foot

water oriented structure on the property at 771 Larson Lane Said approval is subject to the following:

1. 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.
2. The exterior design of the shed shall be consistent with the plans submitted and complement the home on the property. The structure shall be painted a natural color (shades of brown, gray or green).
3. The applicant shall obtain a building permit for the structure. The structure shall comply with the Building Code standards.
4. The accessory structure shall be screened from view of adjacent properties through the use of landscaping, berming, fencing or a combination thereof.
5. The structure shall not be used in any way for commercial purposes.
6. The structure shall be used for the personal storage of household, lawn and water-oriented equipment.

This approval is based on the following findings of fact:

1. The proposed improvement is consistent with the policies of the Comprehensive Plan, including the Land Use and Housing Chapters.
2. The Conditional Use Permit standards for accessory structures in the R1, Detached Residential District are met.
3. The standards for water oriented structures located in the Shoreland District are met.
4. Practical difficulty is present regarding the proposed 14.5-foot setback from the OHW due to the site topography, existing improvements and location of the existing water oriented structure.

VOTE:

Ayes - 6

Nays - 0

MINOR SUBDIVISION / VARIANCE

FILE NO: 2577-15-20

APPLICANT: DARWIN DEROSIER

LOCATION: 899/893 TANGLEWOOD DRIVE

Presentation by Economic Development and Planning Associate Niki Hill

This minor subdivision would adjust the side lot line between 899 Tanglewood Dr., owned by the applicant, and 893 Tanglewood Dr., owned by Michella and Thomas Bonfe. Both properties are riparian lake lots on Turtle Lake. The DeRosier property will be reduced to 1.59 acres; the Bonfe property will increase to 6.85 acres. Both properties are in the RE, Residential Estate and Shoreland Overlay Districts. Drainage and utility easements are required along property lines, over infrastructure, watercourses and wetlands, drainage ways or floodways. A variance is requested for Lot 1, 899 Tanglewood, because it would not have frontage on a public road. Frontage is on a substandard unimproved right-of-way. A private driveway easement would be

dedicated over Lot 2 to provide access to Lot 1 via Big Oak Road. Access from a private driveway will not alter the character of the neighborhood.

The applicants state that the purpose of the subdivision is to transfer 5 acres of land from Lot 1, Block 1 Stella's Addition to Lot 2, Block 1 Shella's Addition. The applicants desire to sell their home and purchase a smaller residence. The property has been on the market for several months but has not sold because of the excess amount of property.

Staff finds that as no new lots are proposed with this application. Any future subdivision of either lot will require a new application and public review by the City. Both existing homes will remain. Existing setbacks are not impacted by the boundary adjustment. A new private road easement will be executed for Lot 1 to have access to the existing private drive, as ownership of the private drive will shift to Lot 2. New drainage and utility easements are proposed along the new lot boundaries. There is municipal sanitary sewer service to both lots. Each lot uses a well for water.

No trees will be impacted. Shoreland Mitigation is required. The property owners at 893 completed a Shoreland Mitigation plan before their home was built in 2007. The property owner at 899 has identified two practices, Architectural Mass and Vegetation Protection, as the methods that will be used for Shoreland Mitigation.

Notices were sent to property owners within 350 feet regarding this application. Two written comments were received expressing concerns about future lots and further development.

The minor subdivision application complies with City requirements. Staff believes there is practical difficulty to justify the variance. Access to the current homes is from Big Oak Road, via a private road easement. That will not change with the subdivision. No public street frontage is available. It is not reasonable to require a public road at this time because of the potential for future development. This subdivision does not change the character of the neighborhood.

It is staff's recommendation that the Planning Commission approve the variance to waive the public street frontage requirement and recommend approval of the minor subdivision.

Commissioner Doan asked if a future public road is planned by the City. Ms. Hill stated that the land use of the property is currently only zoned RE, Residential Estate.

Commissioner Ferrington stated that even though the issue of future development has been raised, the Planning Commission can only respond to the application presented. She asked for clarification of the need for new drainage and utility easements. Ms. Hill explained that it is required to convey easements along the new lot lines.

Chair Solomonson opened the discussion to public comment.

Mr. Scott Deming, 821 Tanglewood Drive, stated that his concern is that allowing this transfer of land is without knowing where roads will be for future development. It creates a very long

The minimum structure setback from the front lot line will be 39.5 feet to 59.5 feet and 10 feet from the south side lot line; 15 feet is proposed. There is wetland on Parcel A. Grading will direct storm water runoff to the wetland area with a drainage and utility easement over the rear portion of Parcel A. No impact to landmark trees is anticipated.

The vacation request is scheduled with a public hearing before the City Council on July 20, 2015. The request is to increase the buildable area for Parcel B and eliminate the 25-foot setback from the unimproved roadway. The City will require instead a 35-foot drainage and utility easement that requires no setback. A street easement will be retained over the hammerhead area.

Notices were sent to property owners within 350 feet of the subject property. One telephone call was received from a neighbor with concerns about drainage, storm water management and groundwater. One written comment was received expressing concerns about changing the character of the neighborhood, impact to property values and traffic.

The Fire Marshal expressed no concerns but recommended the City retain the easement where the hammerhead turn-around is located.

Staff finds that the application is in compliance with the Development Code and Comprehensive Plan. Staff recommends that Planning Commission forward a recommendation for approval to the City Council with the conditions listed in the staff report and contingent on vacation of the street easement; retention of the easement for the hammerhead turn-around; required drainage and utility easements; and a 35-foot setback from the south side lot line on Parcel B.

Commissioner Ferrington noted one concern from expressed by neighbors is about the difficulty for vehicles to turn around. Ms. Castle stated that it is a smaller hammerhead, large enough for cars and small trucks. It would be difficult for buses or larger vehicles to turn around in that space.

Commissioner Ferrington expressed some discomfort with this decision because the Commission does not know the outcome of the City Council's vote on the vacation. She asked if there would be sufficient buildable space if the vacation is not granted. Ms. Castle answered that the lot width would then be 94 feet and the buildable area 59 feet wide. The vacation offers more flexibility in the design of the house.

Chair Solomonson asked if Fire Department vehicles would be able to turn around in the hammerhead. Ms. Castle responded that the Fire Department is mainly concerned about access. There is not sufficient room for a fire truck to turn around but can be backed out.

Chair Solomonson opened the discussion to public comment.

Mr. Leonard Newquist, 5796 Willow Lane, verified the location of the easement for the water main and asked if it will still be maintained by the City. Ms. Castle answered that the easement is 35 feet, which is enough room for City maintenance of the water main.

MOTION: by Commissioner Doan, seconded by Commissioner Peterson to recommend the City Council approve the minor subdivision submitted by Brian and Rene Maleski for their property at 5825 Buffalo Lane. The subdivision divides the property into two parcels, creating a vacant parcel (Parcel B) for single-family residential development. Said approval is subject to the following:

1. Approval of the minor subdivision is contingent upon the City Council's approval of the request to vacate the 30-foot wide street and utility easement immediately south of this property.
2. The minor subdivision shall be in accordance with the plans submitted; however, revisions may be made in accordance with the City Council's action on the vacation request and conditions of the minor subdivision.
3. The applicant shall pay a Public Recreation Use Dedication fee as required by Section 204.020 of the Development Regulations before the City will endorse deeds for recording. The fee will be 4% of the fair market value of the property, with credit given for the existing residence.
4. Public drainage and utility easements shall be dedicated to the City as required by the Public Works Director. The applicant shall be responsible for providing legal descriptions for all required easements. Easements shall be conveyed before the City will endorse deeds for recording.
5. A street easement shall be retained over that portion of Buffalo Lane which includes the hammerhead turn-around and shall be sized in accordance with the recommendations of the City Engineer.
6. A minimum setback of 35-feet from the South side lot line is required for the dwelling and attached garage developed on Parcel B.
7. Municipal water and sanitary sewer service shall be provided to resulting Parcel B.
8. Items identified by the City Engineer in his memo shall be addressed as specified.
9. The applicants shall enter into a Development Agreement with the City. This agreement shall be executed prior to the City's release of the deeds for recording.
10. Tree removal requires replacement trees per City Code. City requirements for the tree removal and protection plan shall be detailed in the Development Agreement.
11. This approval shall expire after one year if the subdivision has not been recorded with Ramsey County

This approval is based on the following findings of fact:

1. The proposed land use is consistent with the policies of the Comprehensive Plan, including the Land Use.
2. The proposed subdivision supports the policies of the Comprehensive Plan by providing additional housing opportunity in the City.
3. The parcels comply with the minimum standards of the R1, Detached Residential District.

VARIANCE

FILE NO: 2580-15-23
APPLICANT: JOHN & TRACY FOLEY
ADDRESS: 730 AMBER DRIVE

Presentation by Economic and Development Planning Associate Niki Hill

This application is a request to build a screen porch addition of 8 feet by 14 feet. The property is a triangle shape and consists of over one acre. It extends into Lake Emily, so that the shoreline curves around two sides of the dwelling. The property is developed with a single-family home and attached garage of 744 square feet.

The proposed porch would be 39 feet from OHW using an existing stand alone brick wall. This would be less than the required 76.5 foot setback. Therefore, a variance is requested. The applicants state that the covered porch addition would utilize an existing 8-foot brick wall structure that juts out from the garage on the north side. The brick wall encroaches into the minimum setback by approximately 8 feet.

Staff finds that the proposal is a reasonable use of the property. It will improve the livability of the home and will use the existing brick wall and not extend any further into the OHW setback. Unique circumstances exist with the placement of the home on the property in relation to the lake. The setback of the home from the OHW varies from 47.3 feet to over 118 feet because of the peninsula and the two shorelines. The setback of the adjacent homes ranges from 106.5 feet to 66.4 feet. A screen porch would be possible on the southwest side of the house without a variance, but there would be more site impacts to trees and more impact to the property to the west.

The reduced OHW setback will not alter the character of the neighborhood. The porch will be constructed at ground level and will blend into the house. It will not be taller than the house. The house is 15 feet higher than the OHW and separated from the lake by two retaining walls stepping down to the lake. The location of the house on the cul-de-sac/peninsula lessens any visual impact of the setback encroachment to neighboring properties.

Shoreland Mitigation is required. The applicants propose to remove an existing non-conforming water oriented structure that is 10 feet by 12 feet along the southwest property line. Applicants will also work with staff to create a vegetative protection area. The applicants must enter into a Mitigation Agreement with the City.

Notices were sent to property owners within 150 feet of the subject property. One written notice was received with no objections. It is staff's recommendation that the variance be approved subject to the conditions listed in the staff report.

Commissioner Peterson asked if there is any history of the property to explain the presence of the brick wall and the close setback of the home to the lake. Ms. Hill stated that all aerial photos of the property show the brick wall. Mr. Warwick added that the Shoreland regulations were revised in 1998. Lake Emily is a protected wetland by definition of the state. The City

designated it as a lake in 1998. Development prior to 1998 would not have been subject to Shoreland regulations.

Commissioner Ferrington asked if the porch would be heated. Ms. Hill stated that it is only a fully screened porch.

Chair Solomonson asked if the porch would extend further than the 8 feet of the brick wall and whether it would be accessed from the house. Ms. Hill responded that the porch will only utilize the brick wall and not extend further into the setback.

Commissioner McCool clarified that the porch extends 7 feet, but the roof overhang extends 8 feet.

Mrs. Tracy Foley, Applicant, stated that access to the screen porch would be from the garage door. No other doors are planned. The brick wall extends 7.9 feet. The porch will not be heated.

MOTION: by Commissioner Peterson, seconded by Commissioner Thompson to approve the variance request submitted by Tracy and John Foley for their property at 730 Amber Drive, reducing the minimum 76.5 foot OHW structure setback to 39 feet and adopt Resolution No. 15-51, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application.
2. The screen porch shall not exceed the 39 foot OHW setback.
3. An erosion control plan shall be submitted with the building permit application and implemented during construction of the improvements.
4. A Mitigation Affidavit shall be executed prior to the issuance of a building permit for the screen porch.
5. This approval will expire after one year if a building permit has not been issued and construction commenced.
6. This approval is subject to a 5-day appeal period.

This motion is based on the following findings:

1. The applicant is proposing to use the property in a reasonable manner since it will improve the livability of the permitted single-family residential use. The proposed covered screen porch will utilize the existing brick wall and therefore not extend any further northeast than the existing structure into the OHW. The porch is also at ground level.
2. Unique circumstances are present due to the placement/orientation of the home on the property in relation to the lake, the location of the adjacent homes in relation to the OHW and the existing brick wall off the rear of the home. The setback of the home from the OHW line varies greatly due to the location on the peninsula and the two shorelines. It ranges from 47.3 feet to over 118 feet. The setback of the adjacent homes range from 106.5 feet to 66.4 feet. The existing brick wall was on the house before the current owners purchased it. All these factors together create a unique circumstance.

3. The reduced OHW setback will not alter the essential character of the neighborhood. The visual impacts are reduced by the design and location of the proposed structure. The porch will be constructed at ground level, no taller than the existing house and will blend into the house. The existing house is located at an elevation 15 higher than the OWH and is separated by a series of two retaining walls stepping down to the lake. Additionally, the house is located on the cul-de-sac/peninsula which lessens if not completely negates the visual impact of the setback encroachment on neighboring properties.

VOTE: Ayes - 6 Nays - 0

MISCELLANEOUS

The City Council meeting for July 6, 2015 is cancelled. Commissioner Doan will attend the City Council meeting on July 20, 2015.

Commissioner Peterson noted that he will be absent in July and August. If he is assigned to attend a Council meeting during that time, perhaps another Commissioner would attend in his place. Chair Solomonson offered to fill in for him.

Immediately prior to this meeting, the Planning Commission held a workshop meeting.

ADJOURNMENT

MOTION: by Commissioner McCool, seconded by Commissioner Doan to adjourn the meeting at 8:30 p.m.

VOTE: Ayes - 6 Nays - 0

ATTEST:

Kathleen Castle
City Planner