

**BOARD OF ADJUSTMENT/PLANNING COMMISSION
CITY OF LAKE SHORE
LAKE SHORE CITY HALL
MINUTES
AUGUST 9, 2021
9:00 AM**

Commission Members in attendance: Jim Woll, Arla Johnson, Glen Gustafson, Bob Toborg and Gene Hagen; Council Liaison John Terwilliger; City Engineer Joe Dubel, City Zoning Administrator Teri Hastings and City Clerk Patti McDonald. Absent were Alternates Shawn Hansen and Pat Hastings. A quorum was present and the Commission was competent to conduct business. There were 2 people in the audience at City Hall.

Jim Woll called the meeting to order at 9:00 a.m.

Approval of the July 12, 2021 Regular Meeting Minutes – MOTION BY GLEN GUSTAFSON TO APPROVE THE MINUTES FOR THE JULY 12, 2021 BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. GENE HAGEN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

PUBLIC HEARING –

Variance Request – Tom & Diane Auger requested a variance to construct a 1,770 square foot home with an attached garage at a setback of less than 50 feet from the road right of way CSAH 77 (Interlachen Road) and a setback of 9' from the north property line. The property is legally described as Tract B, Registered Land Survey No. 69 and is zoned low density residential. The site address is 7747 Interlachen Road (located across from 7736 Interlachen Road).

The following documents became part of the record – Notice of mailing, notice of publication of public hearing, signed application and attachments and staff report. There were no written comments received regarding this application. One resident from across the street from the subject property came to ask questions with no concerns regarding the project.

Tom and Diane Auger came before the Planning Commission to answer any questions regarding their application.

Teri's staff report indicated the following: The applicant is requesting a variance to construct a 1770 square foot home with an attached garage along with front and rear porches at a setback of 40 feet from the right of way of County State Aid Highway 77 (Interlachen Road) and a sideyard setback of 9 feet. The property has a lot area of 123,510 square feet and a buildable area of 42,990 square feet. The minimum lot size for the R-1 district is 40,000 square feet and 20,000 square feet buildable.

The applicant had been issued a permit in May of 2021 for the home meeting all setback requirements. However, as part of the city trail project an archaeological study was done on June 29, 2021 and it was discovered that the subject property does have some cultural features (Indian burial mounds and a former home site). The burial mounds do have a 25 setback (state law) which impacts the location of the proposed home. The homeowners were set to begin construction at the end of July and due to the circumstances, there is not an updated survey for the property. The homeowners have contacted the original surveyor to get an updated survey showing the new home location. If the variance is granted, an updated survey should be a condition of approval.

The archaeologist has pin flagged (dark orange utility flags) the features which are located on the south side of the property. Terry Kemper, Mille Lacs Band Historic Preservation Officer did meet with Teri and the homeowners out on the property on July 20th to verify the features.

The site does have an irregular shaped building envelope which does pose a problem with the additional setback for the Indian burial mounds. The property owners have shifted the home to the north and west to maintain a 25-foot setback from the burial mounds. The applicants have submitted a site plan showing the placement of the home along with the cultural features. The red rectangles indicate the burial mounds. There is another area in the southwest corner of the property that may contain burial mounds. This area has been pin flagged as well but poses no setback issue for the property. The homeowners will avoid disturbing the two areas.

The proposed septic and well should not be impacted by the adjustments to the home location.

The amount of impervious surface for the property is approximately 4.5% with the proposed home.

The applicant has included elevation drawings of the proposed home.

STAFF RECOMMENDATION

Recommend approval of the variance due to the unique circumstances of the property that were not created by the property owner. The variance if not granted would require the redesign of the home in which a lawful permit was granted. The variance for the proposed home will not alter the character of the area but will allow the preservation of the cultural features in a respectful manner.

*The property owners have staked the home (4 stakes) and a drawing showing the location of the four stakes was included in the P&Z packet.

There were no questions or concerns regarding application. Glen Gustafson commented on Teri's staff report regarding the submission of an updated survey being a condition if the variance is approved. Teri said Widseth will complete an undated survey and it will be supplied to the city upon its completion.

The City Engineer had no concerns with the variance request.

MOTION BY GLEN GUSTAFSON TO APPROVE THE VARIANCE REQUEST OF TOM AND DIANE AUGER DUE TO THE UNIQUE CIRCUMSTANCES OF THE PROPERTY THAT WERE NOT CREATED BY THE PROPERTY OWNER; WITH THE CONDITION THAT AN UPDATED SURVEY IS PROVIDED TO THE CITY. THE VARIANCE FOR THE PROPOSED HOME WILL NOT ALTER THE CHARACTER OF THE AREA BUT WILL ALLOW THE PRESERVATION OF THE CULTURAL FEATURES IN A RESPECTFUL MANNER. GENE HAGEN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

NEW BUSINESS – There was no new business.

OLD BUSINESS – Arla wished Bob Toborg a special milestone birthday greeting.

REPORTS

City Engineer – Joe Dubel had nothing to report.

Chairman – Jim Woll commented that he received a draft copy of the Cass County Comprehensive Plan. He was curious if the city makes comment on this document. Teri hasn't seen the document yet, so Jim will forward her a copy.

Council Liaison – John Terwilliger had nothing to report.

Zoning Administrator – Teri Hastings supplied a Zoning Report as of July 28, 2021 sharing that the City Council had approved the recommendation from the Planning Commission on the rezoning request of Roger Lykins. It was a 4-0 vote (with the mayor being absent). She sent a letter to the property owners that had a violation on Upper Gull, as they had indicated they would apply for a variance, requesting an update on the survey that they were having done. Since the violation, they have installed an erosion mat on the hillside to protect anymore erosion until they move forward with the variance or restoration. Jim commented that the city was going to require them to replace soil. Joe said there will be a problem with soil they are required to add back to the slope, as it will probably slide out unless properly vegetated.

Teri also issued an administrative fine for vegetation removal on Lost Lake Road.

Teri indicated an uptick in complaints regarding short term rentals; she is finding these people operating without permits and the neighboring properties are not pleased. She has fined some of the non-compliant property owners. Gene Hagen asked if the city has made the real estate agents aware of our ordinance regarding short term rentals. Teri said a letter was sent to them when the ordinance was established in 2018.

Teri said there have also been issues with the access on Gullwood Road.

Arla asked about the Boathouse site plan review that came before the Commission two months ago. Teri contacted the DNR as directed by the Planning Commission and she did hear back from Darrin Hoverson, he stated he had major concerns with any proposal of expanding the boathouse, as suspected, and she forwarded the information on to the property owner. She has not heard back from him.

Bob Toborg let Teri know that he saw some dirt work along the shoreline. Teri will check it out.

There was no action taken with the variety of review/discussion about zoning issues and/or projects happening in Lake Shore.

PUBLIC FORUM – There was no public forum.

MOTION BY GLEN GUSTAFSON TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF AUGUST 9, 2021 @ 9:24 AM. ARLA JOHNSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Transcribed by Patti McDonald
Lake Shore City Clerk