

**BOARD OF ADJUSTMENT/PLANNING COMMISSION
CITY OF LAKE SHORE
CITY HALL
MINUTES
APRIL 8, 2019
9:00 AM**

Paul Strong called the meeting to order at 9:00 a.m. Members of the Commission present: Paul Strong, Arla Johnson, Roger Smeby and Glen Gustafson; Council Liaison John Terwilliger; City Engineer Mark Hallan and City Zoning Administrator Teri Hastings. Commission members Gene Hagen; Alternates Pat Hastings and Shawn Hansen; City Clerk Patti McDonald were absent. A quorum was present and the Commission was competent to conduct business. There were 10 people in the audience.

Approval of the February 11, 2019 Regular Meeting Minutes – MOTION BY GLEN GUSTAFSON TO APPROVE THE MINUTES FOR THE FEBRUARY 11, 2019 BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. ARLA JOHNSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

PUBLIC HEARING –

Variance – Brian Halverson requested a variance to construct a 2,595 (footprint) square foot home and attached garage at setbacks that vary from 38 feet on the south side of the property to 179 feet on the west side of the property and 46 feet on the north side of the property from Gull Lake. The proposed home does include a 950 square foot second story along with 548 square feet of patio areas and a proposed 14'x20' storage shed at a setback of 48' from the lake. The property is served by city sewer. The property is legally described as Part of Lot 10 and Lots 11-14, First Addition to Ozonite Park and is zoned medium density residential.

The following documents became part of the record – Notice of mailing, notice of publication, signed application and attachments and staff report. There were no written or verbal comments regarding this application.

Travis Miller, TWM Architects and Brian Halverson came before the Commission to answer any questions they may have regarding this application.

Arla Johnson asked if the Engineer has reviewed the property as indicated regarding the adequacy of the stormwater detention area. Mark Hallan questioned the elevation of the garage. Travis answered Mark's concerns. Arla questioned the 'significant tree removal'. Brian said he will take as few trees as possible. Arla suggested to mark the significant trees on the plan.

Glen asked if he is building new. Brian is building new, there is no structure there right now. Glen asked if there were any concerns from the neighbors. Teri said she sent out more information to one that had asked; however, they didn't contact her after that.

Roger asked about the wetlands. Mark Hallan said that in MN we are a few weeks out for completing any wetland delineations. Roger asked if it should be done before approval. Teri said the approval could be contingent upon wetland delineation.

Teri's staff report indicated the following: The applicant is requesting a variance to construct a new home (approximately 2595 square feet) with an attached garage (included in the square footage). The home will have a 950 square foot second story along with 548 square feet of patio area. A 14'x20' storage shed is also proposed for the site. The setback for the proposed home varies from 38 feet on the south side of the property, 179 feet on the west side and 46 feet on the north side. The storage shed has a proposed setback of 48' from the lake.

The applicant has combined several lots and recently completed a road vacation to create to a better building site. The lot area is 44,763 square feet but is a peninsula so meeting all lake setbacks is difficult. Teri doesn't believe there is a building envelope (an area meeting all setbacks) for this property.

The applicant is proposing a two-story home with an attached garage. The applicants have attempted to minimize the impact by maintaining a majority of the point as green space with the exception of a fire pit. The proposed outdoor space of patios fit the design of the home nicely.

The property does have some topography as shown on the site plan. Areas for stormwater detention are shown on the site plan. The city engineer will need to review to determine if they are adequate for the site. The site plan also shows what areas of the property will maintained and other areas that will not be mowed. This is a very visible location on the lake. City ordinance allows tree removal for structures and drives and only select cutting on the property. Brush removal is not allowed in the shore impact zone except to accommodate walks, footpaths to the lake.

The proposed impervious coverage is 14% and is below the maximum amount of impervious surface allowed.

The property is served by city sewer. The city's wastewater personnel and city engineer will need to review the site and potential connection to the city sewer system. The applicant is proposing to drill a deep well on the property for water.

As a part of the road vacation process, an easement in favor of the city was requested for a turnaround for the city snow plow truck. This is shown on the site plan and the impervious surface has been calculated into the overall impervious coverage limit.

The applicant has submitted elevation drawings and are attached. The applicant has also provided 3-d drawings of the property which show significant tree removal which may be for demonstration purposes only.

It should be noted that the applicant is employed by an outdoor recreation company (docks, boats, etc.) and the property is zoned residential and commercial advertising and activity is prohibited.

STAFF RECOMMENDATION

Recommend approval of the variance due to the unique shape of the property (lack of depth). The proposed variance will not create a land use not permitted in the medium density residential zoning district. The variance is not for economic reasons alone. The variance will not alter the character of the neighborhood. The variance is in keeping with the spirit and intent of the ordinance. The applicant has located the proposed home with the greater lake setbacks on the most visible sides of the peninsula (the west and north side). The proposed design minimizes the impact on the property.

MOTION BY GLEN GUSTAFSON TO APPROVE THE HALVERSON VARIANCE CONTINGENT UPON COMPLETION OF WETLAND DELINEATION. ARLA JOHNSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Preliminary Plat – Haines Birchwood Hills Addition - Grace and Theodore Haines Trustees requested approval for a preliminary plat known as Haines Birchwood Hills Addition consisting of three residential lots. The property has approximately 3.25 acres of land. The property is described as Part of Government Lot 4, Section 21, Township 135, Range 29. The property is zoned Low Density Residential (R-1).

The following documents became part of the record – Notice of mailing, notice of publication, signed application and attachments and staff report. There was one comment read into the record from Vern and Meridyth Pettis stating their concerns with the application for preliminary plat.

Terry Struess, Lakes Area Surveying came before the Commission to answer any questions they may have regarding the Haines Birchwood Hills Addition application.

Paul Strong questioned the total lot area on the survey. The surveyor said he had a typographical error and would fix it.

Arla asked for clarification on the items she suggested in her 'staff recommendation' as being contingent upon. Teri said these items will need to be completed before the 'final' plat is signed. She said as far as a stormwater plan, it will be up to each lot owner and what they intend to do with the property.

Arne Johnson, 8610 Birchwood Hills Road, commented that he welcomes the development and the opportunity to clean up the debris from past storms. He and his wife Joan have a concern with the amount of traffic on the road and pointed out 3 dangerous areas he would like to be looked into for consideration for improvement.

Mark Hallan clarified the setback that was mentioned in the letter that she read into the record being 15-feet. It is actually 20-feet. Teri commented that the letter also indicated that the covenants of Waseya Woods be enforced. She said there are no covenants indicated on this plat; when there are the city doesn't enforce the covenants, it is up to their individual association.

Teri's staff report indicated the following: The property is described as Part of Government Lot 7, Section 21 and is approximately 3.24 acres of land. The property is zoned low density residential (R-1). The developer is not proposing a zoning change.

The minimum lot size for the R-1 zoning district is 40,000 square feet. The developer is proposing three residential lots meeting the minimum lot size requirement. The minimum lot width is 150'. The buildable area for each lot is 20,000 square feet and each proposed lot meets this minimum requirement.

There are no structures or improvements on the property.

There are no proposed roadways, walkways or other public improvements with this plat.

Each of the proposed lots shows a potential principal structure (30x50). A variance should not be needed for a structure for the proposed lots.

The building setbacks are shown for each of the proposed lots; there is no greenspace for the plat. Each lot will not be able to exceed the impervious surface requirements.

Boundary lines, north arrow, scale, date of survey are shown on the preliminary plat.

Contours are indicated on the plat and their source.

Soil borings have not been done, but soils information has been provided from the USDA Web Soil Survey (Demontreville-Mahtmedi-Cushing Complex soils).

Each lot shows a primary and secondary on-site septic location as required; city sewer is not available in this area. Individual wells will be required for each proposed lot. A potential well location is not shown for the proposed lots nor has information pertaining to the adequacy of a domestic water supply.

Vegetation limits are not shown on the plat. The property is wooded and an aerial view is included from the Cass County GIS site. Anticipated vegetation removal has not been addressed. Clear cutting within the R-1 district is prohibited. Select cutting is allowed within the R-1 district.

A stormwater plan or erosion control plan for the proposed development has not been addressed.

A wetland delineation was not performed for the property due to the winter conditions. According to the Cass County GIS there are no wetlands. Wetlands are located within the proposed plat.

((Items 15-18) Covenants have not been submitted with the plat.

A satisfactory title opinion is needed (approved by the City Attorney).

An independent plat check is required for the plat (prior to signing the final plat).

The developer is required to pay all professional costs incurred for the development (must be paid prior to the city signing the final plat).

A park dedication is required for the plat. Based on the plat, a cash payment in lieu of land is recommended.)

STAFF RECOMMENDATION

The Preliminary Plat of Haines Birchwood Hills Addition is in substantial compliance with the city subdivision ordinance; preliminary approval is recommended contingent upon items 15-18 being completed prior to the signing of the final plat. City Council approval of the preliminary plat is required.

MOTION BY ARLA JOHNSON TO RECOMMEND PRELIMINARY PLAT APPROVAL OF HAINES BIRCHWOOD HILLS ADDITION AS IT IS IN SUBSTANTIAL COMPLIANCE WITH THE CITY SUBDIVISION ORDINANCE; CONTINGENT UPON ITEMS 15-18 BEING COMPLETED PRIOR TO THE SIGNING OF THE FINAL PLAT. ROGER SMEBY SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

NEW BUSINESS –

Lot Split – Giles Radtke – Teri's staff report indicated the following: The applicant applied for a lot split. The applicant owns the Northwest Quarter of the Northwest Quarter of the Northwest Quarter Section 8, Twp. 135, Range 29 which is approximately 10 acres (9.94 excluding ROW). The property is zoned Wooded Residential which has a minimum lot size of 5 acres and 2.5 acres (108,900 square feet) of buildable area. Buildable area excludes bluffs, wetlands and ROW. Tract A has a buildable area of 2.6 acres and Tract B has a buildable area of 3.6 acres meeting the minimum buildable area.

The applicant has submitted a survey by a licensed surveyor. Legal descriptions have been prepared for the property (Tract A and Tract B).

The proposed Tracts, meet the minimum width for the zoning district of 300'. Both Tracts have access onto a public right of way (County 78 and County 29 for Tract A and County 78 for Tract B).

Tract B does contain a structure and is shown on the survey. Teri doesn't believe there are sanitary facilities for the structure.

The property does not contain wetlands according to the Cass County GIS.

Monuments have been placed marking the corners of the property as well as the division line for the two Tracts.

Building envelopes are shown on each of the Tracts. It is noted that there is a 50' setback from a County Road.

The survey does not show topographic information, attached is information on the topography from the Cass County GIS site. The surveyor indicates there is no areas with slopes greater than 12%.

The survey does not provide soils information.

STAFF RECOMMENDATION:

Recommend approval of the lot split as it is in substantial compliance with the city ordinances.

Giles Radtke came before the Commission to answer any questions regarding his application.

Glen asked if he purchased the property recently. They purchased it a couple years ago.

Mark Hallan commented there was no entrance to Tract A indicated on the survey. Giles said there is one on that property which will probably be used. This will have to be finalized with the county and the city when a permit is applied for from the city.

MOTION BY GLEN GUSTAFSON TO APPROVE THE GILES RADTKE LOT SPLIT AS THE LOT SPLIT MEETS THE INTENT OF THE ZONING ORDINANCE. ARLA JOHNSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Site Plan Review – Sean Weldon – Teri's staff report indicated the following: The applicant who purchased this townhome in 2018 is seeking a site plan review for the possibility of adding an additional garage (24'x24" onto his existing garage. This is a townhome development. Basically, the home/garage/patios etc. needs to be constructed within the square or lot within the development. The other areas outside of the designated lots are considered common areas. In order to build outside of the lot, the plat for the development needs to be amended with a new plat. In this situation, this townhome development was granted variances on density (number of units), setbacks from the county highway, and impervious coverage. A formal survey has not been done on this site, but looking at the information, variances will need to be granted on top of the existing variances from the county right of way (remember a trail is to be constructed in the ROW of this area) and again for an increase in impervious surface. Feedback is sought from the Planning Commission on the potential of granting additional variances on this site prior to pursuing extensive survey work and costs.

Shawn and Stacy Weldon came before the Commission to ask for feedback for what they would have to do to add an additional garage onto the existing garage before they submit formal application.

Teri said this is not a typical residential home asking for a variance; this is a townhome plat and the whole plat would have to be amended. They would have to go through the preliminary and final platting process; this development was done in the early 90's and didn't meet the standards then and they do not meet the standards today. She gave a brief history of the variances granted in the past. A formal survey hasn't been done, so it is not known if the proposed garage would encroach further into the ROW.

Sean commented that the homeowner's association is aware of what the Weldon's are asking and are acceptable with them moving forward with the re-platting process to absorb more of the common space.

Arla asked who takes the first step in moving forward with the re-platting process. Teri said she told the Weldon's they needed to talk to the homeowner's association and they have done that and have their consent. The next step is to have a survey to amend the townhome plat.

Paul asked if they want to see a variance on top of a variance. Roger suggested shrinking the size of the structure. Weldon's will be considering the impervious surface. Paul was concerned if this is approved, would it set a precedence for further development.

John Terwilliger asked if the new trail will be in the Road right-of-way. Teri said it will be and that the setback will have to be adhered to. As an intermediate step to save money, Mark Hallan suggested they do a partial survey of just lot one to show what will be entailed to show the Commission if it would be feasible to move forward. Does the Commission want to increase the impervious surface (approx..) 2% as the garage shown is 1,008 square feet?

Letter from Nick Roeder re: Short Term Rentals – Paul went over all the work that the Commission has recently reviewed during the ordinance amendment process. Nick said that 6 times per year is not adequate for his situation; he said that most people want to only rent for the weekend. Paul said the Commission had to take into consideration the high turnover in neighborhoods, the parking issues, too many people in a dwelling at one time, etc.

Teri said that Nick does have the opportunity to seek an ordinance amendment for a fee of \$300.00. Arla suggested looking at changing the number of days as compared to number of weeks. Paul said it could also be changed to not allow short-term rental at all. Nick said he would have to shut down or sell his home. Paul said that it was argued to go to 6 rather than 4 times per year which is what it was changed from to help people like him.

Glen Gustafson said that if this goes to a public hearing; he would argue to goes back to 4 times per year. Paul doesn't think that the number of times would go up from 6. Teri said she will keep track of comments received regarding the recent ordinance change.

OLD BUSINESS – There was no old business.

REPORTS

City Engineer – Mark Hallan had nothing to report.

Chairman – Paul Strong had nothing to report.

Council Liaison – John Terwilliger had nothing to report.

Zoning Administrator – Teri Hastings said that after this month the Commission will not perform a group site review; she encourages members to go out on their own.

Need to set a date for the Comprehensive Plan public hearing; she suggested Thursday, June 20, 2019 @ 6:00 p.m. It will be noticed in the official city newspaper, the website, the Spring city newsletter and the city Facebook page.

PUBLIC FORUM – There was no public forum.

MOTION BY ARLA JOHNSON TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF APRIL 8, 2019 @ 10:26 AM. PAUL STRONG SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Transcribed by Patti McDonald
Lake Shore City Clerk