

GREENWOOD PLANNING COMMISSION
WEDNESDAY, August 15, 2012
7:00 P.M.

1. CALL TO ORDER/ROLL CALL

Chairman Lucking called the meeting to order at 7:00 p.m.

Members Present: Chairman Lucking and Commission members Bill Cook and Alternate members Lisa Christian and Kristi Conrad

Absent: Commissioners John Beal, David Paeper and Douglas Reeder

Others Present: City Attorney Mark Kelly, Council Liaison Tom Fletcher and Zoning Administrator Gus Karpas.

Due to the absence of Commissioners Beal, Paeper and Reeder, Alternates Christian and Conrad will be a voting members of the Commission at tonight's meeting.

2. APPROVE AGENDA

Commissioner Cook moved to accept the agenda for tonight's meeting. Commissioner Christian seconded the motion. Motion carried 4-0.

3. MINUTES OF June 20, 2012.

Commissioner Cook moved to approve the minutes of June 20, 2012 as amended. Commissioner Conrad seconded the motion. Motion carried 4-0.

LIAISON REPORT

Council Liaison Fletcher informed the Commission that the Council held its budget worksession and the intent is to keep the levy flat again this year. He said the Lindberg variance was initially denied by a 2-2 vote at the July meeting. He said the Council reconsidered the request at their August meeting when the full Council was present and approved the request with conditions on a 3-2 vote.

4. PUBLIC HEARINGS

Frank Precopio, 5520 Maple Heights Road, variance requests to demolish and reconfigure an existing non-conforming deck which would encroach into the minimum required north and south side yard setbacks and exceed the maximum permitted impervious surface.

The applicant also proposes to remove and reconstruct an existing non-conforming lakeside accessory structure within the required north side yard setback.

Section 1120:15 of the Zoning Ordinance requires a minimum side yard setback of fifteen feet. The applicant proposes a north side yard setback of one foot, nine inches and a south side yard setback of seven feet, ten inches for the proposed deck expansion. The proposal requires a variance of thirteen feet, three inches of the north side yard setback and seven feet, two inches of the south side yard setback.

Section 1120:15 of the Zoning Ordinance requires a minimum side yard setback of fifteen feet. The applicant proposes a north side yard setback of eight feet, five inches for the proposed accessory. The proposal requires a variance of six feet, seven inches of the north side yard setback.

Section 1140.10 of the Zoning Ordinance does not permit the placement of an accessory building between the lakeshore and the side of the principal building nearest the lake.

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Section 1176.04(3)(3) permits a maximum permitted impervious surface area of 30%. The applicant is seeking a variance to exceed the maximum permitted impervious surface area by 16%.

Section 1140:19 of the Zoning Ordinance requires the issuance of a variance for any increase in grade greater than one vertical foot within any one hundred square foot of area on the lot.

Chairman Lucking summarized the request and opened the public hearing.

Frank Precopio, discussed the proposal. He said there is an existing lift station located under the deck which is in need of replacement and he felt now was the time to replace both the deck and the lift station given the condition of the deck also. He said the proposed deck would be pulled back from the lake and would maintain the same square footage as the existing deck. He said the deck would be wood framed and covered with paver material. Mr. Precopio said the two Birch trees that are growing through the existing deck are dying and will be removed. He said the lift station would be moved farther down the property, the air conditioning unit would be moved to the side of the house and the stairs would be replaced as part of the overall project. Mr. Precopio discussed the replacement of the lakeside shed noting it was located in the center of the property and was currently in need of repair. His intent was to move it to the north and reconstruct it in a narrower configuration but not exceed the existing square footage.

Marietta Jacobsen, _____ Maple Heights Road, indicated she was in support of the request. She felt removing the deck and upgrading it, plus addressing the lift station made sense. She noted the Birch trees were planted by a previous owner and have become large and old and are a concern during storms. As for the sheds, Ms. Jacobsen noted that a number of homeowners in the area have sheds along the lakeshore for storage. She doesn't feel that impervious surface should be an issue since it virtually remains unchanged. She discussed the relocation of the air conditioning unit but felt comfortable that Mr. Precopio would screen it from her property as he has indicated to her. Her only real concern is that her Hydrangeas bushes on her property line not be torn down during construction.

Chairman Lucking noted that letters of support were submitted by Commissioners John Beal and David Paeper who also live in the neighborhood.

Chairman Lucking asked about the origin of the ordinance prohibiting the placement of accessory structures in the lake yard. City Attorney Kelly said it was adopted around the same time the Shoreland Management Ordinance was enacted in 1992 and was intended to maintain sightline, though existing lake yard structures were grandfathered.

Hearing no further public comment, the hearing was closed.

Commissioner Cook felt the request was appropriate and said typically an accessory structure can be repaired if kept in the same configuration, though he sees a benefit in moving it farther from the lake. He would be interested to know what the adjacent property owner thought about the relocation of the structure. Mr. Precopio said he discussed the proposal with the neighbor.

Chairman Lucking asked if the accessory structure was original with the property. Mr. Precopio said it was built in 1991. City Attorney Kelly said the issue is that the ordinance prohibits the placement of accessory structures between the lake and the principal structure and by State Statute you cannot grant by variance what is prohibited by ordinance. Commissioner Cook feels it becomes a gray area since there is an existing structure that is proposed to be relocated. Kelly said it could also be viewed that once the structure has been removed the original structure has been abandoned, removing any grandfathered protections it may have had.

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Commissioner Conrad clarified the Commission cannot grant a variance for the accessory structure. City Attorney Kelly discussed non-conformities and noted by ordinance they are prohibited from being expanded and the Commission needs to determine whether the proposal to relocate the structure in its current square footage meets the intent of maintaining the existing non-conformity or seeking to create a new non-conformity which is prohibited by the ordinance.

Commissioner Cook said the difficulty is that someone else with a lakeside structure could look at the action taken by the Planning Commission on this request and propose something similar creating an unintended consequence not foreseen by the Commission.

City Attorney Kelly said an option available to the Commission is to initial an ordinance amendment which would permit the relocation of lakeside accessory structures as a conditional use permit.

Commissioner Conrad asked about the proposed steps on the south side of the property, noting they encroached closer to the property line than the deck, but the variance was being sought to the deck. Zoning Coordinator Karpas said setbacks were typically measured to the structure and at-grade steps accessing a deck or the lake did not have a setback requirement, though they did count against impervious surface area.

Council Liaison Fletcher discussed the narrowness of the lot and the challenges it posed in the placement of the proposed shed.

Commissioner Conrad felt the applicant made little effort in reducing the overall impervious surface area on the property. Chairman Lucking noted there is a slight overall reduction in the impervious surface area.

Motion by Lucking to recommend the City Council approve the variance requests to encroach thirteen feet, three inches into the north side yard setback, and seven feet, two inches into the south side yard setback and to exceed the maximum permitted impervious surface area by 16% to alter the existing deck configuration but to only allow the replacement of an accessory structure between the principle structure and the lake as it currently exist in terms of location and dimensions, at 5520 Maple Heights Road. **The Planning Commission stated for the record they viewed the request for the reconstruction and relocation of the proposed accessory structure as reasonable and felt it should be approved but could not determine the appropriate ordinance provisions which granted them the authority to permit the reconstruction and relocation of a non-conforming structure.** A practical difficulty exists in that the proposal to replace a lakeside deck is reasonable, the narrowness of the lot and the placement of the home on the lot prevent the reasonable re-development of the lot within the ordinance requirements and the proposal would not alter the essential character of the neighborhood. Cook seconded the motion. Motion carried 3-1. Commissioner Conrad voted against the motion and explained her opposition. She felt the applicant could have maintained a portion of the existing deck design along the north property line without extending further into the neighboring property and keeping within or behind the existing non-conforming deck.

Justin and Jen Zygmunt, 5370 Manor Road, variance requests to expand and construct a second story over an existing non-conforming single family structure which would encroach into minimum required rear and exterior south side yard setbacks.

Section 1120:15 of the Zoning Ordinance requires a minimum rear yard setback of thirty-five feet and an exterior south side yard setback of thirty feet. The applicant proposes a rear yard setback of thirty-one feet and an exterior side yard setback of twenty-two feet for the proposed second story addition. The proposal requires a variance of four feet of the required rear yard setback and eight feet of the required exterior south side yard setback. The proposed second story addition would comply with north side yard and front yard setback.

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Section 1120:15 of the Zoning Ordinance requires a minimum exterior side yard setback of thirty feet. The applicant proposes an exterior south side yard setback of twenty for the proposed addition. The proposal requires a variance ten feet of the required exterior south side yard setback.

Chairman Lucking summarized the request and opened the public hearing.

Justin Zygmunt said the intent was to add another level and create garage. Kurt _____, the applicant's architect said ideally they would pull the driveway off of Manor Road so it could run to the front of the home, but there would be issues with impervious surface, so the plan now is to swing the driveway off of Oak Lane to the front of the home. He said they are trying to give the home some presence off of Manor Road.

The Commission clarified existing encroachments from proposed encroachments. A number of Commissioners noted they had difficulties finding the property based on its address and its actual placement.

Hearing no further public comment, the hearing was closed.

Commissioner Cook said he would like to review the specific practical difficulty findings since he was not particularly opposed to the project. He noted there were two encroachments, one vertical and one horizontal. Chairman Lucking commented that the Commission, as a body, has typically permitted vertical encroachments on existing footprints provided they comply with the volume requirements. Lucking said it's harder to with new encroachments, especially with so much buildable area on the lot. Cook said requiring the applicants to comply with the ordinance would create an "L" shaped house. He preferred the proposal over the creation of an unusual structure.

City Attorney Kelly suggested the Commission walk through the practical difficulty criteria.

Motion by Cook to recommend the City Council approve the variance requests to encroach four feet into the required rear yard setback and eight feet into the required exterior south side yard setback for the proposed second story addition and the variance request to encroach ten feet into the required exterior south side yard setback for the proposed one story addition, as presented for 5370 Manor Road. The request is reasonable in that a garage is an integral part in the use of a residential property, the placement of the existing home within the required setbacks creates a practical difficulty in that any type of reasonable expansion would require a variance, the siting of the home is confusing for visitors in that the front of the home faces Manor Road and the only other remedy would be to pull access of Manor Road which would require additional impervious surface area putting property over the maximum permitted impervious surface area, the subject property is a corner lot and has three setback requirements of at least thirty feet and the proposal would not alter the essential character of the neighborhood. Christian seconded the motion. Motion carried 4-0.

5. New Business

Discuss – Impervious Surface Requirements

Zoning Administrator Karpas stated that one of the items discussed at the joint meeting of the City Council and Planning Commission is whether the city wanted to continue letting residents use the concept of removing items such as landscape plastic as a means to decrease their overall impervious surface in order to permit a larger footprint area for structures. The Council would like the Commission to discuss the issue and provide their comments to the Council.

The Commission recalled discussing this issue at the Joint Worksession. Commissioner Cook said he finds a trade-off of something like concrete as acceptable, but is bothered when people

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try to trade landscaping type material. Chairman Lucking asked if the Commission would address this through a definition in the ordinance or by the variance procedure. City Attorney Kelly said that is up to the Commission. He said applicants could be forced to define the difference between hardcover associated with landscaping and hardcover associated with structures, and then not be allowed to have one benefit the other.

Commissioner Cook said the city could create separate categories and limit that way. Council Liaison Fletcher suggested that an ordinance amendment may not be necessary and that the city may just have a policy prohibiting such trading from occurring. Commissioner Cook feels there should be something available to provide direction to Planning Commission, Council and residents.

Zoning Coordinator Karpas discuss Woodland's ordinance which sets the maximum structure footprint at 15% of the lot area and which leaves the remaining percentage of available impervious surface for other uses. City Attorney Kelly also said the city could look at a two for one trade where it accepts two times the amount of landscaping hardcover for each amount of structure hardcover it gives. Commissioner Cook said there may be a way to look at a combo of the two.

Chairman Lucking would also look at giving some type of credit for deck since they are porous.

The Commission agreed to continue the conversation to the next meeting.

6. ADJOURN

Motion by Commissioner Cook to adjourn the meeting. Commissioner Conrad seconded the motion. The meeting was adjourned at 9:55 p.m.

Respectively Submitted
Gus Karpas - Zoning Administrator