

**GREENWOOD PLANNING COMMISSION
WEDNESDAY, OCTOBER 15, 2014
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 Pat Lucking and Commissioners Lake Bechtell, Kristi Conrad, David Paeper, Douglas Reeder and Fiona Sayer

Absent: Commissioner Rick Sundberg

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

2. MINUTES – September 17, 2014

Commissioner Bechtell moved to approve the minutes of September 17, 2014 as presented. Commissioner Paeper seconded the motion. Motion carried 3-0-2. Commissioners Conrad and Reeder abstained.

3. PUBLIC HEARINGS

Conditional Use Permit and Variances, Erotas Building Corp., 5560 Maple Heights Road – Request for a conditional use permit to construct a swimming pool and variances to encroach into the minimum required lake yard setback for the construction of the swimming pool and retaining walls, a variance to encroach into the minimum bluff setback for the proposed swimming pool and a variance to exceed the maximum permitted accessory structure height in conjunction with the creation of an accessory structure from a portion of the existing principal structure.

Section 1122:05(3)(b) requires a Conditional Use Permit to construct a swimming pool in the R-1B District.

Section 1120:15 of the Zoning Ordinance requires a minimum lake yard setback of fifty feet.

- The proposed swimming pool requires a variance of six (6) feet of the required fifty (50) foot lake yard setback.
- The proposed retaining walls require a variance of thirty-five (35) feet of the required fifty (50) foot lake yard setback.
- The proposed accessory structure requires a variance of eighteen (18) feet of the required fifty (50) foot lake yard setback.

Section 1176.04(4) requires a setback from top of bluff of 30 feet. The applicant proposes a setback of ten (10) feet for the proposed swimming pool. The proposal requires a variance of twenty (20) of the required bluff setback.

Section 1122.20(2)(b) permits a maximum accessory structure height of fifteen feet. The applicant proposes an accessory structure height of twenty-two feet and is seeking a variance to exceed the maximum permitted accessory structure height by seven feet.

The property was granted a variance to construct a swimming pool between the principal structure and the lake which, until the recent amendment of the pool ordinance, was required by the ordinance. This approval was initially issued in 2003 and was reissued in January 2014. In both instances, the pool complied with the required setback and a hardship was found in the fact there was no location, given the property was an island, that the swimming pool could be constructed within the ordinance requirements.

In 2003, the previous property owner also sought a variance to construct the accessory structure the current property owner proposes to move. At the time, it was determined that since the

**GREENWOOD PLANNING COMMISSION
WEDNESDAY, OCTOBER 15, 2014
7:00 P.M.**

accessory structure was connected to the principal structure by means of a tunnel that it was part of the principal structure and did not require a variance. Given that determination, the structure was permitted to exceed the maximum permitted height of a typical accessory structure. The proposed location of the original structure did not encroach into the required setbacks.

The proposal complies with the maximum grade alteration permitted in Section 1140.10 and the maximum permitted impervious surface area in Section 1176:04(3)(a) .

Chairman Lucking summarized the request and opened the Public Hearing. Hearing no comment, the hearing was closed.

David Erotas said the pool was moved to take it out of the bluff impact zone. He felt the pool was not located within the lake setback based on his interpretation of the intent of the lake setback which is the setback would be measure up the slope instead of linearly.

Commissioner Reeder is concerned about the placement of the accessory structure. He said he could support the placement of the pool.

Commissioner Conrad asked about the established setbacks shown on the plan. Zoning Administrator Karpas said they were established by the previous property owner's surveyor and agreed upon by the city engineer.

Commissioner Sayer expressed concern about not following the setbacks established by the city engineer. Mr. Erotas said there is no structural issue and the request is based purely on setbacks. He discussed the location of the gazebo and said its impact is lessened since it would actually have a lower profile due the grade change.

Council Liaison Cook said he could be talked into the pool and the retaining walls are fine. He said the accessory structure is something the city has been trying to avoid.

Commissioner Paeper said his opinion has remained unchanged from the previous discussions. He supports the retaining wall, but not the pool or accessory structure.

Commissioner Bechtell has no issues with the pool or retaining walls, but is not supportive of the accessory structure.

Chairman Lucking is not supportive of any of the requests.

Approval Motion: Commissioner Bechtell moved the Planning Commission recommend the city council approve the application of Erotas Building Corp. for a variance of Greenwood Ordinance Section 1120:15 to encroach thirty-five feet (35) into the required fifty foot lake yard setback for the proposed retaining walls at 5560 Maple Heights Road as presented. Commissioner Reeder seconded the motion. Motion carried 5-0

Approval Motion: Commissioner Bechtell moved the Planning Commission recommend the city council approve the application of Erotas Building Corp. for a Conditional Use Permit to construct a swimming pool in the R-1B Residential District and the application for a variances of Greenwood Ordinance Section 1120:15 to encroach six (6) feet into the required fifty (50) foot lake yard setback for the proposed swimming pool and of Greenwood Ordinance Section 1176.04(4) to encroach twenty (20) feet into the required thirty (30) foot bluff setback for the proposed swimming pool feet at 5560 Maple Heights Road as presented. Commissioner Reeder seconded the motion. Motion carried 3-2. Commissioners Lucking and Paeper voted nay.

Denial Motion: Commissioner Bechtell moved the Planning Commission recommend the city council deny the application of Erotas Building Corp. for a variances of Greenwood Ordinance Section 1120:15 to encroach eighteen (18) feet into the required fifty foot lake yard setback for

**GREENWOOD PLANNING COMMISSION
WEDNESDAY, OCTOBER 15, 2014
7:00 P.M.**

the proposed accessory structure and of Greenwood Ordinance Section 1122:20(2)(b) to exceed the maximum permit accessory structure height by seven (7) feet at 5560 Maple Heights Road as presented. Commissioner Paeper seconded the motion. Motion carried 5-0

Simple Subdivision and Variance requests, Lecy Bros. Homes and Remodeling, 4965 Sleepy Hollow Road – Request to subdivide a non-conforming portion of lot area from 4945 Sleepy Hollow Road and maintain it as a single lot of record for driveway purposes.

Lecy Bros. Homes has purchased 4965 Sleepy Hollow Road and will be constructing a new single family home on the property. Currently the property is accessed from a driveway that crosses property owned by Ken Parsons at 4945 Sleepy Hollow Road. The Parsons granted the previous owner of the Lecy property a quit claim deed for the property proposed to be divided for driveway access. This agreement is still in effect.

The applicant is seeking to subdivide four hundred and six (406) square feet from the southern tip of 4945 Sleepy Hollow Road to maintain a driveway access for their lot. Maintaining this as a separate lot would remove the need for an easement agreement between the two properties.

An undeveloped city right of way separates the severed property and the applicant's lot. Staff spoke with Hennepin County about the possibility of combining the severed portion of property to the Lecy property under one PID. They said that is very rare since they are not contiguous.

The proposed area to be removed from 4945 Sleepy Hollow would not impact the properties ability to comply with the zoning requirements.

Section 600.07 of the ordinance permits the subdivision of a lot into two buildable lots; or smaller pieces for the purposes of accretion into neighboring parcels, provided the severed portion does not make the balance of the remaining lot a non-conforming lot.

Section 1120:10 of the Zoning Ordinance requires a minimum lot area requirement of fifteen thousand (15,000) square feet. The applicants propose a lot area for the severed portion of property of four hundred and eight (408) square feet. The proposal requires a variance of fourteen thousand, five hundred and ninety two (14,592) square feet of the minimum required lot area.

Chairman Lucking summarized the request and opened the Public Hearing. Hearing no comment, the hearing was closed.

The applicant was not present to discuss the request.

City Attorney Kelly discussed the easement history between the two properties and said the Quit Claim Deed between the two properties grants perpetual access to the Lecy property across the Parsons property. He disclosed he represented the seller of the property obtained by Lecy Brothers. Zoning Administrator Karpas said the subdivision seeks to subdivide the exact portion in the deed. He said Hennepin County said it would be difficult to combine that sliver of property with the Lecy lot giving the undeveloped right-of-way that separates them and the fact there is also a deed that grants them access, so there really isn't a need to combine them.

City Attorney Kelly said the simple subdivision ordinance requires that non-conforming parcels be combined with other parcels, unless the property is platted. He said the ordinance does not permit the city to grant by variance that which is not permitted by code.

Commissioner Reeder does not understand why access cannot be achieved by the easement granted by the deed. Council Liaison Cook confirmed the easement was permanent and recorded. City Attorney Kelly said it was.

**GREENWOOD PLANNING COMMISSION
WEDNESDAY, OCTOBER 15, 2014
7:00 P.M.**

Denial Motion: Commissioner moved the Planning Commission recommend the city council deny the application of Lecy Bros. Homes for a Simple Subdivision to subdivide four hundred and six (406) square feet of lot area from 4945 Sleepy Hollow Road and attached it to 4965 Sleepy Hollow Road and deny the application for a variance of Greenwood Ordinance Section 1120:10 to create a lot fourteen thousand, five hundred and ninety two (14,592) square feet below the minimum required lot area of fifteen thousand (15,000) square feet in the R-1A zoning district as presented. The property has a permanent easement that runs in its favor that provided access and the request cannot be granted a variance since it violated the elements for a simple subdivision. Commissioner Paeper seconded the motion. Motion carried 5-0.

Variance request, Mike and Deb Anderson, 5105 Weeks Road – Request to exceed the maximum permitted grade alteration to construct an addition and new driveway access.

Section 1140:19(5) states “The existing grade of a lot shall not be altered by the addition or removal of fill or by grading so as to increase or decrease the average elevation of the land by more than 1 foot in any area greater than 100 square feet without the approval of the City Engineer. Any elevation increase or decrease of more than 2 feet in any area greater than 300 square feet requires a variance. The measurements shall be calculated by averaging the lowest point of elevation and highest point of elevation in the square foot area on the existing survey compared to the proposed survey.”

The applicant proposes to alter the grade by six feet and seeks a variance to exceed the maximum permitted grade alteration by four feet.

The applicants purchased the properties located at 5110 St. Alban’s Bay Road, 5114 St. Alban’s Bay Road and 5105 Weeks Road and have combined them under one P.I.D. The homes that existed on 5110 St. Alban’s Bay Road and 5105 Weeks Road have been, or will be, removed and an addition is proposed for the home remaining on the property.

The proposed addition complies with the required front, side and lake yard setback requirements outlined in Section 1120.15, the height limitations outlined in Section 1120.20 and the maximum permitted structure volume permitted in Section 1140.18(3)(3).

The combined property has retained the Weeks Road address.

Chairman Lucking summarized the request. Lucking noted the intent of the ordinance was to prevent an applicant from building up a lot and placing a house on top of an elevated grade. He said the applicants have combined three lots and are seeking to create a safe driveway access.

Commissioner Bechtell didn’t see an issue with the request

Commissioner Paeper agreed the ordinance was written to prevent massing and didn’t feel this request was intended to increase massing.

Commissioner Reeder asked about the grading currently occurring on the property. Rick Storlien, RDS Architecture, said the earthwork is in conjunction with removal the two structures on the lot. He said no plans have been discussed regarding tree removal at this point until the grading issues have been worked out. Reeder discussed concerns about access off Weeks Road and drainage.

Chairman Lucking opened the Public Hearing.

Susan Teeter, 5110 Weeks Road, expressed concerns about a change in the drainage pattern and wants to make sure there will be no negative impact on Weeks Road.

**GREENWOOD PLANNING COMMISSION
WEDNESDAY, OCTOBER 15, 2014
7:00 P.M.**

John Rudberg, 5120 Weeks Road, said there are steps that could be taken to help control drainage, including filtration ponds.

Karen Packard, 5125 Weeks Road, said they have had run-off issues for a number of years, but have been assured there will be steps taken with this project that will alleviate those issues. Ms. Packard discussed the solutions she discussed with the contractor.

Chairman Lucking read a letter into the record from Keith Wilcock, 5145 Weeks Road, expressing his concern about drainage impacts.

Zoning Administrator Karpas said the city engineer will have to approve any drainage plan prior to the issuance of the building permit and after the final grading. If the plan does not work, the homeowners will have to make changes to ensure run-off is not impacting the adjacent properties.

Hearing no further comment, the hearing was closed.

Approval Motion: Commissioner Conrad moved the Planning Commission recommends the city council approved the application of Mike and Deb Anderson for a variance of Greenwood Ordinance Section 1140:19(5) to exceed the maximum permitted grade alteration of two (2) feet by four (4) feet for a total alteration of six (6) feet the construction of a driveway off Weeks Road to access a new garage addition at 5105 Weeks Road as presented. Commissioner Paeper seconded the motion. Motion carried 5-0

Conditional Use and Variance requests, Excelsior Entertainment, LLC, - Old Log Theater, 5185 Meadville Street – Request to replace the existing business identification sign and the placement of three additional business identification signs, one which would encroach seventeen feet into the minimum required thirty foot front yard setback.

The sign ordinance does not regulate the number of signs that can be placed on a property, rather it limits the amount of square footage permitted be property.

The proposed monument signs on the east side of the entry drive and along Minnetonka Boulevard are located within the HCCRA right-of-way and must receive their approval prior to installation, though the city still has regulatory control over the square footage, illumination and design of the proposed signage.

Section 1140.40(3)(1) of the Zoning Ordinance requires a Conditional Use Permit to construct signage .

Section 1140.40(3)(i) requires that free-standing signs comply with the setback requirements. Section 1120:15 of the Zoning Ordinance requires a minimum front yard setback of thirty feet. The applicants propose a front yard setback of thirteen feet for one of the proposed monument signs. The proposal requires a variance of seventeen feet of the required front yard setback.

Chairman Lucking summarized the request and opened the Public Hearing.

Bob Newman, 5230 Meadville Street, discussed the mission statement in the Comprehensive Plan and felt the placement of additional commercial signage within a residential district was contrary to the intent of the plan. He supports the Old Log, but does not support the changes if they don't fit in the neighborhood.

He feels the application does not comply with the Comprehensive Plan or zoning ordinance. He said the request does not meet the practical difficulty standard since there is a reasonable use without the additional signage, a simple inconvenience of the property owner does not constitute a practical difficulty, the proposed signage alters the essential character of the residential

GREENWOOD PLANNING COMMISSION
WEDNESDAY, OCTOBER 15, 2014
7:00 P.M.

neighborhood, the signage proposed along Minnetonka Boulevard poses a potential safety hazard and there could be an impact on property values.

Mr. Newman read a letter from Jan Gray, 5170 Meadville Street, who was unable to attend the meeting. She felt the request disrespectful of the neighborhood and didn't see a need to allow additional signage to impinge on the neighborhood.

Maureen Burns, 5080 Meadville Street, read a letter into the record opposed to the proposed monument signs.

Judy Spiegel, 5090 Meadville Street, stated she would like to see the Old Log Theater be held to the existing regulations.

Mark Setterholm, 5250 Meadville Street, feels signs are important for a business regardless of what type they are.

Julie Ekelund, 5135 Meadville Street, discussed the sign ordinance and feels the request goes beyond what is permitted or needed. She believes the proposed signage will have a negative impact on the neighborhood.

Valerie Stuessi, 5000 Meadville, feels all the proposed improvements are positive. She doesn't know if the monument signs need to be as large as proposed. She's heard that neighbors are willing to accept the existing sign, but she doesn't feel that's being flexible enough. She believes there has to be a happy medium.

Hearing no further public comment, the hearing was closed.

City Attorney Mark Kelly discussed conditional uses and how conditional use permits work. He said any expansion of a conditional use requires approval from the city.

Zoning Administrator Karpas said prior to recent ordinance amendments, the Old Log Theater's sign was a non-conforming use that was not allowed to be repaired or replaced. Under the new changes, the property falls under the regular sign regulations which permit a maximum of seventy-five square feet of signage for the property. The applicant seeks to break that signage up between monument signs and signage on the structure itself. Two of the monument signs would be placed in the right-of-way of the trail and is out of the city's jurisdiction and would be permitted provided the applicant receives approval from the Three Rivers Park District.

City Attorney Kelly said one of the considerations the Park District will give the request is whether there is a public interest in the placement of the signs on their property. He said the other signs are under the city's review process and permitted by a conditional use permit. He said the burden falls on the city to say there are no ways the signage can be placed that can be rectified by conditions in which there would be no life safety concerns. He said the city can include issues such as aesthetics in the establishments of its conditions.

Karpas said the proposed monument sign on the applicant's property would not comply with the required front yard setback and would need a variance to encroach into the front yard setback.

Zoning Administrator Karpas expressed concern about taking action on the off-site monument sign without first hearing the opinion of the Three Rivers Park District. If they don't approve the sign, the applicant would have to come back to obtain additional sign area to advertise the restaurant. Council Liaison Cook agreed, but surmised they wouldn't act on a request until they know what the city does on the application.

Chairman Lucking said he has a concern with the scale of the monument signs.

GREENWOOD PLANNING COMMISSION
WEDNESDAY, OCTOBER 15, 2014
7:00 P.M.

Commissioner Reeder doesn't believe the city should allow an off-site sign. City Attorney Kelly said there are other examples where off-site signs have been allowed because there was a public interest in directing traffic to a destination, but in this case, that public interest is not up to the city.

Commissioner Paeper does not support a sign along Minnetonka Boulevard but supports monument signs on both sides of the entryway.

Commissioner Conrad doesn't feel the monument signs need to be so large, noting they could be just as effective if they were the same size as the one shown on Minnetonka Boulevard. She feels the mass of the monument signs on Meadville Street create a safety issue. Chairman Lucking asked if the Commission was allowed to address the size of the monuments. City Attorney Kelly said it could as part of its conditions.

Commissioner Paeper said the application gives very little in the way of concrete information and seems to be more conceptual.

Commissioner Conrad expressed concern about signage at the intersection of Meadville Street and Minnetonka Boulevard could cause issues given its sightlines and heavy use. She feels the signage on the building would be more effective along the trail since most people would know they're at the theater by the monument signs at the entryway.

Council Liaison Cook said the Commission has indicated public safety concerns about the size of the sign along Minnetonka Boulevard, but he's concerned about the Commission trying to judge what the appropriate size should be.

City Attorney Kelly said the applicant should also address the traffic management scheme.

Commissioner Reeder sees no reason to oppose a sign to replace the existing sign, but doesn't see a need for a sign on the other side. He feels the Commission should take a position against signs on Minnetonka Boulevard. He also wouldn't support a sign on the building since people would already know they are at the Old Log Theater.

Commissioner Conrad likes the design of the Minnetonka Boulevard sign, likes the pillar signs on both sides of the entryway and supports the wall sign provided it is along the trail side of the building.

Commissioner Sayer doesn't have any concerns with the sign on Minnetonka Boulevard if it doesn't pose a public safety issue. She doesn't feel the sign on the building is an issue.

Council Liaison Cook said the west sign size/location is grandfathered. He would be supportive of the building sign.

Commissioner Paeper would support the sign along Minnetonka Boulevard if there is no proven safety hazard. He is fine with the building sign provided the applicant provides lighting information. He is also supportive of the monument signs.

Commissioner Bechtell feels the sign on Minnetonka Boulevard is needed, he is in favor of the sign on the building, but feels two pillar signs are redundant. He feels the replacement of the existing free standing sign is adequate.

Chairman Lucking agrees with Commissioner Paeper. He likes the monument signs if the lighting is right, same with the sign on the building. He is in favor of the variance to encroach into the front yard setback with the monument sign.

Approval Motion: Chairman Lucking moved the Planning Commission recommends the city council approve a Conditional Use Permit to replace the existing signage in its same scale and

GREENWOOD PLANNING COMMISSION
WEDNESDAY, OCTOBER 15, 2014
7:00 P.M.

mass and to approve the application for a variance of Greenwood Ordinance Sections 1140.40(3)(i) and 1120:15 to encroach thirteen feet into the required thirty foot front yard setback the proposed sign on the west side of the front entry drive at 5185 Meadville Street. The motion is conditioned that the applicant provides additional information on the source of lighting to be used to illuminate the sign. Commissioner Paeper seconded the motion. The motion carried 5-0.

Approval Motion: Commissioner Paeper moved the Planning Commission recommends the city council approve a Conditional Use Permit to place forty-three square feet of signage on the face of the building at 5185 Meadville Street, as presented. The motion is conditioned that the applicant provides additional information on the source of lighting to be used to illuminate the sign. Commissioner Bechtell seconded the motion. The motion carried 3-2. Commissioners Conrad and Reeder were opposed to the motion.

Commissioner Conrad felt the signage should be placed on the face of the building facing the trail.

4. LIAISON REPORT

Council Liaison Cook had no report.

5. ADJOURN

Motion by Commissioner Paeper to adjourn the meeting. Commissioner Bechtell seconded the motion. The meeting was adjourned at 9:20 pm.

Respectively Submitted,
Gus Karpas - Zoning Administrator