

**Greenwood City Council
Special Meeting Minutes**

6:00 pm, Wednesday, October 22, 2014
Deephaven City Hall ~ 20225 Cottagewood Avenue ~ Deephaven, MN 55331

1. Call to Order/Roll Call/Approval Agenda

Mayor Kind called the meeting to order at 6:00 pm.

Council members present: Cook, Fletcher, Quam and Roy
Others present: City Attorney Mark Kelly and City Clerk Karpas

Quam moved to approve the agenda. Second by Cook. Motion carried 5-0.

2. Consider: Conditional Use Permit and Variance Requests, Erotas Building Corp., 5560 Maple Heights Road

Zoning Administrator Karpas said the requests were 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 practical difficulty 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 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) .

Karpas said the request also contains a parking structure that was overlooked that encroaches into the lake yard setback, but encroaches less than the proposed retaining walls.

Councilmember Quam asked for clarification on the driveway layout. David Erotas, Erotas Building Corp., side the driveway previously drove straight ahead into a tunnel. It would now split into two with the north portion looping up to a parking area near the front entrance and the south loop entering the underground garage area.

Mayor Kind asked why the driveway was changed. Mr. Erotas said the change was to get rid of the tunnel look. By entering the garage on the side there is an opportunity to screen the entrance from adjoining properties. He said another consideration was security. Kam Talebi said the proposal also enhances aesthetics.

Mr. Erotas discussed the concept plan showing the garage area including the retaining walls and discussed the reasoning behind the placement of the walls in the locations as proposed. He said the entrance into the garage on the south side was chosen to keep the height of the retaining walls low.

Mr. Talebi said the two major variances in his mind were for the location of the pool and the relocation of the accessory structure. He said the pool has been relocated twice since they initially approached the Planning Commission. Councilmember Quam noted the current location of the pool displaces the accessory structure. Mr. Talebi noted the relocation drops the structure nine feet lower in elevation and moves it to a location where it will be screened more by trees.

Councilmember Cook asked about the garage and if the council could act on the request since it wasn't included on the application. City Attorney Kelly said though it wasn't included, it was at the council's discretion whether they want to take action on it. He said the applicant was not informed within the statutory time limit that their application was not complete and therefore cannot be held accountable for it not being brought to their attention.

Councilmember Cook feels the council is under an obligation to act on all variance requests submitted that have a valid application and nothing more. He said the garage will have to be discussed separately.

Councilmember Quam asked if the plan has always included the garage. City Attorney Kelly it was always on the plan and may have been implied that it needed a variance. Mr. Erotas said the thought all along was the garage structure was part of the retaining wall system. He thought the Planning Commission understood that. He said the area below the parking is hollow with no usable space.

Mayor Kind asked if any members of the public had any comments on the request.

Steve Janousek, 21210 Excelsior Boulevard, asked how much higher the parking area would be than the existing tunnel. Mr. Erotas said it would be at the same level as the top edge of the existing tunnel. Mr. Janousek asked what the width of the new parking area would be in comparison of the existing. Mr. Erotas said it would be forty foot in width, centered on the existing tunnel entrance. Mr. Janousek expressed concern about seeing a driveway close to the property line and a bunch of vehicles parked in the parking area. Mr. Erotas said the driveway would be quite a distance from the property line and they have the ability to screen it from view. Mr. Talebi said the parking area is intended to be a direct access to the house for family and friends.

Cheryl Janousek, 21210 Excelsior Boulevard, asked about the intended landscaping material for screening. Mr. Erotas said they would use evergreens and spruce species for year-round screening.

Greg Sweet, 21170 Excelsior Boulevard, asked about the height of the retaining walls. Mr. Erotas said the retaining walls would be stepped into tiers and concealed by landscaping.

Hearing no further comments from the public, the council discussed the pool request.

Motion by Roy, second by Quam adopting resolution ___-14 to approve the conditional use permit and variance requests for the placement of the swimming pool in the location presented by the applicant.

Councilmember Cook noted the applicant has worked with the Planning Commission in reducing the degree of variances necessary for the placement of the pool.

Councilmember Fletcher noted he disagreed with some language contained in the proposed resolution as to the limitations on the placement of the pool and asked that it be changed, since there are locations on the property which do not require a variance. Mayor Kind noted other minor changes in the resolution.

Councilmembers Roy and Quam accepted the amendments. **Motion carried 5-0.**

Councilmember Cook discussed the retaining walls and the garage structure, stating he felt the garage structure was part of the plan reviewed by the Planning Commission. He has no concerns about acting on the garage as part of the retaining wall request.

Motion by Cook, second by Kind to adopt resolution __-14 approving the variance request as proposed for the new driveway configuration and parking area as presented.

Councilmember Fletcher didn't understand why this portion of the request couldn't be tabled until the November 5th meeting to allow appropriate plans to be submitted for review, especially since they are referenced in the findings of fact. He feels the plans should have been submitted prior to their presentation to the Council. Councilmember Cook understands the concern, but feels these are more closely related to the issuance of a building permit and should be addressed at that time. He's ok with placing a condition on the approval, but requiring an accelerated approval on those segments of a plan before they may even be finalized is unreasonable.

Councilmember Fletcher would like the motion to include that final landscaping and lighting plans be submitted to the city for review.

Kam Talebi said their intent is to make sure everything is done the right way and they have no issue with providing whatever plans necessary.

Councilmember Fletcher asked the reference to a circular drive be removed from the resolution. Mayor Kind suggested minor edits to the resolution.

Councilmember Cook and Mayor Kind accepted the amendments. **Motion passed 5-0.**

Mayor Kind discussed the proposed requests for the relocation of the accessory structure. She feels moving the structure to a lower elevation amongst the trees would be more pleasing visually when viewed from the lake and neighboring properties.

Councilmember Quam said the rationale behind the height requirement is to keep the structure low and the proposed location will place the structure in a less noticeable spot.

Councilmember Cook has an issue with the proposal. He said the structure was originally approved because it was attached to the principal structure. And since it was attached, it was allowed to exceed the height requirement. He feels the city regulates based on a limited number of important issues and if it chips away on these it will slowly lose its authority to hold firm on the important issues.

Mayor Kind feels the island creates a unique situation. Councilmember Roy agrees and would rather see the structure moved since it would be a lot less obtrusive.

Councilmember Fletcher agrees with Councilmember Cook. He said the choice was made by the previous owner to exceed the requirements and steps were taken to circumvent the ordinance and now the city is being asked for variances.

Motion by Kind, second by Quam to adopt resolution __-14 approving the variance requests to relocate the accessory structure into the required lake yard setback and to exceed the maximum permitted accessory structure height as presented.

Mayor Kind would like the resolution to note the structure exists and is not being newly constructed, as well as the elevation of the structure is being reduced, thus lowering its perceived height.

Motion passed 3-2. Councilmembers Cook and Fletcher voted nay.

3. Consider: Revised Excelsior Fire District 2015 Capital Improvement Plan Budge and Operating Budget

Motion by Fletcher, second by Quam to approve the revised Excelsior Fire District 2015 Capital Improvement Plan Budget and Operating Budget. Motion passed 5-0.

4. Adjournment

Fletcher moved to adjourn. Second by Cook. Motion passed. 5-0. Meeting adjourned at 7:06 pm.

Respectfully submitted
Gus Karpas
City Clerk