

GREENWOOD PLANNING COMMISSION
WEDNESDAY, OCTOBER 15, 2008
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 Tom Fletcher, David Paeper, H. Kelsey Page, Todd Palmberg and Mark Spiers

Absent: Commissioner John Beal

Others Present: Council Liaison Jeff Sagal, City Attorney Mark Kelly and Zoning Coordinator Gus Karpas.

2. APPROVE AGENDA

Commissioner Spiers moved to accept the agenda for tonight's meeting. Commissioner Paeper seconded the motion. Motion carried 5-0.

3. MINUTES OF September 17th.

Commissioner Paeper moved to approve the minutes of September 17th. Commissioner Spiers seconded the motion. Motion carried 5-0.

4. LIAISON REPORT

Council Liaison Sagal said the Council reviewed the Schmitt request and expressed concerns about the overall amount of impervious surface proposed, the lack of greenspace and the impact the project would have on drainage. He said Mr. Schmitt granted the Council a ninety day extension to act on his request to give him an opportunity to provide the information sought by the Council. Commissioner Paeper asked if the Council agreed with the premise of the Commission's approval. Sagal said they did, but felt without a drainage plan they could not make an informed decision. Sagal said the Council also questioned the hardship for the proposed hardcover since the applicant made no secret of the fact that he was maximizing the use of the property.

Sagal said the Council also discussed the proposed signage at the Boathouse restaurant. After considering the input from neighbors, they voted to deny the request for a sign on the mansard roof of the structure. Commissioner Spiers asked about the Planning Commission's recommendation that the sign be placed on the wall of the building. Sagal said the request was for the sign on the roof, which the Council acted on. Zoning Coordinator Karpas said the Council could consider the recommendation of the Commission, but has the authority to act on the official application. Sagal noted that the applicant didn't show up at the meeting to present his case.

5. PUBLIC HEARINGS

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To consider the request from Ron Wheeler, 5535 Maple Heights Road, (R-1A, 15,000) for variances to encroach into the required north side yard setback and into the required front yard setback for the relocation of an existing non-conforming home and placing a new foundation under it.

The proposal is to encroach eleven feet into the required fifteen foot north side yard setback and to encroach eight feet into the required thirty foot front yard setback.

Chairman Lucking summarized the request and opened the public hearing.

Zoning Coordinator Karpas said the request was to move an existing home that currently encroaches onto the adjacent property approximately eight feet to the south twelve feet so it is located entirely on the applicant's property. In addition the applicant proposes to construct a full foundation under the structure to facilitate the creation of a tuck under garage and to construct a sixty-four square foot addition to the home.

The proposal will create a north side yard setback of four feet, requiring a variance of eleven feet, while the existing non-conforming front yard setback would remain the same requiring a variance of eight feet. The applicant indicates that they comply with the maximum impervious surface standards.

Steven Hansen, Hansen Home Tech, presented the request. He said the intent is to center the house between the two homes on either side of it. He said the home could be moved more to the south, but it would require the removal of two Maple trees. The owner would like to make the structure a year around residence.

The Planning Commission discussed the issues related to hardcover and how to calculate it when a road encroaches onto private property. City Attorney Kelly said essentially the property ends at the bituminous edge of the road so both the road and the associated lot area it covers would be removed from consideration.

The Planning Commission discussed the front yard setback. Commissioner Spiers noted that if the same standard was applied to the front yard setback as was to the impervious surface, the proposed structure would encroach further into the required front yard setback. City Attorney Kelly agreed stating that the setback would be measured to the edge of the road.

Commissioner Page asked the applicant to explain the proposed addition. Mr. Hansen said it would allow access to the lower level created by the new foundation. He said there is not enough room in the existing floor plan to add a stairway within the existing structure.

Chairman Lucking asked if it wouldn't be cheaper to tear down the home and construct a new one. Mr. Hansen said it would, but the applicant would like to save it since it was constructed by his grandfather.

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Commissioner Page asked about the proposed driveway and whether it required a variance from the paved requirement contained in the ordinance. Mr. Hansen said the survey is in error, the proposal is to have an asphalt driveway.

Hearing no further public comment, the public hearing was closed.

Commissioners Palmberg, Spiers and Fletcher indicated they had no issues with the request as presented, though Fletcher would like to hear Commission Paeper's thoughts since he lives across the street from the proposed structure.

Commissioner Page said he appreciates the action taken by the applicant to simplify the request by moving the structure entirely onto Lot 18, but notes this is done more out of necessity because the applicant can't get clear Title to Lot 19. He feels the home could be moved more to the south, noting the two Maple trees aren't considered significant under the ordinance. Commissioner Paeper said he believed the trees were larger than the six inch caliper shown on the survey. He said this should be verified.

Chairman Lucking said the trees could be lost regardless if too much ground is disturbed around them. Page notes the trees could be removed because they aren't considered significant. Paeper corrected his previous comment, noting the trees he was thinking of may be the larger Basswoods located closer to Crestside. Page said he has an issue with the structure being moved while still acting as though Lot 19 is part of the lot and centering it accordingly.

Page said regardless, he believes a hardship could be demonstrated in that the lot is substandard in size, that it cannot be put to a reasonable use within the constraints of the official Zoning controls, the plight of the homeowner is not caused by the homeowner, that the topography of the lot limits the ability to place the home on the lot and the home would not alter the essential character of the neighborhood noting that it is situated similarly on the lot as the adjacent structures.

Commissioner Paeper noted that the structure could comply with the setback, but it would place the home under the canopies of the larger trees on the lot. He said as the most impacted neighbor, he supports the proposed placement of the home and said it would be a huge improvement and the proposal fixes a blighted property.

Action:

Motion by Commissioner Spiers to recommend that the City Council approve the variance request to relocate an existing non-conforming structure and to construct a sixty-four square foot addition and new permanent foundation onto it, which would encroach eight feet into the required thirty foot front yard setback and encroach eleven feet into the required fifteen foot north side yard setback, as presented at 5535 Maple Heights Road. The applicant has demonstrated a hardship in the size of the lot and the topography of the lot which prohibit the placement of the home on the lot in compliance with the ordinance requirements. The motion is conditioned that the driveway be paved and that Staff amends the staff report to

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reflect the impervious surface and setbacks without taking into account the road crossing the property. Commissioner Paeper seconded the motion for discussion.

Council Liaison Sagal questioned the road situation and asked why it would be included in the impervious surface, when it has in the past. City Attorney Kelly said the road cannot be moved by the owner of the lot and by essentially removing it from the lot eliminates any argument on ownership. He also said the setback would be shown from the edge of the road.

Sagal noted historically it hasn't been done that way and listed a number of examples. He said it is one thing to give credit for the hardcover, it another to remove lot area from a legally platted lot.

Commissioner Page noted that the motion should be amended that this issue be resolved. Commission Spiers accepted the amendment, Commissioner Paeper seconded.

The Commission discussed the proposed grading within the City owned right-of-way and whether it should be included in the motion. Commissioner Paeper asked the applicant about the necessity for the grading. Mr. Hansen said they could try to push the contour in but it would increase the percentage of grade on the driveway. City Attorney Kelly noted the 10% grade shown on the survey typically is the most you would want to go.

Commissioner Spiers amended his motion to include a condition that the City Engineer reviews and approves the proposed grading. Commissioner Paeper seconded the amendment.

Commissioner Paeper commented that drainage on the site should be directed to the low area on the southeast corner of the lot. Commissioner Spiers accepted that as an amendment to his motion.

Chairman Lucking called the question of the motion to recommend approval with the additional conditions included during the discussion. The motion carried 5-0.

6. OTHER BUSINESS

ORDINANCE AMENDMENT – Discuss the potential amendment of Section 1140:80; Tree Preservation.

Zoning Coordinator Karpas said that no additional work had been done on the ordinance since the previous meeting, though it is his understanding that the Commission could take action on the original request to waive the fee associated with a Condition Use request to remove significant trees within the required lake yard setback.

There was no action taken on this request.

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ZONING ENFORCEMENT OFFICER – Discuss concept of hiring a Zoning Enforcement Officer who would address violations within the city.

City Attorney Kelly discussed the concept of hiring a part time Zoning Enforcement Officer who would carry out the enforcement activities of the Zoning Ordinance. He said he would like to do this in conjunction with other cities to help off-set the cost. He said would also allow the City to establish a City Court which could more efficiently and effectively handle violations in a timely manner. Commissioner Page added that by having a City Court, you would remove the criminality of zoning violations.

The Commission was supportive of the concept and encouraged the City Attorney to continue pursuing it.

ZONING HANDOUT – Discuss handout created by Commissioner Fletcher for distribution to the public.

The Commissioners discussed the proposed handout, indicating they would like another opportunity to review it before making a motion to the Council that the handout becomes part of the information officially handed out to residents. They asked that it be placed on the November agenda for discussion.

7. PLANNING COMMISSION LIAISON

Commissioner Paeper will serve as the Planning Commission Liaison at the November 6th City Council meeting.

8. ADJOURN

Motion by Commissioner Page to adjourn the meeting. Commissioner Paeper seconded the motion. The meeting was adjourned at 8:20 p.m.

Respectively Submitted
Gus Karpas - Zoning Coordinator