

**City of Lake Elmo  
Planning Commission Meeting  
Minutes of March 9, 2009**

Chairman Van Zandt called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m. COMMISSIONERS PRESENT: Anderson, Bidon, Britz, Fliflet, Hall, Pearson, Ptacek, Van Erem, Van Zandt, Ziertman. Absent: McGinnis. STAFF PRESENT: Planning Director Klatt, Planner Matzek, and Consulting Senior Planner Gozola.

**Agenda**

M/S/P, Ptacek/Hall, to approve the agenda as presented. Vote: 9:0.

**Minutes** - None.

**Public Hearing** – *Variance; 2931 Jonquil Trail North*

Planner Matzek summarized the requested variance to allow the construction of an in-ground pool, spa, pergola, and fireplace within the 100 foot buffer setback required from the edge of Open Space Preservation developments.

Commissioner Fliflet asked when the house and pool was built on the property to the east of the applicant's property.

Planner Matzek said that the home was permitted in November of 2005 and the pool was permitted in March of 2006.

Commissioner Pearson chose to recues himself as he is in the pool business.

Commissioner Anderson asked how far the trail in the Lake Elmo Regional Park Reserve was from the boundary of the park.

Planner Matzek stated that she did not have that distance, but it was near the edge of the park and the development boundary. The Washington County Park's Department had a concern about screening the trail from the proposed structures.

*Dave Sonka, Applicant's Landscape Designer*

Mr. Sonka outlined the process by which he met the applicants, developed their plans, and his communication with city staff. He identified that the Huges' bought the existing home in the winter of 2007 with the intention of building a pool as their children are in competitive swimming. Although he initiated contact with city staff in December, he did not know about the 100 foot setback until January 6<sup>th</sup> after he had many hours into designing the project. The grade rises four to six feet from the backyard of the property to the boundary of the Lake Elmo Regional Park Reserve.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 7:34 P.M.

*Mrs. Silvia Hucec, applicant*

Mrs. Hucec stated that she had moved here with her husband from Europe to live their American dream and is asking them to be able to build the pool to fulfill that dream.

Commissioner Fliflet asked if they built the house or if it was already built when they bought it.

Mrs. Hucec said that house was already built. She said if they had built the home, they would have built it closer to the road to have additional area in the back yard. They didn't think it was a possibility that they would not be able to build a pool.

Commissioner Hall said it seems that there are overlapping requirements. When there is already a buffered area, it seems excessive to also require this setback.

Commissioner Ziertman said the original buffer setback was 200 feet and was reduced to 100 feet. She asked how this could be communicated to people interested in property.

Planning Director Klatt stated that we as staff are going to ask developers to show this setback line in the future. It is difficult going backward and applying this code.

*Rachel Meyers, attorney for applicant*

Ms. Meyers went through the three variance criteria discussed in the staff report. As has been discussed, the applicant's home has a staggered edge to which they must apply the six foot setback making it difficult to find space in that area for a pool. She asked that the commission allow the applicant's to use and enjoy their property. Although there are other similar situations, many of the lots are not developed at this point so they are not experiencing the hardship yet. She believes everyone agrees that the conditions existed before they bought the home.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:48 P.M.

Commissioner Britz asked if the pool could be placed on the east side of the property.

Mrs. Hucec said that there are no windows to the side from which the children can be supervised. The area is also dark and shadowed and more visible from the street which would create more disturbance.

Mr. Sonka said that all utilities for the house go through that area. The grading would be a challenge as it is a walk-out and the setbacks off the side lot line and screen porch creates limited space.

Commissioner Ptacek stated that when this development was reviewed, it was believed that the 200 foot setback was too much to require. He said that although other homes were built in the setback, multiple "wrongs" do not make a "right."

Chairman Van Zandt said that since both neighbors had a pool when the applicants moved in, there was no reason for them to believe a pool could not be built on that property as well.

Commissioner Fliflet said the hardship is that the applicants were not aware of the requirement, the city had previously permitted homes within the same setback, and they bought the home in its existing location on the property. She does not think there is a reasonable reason for the pergola and fireplace to be located within the setback.

M/S/P, Fliflet/Hall, move to recommend approval of the variance with conditions outlined in the staff report with the added condition that the pergola and the fireplace be placed to the side or outside the setback so as not to further encroach on the setback. Vote: 5:3:1 (Against: Bidon, Van Erem, and Ziertman; Abstention: Hall).

### **Public Hearing - Sign Ordinance**

Consulting Senior Planner Gozola gave an overview of the outreach process used, the proposed language, overarching challenges, feedback to date, and the draft ordinance.

Commissioner Fliflet asked why both sides of a sign would be counted towards the total allotment.

Consultant Gozola stated that counting both sides of a sign is consistent with the existing code. He said the two sides advertise to two different directions.

Commissioner Fliflet asked that additional clarification be added to page thirteen regarding illumination as the intent may not be clear.

Commissioner Ziertman said page twelve mentions “sufficiently permanent material” and asked if this applied to temporary signs.

Consultant Gozola said this was existing language, but would say all signs including temporary signs would be included.

Commissioner Ziertman said that the requirement on page twelve regarding the posting of home addresses on the principle buildings does not make sense in some instances, such as when a home is far from the roadway. In such a case the fire department post would suffice. She said that banners, pennants, and streamers should be allowed as temporary signage. She then asked why on page twenty-five, the front lot line in the business district is one foot and it is five feet in all other districts.

Consultant Gozola found the setbacks in the chart to be existing requirements.

Chairman Van Zandt asked that the amount of window allowed to be covered by a sign be clarified.

Commissioner Fliflet said the city had previously banned monument signs, but believes they should be reconsidered if they are reasonably sized.

M/S/P, Fliflet/Ziertman, move to recommend allowing neighborhood identification signs.  
Vote: 7:2 (Ptacek, Van Erem)

M/S/P, Fliflet/Pearson, move to recommend adoption of optional language on page ten regarding sign faces. Vote: 9:0.

M/S/P, Ptacek/Van Zandt, move to recommend adding the language on page twenty-one with creating a special I-94 district. Motion was amended to address clarification on illumination and window sign allotment. Vote: 9:0.

M/S/P, Pearson/Ziertman, move to recommend adding the optional language of temporary off premises signs. Vote: 8:1.

THE CHAIRMAN OPENED THE PUBLIC HEARING AT 10:12 P.M.

*Neil Krueger, 4452 Lake Elmo Avenue North*

Mr. Krueger said that both sides of a sign should not be counted. He does not believe neighborhood monument signs are appropriate as they are not rural in character and given technology such as mapquest and satellites, it is not needed. He said that open house and parade of home signs are not just out on weekends and are sometimes left up for weeks. A rule is needed for realtors, but realizes this would be difficult to enforce.

Planner Matzek stated that resident Jeanie Snell had left earlier, but would like to encourage allowing more signage.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 10:17 P.M.

Commissioner Pearson said that additional signage is needed for businesses and would like to see the maximum square footage raised.

Commissioner Fliflet said that the commission had just increased signage for businesses along I-94 and was not sure if it would be appropriate in the old village area.

Commissioner Fliflet suggested banners be allowed and that mural signs not be permitted.

Commissioner Ptacek said he thought murals should be regulated so as not to be abused, which could be addressed as it is being proposed to be permitted through a conditional use permit.

Commissioner Fliflet said page twenty identifies that freestanding signs shall not project higher than six feet and believes this is not high enough.

M/S/P, Fliflet/Pearson, move to recommend raising the height of freestanding signs to twelve feet. Vote: 6:3. (Hall, Ptacek, Van Erem)

M/S/P, Fliflet/Van Zandt, move to recommend removing the requirement that all signs shall be bordered with decorative material. Vote: 9:0.

M/S/P, Hall/Fliflet, move to recommend adding the use of banners to item number six for special temporary events. Vote: 9:0.

Break 10:50 p.m.

M/S/P, move to accept the draft ordinance with all the recommended changes and to bring the revised ordinance back to the next commission meeting. Vote: 8:1. Ptacek voted against because he is opposed to the neighborhood identification signage.

Chairman Van Zandt suggested holding a second meeting in March to address the remaining agenda items.

Planning Director Klatt said that additional future meetings would be needed due to a quick timeline for the Comprehensive Plan amendments. Future meetings will be held on March 23<sup>rd</sup>, April 13<sup>th</sup>, and April 22<sup>nd</sup>. He then provided information on the general updates on the agenda.

Meeting adjourned at 11:00 p.m.

Respectfully submitted,

Kelli Matzek  
Planner