



City of Lake Elmo

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3800 Laverne Avenue North / Lake Elmo, Minnesota 55042

The Lake Elmo Planning Commission will meet Monday, October 22, 2001 at 7:00 p.m. in the Council Chambers of City Hall, 3800 Laverne Avenue, Lake Elmo, Minnesota.

AGENDA

Oct
22

1. Agenda
2. Minutes – Wednesday, October 10, 2001 (*Regular section only*)
3. **PUBLIC HEARING:** **Variations**
3681 Kelvin Avenue
Jon Reissner, Julie Pihaly, Ted Jessen
4. **PUBLIC HEARING:** **City of Lake Elmo**

Amendments to Municipal Code:
Section 300.06 Subd. 3. Variations
Section 300.06 Subd. 3. Board of Adjustment and Appeals
Section 200.01 Subd. 11. Board of Adjustment and Appeals
5. **SITE PLAN & BUILDING REVIEW:** Carriage Station Professional Park
Lot 1, Block 1
12414 55th Street North
6. Other
7. Adjourn

Approved 11/14/01

**Lake Elmo
Planning Commission**

**Meeting Minutes
Monday, October 22, 2001**

Vice-Chairman Helwig called the meeting to order at 7:00 p.m. in the Council Chambers of City Hall, 3800 Laverne Avenue North, Lake Elmo, Minnesota. Present: Commissioners Deziel, Sessing, Taylor, Ptacek, Mandel, Berg, Sedro 7:05 p.m.). Absent: Commissioners Brass, Armstrong, and Herber.

1. Agenda

**M/S/P Sessing/Deziel - to approve the Agenda, as presented.
(Motion Passed 7-0).**

2. Minutes

**M/S/P Berg/Deziel - to accept the regular portion of the October 10, 2001 Meeting Minutes, as presented.
(Motion Passed 7-0-1) Abstain: Taylor.**

**3. PUBLIC HEARING: Variance to enlarge a non-conforming structure in the Shoreland District.
3681 Kelvin Avenue
Jon Reissner, Julie Pihaly, Ted Jessen**

Planner Dillerud introduced the application for a Zoning Variance with Shoreland Overlay with multiple minor subdivision actions on the Beaubien land on the west side of Sunfish Lake. He noted a Certified Survey from 1988 depicting the site, but could not track the City action creating the site. He presented a site plan and an aerial view of the site. He mentioned that he had met with the applicants earlier in the year and at that time, advised them of the circumstances regarding Shoreland setbacks. He noted the location of the Ordinary High Water places the existing house at least partially within the 100-foot OHW setback, and that said that the house and septic system are almost entirely within the 150-foot OHW setback that applies to Sunfish Lake. Planner Dillerud said the applicant proposes to add a 1/2-story to the existing structure with no increase in structure footprint. He said the height of the structure would increase, but would remain well within the 35-foot maximum standard.

Commissioner Berg asked if the code discussed the vertical component [of the proposal].

Planner Dillerud said vertical is not a concern at this site. He suggested that as you look at the existing residence, there might be a question that the proposed changes may impact Sunfish Lake, however, Sunfish Lake is not a heavily used lake, and the residences that may be impacted cannot see the lake. Therefore, the elevation issue is not an issue.

Applicants Jon Reissner/Julie Pihaly thanked the Commission and said they spent some time with the architect who created a design that would fit with the community.

Commissioner Deziel reminded the applicant that this proposal would limit them to a 2-car garage.

Vice Chairman opened the comment portion of the Public Hearing at 7:18 p.m.

Chuck Harstad

3503 Kelvin Avenue N.

Mr. Harstad said he also lives on Sunfish Lake, and looks at the variance as a very positive thing to improve the property, and an opportunity to enhance the site. He stated he has no problem with the proposal, and is looking forward to having the applicants as neighbors.

Vice-Chairman Helwig closed the comment portion of the Public Hearing at 7:29 p.m.

Commissioner Mandel said he thinks the applicant did a nice job, and presented a good reason for a variance, and that a more usable house will result.

Commissioner Berg noted that in "finding No. 5", a vertical increase, the applicant is maintaining the footprint, and feels this is important, and differs from other variance requests, the applicant is keeping it exclusively vertical, and maintaining the footprint.

Commissioner Taylor said the applicant proposes an excellent plan, but expressed her concerns regarding the septic system.

M/S/P Mandel/Berg – to recommend approval of Resolution No. PZ 2001-96, a Resolution Regarding a Shoreland Standards Variance at 3681 Kelvin Avenue North, based upon the following findings:

1. The site exhibits physical circumstance not generally found with sites located in the Shoreland District in Lake Elmo. The site exhibits significant topography (approximately 25 feet vertical difference) from the water level of Sunfish Lake to the location of the structure proposed to be enlarged vertically. The vertical separation between the water and the structure location mitigates the impact on the lake of foreshortened setback.
2. The applicant has documented the unique character of the living space of the existing structure as substandard in comparison with most other properties in the same district under the terms of this ordinance. Reasonable property rights will be deprived, on that basis, without the enlargement of the structure resulting from the variance.
3. The placement of the existing structure, and sewage treatment system within the OHW setback resulted from actions by the City and previous ownership, not the direct actions of the applicant.
4. The requested variances, in quantitative terms, are well within the range of those previously found to be inclusive of the intent and purposes of the Shoreland District, and therefore approved – that has not been denied, under similar quantitative

circumstances to owners of other lands, structures, or buildings within the Shoreland Overlay District.

5. To accomplish overcoming the hardship documented by #2 above, the applicant has documented alternatives for the enlargement of the existing structure. The applicant has demonstrated that the enlargement alternative proposed – exclusively vertically – is the minimum required to overcome the demonstrated hardship.
6. The variance would not be materially detrimental to the purposes of the Shoreland District, as noted by Finding #1, or to property in the same zone.

and,

Subject to the following condition:

1. Inspection by a qualified party and certification to the City as to the condition and proper functioning of the on-site septic system prior to issuance of a building permit to modify any portion of the existing structure.

(Motion Passed 8-0).

4. PUBLIC HEARING: City of Lake Elmo
Amendments to Municipal Code
Section 300.06
Section 300.06
Section 200.01

Planner Dillerud said the City Council instructed the Planning Commission to consider moving the variance approval process to the City Council, stating the Planning Commission would continue to conduct the Public Hearings, and make recommendations on variance applications. He said any appeals would go to District Court. Planner Dillerud explained the Section 200.01 amendment, and the two Section 300 amendments. He said the City Attorney and City Administrator created the draft ordinance before them.

Commissioner Deziel said, “As he understands this proposal, the [public] hearings would be before Planning Commission, and decisions would be made by the City Council.”

Planner Dillerud said, “Yes, that is correct.”

Commissioner Deziel said, “This is preposterous, and I cannot believe I am hearing this. If the City Council thinks this is a good way to bring people and government together, I don’t support this issue.”

Commissioner Mandel said, “Aren’t we just going back to the way we used to do this? Not a problem if it was for the better. Whatever is consistent with what we used to do.”

Vice-Chairman Helwig suggested that the City Council initiated this because there were too many appeals.

Commissioner Sedro asked when the procedure was changed, what was the rationale at that time.

Commissioners Berg, Mandel and Helwig concurred that the initial decision for the City Council to approve the Planning Commission as the deciding body regarding variances was because the Council was too busy to hear the variance requests.

Commissioner Ptacek said the Planning Commission is currently holding the Public Hearings and making the decisions. He said he felt that the Planning Commission is a volunteer body, which interprets the code, and does not bow to any political issue. He asked, "Why should the Planning Commission take the brunt of the issue when their decisions get appealed, anyway?"

Planner Dillerud reminded the Commissioners that the point of the Public Hearing is to gather information and recommendations and decisions and should not be to hear what is liked or disliked by neighbors – that is not legal. He explained that the key to a good public hearing is based upon the information provided.

Commissioner Mandel said there used to be a City Council member present at Planning Commission meeting, and there was something to be said for being there "at the moment."

Planner Dillerud said the City Council obviously did not feel it was necessary to have a Council representative at the Planning Commission meetings.

Vice Chairman Helwig said, when hearing variances, it was common practice to table the issue for two weeks, giving the Commissioners time to "digest" the information.

Commissioner Deziel said the City Council takes the Planning Commission's decisions and changes them. He said his concern is always what is the best decision for the people of Lake Elmo, and it seems as though the City Council does not want to hear the applicant's presentations, but they want to be the body that makes the decisions. He said, in other words, if the City Council is going to make the decision, they should hear the proposal. He invited the resignation of anyone who does not have the interest of the people in mind.

Commissioner Sessing said, eventually, the City Council hears from the applicants.

Commissioner Deziel said the original hearing is where most of it [public testimony] happens, and City Council Public Hearings are much smaller. He stated the citizen is "shorted" at City Council meetings.

Commissioner Mandel said he felt the Mayor and City Council have always given people enough time to make a point, and they are calm and approachable. He said he sees no problem with making a change. He suggested a City Council member could attend Planning Commission Public Hearings.

Planner Dillerud stated that the City Council wants to be the decision making body.

M/F Deziel-to table until the City Attorney reviewed the proposal, and get further information.

Commissioner Taylor said having been through the process, she feels the Planning Commission is a fact finding group, and applicants have always been given ample opportunity to speak.

Commissioner Ptacek said he feels the Planning Commission operates as an objective party and the Chair has a good way to discern fact from fiction, and guides in an objective direction.

Commissioner Sessing said the City Council has grown accustomed to Planning Commission opinions.

Commissioner Deziel asked if two Public Hearings are better than one.

Commissioner Sedro said the City Council can watch the Planning Commission meetings on cable.

Vice Chairman Helwig opened and closed the comment portion of the Public Hearing at 7:59 p.m. NO COMMENTS

M/S/P Ptacek/Sessing - to recommend approval of Ordinance No. 97-____, and Ordinance No. 97-____ .

(Motion Passed 7-1). Opposed: Deziel; not a bone of logic in this entire thing.

5. SITE PLAN & BUILDING PLAN REVIEW:

**Carriage Station Professional Park
Marquess Development Corp.
Lot 1, Block 1
12415 55th Street North**

Planner Dillerud introduced the third of four previously approved sites within the Carriage Station Professional Park located on Highway 5 and 55th Street North. He noted that the lantern-style exterior lighting fixtures did not meet the standards found within the Section 1350 of the Municipal Code. He reminded the developer that changes to exterior lighting must be made to all buildings in the Planned Unit Development.

**Joel Larson
Carriage Homes**

Mr. Larson reviewed the exterior surface combination of materials to be used on the proposed structure. He said the currently proposed structure was very similar to the two previously approved plans, and he assured the Commissioners and Planner that he would

make the necessary exterior lighting changes on the design of this proposed structure, and that of the two previously approved site plans.

Sessing/Taylor – to recommend approval of Section 520 Site Plan for Lot 1, Block 1 carriage Station Professional Park subject to the following conditions:

- 1. Compliance with all applicable condition of City Council Resolution #2000-40 approving the Planned Unit Development and Master Site Plan for Carriage Station Professional Park.**
- 2. Deletion of the proposed “Craftsman Outdoor Lanterns” with exterior lighting fixtures in compliance with Section 1350 of the Municipal Code.**

(Motion Passed 7-0-1) Deziel: Abstain, because of consistency.

Vice Chair Helwig adjourned the meeting at 8:10 p.m.

Respectfully submitted, Cynthia Young – Planning Secretary