

**City of Lake Elmo
Planning Commission Meeting
Minutes of November 24, 2003**

Chairman Helwig called to order the Lake Elmo Planning Commission Meeting at 7:00 p.m.
COMMISSIONERS PRESENT: Meldahl, Johnson, Sedro, Van Pelt, Bunn, Ptacek, Pelletier, Deziel 7:06
p.m. STAFF PRESENT: Chuck Dillerud, City Planner; Tom Bouthilet, Acting Finance Director; and
Kimberly Schaffel, Recording Secretary.

AGENDA

No Minutes were prepared for this meeting. M/S/P, Johnson/Bunn, To amend the Agenda. VOTE: 8:0.

PUBLIC HEARING – VARIANCE - OHW AND SIDE YARD – REED – 8056 HILL TRL

A letter was distributed from Mr. and Mrs. Reed that arrived too late to become part of the staff report.
The letter will be attached to these Minutes.

The City Planner reported that this parcel is comprised of six lots and two half lots from a decades old plat. A portion of the existing home is located within the OHW Setback. This proposal represents a modification of a non-conforming use. He observed that simply because of the non-conforming use, the proposed remodel and addition really has little impact on the OHW. The side yard setback is a different issue.

He reported that the second portion of the variance request is for side yard setback on the south side of the lot for a new garage. The new garage would be setback only 2.5 feet from the south property line. On the north side of the property, the setback is less than 7 feet. Access to the rear of the property might be necessary for maintenance or repairs to the 201 System and septic holding tank. Vehicle access generally requires 8 feet. He noted that this is the potential problem. He added that the second issue to consider is the drainage and maintenance issues of a structure 2.5 feet from a property line. If the gutter, roof, or wall needed maintenance, 2.5 feet would be too close. A bedroom count was used when the 201 System was designed. This system was designed for three bedrooms at this address. He cautioned that the old garage must not become another bedroom, or the 201 system would become overloaded from the original design.

The City Planner's recommended Findings were:

1. This property could be put to contemporary reasonable use without the variance requested. The garage could be redesigned or relocated to allow for ten feet of setback on the south property line.
2. The OHW setback is not really an issue. That zoning change puts no blame on the owner.
3. The remodel will not change the essential character of the neighborhood. It would probably be an improvement.

Staff suggested the Planning Commission recommend denial to the City Council. However, the Commission might ask the applicants if they wish to table for no more than thirty days for them to consider alternative designs or scale.

Commissioner Bunn

She asked about structures and conditions around that property line, and if the neighbor was in the audience. She expressed concern that heavy equipment would not be able to get into the rear yard.

City Planner

He had some photos of the property line area, and the neighbor was not in the audience.

11-24

NOTICE OF PUBLIC HEARING

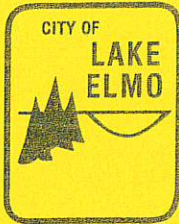
**The Lake Elmo Planning Commission
Will conduct a Public Hearing on
Monday, November 24, 2003, 7:00 p.m. at
Council Chambers
Lake Elmo City Hall
3800 Laverne Avenue North
Lake Elmo, MN 55042**

The Planning Commission will conduct a Public Hearing to consider an application from Jeff and Kelly Reed for a variance from the Shoreland District standards to permit enlargement of a non-conforming structure within the OHW Setback, and a variance from the side yard setback standards of the *Lake Elmo Municipal Code*. The residence is situated approximately 65 feet from the Ordinary High Water level of Lake Demontreville where a setback of 100 feet is required (Section 325, Subd. 4. A. 1 [Table]), and 2.5 feet from the side property line where 10 feet is required (Section 300, Subd. 4. C. 3. [Table]) The property address is **8056 Hill Trail North**, and the **Parcel Identification Number is: 04.029.21.33.0039.**

All persons who wish to be heard regarding this Variance request will be given an opportunity at the Public Hearing. Written comments will be accepted up until the time of the Public Hearing.

Charles Dillerud (KAG)

Charles E. Dillerud
Acting City Administrator & City Planner



City of Lake Elmo

651/777-5510

3800 Laverne Avenue North / Lake Elmo, MN 55042

CITY OF LAKE ELMO PUBLIC HEARING NOTICE

The Lake Elmo Planning Commission will conduct a Public Hearing on **Monday, November 24, 2003, at 7:00 p.m., in Council Chambers at City Hall, 3800 Laverne Avenue North, Lake Elmo, Minnesota, to consider the 5 Year Capital Improvement Program, 2004-2008.**

All persons wishing to be heard regarding the **5 Year Capital Improvement Program, 2004-2008**, will be given an opportunity at the Public Hearing. Written comments will be accepted up until the time of the Public Hearing.

Charles E. Dillerud
City Planner

Published in the Friday, November 14, 2003, Stillwater *Gazette*.

Commissioner Deziel

He asked which window the applicant wrote about, and where the 100 year old tree was located. He expressed concern for safety issues, fire.

Jeff and Kelly Reed, Applicants

They stated that they had received the staff report late Friday afternoon. They distributed a notebook of information. Page 3 indicates no bedrooms or bathrooms will be added. They originally looked at building a three-car garage. The Planner had indicated to them that this would probably be excessive. They scaled it back to a two-car garage. A dotted line on a photo of the existing garage shows where the proposed garage would be. Mr. Reed pointed out the window that would be blocked if the garage were moved northward. He observed that the strip of neighboring land to the south is open, then there are woods, and the neighboring house is 40 or 50 feet away.

Mr. Reed stated that they have no air conditioning units on the north side of the house; and that the Johnsons do have air conditioning units on the south side of their house. He suggested that the Johnson expansion has implications to the Reed property. He noted that there is a clear path on the north side of the property except for landscaping and timbers.

Mr. Reed explained that they are asking to replace the rear deck in the exact same footprint. It has sunk, and jacking it up did not help. The kitchen would get a bump-out on the front of the house to create an entry. The roof at the front of the house has a slope/dip in it that would be remedied at the same time.

To try to accommodate access, Mr. Reed said that they propose a large door on the rear of the garage to provide access to the septic tank. Septic pumpers currently use a hose from a truck parked on the street.

Mr. Reed showed a drawing of the original plan from last March with the larger garage. Building a stand alone garage would lose the tree but gain ten feet of access around the garage. It would still need some side yard setback. If they move the garage to be five feet from the side yard, they will cover the window of the bedroom. That is an escape route in case of fire.

Commissioner Ptacek

He asked if there was a reason for the pitch of the roof.

Jeff Reed

The 7/12 pitch and the addition above that is very strange. Nobody would build like that today. To fix it would be astronomical cost. The valley created to match the existing pitch has to be constructed by hand. He said it will also allow five feet clear in the center of the attic floor for storage.

Commissioner Deziel

The Commissioner asked if a variance should be created for storage.

Commissioner Bunn

She observed that the current driveway is front-loaded, and suggested lowering the driveway elevation.

Jeff Reed

He agreed but said the pitch from the road to the garage is very steep. 10 feet of block, and a 108 inch tall wall - if the elevation is dropped, he did not understand how it would work. He pointed out is that the south side neighboring lot has nothing on it. Mr. Johnson to his north has a greater impact with his addition.

Commissioner Ptacek

He pointed out that Mr. Johnson met his sideyard setback.

Commissioner Sedro

She suggested that relocating the garage eliminates a need for encroaching on the neighbor's yard. We

have to ask ourselves if we are creating a bad situation. The tree is temporary, the structure is not considered to be so.

Jeff Reed

He stated that TKDA did drawings of the lines for the 201 system. The Reeds had to move a fuel oil tank that sat right over where TKDA said the 201 line is located. It wasn't there. He has no idea where it sits, but it is not where they show it on the diagram. To reroute a 4 inch PVC pipe is not much effort. The only alternative is to put the garage in the middle of the front yard.

Commissioner Deziel

He pointed out that design would require a variance as well.

Jeff Reed

He said his neighbors have garages near the street. The Reeds don't want to do that because it removes the tree and blocks everything. Two weeks ago the Planning Commission allowed a 40 foot garage to be built next door. Everybody deserves a two-car garage.

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

No party requested an opportunity to speak.

THE CHAIRMAN CLOSED THE PUBLIC HEARING AT 7:49 P.M.

Chairman Helwig

He asked if the applicant would care to request a tabling of their variance application.

Jeff Reed

They do not know what else to do, and the City Planner does not wish to guide them.

Chairman Helwig

He advised the applicant that it was not the Commission's job either, and he offered thirty days if the Reeds wished to table their application.

Jeff Reed

The applicant requested to table his application.

Commissioner Bunn

She is sensitive and sympathetic to the applicant. The applicants are trying to upgrade their home to meet the needs of the family. However, it is an issue to have your only access through a neighbor's yard. Large equipment has to get back there sometimes. The door on the rear of the garage is not high enough for access for heavy equipment. The Planning Commission's job is to look at the long-term access. Future adjacent owners may not allow it. She believed there were many other options available but some will be more expensive. She suggested the applicants try hiring an architect to come up with a design that will work.

Commissioner Ptacek

He observed that this could be a precedent with neighbors. They have to have ten feet side yard set back. He observed that if we allow this type of precedent, we will have many others wanting to build out to the property line.

Commissioner Van Pelt

He is also supportive of the Reeds' goal, but the main concern is encroachment on the south lot line. The applicants should rethink other options. This case is different from the variance we dealt with a couple of weeks ago.

M/S/P, Deziel /Van Pelt, To () e this variance application for up to thirty () ys.

Commissioner Sedro

She does not think the request for a garage is unreasonable but access to the rear of the lot is necessary.

City Planner

He asked if the commission wants to authorize the City Planner to grant more than thirty days to decide if the applicants ask in writing.

The Commissioners agreed to authorize more than thirty days if requested in writing.

VOTE: 9:0.

MINOR SUBDIVISION – SOVEREIGN – 4415 OLSON LAKE TRL

The City Planner reported that Chapter 400 of City Code provides for a Minor Subdivision, allowing four or less parcels that can be subdivided by a surveyor. Redivision of the larger resulting parcel is doable but difficult due to road frontage. All the standards of the R-1 District are met; and, there appears to be little choice of how to divide it otherwise. Frontages on both the lake and street are sufficient for both parcels. The City Planner's observations on this application included the following:

1. This section of Ideal/Olson Lake Trail is part of a statutory dedication from the old days. Four rods were statutorily created for road width by state law. We rarely use that much right-of-way today. Any approval should establish the dedicated right-of-way through the City Engineer and/or City Attorney.
2. The new parcel created should have to pay the mandatory public use dedication fee of \$1,500.00. On divisions of three or less parcels, that is a bargain. Usually it is done at 7 or 10% of the parcel value.

Commissioner Bunn

She stated that , viewing the graphics, Parcel B is subdividable. Even if divided into two parcels the resultant lots are going to be large compared to the neighbors.

Mike O'Rourke, an employee of US Bank representing the Janet Sovereign Trust

He advised the Commission that distribution to the beneficiaries of the estate is the reason for this application. There is no contemplated development there. He agreed with all items in the staff report except the \$1500.00 Park Dedication Fee. He repeated that they are not developing, only splitting and giving the parcels to the beneficiaries of the estate.

City Planner

He noted that the intent to develop of the present land owner should make no difference.

M/S/P, Ptacek/Johnson, To approve the subdivison of 4415 Olson as proposed by the applicant with two conditions from the staff report dated November 21, 2003.

1. Convey in a manner acceptable to the City Attorney of a 50 foot wide street right-of-way along Olson Lake Trail/Ideal Avenue frontage of the parcels.
2. Payment to the City of a \$1500.00 Public Use Dedication for the single new parcel created by the Minor Subdivision.

Commissioner Deziel

He advised the applicant that the Planning Commission has no right to waive Public Use Dedication fees.

VOTE: 9:0.

This matter will be heard by the City Council on December 2, 2003.

PUBLIC HEARING – CAPITAL IMPROVEMENT PROGRAM

The Chairman opened the Public Hearing at 8:11 p.m.

No party requested the opportunity to speak.

The Chairman closed the Public Hearing at 8:12 p.m.

City Planner

He provided the commissioners with a bound copy of the 2004-2008 CIP as proposed by the staff. Acting Finance Director, Tom Bouthilet was present for questions.

It is important for the Commission to provide to the City Council recommendations regarding whether the CIP is responsive/contradicting the Comprehensive Plan.

Commissioner Ptacek

Where does the money come from where negative fund balances appear in the CIP?

City Planner

He advised that the City Council may have to have to sell bonds to make up the shortfalls.

Commissioner Bunn

She stated that the Old Village Streetscape Plans have resulted in cost calculations from \$400,000 to \$1.3 million. She asked why those amounts are not in the CIP.

City Planner

Part of those streetscape costs - for water mains and storm sewer replacement - are in the CIP in other accounts than Tax Abatement.

Commissioner Bunn

She stated that the streetscape expenditures should be reflected in the CIP. She also noted that, even in 2008, there are not enough funds in the Tax Abatement Account to do the complete streetscape program. She stated that she was also disappointed that the all of the recommendations of the Facilities Planning Study was not in there. The Study recommendations were more than just city hall and public works. There was a potential redesign of the Old Village with senior housing; the fire hall might be moved or removed; and, a city library is a possibility. Even if we don't know the details of those projects yet, she would like to see the numbers for that work in the CIP through 2008.

Commissioner Van Pelt

He agreed that Old Village Sidewalks and Streetscapes should be in the CIP. That seems to be an appropriate part of the complete Old Village Plan.

Commissioner Bunn

She stated that she believed the CIP should reflect the entire streetscape plan and costs. The CIP should include the whole plan proposed by the Village Commission; less what is ready included in other CIP accounts. We talked about these costs being included in a bond issue that would involve City Hall and other public improvements.

M/S/P, Bunn/Van Pelt, The next Planning Commission meeting should again address the CIP, and include the Old Village Special Projects group to discuss Old Village planning and budget in order to come to a conclusion as to inclusion of the Streetscape Plan in the CIP.

Commissioner Van Pelt

He stated that he would like to see at least a placeholder in the CIP for the Old Village work, not necessarily an exact dollar amount.

Commissioner Bunn

She stated that we need to hold a meeting as the Old Village Planning Commission to select which of the streetscape levels we want to include in the CIP. Which do we want to include with the bonding issue?

Chairman Helwig

He expressed concern about the Fire Department deficit in the CIP. He noted that it is a pretty big hole.

City Planner

He advised that on Pp. 6 and 7, 2004, there is a line item for a Fire Study. In our Community Facilities Report, that was a recommended item. That study might tell us more specifically whether what the Fire Department requests in the CIP is what they really need, or is too little, too much, or just right. He suggested the City shouldn't worry about the deficit shown in the CIP until then.

VOTE: 8:1, (Ptacek - The issue of Streetscapes in the Old Village is important, but the other two projects proposed (a new city hall and maintenance facility) are more important.

Commissioner Deziel

He observed that the Fire Study suggested in the Community Facilities and Staffing Report included more than just looking at the existing fire department. Regional fire services were also suggested as an option to consider. We just don't have enough information to make a decision now. He questioned \$2.15 million for just city hall, and not fire as well.

Commissioner Bunn

She asked about the line item for Cable in 2004, as to whether it is an upgrade; and, will we need a whole new system for a new city hall?

City Planner

He responded that the first \$40,000 is for the existing city hall, which we would take with to a new city hall. The next \$40,000 would be for additional improvements at a new city hall.

Commissioner Bunn

She asked for clarification regarding Carriage Station Park.

Tom Bouthilet

He responded that the first \$40,000 for Carriage Station is creation of the tot lot, such as fill and grading. That is what we spent this year. The 2004 amount will be for play equipment, and other improvements.

Commissioner Bunn

She asked if developers pay for public improvements related to the Old Village Design, such as trails, wetland treatments, and quasi-public systems that might be included in those developments; or, do we bond for them?

City Planner

He responded that there are trunk expenses and lateral expenses for water and sewer. Lateral expenses are paid by the developer; trunk expenses are to expand our utility systems, and are paid from connection fees charged by the City. The City builds and finances those trunk improvements.

Commissioner Bunn

She asked when will the City will begin to include that type of information into this type of document?

City Planner

The Council has requested those numbers; and they have entered into several contracts with engineers to develop the cost estimates.

Commissioner Helwig

He asked with regard to streets, are those shown as overlays only overlays, or do they include tearing up existing streets?

City Planner

He responded that overlays are usually only milling of the existing surfaces and repaving. The street base is good.

Commissioner Deziel

He pointed out that the \$6600 on Page 13 under 2005 27th Court must be an error.

City Planner

He advised the Commission that the City is in good shape compared to other communities. The City has next to nothing for bond indebtedness. The tax capacity rate decreased 15% for 2004. The City Council did a good job on the budget last year.

Chairman Helwig

He advised the Commission that the Zoning Ordinance Workshop date will be Wednesday, December 3, 2003. 6:30 p.m.

City Council Update

The City Planner reported that the Roger Johnson variance was approved as recommended by the Planning Commission. The City Council has authorized hiring an assistant planner.

Commissioner Bunn

She asked about a timeline for hiring a city administrator.

City Planner

He responded that the time line for such a process is generally 120 days from the search firm being hired.

ADJOURN 9:04 P.M.

Respectfully submitted,

Kimberly Schaffel
Recording Secretary