

August 7, 2007

The Scandia Planning Commission held their regular monthly meeting on the above date. The following were in attendance: Chairman Chris Ness, Christine Maefsky, James Malmquist, Kevin Nickelson, Peter Schwarz and City Planner Richard Thompson. Chairman Ness called the meeting to order at 7:32 p.m. Chairman Ness amended the agenda by moving the continued hearing of the Mining Ordinance from the first to the fourth public hearing of the meeting. Schwarz made a motion to approve the amended agenda. Malmquist seconded the motion and motion adopted unanimously. Schwarz made a motion to approve the July 10, 2007 Planning Commission minutes. Nickelson seconded the motion and motion adopted unanimously.

### **VARIANCE – ROBERT TEN EYCK**

Jennifer Cates, Cates Fine Homes, has applied for a variance to allow for a two-story accessory structure (2,130 square feet in area) for the Robert TenEyck residence at 13500 182<sup>nd</sup> Street. Mr. TenEyck presented his proposal for the building to serve as a garage/storage area in the lower level with office/exercise space above. Mr. TenEyck felt the design and placement of the building has low impact to the surrounding neighbors and environment. He considered it a hardship that he is unable to add onto his principle home due to its location and architectural style.

Planner Thompson presented his report. The 3.7 acre size of Mr. TenEyck's property limits the accessory structure to 2,000 square feet. There is adequate site on the property to construct a one-story 2,000 square foot building without a variance. Therefore, the Planners find that there is not a hardship due to the unique circumstances of the property. As the proposed structure has approximately the same size building footprint of the principle structure with a separate driveway, it has the appearance of a second primary structure in comparison to the house. This has the potential to alter the essential character of the area. Planner Thompson cited these findings as reason for denial of the variance request.

Chairman Ness opened the floor to public comment. *Norb Wrobel*, adjacent landowner, stated that he has no objections to the structure being built. He felt that a two-story fits well into the lay of the land and the elevation would be equal to the home. Mr. Wrobel commented that a one-story would look like it is sitting in a hole. As there were no additional comments, Chairman Ness closed the hearing to the public.

Commissioner Maefsky inquired about the history of not allowing two-story accessory structures. Planner Thompson replied that the adopted zoning code was based on Washington County's standard. City Attorney Hebert explained that it is a general provision of most cities to limit the size to one story. There is past history that shows a higher potential for these buildings to be converted into an accessory apartment, making the use different from the original intent (a zoning violation). Commissioner Schwartz stated that he sees no hardship in this case and that a precedent should not be set. Commissioner Malmquist stated his support of approval because the building fits into the property given the unique location and topography. The nature of the existing structure makes an addition difficult and he sees that each situation needs to be treated by itself. Councilmember Harnetty stated that ordinances are in place for a reason. Variances should only be granted for a hardship, not an inconvenience. He suggested a change to the ordinance would be needed to allow these buildings. Mayor Seefeldt was in agreement to this –

the intent is not to set a precedent. To base this variance on “fitting in” is only arbitrary. Commisisoner Nickelson agreed – right now the applicant must follow what is in place. Councilmember Crum sees the council having to interpret what is in place. If the role is policy-making, then a public hearing must occur to change the ordinance. Chairman Ness sees it as a good plan, but the commission should not set a precedent.

**Kevin Nickelson made a motion to recommend to the council to adopt draft Resolution 08-07-07-01 Denying the Variance Request for 13500 182<sup>nd</sup> Street North. Findings cited: 1) There is adequate space on the site to build a one-story accessory structure of 2,000 square feet in size, which would meet the standards of the Zoning Ordinance and for which no variance would be needed. In this manner, the property may be put to reasonable use without a variance. Therefore, a hardship is not present. 2) There are no unique circumstances of the property that would prevent construction of an accessory structure which meets Ordinance standards. It appears that the two-story structure is proposed based on a preferred design; the requested variance is not based on hardship due to unique circumstances of the property. 3) The proposed two-story accessory structure, in its size, massing, and due to its proposed separate driveway, would have the appearance of a second primary structure. This would be out of character with the area. Peter Schwarz seconded the motion. Voting yes: Schwarz, Ness, Maefsky, Nickelson. Voting no: Malmquist. Motion adopted.**

#### **VARIANCE – ALLEN & PENNY LEPINSKI**

Richard Grekoff, West Lake Builders, has applied for a variance to allow construction of a new single family home, to replace an existing cabin, at 12614 182<sup>nd</sup> Street North located on Big Marine Lake for property owners Allen and Penny Lepinski. Variances are needed for setback from the OHW, front yard setback, maximum impervious surface area, minimum lot size, road frontage and buildable area. Mr. Grekoff presented the request by stating that the Lepinski’s are trying to build within the footprint of the cabin. A pervious paver system will be used to lower the surface coverage.

Planner Thompson presented his report. An argument for hardship is typical to these small lake lots that were established prior to any zoning codes being in place. The practice has been to grant these requests so that reasonable use of the property is met. The question of the impervious surface area was addressed. As the applicant proposes moving the current driveway in order to meet the 25% maximum, it was unclear to the planners that the neighboring owners were agreeable to this. Therefore the planners recommended denial of the variance to allow impervious surface coverage in excess of 25% of the lot, reasoning that the house could be downsized.

Chairman Ness opened the floor to public comment. *Dan Bever*, 12610 182<sup>nd</sup> Street, stated his approval of the variance. He and three other landowners are in agreement to moving the shared driveway. There is an existing recorded easement in place that allows property owners to maintain the vacated road as driveway access. Administrator Hurlburt stated that moving the driveway appears to be moving the hard surface from Lepinski’s to the Brown’s, therefore

having a potential surface impact onto the Brown's lot. An alternative would be to leave the existing driveway, allow an overage to the impervious surface coverage, and require the use of pervious pavers in the construction of the driveway connection to the home. All were in agreement to this proposal.

In discussion on placement of the house, Chairman Ness was against having the house encroach two feet closer to the lake. He felt that new construction should improve on lake setback. Commissioner Nickelson countered that two large oak trees would need to be taken out in order to meet this, and neighboring houses are already closer than the proposed setback. City Attorney Hebert verified with Lepinski that there will be adequate room across the road for a sewage treatment system with both primary and secondary capacities.

**Kevin Nickelson made a motion to recommend to the council to adopt draft Resolution 08-07-07-02 with the following changes: 1) Strike Condition #1, as the current driveway will remain as is; 2) Add Condition #1 that installation of pervious pavers will be required; 3) Add Condition #11 stating that there shall be no disturbance of grade within a five-foot radius of the two roadside oak trees. This variance does permit excess of 25% impervious lot coverage. Peter Schwarz seconded the motion.**

Chris Ness moved to amend the motion to read that the house not encroach any closer to the lake than the cabin currently does. Motion died without a second.

**Voting yes to the above motion made by Nickelson: Schwarz, Malmquist, Maefsky, Nickelson. Voting no: Ness. Motion adopted.**

### **VARIANCE – PAT REICHERTS**

Pat Reicherts, has applied for a variance to construct a second monument business sign at 19261 Manning Trail, The Big Marine Lake Store. Mr. Reicherts presented his case stating that he does not want to attach a business sign to the storefront in keeping with the architectural style of a 1900's building. The proposed sign is to identify a second business operating out of the upper level of the building.

Planner Thompson presented his report finding no hardship in this case. There are no unique circumstances of the property that cause need for a second monument sign. Options available that do not require a variance include reconfiguring the existing monument sign to accommodate new signage or to post signage on the exterior of the building.

Chairman Ness opened the floor to public comment. *Betty Sterbentz*, adjoining property owner, stated her opposition to the variance request as one sign should be adequate and an additional sign would take away the rural atmosphere of the area. As there were no other comments, Chairman Ness closed the hearing.

Discussion among the commission centered on the fact that Mr. Reicherts' Conditional Use Permit for operation of the store and gas station does not allow for the mortgage company

business. Mr. Reicherts was advised to apply for a CUP amendment changing the conditions of the original CUP.

**James Malmquist made a motion to postpone action on the variance application until which time the CUP amendment can be applied for and acted upon. Chris Ness seconded the motion and motion adopted unanimously.**

Applicant Reicherts agreed to waive the sixty-day review period indefinitely to postpone a decision on the variance application.

### **MINING ORDINANCE HEARING, CONTINUED**

The public hearing of draft Ordinance 103 was continued from July 10<sup>th</sup> meeting. Planner Thompson reviewed the changes made in response to comments received. The latest version includes new language addressing berms and their allowed uses, the need for monitoring wells, deleting references to de-watering, adding detail regarding subwatershed maps, defining operator responsibility for dust control and disposal of wood material and debris, definitions, setbacks for asphalt plants, timing of reclamation, and escrow amounts for administering the permit and abatement for dust and other nuisances. *Larry Engstrom*, 14040 185<sup>th</sup> Street, stated that he would like to see the gravel haulers have the responsibility of dust control rather than the pit owners. Administrator Hurlburt replied that it would be nearly impossible to enforce the users to control dust as there can be multiple haulers each day. Mr. Engstrom also stated that he would like to see a limit of trucks traveling into and out of the pits, as currently there may be a truck every 5-8 minutes. *Paul Hand*, 13961 185<sup>th</sup> Street, asked how the noise created by trucks that engine-brake can be monitored. Mr. Hand was told that the current ordinance prohibiting engine braking can be enforced by a call to the Sherriff's department. Mr. Hand also would like to see clarification to the section on dust control. *Mark Engstrom*, Oakgreen Avenue, asked how the future blacktopping of 185<sup>th</sup> Street will be affected by the truck traffic. Mayor Seefeldt responded that the design of the road will be engineered to handle the weight of the trucks and road maintenance will not be a cost to the residents of that road. *Fred Heinonen*, 13277 Lakamaga Trail, asked what benefit is there to the city to allow mining into the groundwater. Planner Thompson stated that it supplies a more economical supply within the locale, with no need to disturb another site. Groundwater mining is an accepted practice and can be allowed with conditions if prudent to do so – the city is not closing the door on it. *Mike Caron*, Tiller Corporation, stated that the deposits in Scandia may not warrant the equipment investment necessary to undertake mining below the water table. Chairman Chris Ness closed the hearing to public comments.

Mayor Seefeldt addressed concerns relating to berm setback, screening and site clearance. It was agreed to add language that will establish berm setbacks of 20 feet unless otherwise approved by the city. The screening and site clearance issues can be handled as part of the Conditional Use and Annual Operators Permit process.

**Kevin Nickelson made a motion to recommend to the council to approve draft ordinance 103 with amendments as presented by the planners. Christine Maefsky seconded the motion and motion approved unanimously.**

#### **DISCUSSION OF BUILDING HEIGHT**

The discussion of building height was continued from the previous meeting. The current definition is difficult to interpret and different from the definition in the State Building Code. Consensus was to simplify the language by narrowing it to two methods in use by other cities and to apply the measurement to real-life examples. A draft ordinance will be brought to the September meeting for review.

#### **DISCUSSION OF CHURCH ARCHITECTURE**

Discussion of the architecture of churches was continued from the previous meeting, in anticipation of Willowbrook Church's expected development application. Consensus was that the plans should reflect the rural community character. The architect for Willowbrook Church has requested an informal discussion with a sub-committee. This meeting is scheduled for August 16<sup>th</sup> at 2:00 p.m. It will be posted as a Planning Commission meeting that may be attended by a quorum of commissioners. Councilmembers Yehle and Peterson expressed an interest in attending.

**James Malmquist made a motion to adjourn the meeting. Kevin Nickelson seconded the motion and meeting adjourned at 10:25 p.m.**

Respectfully submitted,

Brenda Eklund  
City of Scandia Deputy Clerk

