

August 7, 2012

The Scandia Planning Commission held their regular monthly meeting on the above date. Chair Christine Maefsky called the meeting to order at 7:03 p.m. The following were in attendance: Commissioners Jan Hogle, Steve Philippi, Peter Schwarz and Commission Chair Christine Maefsky. Absent: Commissioner Tom Krinke. Staff present: City Administrator Anne Hurlburt, City Planner Sherri Buss and Deputy Clerk Brenda Eklund.

APPROVAL OF AGENDA, MINUTES

Commissioner Philippi recommended that a discussion of the Final Environmental Impact Statement (FEIS) of the Zavoral Mining and Reclamation Project be added to the agenda. Chair Maefsky noted that this would be Agenda Item 6.a). **Hogle, seconded by Philippi, moved to approve the agenda as amended. The motion carried 4-0.**

Schwarz, seconded by Hogle, moved to approve the July 3, 2012 minutes as presented. The motion carried 4-0.

PUBLIC HEARING: CONDITIONAL USE PERMIT TO ALLOW MESSAGE STUDIO AT 21190 OZARK AVENUE. DELYNN LALLI, APPLICANT

DeLynn Lalli is requesting a Conditional Use Permit (CUP) to operate a massage therapy business within existing space in the Scandia Plaza, located at 21190 Ozark Avenue. The property is zoned Village Mixed Use (VMU B). The business would have three employees and operate up to seven days a week, between 10 a.m. and 9 p.m. Services would be by appointment only. The only interior changes proposed are paint and carpet.

City Planner Sherri Buss presented the planner's report which determined that the proposed use is consistent with the criteria for approving conditional use permits in the Development Code. Buss recommended approval of the CUP with two conditions. One being that the project and use are consistent with the application dated July 2, 2012; and two, that a sign permit is obtained prior to erecting any business signage.

Chair Maefsky opened the public hearing at 7:10 p.m.

DeLynn Lalli, Applicant: Ms. Lalli introduced herself to the Planning Commission.

There were no other comments and Chair Maefsky closed the hearing.

Schwarz, seconded by Maefsky, moved to recommend to the City Council approval for a Conditional Use Permit to allow a massage studio at 21190 Ozark Avenue, with findings and conditions included in the Planner's report. The motion carried 4-0.

The City Council will act on the recommendation at their August 21, 2012 meeting.

**PUBLIC HEARING: VARIANCE FROM MAXIMUM LOT COVERAGE AND
CONDITIONAL USE PERMIT FOR CONSTRUCTION OF A DETACHED GARAGE
AT 18819 LAYTON AVENUE. CAROL VARHALLA, APPLICANT**

Carol Varhalla is proposing to build a new garage to replace an existing garage that is in poor condition at her residence at 18819 Layton Avenue. The property consists of two combined parcels on the east and west sides of Layton Avenue totaling 0.27 acres. The property is within the Shoreland Overlay District of Big Marine Lake. The proposed garage of 780 square feet exceeds the maximum size of 720 square feet allowed for accessory buildings on parcels less than one acre. The plan also shows 32% lot coverage by impervious surfaces, which exceeds the maximum standard of 25% lot coverage.

Scandia's Development Code limits accessory structures to one-story in height (except for agricultural buildings on parcels of 20 acres or greater). The proposed two-story garage would require a Conditional Use Permit. City Planner Sherri Buss explained the Applicant's request to build a two-story structure. She is planning to remodel the home to create an accessible bathroom, thereby reducing available storage space within the home. She has calculated the need for equipment and vehicle storage and believes the proposed building is the minimum needed to address storage needs.

Planner Buss presented the planner's report which recommended approval of the request with findings and conditions. Buss explained that the garage has been set back on the lot in order to preserve neighbor's views. The Applicant will remove an existing shed and is willing to forgo the additional 120-square foot shed that the code permits on parcels less than one-acre. The requirements for stormwater management pertaining to the Carnelian-Marine-St. Croix Watershed District comments have been met with the condition to include a grading and erosion control plan to manage runoff on the site. The runoff from the garage and driveway must be directed to pervious and vegetated areas within the property area west of Layton Avenue.

Chair Maefsky opened the public hearing at 7:20 p.m.

Paul Anderson, 18814 Layton Avenue: As a next door neighbor, Mr. Anderson stated his support for Ms. Valhalla's request to build a garage.

Harold Johnson, 18941 Layton Avenue: Mr. Johnson stated his support for the garage and added that it will be an asset to the neighborhood.

Chair Maefsky noted that a written comment was received from Judy and David Jessup, 18773 Layton Avenue, which expressed support for the variance and conditional use permit.

There were no further comments and the hearing was closed at 7:23 p.m.

Commissioner Schwarz moved to recommended approval of the request with two added conditions. The driveway must be constructed with pervious pavers, and water or sewer connections be prohibited in the accessory structure.

City Administrator Hurlburt stated that prohibiting a sewer connection could be a reasonable condition to avoid future use of the garage as a separate occupied residence, although the site is part of the community 201 septic system and the city controls these connections, while the state issues well permits.

Commissioner Hogle stated that she understands the request, but disagrees with adding the conditions to the permit. Hogle said that a water connection to the garage would be reasonable, especially since the house and garage are separated by Layton Avenue.

Planner Buss added that use of pervious pavers would add significant cost to the driveway construction. The grades of the driveway will direct run-off to the rear of the property and infiltration will occur within the lot, not towards Big Marine Lake. Hurlburt advised that pervious pavers can double the cost of the driveway, and future maintenance can be expensive. There are other ways to infiltrate the water, such as raingardens and swales.

Chair Maefsky called for a second on the Schwarz motion. There was no second and the motion failed.

Commissioner Philippi acknowledged that it seems to be a modest proposal in scale to the neighborhood and would be a positive asset. Philippi asked for a more accurate determination of the square footage of the garage, and noted that the area of the second level should be included in the total square footage. Planner Buss noted this correction and will adjust the number for the Council's report.

Philippi, seconded by Hogle, moved to recommend to the City Council approval for a Variance from maximum lot coverage and a Conditional Use Permit for construction of a two-story detached garage at 18819 Layton Avenue, with findings and conditions included in the Planner's report. The motion carried 4-0.

The City Council will act on the recommendation at their August 21, 2012 meeting.

PUBLIC HEARING: VARIANCE TO ALLOW CONSTRUCTION OF A GARAGE CLOSER TO THE STREET THAN THE PRINCIPAL STRUCTURE AT 15243 209TH STREET. STEVE HOWE, APPLICANT

Steve Howe is proposing to build a new detached garage on his property at 15243 209th Street. The parcel is 4.2 acres in size. A variance is needed to allow the garage to be closer to the street than principal structure based on the site topography and the desire to preserve trees. The proposed location meets the setback requirements of the General Rural District.

City Planner Buss presented the planner's report which recommended approval of the request with findings and conditions. Buss explained that it would be very difficult to construct the garage where it could meet the ordinance requirement due to the steep slopes; existing trees and woodland area would need to be removed. Buss stated that the proposed location is more consistent with the intent of the code to preserve steep slopes, and existing trees and woodlands when possible.

Buss added that one of the conditions of variance approval is to submit a grading and erosion control plan to protect the steep slopes and trees from construction impacts. The stormwater management plan must indicate that runoff be directed away from the steep slopes.

Chair Maefsky opened the public hearing at 7:39 p.m. There were no comments and the hearing was closed.

Commissioner Philippi stated that a better solution should be researched which would lessen the impact to neighbors. He stated that the garage would be in view of the property owner across the street, and granting the variance would be a disadvantage to the neighbor. He suggested building the garage closer to the home and to plant trees to provide screening. Philippi added that neighborhoods could maintain a residential look when the garage is not so obvious.

Steve Howe, Applicant, stated that he did confer with the property owner across the street regarding the proposed location, and the neighbor was fine with the placement, as it would not be within his primary views.

Chair Maefsky stated that the garage is being built in a good location that will preserve the family's lawn. Commissioner Hogle agreed that it is better to have more space between the buildings.

Mr. Howe stated that the garage will match the style of the house in terms of windows and siding and have a lower roof pitch. Commissioner Philippi asked if the code requires the roof pitch to match the principal residence. City Administrator Hurlburt replied that it does not.

Schwarz, seconded by Philippi, moved to recommend approval of the variance with the condition that the applicants plant trees for screening the building from the road. Voting yes: Philippi, Schwarz, Hogle. Voting no: Maefsky. The motion carried 3-1.

Schwarz, seconded by Philippi, moved to recommend to the City Council approval for a Variance to allow construction of a garage closer to the street than the principal structure at 15243 209th Street, as recommended by the Planner, with the added condition that trees are planted for screening purposes. The motion carried 4-0.

Commissioner Hogle stated that she did not intend to vote for the screening condition, and asked to have her vote changed to "nay" on the Schwarz/Philippi motion to add the screening condition. Chair Maefsky explained that this change resulted in a 2-2 tie, meaning the motion failed.

The vote then became: **Schwarz, seconded by Philippi, moved to recommend to the City Council approval for a Variance to allow construction of a garage closer to the street than the principal structure at 15243 209th Street, with conditions as recommended by the Planner. The motion carried 4-0.**

Commissioner Philippi asked the Howells to pursue the option of planting trees as the neighborly thing to do.

The City Council will act on the Planning Commission's recommendation at their August 21, 2012 meeting.

VARIANCE FROM THE SETBACK FROM THE ORDINARY HIGH WATER LEVEL OF BIG MARINE LAKE FOR CONSTRUCTION OF AN ACCESSORY BUILDING AT 13440 182ND STREET. JOSEPH MATT, APPLICANT

Joseph Matt began construction of a gazebo/shed within the required setback for the Ordinary High Water Level (OHWL) of Big Marine Lake, on his residence at 13440 182nd Street, without the required zoning and building permits. The City issued a stop work order on June 5, 2012 and advised Mr. Matt to either remove the shed or apply for a variance to bring the property into compliance with the code. The plans indicate the structure will be 140 square feet in size and will include a 300 square-foot deck. Mr. Matt estimates that the structure is 50 feet from the OHWL.

City Planner Sherri Buss explained the issues involved with this variance application. Mr. Matt's application indicated that the gazebo was being constructed to replace a previous shed which was removed in 2007. The structure was nonconforming. State law allows replacement of a legal nonconforming structure within 180 days of removal, provided the new structure remains within the exact footprint. Buss noted that the applicant stated that the old structure was removed under a permit to replace retaining walls and he assumed this included the means to construct the new shed. Buss reported that the 2007 permit did not include a reference to the replacement of the previous shed, and no survey exists showing the placement of this structure.

Based on findings included in the planner's report, Buss recommended denial of the variance. Buss stated that both the Minnesota Department of Natural Resources and the Carnelian-Marine-St. Croix Watershed District have reviewed the application and have concerns about building within the shoreland setback.

Chair Maefsky opened the public hearing at 8:00 p.m.

Joseph Matt, Applicant, 13440 182nd Street: Mr. Matt explained his dilemma in making improvements to his property. A project to replace retaining walls began in 2007, at which time he took down a dilapidated shed. He spoke with then Building Official Thorp who indicated that he could rebuild the shed in the exact same footprint. The construction of the retaining walls and path to the house took three years to finish and he assumed construction of the new shed was grandfathered into the land alteration permit.

City Administrator Hurlburt stated that the 2007 application in the city's file showed no plans for a new shed, and Thorp's notes do not indicate a structure on the property sketch of the land alteration permit. If the shed was to be replaced, the 180-day limit has long passed.

Mr. Matt questioned if he has any options or alternate locations for a storage structure. He stated that it's a necessity for lake property owners to have storage near the lake. Planner Buss

commented that a shed on the upper lot could be expanded or storage added under the deck off of the house.

Margaret Schultz, 13384 182nd Street: Ms. Schultz stated that the Matts are a fine family to have as neighbors and they have improved the property to the best it has ever looked.

Carol Dahlin, 13460 182nd Street: Ms. Dahlin stated that the Matts have made many positive improvements to their property by removing the old shed and fixing the retaining walls. The small lots and steep slopes to the lake make it difficult to add storage and sheds are needed along the shoreline.

Dave Schultz, 13384 182nd Street: Mr. Schultz said that the Matts have improved the property dramatically and homeowners need storage by the lake. He suggested that the 180-day time limit to replace an existing structure should be changed in the code to make it less restrictive.

There were no more comments and Chair Maefsky closed the hearing at 8:15 p.m.

Planning Commissioner Hogle stated that without a survey of the lot showing the actual OHWL, they do not have all the information needed. Commissioner Philippi agreed that this should be a prerequisite to base a determination on.

Planner Buss explained that this could be a needless expense for the applicant, as the structure is well within the 100-foot setback and the recommendation is to deny the variance.

Commissioner Philippi described the situation as tragic and recognized that much hard work has already gone into this project. Philippi stated that the Planning Commission's role is to enforce the existing laws and there is no way to turn back the clock to allow the applicant to meet the 180-day window to allow replacement of the nonconforming structure.

Chair Maefsky stated that she understood the applicant's intent to replace the old structure, but now five years have gone by. The Commissioners would have a difficult time making an exception to the rules.

Mr. Matt asked if he has any other options for storage along the lake front, such as a tent.

City Administrator Hurlburt explained that it would depend on the length of time it was up and its purpose. A screen tent over a weekend could be allowed, but using something for storage is considered a structure and would be in violation. An ice house could be used for seasonal storage, but would need to meet the requirements of a storage structure in regards to meeting setback requirements.

Commissioner Philippi questioned if there is a way to allow seasonal structures that would not violate code requirements. Planner Buss stated that the zoning code would need to be amended to allow these options, but that could create potential problems within all of Scandia.

Schwarz, seconded by Hogle, moved to recommend to the City Council to accept the recommendation of the City Planner and deny the variance from the OHWL setback at 13440 182nd Street with the findings included in the planner's report. The motion carried 4-0.

Commissioner Philippi recommended that Mr. Matt continue a dialogue with the City to solve his problem. They wish to be helpful and improve the rules for the betterment of everyone.

The City Council will act on the recommendation at their August 21, 2012 meeting.

REPORT ON THE TILLER/ZAVORAL FINAL EIS

City Administrator Hurlburt gave a report on the progression of Tiller's mining application on the Zavoral property. The City Council will meet on August 8th to make a determination on the release of the Final Environmental Impact Statement. If authorized for release and upon publication in the EQB Monitor, public comments would be accepted through September 10, 2012. City Council will then make a determination on the adequacy of the FEIS, tentatively scheduled for September 25, 2012. Hurlburt thoroughly explained the process to those in attendance.

ADJOURNMENT

Hogle, seconded by Maefsky, moved to adjourn the meeting. The motion carried 4-0.

The meeting adjourned at 9:02 p.m.

Respectfully submitted,

Brenda Eklund
Deputy Clerk