

May 5, 2015

The Scandia Planning Commission held their regular monthly meeting on the above date. The following were in attendance: Chair Christine Maefsky, Commissioners Walt Anderson and Jan Hogle. Commissioner Travis Loeffler arrived at 8:23 p.m. Absent: Commissioner Dan Squyres. Staff present: City Administrator Kristina Handt, City Planner Sherri Buss and Deputy Clerk Brenda Eklund. Chair Maefsky called the meeting to order at 7:05 p.m.

### **APPROVAL OF AGENDA, MINUTES**

Chair Maefsky added an announcement of a solar power workshop as agenda item 6.a). **Hogle, seconded by Anderson, moved to approve the agenda as amended. The motion carried 3-0.**

**Hogle, seconded by Anderson, moved to approve the April 7, 2015 minutes as presented. The motion carried 3-0.**

### **PUBLIC HEARING: VARIANCE FROM THE OHWL OF BIG MARINE LAKE TO CONSTRUCT A DECK AT 12810 182<sup>ND</sup> STREET. ROSSBACH CONSTRUCTION, APPLICANT. GREG AND MARY KRAMER, OWNERS. (RESOLUTION NO. 05-05-15-01)**

Rossbach Construction is proposing to expand an existing cabin for Greg and Mary Kramer, owners of 12810 182nd Street. The property is 0.78 acres in size located within the Shoreland Overlay District of Big Marine Lake. The building plans include an expansion on the east side of the home, replacement of an existing deck, and enclosure of the space under the deck to form a screened area. Replacement of the deck requires a variance from the 100-foot setback from the Ordinary High Water Level (OHWL) and the bluffline setback of 30 feet. The expansion on the east side does not require a variance and could be approved through an administrative permit.

Planner Buss provided a history of the property. In 1981 a variance to expand the structure was denied to previous owners by New Scandia Township. No deck existed at that time. On a survey dated 1998, a deck is shown but there is no record that a variance or building permit was approved to permit the construction within the setback from the OHWL. Buss explained that technically it is not a legal deck and the application is being treated as adding a new deck – the DNR agreed with this approach.

The replacement deck is proposed to be 160 square feet, which is smaller than what presently exists. Since a deck 120 square feet in size could be allowed without a variance (applying criteria from the Shoreland Ordinance on deck additions), the DNR offered approval of the variance as a compromise for reducing its size. Buss explained that the ordinance does not allow decks to be roofed or screened as this is viewed as expansion of potential living space into the setback and enclosing the lower deck area could not be allowed. Buss noted that a porch could be allowed on the west side of the house without a variance.

Buss stated that the County will require a septic permit for expansion of the cabin and a Carnelian-Marine Watershed District permit will be needed for buffer requirements. Findings and conditions to approve construction of a deck 160 square feet in size located 71 feet from the

OHWL and 25 feet from the bluffline, but to not approve the request to screen and enclose the area below the deck, were included in a resolution.

Chair Maefsky opened the public hearing at 7:24 p.m.

*Cliff Guggisberg, 12780 182<sup>nd</sup> Street*, stated that he had no problem with the Kramers' plan since the deck will not disturb his view. He said that the cabin's deck existed when he moved to his property in 1991. He offered that a screened porch would be nice due to the mosquitos and that a neighboring house recently built (Lepinskis) does have a screened porch.

Commissioner Anderson questioned if permission had ever been granted to allow screened decks.

Chair Maefsky called for the meeting to be recessed while staff researched the conditions of a variance granted in 2007 to Al Lepinski at 12614 182<sup>nd</sup> Street. The meeting was resumed and Administrator Handt reported that a variance was approved in 2007 to replace a cabin which had an existing porch and deck without going closer to the lake; the Shoreland Ordinance was adopted in 2008. Handt concluded that it is accurate to say that screened decks have never been granted since adoption of the Shoreland Ordinance.

Chair Maefsky asked the applicants if they would consider a screened porch on the west side. Mary Kramer said that the view would be into the woods, not the lake, and the most logical location is under the deck.

Planner Buss explained that approving a variance needs a rationale of something unique to the property, and mosquitos are not a unique rationale. Not enclosing a deck is a strict requirement as it is considered expansion of the structure toward the lake; if converted into a room, a future deck could then be built off of that.

Commissioner Hogle stated that she is sympathetic to the applicant's request but does not like to go against the DNR's regulations. Administrator Handt noted that the city has gotten a number of requests to screen in decks but has been consistent with this regulation.

Commissioner Anderson stated that it may make sense to screen in the porch, but since it falls within the setback of the lake, their hands are tied.

Chair Maefsky stated that the shoreland ordinance will be coming up for review with the future Comp Plan update and a change could be made to allow screening. She recommended the Kramers construct the deck with the potential to add screening in the future. Maefsky encouraged the Kramers to advocate for a change during the Comp Plan review to allow decks to be screened.

Greg Kramer asked to what extent they could repair the non-conforming deck. Buss said that up to 50% of the market value of the structure could be repaired without a variance.

**Hogle, seconded by Anderson, moved approve Resolution No. 05-05-15-01, Approving a Variance for 12810 182nd Street, as presented. The motion carried 3-0.**

The recommendation to approve the variance will go to the City Council at their May 19, 2015 meeting.

**DRAFT ORDINANCE NO. 161 ACCESSORY DWELLING UNITS**

A public hearing was held at the April 7<sup>th</sup> Planning Commission meeting on proposed Ordinance No. 161 to amend the Development Code to allow accessory dwelling units to achieve a goal of providing life cycle housing to area residents. Positive comments were received and Planner Buss provided additional information for further discussion.

The zoning ordinance currently provides for 3 types of temporary dwelling units – those for Care Facilities, Temporary Units during Construction, and Temporary Farm Dwellings. Buss explained these are generally mobile homes that are not permanent and have a defined expiration. Buss stated that she found no conflicts with the proposed amendments and temporary units now permitted. Buss asked if the Commissioners had concerns that up to 3 accessory dwelling units could exist on properties greater than 10 acres, and all 4 on ag parcels over 75 acres.

Chair Maefsky stated that there does not appear to be a problem since the temporary units have standards for their removal. Buss stated that the number and size allowed will be governed by the accessory structures code.

Buss noted the requested changes that were made to the draft ordinance:

- Public notice requirement to adjacent parcels instead to those within 100 feet.
- Permit accessory dwelling units closer to the roadway on parcels that are 5 acres or larger, where the structure is at least 200 feet from the road ROW. This conforms to the accessory structure ordinance.
- Permitted maximum size of internal accessory units was increased to 1,000 square feet.
- Common ownership language and covenant recording language was revised by the City Attorney. An Accessory Dwelling Unit permit will not expire upon transfer of the property to a new owner, but will run with the property.

The Planning Commission began a further review of the ordinance and requested a few more changes. Chair Maefsky asked that “parcel” be replaced with the term “lot” to match the definitions in Chapter One of the development code.

It was decided to reorder the standards by listing the Administrative Permit requirements as #7 followed by procedures for obtaining an Occupancy Permit as #8; the remaining standards are renumbered from there (i.e. #8 now becomes #9, ...).

The last sentence of #9.a) was removed, addressing height of the accessory dwelling unit, since it was redundant with the first sentence.

Design standards for detached units was revised to include language that aligns with the accessory structure ordinance, that the unit match or be in harmony with the principal building on lots 4 acres or smaller. A statement to exclude existing barns, silos, and historic structures was added.

The Commissioners requested that a clean copy be e-mailed to them following the Council's review at their May 6<sup>th</sup> Work Session.

**Loeffler, seconded by Anderson, moved to recommend to the Council adoption of Ordinance No. 161 with the recommended changes.**

Commissioner Hogle stated that she would like to see a clean copy with the changes at the next Planning Commission meeting before recommending adoption. Commissioner Loeffler noted that if they had concerns, these comments could be made at the May 19<sup>th</sup> Council meeting before the ordinance is adopted.

**The above motion carried 3-1, with Hogle opposed.**

**SOLAR FARMS DRAFT ORDINANCE**

As was discussed at the last meeting, Scandia's development code does not have performance standards for the placement of solar farms or gardens on properties. With the mandated law for power companies to generate 1.5% of their power using solar by 2020, grants are being provided for the construction of solar gardens -- large scale installations of solar panels for the production of solar power to provide the sale of generated energy.

Planner Buss provided a draft ordinance based on other communities' adopted solar ordinances. Definitions and performance standards were discussed for adapting the standards to Scandia. It was clarified that the ordinance is being created for solar gardens and farms, and not applied to building integrated systems that create solar energy primarily for use on that property.

It was agreed that the standard definitions provided in the draft were adequate, although there was some confusion if a community solar garden, where a neighborhood buys into shares for their own use, was included in the definition of a solar farm. Buss noted that solar gardens and solar farms are different types of solar energy systems. It may be possible for Scandia to regulate solar gardens and solar farms in the same way, but the two types of solar systems are defined separately in State Statute. Buss will research this further and bring a revised definition section to the next meeting.

What zoning districts to allow solar farms to be located was thoroughly discussed. Since at least 5 acres is needed for mega-watt systems, the AG Preserves, AG Core and General Rural were identified as allowable districts. The Industrial Park district was excluded since a solar farm would lower the tax base and the property is more valuable as commercial business property.

It was agreed to permit solar farms with the issuance of a Conditional Use Permit rather than an Interim Use Permit. The long term investment of 20 to 30 years in a solar farm operation would allow the CUP to continue upon sale of the land. Areas to prohibit solar farms were identified within the Shoreland Districts, the St. Croix River District and within wetlands to the extent required by the MN Wetlands Conservation Act.

Buss reviewed the permit application requirements in the draft and no changes were identified. A detailed site plan, vertical cross-section elevations and the system's relationship to structures on adjacent lots within 150 feet of the boundary were identified as important submittals. Natural resource assessments and an impact mitigation plan could be optional on projects greater than 10 acres, and it was agreed to leave these requirements in the draft.

The performance standards were then discussed. It was agreed to set the minimum lot size at 5 acres. Commissioner Anderson stated that he would like to have solar farms prohibited along the major intersections so that this is preserved for future commercial growth. Buss will research wording to possibly increase the setbacks along major roadways and bring this to the next meeting.

Commissioners determined that ground-mounted systems should not exceed 15 feet in height.

The performance standard addressing screening will be included as presented, with panels that are located at least 200 feet from the adjacent right-of-way or residential use excluded from screening.

Buss noted that (F) and (J), permitting for stormwater management, erosion control and lot coverage standards, could be combined.

Burying power lines was questioned and it was recommended that an expert on solar installations be invited to the next meeting to provide information on this standard and on other requirements in the ordinance. The draft will also be sent out to 3 or 4 solar providers for their comments.

Administrator Handt noted that other communities have had concerns about lost tax revenues on solar farm parcels that are developable and are negotiating with solar developers to make up for this loss with payments in lieu of taxes. Handt will consult with the City Attorney on how to reference language for development agreements that would be included in the ordinance.

Handt announced a workshop on community solar gardens that Commissioners could have an opportunity to attend on May 21<sup>st</sup>. Commissioners Hogle and Anderson will attend along with Handt, and will be able to bring back additional information for the June 2<sup>nd</sup> meeting.

**Loeffler, seconded by Hogle, moved to schedule a public hearing on the solar farm ordinance for the June 2, 2015 Planning Commission meeting, and to invite expert providers to offer their opinions on the ordinance. The motion carried 4-0.**

**WIRELESS TOWERS ORDINANCE DISCUSSION**

Planner Buss has reported at the last few meetings on the new FCC regulations that would make it easier for wireless providers to update their equipment. This means the City could not deny updates to permitted cell towers as long as they are not a substantial change, meaning the height could increase up to 20 feet without needing approval from the City.

Buss recommended the City's ordinance be amended by reducing the maximum height of cell towers by 20 feet to account for any potential increase that would not need a permit under the new FCC regulations. Commissioners were in agreement that doing so would keep the status quo of cell tower height under the new rules.

**Loeffler, seconded by Hogle, moved to schedule a public hearing for June 2, 2015 to consider an amendment to lower the maximum permitted cell tower height by 20 feet. The motion carried 4-0.**

**ADJOURNMENT**

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

The meeting adjourned at 9:55 p.m.

Respectfully submitted,

Brenda Eklund  
Deputy Clerk