

September 2, 2014

The Scandia Planning Commission held their regular monthly meeting on the above date. Chair Christine Maefsky called the meeting to order at 7:02 p.m. The following were in attendance: Commissioners Jan Hogle, Travis Loeffler, Steve Philippi and Chair Christine Maefsky. Absent: Commissioner Dan Squyres. Staff present: City Administrator Kristina Handt, City Planner Sherri Buss and Deputy Clerk Brenda Eklund. City Council member Chris Ness was also in attendance.

**APPROVAL OF AGENDA, MINUTES**

**Hogle, seconded by Philippi, moved to approve the agenda as presented. The motion carried 4-0.**

**Hogle, seconded by Loeffler, moved to approve the August 5, 2014 minutes as presented. The motion carried 4-0.**

**VARIANCES TO CONSTRUCT AN ACCESSORY STRUCTURE AT 20789 QUINT AVENUE. RANDALL CLARY AND LISA ETZWILER, APPLICANTS. (RESOLUTION NO. 09-02-14-01)**

Lisa Etwiler and Randall Clary are proposing to replace and expand an existing accessory structure on property they own at 20789 Quint Avenue. The property is 2.31 acres in size and located in the Ag Core District and within the St. Croix River Overlay District. Building setbacks from the river are 200 feet from the Ordinary High Water Level (OHWL) and 100 feet from the bluff line. The applicant's survey shows the building to be 100 feet from the OHWL and within the bluff area; therefore variances from the OHWL of the river and the bluff line are required.

Planner Buss presented an overview of the request. The applicants removed an existing shed and began constructing a new bunkhouse/workshop at the same location last fall without a building permit being issued by the City. A stop work order required the construction to cease, and the project was reviewed by multiple agencies. The applicants proposed to build a 22'x22' structure for storage, plus a sink, bathroom and loft space. Buss explained that the applicants plan to remove an existing outhouse and add bathroom facilities to the new structure as a replacement for the privy. The applicants noted their need to have storage in a location closer to the water due to difficulty of transporting water craft and maintenance items up the bluffs to a location that would meet the setbacks.

Since the existing building was demolished without any survey record of the size of the structure, it was agreed to use the County Assessor's appraisal that the removed shed was 12'x16' in size. The removed shed was considered a substandard structure since it did not meet the OHWL and bluff line setbacks. Comments received from the DNR did not support expansion of the structure nor including bathroom facilities, as it would be considered intensification of use. The National Park Service commented that they are in favor of removing the outhouse and installing a sink and toilet in the new structure but that the size could not exceed the size of the removed shed. Based on concerns regarding expansion of use if bathroom facilities are included, Buss concluded that a variance could be approved for a storage structure only, in the same footprint as

the demolished shed (12'x16'). The structure would be a minimum of 100' from the OHWL of the river. Conditions for approval were included in a resolution, including obtaining a grading permit, Watershed District permit, and approval from the NPS.

Chair Maefsky opened the public hearing at 7:19 p.m.

*Randall Clary, 20789 Quint Avenue, Applicant:* Mr. Clary noted a statement in the staff report from the NPS that a recently constructed garage on the property was located 80' from the bluff line rather than the required 100'. Mr. Clary stated that a representative from the NPS used a GPS device to determine the exact placement of the garage before construction began.

There were no further comments and the hearing was closed.

Commissioner Loeffler stated that he agreed with the Planner's recommendation to allow the building to be used for storage only. Adding bathroom facilities has the potential for the building to be used as living quarters. Chair Maefsky agreed that it could become a habitable dwelling unit and this would counter the City's goal to protect the river. Maefsky noted that the cabin has indoor plumbing and is not a great distance from the shed being built.

Commissioner Hogle explained that she would prefer that the outhouse be removed due to its close proximity to the river and allow bathroom facilities in the new structure. Commissioner Philippi agreed that the privy should be replaced with indoor facilities to protect the health of the river.

Buss explained that a point of discussion could be to remove the outhouse with no replacement of bathroom facilities. The Commissioners discussed with the applicants the seasonal use of their cabin. Ms. Etwiler explained that the water is turned off to the cabin in the winter and it seemed like a logical time to add indoor plumbing to the new structure being built. They stated that they intend to spend more time on the property during the winter. The County determined that the existing septic system could be connected into. The Commissioners concluded to accept the staff recommendation to approve a storage building only without bathroom facilities; the outhouse would not need to be removed.

**Loeffler, seconded by Maefsky, moved to adopt Resolution No. 09-02-14-01 as presented, Approving Variances for 20789 Quint Avenue. The motion carried 4-0.**

The recommendation to approve the variance will go before the City Council on September 16, 2014.

**VARIANCE TO CONSTRUCT A DECK AT 12166 228<sup>TH</sup> STREET. MARK AND DORA LOFSTROM, APPLICANTS. (RESOLUTION NO. 09-02-14-02)**

Mark and Dora Lofstrom are proposing to add a 16'x19' deck and stairs to their home at 12166 228<sup>th</sup> Street. A variance is needed to locate the deck and stairs within the 100' setback of the Ordinary High Water Line (OHWL) of Bone Lake.

Planner Buss presented a summary of the request. The existing home was built in 2000 by a different owner. The home is approximately 62' from the OHWL and a variance was approved at that time to allow a deck 51' from the OWHL. The deck was never built, but a concrete pad was added to the lakeside of the home that is 18' x 20' in size. Submitted plans show that the deck will be a minimum of 46' from the OHWL. Buss noted that the Comfort Lake-Forest Lake Watershed commented that they may require a recorded buffer along the shoreline, and the applicants should bring their proposal to the Board for review.

Buss explained findings that supported approval of the request. The deck location is the same distance from the lake as the existing concrete pad attached to the home and will not encroach farther into the OHWL. Conditions for approval were included in a resolution, including that the deck and stairs could not be roofed or screened at any time, a condition the DNR recommended for the first variance approval in 2000.

Chair Maefsky opened the public hearing at 7:46 p.m. There were no comments and the hearing was closed.

Commissioner Philippi noted that the extent of the deck is no closer to the lake than those on either side of the property, and stated that the addition of a shoreline buffer is a good idea. Commissioner Hogle agreed that she had no issues with the request.

**Loeffler, seconded by Hogle, moved to adopt Resolution No. 09-02-14-02 as presented, Approving a Variance for 12166 228<sup>th</sup> Street. The motion carried 4-0.**

The recommendation to approve the variance will go before the City Council on September 16, 2014.

**VARIANCE FOR THE ADDITION OF A GARAGE AND PORCH AT 19105 LAYTON AVENUE. LAURIE WATERMAN, APPLICANT. (RESOLUTION NO. 09-02-14-03)**

Laurie Waterman is proposing to rebuild a home that was destroyed by fire at 19105 Layton Avenue, within the same footprint as the previous home located within the Shoreland Overlay of Big Marine Lake. A garage and porch will be added, which requires a variance from the Ordinary High Water Level (OHWL) and the rear lot line. A septic tank will need to be relocated on the parcel, which requires a variance from the rear lot line.

Planner Buss provided the staff report and details of the request. The original building was a legal, nonconforming structure that did not meet the lake setbacks. The Development Code allows replacement for buildings destroyed by fire if a building permit is applied for within 180 days. The applicant met this requirement. The garage addition is proposed to be closer to the OHWL than the previous dwelling, at a distance of 15.5 feet (100 feet is required). The setback of the garage from the rear property line will be 25.4 feet (50 feet is required). The new holding tank will be located 7 feet from the rear property line, which must be moved in order to construct the driveway. Buss explained that the State requires that a new well be constructed after a fire. The survey showed the location of the proposed well.

Buss noted that the Carnelian-Marine Watershed District will require a permit for the project with the establishment of a shoreline buffer and construction of stormwater best management practices.

Buss recommended approval of the variance request with findings and conditions written into a resolution. Buss explained that the proposed garage is smaller than a typical 2-car garage and the proposed expansion toward the rear of the lot protects the lake. Location of the septic tank meets the OHWL setback, which is a higher priority than the rear setback.

Chair Maefsky opened the public hearing at 7:57 p.m. There were no comments and the hearing was closed.

Commissioner Hogle asked for clarification on the condition to seal the well. Buss explained the State Health Department's requirement to seal contaminated wells after a fire, but Administrator Handt said that she understood the reasoning to be that well could not be within the house as the old sand point well was.

Chair Maefsky asked that it be made clear that the existing shed, a nonconforming structure that does not meet setbacks, must be left in the same place and could not be moved to any other location on the property without a variance.

**Loeffler, seconded by Hogle, moved to adopt Resolution No. 09-02-14-03 as presented, Approving Variances for 19105 Layton Avenue. The motion carried 4-0.**

The recommendation to approve the variance will go before the City Council on September 16, 2014.

**VARIANCES TO INSTALL A SEPTIC SYSTEM HOLDING TANK AT 21715 QUARRY AVENUE. RUDY SUNDBERG, APPLICANT. (RESOLUTION NO. 09-02-14-04)**

Rudy Sundberg is requesting to install a new septic system holding tank to replace an existing privy on his property at 21715 Quarry Avenue. Holding tanks require a variance from the Washington County Subsurface Sewage Treatment Ordinance, adopted by the City. A variance is also needed from the rear lot line setback. The property is located within the St. Croix River Overlay District.

Planner Buss presented the staff report and details of the request. Pete Ganzel, Washington County Department of Public Health, provided comments that holding tanks are only appropriate for seasonal, low-use properties, and would be the best option for this situation and less likely to impact surrounding wetlands and vegetation. Mr. Sundberg's cabin is 280 square feet and is not insulated. The tank would be installed 220' from the OHWL of the river and meets the 200' setback and the bluff line setback. The location of the tank must be near a roadway to allow for pumping, so the tank will be located approximately 25' from the rear lot line.

Buss reported that the Watershed supported the request and would not require a permit. Both the DNR and the National Park Service approved the request as an improvement over the existing

outhouse, and recommended that the variance be recorded against the property to inform future owners about the septic system limitations and seasonal use of the property only.

Buss recommended approval of the variance to allow a holding tank within the rear lot line setback, with findings and twelve conditions written into a resolution. Maintenance tasks for the holding tank system were included in the conditions.

Chair Maefsky opened the public hearing at 8:08 p.m. There were no comments and the hearing was closed.

Chair Maefsky read an e-mail from Sue Lundgren and Harriet Lerdal, 21565 St. Croix Trail, with questions about the proposed holding tank. Maefsky noted that the proposed location is the best site with the least impacts on the area and consideration for what is best for the river. Commissioner Loeffler agreed that it is an ideal location.

**Loeffler, seconded by Hogle, moved to adopt Resolution No. 09-02-14-04 as presented, Approving a Variance for 21795 St. Croix Trail. The motion carried 4-0.**

The recommendation to approve the variance will go before the City Council on September 16, 2014.

**VARIANCES TO INSTALL A SEPTIC SYSTEM HOLDING TANK AT 12160 196<sup>TH</sup> STREET. RON AND VICKI HELMS, APPLICANTS. (RESOLUTION NO. 09-02-14-05)**

Ron and Vicki Helms are requesting to install a new septic system holding tank on their property at 12160 196<sup>th</sup> Street. Holding tanks require a variance from the Washington County Subsurface Sewage Treatment Ordinance, adopted by the City. A variance from the side lot line setback is also needed. The property is located within Shoreland Overlay District of Big Marine Lake.

Planner Buss presented the staff report and details of the request. The applicants plan to replace an existing metal tank with a cement holding tank as a proactive approach to provide a safe septic system and to minimize land disturbance. Pete Ganzel, Washington County Department of Public Health, provided comments that holding tanks are only appropriate for seasonal, low-use properties, and would be the best option for this situation, as a mound system would result in more disturbance to the property. The Helms' cabin is 350 square feet and used seasonally. The applicants indicated that this seasonal use will continue.

Buss explained that the Helms own multiple adjacent parcels that include 1.86 acres. The Development Code states that nonconforming lots under the same ownership should be combined in an effort to reduce non-conformity. Buss noted that once the lots are combined, the rear setback will be met. Replacement of the holding tank in the same location as the existing tank, 10-feet from the side lot line, necessitates a variance (20-feet is required).

Buss noted that the Watershed supported the request and would not require a permit. The DNR comments stated that the proposal would be an improvement and recommended a covenant be recorded against the property that limits expansion of the cabin because of septic limitations.

Buss concluded with a recommendation to approve the variance from the side yard setback to construct a holding tank on the property. Findings and twelve conditions were presented in a resolution.

Chair Maefsky opened the public hearing at 8:19 p.m.

*Ron and Vicki Helms, Applicants:* Mr. Helms stated his disagreement with the condition to combine the three separate lots into one, and explained the lengthy and costly process they went through with the state to certify the lots as individual parcels.

Mrs. Helms questioned the requirement to enter into a contract with a licensed septic maintainer, and stated that they may use different providers for each pumping event. Buss stated that a contract for pumping services needs to be presented to the City before a building permit for installation of the tank is issued, to verify that they have a reliable service in place for maintenance of the holding tank.

There were no further comments and the hearing was closed at 8:26 p.m.

The Commissioners discussed Section 13.5(1)H in Chapter One of the Development Code, pertaining to combination of lots, which is one of the conditions for approval. Buss explained that it is a way to eliminate nonconformities as much as possible by bringing properties into better alignment with the Development Code and preventing future issues. Commissioner Hogle stated that she understands the spirit, but does not interpret it as a requirement. Chair Maefsky stated that if they did not apply it in this case, it may set precedence for future applications, and they should take the opportunity to clean up non-conforming lots in each situation. Commissioner Philippi stated that it seems the condition is out of proportion to the request, as the holding tank serves a larger goal to protect water quality around the lake.

Commissioner Loeffler recognized the proactive approach the Helms are taking by installing a cement tank, but questioned if more use of the property would occur with the improved septic system. He also stated that if the Helms are against combining the lots into one, perhaps they could postpone installation until the County revises their ordinance to allow holding tanks on seasonal property, estimated to be next year.

Ron and Vicki Helms explained that the lots are taxed at various separate rates now, and combining them would have huge tax ramifications, such that the 1.86 acres would be considered as one lake lot with increased property taxes.

The Commissioners concluded that there are questions about the cost to combine parcels at the County; and if the parcels remain separate, could the restrictions on development and minimal use be recorded on each parcel.

**Loeffler moved to approve the Planner's recommendation and adopt Resolution No. 09-02-14-05 as presented. The motion failed for lack of a second.**

**Philippi, seconded by Hogle, moved to table discussion on the Helms' request in order to gather additional information on the cost to combine parcels and if restrictions on use could be recorded with each separate parcel. The motion carried 3-1, with Loeffler opposed.**

Discussion on this application will continue at the October 7, 2014 Planning Commission meeting.

**VARIANCES TO CONSTRUCT A CABIN AT 16987 197<sup>TH</sup> STREET – CONTINUED FROM AUGUST 5, 2014. MARK HOLLOWAY, APPLICANT. (RESOLUTION NO. 09-02-14-06)**

The Planning Commission tabled Mark Holloway's variance request at their August 5<sup>th</sup> meeting to provide time for Mr. Holloway to complete the design of the septic system for the site and submit plans showing the location and setbacks. A new survey was presented identifying the proposed septic system location and well location.

Planner Buss explained that in addition to variances for the cabin location, the septic system mound will need variances from the rear lot line and from the delineated wetland. Placement of the system will be 10' from the rear lot line (setback is 50') and 15' from the edge of the wetland (setback is 75'). The septic meets the OHWL and bluff line setbacks, and is acceptable to the County for permitting. The well location meets all setbacks.

Planner Buss recommended the variance request be approved for expansion of the existing cabin in a location 127' from the OHWL of the St. Croix River, 32' from the bluff line, and 28' from the existing wetland delineated on the property; and approval of variances to permit the septic system mound to be located 10' from the rear lot line and 15' from the delineated wetland. Findings and 13 conditions for approval were written into a resolution.

The Commissioners discussed a neighbor's concern brought up last month about construction vehicles parking on the private roadway that serves the neighborhood. Commissioner Philippi stated that it is not the city's place to restrict parking on a private street, but that the applicant should be advised not to encumber emergency access during construction. The Commissioners concluded that this should not be an issue for a condition on the shared driveway and the neighbors can work out an understanding of where to park.

Commissioner Hogle questioned Condition #11 that resodding and reseeded be done within 180 days of issuance of the building permit, as the timing of Mr. Holloway's permit this fall may not allow for completing the project within this time frame. Buss suggested adding "within 180 days or as weather permits" to this condition. Buss stated that they will also submit an erosion control plan to show that measures are in place to control erosion.

**Hogle, seconded by Philippi, moved to adopt Resolution No. 09-02-14-06, Approving Variances for 16987 197<sup>th</sup> Street, with Condition #11 amended to state "within 180 days or as weather permits". The motion carried 4-0.**

The recommendation to approve the variance will go before the City Council on September 16, 2014.

**ADJOURNMENT**

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

The meeting adjourned at 9:12 p.m.

Respectfully submitted,

Brenda Eklund  
Deputy Clerk