

**SHOREVIEW PLANNING COMMISSION
MEETING MINUTES**

June 22, 2010

CALL TO ORDER

Acting Chair Feldsien called the meeting of the June 22, 2010 Shoreview Planning Commission meeting to order at 7:00 p.m.

ROLL CALL

The following members were present: Acting Chair Feldsien; Commissioners Ferrington, Mons, Schumer and Solomonson.

Chair Proud and Vice Chair Wenner were absent.

APPROVAL OF AGENDA

MOTION: by Commissioner Mons, seconded by Commissioner Schumer to approve the agenda as submitted.

ROLL CALL: Ayes - 5 Nays - 0

APPROVAL OF MINUTES

April 27, 2010

Page 5: The comment by Commissioner Mons that he does not favor the proposal should have added, "because he does not believe it is compatible in a suburban setting."

MOTION: by Commissioner Schumer, seconded Commissioner Solomonson to approve the April 27, 2010 Planning Commission minutes as amended.

VOTE: Ayes - 5 Nays - 0

May 25, 2010

MOTION: by Commissioner Mons, seconded Commissioner Ferrington to approve the May 25 2010 Planning Commission minutes as submitted.

VOTE: Ayes - 4 Nays - 0 Abstain - 1 (Schumer)

Commissioner Schumer abstained, as he attended only a portion of the meeting.

REPORT ON CITY COUNCIL ACTIONS

City Planner Nordine reported that at the June 6th City Council meeting the Council upheld the Planning Commission's decision to deny the variances in the Raygor application.

At the same meeting, the City Council approved the application from Greater Metropolitan Housing Corporation to subdivide 221 North Owasso Boulevard, remove the existing duplex and develop two single-family homes.

NEW BUSINESS

COMPREHENSIVE SIGN PLAN REVIEW

FILE NO.: 2396-10-14
APPLICANT: GREEN MILL/FORSTROM & TORGERSON, LLP
LOCATION: 1000 GRAMSIE ROAD

Presentation by City Planner Kathleen Nordine

This application is for a comprehensive sign plan amendment to install a monument sign for the Green Mill Restaurant. The amendment is needed because: 1) it will exceed the number of free-standing signs permitted; and 2) a cabinet style sign is not permitted for structures more than 50,000 square feet. A 45-foot square foot free-standing, cabinet style, monument sign is proposed along Gramsie Road to give more visibility to the restaurant. The height would be 7' 6" with 45 square feet of area. The colors would be green, yellow and red to match existing wall signage.

While the Development Code allows one free standing sign, exceptions are made for sites adjacent to two arterial roadways. The restaurant is located along I-694 and Gramsie Road. Gramise is not an arterial road. Currently, there are two free standing signs for this site, including a pylon sign along I-694 for Green Mill of 75 square feet. However, this sign is difficult to see due to vegetation. Wall signs are located on the north and west elevations.

Staff believes the location is reasonable on the basis of adjacent development that blocks visibility from Gramsie Road. Materials, colors and illumination are consistent with existing signage for Green Mill. The proposed size is reasonable for the size of the property. Green Mill is located in the Hampton Inn.

Notices were sent to property owners within 350 feet of the site. No comments were received. Staff is recommending that the Planning Commission recommend approval to the City Council with the conditions attached in the staff report.

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Commissioner Mons asked the square footage of the building. Ms. Nordine stated that the entire building is approximately 75,000 square feet. The Green Mill space is approximately 20,000 square feet. This would be the only monument sign on Gramsie Road.

Mr. Michael Lamoureux, Manager Green Mill, offered to answer questions. Acting Chair Feldsien asked if the monument sign would be at ground level or raised. **Mr. Lamoureux** stated that it would be raised a couple of feet. The total height is 7 feet, 6 inches. The reason for this sign is for increased visibility for the restaurant.

MOTION: by Commissioner Mons, seconded by Commissioner Schumer to recommend to the City Council approval of the amended Comprehensive Sign Plan submitted by Forstrom and Torgerson, LLP (Green Mill Restaurant), 1000 Gramsie Road to install a free-standing monument sign along Gramsie Road subject to the following conditions:

1. The signs shall comply with the plans submitted for the Comprehensive Sign Plan application. Existing signage shall remain as previously approved. Any significant change will require review by the Planning Commission and City Council.
2. The applicant shall obtain a sign permit prior to the installation of the monument sign on the property.
3. The sign shall be set back a minimum of 5 feet from the front property line along Gramsie Road and shall be located so as not to create interference with traffic visibility.

This recommendation is based on the following findings of fact:

1. The proposed land use is consistent with the designated commercial land use in the Comprehensive Plan.
2. The proposal complies with the five elements considered for Comprehensive Sign Plans.
3. The proposed deviations from the City's Sign Code are reasonable based on the building setback and site characteristics. The proposed signage will increase visibility of the restaurant for customers from Gramsie Road.

Commissioner Mons stated that the size of the restaurant is well within the limit for a cabinet style sign for a free standing building.

ROLL CALL: Ayes - 5 Nays - 0

VARIANCE/CONDITIONAL USE PERMIT

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FILE NO.: 2398-10-16
APPLICANT: JOSEPH & TERESA MORRIS
LOCATION: 948 COUNTY ROAD I

Presentation by Senior Planner Rob Warwick

This application is to tear down and rebuild a home on a substandard riparian lot on the north side of Turtle Lake. All structures would be removed to build a new single story home with attached and detached garages. The variances requested are for the front setback for the house and for the size and total floor area of accessory structures.

The lot area is 27,000 square feet with 99.9 feet of width on Turtle Lake, which is less than the required 100-foot width for a conforming lot. The proposed new home will have approximately 3,000 square feet of living area. It is planned to be located 108 feet from the roadway, 79 feet from the Ordinary High Water (OHW) mark, 10 feet from the west side lot line and 19 feet from the east side. Attached would be a 996 square foot garage. The driveway and patios on the lake side will be installed with pervious pavers. A separate 576 detached garage is also proposed close to the road. Four landmark trees will be removed and 8 replacement trees are required. A rain garden is planned on the lakeside to catch water draining toward the lake. Span-crete construction will be used for the garage and porch to allow livable area at the basement level.

The proposal for the house and attached garage complies with City design standards with the exception of the front setback. The front setback and OHW setback requirements are based on an average of adjacent properties plus or minus 10 feet. The proposed OHW setback is in compliance. A 2-car attached garage with maximum area would allow a detached accessory structure of 288 square feet maximum with a conditional use permit. The total floor area allowed for all accessory structures is a maximum of 1200 square feet or 90% of the house living area foundation.

Three variances are requested:

1. Reduce front setback from the required 146.5 feet to 108.1 feet
2. Increase maximum floor area for detached accessory structure from 288 square feet to 576 square feet;
3. Increase total floor area of all accessory structures from 1200 square feet to 1,572 square feet.

The applicant states that a single-story walkout was planned so the house would fit into the existing neighborhood. Houses on adjacent parcels are older and do not reflect current house designs. The applicant notes that the existing detached accessory structure has been used as a second house. It is 901 square feet. It will be removed and replaced with a 576 square foot detached garage to be used for winter storage of lake related items and eliminate outside storage.

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Although nonconforming, state law would allow this accessory structure to be rebuilt on the current footprint with upper and lower levels. The proposed 576 square foot two-car detached garage is reasonable and fits better in the neighborhood. The appearance will match the house and conform with other nearby detached garages located near the street. The house will be the dominant feature, not the detached structure as is now the case. From the street, the side of the garage is seen with windows and architectural features that are of residential character.

The applicant has identified Architectural Mass and infiltration as the two mitigation methods to be used as required for shoreland property. Infiltration will be achieved through the extensive use of porous pavers for the project, and a rain garden near the lake.

Property owners within 350 feet were notified. Notice for public hearing was not in time for this meeting and will be held by the City Council. One adjacent property owner called to voice support for the project. One written comment was received with concern about hardscape on the property and the reduction in the lake setback. Staff noted that the proposed house conforms to the OHW setback, and is located at the same distance from the lake as the existing house.

Staff is recommending approval with the conditions listed in the staff report. Staff believes hardship is present and the variances are justified due to the following:

1. The property is located where the lake shoreline is not parallel to the street, which increases lot depth due to the relationship between the curving lakeshore and the straight road. Since the houses align along the lakeshore, the front setbacks increase.
2. The property to the east has a detached garage, and the house setback is further from the front lot line than if there were an attached garage.

Commissioner Mons expressed concern that there cannot be an expectation that the detached structure will have limited use. A future property owner may use it differently. He asked if, with the front setback variance, encroachment toward the lake would remain the same. Mr. Warwick explained that the required front setback from an arterial street is 40 feet. If there is more than a 50-foot setback, then the average with adjacent properties is calculated. The OHW will remain the same as for the existing house.

Mr. Schumer stated that other than the house size the property owner desires, he sees the variance request a result of a situation created by the property owner, not as a unique circumstance of the property not created by the owner as required by criteria to grant a variance. Mr. Warwick agreed that it is the applicant's desire to be allowed over 1500 square feet of accessory structure. What is not created by the applicant is the fact that a 901 square foot, two-story accessory structure is already on the lot. Because of its existence, the applicants would have rights to continue its use. An attached garage with a single story detached accessory structure near the road is in better keeping with the intent of City Code than what now exists. Therefore, staff finds that the variance is warranted.

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Commissioner Schumer asked the depth of the new home if the front setback and OHW setback were in compliance. Mr. Warrick stated that the new house could be moved 13 feet closer to the water. It would mean making cutting 25 feet off the garage as well as a longer driveway, although porous pavers will be used.

Commissioner Mons stated that the hardship is the City's because there is no regulation regarding rebuilding the existing large detached accessory structure. He agrees with staff that it is better to have a smaller detached accessory structure than for the existing one to be rebuilt. His concern is whether this sets a precedent for any property owner requesting a variance for a larger accessory structure on the basis that it will be reduced in size, similar to this one. He is not sure he supports granting a variance of over 1500 square feet of accessory structure to achieve the smaller structure.

Commissioner Solomonson stated that the plan is well thought out and is preferable to having the existing 900 square foot accessory structure rebuilt.

Mr. Joe Morris, 948 County Road I, stated that he and his wife met with both immediately adjacent neighbors to discuss their plan. The proposed height of the new detached accessory structure is 12 feet lower in height. Detached garages are found throughout the neighborhood. What is proposed is not different from what already exists along County Road I. More than eight replacement trees will be planted to replace the four landmark trees being taken out. **Mrs. Teresa Morris** added that they have worked hard to be respectful of the lake, neighbors and the City of Shoreview.

Commissioner Mons stated that his issue is that this application allows a lot of square footage for storage. The problem is that this decision does have some precedent, especially with an existing legal nonconforming use. He expressed his appreciation for the work the Morrises have done to work with neighbors.

Commissioner Ferrington stated that the applicants have done everything right in consideration of the neighborhood and reducing the size of the detached accessory structure. They are addressing water and drainage on the property, which is especially important with a lake lot. This proposal provides an example to other lakeshore homeowners who may plan renovations, and she fully supports it.

Commissioner Mons stated that he sees this as similar to a Planned Unit Development (PUD) where there are certain tradeoffs for a certain type of development. He is not sure the PUD process can be used on a single lot. He does not disagree with the benefits of the tradeoffs, but it is not a variance criteria that can be used. The variance is substantial with the amount of square footage, an increase for accessory structure space of 30%.

Commissioner Ferrington responded that a variance considers all of the factors. On balance, this

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is a very positive application.

Acting Chair Feldsien stated that additional storage prevents outside storage. Even though the accessory structure space increase is large over the allowed 1200 square feet, there are canoes and boats all around the lakes not stored inside. He supports this application because the applicant has shown restraint and has preserved the OHW setback from the lake, which is important.

MOTION: by Commissioner Solomonson, seconded by Commissioner Ferrington, to recommend to the City Council approval of the Conditional Use Permit application submitted by Joseph and Teresa Morris, and to adopt Resolution 10-55, approving the variance requests to reduce the front setback and to increase the area of a detached garage and total floor area of all accessory structures. The approvals are subject to the following conditions:

1. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The attached garage shall not exceed 996 square feet in area, the detached garage shall not exceed 576 square feet in area, and the total floor area of all accessory structures shall not exceed 1,576 square feet. The shed on the lakeside of the proposed house shall be removed prior to issuance of a building permit for the project.
3. The exterior of the detached garage shall be painted with a color to complement the exterior finish of the new house. The color used shall comply with the architectural design standards for substandard riparian lots and is subject to the approval of the City Planner.
4. The peak height of the detached garage shall not exceed 18 feet and the upper storage area shall have a height not to exceed 6 feet. The detached garage shall be set back a minimum of 10 feet from the side lot line.
5. The variance approving the 576 square foot area of the detached garage and 1,572 square feet of total accessory floor area is subject to approval of the CUP by the City Council.
6. The east driveway curb cut shall be abandoned according to the requirements of Ramsey County, and pursuant to the permitting requirements of the County.
7. The mitigation plan shall be completed within one year of this approval date. A Mitigation Affidavit shall be executed prior to the issuance of a building permit for the new home.
8. The development is subject to the permitting requirements of the Rice Creek Watershed District (RCWD). The applicant shall obtain all required RCWD permits and approvals prior to issuance of any City permits.
9. The applicant shall submit manufacturers specifications and installation requirements for the pervious pavers to the Public Works Director for review and

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- approval prior to issuance of a building permit.
10. Four landmark trees will be removed, and eight replacement trees are required.
 11. The accessory structures, attached and detached, on the property shall be used for personal use only and no commercial use/commercial related storage is permitted.
 12. This approval is subject to a 5-day appeal period.
 13. This approval will expire after one year if a building permit has not been issued and work commenced.

The approval is based on the following findings of fact:

1. The proposed construction of a new house with a 996 square foot attached garage and 576 square foot detached garage represents a reasonable use of residential property in this lakeshore neighborhood.
2. Hardship exists due to the variations in lot depth resulting from the curvature in the lakeshore and the development on the adjacent properties for the front setback variance. The existing two-story, 900 square foot detached accessory structure on the subject property provides the hardship needed for the accessory structure variances. These circumstances are unique to the property.
3. The proposed improvements meet the spirit and intent of the ordinance and will not alter the character of the neighborhood, since other nearby riparian properties have been developed in a similar manner.
4. With approval of the front setback variance, the proposal complies with the adopted standards for Residential Design Review for a substandard riparian lot.
5. With approval of the floor area variances, the proposal complies with the standards for a Conditional Use Permit for a detached accessory structure.

Discussion:

Commissioner Mons asked if this reasoning for the variance would apply to a non riparian lot. City Attorney Duffek stated that variances are considered on a case-by-case basis. Any decision made by the Planning Commission at this meeting is not binding on future decisions.

Commissioner Mons stated that his concern is that courts do not always uphold that reasoning and asked if the legislature were to reverse itself and disallow rebuilding of nonconforming structures, would such a law be in effect from that time forward or would it be retroactive? City Attorney Duffek responded that while courts have their own rules, any variance granted by the City opens an opportunity for litigation. As for legislative action, usually it is from the time forward that enacted legislation takes effect. In this case, he does not see that such a reversal would be made retroactive.

Commissioner Mons stated that he would vote for the application because his disagreement with the legislature should not penalize these applicants.

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VOTE: Ayes - 5 Nays - 0

MISCELLANEOUS

Council Meetings

Acting Chair Feldsien will attend the July 19th City Council meeting.

ADJOURNMENT

MOTION: by Commissioner Mons, seconded by Commissioner Schumer to
 adjourn the June 22, 2010 Planning Commission meeting at 8:20 p.m.

ROLL CALL: Ayes - 5 Nays - 0

ATTEST:

Kathleen Nordine
City Planner