

STAFF REPORT

Application: Variance to construct within the shoreline setback
Variance to construct within the side yard setback
Variance to exceed 25% impervious coverage (undetermined, but likely)

Applicant: Dave and Jean Buck

Background Information: In February we received a request for a variance from Dave and Jean Buck. Drawings were submitted at a later time by Landecker and Associates. Just prior to our completion of the staff report, we received a call from the applicant's contractor indicating that the submittals were incorrect and requesting the application be withdrawn and put on the April agenda.

A week before this report was prepared, we received the modified drawings from Landecker and Associates. We have visited the property, which we encourage Planning Commission members to do so. It is a tight neighborhood and a unique piece of property.

The Bucks are seeking to remove and replace an existing cabin. The existing cabin is 650 square feet and the proposed structure is 768 square feet. The parcel is 50 feet wide and contains 5,457 square feet of area – 100 feet and 20,000 square feet is the minimum standard, although the lot is pre-existing non-conforming and has been exempted from these minimum requirements in the City's Ordinance.

The existing cabin is a single story structure with trees that overhang it. The existing house is set back 45 feet from the lake, where 75-feet is the standard. The existing and proposed house are also less than three feet from the adjacent parcel, where 10-feet is the minimum side yard setback. Variances are required for this construction. It is not clear if the proposed structure will also be single story.

The drawings submitted by Landecker and Associates indicate a proposed impervious coverage area of 20.4%. It was clear from the site visit, however, that area counted as pervious is used for parking, which would make it impervious. A maximum of 25% impervious coverage is allowed. Stormwater drains to the lake as shown in the submitted plan. There is a retaining wall made out of old railroad ties between the house and the lake.

A holding tank is used to handle wastewater. The tank is located on the west side of the home and encroaches on the side-yard setback. In 2002 it was found to be conforming in an inspection by Joni Tulenchik.

Applicable Statutes: The Ordinance specifically states that, in order to recommend approval of the variance, you must find that all of the following can be answered affirmatively:

1. Has the applicant demonstrated a hardship? (Hardship means the

property cannot be put to a reasonable use under conditions allowed by the Zoning Ordinance. Economic considerations alone do not constitute a hardship.)

2. Are there exceptional circumstances unique to this property, which were not created by the landowner?
3. Can the variance be granted without upsetting the purpose and intent of the Zoning Ordinance?
4. Can the variance be granted without altering the essential character of the surrounding area?

State law would allow you to attach relevant conditions to the variance approval to mitigate any negative impacts that a variance from the Code would have.

Staff Findings: When applied to this property, the City's ordinances would provide for a building that was only three feet wide. Obviously, it is not reasonable to construct a three foot wide home and, therefore, it seems that the City's ordinances are so restrictive that they do not provide for reasonable use of the property, which is an essential finding of a hardship needed to grant a variance.

For your consideration, we offer the following findings of fact:

1. The ordinance allows a building envelope of 30 feet by 3 feet, which is not large enough to build a home. The property can not be put to reasonable use under the current ordinance.
2. The property is a pre-existing, non-conforming lot. It was legally created prior to the adoption of the current ordinance and therefore the imposition of the current ordinance was not created by the landowner.
3. Conditions could be applied to mitigate the negative impacts of the decreased setbacks.
4. The locality currently has a number of small cabins on small, non-conforming lots. A small cabin on this property would not alter the character of the surrounding area.

Planning Commission Direction: The Planning Commission has the option to identify a hardship and approve the variance. The Commission may also vote to deny the variance. Either motion needs to be supported by findings of fact. At this point, the Commission may also table the request.

Staff Recommendation: There are a number of items unclear with the drawings submitted, but what is clear is that there is a hardship on this property created by the setback to the lake. There is no apparent hardship that would justify a 2+ foot sideyard setback. It is not clear if there is a hardship that would allow an impervious surface greater than 25%.

The Planning Commission may wish to table the application to obtain more information from the applicant including:

- size and location of the parking area

- vertical dimension of the proposed structure
- the amount of vegetation proposed to be removed as part of the construction

Or, the Commission may wish to, based on the findings in this report, approve the application with consideration given to the following conditions:

- 1a. The new dwelling shall be located a minimum of ten feet from the side yard setback to conform with the setback and not encroach on the adjacent property, or
- 1b. There shall be no removal of mature trees (greater than 4" diameter) on the property and the property owner shall obtain a signed acknowledgment from the adjacent property owner indicating that they understand the new dwelling will encroach within the setback.
2. To maintain the character of the surrounding area, the proposed cabin shall be single story and shall be sided with earth tone colors.
- 3a. The applicant shall submit a new plan that shows the amount of impervious coverage including at least two parking spaces. The total impervious coverage shall not exceed 25%, or
- 3b. To reduce impervious coverage as much as reasonably possible and to control stormwater runoff, the applicant shall permanently remove the existing deck that encroaches 31 feet from the lake.
4. To control stormwater runoff, runoff from around the home and in the rear of the home shall be contained using berms and shallow swales. The existing railroad tie retaining wall shall be replaced with an environmentally friendly retaining system such as keystone or natural rock. The retaining wall shall be raised to withhold and contain stormwater runoff from the site so that there is no direct flow of stormwater from the home into the lake.
5. To reduce the amount of runoff to the lake, to reduce the amount of erosion and to buffer the visual impact of the new construction from the lake, the applicant shall revegetate the slope between the retaining wall and the lake according to the following schedule:
 - a. One tree, a minimum of 4-feet high, per 100 square feet.
 - b. Shrubs may be substituted for up to half of the required trees on a 3:1 ratio (3 shrubs per tree) so long as the shrubs are designed to grow at least five feet in height.

Vegetation shall be maintained in perpetuity and shall be replaced if it dies.

The current sewage system is also within 50-feet of the adjacent well. It would make more sense to, as part of this construction, move that system to the rear of the lot away from this well and the lake. The proposed new well could then be drilled near the west lot line where it could be easily accessed and would not be encroached upon by adjacent sewer systems. The Commission may wish to consider this as an additional condition.

STAFF REPORT

Application: Modifications to the Definition of a Foundation

Applicant: City of Pequot Lakes

Background Information: The City's ordinance currently defines a permanent foundation as the following:

"A foundation meeting the Minnesota State Building Codes and consisting of approved footings, crawl space or a basement. (This is not the required foundation for a manufactured home in a manufactured home park.)"

We have had a suggestion that we examine this ordinance, especially as it relates to manufactured homes on pillars.

It is a common practice to place manufactured homes on pillars, which is allowed by the state building code. These foundations are often skirted with tin. Many cities have not allowed this type of construction as it has some negative externalities. The pillared foundation creates a transient look and feel similar to a mobile home. Full basements or crawl spaces are not significantly more expensive, but do provide a significant appreciation rate for the dwelling (as well as surrounding properties). Basements and crawl spaces also provide added protection during emergencies, specifically tornados.

If the Commission would like to regulate construction on pillars, the following language would be an alternative to consider:

"A concrete, concrete and concrete block, or treated wood portion of a structure which totally encloses the perimeter of the structure, supports the bearing loads of the superstructure and penetrates the ground providing frost protection."

Planning Commission Direction: The Commission may or may not choose to recommend this amendment to the City Council for their consideration.

P&Z Administrator's Report

- A. March Permits: The following permits were issued over the last month by the Zoning Department.
1. John Nornberg, Lot 2, Block 3, Industrial Park. Building permit for auto body shop.
- B. Correspondence: Your Staff sent the following letters of correspondence since the last meeting:
1. March 14 letter from Tom Fitzpatrick regarding the final documents for the Trailview Townhomes.
 2. March 14 letter from Joni Tulenchik resubmitting a final plat application.
 3. March 19 letter to Joni Tulenchik returning the final plat application as incomplete.
 4. March 28 fax to Phil Martin, Landecker and Associates, from Tim Houle of Widseth Smith Nolting regarding road standards in the Ridge subdivision
 5. April 5 fax to Brian Drown, Landecker and Associates, from Tim Houle of Widseth Smith Nolting regarding road standards in the Ridge subdivision
- C. Potential Violations/Enforcement Actions: The City Staff is currently working on the following potential violations/enforcement actions. We will report on these each month until they are resolved to the satisfaction of the Planning Commission.
1. Roger Langenbau: We have not yet put together a formal agreement on revegetation with Mr. Langenbau. Once that is done, this issue will be resolved.
 2. DBA Wilderness Resort: Over the past month we visited DBA Wilderness Resort and met with the owners. After meeting with them and discussing the situation with Cullen Lakes Association members, it has become clear that the contentious issue is the permanent placement of a series of trailers in sites near the water. These sites have been established as "primitive" with the consensus understanding being that they could not be served by sewer. The Resort owners contend that the primitive designation does not preclude the use of trailers and, in fact, indicated that they have had trailers there periodically for some time. The only difference now is that they are permanent. Of course, the understanding of the Lake Association is that the primitive designation would mean tent sites only. We are trying to determine if there is any definition of primitive that would address this and if there are any state guidelines regulating primitive campgrounds.
 3. Virgil Dahl: We have not yet had an opportunity to meet with Mr. Dahl. We will look to do so over the upcoming month.

4. Susan and Timothy Brawley: We are waiting for spring to have this issue addressed by the Brawleys.
5. Walker Junk Yard: We are still looking to have Mr. Swenson attend an upcoming Commission meeting.
6. David Swenson: We have sent Mr. Swenson a reminder that his property was to be in compliance by April 2003. We have not heard from Mr. Swenson.
7. George Lugar: We have arranged to meet with Mr. Lugar on April 25.
8. Larry and Nancy Greden: This matter is on hold with a completion date of July 1, 2003.
9. Mike and Gilroy Arvig: There has been no contact with the Arvigs on this matter.
10. Greg and Kathy Karr: We are trying to arrange to meet on site with the Karrs on April 25.
11. Olgerts Vijums: Mr. Vijums contacted us by phone and emphatically indicated that the inspection that had been done was incorrect and that he did not intend to either obtain a new inspection or update his system. We are coordinating with the Cullen Lakes Association to deal with this issue.
12. Curt Pestello: We sent a second letter to Mr. Pestello regarding the lack of permits for signs that have been newly erected at the Butcher Block. We have not heard back from Mr. Pestello.
13. Johnathan Acosta: The Acostas have not applied for a new permit for the construction work they have done on their property. We have sent them a second letter requesting that they do so immediately.
14. John E. MacGibbon: We have continued to correspond with Mr. MacGibbon regarding his non-conforming ISTS and have given him until June 1 to obtain a design for a new system.
15. Andris Spruds: We have been corresponding with Mr. Spruds regarding his non-conforming sewer system. We have indications that Mr. Spruds will be installing a system this spring.
16. Peter Perrine: Last month we contacted Mr. Perrine regarding his sewage treatment system. We have not heard from Mr. Perrine.

17. Linda Swenson: Last month we contacted Ms. Swenson regarding her sewage treatment system. We have not heard from her on the matter.
18. Barbara, Ruth and Suasn Layman: Last month we contacted the Laymans regarding their sewage treatment system. We have not heard from them on the matter.
19. Jeffrey Marcellus: Last month we contacted Mr. Marcellus regarding his sewage treatment system. We have not heard from Mr. Marcellus.