

CITY COUNCIL MINUTES
Monday, December 8, 2008
7:00 P.M.

CALL TO ORDER

Mayor Stark called the meeting to order at 7:00 P.M.

ROLL CALL

Present: Mayor Jean Stark; Councilmembers, Jim Doak, Mike Jilek, Tom Newberry and Mark Evenstad.

Absent: None

Staff: Police Chief Cory Johnson, Zoning Administrator Gus Karpas, City Attorney Cynthia Kirchoff and Clerk Shelley Souers.

Guests: Troon Dowds, Tom Gavaras, Patrick and Mary Louise Bowe, Dave Erotas, John Stoebner, Steve Hornig, Chuck Stark and Peter and Linda Pflaum.

CONSENT AGENDA

A) Minutes of the Special Council Meeting, November 5, 2008

B) Minutes of the Council Meeting, November 10, 2008

C) Renewal of annual permits to keep multiple dogs

Councilmember Doak moved to approve the consent agenda and the items included.

Councilmember Jilek seconded the motion. Motion carried 5-0.

PUBLIC HEARING

A) Pat & Mary Louise Bowe, 18100 Breezy Point Road, request a variance of side yard setback and the maximum permitted guesthouse area to construct a screened porch on the guest house.

Zoning Administrator Karpas reported that the applicants recently reconstructed a non-conforming guesthouse in the exact footprint and dimensions as permitted by State Statutes. The applicants are now seeking to construct a screened porch on top of the existing deck on the south side of the guesthouse. The dimensions of the proposed screened porch match that of the existing deck.

Zoning Administrator Karpas summarized the findings in a staff report for the variance request from Section 900.09 (4); the minimum required side yard setback and a variance from Section 900.12(3); the maximum permitted guest house area. The proposed screened porch will encroach five feet into the required 30-foot side yard setback and the guesthouse will exceed the allowable square footage coverage permitted for a guest house by 393 square feet.

Zoning Administrator Karpas stated that he recommends denial of the variances requested based on the criteria in the Ordinances and the following findings: FINDINGS BASED ON THE CRITERIA FOR APPROVAL OF VARIANCES OUTLINED IN SECTION 900.14(2):

(a) The subject matter of the application is within the scope of this Section.

The subject matter contained within the application is within the scope of this Section which regulates the use of land and any building and the erection of or any structural alteration of any building or portion of a building.

(b) Strict enforcement would cause undue hardship because:

(1) The property cannot be put to a reasonable use without the variance.

The proposal is to alter an accessory use on the property which is incidental to the main use of the property as a single family home site. The property is currently being developed with the construction of a new single family home.

The proposal to add a screened porch on top of the deck will create a non-conformity which does not currently exist. Section 900.12(1) (c) permits a deck encroachment of six (6) feet into a required side yard setback. The existing deck encroaches five feet into the required setback. The addition of a screened porch removes the exemption from the deck and creates additional enclosed structure area and adds to the footprint of the guesthouse as a whole.

Section 900.04(2) (b) permits guesthouses provided they comply with Section 900.12(3). The existing guesthouse does not comply with 900.12(3) (b), maximum permitted coverage for guesthouses and the proposal seeks to bring the structure further out of compliance.

Staff contends that the reasonable use of the property is being achieved with the construction of the permitted use, a new single family home.

(2) The circumstances causing the hardship were not created by the owner.

Though the dimensions and location of the original structure existed when the applicants purchased the property, they took advantage of an existing State Statute which permitted the reconstruction of non-conforming structures provided they were reconstructed as they existed.

This was beneficial to the applicant because the footprint area of the guesthouse exceeded the allowable by ordinance. Even if they had reconstructed the structure in compliance with ordinance and complied with required footprint area and setback, a variance would still be necessary for this proposal to exceed the allowed guesthouse area, but if a screened porch was desirable to the applicants at the time of reconstruction, design alternatives would have been available for its inclusion in the reconstruction.

(3) The variance, if granted, will not alter the essential character of the locality.

Staff believes the request meets this criterion due to the placement of the structure and the lot area available to the applicant. The applicants have gone to great lengths to landscape the area around the home and the proposed addition would not interfere with that screening.

In addition, the applicant has proposed a height for the addition which is well below the permitted height, which lessens its impact on the adjacent properties.

(4) Economic considerations alone are not the basis of the hardship.

The applicant has not indicated, nor has staff seen any indication that economic hardship plays a role in this application.

(c) The circumstances causing the hardship are unique to the individual property under consideration.

The applicants have not provided any evidence indicating an undue hardship that is unique to the subject property. The lot area and lot width exceed the minimums required in the ordinance. These minimums have been deemed reasonable by the city for the development of land within the city.

There are not topographic issues related to this property which make it unique.

(d) The granting of the variance is in keeping with the spirit and intent of the Code and consistent with the City's Comprehensive Plan.

The development of residential property is consistent with the spirit and intent of the ordinance and consistent with the City's Comprehensive Plan. However, the Comprehensive Plan outlines the development of this property as single family residence and the ordinance outlines the guidelines to control that development.

The ordinance is clear in establishing permitted and accessory uses for properties and also how they may be developed in terms of accessory uses and structures.

The granting of the variance would not be in keeping with the spirit and intent of the ordinance since the request is to expand a recently reconstructed accessory structure, essentially exempted by State Statutes from the regulations of the ordinance, and seeks to expand the non-conformity of that structure. That applicant already enjoys an enlarged accessory structure in the form of a guesthouse and further expansion of that non-conformity is contrary to the spirit and intent of the ordinances.

(e) For existing developments, not served with municipal sewer and water, a complying sewage treatment system is present for the intended use of the property. The variances, if issued, must require reconstruction of a non-conforming sewage treatment system.

The applicants have installed two new septic systems to service the reconstructed guesthouse and the new main building currently under construction.

Mayor Stark opened the public hearing.

Mr. Bowe stated that they are currently living in the guest house while the main house is being constructed. The guest house was reconstructed identical to the existing footprint and the 12'x12' deck was also reconstructed. Mr. Bowe stated that the deck is icy in the winter due to the slope of the roof which causes the ice and snow to fall onto the deck and request to add a minimal screen porch to improve the entrance to the guest house.

Mayor Stark asked if the porch is intended to be a one-season porch.

Mr. Dave Erotas, contractor for the project, stated that it will remain a screened porch.

Councilmember Evenstad asked how long the family will reside in the guest house.

Mr. Bowe stated that they will be in the guest house until June 2009.

Councilmember Newberry asked Mr. Bowe for clarification on their hardship as it relates to the request.

Mr. Bowe stated that the structure currently exists within the setback and there would be no encumbrances or impact to neighbors and no additional hardcover.

Zoning Administrator Karpas stated that the addition of hardcover would be 14.9 feet due to the roof over the deck. Decks are currently calculated at 90% hardcover.

Councilmember Evenstad noted that the house is temporary dwelling and a guesthouse and he expressed concern that once there is a roof added to the deck, there is potential that it can be enclosed in the future.

Mrs. Bowe stated that they have lived up to the City Code and the guesthouse is an extension of their home on the lake. They have no intention of creating more space by making the porch an all-season space. Mrs. Bowe noted that there is no relief from the elements and a porch will provide cover from the elements.

Councilmember Doak noted that the State Statute permitted the structure to be rebuilt as it existed. The City Ordinance limits guest houses to 700 square feet.

Mr. Bowe stated that they would agree to a condition that the porch not be enclosed as a year round structure.

Mayor Stark stated that she does not support making the space into a four-season room.

Councilmember Doak noted that there have been numerous exceptions to the property with the other accessory structures and flexibility has been given to the property with the pool and sports court.

Zoning Administrator Karpas reported that Mr. Pflaum, 18070 Breezy Point Road, had contacted him and noted that he had no objection to the request. Mr. Hornig, 2830 Breezy Heights Road, also called regarding the request. Zoning Administrator Karpas stated that since Mr. Hornig was in attendance he would not speak on his behalf.

Mayor Stark asked there were any comments from those in attendance.

Councilmember Doak noted that limiting the expansion of the structure by recording the restrictions to the property deed will alert the City in dealing with future requests for structure modifications.

City Attorney Kirchoff noted that the council has discretion and criteria regarding variances and must decide if it is reasonable to enclose the deck making it a porch. State law allowed complete reconstruction of the nonconforming structure, but the enclosure of the deck becomes new structure. The variance, if granted, would be recorded with the County and attached to the property record.

There being no further comments, Mayor Stark closed the public comment portion of the hearing.

Councilmember Newberry moved to deny the variance request with the finding that it is not a reasonable use; a screen porch is designed to keep out bugs and the request will increase the use and noise level of the structure and therefore not a reasonable use and to include the findings made by staff. Councilmember Doak seconded the motion. Motion carried 3-1-1, with Councilmember Evenstad abstaining due to it being his last meeting on the Council.

4. OLD BUSINESS

A. John Stoebner, 18400 Maple Ridge Road, co-owner of the property and representative of the bankruptcy estate of Daniel Bartus; request an extension of the original variance granted to develop the property.

Zoning Administrator Karpas reported that he received a request for an extension of the variance granted to 18400 Maple Ridge Road for 18 months to allow the joint-owners to remarket the property for sale.

Mr. John Stoebner addressed the Council as the co-owner and appointed trustee for the property. The property interest was transferred from Mr. Bartus to Ms. Shawd and has been tied up in litigation for the last 15 months which made it unable to be marketed. Mr. Stoebner stated that he will have the sole authority to list and market the property. Mr. Stoebner stated that he learned the variance will expire and is requesting to extend the variance for 18 months to allow time to market the property. He stated that it is important to have the variance in place in order to market the property.

Councilmember Doak noted it is important to continue the variance and to put potential buyers on notice with regard to the negotiated development limitations. Councilmember Doak stated that he supports extending the request 12 months with the terms and conditions identified in the original variance approval document.

Councilmember Doak moved to approve the request to extend the variance for 1 year, with the terms and conditions continued from the original variance to apply to the extension.

Councilmember Jilek seconded the motion. Motion carried 5-0.

Councilmember Evenstad agreed that staying within the boundary of the ordinance [regarding expiration] of 1 year is acceptable.

Zoning Administrator Karpas noted, for the record, that he had received a call from Mr. Boller, 18250 Shavers Lane, and that he was opposed to the extension of the variance.

B. RESOLUTION NO. 22-08; Adopting the final 2009 Tax Levy

C. RESOLUTION NO. 23-08; Adopting the final 2009 Budget

Mayor Stark reported that the Council had reviewed the budget and levy needs over the past several months.

Councilmember Evenstad moved to adopt Resolution No. 23-08; approving the Final Budget for 2009. Councilmember Doak seconded the motion. Motion carried 5-0.

Councilmember Jilek moved to adopt Resolution No. 22-08; approving the final levy for 2009. Councilmember Evenstad seconded the motion. Motion carried 5-0.

NEW BUSINESS

None.

MAYOR'S REPORT

Minnetonka School District 276

Mayor Stark reported that she attended the School District recognition in honor of Superintendent Dennis Peterson who was recognized as the superintendent of the year for Minnesota. Dr. Peterson will be included in a group of superintendants who will be considered for the superintendent of the year nationally.

Mayor Stark reported that she volunteered Woodland to host the School District lunch meeting in May.

Luxury Home Tour June 2009

Tom Gavaras, representative for the Luxury Home Tour, reported that the Luxury Home Tour organization will be featuring a home tour in Woodland in June. Mr. Gavaras stated that the Luxury home Tour has been operating for nine years and proceeds go to Minnesota Public Radio. Mr. Gavaras stated that all visitors need to purchase tickets to view the property, so attendance is typically less than the spring and fall Parade Home Tours.

Mr. Gavaras stated that he was aware of the parking limitations. The access to the home will be conducted by shuttle service only. The property address will not be listed in the publication. They will also post no parking signs along adjacent roads and will work with the City and Police Department to prevent parking near the home. The neighbors have been contacted and made aware of the 9- day event.

Mr. Gavaras, responding to a question from Councilmember Newberry regarding the hours of the tour, stated that the hours will be on Friday from 1:00PM to 7:00PM and from noon to 6:00PM on Saturday and Sunday.

Police Chief Johnson stated that he will keep in contact with Mr. Gavaras at the Luxury Home Tour as the event approaches.

Norwegian Consulate Event

Mayor Stark reported that she attended the 40th anniversary of the Norwegian Chamber. The Norwegian Consulate has sold their property in Woodland and will no longer have a presence in the City of Woodland. The Norwegian Consulate will also be limiting their presence in Minnesota.

COUNCIL REPORTS

A. Public Safety & Finance

No report. Councilmember Evenstad thanked the Council and staff for their support during his Council term.

Police Chief Johnson reported that the department is in the process of hiring a new officer and will interview 20 candidates on December 13. Chief Johnson, along with a staff Sergeant, Councilmember Jim Doak, Deephaven Mayor Paul Skrede and resident Mr. Dick Brown will assist with the interviews.

B. Roads & Signs

Councilmember Doak stated snow plowing started and Tim Lovett has been made aware of unique issues.

C. Web Site & Deer Management

Councilmember Jilek noted that four deer have been removed from the City.

D. Ordinances

No report.

TREASURER'S REPORT

Councilmember Evenstad moved approval of the Treasurer's Report as submitted.

Councilmember Jilek seconded the motion. Motion carried 5-0.

ACCOUNTS PAYABLE

Councilmember Evenstad moved approval of the Accounts Payable as submitted.

Councilmember Newberry seconded the motion. Motion carried 5-0.

ADJOURNMENT

There being no further business, the meeting adjourned by consent at 8:10 P.M.

ATTEST:

Shelley J. Souers, City Clerk

James S. Doak, Mayor