

CITY COUNCIL MINUTES
Monday, July 14, 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, Michael Jilek, Mark Evenstad and Tom Newberry.

Absent: None

Staff: Police Chief Cory Johnson, Zoning Coordinator Gus Karpas, City Attorney Cynthia Kirchoff, City Engineer Dave Martini, and Clerk Shelley Souers,

Guests: Joy Fruen, Mike Peters, Kim Arlt, Mike Schroeder, Troon Dowds, Bill and Sliv Carlson, Melinda Larson, Cathee McElhatton, Lowell and Nancy Weide.

CONSENT AGENDA

A. Minutes of the Council Meeting, June 9, 2008

Councilmember Doak moved approval of the consent agenda. Councilmember Jilek seconded the motion. Motion carried 5-0.

PUBLIC HEARING

A. Jim & Lori Brown, 2660 Stone Arch Road, request a Variance of the accessory structure square footage allowances to construct a swimming pool.

Mayor Stark opened the public hearing.

Mike Schroeder, contractor for Jim and Lori Brown, presented the request for a variance of the impervious cover limitations to construct a pool on the lakeside of the property.

Zoning Coordinator Karpas reported that the applicants are requesting a variance to exceed the maximum allowed structure coverage for a lot and the combined square footage for all accessory structures on the property. The proposal will exceed the maximum allowed accessory structure coverage area by 2,198 square feet and the combined square foot area of all structures on the property will exceed the maximum allowed structure coverage area of 10% of the lot area by 1,067 square feet. Zoning Coordinator Karpas reported that he recommends approval because the request is reasonable and customary on larger lots.

Mayor Stark stated that she inquired about a pool fence and was informed that the pool will be completely surrounded by a fence with a locking gate.

Bill Carlson, 2835 West Road, reported that the variance request was discussed at the recent Groveland Homeowners Association meeting. No objections were raised.

Councilmember Doak asked why the pool was not considered with the initial building permit application.

Mr. Schroeder stated that the pool was originally designed and presented on the building plan, and the City informed them that there would be an issue with impervious cover.

Zoning Coordinator Karpas noted that a letter was submitted by Dr. and Mrs. Vogt noting they have no objections to the proposed pool and patio as presented on the plans.

Councilmember Doak noted that the intent of the ordinance was designed to prevent massing of above-ground structures and not pools. This application suggests that the City may want to readdress the ordinance and clarify the intent of the ordinance was to limit structures above ground and it may warrant revisiting the ordinance language.

Councilmember Newberry stated that one of the public policy objectives the Council had in adopting the ordinance was a concern with noise and giving the Council an opportunity to evaluate a possible noise issue with accessory structures.

Councilmember Evenstad noted that the City Code does not have a fencing requirement in regard to pools, but would recommend conditional approval to include fencing as described in the plan.

Mr. Schroeder stated that the proposed fence will be either, black aluminum or powder coated steel. The pool is also being designed to include an automatic cover.

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

Councilmember Newberry moved to approve the request for variance as presented; the finding of hardship being the pool is reasonable and will not cause any visual massing in the proposed location so as to minimize the noise to the neighbors. Also a unique circumstance to the lot because the pool will be at grade and not affect the mass of the property; and the essential character of the locality will be unchanged due to the prevalence of pools on neighboring properties. Approval would also be subject to a child-proof, six-foot fence being installed. Councilmember Jilek seconded the motion. Motion carried 5-0.

B. Kim Arlt, 2885 Center Road, requests a Special Use Permit to exceed the permitted impervious cover to construct a new single family structure.

Zoning Coordinator Karpas reported that the applicants are requesting a Special Use Permit to demolish the existing home and construct a new single-family home that will exceed the impervious cover limitation. The current structure encroaches into the front and side yard setbacks. The proposed new home will comply with required yard setbacks but will exceed the maximum allowed impervious coverage of 40%. City Code permits impervious cover up to 45% with approval of a Special Use Permit. The applicants are proposing to increase the impervious cover from 32.9% to 44.9%. The proposal meets all required yard setbacks and structure setback from adjoining homes. Two trees are proposed for removal. A plan must be submitted for approval showing the proposed tree replacement. The proposed structure height of 33 feet is in

compliance with the City Ordinance. Zoning Coordinator Karpas recommends approval based on the criteria in the ordinance.

Mike Peters, contractor for the applicants, noted that the City Engineer has visited the site to review drainage. The flow of water will continue along the path that it currently flows. Mr. Peters noted that at present the water from the back street runs towards the house because the grade drops slightly at the house. The proposed home will be raised slightly (1 ½ feet) to cause water to run away from the house, but the water will continue to flow towards the street. The water runs down a swale between properties and down East Road. Mr. Peters stated that the homeowners came up with an alternate plan for the driveway to mitigate the proposed impervious cover, reducing it from 44.9% to 41%, by creating a carriage style driveway with pavers two-foot wide and 15-feet long with sod in the center. The driveway, in the plan presented, has 318 square feet of impervious cover. Creating a carriage style driveway will reduce the driveway impervious cover to 120 square feet, reducing the total impervious lot coverage to 2,084 square feet, 41% of the lot area. Mr. Peters reiterated that the Arlts would like to move forward with the plans and are willing to create the carriage driveway as described.

Councilmember Doak asked about the Groveland Homeowners Association meeting regarding height, noting that the plan presented does not reflect the Association discussion regarding structure height.

Mr. Peters stated that their architect will present new drawings to the Groveland Homeowners Association at their next meeting and based on their most recent meeting feels the plans will comply with the Association rules.

Councilmember Doak asked if any alteration to the height or pitch of the roof will alter the footprint of the house.

Mr. Peters stated that any alteration to the structure height will not change the footprint of the proposed house.

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

Councilmember Jilek moved to approve the Special Use Permit for impervious cover up to 44.9%; hardship being the small lots in the Groveland Homeowners Association and subject to drainage handled in an appropriate manner.

Councilmember Doak asked if the homeowner was willing to limit the impervious cover to 41% as discussed.

Zoning Coordinator Karpas noted that Council can condition the approval not exceed 41% or the minimum allowed to achieve the driveway design as described in the presentation.

Councilmember Jilek noted that the homeowners have stated a willingness to change the driveway design reducing 120 square feet of impervious cover, reducing the overall lot cover to 2084 square feet (41% total impervious cover).

Councilmember Jilek amended the motion to approve the Special Use Permit for 41% impervious cover or an amount minimally necessary to meet the building standards.

Councilmember Evenstad asked whether it was appropriate for Council to move forward on the request for Special Use Permit given the Groveland Association is currently discussing structure height limitations.

Zoning Coordinator Karpas stated that the request is a Special Use for impervious cover and the proposed height complies with the City Ordinances.

Councilmember Doak noted that consideration should be given to the affect of the quality of the neighborhood and there are subjective considerations with the request.

Councilmember Evenstad stated that in the interest of harmony in the Association he wants to be certain the Council is moving in the right direction.

Councilmember Doak seconded the motion as amended. Motion carried 5-0.

C. First reading - Zoning Ordinance No. 9-12; Amending Section 900 of the City Code as it pertains to Structure Elevations and Height Requirements in the district known as R-G, the Groveland Assembly Grounds; (Ord. 900.02 & 900.13).

Mayor Stark opened the public hearing to review and consider an amendment to the zoning code in regard to structure height in the R-G zone. Mayor Stark noted that the intent regarding the changes to height ordinance was for general discussion and not intended as a public hearing at this point.

City Attorney Kirchoff noted that the Council has three options with regard to the hearing.

- 1) approve the amendment included in the packet and waive the second reading.
- 2) direct staff to amend the ordinance pursuant to the discussion that arises from the meeting.
- 3) deny the proposed amendment to change the ordinance as presented.

Zoning Coordinator Karpas stated that he had received an email from Groveland resident Joy Fruen with the understanding that she was acting on behalf of the Groveland Homeowners Association with a desire to make an amendment to the ordinance as it relates to height within the Groveland Homeowners Association [R-G zone]. Zoning Coordinator Karpas reported that he learned after he had prepared a public notice and drafted changes to the ordinance, that the proposed ordinance language was not fully accepted by the Groveland Homeowners Association. In order for the City to enforce zoning restrictions, the language must be incorporated into the City Ordinances.

Zoning Coordinator Karpas stated that the City can work with the Groveland Homeowners Association to draft language that meets the concerns of the residents.

Bill Carlson, 2835 West Road, President of Groveland Homeowners Association Board and speaking on behalf of the Board, stated that the Association went through a process to limit the front structure height to 30-feet and a walk-out to 35-feet. This limitation is stricter than the City Ordinance language. The majority of residents would like to limit structure height to 30-feet.

In answer to Councilmember Doak's question regarding Groveland Association's review process, Mr. Carlson summarized the process for plan review.

Councilmember Doak noted that the necessity for changing the City Ordinance may not be necessary if the Groveland Board can approve building plans and proposals. Councilmember Doak suggested that the Ordinance language remain as written and the Board continue to review and approve or deny plans based on their guidelines. Adopting a reduced height limitation, may cause more homeowners to seek variances.

Zoning Coordinator Karpas reported that several letters were received regarding the height issue expressing a desire for no change.

Councilmember Doak questioned how a walkout style home could be constructed with a five-foot differential from the front side to the walk-out level. Councilmember Doak wanted to be assured that a sloping lot will have an option for walk-out style homes.

Mr. Carlson stated that with the new height limitation a walk-out style house can still be designed to meet the architectural guidelines.

Melinda Larson, 2885 West Road, stated a concern with changing the grade can alter the structure height.

Joy Fruen, 2820 East Road, stated the only way to regulate the size of homes in the Association is by height limitations and impervious cover restrictions. The Board seems confident that 30-feet is the maximum height to be allowed on the "up-hill" side of a house.

Tad Tjornhom, 2870 East Road, stated that he is concerned that the height limitation will cause low-pitched roofs on homes, causing homes to take on similar characteristics and design. Mr. Tjornhom stated that he would support a greater height limitation [than 30 feet] to cause diversity in the roof peaks and home styles. He was not in favor of a separate and different set of rules to follow for construction designs.

There being no further discussion, Mayor Stark closed the hearing.

Mayor Stark recommended that there be more discussion about the language and that it be represented in a timely manner following further review.

Councilmember Evenstad stated that before moving ahead with changes, he would like to understand what the maximum height the Groveland Homeowners Association is willing to allow.

Councilmember Doak stated that there is not enough information to direct staff to prepare another draft at this time

Councilmember Doak moved to reject Ordinance No. 9-12 as proposed at this time.

Councilmember Newberry seconded motion. Motion carried 5-0.

NEW BUSINESS

A. Resolution No. 08-08; Authorizing Plans and Specification and Ordering Advertisement for Bids for Road Improvements.

City Engineer Dave Martini presented a summary of road improvement options and costs associated with three scenarios for road improvements to the low area of Breezy Point Road.

Councilmember Doak stated that he is concerned with the settling and accumulation of gravel along the roadway.

Following discussion of the three options for road repairs and the related costs, Council agreed to accrue additional road funds and reconsider necessary repairs in 2009. There was no action on the proposal for improvements at this time.

Mr. Martini reported that the City is keeping up with preventive maintenance issues.

Councilmember Doak noted that the City can be aggressive with pot hole filling and routine maintenance to keep problem areas small and under control. The only maintenance that may be needed in the near term is striping of the center lines.

B. Suggested Amendments to the City Ordinances

1) Construction Management Guidelines

Zoning Coordinator Karpas presented a proposed Ordinance amendment to consider adopting comprehensive construction guidelines. He stated that establishing construction guidelines has proved, in Deephaven, to be an effective tool in monitoring construction projects. All contractors would be required to notify adjoining property owners of the work being proposed and a contact number.

Zoning Coordinator Karpas stated that there is a waiver provision in the proposed Ordinance language which gives staff the discretion to waive certain requirements in the guidelines depending on the nature of work.

The contractor is required to identify the location of all construction vehicles parking during the duration of the project. Parking is preferred on the construction site, but there may be a need to park in designated zones. All equipment is required to be on site and safety fencing installed as needed. A checklist will be included and will need to be signed by the contractor stating that they have read and understand the Ordinance.

Zoning Coordinator Karpas stated that if the Council agrees with the construction guidelines, he will present it formally at a public hearing in August.

2) Create Limitation to Grade Changes

Zoning Coordinator Karpas presented a draft of an Ordinance amendment to add a new definition to the City Code addressing finished grade elevations.

The proposed Ordinance language would restrict grade increases to less than one-foot unless a Special Use Permit is granted.

Zoning Coordinator Karpas noted that the minimum requirements with these suggested amendments it that the contractor must contact the neighbors, the Minnehaha Creek Watershed District and maintain a clean site and street. Having these guidelines helps to better protect neighboring properties. Contractors are required to follow through with these guidelines because they would be part of the Ordinance.

Councilmember Evenstad asked what type of issues does this cause in obtaining permits.

Zoning Coordinator Karpas noted that the guidelines apply to building permits, not mechanical and electrical permits. The language allows the staff to use their discretion when to apply all the provisions of the guidelines.

Councilmember Doak suggested that he would like to increase the distance required by the contractors to notify adjacent properties to 300 feet

Councilmember Newberry moved approval and Councilmember Doak seconded the motion to direct staff to prepare the appropriate language and present the Ordinance amendments at a public hearing at the August Council meeting. Motion carried 5-0.

C. Review Nuisance Ordinance No. 415 and consider amendments

Zoning Coordinator Karpas reported that staff drafted several additions to the Nuisance Ordinance to more specifically address issues regarding noise and weeds. Nuisances are typically enforced on a complaint basis and the added language helps to clarify the restrictions and gives the staff tools to be able to better address calls regarding specific issues.

Councilmember Doak stated that his desire is to preserve the rural nature and quality of the area. Many wooded lots are not manicured woods and there will be noxious weeds and tall grasses. He expressed concern with requiring weed removal in wooded areas and grass to be kept less than 12 inches.

Councilmember Doak stated that as a practical matter, persons should maintain their woods and property from weeds, however, did not believe that the intent of the Ordinance regarding removal of weed was for the wooded natural areas.

Councilmember Evenstad agreed and stated that the expectation to remove weeds and maintain grass lengths was for the front of the house or from the house to the public roadway.

Council directed staff to make several changes and will readdress in August.

D. Review 2009 Contract for Services with Deephaven (Police, Clerical, Public Works & Zoning Services) and Adopt Resolution No. 09-08

Council reviewed the 2009 agreement for services.

Councilmember Evenstad moved to approve Resolution No. 09-08; Letter of Understanding for 2009. Councilmember Doak seconded the motion. Motion carried 5-0.

E. Assessor's Contract for 2009 & 2010 – Dan Distel

Councilmember Doak moved to accept the proposal with Assessor Dan Distel for two years: 2008-2009 and 2009-2010 as presented. Councilmember Evenstad seconded the motion. Motion carried 5-0.

F. Review Recycling Collection Bids

The current agreement for recycling service with Waste Management will expire in December 2008. The City solicited bids for recycling service. Councilmember Doak reported that two bids were received.

Council reviewed the bids for recycling service.

The representatives from Waste Management will be present in August to discuss extending the agreement for 2009.

No action was taken regarding the bids. Council will readdress the agreement in August.

OLD BUSINESS

A. Review and Adopt Resolution No. 07-08; amending Resolution No. 17-07; regarding Temporary On-Street Parking by Permit in Designated Zones

Councilmember Evenstad reported that Gale Road resident Liz Wiener made some calls to the residents along Gale Road regarding the parking arrangement with the designated zone being eliminated. The neighbors are creating a list of location for parking in the neighborhood and will only park along the road as necessary. Residents will inform the City if parking is needed along Gale Road.

The designated parking zone will be eliminated due to the private nature of Gale Road, and parking permits will no longer be required for parking along Gale Road.

Police Chief Johnson stated that he would like to give the Gale Road residents an opportunity to manage parking between their driveways, and as needed, along one-side of Gale Road only. He recommended that the residents contact the police in advance of parking on Gale Road and to park so emergency vehicles can access the roadway.

Councilmember Jilek moved to approve Resolution No. 07-08, amending the temporary on-street parking locations, removing the designated parking zone from Gale Road. Councilmember Newberry seconded the motion. Motion carried 5-0.

MAYOR'S REPORT

A. 2009 Budget Review

Council reviewed the preliminary budget and will continue discussion in August.

Mayor Stark reported that mosquito control in our community is conducted by Hennepin County throughout the summer season. Mayor Stark stated that there are several Cities that spray mosquitoes within their municipal jurisdiction.

Finance – no report

Police Report – Chief Johnson reported that his department sent out a flyer regarding mail theft and security mailboxes.

National Night Out will be Tuesday, August 5.

Roads & Signs

Councilmember Doak reported that Aaron Smith trimmed brush along Maplewood Circle West to help eliminate a blind curve.

A letter was sent to a homeowner on Gale Road to inquire about installing a cautionary road sign on their property adjacent to the roadway.

Websites- no report.

Ordinances – no report.

TREASURER REPORT

Councilmember Evenstad moved to approve the Treasurer's Report as submitted. Councilmember Newberry seconded the motion. Motion carried 5-0.

ACCOUNTS PAYABLE

Councilmember Newberry moved to approve the Accounts Payable as submitted. Councilmember Jilek seconded the motion. Motion carried 5-0.

ADJOURNMENT

There being no further business, the meeting adjourned by consent at 915 P.M.

ATTEST:

Shelley J. Souers, City Clerk

Jean M. Stark, Mayor