

WOODLAND
CITY COUNCIL MINUTES
MONDAY, MAY 11, 2009
7:00PM

CALL TO ORDER & PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Mayor Jim Doak, Councilmembers; Mike Jilek, Troon Dowds, Tom Newberry and Sliv Carlson

Absent: none

Staff: Zoning Administrator Gus Karpas, Chief of Police Cory Johnson, City Attorney Joel Jamnik and City Clerk Shelley Souers.

Guests: Steve and Penny Hornig, Pat Hodapp, Mary Louise Bowe, Henry Bowe, Mike Sharratt, Fred and Christine Meyer

CONSENT AGENDA

- A) Minutes April 13, 2009; Board of Appeals
- B) Minutes April 13, 2009; Regular Council Meeting
- C) Resolution No. 08-2009; Extension of the Special Use Permit for 2750 Gale Road
- D) Approve Summary of Ordinance No. 09-15; Construction Site Run-off Ordinance
- E) Resolution No. 09-2009; Passing on Workers Compensation Coverage for Elected & Appointed Officials

Councilmember Dowds requested to move item C [Resolution No. 09-2009] from the consent agenda to old business as Item B, for further clarification.

Councilmember Jilek moved approval of the consent agenda items; A, B, D, & E. Councilmember Newberry seconded the motion. Motion carried 5-0.

PUBLIC COMMENTS

Mr. Steve Hornig, 2830 Breezy Heights Road, addressed Council for clarification on three items.

1) Mr. Hornig suggested Council consider adding a sight line provision in the zoning ordinances.

Mayor Doak stated that Council would be discussing this zoning issue under old business.

2) Mr. Hornig requested clarification of the ordinance language relating to work starting at construction sites. Mr. Hornig stated that he has had several interpretations of when work can begin, but has received nothing in writing.

3) Mr. Hornig requested that the City hire a surveyor to confirm that the new construction, adjacent to his property, meets the height and setback requirements. Mr. Hornig stated that, in the past, the City has hired surveyors for verification and stated that when the building envelope is so close it should be checked with an as-built survey.

Mayor Doak stated these items would be considered under the new business items on the agenda.

Fred Meyer, 2750 Breezy Heights Road, noted that there seems to be very few deer in the City and asked about the removal process.

Councilmember Jilek noted that the City obtains a permit each year to control the deer population. Two deer were removed from the City under the current permit.

OLD BUSINESS

A) Continued Discussion on Lake Setback Restrictions

Mayor Doak reported that the Council was asked to review the current lake setback restrictions.

Councilmember Newberry led the discussion noting that the current ordinance language has a provision that allows a structure to encroach into the lake setback depending on the location of the adjacent property. Woodland has an aggressive side yard setback compared to other communities, which is an important component when considering the lake setback issue. In previous discussions, Council determined that it would be a difficult to regulate a sight line ordinance given the lakeshore and the mix of houses. Increasing the lake setback would impact several existing homes causing them to become non-conforming.

Staff prepared an informal analysis of the riparian properties, using a setback measurement of 100 feet. It was estimated that roughly one-half of the lakeshore homes could become non-conforming with an increased setback to 100 feet.

Due to the potential impact of any zoning change, Councilmember Newberry suggested the Council seek public comments and continue discussion at the June meeting.

Mr. Hornig, 2830 Breezy Heights Road, stated that maintaining property values is an important consideration and placement of structures can compromise the value of individual property.

A letter will be sent to all residents to solicit comments on this zoning issue. Discussion will continue to the June meeting.

B) Resolution No. 08-2009; Extension of the Special Use Permit for 2750 Gale Road, (moved from the Consent Agenda)

Mr. Mike Sharratt, owner of Sharratt Design, was present on behalf of the property owners to request an extension of the special use permit, previously granted to the property. The property is tied up in legal matters, which has precluded any work from taking place.

Councilmember Newberry moved and Councilmember Jilek seconded the approval of Resolution No. 08-2009, to extend the Special Use Permit for 2750 Gale Road, according to staff's findings. Motion carried 5-0.

PUBLIC HEARING

A) Steven & Penny Hornig, 2830 Breezy Heights Road, request variances to construct an addition to the existing garage and to construct a lakeside gazebo.

Mayor Doak opened the hearing to consider the request for variances to construct a lakeside gazebo and garage addition at 2830 Breezy Heights Road.

Zoning Administrator Karpas presented the staff report summarizing the scope of the request for variances to construct a garage stall addition and a lakeside gazebo. Staff recommended denial of the variances for the gazebo and for the garage, as presented; however, would support a variance for expansion of the garage provided an increased setback is created to allow room for maintenance of the garage.

In answer to Councilmember Newberry's question regarding the garage setback, Zoning Administrator Karpas stated that space should be provided for equipment necessary to make repairs, without encroachment on neighboring property.

Mrs. Penny Hornig presented their request for variances to construct a gazebo and garage stall addition, stating that the existing garage is small and difficult to park a modern sized car. Moving the garage back 4 feet will make it difficult to expand the garage. There will be no increase in hardcover, as it currently exists in the location proposed.

Mayor Doak stated that they would like to prevent further friction between the neighbors and there is concern that approving the proposed plan would allow a contractor to trespass on the adjacent property to construct the addition. Mayor Doak stated, for that reason, he would recommend the garage be moved back sufficient to work on the garage.

Mr. Hornig stated that one-foot of space would be adequate to maintain the structure.

Councilmember Newberry asked for clarification regarding the construction.

Mr. Hornig stated that the garage will be constructed on a slab and will not require frost footings.

Mrs. Hornig stated that the request for the gazebo is to have a space screened at the lake. No trees will be removed. The deck area currently exists. They are willing to construct a flat roof, similar to the structure on the neighboring property.

Staff reported that a letter was received from the neighbor Mr. Bieber, 2730 Breezy Heights Road, opposing the variances for the gazebo.

Mrs. Mary Louis Bowe, 18150 Breezy Point Road, stated that she was concerned with the proposed garage located 14 inches from the property line, considering the trees recently planted along the area and suggested it would be fair-minded to allow 3 or 4 feet so they [Hornigs] can maintain the garage.

Mayor Doak noted, for the record, that the Council received letters from the attorney for Mr. and Mrs. Bowe, the neighbor Mr. Bieber, and Mrs. Hornig.

There being no further public comments, Mayor Doak closed the hearing at 8:01 P.M.

Councilmember Newberry stated that he is not in favor the gazebo. He would support the additional garage stall if the setback of 14 inches were adequate, then believes it is a reasonable use of the property and would support the setback variance for the garage.

Councilmember Carlson stated that she is concerned with setting precedence with constructing a gazebo at the lake. Councilmember Carlson questioned how a contractor would build the addition without encroaching on the neighboring property.

Councilmember Jilek stated that he does not support the gazebo. He stated that he would be more supportive of the garage, if there was a “give and take” between the neighbors.

Councilmember Dowds agreed with Councilmembers and was not supportive of the proposed gazebo. He understands that modern vehicles may not fit into the current garage space, but expressed concern that the setback area between the properties is too small and construction would be difficult because it did not seem that a ladder could be placed at a safe angel with the setback as proposed, but agreed it would be possible within three feet.

Mayor Doak stated that he believes it would benefit the neighbors to agree to grant each other, with prior notice, the opportunity to repair the portions of their property that encroaches. The granting of any variance is not contingent on granting or allowing access to adjacent property. Any agreement to allow access to private property is between the property owners.

Mr. Hornig and Mrs. Bowe both stated they would be supportive of granting permission to access the backsides of the adjoining garages for maintenance.

Mayor Doak expressed concern that the proposed one-foot 2-inch setback is too small and suggested three-feet would be more doable.

Zoning Administrator Karpas stated that three-feet would be sufficient for the proposed construction, because the garage could be built from the inside and raised. The roof runs in the direction that would not cause any issues with construction.

Mayor Doak suggested Council address the variances separately for the gazebo and the garage addition.

Councilmember Newberry moved to deny variance #2 [as denoted in the staff report for the gazebo] based on the findings in the staff report and affirming those findings. Councilmember Carlson seconded the motion. Motion carried 5-0.

Councilmember Newberry moved to deny variance # 3 [as denoted in the staff report for the gazebo] affirming the findings in the staff report. Councilmember Jilek seconded the motion. Motion carried 5-0.

Councilmember Newberry moved to deny variance #4 [as denoted in the staff report relating to the height of the gazebo] affirming the findings in the staff report. Councilmember Jilek seconded the motion. Motion carried 5-0.

Councilmember Jilek moved to deny variance #1 [as denoted in the staff report relating to the placement of the garage addition] based on staff recommendation of the application as submitted. Councilmember Carlson seconded the motion.

Discussion of the motion.

Mr. Hornig stated that they would agree to move the garage 2 ½ -feet from the property line.

Mayor Doak confirmed the applicant's willingness to move the garage 2 ½ -feet off the lot line as a condition of the variance.

Zoning Administrator Karpas stated that the structure wall be no closer than 2 ½ -feet and the eaves be as shown on the plan.

Councilmember Jilek moved to amend the motion to approve the variance #1, subject to the [garage] structure being 2 ½-feet from the property line with the eaves as shown on the structure plan. Councilmember Carlson seconded the amended motion. Motion carried 5-0.

Councilmember Jilek moved to approve variance #5 [as denoted in the staff report] to exceed the maximum permitted accessory structure area. Councilmember Newberry seconded the motion. Motion carried 5-0.

PUBLIC HEARING

B) Ordinance No. 16-09; Amending Zoning Ordinance 900.04, Accessory Structure Standards

Mayor Doak opened the hearing to consider an amendment to the Code of Ordinances clarifying language relating to the attachment of accessory structures to principal structures.

Zoning Administrator Karpas stated that the proposed Ordinance amendment defines the limitations to connecting accessory structures to principal structures. The amendment will limit the ability to build multiple or large accessory structures and attach them to the main house to circumvent the restriction relating to permitted accessory structures and total square area.

There being no further comments, Mayor Doak closed the hearing at 8:35 P.M.

Councilmember Newberry moved approval of Ordinance No. 09-16, amending Ordinance 900.04 and waiving the second reading of the Ordinance. Councilmember Jilek seconded the motion. Motion carried 5-0.

NEW BUSINESS

Mayor Doak asked Mr. Hornig to address the Council regarding the matters raised during the public comments.

Mr. Hornig, 2830 Breezy Heights Road, asked Council for clarification of the Ordinance language regarding construction noise.

Zoning Administrator Karpas stated that the City recently adopted a Construction Management Ordinance and there may be an inconsistency in the language in the Construction Management Ordinance and the language in the Nuisance Ordinance that address construction hours. The City has not created a definition for "work".

Chief of Police Johnson stated that he does not believe workers' entering a property to go to work, is a violation of the Ordinance. The Ordinance is enforced when construction noise is in violation of the Code and the police are called.

Mr. Hornig suggested that construction workers not be allowed to get out of their vehicles before 7:00 A.M.

Mayor Doak agreed that some ambiguity might exist in the Ordinance language. Workers should be allowed to arrive on the job before 7:00 A.M., but starting any work before 7:00 A.M. is not appropriate. Mayor Doak asked the Zoning Administrator and Chief of Police to speak with the contractor to remain out of the house until 7:00 A.M. and not to begin work. The Council will review the Ordinance language and clear up ambiguities.

Mr. Hornig suggested that workers should not be permitted to move around the property and asked if they have to stay in their car.

Mayor Doak agreed that workers should stay by their vehicle and cooperate until 7:00 A.M.

Mrs. Bowe noted that the workers are arriving before 7:00 A.M. but they have no advantage to start until 7:00 A.M. Mrs. Bowe asked if the weather was cold, why they could not enter the house.

Mayor Doak stated that starting work could be gathering, discussing and moving equipment into the house.

Attorney Jamnik stated that there would be discretion on the part of the enforcement agencies.

Mr. Hornig requested the City hire a surveyor to confirm the lake setback and structure height of the new construction. Mr. Hornig noted that the City has hired surveyors in the past, to confirm dimensional measurement.

Mayor Doak stated that a surveyor has a professional standard to follow and it is standard protocol for Council to rely on the owners/builders to pay for and provide as-builts records. The City Engineer would be onsite during the survey. The Council will review the survey and that survey will also be available for inspection by Mr. Hornig.

Zoning Administrator Karpas stated that the builder has been made aware that an as-built survey must be provided.

Attorney Jamnik stated that Mr. Hornig, after review of the survey document, could challenge the survey.

Mr. Hornig stated that he would like his surveyor to be present during the survey to verify the calculation and measurements are done accurately and to speak with the surveyors so that he is comfortable with the process. If he or his surveyor cannot have access to the Bowes' property he asked if he could speak to the surveyors over the fence. Mr. Hornig stated that if the City hired a surveyor to confirm the measurements, he would accept the survey and be "ok" with the findings.

Mayor Doak asked if the Council was comfortable with the approach the City was taking to have the owners provide an as-built survey document for review. The City Engineer will be present for the survey and the survey document will be available for inspection by Mr. Hornig.

NEW BUSINESS

A) Lake Minnetonka Communications Commission (LMCC)

Mayor Doak reported that the LMCC has provided by a resolution authorizing purchase of the building they are currently operating out of and is seeking approval of the purchase from all participating LMCC member cities.

Mr. Pat Hodapp, secretary of the LMCC, was present to summarize the request to purchase the building. The 17 member cities, through a joint powers agreement, manage the local cable franchises and public programming stations. Their building lease is up for renewal. The Commission considered several options and determined that the best scenario was to purchase the current building. The purchase will be funded with the use of franchise fees. There are no funds being sought from the member cities; however, a majority of the member cities is needed to solidify the purchase.

Councilmember Jilek moved to adopt Resolution No. 10-2009, approving the purchase of the LMCC's building. Councilmember Carlson seconded the motion. Motion carried 5-0.

B) Approve Additional Engineering Charges for the Development of the Stormwater Management Plan.

Mayor Doak noted that the engineering costs exceeded the budget amount for the development of the Surface Water Management Plan. According to the agreement, Bolten & Menk are requesting approval of additional charges related to final development of the plan.

Councilmember Carlson moved approval of paying Bolten & Menk for the additional charges related to the Plan development. Councilmember Dowds seconded the motion. Motion carried 5-0.

MAYOR'S REPORT

No report.

COUNCIL REPORTS

Deer Management, Website and Public Safety

no report

Chief of Police Johnson reported that Councilmember Carlson would participate in the officer interviews on Saturday.

Mayor Doak suggested that in the next newsletter we ask residents to submit landscape and nature photos of Woodland to be used on the City website.

Roads and Signs

Councilmember Dowds reported that the street sweeping has been completed. He will be working with the engineer on a road improvement plan.

Finance & Intergovernmental Relations

Councilmember Carlson reported that she recently met the Mayor of Sunfish Lake, a similar community to Woodland and thought it would be beneficial to meet again to discuss common issues. A meeting will be arranged following the legislative session.

Council will invite Dr. Dennis Peterson, Superintendent of Minnetonka Schools, to a future Council meeting for an update on the District's plans for the 2009-2010 school seasons.

Ordinances

No report.

TREASURER'S REPORT

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

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

ACCOUNTS PAYABLE

Councilmember Newberry moved approval of the Accounts Payable as submitted.

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

ADJOURNMENT

Councilmember Newberry moved and Councilmember Jilek seconded the motion to adjourn at 9:37P.M. Motion carried 5-0.

ATTEST:

Shelley J. Souers, City Clerk

James S. Doak, Mayor