

**CITY OF COHASSET
PLANNING COMMISSION MINUTES
305 NORTHWEST FIRST AVE, COHASSET, MINNESOTA
WEDNESDAY, NOVEMBER 5, 2014, 6:00 P.M.**

1. **Call Meeting to Order:** Chair Steve Brown called the meeting to order at 6:03 p.m.

2. **Roll Call**

a. **Voting Members Present:** Chair Steve Brown, John Chell, Johnnie Fulton, Brian Kielpinski, Lois Kirschbaum, and Steve Otto

b. **Absent with Notice:** Josh Casper arrived at 8:35 p.m.

c. **Ex-Officio Members Present:** Zoning Officer Greg Tuttle, City Council Liaison Jason Tabaka, and City Attorney John Licke.

d. **Others Present:** Randy McCarty, Patty Gould St. Aubin, Pat Davis, Andy Arens, Dave Strock, Erica Herr, Greg Tabaka, Ron Klingman, & Kay Klingman

3. **Review and Approve Agenda**

a. **Additions:** None

b. **Deletions:** None

A motion was made by Kielpinski/Chell to approve the agenda as presented. Motion carried unanimously.

4. **Resident Input:** None

5. **Review & Approve Planning Commission Minutes of October 1, 2014:** *A motion was made by Fulton/Otto to approve the October 1, 2014 minutes as presented. Motion carried unanimously.*

6. **Public Hearing (6:05 p.m.) to act on a variance request from Greg & Cassandra Tabaka for a 32 x 32 foot detached garage no closer than 53 feet from the centerline and 25 feet from the right-of-way of River Road (ordinance requires a minimum of 68 feet and 35 feet respectively) for the property located at 25742 River Road and legally described as Lot 28 in the Plat of Skelly's Portage, Section 14, Township 55 North, Range 26 West, City of Cohasset, Itasca County, Minnesota.**

Zoning Officer Greg Tuttle reviewed photos from the site visit and explained that Tabaka plans to remove four old detached accessory structures as a part of this project if the variance is granted. Tuttle stated he has not received any communications from adjoining property owners.

Tabaka explained his plans and fielded questions.

Chair Steve Brown called three times for anyone in opposition to the variance request to come forward. There was no response. Brown called three times for anyone in support of the variance request to come forward. There was no response. Chair Brown closed the public portion of the meeting.

After discussion, a motion was made by Otto/Fulton to grant the variance, provided there is erosion control in place and four old structures are removed.

The Findings of Fact were reviewed

1. Are there practical difficulties in complying with the zoning ordinance? Practical difficulties means that the property owner's proposed improvements are reasonable (economic considerations alone shall not constitute practical difficulties.)

Commissioner Otto answered yes, noting the natural construction of the lot and the drop off of the property. All Commissioners agreed.

2. Are the circumstances which justify the variance unique to the property and not created by the applicant?

Commissioner Fulton answered yes, noting the physical property conditions were pre-existing and not created by the applicant. All Commissioners agreed

3. If granted, will the variance maintain the essential character of the locality?

Commissioner Chell answered yes, noting that historically there are other property owners in the area that have used fill. All Commissioners agreed.

4. If granted, will the variance be in harmony with the general purpose and intent of the zoning ordinance?

Commissioner Kielpinski answered yes, and noted that the Commission is not going outside the intent of the variance and the project will be an improvement to the property.

5. If granted, will the variance be consistent with the comprehensive plan?

Commissioner Kirschbaum answered yes, and noted that tearing down the older accessory buildings will improve the property which is in keeping with the comprehensive plan. All Commissioners agreed.

The motion passed unanimously on a roll call vote.

Zoning Officer Tuttle noted there is a 15 day appeal period.

7. Continuation of public hearing from June 4 & August 6 to act on an alternate variance request from Ron Klingman to be allowed a 4 foot x 53 foot cement ramp in the Shore Impact Zone (SIZ) of Jay Gould Lake for the property located at 36497 Burr Oak Boulevard and legally described as Lots 1-2 in the Plat of Dellwood, Section 15, Township 55 North, Range 26 West, City of Cohasset, Itasca County, Minnesota.

Zoning Officer Greg Tuttle reviewed the information in the packet and the history of the issue. Attorney John Licke explained that the property owner has brought forth an alternate proposal for the ramp which would involve cutting off three feet (from the width). After questions and

discussion, Mr. Klingman came forward and stated the original walkway to the lake was eroding and it was the only access he had to the lake, this was the reason he installed the seven foot wide cement ramp and feels it has helped the erosion problem.

Dave Strock explained that he is Klingman's neighbor and helped him install the ramp; the seven foot width was used because the ASV is six feet wide. Strock indicated that the ramp helps with erosion and spoke in favor of the variance.

Chair Steve Brown called three times for anyone present in favor of the variance to come forward. There was no response. Chair Brown called three times for anyone in opposition to the variance to come forward.

Randy McCarty, Greater Pokegama Lake Association (GLPA) President, stated if the Planning Commission grants the variance there are 1245 other residents living on the lake that would like to do the same thing. McCarty stated that the ramp could easily be redone and that is what needs to happen.

Patty Gould St. Aubin, GLPA Member, stated the biggest fear is that fact that once you grant something you set precedence and once something is set in motion it's hard to turn it back.

Pat Davis, GLPA Member, reminded Commissioners that the permitting process & rules are set up for a reason and Klingman did not apply for a permit. Davis indicated that variances should be granted only in severe cases.

Chair Brown closed the public portion of the meeting.

After further discussion, *a motion was made by Otto/Kielpinski to deny the variance request as amended (four foot wide x 53 foot long cement access path)*

The Findings of Fact were reviewed

1. Are there practical difficulties in complying with the zoning ordinance? Practical difficulties means that the property owner's proposed improvements are reasonable (economic considerations alone shall not constitute practical difficulties.)

Commissioner Steve Otto answered yes, stating there are practical difficulties and it is a reasonable use based on the slope of the property. Kielpinski- yes; Kirschbaum- yes; Chell – yes; Fulton – yes; Otto –yes. Five Commissioners answered yes, Josh Casper absent, and Chair Brown did not vote. Unanimously yes.

2. Are the circumstances which justify the variance unique to the property and not created by the applicant?

Commissioner Kielpinski answered no. Kirschbaum- yes; Chell – no; Fulton – no; Otto –no. Four Commissioners answered no, one Commissioner answered yes, Josh Casper absent, and Chair Brown did not vote. Majority no.

Comments

Kirschbaum disagreed and felt the runoff and circumstances are Mother Nature.

Chell agreed with Kielpinski and added there are multiple other options in terms of stabilizing the slope and the concrete was desired by the property owner to stabilize the slope and is therefore a product of the applicant rather than a character of the land itself.

Fulton agreed and stated she did not feel the circumstances are unique to the property when compared to other properties on the lake that have slopes.

Otto stated he agrees with Kielpinski because there agencies to work with, including the DNR, Zoning Officer Tuttle, Soil and Water, engineering firms, etc. that could have provided a solution.

3. If granted, will the variance maintain the essential character of the locality?

Commissioner Chell answered no, noting that the essential nature of this shoreline property, and the properties around it, is generally of an undisturbed vegetative nature, so this ramp will not maintain the essential character of the locality, and is inconsistent with the character of the locality. Fulton – no; Otto – yes; Kielpinski – no; Kirschbaum – yes. Three Commissioners answered no, two Commissioners answered yes, Josh Casper absent, and Chair Brown did not vote. Majority no.

Comments

Otto disagreed and indicated the ramp roughly maintains the locality and is not that noticeable
Kielpinski agreed and stated the essential character of the locality does not include cement ramps to the lake. He added that although Klingman provided photos that show a couple others, it is not the majority.

4. If granted, will the variance be in harmony with the general purpose and intent of the zoning ordinance?

Commissioner Fulton answered no. Kirschbaum – yes; Kielpinski – no; Otto – yes; Chell – no. Three Commissioners answered no, two Commissioners answered yes, Josh Casper absent, and Chair Brown did not vote. Majority no.

Comments

Kirschbaum stated she is totally confused but would vote “yes.”

Kielpinski agreed, stating the ordinance calls for walkways to be in the most inconspicuous spot.
Otto stated he disagreed because “stairs and other things are similar.”

5. If granted, will the variance be consistent with the comprehensive plan?

Chair Brown answered no, stating that the survey response for the Comprehensive Plan was overwhelmingly in favor of taking every effort to protect the water and clearly experts agree that this plan is not in the best interests of protecting the water. Chell – no; Fulton – no; Otto – no; Kielpinski – no; Kirschbaum – no.

A roll call vote was taken on the motion to deny the variance request as amended: Otto – deny; Kielpinski – deny; Kirschbaum – abstain; Fulton – deny; Chell – deny. Four Commissioners answered to deny, one abstention, Josh Casper absent, and Chair did not vote. Unanimous to deny the variance request as amended.

There will be a 15 day appeal period after which the Planning Commission's decision becomes final.

8. Consider recommending to City Council to amend the zoning ordinance regarding boathouse height.

Zoning Officer Greg Tuttle recommended amending the ordinance regarding water oriented accessory structures as follows:

Boathouse/Storage: *Shall be limited to 250 square feet in size, shall not exceed ten (10) feet in height from the floor level to the highest point of a flat roof, or twelve (12) feet in height from the floor level to the average height of the highest gable of a pitched or hipped roof, and shall not have roof overhands exceeding two (2) feet.*

After discussion with Erika Herr, DNR, *a motion was made by Chell/Kielpinski to recommend that City Council approve the ordinance as outlined above. Motion carried unanimously.*

9. Consider recommending to City Council to amend the zoning ordinance regarding ground level patios/decks – Tabled until the next meeting

10. Industrial Park Phase II Rezoning – Zoning Officer Greg Tuttle explained the issue is to consider recommending that City Council rezone to Cohasset Industrial Park zone district the following properties in Section 12, Township 55 North, Range 26 West, City of Cohasset, Itasca County Minnesota due to Industrial Park expansion: 05-012-4200; 05-012-4300; 05-012-4301; 05-012-4400; 05-420-0090. After discussion, *a motion was made by Otto/Chell to recommend the rezone to City Council as outlined above. Motion carried unanimously on a roll call vote.*

11. FYI

a. **Portage Park Campground** – Tuttle explained he has the latest drawing of the proposed campground but it involves some dredging of the lake shore and he is working with the Army Corp of Engineers regarding that issue.

b. **Expiring terms – Kirschbaum & Brown** – Steve Brown and Lois Kirschbaum's terms expire at the end of 2013 & both have submitted applications to be reappointed.

c. **Kuhn thank you** - The Kuhn's set a thank you to the planning commission for granting their variance request.

Chair Steve Brown adjourned the meeting.

Submitted by Karen Mester, Deputy Clerk

Approved: