

CITY OF DELAFIELD BOARD OF ZONING APPEALS MINUTES

1. CALL MEETING TO ORDER

Chair Bill Maslowski called the meeting to order at 7:35 P.M. noting the meeting had been properly noticed and fees paid.

2. ROLL CALL

Present

Absent

Bill Maslowski

Gerry Holton

Al Johnson

Rick Lieblang

Gerry MacDougall

3. APPROVE MINUTES OF OCTOBER 24, 2013 MEETING

A. JOHNSON MOVED TO APPROVE THE BOARD OF ZONING APPEALS MEETING MINUTES OF OCTOBER 24, 2013 AS PRESENTED. R. LIEBLANG SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

4. OLD BUSINESS

None.

5. NEW BUSINESS

A copy of the City Zoning Code Section 17.58 regarding Existing Nonconforming Lots was distributed to the Board of Zoning Appeals at this time at the request of the City Building Inspector.

CASE 785 APPEAL OF LARRY & TERRY BRABAZON (OWNERS), TO CONSTRUCT A NEW SINGLE FAMILY RESIDENCE LOCATED AT 1801 WEST SHORE DRIVE, DELC 0786.069. THE PARCEL IS ZONED RL-2. THIS LOT IS SUBSTANDARD AND PROPOSED SITE PLAN DOES NOT MEET ALL RL-2 ZONING REQUIREMENTS. EXISTING LOT AREA OF 7,480 SQ FT DOES NOT MEET THE RL-2 MINIMUM OF 10,000 SQ FT. PROPOSED OPEN SPACE OF 5,677 SQ FT DOES NOT MEET THE RL-2 MINIMUM 7,000 SQ FT. PROPOSED FLOOR AREA RATIO (FAR) OF .35 EXCEEDS THE .30 MAXIMUM ALLOWED. THE EXISTING LOT IS NONCONFORMING AND CAN ONLY BE DEVELOPED PER SECTION 17.58 AFTER SITE AND BUILDING PLANS HAVE BEEN APPROVED BY THE BOARD OF ZONING APPEALS. APPLICANT IS NOT SEEKING A VARIANCE.

B. Maslowski briefly reviewed the case, noting the responsibilities of the Board of Zoning Appeals and the process utilized in this case. Due to the absence of the City Building Inspector at this meeting, he had requested all Board members contact the City Building Inspector directly regarding cases being heard this evening so that he did not perjure himself in this matter. He had taken these actions to be certain that he did not violate any Open Meeting laws. B. Maslowski further stated he was the sole lakeshore property

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owner on the Board of Zoning Appeals and he noted concern for property, shoreline and view as a lakeshore property owner in general. He shared these issues of concern with the Board to bring focus to them in the cases being heard this evening and to caution the Board to be careful not to create a condition beneficial to the applicant contrary to the unique public interest of the lakeshore property owner. Respecting and maintaining the status quo was paramount to avoiding a lasting, unfriendly relationship with neighbors.

The applicant, Larry Brabazon, 1801 West Shore Drive, was present. L. Brabazon stated he would like to construct a house on his property. The proposed plans met all setbacks and would not adversely affect the drainage in the area. He was present only to ask for approval to allow the construction of the proposed plans to take place.

Matt Jones, 1751 West Shore Drive, requested clarification about the square footage of the proposed house based on the size of the lot. He also confirmed the applicant was not seeking a variance in this case.

T. Brabazon stated the house was just over 2,000 square feet and under 2,100 square feet, but he was uncertain at this time of the exact footage. Because his wife and he had difficulty finding house plans that would allow a house of that size to be constructed on the lot, they had decided to construct their house with the proposed additional height.

M. Jones stated he was agreeable to the proposed plans if they were constructed within the setback specifications for the lot.

Tracy Jones, 1751 West Shore Drive, questioned whether the applicant was certain a well could be sunk on his property. R. Lieblang stated that would be a question for the City Building Inspector and the Health Department. The Board of Zoning Appeals was responsible for hearing issues associated with zoning. T. Brabazon stated he was uncertain at this time where a well might be located on his property; however, the builder, Luce Homes of Johnson Creek, had indicated it could be done to zoning requirements. T. Jones questioned whether any water would drain from this property to the back of her property. T. Brabazon stated the drainage plan had been supplied in the proposed plans. B. Maslowski suggested these plans be shared with the Jones'.

B. Maslowski questioned whether a tree issue had been resolved. M. Jones stated this issue had been resolved between neighbors.

R. LIEBLANG MOVED TO APPROVE THE SITE AND BUILDING PLANS AS PRESENTED IN THE APPEAL OF LARRY & TERRY BRABAZON (OWNERS), TO CONSTRUCT A NEW SINGLE FAMILY RESIDENCE LOCATED AT 1801 WEST SHORE DRIVE, DELC 0786.069, WITH THE UNDERSTANDING THAT A COPY OF THE DRAINAGE PLAN BE PROVIDED TO THE CITY BUILDING INSPECTOR. A. JOHNSON SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

CASE 786 APPEAL OF SCOTT & MARY KRIENKE (OWNERS) TO CONSTRUCT A NEW SINGLE FAMILY RESIDENCE LOCATED AT 2723 BURRIES ROAD, DELC 0752.018.. THE PARCEL IS ZONED RL-2. THIS LOT IS SUBSTANDARD AND

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PROPOSED SITE PLAN DOES NOT MEET ALL RL-2 ZONING REQUIREMENTS. EXISTING LOT AREA OF 8,439 SQ FT DOES NOT MEET THE RL-2 MINIMUM OF 10,000 SQ FT. PROPOSED OPEN SPACE OF 6,495 SQ FT DOES NOT MEET THE RL-2 MINIMUM OF 7,000 SQ FT. PROPOSED FLOOR AREA RATIO (FAR) OF .37 EXCEEDS THE .30 MAXIMUM ALLOWED. THE EXISTING LOT IS NONCONFORMING AND CAN ONLY BE DEVELOPED PER SECTION 17.58 AFTER SITE AND BUILDING PLANS HAVE BEEN APPROVED BY THE BOARD OF ZONING APPEALS. APPLICANT IS NOT SEEKING A VARIANCE.

B. Maslowski recused himself from this case as he had communications with the applicant prior to this meeting.

G. MACDOUGALL NOMINATED GERRY HOLTON TO ACT AS CHAIRPERSON FOR CASE 786. R. LIEBLANG SECONDED THE NOMINATION. G. HOLTON ACCEPTED THE NOMINATION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

G. Holton invited the applicant to share information with the Board.

The applicants, Scott and Mary Krienke, 2723 Burries Road, and Dave Koscielniak, architect for the applicants, were present. D. Koscielniak explained he had designed the proposed house to fit within the rigors of the setbacks for the lot. The proposed house plans fit all setbacks and the house would be constructed with three bedrooms and a two car garage. The proposed house was approximately 2,700 square feet comprised of two stories and an attic space. There were no additional outbuildings proposed on the site. D. Koscielniak stated efforts had been made to provide courtesies to the neighboring property owner to soften the corners, sides, and roof of the proposed house in order to have all recede away from the lake. In addition, the height of the proposed house had been considered and would be 25 feet above grade with the eaves 17-18 feet above grade. The roof pitch would be 6:12 which was the minimum allowed for adequate drainage. He noted this house had been placed between two existing properties so that it would not obstruct the views of the lake for neighboring properties. The ceiling heights in the living spaces of the house were to be nine feet on the first floor and eight feet on the second floor. In his opinion, the proposed house was diminutive in size compared to the property to the adjacent home structures. Setbacks from the lake had been discussed with both adjoining neighbors. The house on the northerly property was set back further from the lake and the house to the south was setback 50 feet from the lakeshore. All setbacks within the proposed plans were within the profiles provided by the City Zoning Code and those requirements had been met. He then distributed house plans dated November 11, 2013 to the Board of Zoning Appeals for reference.

G. Holton then read two items of correspondence received into the record. The first item was a letter from Charles and Margaret Thorson sharing their concerns regarding stormwater runoff impacting their property, grading, sump pump location, potential for obstructed views, tree injury due to construction, additions to the home that might encroach into the lake setback, and appropriate process of approval. The letter also indicated Tony Fugate would be representing them at this meeting in their absence. The second item was an email from Tom Zyck received by Bill Maslowski prior to the meeting

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indicating concerns for exacerbating current stormwater drainage issues in the area and any potential negative impact on the lake views from his property.

Tony Fugate, 2721 Burries Road, explained significant ponding occurred during rainfall at the base of Burries Road currently. The Krienke's did not cause this issue; however, the Thorson's were concerned about adding stormwater runoff to it as a result of upgrades to the property and any potential change in grading. G. Holton questioned the location of the puddle. T. Fugate stated the stormwater ponding was on the street and often worked its way up the driveway at 2721 Burries Road. A. Johnson stated this ponding should be investigated by the City if it were occurring on the City roadway. T. Fugate questioned whether it would be possible to move the house further back from the lake. If the house were to be moved back only four feet, their view to the lake would be better and a car could still easily fit on the 20 foot driveway.

Jeff Krajacic, 2731 Burries Road, stated he owned the property to the north of the applicants. He had gone through a similar process with his house when it was constructed. He appreciated the house being built on this property as it had been vacant until this purchase. All in the neighborhood were excited for the property to be occupied; however, he wanted to better understand zoning requirements as he had a number of questions about the proposed plans for the site. He questioned Section 17.58 of the City's Zoning Code regarding nonconforming lots relative to new construction. G. MacDougall explained this section of the Zoning Code dealt with lots under construction that were in existence prior to the inception of the City Zoning Code. The applicant was not seeking a variance in this case.

J. Krajacic also questioned the FAR requirements and clarified the heights of the spaces shown on the plans proposed. He noted he could not reconcile the numbers presented with testimony provided by D. Koscielniak. M. Krienke explained the attic space shown on the proposed plans would not be counted in the calculations for living space. The attic was not living space. D. Koscielniak explained the attic would be used for storage space only and was not habitable so it was considered exempt for these calculations.

J. Krajacic also questioned the lakeshore setback required in this case as the existing structure to the north side of the property was located 75.2 feet from the lakeshore. He then came forward with a document where he noted his view of the lake from his property and how he believed the construction of the proposed plans would impact his sight lines to the lake from his property. S. Krienke also demonstrated on the document where he believed the clipped edges of his proposed house would mitigate these concerns. D. Koscielniak then provide clarification to J. Krajacic on a survey of the Krienke property completed by Yaggy Colby for this matter. J Krajacic stated he was concerned with the proposed plans encroaching on other's lake views as there was no one doing so currently. When he constructed his house, he had spent time and money working with the City Building Inspector, builder and a landscaper to deal with these considerations regarding lake views, aesthetics and drainage. He wanted a house to be placed on the property, but was concerned about the valuation and degradation of his property due to any potential impact to the lake view from his property as a result of this proposed construction.

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S. Krienke stated the neighboring house to the south was exactly 50 feet from the lake as was the right of that property owner. He also wanted to make use of his property right and construct his house 50 feet from the lake.

Bill Maslowski, 2007 Bay Point Lane, stated he was confused by the plans being discussed. He noted the material shared by D. Koscielniak dated November 11, 2013 were different than materials submitted for this case distributed to the Board prior to the meeting. D. Koscielniak explained the materials were the same except that in the document dated November 11, 2013, the house plan had been shown flipped directly opposite with the driveway now going straight into the garage instead of having to turn slightly to access the garage. No dimensions had changed with the proposed site plans and the house still fit within all setbacks. R. Lieblang confirmed that with each rendering the architect was making the point that the house would fit within the setbacks. D. Koscielniak agreed.

G. MacDougall questioned why the document dated November 11, 2013 was being shared at this meeting. D. Koscielniak stated the applicants wanted to determine if it would work to flip the house, and if it would be helpful to do so, would be willing to offer it as an alternative. S. Krienke stated that flipping the house in this manner would potentially help the neighbor to the north with concerns about sight lines to the lake.

Melissa Fugate, 2721 Burries Road, questioned why the plans were not finalized prior to this point in the appeal process. R. Lieblang stated the document shared dated November 11, 2013 included the same square footage and setbacks and was allowed as long as the zoning code requirements were met.

B. Maslowski stated he had spoken with the City Building Inspector regarding this case. He provided suggestions for consideration by the Board including requesting the Department of Public Works to conduct an impact study on the drainage issue at the end of the cul de sac on Burries Road before a building permit was issued. He thought the City should weigh in on this matter. Also, the existing home had a setback of 70 feet and the Zoning Code called for 50 feet. He questioned the age of the current house. S. Krienke stated the house dated to 1944. B. Maslowski stated this property was "grandfathered" in the present location and he thought this 70 foot setback should be maintained even though the applicant was entitled to 50 feet. He questioned whether a compromise could be achieved in order to mitigate neighboring concerns. He suggested that the house be moved back toward the street by five feet; thereby creating a lakeshore setback of 55 feet that would be more palatable to the neighbors. D. Koscielniak stated the house would not fit the width of the lot as designed and would create a need for variance by doing so.

G. MacDougall stated the required setback was 50 feet. If S. Krienke desired moving the house back in compromise that was his choice; however, it was not required to appease others. To do so would create three variances because none of the setback requirements would be observed with that compromise.

D. Koscielniak stated he understood the setback requirement to be 50 feet. S. Krienke stated the request for the 50 foot was within his property rights. D. Koscielniak noted

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that if the neighboring property at 2721 Burries Road was sold and had to adhere to a 70 feet setback as well, their lot would be unbuildable. S. Krienke stated he was present with the proposed plans this evening requesting approval of what had been presented in this case. The neighboring properties should be reviewed at a different time.

B. Maslowski stated there was a high water table in this area and questioned whether a water problem was foreseen at this time on the property. D. Koscielniak stated he had calculated the proposed house plans using the lake's high water mark. B. Maslowski stated there could potentially be a problem with high water on this site and he suggested that investigation of this high water be sought to verify zoning compliance.

B. Maslowski further stated there was an attic space reflected on the proposed plans and he suggested any motion for approval included verbiage stipulating that the attic space could not be turned into living space and should be accessed through the garage as presented. In addition, any motion of approval should also include verbiage that the property owner had to re-appear before the Board of Zoning Appeals for approval to expand the FAR requirements through the variance process.

S. Krienke stated this application did not include a request for variance.

J. Krajacic stated the Board clearly did not have enough information to make an appropriate decision on the FAR requirements and he still remained unclear about the lakeshore setback requirements

M. Krienke questioned the process for approval at this point.

Discussion ensued among the Board regarding whether a variance request related to "flipping" the house could be entertained at this meeting. G. MacDougall stated it was his understanding that a request for variance was different than the information shown on the agenda related to Case 786 for this meeting and as such would be required to be considered at a different meeting.

D. Koscielniak stated the Thorson's concerns could be answered. He noted B. Maslowski stated he would make the City aware of the drainage concerns on Burries Road. The grading and drainage plans would be presented to the City Building Inspector to avoid any negative encumbrances with the property. The discharge water from the sump pump would be directed toward the lake side of the property and would be kept on the property to drain to the lake. The size of home being considered "large" was a subjective term in his opinion and he did not think the proposed home was considered large. It would not obstruct the views of the neighbors whatsoever in his opinion. With regard to the concern about trees being injured, he stated efforts would be made to protect the mature trees in the area as part of the construction process; however, he had no control over trees on neighboring properties. There were no plans to have a porch or deck; however, a patio area would be added. It would not obstruct any view nor be built with arbors or structures that would cause an issue. As for the concern regarding this request for variance, he noted the request presented for approval of site and building plans did not include a request for variance.

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S. Krienke stated his wife and he had spent a great deal of time thinking about the neighbor's interests in the proposed plans and they had done things that many would not have to make concessions. He had purchased a lake lot that was buildable and for that reason was presenting the plans for approval this evening. He thanked the Board for its time and attention, noting the architectural plans presented were in compliance with all setback zoning requirements. He would continue to deal with the concerns of the neighborhood under the supervision and concern of the City Building Inspector. He believed the lakeshore setback requirements were there to avoid extreme results and lake property right conflicts. His request was not unreasonable and he requested approval. He also noted that he would consider returning in the future for a variance if a decision was made to move the house back on the lot five feet toward the roadway.

B. Maslowski questioned the Board of Zoning Appeals as to why the decision on a variance could not be made at this time. G. Holton stated a legal notice was published in the paper each time a request was made of the Board of Zoning Appeals process. This applicant was not seeking a variance and proper notification was required to the public to do so.

R. Lieblang clarified that at this time all four sides of the proposed house were within the setbacks.

Discussion ensued by the Board regarding whether drainage suggestions should be made as part of any approval. G. MacDougall suggested the drainage for the site be approved by the City Building Inspector. He questioned whether any verbiage should be considered regarding potentially moving the house back five feet toward Burries Road. S. Krienke stated it would be helpful to rule on the proposed plans before the Board at this time and he would return to work on a variance request at a future date.

R. LIEBLANG MOVED TO APPROVE THE SITE AND BUILDING PLANS AS PRESENTED AT THIS MEETING, WITH A 50 FOOT SETBACK FROM THE LAKE, THE DRAINAGE APPROVED BY THE CITY BUILDING INSPECTOR AND THE ATTIC SPACE TO REMAIN UNDER SEVEN FEET IN HEIGHT, IN THE APPEAL OF SCOTT & MARY KRIENKE (OWNERS) TO CONSTRUCT A NEW SINGLE FAMILY RESIDENCE LOCATED AT 2723 BURRIES ROAD, DELC 0752.018. G. MACDOUGALL SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

B. Maslowski assumed the position of Chairperson at this time. B. Maslowski then suggested S. Krienke contact the City regarding submittal of a variance in this matter.

6. ADJOURN

A. JOHNSON MOVED TO ADJOURN THE NOVEMBER 14, 2013 BOARD OF ZONING MEETING AT 9:11 P.M. R. LIEBLANG SECONDED THE MOTION. ALL WERE IN FAVOR. MOTION CARRIED.

Minutes prepared by:

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Accurate Business Communications, Inc.