

**AGENDA
PLANNING COMMISSION MEETING
CITY OF SHOREVIEW**

**DATE: March 27, 2018
TIME: 7:00 PM
PLACE: SHOREVIEW CITY HALL
LOCATION: 4600 NORTH VICTORIA**

- 1. CALL TO ORDER**
ROLL CALL
APPROVAL OF AGENDA

- 2. APPROVAL OF MINUTES**
PC Workshop Minutes January 9, 2018
PC Minutes February 27, 2018

- 3. REPORT ON CITY COUNCIL ACTIONS**
Meeting Date: March 5, March 19, 2018
Brief Description of Meeting process- Chair John Doan

- 4. GENERAL BUSINESS**
 - A. MINOR SUBDIVISION***
FILE NO: 2687-18-07
APPLICANT: Paul Elgersma
LOCATION: 5885 Oxford St. N

 - B. VARIANCE**
FILE NO: 2688-18-08
APPLICANT: Zawadski Homes
LOCATION: 474 West Shore Court

 - C. VARIANCE**
FILE NO: 2686-18-06
APPLICANT: Zawadski Homes
LOCATION: 474 West Shore Ct

 - D. PUBLIC HEARING - TEXT AMENDMENT-CHAPTER 200, REFUSE CONTAINERS AND ADMINISTRATION CITATIONS***
FILE NO: 2682-18-02
APPLICANT: City of Shoreview
LOCATION: City Wide

- 5. MISCELLANEOUS**
 - A.** City Council Meeting Assignments for *April 2, 2018, and April 16, 2018* are Commissioners *Wolfe, and Peterson.*
 - B.** Planning Commission workshop
April 10, 2018 6 to 9 pm in the City Council Chambers
Topic – Comprehensive Plan

C. Planning Commission Training

6. ADJOURNMENT

** These agenda items require City Council review or action. The Planning Commission will hold a hearing, obtain public comment, discuss the application and forward the application to City Council. The City Council will consider these items at their regular meetings which are held on the 1st or 3rd Monday of each month. For confirmation when an item is scheduled at City Council, please check the City's website at www.shoreviewmn.gov or contact the Planning Department at 651-490-4682 or 651-490-4680*

MINUTES
PLANNING COMMISSION WORKSHOP
JANUARY 9, 2018

The meeting commenced at approximately 7:00 pm.

Roll Call

The following Commissioners were present: Commissioners Doan, Peterson, Thompson, McCool, Wolfe and Yarusso.

The following Commissioner was absent: Solomonson

December 12, 2017 Minutes

Minutes of this meeting were available and presented to the Commission.

Chapter 7, Housing

The draft of the Housing Chapter is being presented to the Commission for discussion. Staff reviewed the contents of the Chapter with the Commission members. The Chapter includes the information required by the Metropolitan Council but also addresses housing from our local perspective. Our future housing needs, goals, policies and recommended actions address our changing demographics, reinvestment in housing and neighborhoods, infill and redevelopment opportunities, mixed income housing/affordability, connections and partnerships.

Recommendations pertaining to the Goals, Policies and Recommended Actions were received from the Planning Commission at the December 12th workshop and have been added to the text. Words that are stricken are proposed for removal and words highlighted in red have been added. At this workshop, Staff is looking for feedback from the Commission members on the draft Chapter.

A Commission member recommended the Staff review the demographic numbers on Page 1 to ensure they are accurate.

Information regarding housing types as compared with the Metropolitan Area was also suggested as well as home ownership rate

The Commission also discussed the section on affordability and the tables associated with that section. Table 9 headings should be revised and be inclusive of the lower level income as the categories progress. Additional information on rents within the City was suggested.

The Commission then discussed the changing demographics of the community, the impact on housing needs and need for neighborhood/housing reinvestment. It was suggested that the Plan be revised to specifically address Townhome and Condominium communities since these types of home make up about 20% of the housing stock. Also, the Commission members recommended the Manufactured Housing Park be addressed in more detail. Members asked that additional language be

added to address the tensions that occur when redevelopment projects are proposed adjacent residential neighborhoods.

Regarding the Goals, Policies and Recommended, Commission members reviewed the previous changes that address the character of the community and neighborhood, apartment/townhome reinvestment, accessibility and partnerships.

Vision and Guiding Principles

The Vision and Guiding Principles developed by the Community Roundtable were presented to the Commission. The Vision seeks to describe how the community will look, feel, and function over the next 20 years, while the Guiding Principles further define and describe the community's character and priorities. Now that the Vision and Guiding Principles have been established, the Staff will ensure that they are reflected throughout the Plan, including the Goals, Policies and Recommended actions.

Adjournment

Meeting was adjourned at approximately 9:00 pm

Kathleen Castle, City Planner

**SHOREVIEW PLANNING COMMISSION
MEETING MINUTES
February 27, 2018**

CALL TO ORDER

Chair Doan called the February 27, 2018 Shoreview Planning Commission meeting to order at 7:02 p.m.

ROLL CALL

The following Commissioners were present: Chair Doan; Commissioners Anderson, Peterson, Riechers, Solomonson, Wolfe and Yarusso.

APPROVAL OF AGENDA

MOTION: by Commissioner Solomonson, seconded by Commissioner Peterson to approve the February 27, 2018 Planning Commission meeting agenda as submitted.

**VOTE: AYES: Anderson, Peterson, Riechers, Solomonson, Yarusso, Wolfe, Doan
NAYS: None**

APPROVAL OF MINUTES

Minutes of January 23, 2018 Commission Meeting Minutes

The following corrections were made:

Page 2: Correction of the spelling of Commissioner Riecher's name.

Page 12, Commissioner Peterson requested the word "harder" be changed to "better" in his statement in the second paragraph, "It is better to pry empty nesters...".

Page 13; The word "outlet" in the 4th line down should be "outlot."

MOTION: by Commissioner Peterson, seconded by Commissioner Solomonson to approve the January 23, 2018 Planning Commission meeting minutes as corrected.

**VOTE: AYES: Peterson, Solomonson, Yarusso, Doan
NAYS: None
ABSTAIN: Anderson, Riechers, Wolfe**

Commissioners Anderson, Riechers and Wolfe abstained as they were not at the meeting.

Planning Commission Workshop Minutes January 9, 2018

This item was held over to the March 2018 Planning Commission meeting, as it was not included in the meeting packet.

REPORT ON CITY COUNCIL ACTIONS

City Planner Castle reported that the City Council approved the following items recommended by the Planning Commission:

1. Conditional Use Permit at 5327 Hodgson Road for a detached accessory structure to be used for solar.
2. Minor Subdivision at 771 Gramsie Road.
3. Comprehensive Sign Plan for the McMillan project at 157 Grass Lake Place, The applicants revised the sign plan prior to the Council Meeting to better address the signage on the property. The commercial signage falls within the requirements of the commercial sign code with the exception of the commercial sign at the corner of Rice Street and Grass Lake Place. It is a short building wall and as such the length of the sign exceeded the permitted length.

The Council reviewed the Concept Plan proposed by United Properties on the Shoreview Business Campus for senior housing and small single family homes. The Council supports the proposed uses but requests a review of the connection to Oxford Street and possible alternatives. Also, height, setbacks and intensity of development need to be addressed with the senior residence.

The City Council appointed John Doan as Chair for the Commission and Commissioner Peterson as Vice Chair for 2018.

NEW BUSINESS

VARIANCE

FILE NO: 2686-18-06
APPLICANT: Zawadski Homes
LOCATION: 474 West Shore Court

Presentation by Niki Hill, AICP, Economic Development and Planning Associate

The subject property is a key lot with the rear lot line abutting the side lot line of the adjacent property. The property consists of an area of 10,014.44 square feet with 126 feet in depth on the west side and 96.67 feet on the east side due to the cul-de-sac. The width of the lot is 87 feet on West Shore Court. The proposal is to build a new two story home with attached garage. A variance is requested for the rear setback reducing it from 45 feet to 40.4 feet.

The Planning Commission approved the variance to the key lot depth standards for Lots 6, 7, and 8 as part of the Wabasso Bay Plat. To mitigate impacts on the property to the south, a condition was attached to the plat (variance) requiring an additional 5 feet of rear yard structure setback for Lots 6, 7 and 8. The City Attorney has advised that the setback requirement beyond what is stated in Code could be construed as arbitrary. The City needs strong findings to alter what is

required by Code. Conifer screening between the key lots and adjacent property to the south is also a condition of the plat.

The property is zoned R1, Detached Residential. The setbacks required are: 1) front setback, 25 feet; 2) side setbacks, 10 feet for livable area and 5 feet for accessory structure or garage; 3) rear setback is 40 feet per key lot standards, but 45 feet is required by the plat.

The applicant states that the 45-foot rear setback was a last minute condition attached to the variance application associated with the Wabasso Bay Subdivision. It was agreed to “on the spot” with no analysis of how it would impact building on these lots. Complying with this additional restriction is proving to be a challenge for Lot 6. The added rear setback and required side set backs are overly restrictive in buildable area for a normal 2 story home in this neighborhood. The developer has invested in additional trees for a buffer and improvements for drainage to the south. Trees were also planted on the adjacent property to the south for a buffer. If requested, the applicant is further willing to increase the buffer.

Staff finds that use of this property for a single family residence is reasonable and consistent with the Comprehensive Plan. The proposed 40-foot rear setback is reasonable and complies with the requirement for key lots. The cul-de-sac causes the front setback to be uneven and limits the building pad depth to 25 feet on the east side when the 45-foot rear setback is applied. Staff believes that a rear setback of 40 feet for a key lot, which is 10 feet more than a standard lot, does mitigate impacts to properties adjacent to key lots. Reduction of the rear lot setback from 45 feet to 40.4 feet will not change the character of the neighborhood. Screening has been planted along the rear lot line as part of the requirement of the approved subdivision.

Notices were sent to property owners within 150 feet. Two comments were received, one in support and one against.

Staff finds that practical difficulty is present and recommends approval of the variance subject to the conditions listed in the staff report.

Commissioner Anderson noted that in previous consideration of this development, the City Attorney advised that pushing the house closer than the 25 foot setback to the street could be considered arbitrary. He asked if the same would apply to the increased rear yard setback. City Attorney Beck stated that in order to deviate from the Code, there must be strong findings of fact to justify that action.

Mr. Steve Zawadski, Developer, 5476 Lake Avenue, Shoreview, stated that the company feels some responsibility for this variance request in that the impact of adding 5 feet to the rear setback was not fully analyzed with respect to Lot 6. The buildable area on Lot 6 is 852 feet less than it could have been. A custom home has been designed to fit Lot 6. The east side of the home has a lower roof pitch to minimize the height impact for neighbors. The home to the south is 30 feet from the lot line. With the variance request for 40 foot rear setback, the distance between the two homes will be 70 feet. The land owner has agreed to plant additional trees to the south to further reduce any impact. The problem is that Lot 6 is tight with the added 5 feet of rear yard setback.

Commissioner Peterson asked the range of a normal front setback. Ms. Hill answered between 25 and 40 feet. Commissioner Peterson noted the portion of 37.6 front yard setback for the garage. He suggested that for continuity it might be better to have the garage front setback closer to 25 feet that would be in line with the other houses. Mr. Zawadski agreed that the garage could be pushed forward.

Commissioner Solomonson asked if the front setback could be 20 feet instead of 25 feet to preserve the 45-foot rear setback. Ms. Castle stated she would prefer to keep the 25-foot setback. The house design does comply with Code. She noted that the adjacent property to the east is a riparian lot and subject to different setback standards.

Commissioner Riechers asked for clarification of the tree protection plan. Mr. Zawadski responded that between Lots 6 and 7 there were 27 new trees planted. Replacement trees were also planted that greatly benefitted the property to the south. With the new development, there is a requirement to protect trees as part of the permit. Silt fencing will be used to prevent construction impact to the trees.

Chair Doan opened the discussion to public comment.

Ms. Megan Balda, 3410 Chandler Road, stated that she is the property owner to the south. She expressed appreciation for the idea to move the proposed home closer to the street. While many trees have been planted, many are replacement trees from storms. It is difficult to determine how many new trees have been planted. She expressed her appreciation to Zawadski Homes for their interest in working with neighbors. Although only a 5-foot difference, having a rear setback of 45 feet would make a difference to her as the homeowner to the south.

There were no further public comments.

Commissioner Peterson stated that the reason for the additional 5 feet for the rear setback is because of the elevation. The Commission wanted to be sure there would be trees planted for screening. He noted that the motion made for the 45-foot rear setback was made and seconded by Commissioners Ferrington and Schumer, two experienced Planning Commission members. He agreed with reducing the front setback to keep the 45-foot rear setback. Ms. Castle stated that if the front setback were to be reduced, it would require a variance. New notices would have to be sent to the neighborhood.

Commissioner Riechers agreed with pushing the house further forward and reducing the front setback. Other accessory structures will not have as great an impact as the principal structure. It makes sense to have the garage pushed closer to the street rather than reducing the rear setback.

Commissioner Anderson stated that he does not believe pushing the garage face closer to the curve will result in a 5-foot impact. It will be closer to 4 feet. He would prefer to push the garage forward and maintain the 45-foot rear setback.

Commissioner Yarusso noted that pushing the home closer to the street will gain elevation. She agreed that moving the home forward 5 feet will have less impact than 5 feet.

Mr. Zawadski stated that he believes moving the home forward is possible. He is not sure the gain will be the 5 feet needed to retain the 45-foot rear setback. His conflict is that City Code states 40 feet. The house is being elevated with the driveway to avoid drainage over the adjacent property but keeping steps to a minimum. He asked the process for the application to move forward. Ms. Castle explained that if the application is tabled, the review period should be extended 60 days. Once the revised plan is received, a hearing will be scheduled before the Planning Commission.

MOTION: by Commissioner Peterson, seconded by Commissioner Solomonson to table the application and extend the review period from 60 to 120 days to allow the applicant to revise the proposal.

Discussion:

Commissioner Wolfe asked if the recommended revisions are acceptable to both parties. Mr. Zawadski stated he would not want to change the plan, but it is acceptable to him to come back with a variance for the front setback.

VOTE:

AYES: Anderson, Peterson, Riechers, Solomonson, Wolfe, Yarusso, Doan

NAYS: None

MINOR SUBDIVISION* – VARIANCES

FILE NO: 2683-18-03
APPLICANT: SUMMIT DESIGN BUILD LLC
LOCATION: 3316 VICTORIA STREET

Presentation by Associate Planner Aaron Sedey

The property has double frontage and is located between Victoria Street North and Emmert Street. The application is to divide the property into three parcels. A variance is requested to retain the rear yard setback of the existing principal structure, which will remain. The minimum setback from a rear property line is 30 feet. A variance is also requested to allow for the existing size of the accessory structure. Accessory structures on properties of 1/2 acre to under 1 acre can be up to 440 square feet.

The property consists of 1.505 acres with an average depth of 326.96 feet. The width is just over 200 feet. It is zoned R1, Detached Residential. All adjacent properties have single family homes and are designated for low density residential.

The applicant states that both the principal structure and accessory structure are in good shape. The home is constructed on a slab foundation, which makes it cost prohibitive to move. The

detached garage meets setback and square footage allowed for the lot size but does not comply with structure size. Other properties in the area have subdivided, and some homes have additional detached garages.

Notices were sent to property owners within 350 feet. Two residents oppose the proposal with concerns about tree conservation, lot sizes, potential drainage and water issues in the neighborhood. There is also concern about the design of the house.

The Rice Creek Watershed District has commented that there is a wetland on Parcel A, which will require a wetland delineation. The City Engineer has stated the existing home must hook up to City utilities from Emmert and the 16.5 foot wetland buffer is required for Parcel A. Ramsey County stated that no additional easements or right-of-way are required. Permits will be required for any improvements in the Victoria Street right-of-way.

The three parcels are being created as standard lots. They will meet the required length, depth and area per Code. The depth creates a need for a rear yard setback variance from 30 feet to 22.4 feet for the existing home. The subdivision also requires a variance to retain the detached garage at its current size of 576 square feet. The driveway will be moved from Victoria to Emmert Street.

Staff finds that practical difficulty is present due to the original lot configuration and placement of the house. The character of the neighborhood will not be impacted. Several larger properties in the neighborhood have subdivided. All lots will meet standard lot requirements. Municipal sewer and water are available to all parcels. Tree impact and grading for future homes will be assessed with the application for building permits.

The proposal complies with the standards of the Development Code. Staff is recommending approval of the variances and that the application for subdivision be forwarded to the City Council with a recommendation for approval subject to the conditions listed in the staff report.

Commissioner Solomonson noted that the permitted accessory structure is with a Conditional Use Permit and asked if the accessory structure complies with height standards. Mr. Sedey answered that it does comply.

Commissioner Solomonson asked the reason for concern about the wetland on Parcel A, when it is already developed. Mr. Sedey stated that it is for protection purposes when the new driveway is constructed.

Commissioner Peterson noted the history of subdivision in the area and asked if other situations have required a variance for the rear lot setback. Mr. Sedey answered that he is not aware of other rear setback variances in the area.

Commissioner Riechers asked the expected results from the soil borings. Mr. Sedey explained that the results will be submitted with the building permit application.

Chair Doan asked if Parcel A could be subdivided further with the presence of the wetland. Mr. Sedey responded that in order to further subdivide, the wetland would have to be removed.

Mr. Todd Hinz, 3160 W. Owasso Boulevard, Roseville, President, Summit Design Build LLC, stated that he is the builder and owner of the property.

Commissioner Peterson stated that if the existing home were removed, there would be no need for the variances. Mr. Hines explained that there has been repeated investment in the home to keep it in good shape. He does not want to tear down any structures. The plan is to leave the wetland as it is. In response to Commissioner Riechers' question about soil borings, he reported that three soil borings were done. It was found that the two done on Parcel B and Parcel C showed good results for building. One was also done on the wetland. The soil borings tests do not indicate any impact to other properties in the area. The building permit will address grading and runoff issues.

Commissioner Anderson asked if there is a possibility to move the two new homes closer together and further from the property lines to adjacent homes. **Mr. Hinz** answered that can be done if the City requires it.

Chair Doan stated that he would prefer not to see two new houses built close together but rather that they be equidistant. As long as placement of the homes complies with City setback requirements, location is the decision of the builder.

Commissioner Solomonson asked if the driveway will comply with the 16.5 foot required buffer from the wetland. Mr. Hinz stated that the required buffer was not known when the plans were designed, but the driveway can easily be pushed south. The driveway to the detached garage will be eliminated to comply with the wetland buffer requirement. The garage would have a new door to orient it to Emmert Street.

Commissioner Solomonson stated that he does have a concern with the reduced rear setback because of the height of the home, but noted it does sit at a lower elevation. The size of the garage was allowed when it was built. This plan is an advantage for the City because the property will no longer be a double fronted lot, which the City discourages. The City is also adding two new lots.

Commissioner Yarusso stated that the code does not address the water table when new structures are added to the area, an issue expressed by one neighbor. Ms. Castle stated that staff has not received complaints regarding drainage in this area. The City Engineer did review the plan and had no concerns. A grading and drainage plan must be submitted to the City as part of the building permit process, and historical drainage patterns must be maintained.

Commissioner Peterson asked where the wetland drains. Ms. Castle stated that the wetland is landlocked. It is not used for runoff from Emmert Street. **Mr. Hinz** added that Victoria sits higher than the parcels. In a large storm it is anticipated that pooling water would be contained in the ditches along Victoria. This is a preliminary plan. A detailed drainage plan will be required with a building permit.

Commissioner Solomonson asked about provision for drainage on Emmert. **Mr. Hinz** stated that he built the adjacent home on Emmert which sits one foot above the water table, and two sub-baskets were put in. One was required by Code. There is a low area on the property that serves as a holding pond area.

Commissioner Riechers asked how problems are handled that may arise for neighbors during construction. Ms. Castle explained that there is an Erosion Control Agreement that must be executed. It defines standards for erosion control during construction. An escrow is submitted to the City to insure required erosion control measures are taken. If erosion control is not maintained, the City can use the escrow to correct the situation. If there is a problem, the builder is notified and given 48 hours to address the issue. If a neighboring property is involved, the builder is asked to resolve the issue with the neighbor. Also, a Certificate of Occupancy can be withheld until any issues are resolved.

Commissioner Peterson stated that he cannot support the proposal because there is too much uncertainty with the drainage plan. He would recommend tabling the application or denying it.

Chair Doan noted the Rice Creek Watershed District did review the application and has required a wetland delineation. He supports the proposal.

Commissioner Peterson responded that the Watershed District can only apply state law and their rules. The Planning Commission has authority through the Comprehensive Plan to maintain natural resources with infill development. It is the large ranch house on Parcel A that is of concern.

MOTION: by Commissioner Solomonson, seconded by Commissioner Anderson to approve variances requested for rear yard setback and to retain the detached garage in its current size. Also to recommend the City Council approve the minor subdivision request to subdivide the property at 3316 Victoria St into three parcels creating two new parcels for a single-family residential use subject to the following conditions:

Variances

1. Rear yard setback for the principal structure on Parcel "A" is to be 22.4 feet, a reduction from the required 30 feet. Future additions or expansion of home will need to comply with the 30 foot minimum rear setback.
2. To retain the detached garage at the size of 576 square feet an increase from the maximum 440 square feet allowed.
3. This approval is subject to approval of the Minor Subdivision application by the City Council.
4. Mature plantings of conifers are required to be in the rear setback of the current home and the proposed home on Parcel C, subject to the approval of the City Planner.
5. This approval will expire after one year if the subdivision has not been recorded with Ramsey County.
6. The approval is subject to a 5 day appeal period.

Minor Subdivision

1. The minor subdivision shall be in accordance with the plans submitted.
2. For Parcel B and C, a Public Recreation Use Dedication fee as required by Section 204.020 of the Development Regulations before a building permit is issued for a new home on the property. The fee will be 4% of the fair market value of the property.
3. Public drainage and utility easements shall be dedicated to the City as required by the Public Works Director. The applicant shall be responsible for providing legal descriptions for all required easements. Easements shall be conveyed before the City will endorse deeds for recording.
4. Municipal water and sanitary sewer service shall be provided to all three parcels as reflected in the City Engineers comments as well as curb and gutter with associated permit fees and escrows.
5. The applicants shall enter into a Subdivision Agreement with the City. This agreement shall be executed prior to the City's release of the deeds for recording. A Development Agreement will also be required for the construction of a new home on Parcel B and C.
6. The driveway for Parcel A will be altered to use Emmert as its access to leave and enter the property. Driveway and all other work within the Emmert St right-of-way are subject to the permitting authority of the City of Shoreview. An escrow shall be required for a driveway approach to be constructed by the builder in the amount of \$1,250.
7. The applicant shall submit the wetland delineation to the Rice Creek Watershed District and obtain a watershed permit, prior to the issuance of a building permit for a new home.
8. A tree protection and replacement plan shall be submitted prior to issuance of a building permit (including the demolition permit). The approved plan shall be implemented prior to the commencement of work on the property and maintained during the period of construction. The protection plan shall include wood chips and protective fencing at the drip line of the retained trees.
9. An erosion control plan shall be submitted with the building permit application and implemented during the construction of the new residence.
10. Any improvement or work in the Victoria Street right-of-way will need approval by Ramsey County.
11. A final site-grading plan shall be submitted and approved prior to issuance of a building permit.
12. This approval shall expire after one year if the subdivision has not been recorded with Ramsey County.

This approval is based on the following findings of fact:

1. The proposed land use is consistent with the policies of the Comprehensive Plan, including the Land Use.
2. The proposed subdivision supports the policies of the Comprehensive Plan by providing additional housing opportunity in the City.
3. The parcels comply with the minimum standards of the R1, Detached Residential District.

VOTE:

AYES: Doan, Anderson, Solomonson, Wolfe
NAYS: Peterson, Riechers
ABSTAIN: Yarusso

MINOR SUBDIVISION* - VARIANCE

FILE NO: 2685-18-05
APPLICANT: KAREN KRAMLINGER
LOCATION: 4161 RICE STREET

Presentation by Niki Hill, AICP, Economic Development and Planning Associate

The application is to subdivide the subject property in two parcels. The property consists of 1.87 acres with a width of 163.34 feet on Rice Street. The depth of the property is approximately 500 feet. The property is currently developed with a single family home, a detached garage, two detached accessory structures and a driveway.

Both parcels comply with the area and depth requirements. Parcel B complies with the 75-foot width requirement, but Parcel A is a key lot which requires a 90-foot width. The width of Parcel A is 88.34 feet, hence the variance request.

The applicant states the historic creation of this and adjacent lots created practical difficulty because the existing width of 163.34 feet does not allow reasonable use of the property. The proposed 88.34-foot width for Parcel B complies with a 20-foot side setback in keeping with the spirit and intent of the City Code. A similar subdivision was approved south of this property at 4129 Rice Street.

Staff finds no conflict with the Comprehensive Plan with the proposed subdivision for detached residential development. Staff agrees that practical difficulty is present. The large lot and previous subdivision approval indicate this proposal is reasonable. The house constructed on Parcel A will have a minimum north side setback of 20 feet, which is in compliance. Staff finds that the proposed subdivision does not change the existing lot configuration as the existing parcel now meets the definition of a key lot.

The large lot area and width is unique for residential development west of Rice Street and contribute to the need for a variance. The property is surrounded by smaller residential lots along the north and west boundaries whose widths range from 75 to 80 feet, with the exception of corner lots. The development pattern along Rice Street is with smaller residential properties with the exception of the three properties immediately north of the subject property.

The proposed width, although slightly less than the required 90 feet, is not out of character of the neighborhood.

The property is zoned R1, Detached Residential. Adjacent properties are all in Shoreview and designated for low density residential. Across Rice Street to the east in Vadnais Heights, property development is detached residential. The setback shown for the future dwelling on

Parcel A meets the 20-foot minimum for a key lot. Removal of any landmark trees requires replacements based on the area of the lot. This size property requires three replacement trees for each landmark tree removed.

Municipal sanitary sewer and water are available to Parcel A but not stubbed to the property. Escrow, connection and permit fees would be required. Ramsey County permits are required of any work in the right-of-way, including sewer, water and driveway access. Ramsey County and the Ramsey-Washington Watershed District have indicated no objections to the proposal with required permits.

Notices were sent to property owners within 350 feet. One comment was received in support of the proposal.

Staff finds the application to be in accordance with the City's Development Code. It is recommended the Planning Commission approve the variance and forward the minor subdivision to the City Council for approval.

Mr. Richard Kotoski, stated that he represents the owners and is present to answer any questions.

Chair Doan opened the discussion to public comment. There were no comments or questions.

Commissioner Solomonson stated that this proposal minimizes subdivision into smaller lots and denser development. The variance of 1.6 feet is small. The proposal is reasonable and he supports the application.

MOTION: by Commissioner Solomonson, seconded by Commissioner Yarusso to adopt resolution 18-14 approving the variance to reduce the lot width for Parcel A to 88.34 feet, and to recommend approval of the minor subdivision to the City Council.

The approval is subject to the following conditions:

Variance

1. This approval is subject to approval of the Minor Subdivision application by the City Council.
2. A minimum setback of 20-feet from the North side lot line is required for the dwelling, including attached garage and any future accessory buildings developed on Parcel A.
3. This approval will expire after one year if the subdivision has not been recorded with Ramsey County.
4. The approval is subject to a 5-day appeal period.

Minor Subdivision

1. The minor subdivision shall be in accordance with the plans submitted.
2. The applicant shall pay a Public Recreation Use Dedication fee as required by Section 204.020 of the Development Regulations before the City will endorse deeds for recording. The fee will be 4% of the fair market value of the property, with credit given for the existing residence.
3. Public drainage and utility easements shall be dedicated to the City as required by the Public Works Director. The applicant shall be responsible for providing legal descriptions for all required easements. Easements shall be conveyed before the City will endorse deeds for recording.
4. A minimum setback of 20-feet from the North side lot line is required for the dwelling, including attached garage and any future accessory buildings developed on Parcel A.
5. Municipal water and sanitary sewer service shall be provided to resulting Parcel A. The applicant shall submit a cash escrow to the City to insure the water and sewer service taps are performed in accordance with the requirements of the City Engineer.
6. The applicants shall enter into a Development Agreement with the City. This agreement shall be executed prior to the City's release of the deeds for recording.
7. All work within the Rice Street right-of-way is subject to the permitting authority of Ramsey County.
8. Tree removal requires replacement trees per City Code. City requirements for the tree removal and protection plan shall be detailed in the Development Agreement.
9. The existing home, detached garage and storage shed buildings shall be removed prior to the City's endorsement of the deeds for recording.
10. This approval shall expire after one year if the subdivision has not been recorded with Ramsey County.

This approval is based on the following findings:

1. Practical difficulty is present as stated in Resolution 18-14.
2. The subdivision is consistent with the policies of the Comprehensive Plan and with the spirit and intent of the Development Code.
3. The proposed lots conform to the other adopted City standards for the R-1 Detached Residential District.

VOTE:

AYES: Anderson, Peterson, Riechers, Solomonson, Wolfe, Yarusso, Doan
NAYS: None

TEXT AMENDMENT-CHAPTER 200, REFUSE CONTAINERS AND ADMINISTRATION CITATIONS*

FILE NO: 2682-18-02
APPLICANT: CITY OF SHOREVIEW
LOCATION: CITY WIDE

Presentation by City Planner Kathleen Castle

The City Council requested that staff review refuse container storage in residential neighborhoods and establish a more effective method to enforce property maintenance violations. Long-term storage of containers in front of the home or at the street side can have a negative impact on the quality and character of the neighborhood.

Section 211.020, Refuse is proposed to require:

- Refuse must be contained within a closed container.
- The closed container must be stored in a fully enclosed building, or area designated for such purpose.
- Storage of refuse containers must be properly screened from adjoining properties and the public right-of-way.

The proposed text amendment would stipulate that container storage is permitted:

- 1) Within a building or behind the front line of a principle or accessory structure; or
- 2) Placed immediately adjacent to the structure.
- 3) Containers can only be stored at the curb between 5:00 p.m. the night before pickup until 8:00 a.m. the day after pickup.

The text amendment is intended to establish reasonable regulations that address visual impact of refuse or recycling container storage that can be easily enforced.

Section 101.040 addresses enforcement. Current Code establishes a violation as a misdemeanor which is a criminal citation processed through the District Court. The District Court process takes time and the issue continues unresolved. A text amendment is proposed to establish administrative citations as an alternative to District Court. Violations would be considered a civil offense and not on anyone's record. Once a citation is issued, residents have the option to correct the violation, pay a fine or request a hearing. A hearing would be before an Administrative Hearing Officer appointed by the City. If guilty, a penalty fee would be imposed.

Notice was published in the newspaper, but there was an error in the notice. Therefore, the City Council will hold the formal public hearing. At this time, no comments have been received.

Staff is recommending that Ordinances 961 and 962 be forwarded to the City Council for approval.

Commissioner Solomonson requested that under item f "front yard" should be deleted and state that containers shall not be stored forward of a principal or accessory structure facing the street. This clarifies that containers are not allowed in the front yard under any circumstance. He noted that there are situations with single car garages where residents are unable to store the containers in the garage. Ms. Castle stated that the ordinance cannot address every situation. Staff works with property owners to achieve a resolution before there is any citation.

Commissioner Yarusso requested a change for the regulation to reflect that containers shall not be stored forward of the principal structure or accessory structure, whichever is closest to the street.

Commissioner Peterson stated that the amendments make the regulations clearer and easier to administer. However, when the garage is in the front yard and containers cannot be stored in the garage, they will be visible even on the side of the garage.

Commissioner Wolfe recommended additional language that would address weather conditions. His containers have been in front during the winter because he is unable to move them through the snow.

Commissioner Yarusso asked if the ordinance addresses temporary dumpsters in the driveway. Ms. Castle stated that has not been an issue. The Council's intent is to address long-term storage of refuse containers.

Commissioner Solomonson asked if only containers are to be addressed, or if the ordinance prohibits bags of leaves. He suggested flexibility for an encroachment into the front yard as long as the container is on the side of the garage and screened with a lattice.

Commissioner Anderson suggested more flexibility with the times stipulated when the containers can be out.

Commissioner Yarusso agreed and stated that there are people who work time shifts other than 8:00 a.m. to 5:00 p.m., and she would not want to encourage people having to move containers at 1:00 a.m. She suggested permanent exemptions for those who are physically unable to comply.

Chair Doan opened the discussion to public comment.

Mr. Steve Copeland stated that he lives on DeMar Avenue. There is too much concern about looks. He asked about people with disabilities. There has been no discussion about people who physically cannot handle moving the containers.

Commissioner Solomonson stated that the Commission has had little time to review this issue. The ordinance needs more work, and he would not want to forward it for approval without more clarification. In an ideal world, it is preferred the containers be in the garage, but he believes many homes do not fit the models presented for container placement. Architectural considerations have not been discussed, such as windows, trees, sidewalks that are not shoveled in winter. Placement too close to neighbors is another issue. Also, rubbish containers must be covered. Temporary large dumpsters are not covered and potentially in violation. If it is a visibility issue, he noted that containers would be more visible in the back yard of a corner lot than in the front. This ordinance is a hardship for those with single garages to try to get containers to the back yard in winter.

Ms. Castle explained that the City receives a significant number of complaints on this issue. The problem is when containers are stored long-term in front of the house or at the curb. The

Council's direction was to address the storage of the containers used on a weekly basis. There has been no problem with temporary containers.

Chair Doan stated that he supports changing the enforcement penalty from a misdemeanor to a civil offense. He would like to move forward with that amendment because a misdemeanor is onerous. He would also like to change the times so that containers can be put at the curb earlier than 5:00 p.m. and can be removed from the curb until noon the day after pickup, not 8:00 a.m. There are many different unique circumstances, and it is difficult to create a code that addresses all needs. He asked if there is an exemption process. Ms. Castle responded that there is no formal waiver of process. Current practice is to work with people individually. The Code Enforcement Officer knows individual situations and can be flexible with enforcement. The main issue is long-term storage.

Commissioner Riechers asked if the containers are in compliance if fully screened but not at the side of a structure. She further suggested that rather than stipulating times for putting containers out and bringing them in, residents would have within two days of pickup to store the containers. Ms. Castle answered that screening would meet Code. However, screening would not meet the proposed amendment because the location is in a side yard abutting the street.

Commissioner Solomonson asked the reason that screening is not addressed in the amendment but is encouraged in the current ordinance. Ms. Castle explained that it is believed that if the containers are stored at the side of a structure and not forward of the structure with screening, visibility from the street is reduced.

Commissioner Anderson stated that he could support the amendments but with some type of appeals process for an exemption.

Commissioner Peterson stated it would take a lot of language, a lot of detail and subjectivity to address all the exceptions. It would be administratively difficult. He agreed that a waiver process is needed. He would support the motion with recognition of the need for exceptions.

Chair Doan noted the opportunity for a hearing for an exception. Commissioner Peterson responded that a resident should not have to receive a citation and request a hearing to be able to obtain an exemption.

Commissioner Yarusso expressed her support to change to an administrative citation process. The time when containers are on the street needs to be changed to something like noon the day before pickup and noon the day after, which would accommodate most work schedules. Exceptions need to be addressed. Otherwise everyone will be in violation some of the time. She would not want that type of ordinance.

Chair Doan agreed with Commissioner Yarusso and asked if this is something that could be further reviewed by the Planning Commission. Ms. Castle stated that the plan is to have the ordinance in effect by spring and provide education before enforcement this summer. Chair Doan suggested that although there has been no public response, people may not know what this

ordinance is really about, and action on it may be moving too fast. More feedback is needed from the public.

MOTION: by Commissioner Solomonson, seconded by Commissioner Anderson to table this matter Ordinance 961 and notice the public hearing for the next Planning Commission meeting.

VOTE:

AYES: Anderson, Peterson, Riechers, Solomonson, Wolfe, Yarusso, Doan
NAYS: None

MISCELLANEOUS

Commissioner Yarusso will attend the March 19, 2018 City Council meeting, when the two approved minor subdivision applications will be considered. No planning items will be considered at the March 5th City Council meeting.

ADJOURNMENT

MOTION: by Commissioner Solomonson, seconded by Commissioner Wolfe to adjourn the meeting at 9:57 p.m.

VOTE: AYES: Anderson, Peterson, Riechers, Solomonson, Wolfe, Yarusso, Doan
NAYS: None

ATTEST:

Kathleen Castle
City Planner

TO: Planning Commission

FROM: Aaron Sedey, Associate Planner

DATE: March 22, 2018

SUBJECT: File No. 2687-18-07; Minor Subdivision, 5885 Oxford/1044 Bucher

INTRODUCTION AND BACKGROUND

Paul Elgersma of 5885 Oxford St is working with Jay and Joanne Bell who own the property at 1044 Bucher St and submitted a minor subdivision application to divide a portion off of 1044 Bucher St and join it to the property at 5885 Oxford St. The properties are currently developed with single-family residences, detached accessory structures and other ancillary site improvements. This minor subdivision is needed to correct setback issues with a newly constructed driveway and shed that were built without proper City approval. Adjacent land uses are single-family residential.

This application was complete as of March 7, 2018.

MINOR SUBDIVISION

DEVELOPMENT ORDINANCE REQUIREMENTS

Minor subdivisions require review by the Planning Commission and approval by the City Council. Minor subdivisions must be reviewed in accordance with subdivision and zoning district standards in the Development Regulations.

The property is zoned R1, Detached Residential, as are the adjacent properties. In this district, lot standards require a minimum lot area of 10,000 square feet, a width of 75 feet and a depth of 125 feet. Minimum structure setbacks for a dwelling are 30 feet from a front and rear property line and 10 feet from an interior side lot line. A 5-foot minimum side yard is required for accessory buildings including detached garages. A maximum impervious surface coverage of 40% is permitted.

STAFF REVIEW

The applicant proposing to leave the existing site improvements and adjust the boundary between the two parcels to bring the driveway and shed in compliance with setback standards. As shown in the following table, the lots will still exceed the minimum lot requirements specified in the Development Regulations. From the new lot line, the driveway surface will be setback 5.8 feet and the shed 11.1 feet.

	Requirements	Parcel A (South)	Parcel B (North)
Area:	10,000 sf	17,313 sf	15,913 sf
Width:	75 feet	107.395 ft	110.43 ft
Depth:	125 feet	177.79 ft	140.33 ft
Lot Coverage:	40%	29%	18%

Improvements on each parcel will meet the minimum setbacks. Also, the parcels do not exceed the 40% maximum impervious surface allowed.

PUBLIC COMMENT

Property owners within 350 feet were notified of the applicant’s request. Two comments were submitted about the application, one in full support of the minor subdivision application and one with objection per the aesthetics of the expansion.

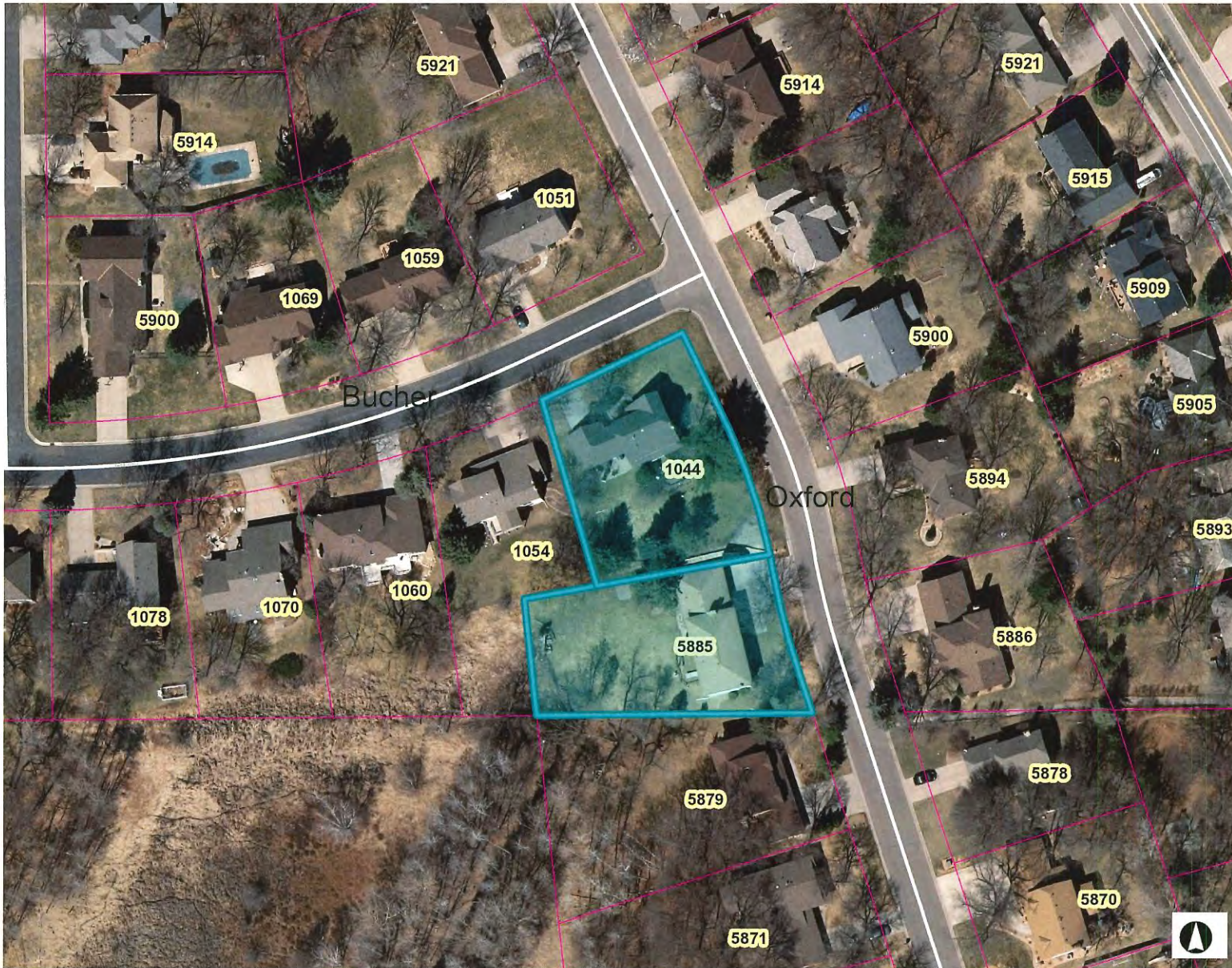
STAFF RECOMMENDATION

The minor subdivision application has been reviewed in accordance with the standards of the Development Regulations and found to be in compliance with these standards. The subdivision corrects an issue with setbacks and still leaves two lots that meet lot standards. Staff is recommending the Planning Commission forward a recommendation of approval to the City Council, subject to the following conditions:

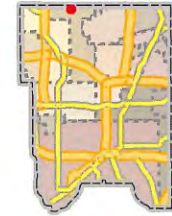
1. The minor subdivision shall be in accordance with the plans submitted, which adjusts the boundaries between 1044 Bucher and 5885 Oxford. That portion of the property being subdivided from 1044 Bucher shall be combined with 5885 Oxford. No new parcels are being created.
2. Obtain City permits for the shed and driveway. Said permit applications shall be submitted prior to the submittal of the deed to the City for recording.
3. This subdivision shall be recorded within 30 days from Council approval.

Attachments

- 1) Location Map
- 2) Submitted Statement and Plans
- 3) Comments
- 4) Motion



Legend



- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- Parcel Points
- Parcel Boundaries

200.0 0 100.00 200.0 Feet

NAD_1983_HARN_Adj_MN_Ramsey_Feet
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THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

Enter Map Description

February 14, 2018

City of Shoreview
4600 Victoria Street North
Shoreview, MN 55126

RE: Intended use of property for minor subdivision

Dear Sir or Madam:

Upon speaking with the direct neighbor at 1044 Bucher avenue, the intention of the landscaping project was to clean up the lot, making it more attractive. There were unsightly and invasive trees and shrubs that were mismanaged by the previous homeowner that desperately needed attention.

All parties spoke about the cleanup and in addition, talked about extending the driveway by adding patio pavers for parking, as well as an walkway entrance/exit to and from the lower level of the backside of the house.

All parties agreed to move forward with said project with no concerns.

Sincerely,
Paul D Elgersma
5885 Oxford St. N
Shoreview, MN 55126

Signature



Date

2-15-2018

February 26, 2018

City of Shoreview
4600 Victoria Street North
Shoreview, MN 55126

Dear Sir or Madam:

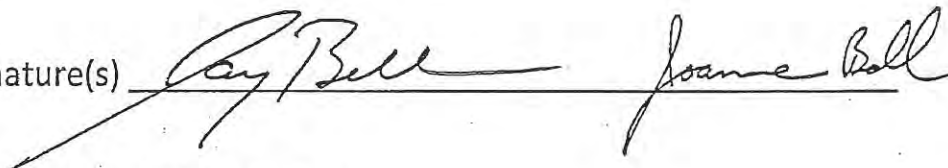
We are currently neighbors to Paul and Anna Elgersma, located at 1044 Bucher Street, Shoreview. Our properties are adjacent to each other. Upon the city's request to have the Elgersma's apply for a minor subdivision for the recent landscaping project they completed, we are in complete agreement with the Elgersma's to have our property sub divided to comply with the City of Shoreview's planning and zoning requirements.

Please feel free to contact us, if needed, to move forward with this request.

Sincerely,

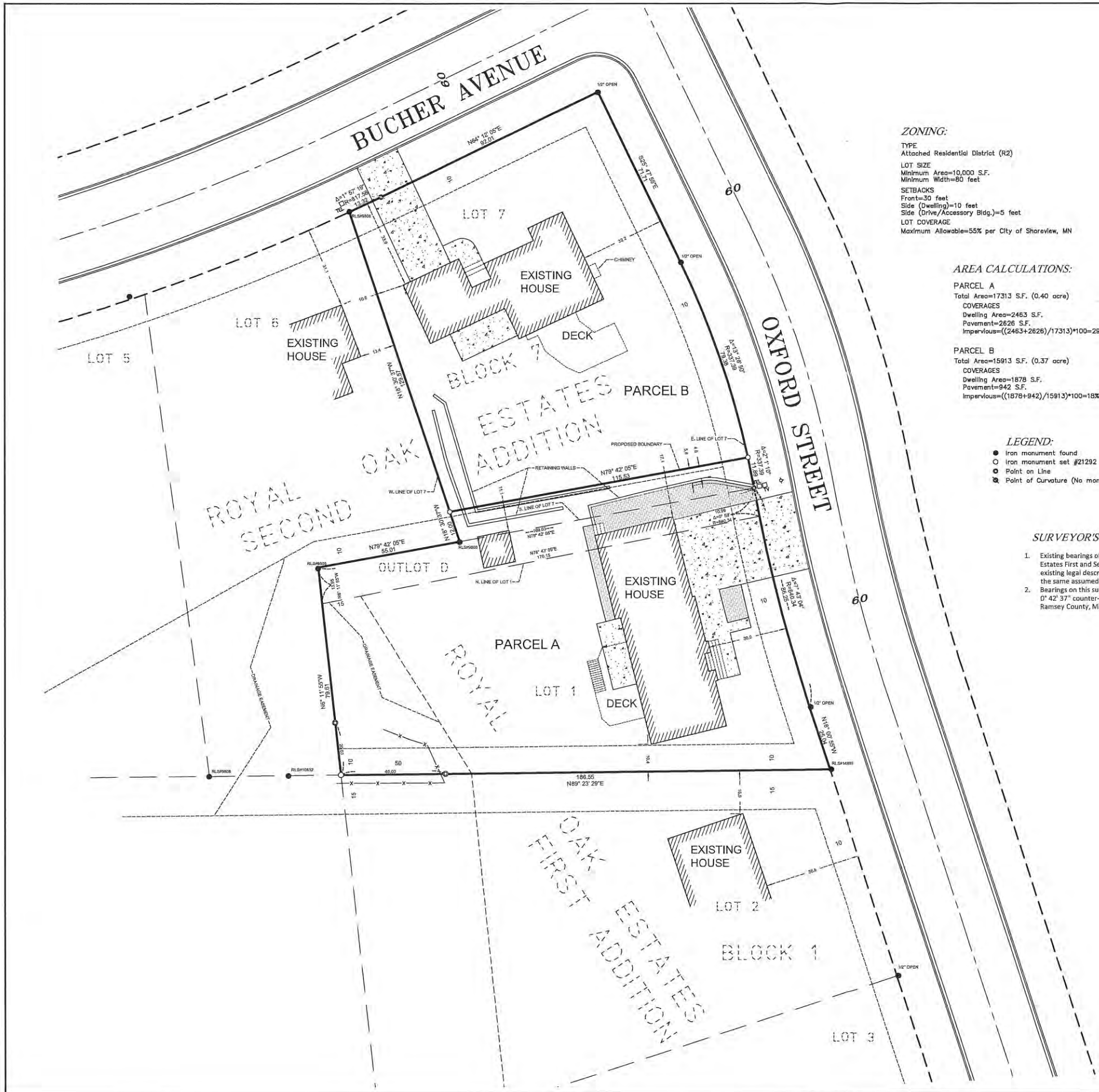
Jay and Joanne Bell
1044 Bucher Street
Shoreview, MN 55126
Contact number – 651-328-1359

Signature(s)

Handwritten signatures of Jay Bell and Joanne Bell in cursive script, written over a horizontal line.

Date

26 Feb 2018



ZONING:

TYPE
Attached Residential District (R2)
LOT SIZE
Minimum Area=10,000 S.F.
Minimum Width=80 feet
SETBACKS
Front=30 feet
Side (Dwelling)=10 feet
Side (Drive/Accessory Bldg.)=5 feet
LOT COVERAGE
Maximum Allowable=55% per City of Shoreview, MN

AREA CALCULATIONS:

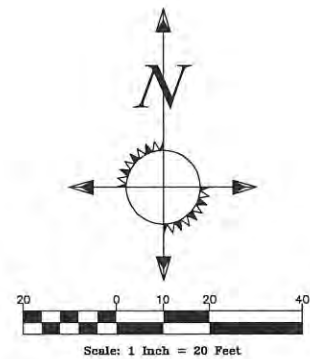
PARCEL A
Total Area=17313 S.F. (0.40 acre)
COVERAGES
Dwelling Area=2463 S.F.
Pavement=2626 S.F.
Impervious=((2463+2626)/17313)*100=28%
PARCEL B
Total Area=15913 S.F. (0.37 acre)
COVERAGES
Dwelling Area=1878 S.F.
Pavement=942 S.F.
Impervious=((1878+942)/15913)*100=18%

LEGEND:

- Iron monument found
- Iron monument set #21292
- Point on Line
- ⊙ Point of Curvature (No monument set)

SURVEYOR'S NOTES:

1. Existing bearings of record for Royal Oak Estates First and Second Additions AND the existing legal description of Parcel A use the same assumed datum.
2. Bearings on this survey have been rotated 0° 42' 37" counter-clockwise to the PLSS of Ramsey County, Minn.



EXISTING PROPERTY DESCRIPTIONS:

PARCEL A
Lot 1, Block 1, Royal Oak Estates First Addition, Ramsey County, Minnesota

AND

That part of Outlot D Royal Oak Estates First Addition, Ramsey County, Minnesota, described as beginning at the Northeast corner of Lot 1, Block 1, said Royal Oak Estates First Addition; thence on and assumed bearing of South 79 degrees 25 minutes 42 seconds West along the North line of said Lot 1, a distance of 170.15 feet to the Northwest corner of said Lot 1, thence North 5 degrees 29 minutes 18 seconds West 13.95 feet, thence North 80 degrees 24 minutes 42 seconds East 169.03 feet; thence Southerly along a non-tangential curve concave to the east having a central angle of 0 degrees 59 minutes and a radius of 640.34 feet, an arc distance of 10.99 feet to the point of beginning.

PARCEL B

Lot 7, Block 7, Royal Oak Estates Second Addition, Ramsey County, Minnesota

PROPOSED PROPERTY DESCRIPTIONS:

PARCEL A

Lot 1, Block 1, Royal Oak Estates First Addition, Ramsey County, Minnesota

AND

That part of Outlot D Royal Oak Estates First Addition, Ramsey County, Minnesota, described as beginning at the Northeast corner of Lot 1, Block 1, said Royal Oak Estates First Addition; thence on and assumed bearing of South 79 degrees 25 minutes 42 seconds West along the North line of said Lot 1, a distance of 170.15 feet to the Northwest corner of said Lot 1, thence North 5 degrees 29 minutes 18 seconds West 13.95 feet, thence North 80 degrees 24 minutes 42 seconds East 169.03 feet; thence Southerly along a non-tangential curve concave to the east having a central angle of 0 degrees 59 minutes and a radius of 640.34 feet, an arc distance of 10.99 feet to the point of beginning.

AND

That part of Lot 7, Block 7, Royal Oak Estates Second Addition, Ramsey County, Minnesota, lying South of a line described as follows: Commencing at a point on the Westerly line of said Lot 7 a distance of 12.00 feet Northerly from the Southwesterly corner of said Lot 7; thence Easterly on a line parallel to the Southerly line of said Lot 7 to the point of intersection of said line with the Easterly line of Lot 7.

PARCEL B

Lot 7, Block 7 Royal Oak Estates Second Addition, Ramsey County, Minnesota, EXCEPT that part lying South of a line described as follows: Commencing at a point on the Westerly line of said Lot 7 a distance of 12.00 feet Northerly from the Southwesterly corner of said Lot 7; thence Easterly on a line parallel to the Southerly line of said Lot 7 to the point of intersection of said line with the Easterly line of Lot 7.

I hereby certify that this survey, plan or map was made by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the state of Minnesota.
 Allen C. Schupp
 DATE: 2/5/18 LIC. NO. 21292

REVISIONS	DATE

OWNER
 PAUL ELGERSMA
 5885 OXFORD STREET
 SHOREVIEW, MINN.

LOT LINE REVISION	CHECKED
MPK	ACS
PROJECT #	3990.001
DATE	2/5/18
SHEET #	S1

1440 Arcade St. Suite 250
 Saint Paul, MN 55108
 Phone: 651-766-0112
 Fax: 651-776-0206
 E-mail: info@mpassco.com

----- Forwarded message -----

From: **Linvel Karres** <linvel@comcast.net>

Date: Fri, Mar 9, 2018 at 4:25 PM

Subject: RE: Questions **** Minor subdivision application 1044 Bucher Ave and 5885 Oxford St

To: Kathleen Castle <kcastle@shoreviewmn.gov>

Thank you for your response. I will submit my objection to the application per protocol. FYI -- my objection is not the encroachment but the precedent being set and the neighborhood aesthetics of the expansion. The under handed manner that this has come about with the new owners lack of even considering being knowledgeable of our community ordinances is not acceptable. It smacks of -- do the deed now and ask forgiveness later. I certainly hope the city denies this application and sends the notice that you will not be blind to this type of blatant disregard of following our ordinances. You are aware that two families live in this residence.

Linvel Karres

Minor Subdivision
5885 Oxford St
File No. 2687-18-07

Comments:

I FULLY SUPPORT THE APPROVAL OF
THE ELGERSMA SUBDIVISION APPLICATION
REQUEST.

THEY ARE WONDERFUL NEIGHBORS WHO
HAVE SHOWN THOUGHTFUL CONSIDERATION
TO THE DESIGN AND INSTALLATION OF
PROPERTY IMPROVEMENTS OF THE HIGHEST
QUALITY.

Name: GREG ALTON

Address: 5886 OXFORD ST.

3/16/2018

**MOTION
TO APPROVE A MINOR SUBDIVISION
PAUL ELGERSMA/JAY AND JOANNE BELL
5885 BUCHER/1044 BUCHER**

MOVED BY COMMISSION MEMBER: _____

SECONDED BY COMMISSION MEMBER: _____

To recommend the City Council approve the minor subdivision request to subdivide the property at 5885 Oxford St and 1044 Bucher St, by adjusting the boundaries between the two properties subject to the following conditions:

Minor Subdivision

1. The minor subdivision shall be in accordance with the plans submitted, which adjusts the boundaries between 1044 Bucher and 5885 Oxford. That portion of the property being subdivided from 1044 Bucher shall be combined with 5885 Oxford. No new parcels are being created.
2. Obtain City permits for the shed and driveway. Said permit applications shall be submitted prior to the submittal of the deed to the City for recording.
3. This subdivision shall be recorded within 30 days from Council approval.

This approval is based on the following findings of fact:

1. The proposed land use is consistent with the policies of the Comprehensive Plan, including the Land Use.
2. The proposed subdivision supports the policies of the Comprehensive Plan by providing additional housing opportunity in the City.
3. The parcels comply with the minimum standards of the R1, Detached Residential District.

VOTE:

AYES: NAYS: ABSENT:

TO: Planning Commission
FROM: Niki Hill, AICP, Economic Development and Planning Associate
DATE: March 22, 2018
SUBJECT: File No. 2688-18-08, Variance: Zawadski Homes, 474 West Shore Court

INTRODUCTION

At the February 27th Planning Commission meeting, the Commission tabled an application submitted by Zawadski Homes to reduce a required 45-foot rear yard setback to 40-feet for a new home at 474 West Shore Court. The application was tabled due to concerns with reducing the setback and the impact that it would have on the neighboring property to the south. Commission members felt that the home could be pushed forward and the front setback reduced from 25 to 20.5 feet.

Based on the guidance received from the Planning Commission, Zawadski Homes has submitted a new application requesting a variance to reduce the minimum 25-foot front yard setback required to 20 feet. This application is being presented to the Commission for consideration.

Zawadski Homes has not withdrawn the previous variance request, therefore, both requests are placed on the Planning Commissions agenda. In the event, favorable action is taken on the front yard setback variance, Zawadski Homes will withdraw the rear yard setback request.

BACKGROUND

When the Planning Commission approved the 15-foot variance to the key lot depth standards for Lots 6, 7, and 8 in the Wabasso Bay subdivision, the Planning Commission added a condition imposing a 45-foot rear yard setback which is more than the 40 feet required for a key lot. The intent of the increased setback was to mitigate the development impacts on the property to the south. The Commission did discuss the possibility of pushing the homes closer to the street to create more open space and distance between neighboring homes and these key lots. It was stated by our City Attorney that pushing them closer to the street could be considered arbitrary and good grounds would be needed to alter what is required by code. Conifer screening between these lots and the adjacent property to the south was also included as a condition and has been planted.

The property owner agreed to the additional setback conditions for the lots without any analysis on impacts to the proposed lots. The applicant states that they had not taken into account the impacts of the cul-de-sac on a future home with the additional setbacks. A variance is needed to increase the buildable area of this lot.

PROJECT DESCRIPTION

The property is a key lot located in the R1 – Detached Residential District. Access to the property is gained from West Shore Court. The lot area is 10,014.44 square feet, with a width of 87 feet along West Shore Court and depth of 126.90 on the west side and 96.67 feet on the east side due to the cul de sac.

Zawadski Homes is proposing to construct a new home on this vacant lot. The proposed home is designed as two story, look out residence with an attached garage.. and would be setback 20.5 feet from the front property line, therefore a variance is required. The proposed home complies with the minimum side yard setbacks and maintains the 45-foot rear yard setback required for this key lot.

DEVELOPMENT CODE REQUIREMENTS

In the R1, Detached Residential District, the principal structure shall be setback a minimum of 25 feet from the front lot line. A minimum side yard setback of 10-feet is required for living area and 5-feet for accessory structures and driveways/parking areas. As the lot is a key lot with their rear lot line abutting the side lot line of 3410 Chandler Road, 40 feet is required for the rear setback. A 45 foot rear setback was imposed as part of the variance to reduce the required lot depth during the Plat approval.

Variance Criteria (Section 203.070)

When considering a variance request, the Commission must determine whether the ordinance causes the property owner practical difficulty and find that granting the variance is in keeping with the spirit and intent of the Development Code. Practical difficulty is defined and reviewed using these criteria:

1. *Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*
2. *Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*
3. *Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

APPLICANT'S STATEMENT

After the initial variance request was heard at the February 27, 2018, the application was tabled. The applicants have followed up with the Planning Commission request and submitted a new variance request for a 5 foot extension into the front yard setback. From the cul de sac, a minimum 25' front yard setback is required, and the proposed home would be placed approximately 20' from the front line.

The applicant was having difficulty in the designing of a workable home that fits within the front to rear setbacks. A standard home for this type of neighborhood will not easily fit within the

current pad limitations. Applicant has redesigned a home, however, 5 additional feet in depth is still needed to make it work, therefore, a variance is being requested.

See attached for full statement.

STAFF REVIEW

Staff concurs with applicant that site characteristics creates a practical difficulty.

1. *Reasonable Manner.* The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations. The use of this property for a single family residence is reasonable and consistent with the comprehensive plan land use designation and R1 zoning district.
2. *Unique Circumstances.* The plight of the property owner is due to circumstances unique to the property not created by the property owner. Unique circumstances are present and cause practical difficulty. This lot is located on the south western side of the West Shore Court cul de sac. Because of the cul de sac right-of-way, the lot has an irregular shape. The building pad depth is limited to 25 feet on the east side of the property when the required 25-foot front yard setback and 45 foot rear setback are applied. Additional building area is needed to construct a home that is consistent with the neighborhood.
3. *Character of Neighborhood.* The variance, if granted, will not alter the essential character of the neighborhood. The applicant is proposing to build a new single family home that is consistent with the other new homes in the subdivision. The reduction of the front setback by 5 feet will not change the essential character of the neighborhood. The visual impact of the reduced setback will be negligible since the parcel is on the cul-de-sac.

PUBLIC COMMENT

Property owners within 150 feet were notified of the applicant's request. A written comment from the property owner to the south was received and is attached. The property owner supports the variance and has requested additional landscaping between the two properties. Since the proposed home will maintain a 45-foot rear yard setback and landscaping was installed as required with the previous subdivision approval, the staff does not believe additional landscaping is warranted. The reduction of the front yard setback does not create an additional impact on the property to the south. A second comment in support of the variance was also received.

STAFF RECOMMENDATION

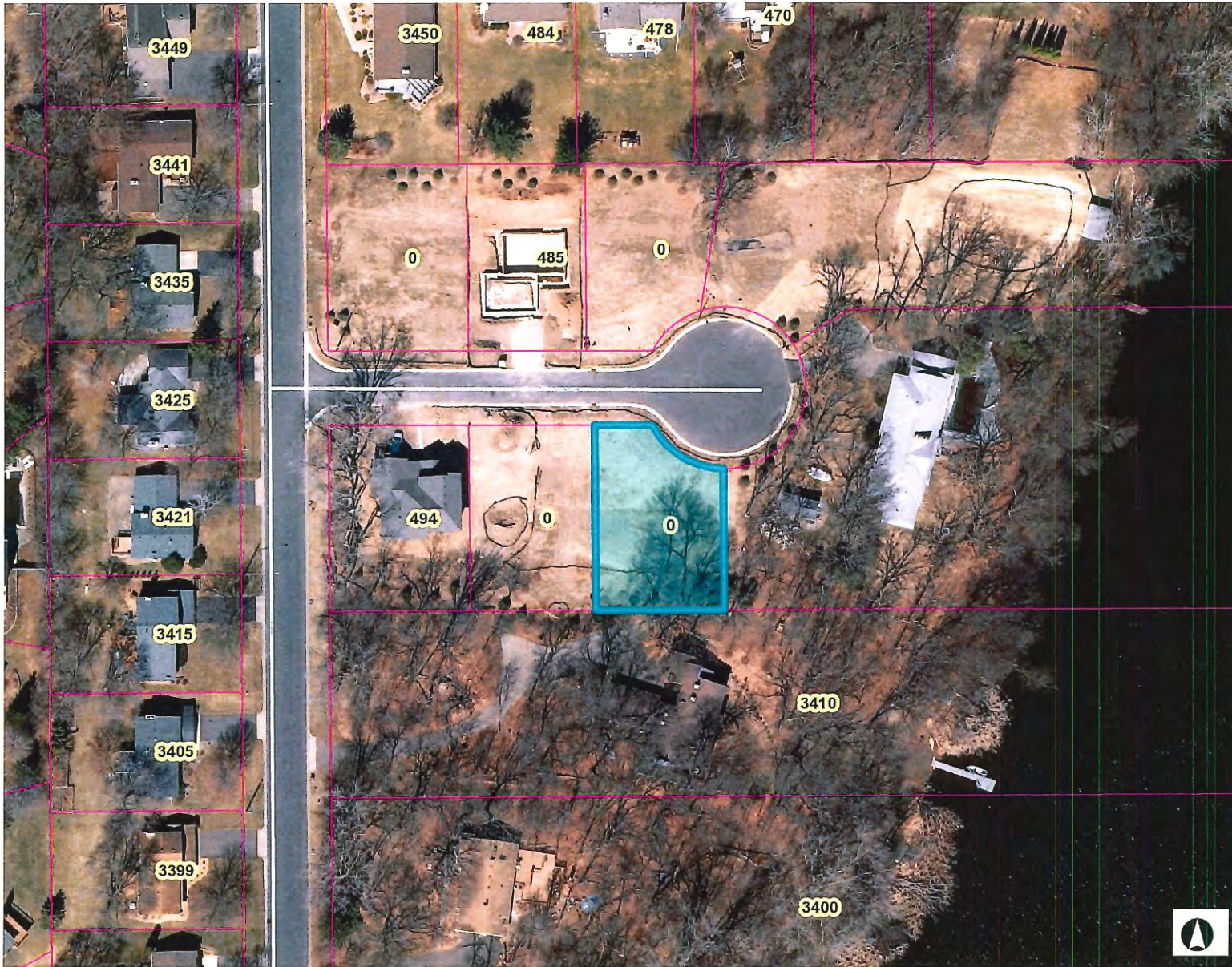
In Staff's opinion, practical difficulty is present. The Staff is recommending the Commission adopt Resolution 18-23 approving the variance request subject to the following conditions:

1. The minimum front setback for the proposed home is 20.5 feet from the front property line.
2. A building permit must be obtained before any construction activity begins.

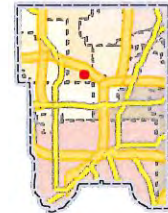
3. This approval will expire after one year if a building permit has not been issued and construction commenced.
4. This approval is subject to a 5-day appeal period.

Attachments:

- 1) Location Map
- 2) Applicant's Statement and Submitted Plans
- 3) Draft Planning Commission Meeting Minutes 2-27-18
- 4) Comments
- 5) Resolution No. 18-23
- 6) Motion



Legend



- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- Parcel Points
- Parcel Boundaries



Notes

474 West Shore Court

200.0 0 100.00 200.0 Feet

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License # 20345856

4614 Churchill St
Shoreview, MN 55126
Phone: 651-483-0518
Fax: 651-483-9057

Date: March 6, 2018

To: City of Shoreview,
Attn: Niki Hill, Shoreview Planning

Re: **Variance #2 re: front yard setback**, 474 West Shore Court / Lot 6, Wabasso Bay
Applicant: Zawadski Homes, Inc.
Owners: Nick and Anna Zawadski

Dear Ms. Hill,

This is Variance #2 on the above project; we submit this to be heard by the Planning Commission on March 27th, before the re-hearing of Variance #1, which was filed a month ago.

Enclosed for filing, please find:

1. Application for variance
2. Check
3. Survey
4. Architectural plan

Background

On February 27th, applicant's Variance #1 was heard, which asked for a 5 feet home extension into the rear yard setback; this request was tabled.

Now, applicant submits Variance #2, asking instead for a 5 foot extension into the front yard setback. This cul de sac lot currently has a 25' front yard setback, and the proposed home would therefore be placed approximately 20' from the front line.

Applicant was having difficulty in the designing of a workable home that fits within the front to rear setbacks. A standard home for this type of neighborhood will not easily fit within the current pad limitations. Applicant has redesigned a home "*on the diagonal*", however, 5 additional feet in depth is still needed to make it work. Therefore, we seek a variance.

In 2016, Wabasso Bay development was approved. The established City ordinance called for a 40' rear setback for the three lots south of the street, however, an additional 5 feet was added to the rear during the final review and approval process, for a total rear yard setback of 45 feet.

Discussion

Two of the three southern lots are able to handle the additional 5' rear setback restriction without hardship, but the geometry of the Lot 6 cul de sac front yard setback creates a very narrow front to back building pad. A wide and thin home design is architecturally possible, but room orientation and functionality are sacrificed; the home that would have to be designed wouldn't be desirable. The practical impact is, the 45' setback operates as a hardship to a well designed home for Lot 6.

March 9, 2018

Lot 6 is the only lot in the development with this hardship. The applicant's owners understand the predicament and have redrawn their home to better make it fit. They still love the property. Regardless of which direction the building pad moves, the owners are committed to being flexible.

Original Assumptions and Early Planning

The overall goal for a City and a developer is to work together in designing buildable residential lots that ultimately enhance the character of each neighborhood, while meeting certain minimum lot size standards.

The Wabasso Bay development plan originally had a 40' rear setback. It is with some irony that the development underwent numerous reviews regarding lot sizes and layouts. The plans were scrutinized by the property owner, surveyor, engineers, subcontractors and several approving City departments. Every sign-off was another step indicating that the project was designed well. In hindsight, this onerous development review process actually worked.

Months after the technical review process was over, however, the rear yard setback was increased from 40' to 45' for purposes of additional buffering. At the time, all parties were agreeable to the additional buffering as a condition of final development approval. Unfortunately, the new setbacks never underwent any further review and all parties missed that the building pad on Lot 6 couldn't handle this additional burden.

This cul de sac lot, as with most cul de sac lots, have immediate built-in difficulties(an implied 'hardship'). Builders love them and hate them at the same time. The curved front setback always create home design and placement challenges. Rather than forcing cul de sac lots to be wider and deeper, the ordinance setbacks could be reduced to accommodate the unusual lot shape. Arguably, the cul de sac lot is 50% of the cause of hardship.

Conclusion

Lot 6 only needs 5 additional front-to-back footage to allow for the owners modified diagonal home, and we suggest that this lot, the street and neighborhood can accommodate a 5 foot adjustment.

Applicant has submitted a creative plan to fit with a 20' front yard setback in lieu of a 25' setback. Functionally, being 5 feet closer on the front yard has minimal impact on the City infrastructure, and visually does not have a negative visual impact on the streetscape.

We appreciate everyone's thoughtful consideration.

Respectfully submitted,



Jay Johnson
Zawadski Homes
O 651-483-0518
© 651-387-9051



License #
20345856

4614 Churchill St
Shoreview, MN 55126
Phone: 651-483-0518
Fax: 651-483-9057

Date: March 6, 2018

To: City of Shoreview,
Attn: Niki Hill, Shoreview Planning

Re: Variance on 474 West Shore Court
Variance is for a **Rear Yard** Setback Adjustment
Applicant: Zawadski Homes, Inc.

Letter Supplemental

Dear Ms. Hill,

On February 27th, applicant's variance request for relief on the rear yard setback was tabled. We request that this variance be put back on the agenda for resolution at the March 27th Planning Commission meeting.

However, based on guidance offered verbally at the February 27th meeting, we are also submitting a second variance request for a 5 foot front yard setback. This second variance, if approved, will be in lieu of the first variance. Therefore, we wish to focus foremost on the second, front yard setback variance.

As a practical matter, the issues of the two variances are completely interconnected and they can be discussed together as one issue. Procedurally, however, we seek to have the Planning Commission address the front yard setback first, which may then render the need to vote on the rear setback unnecessary.

In order to accomplish this, it is our understanding that the Planning Commission agenda needs to be amended to allow that our first variance, which is "old business", be tabled or moved to after our second, newer variance. Applicant realizes that this request disrupts the usual chronology of how things are heard, and we appreciate the accommodation.

Regards,

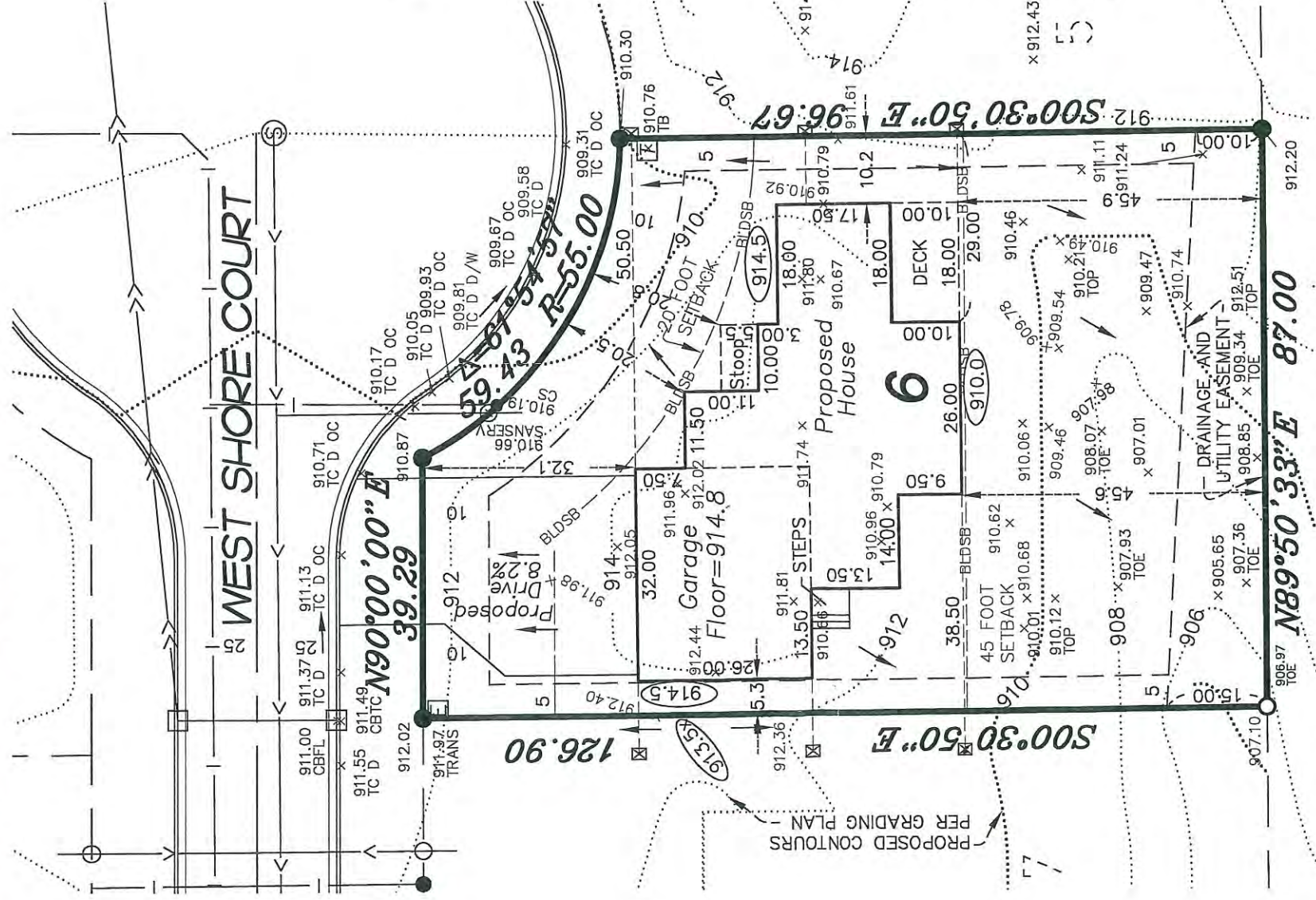
Jay Johnson
Zawadski Homes
651-483-0518

CERTIFICATE OF SURVEY

~for~ ZAWADSKI HOMES
 ~of~ 474 WEST SHORE COURT



NORTH



1023 DENOTES PROPOSED ELEVATION.
 x1011.2 DENOTES EXISTING ELEVATION.
 DENOTES DIRECTION OF DRAINAGE.
 DENOTES WOOD HUB/METAL SPIKE AT 11 FOOT OFFSET.
 (UNLESS OTHERWISE NOTED)

DIAG HOUSE:
 49.00 X 93.50 = 105.56
 (POURED 9 FOOT WALL LOOKOUT)
 PROPOSED ELEVATIONS:
 TOP OF WALL AT HOUSE = 916.2
 x912.43 GARAGE FLOOR = 914.8 (DROPPED 1.0 FEET)
 LOWEST OPENING = 910.7
 LOWEST FLOOR = 907.5
 TOP OF FOOTING = 907.2

- *BUILDER TO VERIFY HSE DIMENSIONS, SEWER DEPTH AND FOUNDATION DEPTH
- *DRIVEWAYS ARE SHOWN FOR GRAPHIC PURPOSES ONLY. FINAL DRIVEWAY DESIGN AND LOCATION TO BE DETERMINED BY CONTRACTOR.
- *FINISHED GRADE ADJACENT TO HOME SHALL BE 0.5 FEET BELOW TOP OF BLOCK EXCEPT AT DRIVEWAY AND PATIO

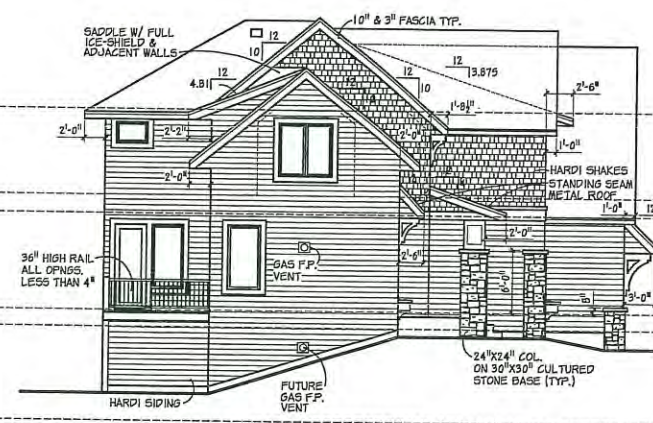
Lot 6, Block 1, WABASSO BAY, Ramsey County, Minnesota

Location: Shoreview REV. 01-11-18, 01-19-18; 01-24-18; 01-31-18; 02-20-18; 03-05-18 move house 5 feet forward JEN
 Scale 1" = 30' ● Denotes Iron Monument Bearing Datum: Assumed Job No. 18018HS Drwg By JEN

I hereby certify that this plan, survey or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

E. G. RUD & SONS, INC. By: **PRELIMINARY**
 Dated this 5th day of March 2018. Minnesota License No. 41578

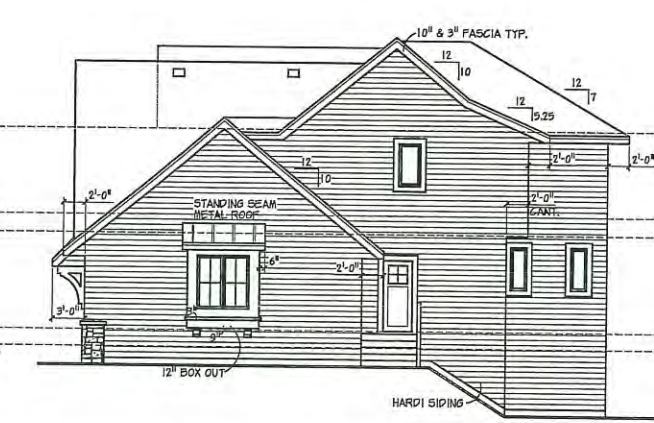
E. G. RUD & SONS, INC.
 PROFESSIONAL LAND SURVEYORS
 6776 LAKE DRIVE NE, SUITE 110
 LINO LAKES, MINNESOTA 55014
 TEL. (651) 361-8200
 FAX (651) 361-8701
 www.egrud.com L6-B1



6" WINDOW & DOOR TRIM TYP.
LEFT ELEVATION
 SCALE: 1/8" = 1'-0"



6" WINDOW & DOOR TRIM TYP.
REAR ELEVATION
 SCALE: 1/8" = 1'-0"

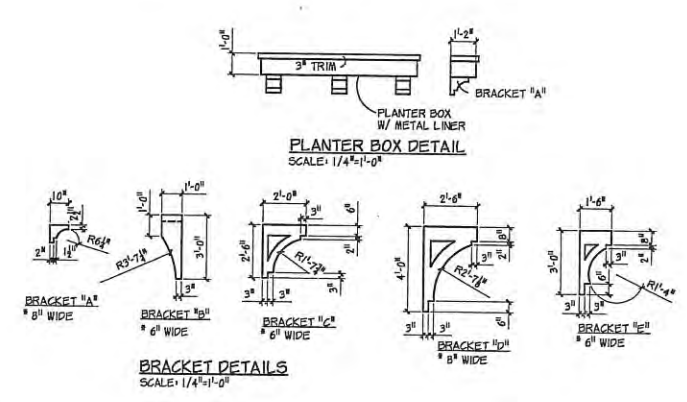


6" WINDOW & DOOR TRIM TYP.
RIGHT ELEVATION
 SCALE: 1/8" = 1'-0"



* TIP WINDOW SILL 3" TO EXTERIOR
FRONT ELEVATION
 SCALE: 1/4" = 1'-0"

1ST FLOOR	1,439 SQ. FT.
2ND FLOOR	1,392 SQ. FT.
TOTAL	2,830 SQ. FT.
BASEMENT FIN.	1,179 SQ. FT.
TOTAL	3,979 SQ. FT.
BONUS ROOM	275 SQ. FT.



- EXTERIOR NOTES**
- FLASHING NOTES**
- KICKOUT FLASHING TO BE INSTALLED AS NEEDED BY ROOFING CONTRACTOR
 - EXTERIOR WALL FINISHER TO VERIFY THAT KICKOUT FLASHING IS INSTALLED PRIOR TO FINISHING
 - CARPENTER TO FLASH ALL EXTERIOR WINDOWS & DOORS PER MN & IRC CODE REQUIREMENTS
- WINDOW NOTES**
- ANDERSEN 100 WINDOWS
 - CODE MIN. U VALUE = 0.32 MIN. SHGC = 0.35
 - BUILDER TO PROVIDE WINDOW ORDER LIST WITH U FACTOR, SHGC, & STC RATINGS FOR EACH WINDOW & EXTERIOR DOOR
 - BUILDER TO VERIFY ALL WINDOW, DOOR & OPENING HSR, HTS.
 - WINDOW WELLS WITH A VERTICAL DEPTH OF MORE THAN 44" MUST BE EQUIPPED WITH AN APPROVED LADDER
- EXT. FINISHING NOTES**
- HARDIE SIDING & SHAKES
 - HARDIE 6"X3", 10"X3" FASCIA UNLESS NOTED OTHERWISE
 - HARDIE SOFFIT W/ VENTS
 - HARDIE TRIM
 - ARCHITECTURAL SHINGLES

REPORT ON CITY COUNCIL ACTIONS

City Planner Castle reported that the City Council approved the following items recommended by the Planning Commission:

1. Conditional Use Permit at 5327 Hodgson Road for a detached accessory structure to be used for solar.
2. Minor Subdivision at 771 Gramsie Road.
3. Comprehensive Sign Plan for the McMillan project at 157 Grass Lake Place, The applicants revised the sign plan prior to the Council Meeting to better address the signage on the property. The commercial signage falls within the requirements of the commercial sign code with the exception of the commercial sign at the corner of Rice Street and Grass Lake Place. It is a short building wall and as such the length of the sign exceeded the permitted length.

The Council reviewed the Concept Plan proposed by United Properties on the Shoreview Business Campus for senior housing and small single family homes. The Council supports the proposed uses but requests a review of the connection to Oxford Street and possible alternatives. Also, height, setbacks and intensity of development need to be addressed with the senior residence.

The City Council appointed John Doan as Chair for the Commission and Commissioner Peterson as Vice Chair for 2018.

NEW BUSINESS

VARIANCE

FILE NO: 2686-18-06
APPLICANT: Zawadski Homes
LOCATION: 474 West Shore Court

Presentation by Niki Hill, AICP, Economic Development and Planning Associate

The subject property is a key lot with the rear lot line abutting the side lot line of the adjacent property. The property consists of an area of 10, 014.44 square feet with 126 feet in depth on the west side and 96. 67 feet on the east side due to the cul-de-sac. The width of the lot is 87 feet on West Shore Court. The proposal is to build a new two story home with attached garage. A variance is requested for the rear setback reducing it from 45 feet to 40.4 feet.

The Planning Commission approved the variance to the key lot depth standards for Lots 6, 7, and 8 as part of the Wabasso Bay Plat. To mitigate impact to the property to the south, a condition was attached to the plat requiring an additional 5 feet of rear yard structure setback for Lots 6, 7 and 8. The City Attorney has advised that the setback requirement beyond what is stated in Code could be construed as arbitrary. The City needs strong findings to alter what is required by

Code. Conifer screening between the key lots and adjacent property to the south is also a condition of the plat.

The property is zoned R1, Detached Residential. The setbacks required are: 1) front setback, 25 feet; 2) side setbacks, 10 feet for livable area and 5 feet for accessory structure or garage; 3) rear setback is 40 feet per key lot standards, but 45 feet is required by the plat.

The applicant states that the 45-foot rear setback was a last minute condition attached to the variance application associated with the Wabasso Shores Subdivision. It was agreed to “on the spot” with no analysis of how it would impact building on these lots. Complying with this additional restriction is proving to be a challenge for Lot 6. The added rear setback and required side set backs are overly restrictive in buildable area for a normal 2 story home in this neighborhood. The developer has invested in additional trees for a buffer and improvements for drainage to the south. Trees were also planted on the adjacent property to the south for a buffer. If requested, the applicant is further willing to increase the buffer.

Staff finds that use of this property for a single family residence is reasonable and consistent with the Comprehensive Plan. The proposed 40-foot rear setback is reasonable and complies with the requirement for key lots. The cul-de-sac causes the front setback to be uneven and limits the building pad depth to 25 feet on the east side when the 45-foot rear setback is applied. Staff believes that a rear setback of 40 feet for a key lot, which is 10 feet more than a standard lot, does mitigate impacts to properties adjacent to key lots. Reduction of the rear lot setback from 45 feet to 40.4 feet will not change the character of the neighborhood. Screening has been planted along the rear lot line as part of the requirement of the approved subdivision.

Notices were sent to property owners within 150 feet. Two comments were received, one in support and one against.

Staff finds that practical difficulty is present and recommends approval of the variance subject to the conditions listed in the staff report.

Commissioner Anderson noted that in previous consideration of this development, the City Attorney advised that pushing the house closer than the 25 foot setback to the street could be considered arbitrary. He asked if the same would apply to the increased rear yard setback. City Attorney Beck stated that in order to deviate from the Code, there must be strong findings of fact to justify that action.

Mr. Steve Zawadski, Developer, 5476 Lake Avenue, Shoreview, stated that the company feels some responsibility for this variance request in that the impact of adding 5 feet to the rear setback was not fully analyzed with respect to Lot 6. The buildable area on Lot 6 is 852 feet less than it could have been. A custom home has been designed to fit Lot 6. The east side of the home has a lower roof pitch to minimize the height impact for neighbors. The home to the south is 30 feet from the lot line. With the variance request for 40 foot rear setback, the distance between the two homes will be 70 feet. The land owner has agreed to plant additional trees to the south to further reduce any impact. The problem is that Lot 6 is tight with the added 5 feet of rear yard setback.

Commissioner Peterson asked the range of a normal front setback. Ms. Hill answered between 25 and 40 feet. Commissioner Peterson noted the portion of 37.6 front yard setback for the garage. He suggested that for continuity it might be better to have the garage front setback closer to 25 feet that would be in line with the other houses. Mr. Zawadski agreed that the garage could be pushed forward.

Commissioner Solomonson asked if the front setback could be 20 feet instead of 25 feet to preserve the 45-foot rear setback. Ms. Castle stated she would prefer to keep the 25-foot setback. The house design does comply with Code. She noted that the adjacent property to the east is a riparian lot and subject to different setback standards.

Commissioner Riechers asked for clarification of the tree protection plan. Mr. Zawadski responded that between Lots 6 and 7 there were 27 new trees planted. Replacement trees were also planted that greatly benefitted the property to the south. With the new development, there is a requirement to protect trees as part of the permit. Silt fencing will be used to prevent construction impact to the trees.

Chair Doan opened the discussion to public comment.

Ms. Megan Balda, 3410 Chandler Road, stated that she is the property owner to the south. She expressed appreciation for the idea to move the proposed home closer to the street. While many trees have been planted, many are replacement trees from storms. It is difficult to determine how many new trees have been planted. She expressed her appreciation to Zawadski Homes for their interest in working with neighbors. Although only a 5-foot difference, having a rear setback of 45 feet would make a difference to her as the homeowner to the south.

There were no further public comments.

Commissioner Peterson stated that the reason for the additional 5 feet for the rear setback is because of the elevation. The Commission wanted to be sure there would be trees planted for screening. He noted that the motion made for the 45-foot rear setback was made and seconded by Commissioners Ferrington and Schumer, two experienced Planning Commission members. He agreed with reducing the front setback to keep the 45-foot rear setback. Ms. Castle stated that if the front setback were to be reduced, it would require a variance. New notices would have to be sent to the neighborhood.

Commissioner Riechers agreed with pushing the house further forward and reducing the front setback. Other accessory structures will not have as great an impact as the principal structure. It makes sense to have the garage pushed closer to the street rather than reducing the rear setback.

Commissioner Anderson stated that he does not believe pushing the garage face closer to the curve will result in a 5-foot impact. It will be closer to 4 feet. He would prefer to push the garage forward and maintain the 45-foot rear setback.

Commissioner Yarusso noted that pushing the home closer to the street will gain elevation. She agreed that moving the home forward 5 feet will have less impact than 5 feet.

Mr. Zawadski stated that he believes moving the home forward is possible. He is not sure the gain will be the 5 feet needed to retain the 45-foot rear setback. His conflict is that City Code states 40 feet. The house is being elevated with the driveway to avoid drainage over the adjacent property but keeping steps to a minimum. He asked the process for the application to move forward. Ms. Castle explained that if the application is tabled, the review period should be extended 60 days. Once the revised plan is received, a hearing will be scheduled before the Planning Commission.

MOTION: by Commissioner Peterson, seconded by Commissioner Solomonson to table the application and extend the review period from 60 to 120 days to allow the applicant to revise the proposal.

Discussion:

Commissioner Wolfe asked if the recommended revisions are acceptable to both parties. Mr. Zawadski stated he would not want to change the plan, but it is acceptable to him to come back with a variance for the front setback.

VOTE:

AYES: Anderson, Peterson, Riechers, Solomonson, Wolfe, Yarusso, Doan

NAYS: None

MINOR SUBDIVISION* – VARIANCES

FILE NO: 2683-18-03
APPLICANT: SUMMIT DESIGN BUILD LLC
LOCATION: 3316 VICTORIA STREET

Presentation by Associate Planner Aaron Sedey

The property has double frontage and is located between Victoria Street North and Emmert Street. The application is to divide the property into three parcels. A variance is requested to retain the rear yard setback of the existing principal structure, which will remain. The minimum setback from a rear property line is 30 feet. A variance is also requested to allow for the existing size of the accessory structure. Accessory structures on properties of 1/2 acre to under 1 acre can be up to 440 square feet.

The property consists of 1.505 acres with an average depth of 326.96 feet. The width is just over 200 feet. It is zoned R1, Detached Residential. All adjacent properties have single family homes and are designated for low density residential.

The applicant states that both the principal structure and accessory structure are in good shape. The home is constructed on a slab foundation, which makes it cost prohibitive to move. The



Nicole Hill <nhill@shoreviewmn.gov>

Response for variance request

Megen Balda <megen.balda@gmail.com>
To: NHill@shoreviewmn.gov

Wed, Mar 21, 2018 at 2:00 PM

Response regarding the request for a variance on West Shore Court:

As the neighbors directly south of the new house in question, we support the plans for a 20' front setback. We believe this is a reasonable compromise so the builder can maintain its footprint while honoring the originally agreed upon 45' rear setback that provides more separation from our property. Along with additional tree buffering, this is an adequate solution from our perspective.

We thank the Planning Commission for its thoughtful consideration of this situation.

Sincerely,

Megen Balda and Jon Kjarum
3410 Chandler Road, Shoreview



Nicole Hill <nhill@shoreviewmn.gov>

Re: Request for Comment

Greg & Laurie Pickert <russpick@gmail.com>
To: nhill@shoreviewmn.gov

Thu, Mar 22, 2018 at 7:07 AM

Good Morning Niki,

This is in regards the letter received from the city of Shoreview entitled 'Public Notice - Request for Comment' -- Variance 474 West Shore Court, File No. 2688-18-08.

We support the variance request for 474 West Shore Court, File No. 2688-18-08. We have had a very positive experience with Zawadski builders and the building process. We know the homes being constructed are tasteful and well-constructed and will enhance the look and value of the neighborhood and city. Free building space is limited and we would prefer homes be constructed in the neighborhood rather than vacant lots remain.

Kind regards,
Laurie and Greg Pickert
494 West Shore Court,
Shoreview, MN 55126

**EXTRACT OF MINUTES OF MEETING OF THE
PLANNING COMMISSION OF SHOREVIEW, MINNESOTA
HELD MARCH 27, 2018**

* * * * *

Pursuant to due call and notice thereof, a meeting of the Planning Commission of the City of Shoreview, Minnesota was duly called and held at the Shoreview City Hall in said City at 7:00 P.M.

The following members were present:

And the following members were absent:

Member _____ introduced the following resolution and moved its adoption.

**RESOLUTION NO. 18-23
VARIANCE**

WHEREAS, Nick and Anna Zawadski, married to eachother, submitted a variance application for the following described property:

Lot 6, Block 1, WABASSO BAY, RAMSEY COUNTY, MINNESOTA

(This property is commonly known as 474 West Shore Court)

WHEREAS, the development code requires a 25 foot setback from the front lot line; and

WHEREAS, the applicants have requested a variance to this requirement reducing the front setback to 20'; and

WHEREAS, the Shoreview Planning Commission is authorized by state law and the City of Shoreview Development Regulations to make final decisions on variance requests.

NOW, THEREFORE, BE IT RESOLVED BY THE SHOREVIEW PLANNING COMMISSION, that the variance request for 474 West Shore Court be approved on the basis of the following findings of fact:

WHEREAS, on March 27, 2018, the Shoreview Planning Commission approved the variance and adopted the following findings of fact:

1. *Reasonable Manner.* The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations. The use of this property for a single family residence is reasonable and consistent with the comprehensive plan land use designation and R1 zoning district.
2. *Unique Circumstances.* The plight of the property owner is due to circumstances unique to the property not created by the property owner. Unique circumstances are present and cause practical difficulty. This lot is located on the south western side of the West Shore Court cul de sac. The cul de sac causes the front setback to have an irregular shape and limits the building pad depth to 25 feet on the east side of the property when the 45 foot rear setback is applied.
3. *Character of Neighborhood.* The variance, if granted, will not alter the essential character of the neighborhood. The applicant is proposing to build a new single family home. The reduction of the front setback 5 will not change the essential character of the neighborhood. Single-family residential next to single-family residential is a compatible use.

NOW, THEREFORE, BE IT RESOLVED BY THE SHOREVIEW PLANNING COMMISSION, that the variance request for property described above, subject to the following conditions:

1. The minimum front setback for the proposed home is 20 feet from the front property line.
2. A building permit must be obtained before any construction activity begins.
3. This approval will expire after one year if a building permit has not been issued and construction commenced.
4. This approval is subject to a 5-day appeal period.

File No. 2688-18-08
474 West Shore Court
Resolution 18-23
Page 3 of 4

Adopted this 27th day of March, 2018

John Doan, Chair
Shoreview Planning Commission

ATTEST:

Niki Hill, AICP
Economic Development and Planning Associate

ACCEPTANCE OF CONDITIONS:

Nick Zawadski

Anna Zawadski

**MOTION
TO APPROVE VARIANCE
ZAWADSKI HOMES
474 WEST SHORE COURT**

MOVED BY COMMISSION MEMBER: _____

SECONDED BY COMMISSION MEMBER: _____

To approve adopt Resolution 18-23 approving the variance request submitted by Zawadski Homes for 474 West Shore Court, reducing the 25 foot front setback to 20 feet. This approval is subject to the following conditions:

1. The minimum front setback for the proposed home is 20 feet from the front property line.
2. A building permit must be obtained before any construction activity begins.
3. This approval will expire after one year if a building permit has not been issued and construction commenced.
4. This approval is subject to a 5-day appeal period.

This approval is based on the following findings:

1. The proposed improvements are consistent with the Land Use and Housing Chapters of the Comprehensive Plan.
2. Practical difficulty is present as stated in Resolution 18-23

VOTE:

AYES:

NAYS:

TO: Planning Commission
FROM: Niki Hill, AICP, Economic Development and Planning Associate
DATE: March 22, 2018
SUBJECT: File No.2686-18-06, Variance: Zawadski Homes, 474 West Shore Court

INTRODUCTION

The following report is a continuation of the Variance application that was submitted by Zawadski Homes to reduce the required rear yard setback at 474 West Shore Court. The Planning Commission tabled the application due to concerns with reducing the setback and the impact that it would have on the neighbors to the south. The included memo – with its attachments - is what was received for the February, 27, 2018 Planning Commission Meeting. There are no changes to this request for the rear variance.

It is also staff's understanding that while this is the preferred option, if the submitted variance request for a reduction in the front setback for the property is approved, Zawadski Homes would pull this tabled request from the agenda.

Attachments:

- 1) Planning Commission Memo
- 2) Location Map
- 3) Applicant's Statement and Submitted Plans
- 4) Comments
- 5) Resolution No. 18-13
- 6) Motion

TO: Planning Commission
FROM: Niki Hill, AICP, Economic Development and Planning Associate
DATE: March 20, 2018
SUBJECT: File No.2686-18-06, Variance: Zawadski Homes, 474 West Shore Court

INTRODUCTION

This is a continuation of the Variance application that was submitted by Zawadski Homes to reduce the required rear yard setback at 474 West Shore Court. The property is a key lot located in the R1 – Detached Residential District. Access to the property is gained from West Shore Court. The lot area is 10,014.44 square feet, with a width of 87 feet along West Shore Court and depth of 126.90 on the west side and 96.67 feet on the east side due to the cul de sac. A variance was granted for the lot depth as it did not meet the extra 15 feet required for a key lot. The key lots complied with all other City requirements, including the increased rear setback of 40 feet. As part of the variance, the Planning Commission imposed a condition of a 45 foot rear setback, which is 5 feet more than the 40 foot rear setback as required for a key lot.

Zawadski Homes is proposing to construct a new home on a vacant lot as part of the Wabasso Shores subdivision. The proposed home is designed as two story, look out residence. Zawadski Homes submitted a variance application to exceed required rear setback of 45 feet. 40.4 feet is proposed.

The Planning Commission tabled the application due to concerns with reducing the setback and the impact that it would have on the neighbors to the south. Commission members felt that the home could be pushed forward and the front setback reduced from 25 to 20 feet.

BACKGROUND

When the Planning Commission approved the variance to the key lot depth standards for Lots 6, 7, and 8, the Planning Commission added an additional 5 feet of setback in response to concerns from the neighbor. The Commission did discuss the possibility of pushing the homes closer to the street to create more open space and distance between neighboring homes and these key lots. It was stated by our City Attorney that pushing them closer to the street could be considered arbitrary and good grounds would be needed to alter what is required by code. Conifer screening between these lots and the adjacent property to the south was also included as a condition.

The property owner agreed to the additional setback conditions for the lots without any analysis on impacts to the proposed lots. The applicant states that they had not taken into account the impacts of the cul-de-sac on a future home with the additional setbacks. A variance has been requested to reduce the 45 foot required setback to 40.4 feet.

DEVELOPMENT CODE REQUIREMENTS

The property is located in the R1, Detached Residential District. In this District, the principal structure shall be setback 25 feet from the front lot line. A minimum side yard setback of 10-feet is required for living area and 5-feet for accessory structures and driveways/parking areas. As the lot is a key lot with their rear lot line abutting the side lot line of 3410 Chandler Road.

Variance Criteria (Section 203.070)

When considering a variance request, the Commission must determine whether the ordinance causes the property owner practical difficulty and find that granting the variance is in keeping with the spirit and intent of the Development Code. Practical difficulty is defined and reviewed using these criteria:

1. *Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*
2. *Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*
3. *Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

APPLICANT'S STATEMENT

The applicant states that the 45 foot rear setback was a last minute condition attached to the variance application associated with the Wabasso Shores Subdivision. At the time, the owner of the development, Don Zibell, and the developer Zawadski Homes, agreed to this condition "on the spot." After further analysis, the additional restriction is proving to be very geometrically challenging. Lot 6 is on the cul de sac with a crescent setback in the front. With the 45' setback at the rear, coupled with the side-setbacks, the buildable pad becomes overly restrictive in accepting a normal, 2-story home for this neighborhood. A recent example of this is a 55' x 54' home that was recently sold. This home would not fit on this lot.

The developer has further assisted in establishing additional buffer by an ample planting of trees on the development and land and improving the drainage to the South. The neighbors to the south also received additional tree plantings that were placed on their property. The applicant is willing to participate even further in establishing effective buffering.

STAFF REVIEW

Staff concurs with applicant that site characteristics creates a practical difficulty.

1. *Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations. The use of this property for a single family residence is reasonable and consistent with the comprehensive plan land use designation and R1 zoning district. The 40 foot rear*

setback proposed for a new home represents a reasonable use of the property and complies with the development code requirement.

2. *Unique Circumstances.* *The plight of the property owner is due to circumstances unique to the property not created by the property owner.* Unique circumstances are present and cause practical difficulty. This lot is located on the south western side of the West Shore Court cul de sac. The cul de sac causes the front setback to have an irregular shape and limits the building pad depth to 25 feet on the east side of the property when the 45 foot rear setback is applied.

Furthermore, the additional 5 foot setback that was required was put in place without any analysis on the potential impacts to any future home/building pad. Staff believes that the required 40 foot setback for a key lot – which is 10 feet more than a standard 30 foot rear setback - is in place to mitigate impacts to the properties that are adjacent to key lots.

3. *Character of Neighborhood.* *The variance, if granted, will not alter the essential character of the neighborhood.* The applicant is proposing to build a new single family home. The reduction of 4.6 feet of the rear setback will not change the essential character of the neighborhood. Single-family residential next to single-family residential is a compatible use. Landscaping was installed along the rear property line as part of the screening/buffering requirement of the approved subdivision.

PLANNING COMMISSION FEBRUARY 20, 2018

The Planning Commission at this meeting tabled the Variance request to reduce the rear setback to a future meeting. This was to allow the applicant to explore other options, such as a reduced front setback. The Planning Commission believed that this would have less of an impact on the adjacent property.

PUBLIC COMMENT

Property owners within 150 feet were notified of the applicant's request. Written comments that were received for the February 27th meeting are attached.

STAFF RECOMMENDATION

In Staff's opinion, practical difficulty is present. Staff is supportive of the proposed variance. The Staff is recommending the Commission adopt Resolution 18-13 approving the variance request subject to the following conditions:

1. The minimum setback for the proposed home, including accessory structures, is 40.4 feet from the rear property line.
2. A building permit must be obtained before any construction activity begins.
3. This approval will expire after one year if a building permit has not been issued and construction commenced.
4. This approval is subject to a 5-day appeal period.

2686-18-06
474 West Shore Court
Variance Request

Attachments:

- 1) Location Map
- 2) Applicant's Statement and Submitted Plans
- 3) Draft Planning Commission Meeting Minutes 2-27-2018
- 4) Comments
- 5) Resolution No. 18-13
- 6) Motion



Legend



- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- Parcel Points
- Parcel Boundaries



Notes

Enter Map Description

1,333.3 0 666.67 1,333.3 Feet



200.0
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200.0 Feet

NAD_1983_HARN_Adj_MN_Ramsey_Feet
© Ramsey County Enterprise GIS Division
This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION



Legend

- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- Parcel Points
- Parcel Boundaries



Notes

474 West Shore Court



License # 20345856

4614 Churchill St
Shoreview, MN 55126
Phone: 651-483-0518
Fax: 651-483-9057

Date: March 22, 2018

To: City of Shoreview,
Attn: Niki Hill, Shoreview Planning

Re: Variance on 474 West Shore Court
Rear Yard Setback
Applicant: Zawadski Homes, Inc.

Dear Ms. Hill,

This is a brief letter in support of Applicant's first variance application, for the 5' rear yard variance on the above lot.

At the last Planning Commission meeting on February 27th, we took to heart the sentiment that the request to extend to the rear goes against a previous Planning Commission decision, and also that the Commission recommended we pursue pushing forward into the front setback. Therefore, we have submitted a second variance to extend into the front setback.

This letter in support simply seeks to keep the rear setback alive so that all options remain on the table.

We are on record as indicating that the lot is large enough to have the house slide forward or back, and that only 5 feet is needed to allow for the newly designed, narrower home. From the most pragmatic analysis, the hardship isn't necessarily the rear setback alone; the hardship results from the both front setback and the rear setback contributing to constrict the available building pad. While the rear yard variance was Applicant's first and preferred choice, we offer flexibility in finding a workable resolution.

Therefore, we continue with this rear yard variance, while acknowledging that it may not be the preferred choice of the Planning Commission.

Respectfully submitted,


Jay Johnson
Zawadski Homes
651-483-0518



License # 20345856

4614 Churchill St
Shoreview, MN 55126
Phone: 651-483-0518
Fax: 651-483-9057

Date: January 31, 2018

To: City of Shoreview,
Attn: Niki Hill, Shoreview Planning

Re: Application for Design Review & Variance, 474 West Shore Court
Applicant: Zawadski Homes, Inc.
Owners: Nick and Anna Zawadski

Dear Ms. Hill,

Enclosed please find for review;

1. Application for Variance
2. Check
3. Survey/site plan for the above address
4. Architectural floor plan
5. Architectural elevation

Background Information for Variance Application

The owners, Nick and Anna Zawadski, have designed a new residential 2 story home for construction in the recently approved development, Wabasso Bay. The legal description is Lot 6, Block 1, Wabasso Bay. Two months ago, the owners submitted a house plan for building permit thinking that the rear yard setback was the standard 35 feet; the permit application was not accepted, as a more restrictive setback was set at 45 feet.

In March of 2016, when the development Wabasso Bay was first approved by the Planning Commission, a last minute condition was attached to the variance application increasing the rear yard setback to 45 feet. At that time, the owner of the development, Don Zibell, and the developer, Zawadski Homes, agreed to this condition (on the spot, so to speak, without doing their homework). Now, after the fact, the additional restriction is proving to be very geometrically challenging.

Lot 7 is on the cul de sac with a crescent setback on the front. With the 45' setback at the rear, coupled with the side setbacks, the buildable pad becomes overly restrictive in accepting a normal, 2- story home for this neighborhood.

An architect has now assisted in the re-designing and fitting of a smaller home. A new design is being submitted for a 40' rear yard setback; this new home is still challenging to make work, but it is possible, on the diagonal.

Issues

1. Rear Yard Setback Variance ;
The Applicant seeks a variance to the 45' rear lot setback.

January 31, 2018

At the time, City staff was presenting and recommending to the Planning Commission that the rear yard setback be set at 40 feet. One or more Planning Commission members at the evening meeting suggested adding an additional 5 feet to this setback, making it 45 feet. The purpose was undoubtedly to add additional buffer to the property to the South.

Zawadski Homes, as developer for the owner, further assisted in establishing additional buffer by an ample planting of trees on the development land and improving the drainage to the South. The neighbors to the South also received additional tree plantings that were placed on their property as well.

Philosophically, and from a public planning position, the Applicant supports the goal of buffering. Applicant, on behalf of the Lot 6 owners, will participate even further in establishing effective buffering.

The issue is solely down to the fact that, with a 45' rear yard setback, the construction pad does not allow for a reasonably sized building pad. Zawadski Homes just completed and sold a model in the same development on Lot 4. Lot 4 is a standard lot, and the house was 55 feet wide, by 54 feet deep. This is a normal representation of a home going onto this street. A 55' x 54' home would definitely not fit on applicants' Lot 6.

However, Lot 6 can have an interesting home on it, with just enough room. If the setback was returned back to 40', the proposed new home can be made to fit, by tightening the home design to approx.. 30' at each end of the crescent, and then still be approx.. 40' deep at the middle.

In conclusion, the owners really like this corner lot in the cul de sac, and have redesigned their home plan to accommodate the additional restriction. The owners, with the architect, have found a plan that works with a 40' rear yard setback, but they cannot make a layout work with a 45' setback. The proposed home will be of reasonable size, and will still fit within the character of the neighborhood. Given the uniqueness of the lot, applicant hopes that the City give special consideration to this variance request.

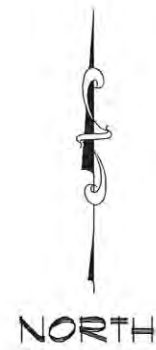
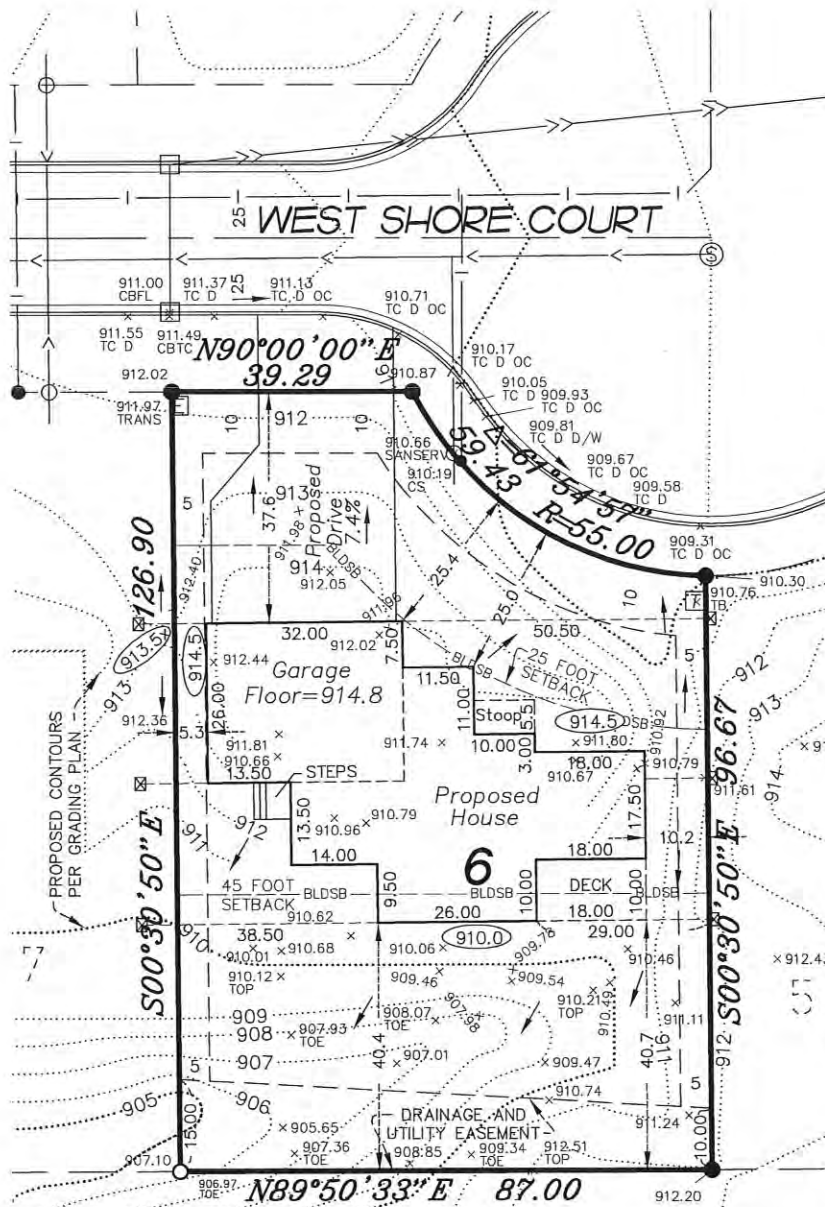
Respectfully submitted



Jay Johnson
Zawadski Homes
O 651-483-0518
© 651-387-9051

CERTIFICATE OF SURVEY

~for~ ZAWADSKI HOMES
~of~ 474 WEST SHORE COURT



(1023) DENOTES PROPOSED ELEVATION.
x1011.2 DENOTES EXISTING ELEVATION.
↘ DENOTES DIRECTION OF DRAINAGE.
⊠ DENOTES WOOD HUB/METAL SPIKE AT 11 FOOT OFFSET.
(UNLESS OTHERWISE NOTED)

DIAG HOUSE:
49.00 X 93.50 = 105.56

(POURED 9 FOOT WALL LOOKOUT)
PROPOSED ELEVATIONS:

TOP OF WALL AT HOUSE = 916.2
GARAGE FLOOR = 914.8 (DROPPED 1.0 FEET)
LOWEST OPENING = 910.7
LOWEST FLOOR = 907.5
TOP OF FOOTING = 907.2

- *BUILDER TO VERIFY HSE DIMENSIONS, SEWER DEPTH AND FOUNDATION DEPTH
- *DRIVEWAYS ARE SHOWN FOR GRAPHIC PURPOSES ONLY. FINAL DRIVEWAY DESIGN AND LOCATION TO BE DETERMINED BY CONTRACTOR.
- *FINISHED GRADE ADJACENT TO HOME SHALL BE 0.5 FEET BELOW TOP OF BLOCK EXCEPT AT DRIVEWAY AND PATIO

Lot 6, Block 1, WABASSO BAY, Ramsey County, Minnesota

Location: Shoreview REV. 01-11-18, 01-19-18; 01-24-18; 01-31-18; 02-20-18 added setbacks JEN

Scale 1"= 30' ● Denotes Iron Monument Bearing Datum: Assumed Job No. 18018HS Drwg By JEN

I hereby certify that this plan, survey or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

E. G. RUD & SONS, INC.

By: **PRELIMINARY**

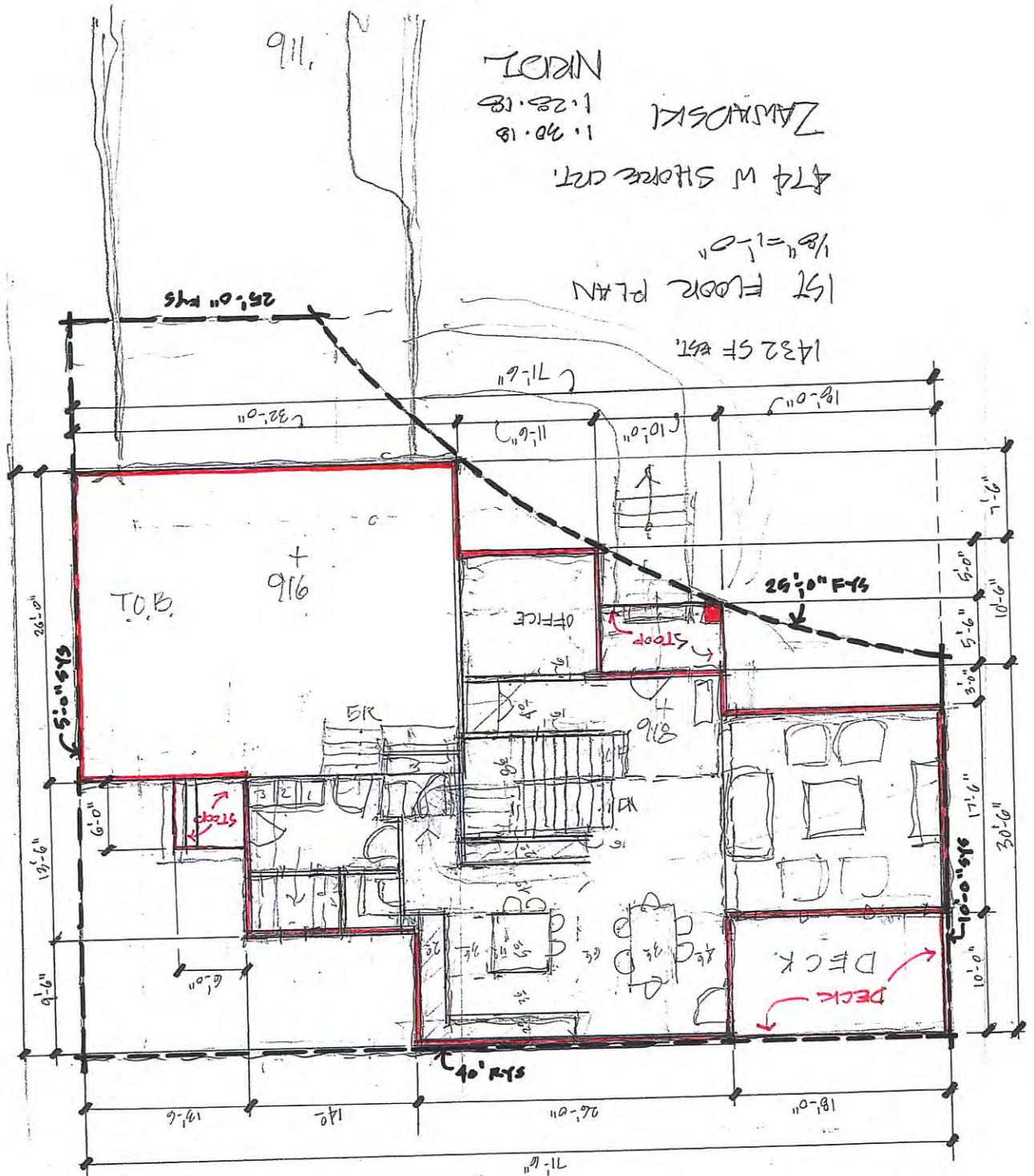
Dated this 20th day of February 2018. Minnesota License No. 41578

E. G. RUD & SONS, INC.
PROFESSIONAL LAND SURVEYORS
6776 LAKE DRIVE NE, SUITE 110
LINO LAKES, MINNESOTA 55014
TEL. (651) 361-8200
FAX (651) 361-8701
www.egrud.com

L6-B1

1. 20.18
 1. 28.18
 ZAWADSKI
 474 W SHORE CRT.

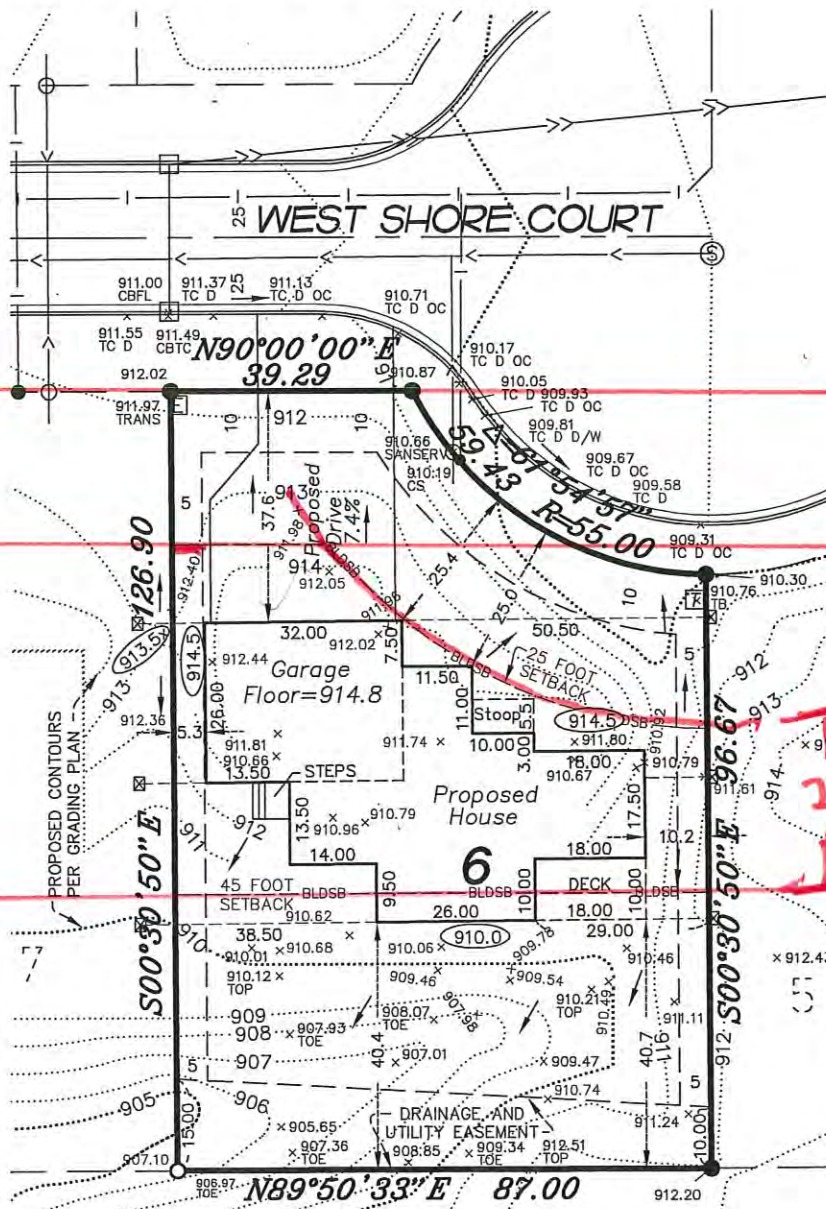
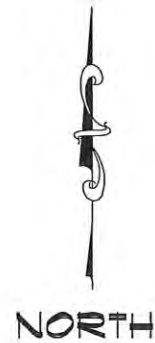
1ST FLOOR PLAN
 1/8" = 1'-0"



916 + 2316

CERTIFICATE OF SURVEY

~for~ ZAWADSKI HOMES
~of~ 474 WEST SHORE COURT



⊙(1023) DENOTES PROPOSED ELEVATION.
 x1011.2 DENOTES EXISTING ELEVATION.
 ↗ DENOTES DIRECTION OF DRAINAGE.
 ⊠ DENOTES WOOD HUB/METAL SPIKE AT 11 FOOT OFFSET.
 (UNLESS OTHERWISE NOTED)

DIAG HOUSE:
 49.00 X 93.50 = 105.56

(POURED 9 FOOT WALL LOOKOUT)
 PROPOSED ELEVATIONS:

TOP OF WALL AT HOUSE =	916.2
x912.43 GARAGE FLOOR =	914.8 (DROPPED 1.0 FEET)
LOWEST OPENING =	910.7
LOWEST FLOOR =	907.5
TOP OF FOOTING =	907.2

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Lot 6, Block 1, WABASSO BAY, Ramsey County, Minnesota

Location: Shoreview	REV. 01-11-18, 01-19-18; 01-24-18; 01-31-18; 02-20-18 added setbacks JEN
Scale 1"= 30'	● Denotes Iron Monument
Bearing Datum: Assumed	Job No. 18018HS
Drwg By JEN	

I hereby certify that this plan, survey or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

E. G. RUD & SONS, INC.

By: **PRELIMINARY**

Dated this 20th day of February 2018. Minnesota License No. 41578

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 FAX (651) 361-8701
 www.egrud.com

L6-B1

AERIAL VIEW EXHIBIT

~for~ ZAWADSKI HOMES



Lot 6, Block 1,
WABASSO BAY,
Ramsey County, Minnesota

REV.2-21-18 Rev Prop. Hse. JEN

- Denotes Iron Set
- Denotes Iron Found

Scale 1" = 30'

Job No.: 18018hs

Bearings shown are on
County datum.

Drawn By: JEN
Project Manager: JER

I hereby certify that this plan, survey or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota. Dated this 21st day of February, 2018.

License No. 41578

E.G. RUD & SONS, INC.
EST. 1917
Professional Land Surveyors
6776 Lake Drive NE, Suite 110
Lino Lakes, MN 55014
Tel. (651) 361-8200 Fax (651) 361-8701
www.egrud.com



Nicole Hill <nhill@shoreviewmn.gov>

Variance-474 West Shore Court

1 message

Greg & Laurie Pickert <russpick@gmail.com>

Sat, Feb 17, 2018 at 11:21 AM

To: nhill@shoreviewmn.gov

Dear Niki,

Thank you for sending us the information on the variance request for 474 West Shore Ct. We very much support the variance to allow the 40 foot set back.

Sincerely,

Greg and Laurie Pickert
494 West Shore Ct.
Shoreview, MN 55126



Comments for 2/27 meeting

Megen@gtcys.org <Megen@gtcys.org>
To: NHill@shoreviewmn.gov

Tue, Feb 20, 2018 at 4:00 PM

Comments for the February 27 Planning Commission Meeting regarding Zawadski Homes' request for a variance at 474 West Shore Court

File No. 2686-18-06.

As the neighbors directly south of the three key lots that are being developed on the Zibell Subdivision, we encourage the planning commission to decline the request to reduce the rear setback from the originally approved 45 feet to 40.4 feet. In May 2015, the Planning Commission used its official review and approval process to determine the 45' rear setback noting concerns about open space and distance between neighboring houses to the Key Lots ([minutes from that meeting are here](#)). What has changed to warrant modifying the Commission's original decision and approving this new request?

Of the three key lots, the property in question – Lot 6 – is the closest in proximity to our home. Thus, it is our hope that the 45' rear setback will be upheld. We understand that this 45' setback presents a design challenge for the builder whose son is buying the lot and likely wants the option of building a larger house. Since the development's inception, this lot has been positioned on the cul de sac, squeezed in alongside two other small lots. The builder's design challenges should not be our concern, nor should we have to bear the burden of closer proximity simply for their convenience.

As an alternative to satisfy all parties, we encourage Zawadski Homes to request a variance reducing the front setback from 25 feet to 20 feet.

We are also concerned about the integrity of the building process and enforcement. Zawadski Homes' surveyor, Rudd, recently staked out the property, marking the rear house corners at 26' and 27' from the rear property line. The discrepancy from the 45' requirement was noticeable and I raised the issue with the City who then contacted the builder. It wasn't until then that Zawadski Homes requested a variance and reached out to us. Mr. Zawadski implied that this was the surveyors' simple mistake. Knowing that surveyors typically work off of plans provided by the builder, it is hard to understand that missing the mark by 15 feet was a "simple mistake" on Rudd's part. Does this mean that Zawadski Homes overlooked the 45' requirement? Was the new house on Lot 8 built with a 45' setback or less? What is the process to follow through on these requirements?

This follows two years of challenges created by the subdivision. Though unrelated to the request for variance, we would like the Planning Commission to understand the negative impact we have experienced as adjacent property owners:

- A new catch basin for water drainage from Lots 6, 7, 8 was supposed to be installed entirely on Lot 7, but "accidentally" ended up partially on our property.
- As a result of significant standing water and clearcutting all but a few trees on the entire development, a wind storm in July 2016 took down 15 mature trees on our property adjacent to lots 6, 7, and 8 – our last buffer from the most visible part of the development.
- A second storm in August 2016 took down an additional 6 mature trees on our property behind Lot 6 creating a significant hole in our sideyard and backyard landscape.

- Both storms created a massive amount of time and physical labor on our part to cut and pile up the downed trees. To be fair, Mr. Zibell was empathetic to the tree damage that we sustained, and he covered the cost for removing the removal of debris and stumps, and he endorsed replacing several trees at his expense. We are grateful for this. Zawadski Homes acknowledged their responsibility and was responsive in trying to appease our landscape concerns which we appreciated. In reality, however, the subcontractor's implementation was far from what we were promised, in spite of our repeated attempts to communicate with the landscaper about details before any steps were taken. Trees were planted on our property without our input or scheduling (we were surprised to come home one day to find our property along Lots 6, 7, and 8 had been planted even though we were told that we'd be able to select tree types and locations to ensure a thick buffer – while the trees are attractive, there is no thick buffer and we can't afford to have them moved). Tons of river rocks which were supposed to be removed and saved ended up buried by the landscaper. Once heavily wooded, our property was significantly altered, exposing the new development even more. In our lifetime, we will not regain our property's tree canopy that we once had along the key lots.
- As a result of something going awry with the development, our water turned brown for nearly a week while we had out of town guests staying at our home. We were told by the City utility department that this wasn't a concern and should clear up in a few days.
- After having just 2 neighbors to the north side of our property, we will now have at least 12 people and 2 dogs (based on the families anticipated to move in) right next to us. For the next 10-15 years until the new trees grow along our driveway, this loss of privacy will be a constant reminder every time we come and go.

Of course there's been the expected construction disruption with two consecutive (soon to be three) summers of noise, severe vibrations, dust, and traffic. We suspect that our property value has diminished from the loss of mature trees and privacy now that our lot is exposed to the street, not to mention the time and aggravation dealing with the challenges outlined above. We did not ask for any of this.

We understand the City's and builder's desire to maximize lots and tax revenue. We understand progress. However, as tax-paying homeowners and in spite of attempts to be reasonable throughout this multi-year process, we are disappointed that this has continually been a lose-lose situation for us. With 5 more houses to build, it will likely continue.

Megen Balda & Jon Kjarum

[3410 Chandler Road, Shoreview](#)

OLD BUSINESS

PUBLIC HEARING – VARIANCE / MAJOR SUBDIVISION

FILE NO: 2568-15-11
APPLICANT: DONALD F. ZIBELL
LOCATION: 3422 CHANDLER ROAD

Presentation by Senior Planner Rob Warwick

The Planning Commission reviewed the applications for a preliminary plat and variance for this major subdivision application at its April 28th meeting. The public hearing was continued and the review period extended to 120 days in order to provide the applicant opportunity to make revisions and apply for needed variances.

In 2014, the City approved a minor subdivision that adjusted the north property line to the current property configuration with development of Lot 4. The subdivision agreement requires removal of the existing tennis court and adjacent detached accessory structure later this year. There is also a stable building that will be removed.

The current proposal is to subdivide 3.6 acres of upland into 8 lots, 2 riparian and 6 non-riparian, for detached single-family development. Land use for this property is designated Low Density Residential (RL) in the Comprehensive Plan, which is 0 to 4 units per acre. Density for this proposal, including the right-of-way, is 2.2 units per acre. The existing home, garage and swimming pool will remain on Lot 5. Access to the lots will be provided by a new public road, extending east from Chandler. Storm water will be managed with a bio-filtration system on Lot 4.

The applicant has revised the utility plan to address the concern regarding infrastructure on Lot 4. The existing driveway has been altered on Lot 5 to conform to the required 5-foot side setback. The grading plan has been revised to show location of landmark trees. The variance requests submitted are: 1) to increase the Ordinary High Water (OHW) setback for the future house on Lot 4; 2) to reduce the lot depths for Lots 6, 7, and 8, which are key lots and require an added 15 feet of depth per Code; 3) reduce lot frontage on a cul-de-sac for Lot 4 to 72 feet; and 4) to allow an increased setback for the house pad from the Ordinary High Water (OHW) on Lot 4. The variance for the house pad setback is a due to the drainage and utility easement and filtration basin. The west side of the easement is at approximately 85 feet from the OHW. It may be possible for a new home to comply with setback regulations, but the distance between the maximum front setback and the maximum OHW will be between 80 and 100 feet. Existing drainage flows to the lake and off-site to the south. The storm water management plan complies with the standards of the City and Ramsey Washington Metro Watershed District to address storm water quality and quantity with best management practices for construction and erosion control.

The proposed public street extends east from Chandler approximately 325 feet to end in a cul-de-sac. It is consistent with City design standards and will be constructed by the developer. It will become part of the public street system in the City.

Approximately 70 landmark trees have been identified on the property. It is estimated that about half will be removed. Code requires replacement with 6 new trees for every landmark tree removed for the street, grading and house construction.

The applicant states that the key lots comply with all City requirements, including the increased rear setback of 40 feet. Further, the 72-foot wide frontage on the cul-de-sac is over twice what is required (30 feet) for non-riparian lots. Staff believes it may be possible to construct a house on Lot 4 that complies with the OHW setback. Staff has recommended withdrawal of the application for this variance in order for the builder to design the home and apply for variances as needed.

Staff believes that the existing 304 foot width of the existing parcel creates practical difficulty. With a 50-foot street width requirement, the remaining 254 feet divided evenly gives a lot depth of 127 feet. The lot pattern proposed continues the existing pattern of lots along the south side of Lake Wabasso Court and so will not alter the character of the neighborhood. The developer will not be building homes but will sell the lots. The proposed lots comply with minimum standards of the R1 District. Lots 4 and 5 are the two riparian lots. The OHW for Lake Wabasso is 886.9 feet. A width of 100 feet is required at the shoreline, at the building setback and at the front lot line. The minimum area required is 15,000 square feet above the OHW. Lot 4 has 29,000 square feet of area. City regulations for riparian lots do not have a provision allowing reduced frontage similar to regulations for non-riparian lots. Staff believes that the large lot area and consistent width of 100 feet meet the intent of the Code.

Notice of the public hearing was again published in the City's legal newspaper and mailed to property owners within 350 feet of the subject property. Concerns expressed regard loss of green space, environmental impacts on nearby lakes and wildlife, increased traffic and construction noise. The Fire Marshall has reviewed the plans and had no comment. The project is subject to a watershed district permit.

It is recommended the public hearing be reopened to take testimony. Staff has made affirmative findings for the variance requests. Approval is recommended for the variances and a recommendation of approval for the Preliminary Plat be sent to the City Council.

Commissioner McCool noted that the applicant is willing to work with adjoining landowners for screening for Lots 6, 7 and 8 and asked if that would be included in approval conditions. Mr. Warwick explained that Code does not require screening to separate residential uses from residential uses.

Commissioner Doan asked for the rationale as to which landmark trees would be removed and which would remain. Mr. Warwick stated that the impact of grading and construction were the determining factors. Trees generally do not survive grading changes. Commissioner Doan commended the applicant for saving as many landmark trees as possible and further encouraged

use of any construction methods available that would preserve more of them, especially the one close to Chandler on Lot 8 and another on Lot 7.

Commissioner Ferrington asked if it would be possible for the six lots on the road to have a closer setback to the street to create more open space and distance between neighboring houses to these key lots. The applicant has suggested this possibility. Mr. Warwick stated that the house pads are shown 30 feet from the street. Setbacks are dictated by Code and a very good reason would be needed to require an increased setback from what is stipulated in Code.

City Attorney Joe Kelly added that such a stipulation could be considered arbitrary. Good grounds would be needed to alter what is required by Code. Further, he stated that he has reviewed the affidavits for the public hearing, and proper re-notice has been given.

Chair Solomonson re-opened the public hearing.

Mr. Jerry Kleffman, 3400 Chandler Road, suggested a compromise that Lots 1, 2, 3 and 4 be developed as planned. He also suggested that the 50-foot road be moved south 50 feet to increase the buffer between the existing house at 3410 Chandler from 100 feet to 300 feet. Lot 5 could still be developed, but there should be no key lots that are dimensionally challenged. It will be difficult to construct homes without variances. The widths of Lot Nos. 6, and 7 do not satisfy the needed width for a key lot and asked if another variance would be needed. The neighborhood deserves the larger buffer zone. **Mr. Kleffman** stated that according to the tree ordinance, approximately 200 trees will be needed for replacement of landmark trees. There will not be room on the site and then the City will determine where the replacement trees will be planted. This downgrades the neighborhood with loss of trees. He recommended the application be denied.

Mr. John Kjarum, 3410 Chandler Road, expressed concern about the number of key lots that will abut neighboring residential properties. He asked if there is any City precedence regarding the number of key lots created for new development.

MOTION: by Commissioner Schumer, seconded by Commissioner McCool to close the public hearing at 8:00 p.m.

VOTE: Ayes - 7 Nays - 0

In answer to questions, Mr. Warwick explained that the Code reads that 15 feet will be added to width or depth for key lots. The intent is to insure sufficient area for the building pad because of the increased required setbacks. The additional rear yard setback for Lot Nos. 6, 7 and 8 meets Code. He further stated that the regulations for key lots were adopted in 2008. Prior to 2008, there was no definition of key lots. Since adoption of the regulations, the City has had 17 subdivision applications. The highest number was a plat on Turtle Lake Road which had four key lots. There have been 13 minor subdivisions since those regulations were adopted. Half had key lots; two requested variances to depth and/or width.

Commissioner Peterson stated that the variances are reasonable. While the character of the neighborhood is changing, it is not because of those variances. He would like to see a strong buffer and tree replacement plan.

Commissioner McCool stated that the property is zoned correctly for a subdivision. The layout and variance requests are reasonable. Even though the lots are smaller, the increased setbacks required by Code will be kept. The character of the neighborhood will change, but it is because of an accepted opportunity for this property owner to develop a large parcel. He does not favor the variance setback from the OHW on Lot 4.

Commissioner Thompson expressed her concern about crowding three key lots into this development. The impact would be significantly reduced if there were only two key lots.

Chair Solomonson noted that prior to 2008, these lots were treated like any other lot. He supports the application and the increased rear setback required. He agreed that the OHW variance needs to be withdrawn. City Planner Castle clarified that the Code requires a rear setback of 40 feet for key lots; the Commission could increase that requirement.

Commissioner Ferrington noted that there is a steep hill between the neighborhood and the new homes. It will be a challenge to put in new trees. She would support a 45-foot rear setback with a 25-foot front setback.

Commissioner Thompson agreed with the increased rear setback to 45 feet.

Mr. Don Zibell, 3224 Chandler Road, Applicant, agreed to withdraw the variance application for the OHW on Lot 4. He stated he does not intend to build on the lake lot in the near future. Further, most trees on Lot Nos. 7 and 8 are cottonwood trees which are very messy. There will be grading and fill in that area. He does not plan to replace the trees with cottonwoods.

Mr. Warwick suggested modifying condition No. 8 to the motion for the Landscape Plan to include planting conifers along the rear lot lines of Lot Nos. 6, 7 and 8 for buffering purposes.

MOTION: by Commissioner Ferrington, seconded by Commissioner Schumer to adopt Resolution 15-40 approving the variances to reduce the front lot line for Lot 4, and to reduce the lot depth for Lots 6, 7, and 8, and to recommend the City Council approve preliminary plat submitted by Donald Zibell to subdivide and develop the property at 3422 Chandler Road into lots for single-family detached homes. Said recommendation for approval is subject to the following conditions, with the change to condition No. 2 under that a minimum 45-foot South rear lot line is required for principal and accessory structures developed on Lots 6, 7 and 8. Further, condition No. 8 should include a provision in the Landscape Plan that conifers will be planted along the rear lot lines of Lot Nos. 6, 7 and 8 for screening and buffering.

Variances

1. This approval is subject to approval of the Preliminary Plat application by the City Council.
2. A minimum setback of 45 feet from the South (rear) lot line is required for the principal and accessory structures developed on Lots 6, 7, and 8.
3. This approval will expire after one year if the subdivision has not been recorded with Ramsey County.
4. The approval is subject to a 5-day appeal period.

Preliminary Plat

1. The approval permits the development of a detached residential subdivision providing 8 lots for single family residential development.
2. Final grading, drainage and erosion control plans are subject to the review and approval by the Public Works Director prior to approval of any permits or the Final Plat. Concerns identified by the City Engineer shall be addressed with the Final Plat submittal.
3. Final utility plans are subject to review and approval by the Public Works Director.
4. The final street design is subject to review and approval of the Public Works Director.
5. Comments identified in the memo dated May 20, 2015 from the City Engineer shall be addressed with the Final Plat submittal.
6. A Development Agreement, Erosion Control Agreement shall be executed and related securities submitted prior to any work commencing on the site. A Grading Permit is required prior to commencing work on the site.
7. A Public Recreation Use Dedication fee shall be submitted as required by ordinance prior to release of the Final Plat.
8. The landscape/tree-replanting plan shall be provided in accordance with the City's Tree Protection Ordinance. Trees on the property, which are to remain, shall be protected with construction fencing placed at the tree drip lines prior to grading and excavating. Conifers will be planted along the rear lot lines of Lot Nos. 6, 7 and 8 for screening and buffering. Said plan shall be submitted for review and approval by the City Planner prior to submittal of the final plat application.
9. The Final Plat shall include drainage and utility easements along all property lines. Drainage and utility easements along the roadways shall be 10 feet wide and 5 feet wide along the side and rear lot lines. Other drainage and utility easements shall be provided over the proposed bio-filtration area, future public infrastructure and as required by the Public Works Director.

10. The developer shall secure a permit from the Ramsey Washington Metro Watershed District prior to commencing any grading on the property.

This approval is based on the following findings:

1. The proposed development plan supports the policies stated in the Comprehensive Plan related to land use and housing.
2. The proposed development plan carries out the recommendations as set forth in the Housing Action Plan
3. The proposed development plan will not adversely impact the planned land use of the surrounding property.
4. The width of Lot 4 complies with the 100-foot required for a riparian lot measured between the side lot lines, throughout its depth.
5. The future structures on Lots 6, 7, and 8 will comply with the 40-foot structure setback required for Key Lots, and so provide the separation intended by City Code.
6. With approval of the variances to reduce the frontage for Lot 4, and the lot depths for Lots 6, 7, and 8, the preliminary plat complies with the subdivision and minimum lot standards of the Development Code.

VOTE: Ayes - 7 Nays - 0

Discussion:

Commissioner Doan noted that condition No. 5 under Findings of Fact should also be changed to a 45-foot setback.

City Attorney Kelly stated that a motion is needed to reconsider the motion with the correction to the Findings of Fact.

MOTION: by Commissioner Doan, seconded by Commissioner Thompson to reconsider Resolution 15-40, adding an amendment to the Findings of Fact that future structures on Lot Nos. 6, 7, and 8 will comply with a 45-foot rear setback as required for key lots.

VOTE: Ayes - 7 Nays - 0

NEW BUSINESS

PUBLIC HEARING - CONDITIONAL USE PERMIT/VARIANCE

FILE NO: 2571-15-14
APPLICANT: RUSSELL WEAVER & PEGGY HUSTON-WEAVER
LOCATION: 4344 SNAIL LAKE BLVD.

Presentation by Economic Development and Planning Associate, Niki Hill

**EXTRACT OF MINUTES OF MEETING OF THE
PLANNING COMMISSION OF SHOREVIEW, MINNESOTA
HELD MARCH 27, 2018**

* * * * *

Pursuant to due call and notice thereof, a meeting of the Planning Commission of the City of Shoreview, Minnesota was duly called and held at the Shoreview City Hall in said City at 7:00 P.M.

The following members were present:

And the following members were absent:

Member _____ introduced the following resolution and moved its adoption.

**RESOLUTION NO. 18-13
VARIANCE**

WHEREAS, Nick and Anna Zawadski, married to eachother, submitted a variance application for the following described property:

Lot 6, Block 1, WABASSO BAY, RAMSEY COUNTY, MINNESOTA

(This property is commonly known as 474 West Shore Court)

WHEREAS, the subdivision approval required a 45 foot setback from the rear lot line; and

WHEREAS, the applicants have requested a variance to this requirement reducing the rear setback to 40.4'; and

WHEREAS, the Shoreview Planning Commission is authorized by state law and the City of Shoreview Development Regulations to make final decisions on variance requests.

NOW, THEREFORE, BE IT RESOLVED BY THE SHOREVIEW PLANNING COMMISSION, that the variance request for 474 West Shore Court be approved on the basis of the following findings of fact:

WHEREAS, on March 27, 2018, the Shoreview Planning Commission approved the variance and adopted the following findings of fact:

1. *The property in question cannot be put to a reasonable use under the conditions allowed by the Development Ordinance.* The use of this property for a single family residence is reasonable and consistent with the comprehensive plan land use designation and R1 zoning district. The 40 foot rear setback proposed for a new home represents a reasonable use of the property and complies with the development code requirement.
2. *The hardship is created by circumstances unique to the property and was not created by the landowner.* Unique circumstances are present and cause practical difficulty. This lot is located on the south western side of the West Shore Court cul de sac. The cul de sac causes the front setback to have an irregular shape and limits the building pad depth to 25 feet on the east side of the property when the 45 foot rear setback is applied.

Furthermore, the additional 5 foot setback that was required by the Planning Commission was put in place without any analysis on the potential impacts to any future home/building pad. Staff believes that the required 40 foot setback for a key lot – which is 10 feet more than a standard 30 foot rear setback - is in place to mitigate impacts to the properties that are adjacent to key lots.

3. *The variance will not alter the essential character of the neighborhood.* The applicant is proposing to build a new single family home. The reduction of 4.6 feet of the rear setback will not change the essential character of the neighborhood. Single-family residential next to single-family residential is a compatible use. Landscaping was installed along the rear property line as part of the screening/buffering requirement of the approved subdivision.

NOW, THEREFORE, BE IT RESOLVED BY THE SHOREVIEW PLANNING COMMISSION, that the variance request for property described above, subject to the following conditions:

1. The minimum setback for the proposed home is 40.4 feet from the rear property line.
2. A building permit must be obtained before any construction activity begins.
3. This approval will expire after one year if a building permit has not been issued and construction commenced.
4. This approval is subject to a 5-day appeal period.

File No. 2686-18-06
474 West Shore Court
Resolution 18-13
Page 3 of 4

Adopted this 27th day of March, 2018

John Doan, Chair
Shoreview Planning Commission

ATTEST:

Niki Hill, AICP
Economic Development and Planning Associate

ACCEPTANCE OF CONDITIONS:

Nick Zawadski

Anna Zawadski

**MOTION
TO APPROVE VARIANCE
ZAWADSKI HOMES
474 WEST SHORE COURT**

MOVED BY COMMISSION MEMBER: _____

SECONDED BY COMMISSION MEMBER: _____

To approve adopt Resolution 18-13 approving the variance request submitted by Zawadski Homes for 474 West Shore Court, reducing the 45 foot rear setback to 40.4 feet. This approval is subject to the following conditions:

1. The minimum setback for the proposed home is 40.4 feet from the rear property line.
2. A building permit must be obtained before any construction activity begins.
3. This approval will expire after one year if a building permit has not been issued and construction commenced.
4. This approval is subject to a 5-day appeal period.

This approval is based on the following findings:

1. The proposed improvements are consistent with the Land Use and Housing Chapters of the Comprehensive Plan.
2. Practical difficulty is present as stated in Resolution 18-13
3. The proposed 40.4' setback complies with the Development Code.

VOTE:

AYES:

NAYS:

TO: Planning Commission

FROM: Kathleen Castle, City Planner

DATE: March 22, 2018

SUBJECT: File No. 2682-18-02, Text Amendment – Refuse Container Storage and Administrative Citations

INTRODUCTION

At the February 27th Planning Commission meeting, the Commission reviewed a text amendment that addressed refuse container storage in the community and established an administrative citation process. The Commission tabled the text amendment and asked staff to address several items pertaining to refuse containers that were raised during the discussion. A revised ordinance is being presented to the Commission for action.

In the Spring of 2017, the City Council asked Staff to draft potential amendments to the City Code that address the exterior storage of refuse containers. Enforcement options were also discussed and Staff was asked to develop an administrative citation process which could be used when violations to the refuse container storage requirements occur. These ordinances were presented to the City Council earlier this year and the Council asked Staff to process the amendment.

DEVELOPMENT CODE

The storage of these containers is regulated in Section 211.020, Refuse. This section states:

(B) All refuse shall be properly contained in a closed container sufficiently designed for the storage of all refuse accumulating on the premises between collections. Refuse containers shall be stored within a fully enclosed building or in an area designed for such purpose and property screened from adjoining properties and in the public right-of-way.

In accordance with Section 101.040, any violation of the City Code is classified as a misdemeanor. In the case of property maintenance violations, a citation is issued and a hearing is scheduled with the Ramsey County District Court. A misdemeanor is a criminal offense for which a sentence of not more than 90 days imprisonment or a fine of not more than \$1,000 (or both) may be imposed. While this process can be effective, criminal prosecutions tend to take longer due to the length of time involved with the Court hearing. In some instances, the code violation is not remedied until the Court takes action.

DEVELOPMENT CODE REVISIONS

The purpose and intent of the City's regulations are to mitigate the negative impact the exterior storage of refuse containers may have on a neighborhood by requiring the refuse containers to be

stored within a building or screened from public view. While the current ordinance does establish standards, enforcement has become problematic with regards to the level of screening required, length of time permitted to be stored at the curb and the ambiguity of the term “public view”.

The intent of the text amendment is to establish reasonable regulations that address the visual impact, maintain the appearance and quality of our neighborhoods and are more easily administered. This amendment was initiated at the request of the City Council due to resident complaints regarding the improper storage of refuse containers. This improper storage can have a negative impact on neighborhoods especially when there is a proliferation of refuse containers continually stored in front of the homes or at the curbside.

When the proposed amendment was reviewed by the Commission at the February 27th meeting, the Commission identified several concerns with the refuse container ordinance and asked Staff to revise the ordinance to address these concerns. Staff has considered the Planning Commission’s recommendations and made changes to the proposed ordinance. The concerns raised are summarized below along with proposed changes.

- Definitions have been added to distinguish refuse containers from construction dumpster. Refuse containers include yard waste/leaf bags.
- The time period in which containers can be placed at the curbside was revised to 12:00 pm the day before collection to 12:00 pm the day after collection.
- For properties that have unique circumstances, such as topography, single-car garages or lake frontage, refuse containers could be placed in front of the principle or accessory structure provided it is screened from view of the public right-of-way.
- Tree waste is permitted in any yard but must be placed at the curb side for the next collection.
- Standards for construction dumpsters have been included and address the duration, placement and number permitted.

Figure 1 depicts the permitted storage locations.

The amendment does not include any waiver or exemption for impaired or disabled property owners. Staff has found that the ability of property owners to comply with the refuse container standards has not been related to the physical condition of the property owner. Property owners who have limitations generally receive assistance from other individuals or organizations in bringing their containers out to the curbside for collection and then back to the appropriate location after pick-up.

In staff’s opinion, providing a waiver or exemption makes it administratively difficult to enforce as Staff would need to make a determination of who is impaired or disabled and could result in unequal enforcement. Further, there is no similar provision in the Municipal Code that exempts property owners from complying with the City’s ordinances. Waivers would also require the City to develop a process and criteria on which the waiver is to be reviewed. Based on Staff’s

experience enforcing the current regulations, improper storage has not been the result of a property owner's physical condition; therefore, an exemption is not being recommended.

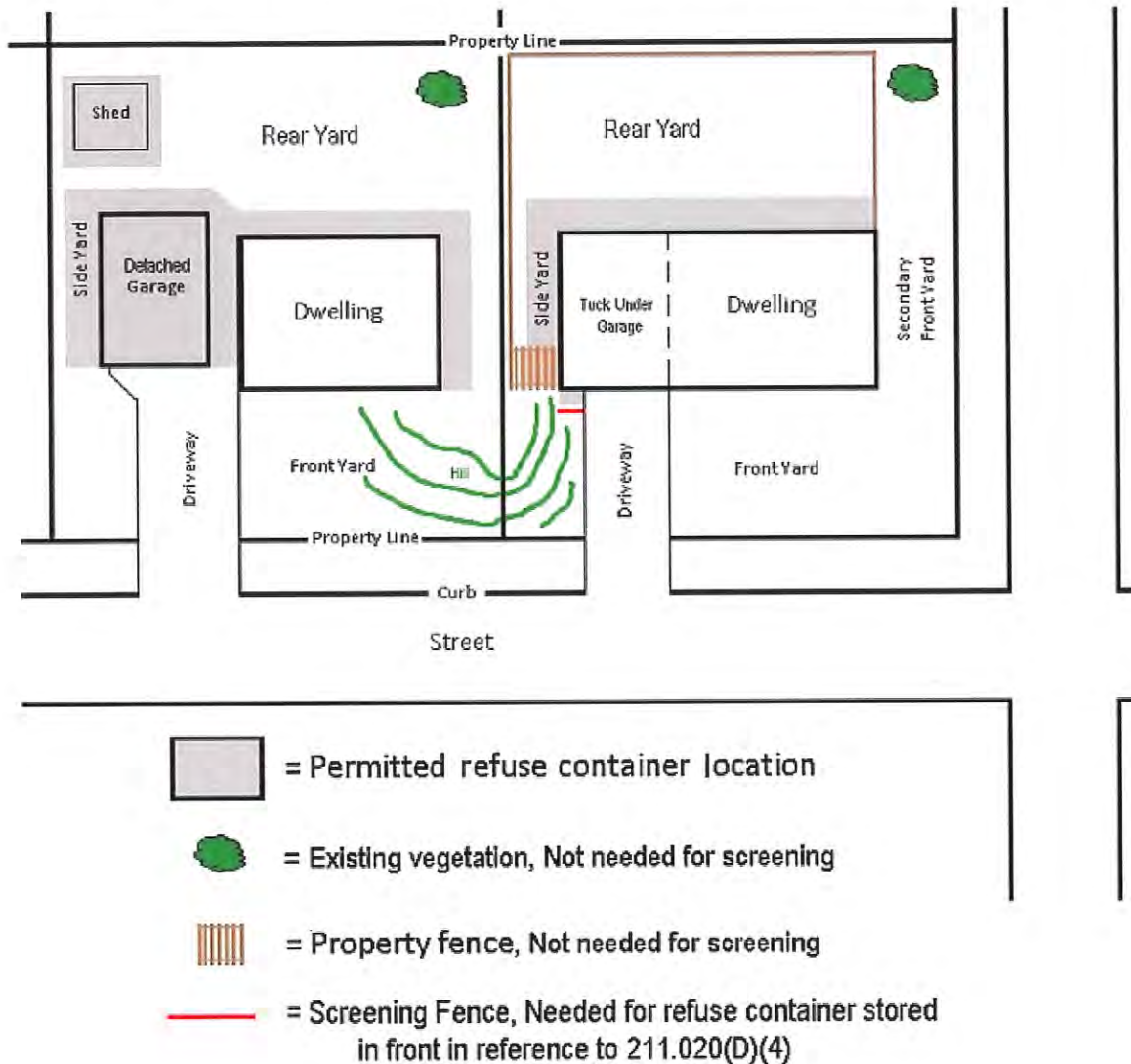


Figure 1 – Refuse Container Storage

ADMINISTRATIVE CITATIONS

The administrative citation process is an alternate method designed to resolve code enforcement violations without going through the District Court system. This method is used by some communities to address less serious violations such as on-street parking, lawn watering and illegal dumping.

The administrative process is a quasi, non-judicial alternative remedy. Upon the issuance of an administrative citation, the resident has the option to correct the violation and pay a fine (as established by the Council) or request a hearing before a City appointed Hearing Officer. At the

hearing, property owners/residents have the opportunity to present their case before the Administrative Hearing Officer. When violations are found, penalties typically follow a pre-established schedule with more nominal fees for a first violation and increased penalties for subsequent acts. The advantage to establishing an administrative hearing procedure is that it is less formal, less costly, and potentially less intimidating than the court system. The accused is given a chance to come into compliance, with fines collected by the city and not distributed through the state court system. Administrative citations are also considered civil offenses whereas misdemeanors are classified as criminal offenses.

To establish an administrative citation process, the City needs to adopt an ordinance, establish penalty fees and appoint a Hearing Officer. The attached ordinance creates an administrative hearing process for all property maintenance violations and not just those related to the storage of garbage cans. The proposed fees are not included in this ordinance but will be addressed when the City Council considers the text amendment.

PUBLIC COMMENT

Notice of the proposed text amendment and the hearing was published in the City's legal newspaper. No public comments were received.

RECOMMENDATION

The Planning Commission needs to hold the public hearing, discuss the proposed amendments and forward a recommendation to the City Council. The proposed refuse container storage ordinance, Ordinance 961, revises current regulations, incorporates some of the Commission's recommendations and clarifies the City's expectations pertaining to the refuse container storage on residential properties. These regulations support the City's efforts in preserving and maintaining the quality of our neighborhoods. Ordinance 962 creates an administrative citation process which the City could use for property maintenance violations in lieu of a criminal citation that is heard in District Court. Staff is recommending the Planning Commission forward a recommendation of approval to the City Council.

Attachments:

- 1) Current Ordinance Section 211.020, Refuse
- 2) Ordinance 961, Refuse Containers
- 3) Ordinance 962, Administrative Citations
- 4) Proposed Motion

Current Ordinance

211.020 Refuse

- (A) Definition. Refuse means all solid waste products which are composed wholly or partly of the following materials: garbage, sweepings, cleanings, trash, rubbish, litter, industrial solid wastes, domestic solid wastes, organic wastes, residues of animals, meat, fruit, vegetables, grains or fish; animal excreta or carcasses of animals; rubbish including wood, leaves, vegetation, tree trimmings, dead trees and shrubs, branches, sawdust, shavings, grass trimmings, paper products, straw, rags, clothing, and all other combustibles; waste matter composed of soil, clay, sand, earth, gravel, fill, stones, bricks, plaster, glass, glassware, crockery, ashes, cinders, shells, metal and other non-combustibles; waste debris resulting from the construction, demolition, repair or alteration of structures or buildings; and accumulated waste materials composed of cans, containers, tires, junk, vehicle parts, appliances, electronic devices or other substances which may become a nuisance.
- (B) Refuse is considered a nuisance and/or hazardous to safety or welfare and every person shall arrange for the collection and disposal of all accumulations of refuse on their property at least once a week, by a collector of refuse, licensed by the City.
- (C) All refuse shall be properly contained in a closed container sufficiently designed for the storage of all refuse accumulating on the premises between collections. Refuse containers shall be stored within a fully enclosed building or in an area designed for such purpose and properly screened from adjoining properties and the public right-of-way.
- (D) Any hazardous materials must be disposed in accordance with applicable State and Federal regulations.

DRAFT ORDINANCE
STATE OF MINNESOTA
COUNTY OF RAMSEY
CITY OF SHOREVIEW

ORDINANCE NO. 961

**AN ORDINANCE TO AMEND CHAPTER 200 OF THE MUNICIPAL CODE
SECTION 211**

The Shoreview City Council ordains that Chapter 200, Development Regulations, is hereby amended by revising Section 211, Property Maintenance Standards, adding language pertaining to Refuse *(New language highlighted red; Bold Red highlights changes made in response to Commissioner comments; Stricken text is proposed for deletion)*.

211.020 Refuse

(A) Definition.

- (1) Refuse means all solid waste products which are composed wholly or partly of the following materials: garbage, sweepings, cleanings, trash, rubbish, litter, industrial solid wastes, domestic solid wastes, organic wastes, residues of animals, meat, fruit, vegetables, grains or fish; animal excreta or carcasses of animals; rubbish including wood, leaves, vegetation, tree trimmings, dead trees and shrubs, branches, sawdust, shavings, grass trimmings, paper products, straw, rags, clothing, and all other combustibles; waste matter composed of soil, clay, sand, earth, gravel, fill, stones, bricks, plaster, glass, glassware, crockery, ashes, cinders, shells, metal and other noncombustibles; waste debris resulting from the construction, demolition, repair or alteration of structures or buildings; and accumulated waste materials composed of cans, containers, tires, junk, vehicle parts, appliances, electronic devices or other substances which may become a nuisance.
- (2) Refuse Container. A receptacle designed for the temporary storage of refuse usually made out of metal or plastic and enclosed with a lid. Yard waste may, however, be temporarily stored in paper or plastic bags.**
- (3) Construction Dumpster. A mobile receptacle for temporarily storing refuse debris resulting from the construction, demolition, repair or alteration of structures or buildings. Construction dumpsters are transported to the site by truck and range in size from 10 to 45 cubic yards. Bagsters, large bags that hold less than 10 cubic yards, are considered a construction dumpster.**

Added definitions to distinguish refuse containers from construction dumpsters

- (B) Refuse is considered a nuisance and/or hazardous to safety or welfare and every person shall arrange for the collection and disposal of all accumulations of refuse on their property at least once a week, by a collector of refuse, licensed by the City.

(C) All refuse shall be properly contained in a **closed** container sufficiently designed for the storage of all refuse accumulating on the premises between collections. **Refuse containers shall be kept in a tidy, sanitary and orderly manner, closed, and all refuse stored within.**

(D) Standards for the RE, R-1 & R-2 Zoning Districts, including Planned Unit Developments that have an underlying zone of RE, R1 or R2

Revised hours per the PC recommendation

(1) Refuse containers, **including tree debris**, shall be permitted at curbside or other permitted collection point from **12:00 p.m.** of the night preceding collection day until **12:00 p.m.** on the day after designated collection day.

(2) With the exception of Subsection **(D1 and D3)** above:

a. **Refuse** containers shall be stored within an enclosed building, or in the side or rear yard immediately adjacent to a structure.

b. **Refuse** containers shall not be stored **forward of the principle or accessory structure whichever is closer to the street.** ~~in the front yard forward of the principal structure or accessory structure facing the street. For properties adjacent to more than one public street, both sides shall be deemed the front yard.~~

(3) **If the property has unique circumstances that create a hardship for the property owner to store refuse containers in accordance with Subsection (D2) above, said refuse containers may be stored forward of the principle or accessory structure closest to the street provided:**

a. **The refuse containers are immediately adjacent to the principle or accessory structure.**

b. **The refuse containers are screened from view of the public right-of-way.**

c. **Examples of unique circumstances may include topography, fencing, lake frontage or single car attached garages.**

(4) **Tree waste may be stored in any yard, provided it is placed out at the curbside or other permitted collection point on the next collection day for pick-up by the waste hauler.**

(5) **Construction Dumpster Standards**

(a) **Number allowed: One construction dumpster is allowed per residential lot.**

(b) **Placement. Dumpsters may be placed in any yard or driveway provided it is setback a minimum of 5 feet from a property line, and does not impede traffic visibility and public safety. Dumpsters shall not be placed in any public street. Dumpsters placed in a private roadway shall not impede access by emergency vehicles.**

(c) **Duration.**

i. **A dumpster located on a residential property without an associated building permit is permitted for a period not to exceed fourteen (14) calendar days and not more than two (2) times in a calendar year.**

ii. **A dumpster located at a residential property with an associated building permit is permitted throughout the duration of the building project and must be removed within fourteen (14) days of the projects completion.**

Added (3) to address unique property circumstances

Added (4) to address tree waste

Added (5) to address construction dumpster standards

(E) Any hazardous materials must be disposed in accordance with applicable State and Federal regulations.

Effective Date. This ordinance shall become effective the day following its publication in the City's official newspaper.

Publication Date. Published on the ____ of _____, 2018.

SEAL

Sandra C. Martin, Mayor

DRAFT ORDINANCE

STATE OF MINNESOTA
COUNTY OF RAMSEY
CITY OF SHOREVIEW

ORDINANCE NO. 962

AN ORDINANCE TO AMEND CHAPTER 200 OF THE MUNICIPAL CODE, SECTION 203

The Shoreview City Council ordains that Chapter 200, Development Regulations, is hereby amended by revising Section 203, Administration, by adding the following:

203.090 **Administrative Citations**

- (A) **Purpose and Findings.** The City Council finds that there is a need for alternative methods of enforcing the provisions of Section 211. While criminal fines and penalties have been the most frequent enforcement mechanism, there are certain negative consequences for both the City and the accused. The delay inherent in that system does not ensure prompt resolution. Citizens resent being labeled as criminals for violations of administrative regulations. The higher burden of proof and the potential of incarceration do not appear appropriate for most administrative violations. The criminal process does not always regard City Code violations as being important. Accordingly, the City Council finds that the use of administrative citations and the imposition of civil penalties is a legitimate and necessary alternative method of enforcement. This method of enforcement is in addition to any other legal remedy that may be pursued for City Code violations.
- (B) **Administrative Citations and Civil Penalties.** This Section governs administrative citations and civil penalties for violations of Section 211.
- (C) **General provisions.** A violation of Section 211 may be subject to an administrative citation and civil penalties. Each day a violation exists constitutes a separate offense.
- (D) **Administrative Citation.** The City Manager and his/her designee may issue an administrative citation upon the finding that a Code violation has occurred. The citation must be issued in person or by mail to the property owner and/or person responsible for the violation offense. The citation must state the date, time, and nature of the offense, the name of the issuing officer, the amount of the scheduled civil penalty, and the manner for paying the civil penalty or appealing the citation.
 - (1) **Response to Citation.** A recipient shall respond to the citation within 14 days of receipt. The recipient may:
 - (a) Admit the violation stated in the citation and agree to pay the fine. Payment of the civil penalty constitutes admission of the violation.

- (b) Deny the violation stated in the citation and request a hearing within fourteen (14) calendar days after issuance.

(E) Administrative Hearing.

(1) Hearing Officers. The City shall maintain a list of hearing officers available to conduct hearings on the merits of an administrative citation, if requested by a recipient. Hearing officers shall have executed a contract to provide hearing officer services with the City of Shoreview. The hearing officer is not a judicial officer but is a public officer as defined by Minn. Stat. § 609.415. The hearing officer must not be a City employee. The City Manager must establish a procedure for evaluating the competency of the hearing officers, including comments from accused violators and City staff. These reports must be provided to the City Council.

(a) Removal of Hearing Officer. The accused will have the right to request, no later than five (5) calendar days before the date of the hearing, that the assigned hearing officer be removed from the case. One request for each case will be granted automatically by the City Clerk. A subsequent request must be directed to the assigned hearing officer who will decide whether he or she can fairly and objectively review the case. The City Clerk may remove a hearing officer only by requesting that the assigned hearing officer find that he or she cannot fairly and objectively review the case. If such a finding is made, the officer shall remove himself or herself from the case, and the City Clerk will assign another hearing officer.

(2) Request For Hearing. If the recipient responds by requesting a hearing, the City Manager shall assign the case to a hearing officer on the list. The Manager shall notify the hearing officer, the recipient and the issuing officer of the assignment in writing. The hearing officer shall schedule a hearing within a reasonable date of receiving the notice. Any delays in holding the hearing shall be reported to the City Manager by the hearing officer.

(3) Citation Materials. At assignment, the City Manager shall transmit a copy of the citation to the hearing officer. Within five days of assignment, the issuing officer or the officer's department shall transmit copies of all materials relating to the citation to the hearing officer. The hearing officer shall transmit a copy of any materials received to the recipient at the earliest opportunity but at least three days in advance of the hearing.

(4) Notice of Hearing. Notice of the hearing must be served on the person responsible for the violation at least fourteen (14) calendar days in advance, unless a shorter time is accepted by all parties. Service of the Notice will be by first class mail and will be complete upon mailing.

(5) Hearing. At the hearing, the hearing officer shall receive the testimony of any witnesses, witness statements, and comments presented by the person cited. The hearing officer will consider these items alongside the materials submitted by the

issuing officer, and may weigh the evidence and make credibility determinations to the best of the hearing officer's ability. The hearing officer is not required to apply the rules of evidence in making determinations about the evidence presented. The issuing officer is not required to attend the hearing.

- (6) **Decision/Findings.** After considering all of the evidence submitted, the hearing officer shall determine, by a preponderance of the evidence, whether the person cited did or did not violate the statute or statutes identified in the citation. The hearing officer shall make written findings supporting the determination and transmit them to the cited person and the City Manager within five days of closing the hearing. The decision of the hearing officer is final without any further right of administrative appeal.
 - (7) Failure to attend the hearing constitutes a waiver of the violator's rights to an administrative hearing and an admission of the violation. A hearing officer may waive this result upon good cause shown. Examples of "good cause" are: death or incapacitating illness of the accused; a court order requiring the accused to appear for another hearing at the same time; and lack of proper service of the citation or notice of the hearing. "Good cause" does not include: forgetfulness and intentional delay.
- (F) **Payment Following Finding Of Violation.** If the hearing officer finds a violation, the fine for the Code Violation is due within 30 days of the date the findings are sent to the recipient. The hearing officer may not alter or reduce the fine for any offense or combine multiple offenses into a single fine. Payment of fines due shall be made to the City Manager.
- (G) **Recovery of Civil Penalties.** If a civil penalty is not paid within the time specified, the City has the authority to take the following actions:
- (1) A lien may be assessed against the property and collected in the same manner as taxes.
 - (2) A personal obligation may be collected by appropriate legal means.
 - (3) A late payment fee of 10 percent of the civil penalty may be assessed for each 30-day period, or part thereof, that the fine remains unpaid after the due date.
- (H) **Criminal Penalties.** The following are misdemeanors, punishable in accordance with State Law: (i) failure, without good cause, to appear at a hearing that was scheduled under Code Section 203.090 (E)(4); (ii) failure to pay a civil penalty imposed by a hearing officer within 30 days after it was imposed, or such other time as may be established by the hearing officer.

If the final adjudication in the administrative penalty procedure is a finding of no violation, then the City may not prosecute a criminal violation in district court based on the same set of facts. This does not preclude the City from pursuing a criminal conviction

for a violation of the same provision based on a different set of facts. A different date of violation will constitute a different set of facts.

Effective Date. This ordinance shall become effective the day following its publication in the City's official newspaper.

Publication Date. Published on the ____ of ____, 2018.

SEAL

Sandra C. Martin, Mayor

PROPOSED MOTION

MOVED BY COMMISSION MEMBER _____

SECONDED BY COMMISSION MEMBER _____

To recommend the City Council adopt Ordinance 961 addressing refuse container and construction dumpster storage and Ordinance 962 establishing an administrative citation process. The proposed Ordinance 961 clarifies the City's expectations pertaining to the refuse container storage on residential properties and supports the City's efforts in preserving and maintaining the quality of our neighborhoods. Ordinance 962 creates an administrative citation process which the City could use for property maintenance violations in lieu of a criminal citation that is heard in District Court.

VOTE:

AYES: _____

NAYS: _____

Regular Planning Commission Meeting – March 27, 2018