



**City of Lake Elmo
Planning Commission Meeting
Minutes of September 9, 2019**

Commissioner Weeks called to order the meeting of the Lake Elmo Planning Commission at 7:00 p.m.

COMMISSIONERS PRESENT: Cadenhead, Hartley, Holtz, Steil and Weeks

COMMISSIONERS ABSENT: Risner

STAFF PRESENT: Planning Director Roberts

Approve Agenda:

M/S/P: Steil/Hartley move to approve the agenda, **Vote: 5-0, motion carried unanimously.**

Approve Minutes:

M/S/P: Hartley/Steil, move to approve the August 26, 2019 minutes as presented, **Vote: 5-0, motion carried unanimously.**

Public Hearings

Variance Requests – Mercil Residence (8126 Hill Trail)

Roberts reported that Tim and Lacey Mercil have applied for several variance requests for the property located at 8126 Hill Trail, currently owned by Mike and Ruth Schrantz. They are requesting a variance from the setback from the top of bluff, the setback from the ordinary highwater line (OHWL), the maximum amount of impervious surface, minimum lot size in the riparian zone, and the 20,000 sq. ft. septic field requirement all in order to construct a new home on the property.

Roberts reported that the applicant is planning to build a new single family home on what is currently a vacant lot. Engineering is concerned with the slope of the driveway exceeding the code, the drainage on the property, and the septic system. Washington County did approve the septic system.

Roberts explained that both 8114 and 8130 Hill Trail within the neighborhood, received variances to construct homes.

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.109 before the City may grant an exception or modification to city code requirements.

RECOMMENDED FINDINGS

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to City Code requirements can be granted.

1) Practical Difficulties. A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter.

FINDINGS:

- **Variance from Minimum Structure Setback from OHWL:** *The property was platted and established prior to current development standards and has a short depth, and so half the lot is within the required setback for a structure from the Ordinary High Water Level. Therefore, a structure and its utilities could not be constructed on the subject lot without a variance. The Applicant is proposing to construct a single family detached dwelling on the property, which is a permitted use within the Rural Single Family Zoning District and is not uncommon in the area. The standard is met.*
- **Variance Setback from Top of Bluff:** *The property was platted and established prior to current standards and because the existing code was not in place the lot has a short depth, and so adequate spacing was not provided during the subdivision process. Geographical features were not taken into account and so the top of bluff is now posing as an issue. The proposed home will still have a 24 ft. buffer from the top. The situation of the home does seem reasonable when factoring in all other conditions with the bluff. The septic area would support a single family detached dwelling on the property, which is a permitted use within the Rural Single Family Zoning District. The standard is met.*
- **Variance for Maximum Impervious Surface:** *The applicant does not appear to have intentionally gone over the allotted impervious surface allocation. Regardless of intent the proposal still does exceed the allowed percentage of 15%. However, repositioning the home would cause setback issues with the septic system. There can be conditions applied to the approval that would help mitigate the impervious surface on the lot. The request is reasonable. The standard is met.*
- **Variance from Minimum Septic Area:** *The required 20,000 square feet of septic is larger than the lot itself. The Applicant is proposing to construct a mound system, which will not require as large of a drainfield area as would a Type I System. Provided the Applicant obtains the required permits, the proposed septic area will suffice for a mound system to support a single family home, which is a*

- permitted use in the Rural Single Family Zoning District. The request for a decrease in needed septic area is reasonable and is supported by the fact that the system can support the home. The standard is met.*
- **Variance from Minimum Lot Size:** *Again the property was platted and purchased by the Applicant's family prior to the current development standards. Because of this, there was no influence over the size of the lot. Furthermore, the thought of 100 ft. setbacks from the lakes did not seem to be present when the lake shore lots were created, making compliance difficult for today and the future. The Applicant is proposing to construct a single family detached dwelling on the property, which is a permitted use within the Rural Single Family Zoning District. The standard is met.*

2) Unique Circumstances. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

FINDINGS:

- **Variance from Minimum Structure Setback from OHWL:** *The property was platted and purchased by the Applicant's family prior to current standards. As with many lake lots they are typically smaller in size and did not leave enough space to meet the required 100 ft. setback. To reasonably place and design the home around this standard would have created a burden in itself. Furthermore, septic systems are required to maintain a 75ft. setback from the OHWL. **Variance Setback from Top of Bluff:** *The property was platted and purchased by the Applicant's family prior to current standards. Again, because of the topography, limited size, and septic requirements the development elsewhere on the parcel becomes difficult.**
- **Variance for Maximum Impervious Surface:** *Because the area has developed in an organic manner the wells for the surrounding properties were justifiably placed in a location that was advantageous for them. With that said septic systems must be at least 50 ft. away from a well. Because of the location of well on the lot to the south, the proposed septic is required to be on the northern side of the applicant's lot. This then leaves a limited area for the home which must also be 20 ft. from that system. Because the septic system must be located on the eastern side of the lot a longer driveway is required which helps push the property over the allowed 15%. The standard is met.*
- **Variance from Minimum Septic Area:** *The expectation for this standard is impossible as the required size is more than the property itself. To that, the City does not permit, inspect, or perform compliant inspections. If the permitting authority has granted approval through their process, the expectation to maintain 20,000 sq. ft. would appear unnecessary. The standard is met.*
- **Variance from Minimum Lot Size:** *The property is below the 60% threshold for being considered as a buildable lot. However, the lots that were created with the original development were very small and over the years, though very minimally, have become more conforming than their original state. Concerns can be generated from not meeting setback requirements but the home does not conflict with the RS district setbacks and septic system has been permitted and is issued as being safe. Although the lot is small the home can be safely built. The standard is met.*

3) Character of Locality. The proposed variance will not alter the essential character of the locality in which the property in question is located.

FINDINGS:

- **Variance from Minimum Structure Setback from OHWL:** *Some homes meet the setback from the HOWL but many neighboring homes do not meet the required setback. Using averaging the home it is only 1.5 ft. closer to the OHWL than what is allowed. It seems unreasonable to think a difference of 1.5 ft. could be sensibly noticed. For better or worse the setback is not unusual to the area. The standard is met.*
- **Variance Setback from Top of Bluff:** *The neighboring homes will have a geographically different situation on their lot but again, setback averaging would have been an option for the property and the home in its proposed location would not appear to be substantially different than the neighboring properties. The standard is met.*
- **Variance from Impervious Surface:** *The requested increase in impervious surface is also not unique to the area. Again, due to the sizes of the lots and shoreland requirements many properties exceed the impervious requirements. The standard is met.*
- **Variance from Minimum Septic Area:** *The size of the septic area will not visually alter the essential character of the locality. The standard is met.*
- **Variance from Minimum Lot Size:** *Very few lots affiliated with the Lanes Demontreville Country Club are capable of meeting the sizing requirement. Although not ideal to the code, lots that are smaller in size are more likely to fit in with the character. The standard is met.*

4) Adjacent Properties and Traffic. The proposed variance will not impair an adequate supply of light and air to properties adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

FINDINGS.

- **Variance from Minimum Structure Setback from OHWL:** *The proposed location of the home will not impair an adequate supply of light or inhibit lake views of adjacent properties. The proposed home is a two bedroom home and therefore will not significantly increase congestion. The proposed home will not substantially diminish or impair property values within the neighborhood. The standard is met.*
- **Variance Setback from Top of Bluff:** *The location of the home on the bluff will not impair an adequate supply of light or inhibit lake views of adjacent properties. The proposed home is a two bedroom home and therefore will not significantly increase congestion. The proposed home will not substantially diminish or impair property values within the neighborhood. The standard is met.*

- **Variance from Minimum Septic Area:** *The size of the septic area will have no effect on the supply of light and air to adjacent properties, increase congestion, or diminish or impair property values within the neighborhood. The standard is met.*
- **Variance from Minimum Lot Size:** *The size of a lot would not seem to have a direct impact on the supply of light or wind that a neighboring property would obtain. It is unknown how the size of the lot would have a financially negative impact on neighboring properties. The standard is met.*
- **Variance from Impervious Surface:** *A correlation between light and wind and impervious surface has not been established. Furthermore the requested amount of impervious surface would not seem to decrease neighboring properties. The standard is met.*

SUMMARY

The applicants are requesting several variance approvals to build a single family home on an existing lot of record. While the number of requested variances may appear large, this report outlines all the limiting factors affecting the construction of a house on this property. The applicant has worked closely with City Staff and Washington County to design a home, septic system and a driveway for this property that minimizes the proposed variances while meeting all other development standards. The proposed plans fit the character of the neighborhood while maximizing compliance with City, County, and State development standards.

RECOMMENDED CONDITIONS

1. That the Applicant obtain all applicable permits including but not limited to a City building permit including a grading, erosion control, and storm water management plan approved by the City Engineer.
2. The Applicant must reach out to the Valley Branch Watershed District regarding the project prior to grading or construction to confirm that a permit is not required for their requirements.
3. That the Applicant obtain a Washington County Subsurface Sewage Treatment System (SSTS) permit prior to issuance of a building permit.
4. Direct rain gutter discharges away from the lake or into a rain garden (infiltration basin designed to capture and infiltrate runoff) located on site.
5. The shoreline shall remain in a natural state and that no future development is allowed in the Shore Impact Zone on this property (no patio, water-oriented accessory structure, beach, fire pit, stairs, etc within 50 ft. from the OHWL).

Hartley asked about the proposed secondary drainfield and the proximity to the neighbors well to the south. He suggested that there needs to be effort made to make sure wells and septic are properly separated.

Weeks opened the Public Hearing.

Weeks summarized the two emails the City received, one from the Dworak's was supportive of the variances and one from the property to the north that views the lot as a recreational lot and is not supportive it having a house.

Holtz recused himself because he knows one of the applicants.

Weeks closed the Public Hearing.

Weeks stated that the area is zoned rural single-family residential. She mentioned that there are many variances granted in this area due to lot sizes and setbacks in this area and that council has consistently approved those requests. Additionally, each variance must stand on its own merits and will support staffs findings and recommendation. She also mentioned the lot to the south of this property is smaller and has a home on it.

Cadenhead expressed his concern with the fact there are not a lot of answers. A lot of unknowns remain with promises of "looking into it". He is also concerned with the impervious surface and the steepness of the driveway.

Cadenhead made a motion to adjust the staff condition number four to include rain gutter discharge impact needs to be reduced and mitigated or the impervious surface needs to be reduced. Hartley seconded. **Vote: 4-0, motion carried unanimously.**

Hartley made a motion to have the primary and secondary drainfields be engineered to meet the 50 foot separation from all wells. Cadenhead seconded. **Vote: 4-0, motion carried unanimously.**

Cadenhead made a motion to approve the variance requests with the amendments. Hartley seconded. **Vote: 4-0, motion carried unanimously.**

PUD Concept Plan Review – Applewood Pointe Senior Housing (Hudson Blvd and Eagle Pointe Blvd)

Roberts reported that United Properties has requested a review of a Planned Unit Development (PUD) Concept Plan for a 100-unit senior housing development on an 11.7-acre parcel on the corner of Hudson Boulevard and Eagle Pointe Boulevard. This request also would involve amending an existing PUD and a Comprehensive Plan amendment from BP (business park) to HDR (high density residential) for the site.

The City Engineer has concerns with the two driveways proposed off of Eagle Point Boulevard. The applicant is currently proposing less parking than what is required by code, we could look at asking the applicant for more parking or allow as part of the PUD. Roberts explained this proposal would require a Comp Plan amendment and that cannot occur until the Met Council has approved our 2040 Comp Plan, so this is a timing consideration.

Hartley clarified that this project should be rezoned to high density residential. He asked if mixed use business would be a better choice for rezoning since the housing density also fits within this range.

Alex Hall, United Properties, 651 Nicolet Mall, Minneapolis. Hall spoke about the Applewood Pointe co-ops explaining that they are for-sale independent living housing. They have 15 current sites in the metro area. United Properties has owned this property for 19 years and it has been intended for office use for the entire time but office development has dropped in demand in the last decade. He explained that aspects of this site make it challenging to develop it for office, but make it desirable for housing by providing views and taking advantage of the existing grades and topography. He explained co-op living and how it is an affordable and popular option. He said there is a demand for housing for 70+ and is projected to grow into the future. He explained the proposed use is a low traffic generator.

Holtz asked about price range and type of units. The applicant explained it would be around \$400,000 per unit and that the units range from 1300-1800 sq. ft. All are 2 bedroom or 2 bedroom plus den or sunroom. He explained that 1 bedroom units do not sell well.

Steil expressed his concern with the parking reduction. The applicant explained the number of parking units provided at this site with the highest parking ratio they have ever constructed. Cadenhead asked if the City should look into changing the parking requirements for senior housing.

Hartley asked about fire access and equipment. Chief Malmquist answered that an apparatus access should be provided around the building, which is a heavier duty road. He stated we do not have a ladder tall enough to reach the roof but a neighboring city does and should the need ever arise, hopefully they can help and this building will be sprinkled which should help put out the fire as well.

Weeks opened the Public Hearing.

Mark 8661-8663 Eagle Point Blvd, Jeanie Provo-Peterson 8647-8649 Eagle Point Blvd, and Jeff Zignego 8665-8615 Eagle Point Blvd represented the existing office park condos.

Mark stated that United Properties hasn't properly notified all of the neighboring offices, they are individual office condo owners. He asked that moving forward there is better communication. Additionally, he said that currently there is drainage issues in the area and they would like to know how they will be fixed moving forward and not worsened. They are proposing a four story residential property into what was supposed to be an office park, it does not fit the character.

Jeanie brought letters that they wrote to the city and to United Properties regarding the flooding of nine of the office units. They received a response from the City but not from United Properties. By adding more hard surface and underground parking, there could be even more runoff onto the office property.

Weeks closed the Public Hearing.

Holtz asked what role the City has in enforcing the current drainage issues. Roberts responded that the previous Assistant City Administrator determined that it was United Properties responsibility. Holtz stated the City needs more businesses and to diversify the City with more tax base and housing type. He feels at least this would diversify the type of housing, but that we would be losing the higher potential tax base by converting it to housing.

Weeks suggested that four stories is tall for anywhere within the City. However the City Council did approve a four story hotel for across the road in January last year.

Hartley mentioned that with development drainage would be addressed and could be fixed at that time. If it remains undeveloped, nothing will change for the surrounding properties. He also suggested that this was zoned and began developing over ten years ago and there is a shift in the market that the City should consider.

M/S/P: Hartley/Cadenhead, move to approve the PUD Concept Plan as requested by Jennifer Mason (of United Properties) for PID# 33.029.21.44.0009 for the project to be known as Applewood Pointe Senior Living located on the southeast corner of Eagle Pointe Boulevard and Hudson Boulevard, subject to the conditions of approval as listed in the staff report. **Vote: 5-0, motion carried unanimously.**

Final Plat and Final PUD – Springs Apartments (Hudson Boulevard & Julia Avenue)
Roberts reported that Gwyn Wheeler from Continental 483 Fund LLC has applied for approval of Final Plat and Final Planned Unit Development (PUD) Plans for a 300 unit multi-family residential development on a 17.01-acre parcel to be called Springs Apartments. They have previous Council approvals for concept plans, zoning change, and Preliminary Plat and Preliminary PUD.

Weeks opened the Public Hearing.

Applicant Evan Weiss, Centennial Properties, W134 N8675 Executive Parkway Menomonee Falls, WI presented. The applicant would like the City to reconsider item 36, the applicant believes that chain-link fence is a safer option than ornamental fencing, they believe it contains dogs and children better and poses a smaller risk.

Holtz mentioned that chain-link is much more climbable than ornamental fencing and with the location on top of the retaining wall, it is definitely a safety risk.

Weeks asked why they wanted to continue with the Final Plat approval when Union Park was not moving forward and their completion and filing of the plat would be required in order to establish this lot for platting. The applicant says they have been assured the other plat will be filed.

The applicant said they have been working with the City and the watershed districts to keep as much water on-site and not have a lot of run-off enter into the City system including underground tanks.

The Planning Commission decided to keep the recommendation from staff for the decorative fence and forgo the applicants request for chainlink.

Weeks closed the Public Hearing.

M/S/P: Hartley/Holtz, move to table the item. **Vote: 1-4, motion failed.**

M/S/P: Cadenhead/Holtz, move to approve the final plat and final PUD Plans as requested by Continental 483 Fund LLC for PID# 34.029.21.43.0003 for the project to be known as the Springs Apartments located on the north side of Hudson Boulevard, subject to recommended findings and conditions of approval with the renumbering of the conditions and the width of the trail is changed to 8 feet. **Vote: 4-1, motion carried.**

City Council Updates

Roberts reported that Union Park asked that the project be tabled indefinitely and not go to City Council while working out some details. That project directly affects the project you just heard.

Roberts reported that Kwik Trip is doing a traffic study before moving forward, per the City Engineers recommendation.

Roberts encouraged members to attend the October 8, 2019 City Council Workshop when the Urban Land Institute will be giving a presentation.

Staff Updates

1. Upcoming Planning Commission Meetings
 - a. September 23, 2019 – The Subdivision Ordinance changes.

Meeting adjourned at 9:50 pm

Respectfully submitted,

Tanya Nuss
Permit Technician