

City of Winsted
Planning Commission
City Council Chambers
December 8, 2014
6:00 p.m.

Present: JoLynn Cafferty
Marv Ebensperger
Mike Guggemos
Allison Moses
Tom Ollig (Council Liaison)

Staff Present: Clay Wilfahrt, City Administrator
Raquel Kirchoff, Administrative Assistant

1) Call the Meeting to Order

Mr. Ebensperger called the meeting to order at 6:00 p.m.

2) Approval of Minutes

Ms. Cafferty motioned to approve the minutes from the Planning Commission Meeting on October 13, 2014. Ms. Moses seconded the motion. Motion carried 4-0.

3) Public Hearings

a) Resolution PCR 14-13 – Variance Request, 126 Lake Avenue East

Mr. Ebensperger opened the Public Hearing for Planning Commission Resolution PCR 14-13 for a Variance Request at 126 Lake Avenue East.

Mr. Wilfahrt stated that Mr. Ralph Millerbernd of 124 Lake Avenue East submitted an application for a variance. The lot he is requesting a variance at is 126 Lake Avenue East and is in an R1 Single Family Residential District (R1). Mr. Millerbernd is proposing to build a new home on the property. There is currently one (1) home on the property, and one (1) home has already been removed.

Mr. Wilfahrt stated that the home is in the Shoreland Overlay District, and therefore must meet the requirements of both the R1 District and the Shoreland Overlay District. He continued by stating that City Staff has reviewed the plan with the city code and has a few comments.

First the code specifies that the driveway should meet setbacks of the Shoreland Overlay District for principle structures unless there is no alternative:

Roads, driveways and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas and must be designed to minimize adverse impacts.

With the road entering from the existing road on the west of the property, staff sees no reasonable alternative to this alignment.

Mr. Wilfahrt stated that because the property is within the Shoreland Overlay District, the Zoning Ordinance requires review from the Department of Natural Resources (DNR) of the plan. Staff sent the plans to the DNR who noted that the applicant must meet the impervious surface, lot size, setback, and height requirements. Mr. Wilfahrt stated that the applicant demonstrates compliance with the surface, lot size, and setback requirements in the plan; however, the height of the structure is not indicated. Staff would recommend that the maximum height of twenty-five (25) feet be made a condition of the approval of the variance.

Mr. Wilfahrt stated that the only area where the project does not comply is in the rear setback. The applicant has made various efforts to shift the home and resize it to meet the thirty (30) foot setback requirement; however, the designs that have been considered all encroach on the rear yard setback.

Mr. Wilfahrt stated that City staff sent public hearing notices to surrounding neighbors of the property, published a notice in the newspaper, and posted the notice at City Hall. No comments were received regarding the notice. If

the Planning Commission approves the variance request, appeals can be submitted for a hearing in front of the City Council until fifteen (15) days after notice of the variance approval is sent to the applicant.

Mr. Wilfahrt reviewed the following Variance Requirements for the Planning Commission to consider in order to grant the variance.

In order to grant the variance, the Planning Commission must consider the following:

1. **Evidence of ownership or enforceable option on the property** – According to the Sherburne County Beacon Website, Ralph Millerbernd is the owner of the property.
2. **The variance is consistent with the City of Winsted's Comprehensive Plan** – The current zoning map for this property lists it as R1. Mr. Millerbernd's use is a permitted use in this district.
3. **The variance is in harmony with the general purposes and intent of the ordinance.** – A summary of the intent and purpose of the ordinance is to promote and protect public health; protect the character, social, and economic stability of the use areas; secure the most appropriate use of the land, prevent overcrowding; provide adequate light, air and access; facilitate transportation, water supply, and sewage disposal; and planning for location of schools and other public facilities.
4. **The applicant establishes that there are 'practical difficulties' in complying with the Zoning Ordinance. Practical difficulties as used in connection with the granting of a variance, means that:**
 - a. **The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance;** - The size of the structure is not out of line with the ordinance except for the encroachment on the back property line.
 - b. **The plight of the landowner is due to circumstances unique to the property not created by the landowner;** - Both of these lots were developed far prior to the zoning code. The east lot as it sits is virtually unbuildable, and without an encroachment on one of the setbacks, there would be significantly less buildable area.
 - c. **The variance, if granted, will not alter the essential character of the locality.** – Currently, the two (2) homes that are on the property encroach much further onto the setback. Taking that into consideration, it would not alter the character of the area to allow this.
5. **Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.** – As far as staff knows, this project is not intended to solely increase value. It is intended to provide the homeowner with an amenity to be used for practical purposes.

Mr. Wilfahrt reviewed the following conditions that City Staff recommends to place on the variance.

1. Building Permit. That all appropriate building permits are issued before construction begins. No building or structure shall be erected until the Building Inspector or the designated representative has issued a lawful building permit from the City of Winsted.
2. Lapse of Variance. If, within one (1) year after granting the variance, the work permitted is not started, the variance shall become null and void unless a petition for an extension has been approved by the Planning Commission.
3. Building Height – The home should not exceed twenty-five (25) feet in height.

Mr. Wilfahrt displayed the drawing that shows where the new structure will be set for viewing.

Mr. Guggemos stated that he feels Mr. Millerbernd's variance application is a reasonable request since Mr. Millerbernd has made reasonable efforts to realign the setting for the new structure to meet the required setback, but without avail.

Mr. Jerry Otto, 125 Fairlawn Avenue East, asked where the sewer line runs from the property. He explained where he thought the sewer cap was for three (3) homes in the same neighborhood and stated that sewer backups have occurred in this area in the past because of what he believes is a drain on Mr. Millerbernd's current property in the garage. Mr. Wilfahrt stated that at the time of the building permit and inspection process, the locate process would

need to be completed to locate the sewer lines before any excavation occurs. He continued by stating that he would verify this process with the City's Building Inspector.

Mr. Wilfahrt stated that representatives were in attendance from Twin Lake Construction, the builder for the new structure at 126 Lake Avenue East. Mr. Wilfahrt stated that Mr. Millerbernd's application stated that the structure would go five (5) feet into the rear setback, but the drawing shows nineteen (19) feet and asked Mr. Mike Stewig from Twin Lake Construction for clarification. Mr. Stewig stated that nineteen (19) feet is the correct rear yard setback request.

Mr. Ebensperger asked for any other questions or concerns from attendees. No comments were received.

Mr. Guggemos motioned to close the Public Hearing. Ms. Cafferty seconded the motion. Motion carried 4-0.

Mr. Guggemos motioned to approve Planning Commission Resolution PCR 14-13; amended, to allow for a rear yard setback of nineteen (19) feet or no more than six (6) feet encroachment into the rear yard setback. Ms. Moses seconded the motion. Motion carried 4-0.

Mr. Ebensperger thanked Mr. Otto for the information he provided on the sewer line in the neighborhood of 126 Lake Avenue East. Mr. Wilfahrt also requested that Mr. Otto let him know if he had any other questions or concerns regarding the sewer line.

4) No Old Business

5) No New Business

6) Other

- a.) Mr. Ebensperger asked for clarification on what Mr. Wilfahrt heard from the DNR regarding different definitions of sewerage versus unsewered lakes. Mr. Wilfahrt stated that unsewered lakes are required to have setbacks of seventy-five (75) feet, versus fifty (50) feet setback requirements for a sewerage lake. He continued by stating that he would inquire from the DNR on whether or not Winsted Lake is a sewerage or unsewered lake. If Winsted Lake is a sewerage lake, City Staff will bring proposed changes reflecting a fifty (50) feet setback requirement to the Zoning Ordinance language at a future meeting for the Planning Commission to consider.

Mr. Ebensperger stated that our present Shoreland District Zoning Ordinance language was verbatim recommended language and the Planning Commission did not have options to change to this language.

- b.) Mr. Ollig stated that the City Council held a Strategic Planning Retreat to identify many projects for the upcoming years, and also stated that the Planning Commission would be involved with some of those projects.
- c.) Mr. Wilfahrt stated that an open seat remains on the Planning Commission and encouraged interested Winsted residents to contact him to apply to become a Planning Commission member.

7) Adjournment

Ms Cafferty motioned to adjourn the meeting. Ms. Moses seconded the motion. Motion carried 4-0. The meeting adjourned at 6:23 p.m.

Clay Wilfahrt

Clay Wilfahrt
City Administrator
City of Winsted

ATTEST:

Raquel Kirchoff

Raquel Kirchoff,
Administrative Assistant
City of Winsted