

**CITY OF WOODLAND  
COUNCIL MEETING  
September 9, 2013**

**CALL TO ORDER & PLEDGE OF ALLEGIANCE**

Mayor Doak called the meeting to order at 7:00 P.M.

**ROLL CALL**

Present: Mayor James Doak; Council Members Sliv Carlson, Tom Newberry and John Massie

Absent: Council Member Chris Rich

Staff: Zoning Administrator Gus Karpas, City Clerk Shelley Souers

Guests: Keith Ciampa, Nate Jurnu, Bill Worm, Juan and Pam Vazquez, Lynn Oehler and John Reed

**CONSENT AGENDA**

**A. Minutes, August 12, 2013; Regular Council Meeting**

**B. Minutes August 19, 2013; Special Council Meeting**

Council Member Carlson moved to approve the Consent Agenda as submitted. Council Member Massie seconded the motion. Motion carried 4-0.

**PUBLIC COMMENTS**

None.

**PUBLIC HEARINGS**

**A. Hendel Homes, 17737 Maple Hill Road, request variance of the 75 feet Shavers Lake setback from the OHWL of 930.4 to continue use of the existing drainfield with new septic tanks and a pretreatment system.**

Mr. Nate Jurnu, contractor for Hendel Homes, presented the request for variance of the minimum 75 foot Shavers Lake setback to permit the continued use of the existing drainfield in conjunction with new septic tanks. Mr. Jurnu stated that the existing drainfield is a complying treatment site with regard to design.

Zoning Administrator Karpas stated that the existing drainfield lies within the required OHWL setback, measured at 930.4 feet. The septic tanks will be increased in size and upgraded from the existing septic tanks to include a pretreatment system to accommodate a five bedroom home. The existing drainfield will continue to be used and meets the three feet of vertical separation from saturated soils, according to the compliance inspection and per Chapter 7080 requirements. The existing drainfield is greater than 100 feet from the actual water level of Shavers Lake. The upgraded system will be equal to or better than that required by the State Code. The upgrade to the septic system will present no impact to the character of the community. The property will

remain a single family use with a complying sewage treatment system according to the standards set forth in the State Code, Chapter 7080 dictating SSTS. Woodland's Septic Inspector Loren Kohnen has recommended approval of the continued use of the drainfield with new tanks.

Mayor Doak opened the public hearing.

Council Member Newberry stated that all five variance criteria have been met by the applicant.

Mr. John Reed, 3140 County Road 101, addressed the Council to speak about the established OHWL for Shavers Lake. Mr. Reed stated that Minnehaha Creek Watershed District and the DNR each have a different high water elevation for Shavers Lake. Mr. Reed encouraged the City to have the DNR update the OHWL designation to match the high established by the MCWD. This is a more recent and more accurate measurement. The DNR established the OHWL in 1977 and has not updated the level since that time.

Mr. Reed said he had no issues with the requested variance and he only wanted to bring the discrepancy in the water elevations to the Council's attention.

Mayor Doak directed staff to contact the MCWD regarding the procedure for aligning the established high water mark between various State agencies.

Mayor Doak closed the public hearing.

Council Member Carlson moved to approve the variance for 17737 Maple Hill Road as presented for continued use of the existing drainfield with new septic tanks. Council Member Newberry seconded. Motion carried 4-0.

**B. John and Lynn O'Neil, 2650 Maplewood Circle West, request an Alteration of a Non-Conforming Structure Permit and Variances**

Zoning Administrator Karpas reported that John and Lynn O'Neil have requested variances to exceed the maximum permitted grade alteration and to encroach into the minimum required lake yard setback to construct a set of four foot retaining walls on the lake side of the home to create an egress doorway from their basement level. The proposal is in conjunction with a necessary foundation repair on the lakeside of the home. The proposal would alter the grade a maximum of five feet above the allowable.

- Ordinance Section 900.17(4)(a) limits the maximum grade alteration to three feet without the issuance of a variance. The applicant is seeking to alter the grade a maximum of eight feet for the construction of a new home and is seeking a variance to alter the grade five feet above the permitted alteration.
- Ordinance Section 900.09(4)(d)(a) requires a lake yard setback of seventy-five feet from the Ordinary High Water Level (OHWL). The applicant proposes a lake yard setback of nineteen feet, seven inches and is requesting a variance to encroach fifty-four feet, five inches into the required lake yard setback for the proposed stepped retaining walls.

Zoning Administrator Karpas recommend denial of the request for the variances to exceed the maximum permitted grade alteration and to encroach into the minimum required lake yard setback to construct a set of four foot retaining wall on the lake side of the home as presented at 2650 Maplewood Circle West based on the following findings:

(a) The variance is in harmony with the purpose and intent of the ordinance?

Section 900.01(a) outlines the purpose of the ordinance as the principal means of attaining the goals and standards set forth in Woodland's Comprehensive Plan, including the preservation of open space, scenic views, natural topography and habitat, wetlands, lakes, indigenous vegetation and tree, and rehabilitation of existing housing units on their present location. The proposal seeks to alter the natural topography of the land and create a style of home which is not conducive with the topography of the lot.

(b) The variance is consistent with the comprehensive plan?

The request is not consistent with the Comprehensive Plan in that it requires major alteration of the existing topography within the lake setback, including the placement of structures, in the form of retaining walls, within twenty feet of the Ordinary High Water Level.

(c) The proposal puts property to use in a reasonable manner?

Though the proposed use puts the property to a reasonable use, it requires the alteration of a sensitive environmental area generally protected by the city. In addition, the proposal seeks to create a style of home not supported by the topography of the lot.

(d) There unique circumstances to the property not created by the landowner?

The plight of the homeowner is created by the homeowner and their desire to alter the style of home to a walk-out, requiring major alteration to the natural topography to "fit" to home to the property.

(e) Will the variance, if granted, alter the essential character of the locality?

The essential character of the neighborhood is impacted with the placement of improvements within the required lake setback which is not consistent with the adjacent properties.

Mr. Bill Worm contractor with Bay Cliff Homes and representative for the O'Neil family stated that he submitted additional renderings today (9-9-2013). Mr. Worm stated that the plan does not change the mass of the home. The grade will be excavated to make necessary repairs to the foundation and at that time they propose to construct a door access on the lakeside. Mr. Worm stated that the egress door will provide an element of safety and will have no visual impact to neighbors and no impact to the habitat.

Mayor Doak opened the public hearing.

Mayor Doak noted that there is a steep drop of about 15 feet in grade to the lake. The MCWD is sensitive to any grade alteration that would impair or endanger a cliff of this nature.. Mayor Doak asked if the MCWD was in support of the proposed grade alteration. Proceeding without an affirmative response from the MCWD would not be prudent. Mayor Doak stated that homes

should be designed and built to fit the land. For that reason the ordinance limits grade alterations of greater than three feet and limits intrusion into the lakeshore setback

Mr. Worm stated that the MCWD has not given them an opinion regarding the grade alteration proposal.

Council Member Newberry asked Mr. Worm why the proposal is consistent with the Comprehensive Plan with regard to the topographical alteration.

Mr. Worm stated that any home construction alters the topography. The owners would like useable space in the basement. The plan presents no view impairment.

Council Member Massie expressed concern with possible future additions and alterations to include a patio or hard surface once a door access is created.

Mayor Doak expressed concern that once the vegetation and natural topography on the bluff area is disturbed the bluff may become unstable. Mayor Doak stated that he would like to get the authoritative opinion and the technical expertise of the MCWD on the proposal.

Council Member Newberry stated that the applicant's request must meet all five criteria for the Council to approve the variance.

Zoning Administrator Karpas stated the Council must pass a motion to extend the applicant's deadline an additional 60 days to give the City time to continue the variance hearing and meet with the MCWD.

Council Member Massie moved to direct staff to provide written notice to the applicants of the City's intention to extend the 60 day zoning review period relative to the request for the variance. Council Member Carlson seconded the motion. Motion carried 4-0.

Zoning Administrator Karpas stated that the applicants are also seeking a permit to alter an existing non-conforming structure for the construction of an addition on the front of the home. The proposal would connect a one thousand, nine hundred and seventy-six square foot addition on a portion of the existing home which encroaches two feet, six inches into the required fifty foot front yard setback. The proposed addition would become compliant with the required front yard setback as it moves southward. City Code permits the alteration of non-conforming structures provided the alteration would not extend into the required setbacks by any distance greater than the existing main building and complies with the height restriction and impervious coverage.

Zoning Administrator Karpas stated that the proposed addition will maintain the greatest encroachment of two feet, six inches where it attaches to the existing non-conforming home and will come into compliance with the required setback as the addition moves southward. Karpas recommended approval of the request for alteration based on the following findings: (a) the alteration will enhance the general character of the community; (b) the magnitude of the proposed alteration is consistent with the surrounding area; (c) there will be no negative impact on the use and enjoyment of surrounding properties; (d) there is reasonable separation between the proposed alteration and structures on adjoining properties; (e) there would be no effect on the

light and visibility available to the adjoining properties; (f) the screening is sufficient to screen the proposed alteration; (g) the proposal would not have a negative impact on property values; (h) there are no concerns related to fire safety in regards to the proposal; (i) there are no alternate locations on the property for the proposed alteration which would not require a variance; (j) the shape of the lot creates a unique situation where alteration of the home must take place on the front of the structure otherwise a variance would be required; and (k) the existing/proposed front yard encroachment is two feet, six inches. The angle of the proposed addition is such that it will come into compliance with the required setback as it moves to the south.

Mayor Doak opened the hearing to consider the request for the alteration of the nonconforming structure.

Mayor Doak stated that he visited the site and supports the proposed alteration of the home.

Mr. and Mrs. Juan and Pam Vazquez, 2720 Gale Road, asked to see the architectural renderings of the proposed home.

Zoning Administrator Karpas provided Mr. and Mrs. Vazquez a copy of the building elevations.

Mrs. Lynn Oehler, 2730 Gale Road, asked how far the addition would encroach into the side yard and hillside.

Mr. Vazquez asked about the finished aesthetics of the home and what exterior materials are proposed for the home.

Mayor Doak stated that the Council does not base its decision on the architectural aesthetics of a structure. Its decisions are based on the placement and dimensions of the home or addition and its impact on the natural topography of the City.

Mr. Worm stated the owners want to preserve the style and character of the house with cedar shakes and are also considering stone for the veneer. The proposal will continue the same roofline with dormers to the extent as possible.

Council Member Newberry stated that the proposed alteration meets the required zoning criteria.

Council Member Newberry moved to approve the permit for Alteration of a Nonconforming Structure as presented, and to adopt the staff's findings of fact. Council Member Massie seconded the motion. Motion carried 4-0.

## **NEW BUSINESS**

### **A. Adopt the Proposed 2014 Budget and Tax Levy:**

- **Resolution No. 25-2013; Adopting the proposed 2014 budget**
- **Resolution No. 26-2013; Adopting the proposed 2014 levy**

Council reviewed a proposed 2014 balanced budget and tax levy. The budgeted expenditures for 2014 will increase 5.74% from the level budgeted for 2013, but will change very little from the

projected level of actual spending in 2013. The proposed levy will increase 5.34% from 2013, in large part to prepare for major road improvements and a 2014 election.

Council Member Carlson moved to approve Resolution No. 25-2013, adopting the 2014 budget and Resolution No. 26-2013, adopting the levy collectible in 2014. Council Member Newberry seconded the motion. Motion carried 4-0.

#### **B. Chapter 4 Public Health & Safety**

- **Review Draft of Section 405; Animal Control**
- **Review Draft of New Section 407; Backyard Chickens**
- **Review Draft of Section 425; Weapons**
- **Review Draft of Section 455; Noise Control**

Council Member Newberry presented a summary of Chapter 4 to include a new section for backyard chickens and several amendments throughout the Chapter. Council Member Newberry recommended that the language regarding backyard chickens include reference to the United Egg Producers Animal Husbandry Guidelines, 2010 Edition.

Council Member Newberry reported that the Chief of Police Johnson recommended additional language be added to Section 425 on Weapons, regarding the controlled harvest of deer and other animals.

Council Member Newberry stated that draft language has been added to Section 455; Noise Control, establishing a location at which to measure noise levels and adding a subsection to permit the use of emergency generators and exempting generators from the maximum noise level limits during emergency situations.

The Council will continue review of the Chapter 4 ordinance language at their October Council Meeting.

#### **C. Chapter 9 – Draft review of Fence Ordinance**

Council reviewed draft language regulating fences outlined in Section 900.12, Subd. 4 of the City Code, clarifying how to measure the height of a fence and the storage of materials between a fence and the property line. Council will continue discussion on fences at a public hearing at the November Council meeting

#### **OLD BUSINESS**

##### **A. Continued Discussion Regarding Real Estate Signs**

Mayor Doak stated that, at the August meeting, realtor Ellen DeHaven had recommended several changes to the sign ordinance.

Mayor Doak stated that the Comprehensive Plan promotes scenic views and a natural environment. Signs are not scenic and do not support the goals of the Comprehensive Plan. Council Member Carlson stated that she is not aware of any complaints from residents regarding the sign restrictions.

Council was in support of the current language and agreed that amendments to the sign language were unwarranted.

### **B. Shavers Lane Parking Zone Discussion**

Mayor Doak stated that at the August Council Meeting Mr. Richard Henry, 17960 Shavers Lane, had addressed the Council during Public Comments, expressing concern about the informal nature of the current vehicle parking arrangement on Shaver's Lane. Although the Ciampas have graciously permitted neighbors to park their cars on their property to the south of the Lane upon request, there is no assurance that this accommodation would continue with future owners of the property. He also noted that the City at one time had a formal parking zone on Shavers Lane, but that the City had abandoned the zone.

Mr. Keith Ciampa, 18150 Shavers Lane, addressed Council regarding parking along Shavers Lane and presented pictures of the area along the south side of the public road which is their property. Mr. Ciampa stated that when they purchased the property, they were aware that parking had been permitted on their property in the past. They have allowed neighbors to park on their property adjacent to the road since moving into the home and have had no issues. Mr. Ciampa noted that the paved road is 10 feet wide with 7 ½ feet of easement on each side. Mr. Ciampa stated that to park in a safe manner and allow adequate room for emergency vehicles that cars must be fully pulled off the blacktop and parked perpendicular to the road. Parking parallel to the road causes a vehicle to extend into the area needed to permit a fire truck or other emergency vehicle safe passage on the Lane. Mr. Ciampa stated that he spoke with the Wayzata Fire Chief Kevin Klapprich who stated that a fire truck needs over 12 feet of clearance to get through. Mr. Ciampa noted that even if vehicles parallel park and pull completely off the 10 feet of blacktop, the road is still too narrow for a fire truck. Mr. Ciampa presented pictures depicting the best way to park a vehicle along the area by pulling into their yard fully, perpendicular to the road, and several feet off the pavement. This leaves adequate room for emergency vehicles. Such parking extends well beyond the City's right of way and into the Ciampa's property.

Mr. Ciampa stated that they have no issues with neighbors using the area to park and would strongly encourage any subsequent owners to continue the neighborly gesture of occasional vehicle parking.

Mayor Doak stated that he was unclear as to why the City permitted a parking area along Shavers Lane, given the narrow road. The parking zones were created where the City had adequate right of way with the acquiescence of the abutting property owners and in locations where it was feasible from a safety point of view. Mayor Doak stated that the key concern is that emergency vehicles must be permitted free passage.

Mayor Doak will speak with Mr. Henry about the practicality of a formal parking zone.

### **MAYOR'S REPORT**

Mayor Doak reported that he attended a recent MCWD meeting regarding the protection of shoreline and steep banks.

Mayor Doak reported that at least three cities have pulled out of the Lake Minnetonka Communications Commission. The Commission is working with the remaining cities on a plan to move forward.

Mayor Doak reported that he met with the City Engineer to review drainage and water runoff along the driveway access at 2825 Maplewood Circle East. The homeowner, through their asphalt company, has asked to create a small berm, in the asphalt covered City right of way, where their driveway meets the public street. This would redirect water on the street away from their driveway that slopes sharply away from the street. The City Engineer will work with the paving contractor to facilitate a resolution that protects the City, the adjacent neighbors, and the environment.

### **COUNCIL REPORTS**

#### **A. Ordinances & Septic Ordinance & Inspections**

No report

#### **B. Roads, Signs, Trees, & Website**

No report

#### **C. Finance, Enterprise Funds, Intgov. Relations & MCWD**

No report

#### **D. Public Safety & Deer Management**

No report

### **ACCOUNTS PAYABLE**

Council Member Newberry moved to approve the Account Payable as submitted. Council Member Carlson seconded the motion. Motion carried 4-0.

### **TREASURERS REPORT**

Council Member Massie moved to approve the Treasurer's Report as submitted. Council Member Newberry seconded the motion. Motion carried 4-0.

### **ADJOURNMENT**

Meeting adjourned at 8:55P.M.

### **ATTEST:**

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Shelley J. Souers, City Clerk

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James S. Doak, Mayor