

LAKE COUNTY BOARD of ADJUSTMENT
February 13, 2008
Meeting Minutes

MEMBERS PRESENT: Sue Laverty, Jack Meuli, Clarence Brazil, Tim McGinnis, Mike Marchetti

STAFF PRESENT: Sue Shannon, Joel Nelson, LaDana Hintz, Tiffany Lyden

Jack Meuli called the meeting to order at approximately 4:00 pm. He announced that the Grits, Inc appeal has been withdrawn. He reminded that officers needed to be elected.

Sue Laverty nominated Tim McGinnis for the position of Chairman. No further nominations were received. Vote unanimous for Tim McGinnis as Chairman.

Tim McGinnis nominated Mike Marchetti as Vice Chairman. No further nominations were received. Vote unanimous for Mike Marchetti as Vice Chairman.

Motion by Jack Meuli and seconded by Mike Marchetti to approve the January 9, 2008 meeting minutes as written. Motion carried, all in favor.

EDWARDS CONDITIONAL USE

Sue Shannon presented the staff report. She reminded that this was postponed from last month. A new site plan was included, showing the location of the existing retaining wall to the north. Michael and Cheryl Brooks own the property to the north, and that property was also subject of a violation, and the Board of Adjustment heard a conditional use request to allow the disturbance of slopes on that property at last month's meeting. She pointed out a revision to condition #10. The revision was suggested on a memo accompanying the staff report, which would allow for consistency with the Board's approval of the Brooks application.

Tim asked about the easements, which seemed jurisdictionally challenging. Sue S thought this was a separate matter. They're going to have to make sure they don't encumber that easement with this construction activity. The easement language is vague. It says he has access to the lake access road. It doesn't define where that is or the extent. She thought this should be left to the lawyers.

Johna Morrison spoke on behalf of the applicant. They don't have a problem with the application or the conditions. She wanted clarification on some of them. On #8, she asked about the 80% of shrubs and trees in the area, and if this meant when they're mature. If they plant 80% now, it'll kill everything off. Sue clarified that this is 80% trees and shrubs when they're mature.

On #13, she asked if the date given could be changed from March 1, 2008 to April 1, 2008, to give her sufficient time. Sue agreed.

On the easement, Mr. Edwards and Mr. Brooks are working together, and have verbally agreed on it. Mr. McCurdy is working on the easement wording. On the other easement, she agreed

that the wording was vague, and there was no exhibit with it. They are working on this with the lawyer to straighten it out.

Further public comment: None offered. *Public comment closed.*

Motion by Clarence Brazil, and seconded by Mike Marchetti, to approve the variance request with the staff recommendations and changes as recommended by the staff, and the change from March to April in condition #13. Motion carried, all in favor.

CHERRY HILL VARIANCE

Tiffany Lyden presented the staff report.

She explained that applicant could not be present tonight. He did call on 2/11 after reading the staff report to add that the roof pitch of the proposed boathouse would direct stormwater to the north and south, and not into the bank or into the lake. This is visible in the drawings. He felt the gravel driveway in the front and the vegetated brush area in the back would sufficiently absorb the rainwater runoff. He didn't feel there was a need for a certified stormwater management plan prepared by a professional for this project.

Tim asked if an engineer was out there to look at the stormwater management plan, could he also look to make sure that the project and installation would not result in an unstable slope or a slope failure. Tiffany thought that it would have to be specified in the wording to be done by an engineer. Sue L thought it could end up like the Edwards' if it was not engineered. Tiffany explained that the applicant's emphasis was that they've done other work on the property and they haven't seen a problem.

Further public comment. None offered. *Public comment closed.*

Clarence thought the idea of [inaudible] stabilizing tactics involved in this was good. He didn't think that a 16-inch footing sounded like much of one for a retaining wall. For instance, he's built an 8-foot retaining wall in the past, with an 8-foot footing. Sixteen inches doesn't sound like nearly enough for a retaining wall holding back a 75% grade. He suggested [inaudible].

Motion by Jack Meuli, and seconded by Mike Marchetti, to approve the variance with the staff recommendations as modified with the stipulation that there has to be an engineer to approve the slope and structural stability. Motion carried, all in favor.

GRITS, INC. DENSITY REGULATIONS APPEAL—Withdrawn

A letter from Carstens Surveying was provided to the Board.

MENG AMENDMENT

Joel Nelson presented the staff report. He handed out an additional letter from Susan Brueggeman of the Lake County Environmental Health Department.

Jack asked about 'guest house' in the 'Therefore' item #3 on the second page of Susan Brueggeman's letter, versus what she says on the first page. Joel explained that this was what

she was trying to clarify. A guest house could contain laundry facilities on a single-family lot if the main house does not. She does say that they will require a deed restriction signed by the owner restricting the use of the guest house to comply with the policy. The Board could add a similar requirement if the Board considers the amendment request.

David Lighthall spoke on behalf of the applicants. The garage would have a washer and dryer, water and sewer facilities, and a pump house located in the lower level of the garage to service a future well and a future residence they plan to join to the garage. The Mengs have a 600 square foot cabin. They lost a shared garage and laundry facilities with the boundary line adjustment. They don't have room for the laundry facilities in the cabin. They've requested an amendment to the condition that a guest house not include kitchen or laundry facilities. The Board's approval of the conditional use of the garage with the laundry facilities doesn't conflict with that condition. The Masumola zoning regulations define a guest house as a dwelling used for temporary occupancy by the landowner's guests. This is a garage with a washer and dryer in it. Looking at Environmental Health's definition, a guest house is defined as a dependent living unit. This doesn't have bedrooms, bathrooms, courtesy kitchen or a wet bar. It just has a laundry facility. He said there was concern that given water and sewer, it could be potentially used as a guest house down the road. He said it currently doesn't meet the definition of a guest house, so the December approval does not contradict this use. The use doesn't contradict the approval or the conditions imposed in that approval. The Board included a condition that the Mengs file an affidavit or deed restriction limiting the use to 1000 square feet and that it does not contain kitchen facilities. He suggested the Board refine that condition for the deed restriction to include that if the use meets the definition of a guest house per the Masumola zoning district regulations or Environmental Health, then it also meet the 1000 square foot living space with no kitchen facility or laundry facility.

Tim asked if there would always be a garage with a washer and dryer in it. Dave affirmed that it would always be a garage. Jack asked why this was reviewed as a guesthouse. Dave said it's reviewed by the Board as potential for a guest house. Someone could use it down the road in some other way because it has water and sewer in it. The Board has already imposed conditions for this.

Clarence asked for further clarification on the definition. Joel added that once you have a structure built with water and facilities to it, there's no requirement for them to come for a zoning conformance when they want to finish off bedrooms and bathrooms and kitchen facilities. With the water and sewer facilities, it is a potential guesthouse.

Dave said that automatically classifying it as a guesthouse because it had water and sewer is contrary to the definition in the zoning regulations. Sue L pointed out it's not one today, but might be one tomorrow. The use could be changed at any time without notifying anyone, and then that use would be existing. Dave thought they'd need a building permit to put in a bathroom. Sue mentioned the permit they'd need was through the Building Dept in the Dept of Commerce, which is a different division.

Dave said the Board has conditioned that the Mengs file a deed restriction or an affidavit. That restriction requires that they follow the restrictions on the property.

Further public comment:

Lori Morin: She spoke in opposition. In January 07 this came as a boundary line adjustment. It was clear that they could have bunkhouses, no laundry, no kitchen, and it had to be less than 1000 square feet. The Morins relied on those restrictions. They tore down a cabin because it had a kitchen in it, and replaced some space in their existing structure. She didn't think that disliking the restrictions were grounds for an appeal. It could have bathrooms and bedrooms. It couldn't have a laundry or a kitchen. They asked the Board to stand by the January 07 decision.

Public comment closed.

Sue L remembered that at the January 07 meeting it was very clear to keep the two properties small, given other public comment at the time. They were clear about the bunkhouse issue. With facilities for sewer and water in a building, you could put in what you wanted. The applicants originally said the intent was to move the cabin on the property line to a different location as a guest cabin. What will happen to that, if the garage has water and sewer facilities? She said the Board should stick with the original request of no laundry facilities.

Clarence agreed with Sue L. He did not see a hardship in this case for granting a variance. He thought the laundry facilities could be added to the house or cabin. Sue S said they couldn't expand the existing cabin to create a laundry room. They can't expand a non-conforming structure. She thought there was also something in the variance approval regarding that structure. It's right on the property line. The intent was the cabin would be moved when a home was put on the property. The cabin can't become more non-conforming. An apartment washer/dryer could be put in that home without a problem from Planning or Environment Health.

Jack agreed with Sue L. If they approved it as a bunkhouse only, it was a conditional use approved with these restrictions. He didn't know why they changed it in January. Joel and Sue L agreed that they hadn't caught this. Sue L thought perhaps it had to do with the size. This is a very large garage. Mike agreed that there seemed to be clear intent to call it a potential guesthouse and then restrict the use of what could be done in there, in January. He thought the laundry restriction was very clear. He wasn't there last year, but would have to go with the original clear intent of the request was made.

Joel mentioned that in the approval letter from January 2007, where he didn't catch the laundry facilities, he got a call from Vince Meng, who was unhappy about the condition regarding the kitchen facilities and whatnot. It didn't really work with the development of his property. Vince felt he should have gotten one more opportunity to speak to the Board before the decision was made.

Sue thought the Jan 07 decision was really clear. A potential second dwelling was limited to a bunkhouse with sleeping facilities and a bathroom. A primary house could be developed with kitchens and laundry. He could have a garage and outbuildings, but water and sewer to a structure give it the potential to have living quarters. Joel notes this was so unless it was restricted somehow.

Clarence asked about the house. Sue S pointed out pg. 15. The house and garage would be two separate structures attached by a deck. There's no attached wall.

Tim asked if it could be restricted to be only a garage with a laundry facility.

Clarence asked if the laundry facility could be approved for now with a condition to completely remove it, including the plumbing, when the house is built. The laundry facility could be built into the house at that time. Sue S said that enforcement on that would be difficult. The challenge with just allowing it to be a garage is based on the water connection to the structure and not having the ability to enforce when changed. The garage does have bay windows on the plan. The only doors are on the 2nd floor. It has the potential to be guest quarters.

Tim invited Vincent Meng to speak. Vince reviewed the original plan for the structure. It was for a 3-stall garage. He has a pontoon boat that's 36' long on the trailer. They plan to build a permanent residence attached to the garage. The architect suggested it be split from the garage to avoid cutting down some of the old trees. They did not realize it would create conflict at the time with the guest house problem. The bay window is actually a garage door on the lower level. The garage was made to not look like a garage. The future house will probably be smaller than this structure. They didn't want it to look like a storage shed. By a private agreement, they have to move the cabin in 9 years anyway.

Sue asked him to speak to the potential of putting a stacking washer/dryer in the cabin. He said it was really a small cabin and would be a rather difficult project to do. He wanted to have the pump in the garage too. Clarence asked if he could have the pump but not the sewer lines. Vince explained that they have to put in a drainfield now, so the neighbors can build their house. Sue L asked if lines could be laid so there is no water and sewer in the garage, but they'd be ready to go when he does build his house. Vince replied that if they ran lines to the structure, it would be considered there. They weren't sure if they would move or tear down the cabin. Sue L said that their current need is for the garage. Could it be built without water or sewer facilities? Vince affirmed. Sue L noted that the lines would have to be run to the house when it was built. Vince said the lines would be on a lift station that serves everything, so they just wanted to do that once.

Mike asked if they were proposing to upgrade the septic also. Vince responded that they would have to plan the septic for the future needs. Mike asked what guarantees are there that the Mengs will meet the septic requirements, or that they won't build a monstrosity? Vince said if they don't change the existing requirements, he felt comfortable with what they're putting in for a drainfield.

Mike Morin asked to speak. He said the legal notice specifically said if water and sewer are put to an outbuilding, it's classified as a guesthouse. As some of the Board members have pointed out, once the structure is built, you'll know exactly how big it is, which is 2-3000 square feet. There's no guarantee that 5 to 10 years from now they won't change their minds and build a 4000 square foot house next to the 2-3000 square foot structure. How will this be regulated? It seems clean, simple and easy to him just to abide by what was decided in January of 2007.

Motion by Sue L, and seconded by Clarence Brazil, to deny the request to amendment of the previous variance and conditional use approvals by the Board. Motion carried, with 4 in favor of denial (Sue Laverty, Jack Meuli, Clarence Brazil, and Mike Marchetti) and one opposed (Tim McGinnis).

OTHER BUSINESS:

None.

Motion by Jack Meuli, and seconded by Mike Marchetti, to adjourn. Motion carried, all in favor. The meeting was adjourned at 5:19 pm.