

LAKE COUNTY BOARD of ADJUSTMENT
April 13, 2011
Meeting Minutes

MEMBERS PRESENT: Sue Laverty, Mike Marchetti, Paul Grinde

STAFF PRESENT: Joel Nelson, LaDana Hintz, Tiffany Lyden, Lita Fonda

Mike Marchetti called the meeting to order at 4:02 pm.

Motion made by Paul Grinde, and seconded by Sue Laverty, to approve the March 9, 2011 meeting minutes.

Vote unanimous to approve minutes.

HOLM SETBACK VARIANCE—POLSON CITY-COUNTY

LaDana Hintz presented the staff report. (See attachments to minutes in the April 13, 2011 meeting file for staff report.)

Mike asked how the house fit with the setbacks recommended by staff. Would the house fit within those setbacks, or would there have to be a redesign? LaDana explained the setback numbers in her recommendation came from what was shown on the submitted plans. The setback was measured to the wall rather than the eaves, given that specification in the City-County zoning district.

Mike checked if the Board was looking at the road going down the slope. LaDana replied these were in the report because it did affect the stormwater plan. The stormwater would be taken through the slope. The applicant wanted access to get down to that portion of the lot. This was related to the development of the lot. There were some associated conditions. Paul asked if that was dealt with in the zoning conformance. LaDana said that part was here, since the stormwater needed to be controlled if this variance was approved.

Randy Holm spoke on behalf of his application. He explained some of the history and planning for the building. Primary issues for the Board were setbacks and size. The setbacks as recommended (17' and 22') gave the space exactly so they were the minimum relief, per the site plan. He was concerned about complications from the cart path that were being worked out. This was not a driveway. He wanted a way to avoid having stormwater from the foundation drains and gutters pool on the top bench. This caused problems on the lot to the south. The water needed a controlled discharge off the hill. He also wanted some sort of path to access down the hill, if he needed to move a picnic table or lawn furniture in the spring and fall. It would not be a regular use road, just for the occasional haul. He described some options for the cart path. The geotech engineer said it was easier to deal with erosion control than slope stability issues. Cutting the road across the hillside had a higher potential of risk than taking something straight down. There's a natural gully on the north side. The neighbor to the north had a driveway that went straight down a gully.

Randy had more distance to the lake from his smaller gully. The suggestion was to take a straight shot down and they could do erosion control as necessary, with water bars and the swale that would be used for the foundation drain, and then have a controlled release from that. He was still working out this stormwater and whatnot with County Planning.

The house position was based on the road cuts of the cart path. If the Board locked the Holms into the 17' and 22', it might cause a problem if the house needed to be shifted a few feet in the other direction. He was confident they could work with the Planning Dept to get this done right and get something acceptable. The engineers would provide more detailed plans, and in the meantime he asked the Board for the 17' on both sides, so they could jockey the house depending how the plan for the cart path worked out on the hill. He would have liked to center the house, with 19' on either side, but given the path, the house needed to shift one way or the other, so he asked for the flexibility to do so, by leaving the setback at 17'. They would provide sets of final revised plans to the County for zoning conformance. He thanked the Board for their consideration.

Paul checked with Randy that what he would like was 17' on both north and south property lines. Randy added this gave him the flexibility to move the house north or south to accommodate the path situation. Mike checked that this was an alternative path down the south side of the house, just in case. Would that possibly cut across the hill? Randy said that was what LaDana suggested: to sweep the cart path across the hill. His preference was to go straight down where the gully was.

Public comment opened:

Dale Brevik: He was the adjacent neighbor to the south. He supported the setback. He would rather see the setbacks approved and have an attractive home in the neighborhood than to have something smaller and narrower. From a stormwater aspect, this property was better than some to the north. It had 8 to 10 inches of dark, rich topsoil that tended to collect rainwater and let it evaporate naturally as it came down the hill and towards the lake. He thought a cart path straight down through an almost natural gully that now existed could work fine.

Public comment closed.

Sue agreed with staff analysis. The Biological Station, in their literature, was not in favor of a straight shot driveway on lakefront property because of erosion and stormwater management. They preferred something that would filter water. She supported staff in that respect as far as what they wanted to see as far as a cart path or driveway for curved versus straight. She asked if staff thought the 17' to allow shifting was reasonable. LaDana explained she reviewed it per the regulations and compliance, and it was up the Board to determine it was reasonable. She pointed out the structure on the northern side was a little further away. She wouldn't recommend any closer than the 17' on the south side. The other lot to the north had an open grassy type of area across from the house.

Mike leaned towards allowing the leeway in the setbacks so they could shift the house without coming back to the Board, as long as a new plan was submitted and the placement of the house was approved. Sue agreed with this leaning. Whatever was developed would be reviewed by the Planning Dept. in its final form.

LaDana suggested an additional condition #18: Prior to the issuance of a zoning conformance permit, the applicants shall submit a final site plan, slope plan, and stormwater plan to Planning Staff to review for compliance with the BOA's approval if the final plans deviate from the current plans that the Board reviewed. Sue thought they should add this condition.

Paul was in favor of allowing leeway with that. The gully used by the Starkeys for their road worked well. The gully curved at the bottom.

Sue pointed to #4 and the wording. LaDana noted the findings on pg. 18 d. and pg. 19 e would need adjustment. Discussion ensued on these points. This would be changing 22-foot to 17-foot where it appeared in d. and e. 4.c and 4.d were becoming one, so it would be a conclusion of #4. The result was to say: The southern wall and northern wall shall be located a minimum of 17-foot from either the southern and northern boundaries without changing the size of the structure as reviewed by the Board of Adjustment. The idea was to allow the house to be shifted if needed, but not to allow the house size to increase.

The Board was fine with the added condition #18.

Motion made by Sue Laverty, and seconded by Paul Grinde, to approve the variance as amended by the Board for a reduction in the setback sizes, along with the staff report, recommendations and findings of fact as amended on pg. 18. d and pg. 19.e. Motion carried, all in favor.

ROSE CONDITIONAL USE—FINLEY POINT

Joel Nelson presented the staff report. (See attachments to minutes in the April 2011 meeting file for staff report.) He distributed an email of comment received today regarding condition #3, requesting the withdrawal of that condition. He spoke about the email, the condition and the subdivision approval. It could be interpreted in multiple ways. Whether or not this Board wanted to roll the condition in or not, it was part of the subdivision approval and would have to be addressed. He didn't have a problem with #3 being stricken. It would be functionally how it would work with the Planning Department.

Mike asked where the 75 x 75 got mixed up. Joel said this was originally in 1975 or 1976 as a long-term lease subdivision. Many of the structures already existed. When they came back in the late 70's, leading up to the filing in 1980, it was a condominium. There were letters put in the J-file from various people. It was an interesting subdivision, with 56 units shown on the final plat. There's a document saying a certain six would not be developed. The Attorney Office letters at the time were in reference to things like

that. He read a section (a postscript) from the second county attorney letter that references the 75 x 75 item. This was between the developers, the heirs and assigns, and the County Commissioners.

Mike checked that this was still in condominium form of ownership. Joel added there was the lodge tract. He sent a letter to the Clerk and Records office to allow the deed to the lodge tract to be conveyed. Typically condos didn't do tracts of record. The 1980 filing contemplated this lodge tract and had the metes and bounds description as identified on the survey. It was ownership of a condominium unit on a separate tract. It was still subject to the Unit Ownership Act under the declaration. Mike said that was a confusing part. The tract was a private piece of property within a condominium. Sue added this was just as structures within the condominium would be private. Joel noted the lodge structure was a condominium unit.

Phil Korell said to make it more complicated, several of the units were on [inaudible] ground. That was the way it was described. A lot of patios that normally would be common ground actually belong to units. The lodge tract was just a lot bigger. Joel said this was pretty strange. The County wouldn't recognize tracts of record as Phil suggested. Phil asked how they did recognize them. Joel said they recognized those as being the exterior dimensions of the unit. The reference to a tract of land was a means of describing the locations of those units. Phil said the owners' take on it was the 75-foot thing didn't pertain to the lodge tract. He spoke with Alice several times and asked her where that might have come in. He reported she described that they formed the condominium association. They had interested buyers, who were concerned how big the unit they were buying was, because it would go on their tax records. That's how the IRS came into it. That was the statement put in there, that the lodge was a separate tract long before that even came up.

Joel said it was a confusing thing. He thought it was tied to the Dept. of Revenue stuff. Condominiums were fairly new in Lake County at that time. He thought there was question from the planner and the Dept. of Revenue at that time about how to tax conceptual units that weren't developed. Typically they taxed the tract of land. These weren't tracts of land. How did they size these? He thought it was potentially still applicable to the lodge tract. That was between the applicant and the County Commissioners. As the planner, he would provide his input to the Commissioners when they looked at that.

Phil Korell spoke on behalf of the applicant. He said the new owners have tried to solve some of the existing problems. The existing water supply building was in the shoreline protection zone. Tim Rose was willing to abandon that and put it in under the house, out of the 50-foot zone. That was part of the reason for asking for the slope change. He wanted access on the underside of the house to access that equipment. It benefited the cleanliness of the lake to get rid of that.

Public comment opened:

Janelle Kuchle: She lived south and west of the Borchers area. Their main concern in terms of the slope was environmental quality and the quality of the water. They take their drinking water out of the lake, and were constantly vigilant about how they treat the lake. They wanted to make sure that was happening in this case as well. They were aware that the septic system serving the lodge did not conform to existing regulations. They wanted to make sure the house would not exceed the current use of the septic system. The septic system was already overtaxed. She's looked at the slope, and they're going to take out a lot of property there. If the staff looked at that and felt it would not impact the lake, then they didn't have an issue with that. Another question was impermeable surfaces. Was there no problem with the amount, in terms of runoff to the lake?

Joel: They were in the permitted range. There were conditions to address items like silt fencing and straw bales around the disturbance.

Phil: The condominium association was trying to do a new septic review and system in that area. It's been back and forth as to how to do it and what the cost of that is. The applicant would hook on to the new system when it was built. The problem at the moment was the system was not yet built. He could use a holding tank temporarily until he could hook onto that system. He also had enough area of property to build a new drainfield and system on the upper part of the property. He'd prefer to hook into a new municipal system. The old system would be totally abandoned.

Janelle: That wasn't right now. She was concerned about right now and what happened in the meantime. They had past neighbors (non-Borchers) whose septic systems leaked into the lake. They had to change those immediately and were not able to continue reconstruction until they changed the system. She understood this would be a great-looking reconstruction. She just wanted to make sure the lake's integrity was being considered.

Phil: That system was abandoned right now. They were using a holding tank until the new system was in place, at which time the holding tank would go. Additionally, it's rerouting the water system so the control valves and stuff in the water were not in the shoreline protection zone. This owner was not interested in polluting the lake. He bought the property because he was infatuated with the cleanliness of the lake.

Janelle: They were too, which was why they were asking questions. They were just saying to be careful about that. This was good news that they would use a holding tank and have that tank pumped.

Mike: He pointed to exhibit G in the staff report from Susan in Environmental Health.

Joel: He offered Janelle a copy of that.

Janelle: She asked if the water system was the part that was into the slope that had to be taken out.

Phil: He confirmed.

Public comment closed.

Sue liked to see #3 stay in. At some point they would have to deal with this with the Commissioners, and they might as well acknowledge this had to be dealt with by the Commissioners.

Motion made by Sue Laverty, and seconded by Paul Grinde, to approve the request as presented in the staff report along with staff recommendations and findings of fact. Motion carried, all in favor.

OTHER BUSINESS

None offered.

Mike Marchetti, chair, adjourned the meeting. Meeting adjourned at 5:12 pm.