

LAKE COUNTY BOARD of ADJUSTMENT
October 9, 2013
Lake County Courthouse Large Conference Room (Rm 317)
Meeting Minutes

MEMBERS PRESENT: Clarence Brazil, Sue Laverty, Paul Grinde, Steve Rosso

STAFF PRESENT: Joel Nelson, LaDana Hintz, Robert Costa, Lita Fonda

Sue Laverty, acting chair, called the meeting to order at 4:01 pm

September minutes would be addressed at the next meeting.

SCHUMAN CONDITIONAL USE & VARIANCE—UPPER WEST SHORE (4:02 pm)

LaDana Hintz presented the staff report. (See attachments to minutes in the Oct 2013 meeting file for staff report.) She noted a correction on pg. 4 of the staff report. In the second sentence, 13% was changed to 7%.

Steve verified with LaDana that the requirement for no treatment for wood was in effect in the lakeshore protection area, not just over the water. LaDana noted that she didn't go through all of those—she particularly focused on the boathouse standards. Steve said that outside the lakeshore protection zone but inside the buffer, the lumber would not be treated. The idea was that treatment might affect the environment, whereas because of the degradation of the materials and the replacement, it would require more construction and more disturbance of the surrounding soils. LaDana explained [treated wood] would not be allowed in the lakeshore protection zone, and the buffer was essentially an extension of the lakeshore protection zone. Steve concluded that the painted boathouses he saw were grandfathered or painted illegally.

Steve said it looked like the setbacks drawn to measure the buildable area and calculate the percentage of impervious surface were 20-foot setbacks. He observed that a 15-foot setback would be allowed in one area. LaDana said this had been going on for so long that she hadn't looked at the setbacks. They'd been approving it with certain setbacks, which she probably used. Steve thought the buildable area might be larger than they thought, which would allow an increase in the impervious surface. LaDana said this was possible but permits with certain setbacks had been issued in previous years. That was what she worked with. The architect submitted updated impervious surface coverage calculations. She looked at those to make sure they made sense. That was what she based her information on. The architect also submitted numbers in 2011.

Steve brought up an issue where the part of the driveway that was inside the setback from the road was not included in the impervious surface calculation. LaDana said this was not part of the buildable area. Steve continued that the area of concern with the boathouse looked only at the little bit of the boathouse that extended past the 50-foot setback.

Sue and LaDana looked further at the portion of the boathouse under scrutiny. LaDana explained the boathouse was reconfigured and moved, and was spread out more than before. Steve referred to tenths of a percent referred to in the report regarding Board approvals. LaDana clarified that the planners made the measurements the best that they could. Now every time the Schumans wanted to make a tweak, they ended up back at the Board. It wasn't a good use of Board or staff time when they could have asked for 49% before. That was what they were trying to do at this point. They didn't want to have to bring it back again. Sue checked that the height was the result of change in elevations. LaDana replied there was really very little change in elevation there.

Laurie Schuman commented on the buildable area. That portion of the boat house was probably equivalent to what was taken off of the house when the Board saw this before. He asked about the treated lumber in the 20-foot setback versus the 50-foot setback. Building codes usually had the lower plate as treated lumber next to the concrete. LaDana said that not allowing treated lumber was a standard condition in the lakeshore protection zone. It had been for years. Lakeshore regulations had been around since the 1970's.

Public comment opened: None. Public comment closed.

Motion made by Sue Laverty, and seconded by Paul Grinde, to approve the variance and conditional use requests with staff report, findings of fact and conditions. Motion carried, all in favor.

Clarence mentioned that redwood would last just about as long as treated lumber. Steve said the applicants should be aware that the finish put on the house may not be able to go on the boathouse.

KORELLA VARIANCE & CONDITIONAL USE—FINLEY POINT (4:25 pm)

Robert Costa presented the staff report. (See attachments to minutes in the Oct 9, 2013 meeting file for staff report.)

Steve mentioned that later he'd like to talk in general with staff about impervious surface definition and how those calculations were done, and also setbacks. He guessed that a 20-foot setback was drawn because the property was longer than 200 feet in the east-west direction. The intention of the property line setback was if that direction of the setbacks was narrow to reduce the setbacks. Where the property was wide, you shouldn't reduce the setbacks. If there was one narrow spot on the property, then he didn't know that the intention was to reduce all the setbacks. It did make a big difference with how impervious surface was calculated and what ended up being considered unimproved or not approved for construction because of requiring a setback. Joel agreed that was true. Previous planners interpreted that reduced setbacks should apply to side property lines but that wasn't what the regulations said. They said if the lot was narrow, that reduced the setback to be applied from the property lines but not from the lake or the road.

Sue restated the project. Other than a little bit of the eaves, it wouldn't impact the 10-foot setback. Robert commented if they were to build entirely outside of the setbacks, they wouldn't need to talk to this Board. Steve asked whether or not changes to the structure had to be approved if someone enlarged a structure that was within the setbacks or nonconforming for some other reason. Robert said in most of the zoning regulations, if someone built within the buildable area outside the setbacks and not [inaudible] for over 25% in certain districts, they could go through zoning conformance without going to the Board. When construction was located within setbacks, they would need to talk to the Board.

Steve confirmed with Robert that this was still under review by Environmental Health. Although it wasn't the purview of this Board, it bothered him that drainfields were drawn that would cross a driveway. Those were within the 10-foot setbacks required for a drainfield. This suggested if the Board approved the variance here, the thing the applicant wanted to do with the variance might not be doable because of the Environmental Health Department regulations. Robert wasn't sure about the alternative drainfield spots. Jeff Gallatin, the contractor for the applicants, might be able to address this. The existing garage was over one of the alternative drainfield locations. The applicants would be working with Environmental Health. He agreed with Steve [the septic issues were] outside of Planning's purview. The applicants were asking for the Board to look at the zoning regulations. If there was a problem on the Environmental Health side, they'd do what they could to work through it. There was a little bit of the chicken and the egg question here.

Steve confirmed with Robert that the only part of the guest house that was actually planned for a guest house was the second floor. The first floor would be garage and storage.

Jeff Gallatin spoke on behalf of the applicant. He offered to answer questions. He mentioned the chicken and the egg. They got the Sanitation application started. If they weren't granted the variance and conditional use here, there was no sense in following through with an engineer to design the new drainfield, which was apparently the plan. As was pointed out, the alternative drainfields were in the driveway or under the buildings. Sue checked about modifying the eaves. Jeff said it was only a 16-inch or 18-inch overhang.

Public comment opened: None present. Public comment closed.

Motion made by Clarence Brazil, and seconded by Sue Laverty, to approve the conditional use and variance requests with staff recommendations and so forth. Motion carried, all in favor.

OTHER BUSINESS (4:38 pm)

Lita mentioned end-of-year expirations and for those expiring, to please let her know whether or not they would be interested in being considered for another term.

Steve brought up several challenges: the incompleteness of applications, a frustration with impervious surface calculations, and comments on impervious surface, pervious surface, man-made improvements and definitions. Discussion ensued on each challenge.

Joel pointed to one other handout in the Board packet from the Commissioners' office and spoke about that.

Sue mentioned that she would not be able to attend in November.

Sue Lavery, acting chair, adjourned the meeting at 4:58 pm.