

In attendance: Chairman J. Fuchs, and Commission Members T. Matt, G. Staven, K. Marlin, J. Tredwell and R. Welcenbach. Also present were Zoning Administrator J. Gibbs, Community Services & Joint Park & Recreation Director K. Woldanski and Deputy Clerk A. Hurd.

- 1.0 Call to Order and Pledge of Allegiance - Chairman Fuchs started the meeting at 6:00 p.m.
- 2.0 Approval of Minutes Dated July 6, 2016

A motion was made and seconded, (T. Matt, R. Welcenbach) to approve the meeting minutes of July 6, 2016. Motion Passed: 4-For, 0-Against.

3.0 Public Hearings

- 3.1. Discussion and possible action regarding the petition of **JOE GRASCH** for the property located at **N27 W27112 Woodland Drive** (PWC 0933-124) for a variance to build a new home with attached garage specifically related to the following:

- 3.1.1 The NEW HOME as proposed will result in noncompliance with the City of Pewaukee Zoning Code **17.0436(c)(5) of the Setback of 75 Feet to the 100 Year Base Floodplain**, but can average to the structures on EACH side of the parcel but no closer than 35 feet.

The proposed NEW HOME will have a setback to the 100 year base floodplain more than the average adjoining parcels on each side of the lot. This will be a non-compliance to the City of Pewaukee Zoning Code 17.0436(c)(5) of 13 feet.

- 3.1.2 The NEW HOME as proposed will result in a non-compliance with the City of Pewaukee Zoning Code **17.0411(a) Side Yard Setback Reductions** on non-conforming lots. Structures on these lots over one story in height must have a side yard setback of at least 8 feet.

The Proposed NEW HOME will have a side yard setback of 5.5 feet. This will be a non-compliance to the City of Pewaukee Zoning Code 17.0411(a) of 2.5 feet.

Mr. Fuchs swore in property owner Joe Grasch, Zoning Administrator John Gibbs and other members of the public.

Mr. Gibbs stated Mr. Grasch stopped by his office a month ago inquiring about building a home using old approved zoning setbacks. He stated he drew up the actual buildable area, shown in yellow, which would be approved immediately if Mr. Grasch would walk in his office today and he stated the area in pink is what Mr. Grasch is proposing. Mr. Gibbs stated the property is zoned RS-7 which has a reduction in side yard setbacks, distance from the 100 year flood and a street distance. Staff recommends enforcing the setbacks per code.

Mr. Fuchs gave instructions on how the hearing will be run.

Mr. Grascch stated his hardship is the lot size. He said it is 40 feet wide by approximately 150 feet long. He said Pewaukee's minimum first floor area for a 2-story home is 900 square feet and a 8 foot side yard setback and if he builds a 1-story home the minimum is 1,100 square feet, consisting of at least two bedrooms and a 5 foot side yard setback. Mr. Grascch stated he wants to build a reasonable home on a substandard lot and that is the challenge. He added he wants an attached garage (24 foot wide) and a front entry (5 feet). He stated the code requires the home be 20 feet off of the street which he said he meets. He said the proposed home is approximately 62 feet long plus a deck would calculate out to 984 square feet.

Again he stated a 1-story home could have a 5-foot side yard setback but it would have to be built closer to the lake by another 10 feet. If the lot was longer he would have more flexibility. Mr. Grascch stated he feels his plan for his home is the best for his neighbors because he is not pushing out to the lake and blocking views. Therefore he is requesting to build a 2-story home with a smaller side yard setback and averaging the distance to the lake with his neighbors to the left and to the right of him.

Mr. Fuchs asked Mr. Gibbs to explain the variances to the audience. Mr. Gibbs stated the property is zoned Rs-7 and if Mr. Grascch wanted to build a 2-story home, the side setbacks would be 8 feet on each side, but if he built a ranch style home, he would get a reduction in the lot side which is 40 feet and the side yard setbacks which would be 5 feet on each side. Mr. Gibbs added the minimum square footage on a ranch style home would be 1,200 square feet.

Ms. Marlin asked if there was a reason why Mr. Grascch was not proposing to move his home closer to the street instead of closer to the lake. Mr. Grascch stated by code he could not bring it closer to the street. Mr. Gibbs stated he could average on the street if there was another garage next to him. Mr. Gibbs concurred this was correct.

Mr. Fuchs asked if he bought the property knowing of its substandard condition. Mr. Grascch stated he bought the lot as-is.

Deb Petersen (N27 W27104 Woodland Drive) asked about the deck and whether or not it was considered part of the structure. Mr. Gibbs stated the deck is considered part of the house and must meet setbacks.

Ms. Peterson stated she opposes the proposed setbacks of the new home on the lake-side. She said most property owners utilize that part of their property and this new structure could potentially harm the use and view. She also expressed her fears about future teardowns and rebuilds in the area. She stated this will set a precedent and people always seem to come before the Board and want more variances. She wanted to know where it will all stop.

Mr. Fuchs stated the deck is the area that requires the variance.

Mark Petersen (N27 W27104 Woodland Drive) stated he was opposed to the variances because building closer to the lake obstructs the views of other property owners.

Mr. Petersen stated the petitioner is requesting a variance of 2.5 feet on each side

of the home which is 12.5% of the total 40 foot width of the lot, and feels that is a significant percent. He continued the 8 foot setback is good for rain and pooling of water. He added it is difficult to not blow snow into his neighbor's yard or out into the street. The side setbacks also assist with painting, roofing, siding and most importantly allows the medical and fire personnel access to the property if needed.

Mr. Petersen stated he looked up the definition of a hardship and found it means the property owner will not have reasonable use of the property in absence of the variance. Mr. Petersen stated he believes it is buildable and therefore there is no hardship. Mr. Fuchs stated the Supreme Court lessened the language from "no reasonable use" to "unreasonable interference" of using the property.

Ted Janka (W276 N1728 Spring Creek Drive) stated the property is challenging, other homes in the area have been built with some variances granted. He finds the design of the home attractive. He reminded the Board that if Mr. Grascch built a ranch, his side yard setbacks would only need to be 5 feet and the home could be pushed closer to the lake. He said the proposed home is in compliance with the other homes on the lake. Mr. Janka stated he supports what Mr. Grascch is proposing to do on that lot.

Mr. Tredwell stated there are obviously instances of side yard setbacks less than 5½ - 8 feet and wanted to know a little history on how these came to be and has there been a change in variances allowed over time.

Mr. Gibbs stated since he started there has only been one new home built in that area. He added most of the properties on the lake have been remodeled. He stated things have drastically changed related to variances given due to having a more educated Board.

Mr. Fuchs asked if the deck was actually at the same grade as the ground would there be a difference in the variance. It was noted that the deck was elevated.

Mr. Welcenbach asked if Mr. Grascch would build a ranch style home, if it would extend to where the deck is marked on his request. Mr. Gibbs stated it would still need a variance. It could not exceed the average setback noted as the red line on the plat map.

Mr. Grascch stated he could not build either home without a variance and feels the better of two evils is bringing the home away from the lake with a slightly wider home to meet the Pewaukee first floor minimum requirement.

Rod Bremberger (N27 W27092 Woodland Drive) stated anything closer to high water mark on the lake will ruin the views. He asked what the proposed height of the proposed new home would be. Mr. Gibbs stated it was 35 feet at the street from the foundation. Mr. Grascch stated it would be under 35 feet and he was not requesting any variances for that. Mr. Fuchs stated the hearing is not regarding the height of the house. Mr. Bremberger stated he then was opposed to the home encroaching upon the high water mark.

Jim Marlin (N27 W27086 Woodland Drive) stated he was concerned about people too close to the lake potentially blocking the views. He said it is setting a precedent for people to keep building closer to the lake.

Mr. Marlin suggested that perhaps the lot is too small for the house Mr. Grascch wants. He stated a hardship is not *"I want a bigger house"*. He voiced his concern about the future.

Mr. Matt asked Mr. Grascch if he would be willing to eliminate the deck, adding If the deck was removed he would be complaint. Mr. Grascch stated he wants to keep it, because it is important to him. Mr. Fuchs stated the Board has the discretion to approve the petition in whole, in part or deny completely.

Mr. Tredwell asked Mr. Grascch if knew what he could do with the lot before he bought it? Mr. Grascch stated he knew the City should be reasonable in his desire to build his home. Therefore it was a good assumption there was a standard or precedent that he would get a variance.

Mr. Tredwell asked if it was impossible to build to a single family home that would meet the minimum standard square footage without a variance. Mr. Gibbs calculated that it is a buildable lot without a variance. A home with the square footage 1,600 could be accomplished which includes a garage. Mr. Gibbs added there is no minimum size requirement for a garage, nor is one even required.

At this time, Mr. Fuchs put the issue before the board.

Ms. Marlin, stated the deck is really over the line and suggested a patio instead.

Mr. Staven omitted quarters are tight in the lake area and felt the side setbacks are fine, but agrees about the comment made about the deck being an issue.

Mr. Grascch asked if he could build a cantilever instead. Mr. Gibbs stated he could cantilever, but no part of the structure could touch the setback area.

Mr. Welcenbach stated he didn't feel the 5 feet was a big issue, but noted the deck could be an obstruction for neighbors.

Mr. Matt stated the neighbors' homes are 7 1/2 and 8 feet off of the lot lines and believes a 5 foot setback would leave plenty of room. He voiced his concerns about the deck, stating it is contrary to public interest and an intrusion of their view. He said if the deck is eliminated and the side setbacks are given it should work as proposed.

Mr. Tredwell asked for a description of what a cantilever is. Mr. Gibbs stated it was a portion of a structure that sticks out beyond the foundation and has no supporting mechanism that hits the ground. Mr. Fuchs warned staffed about this, stating he didn't feel it resolves the issue.

Mr. Tredwell stated he concurs with the setback comments regarding the tight quarters.

Mr. Fuchs concurs that the side-yard setbacks are reasonable since they would be acceptable for a ranch style home, stating it is unreasonably difficult to build unless you build the smallest possible home. He stated he does not feel the deck meets the definition of a hardship and therefore could not support a variance for the deck area but thinks a variance to straighten out a crooked line to a straight line is reasonable.

A motion was made and seconded, (R. Welcenbach, T. Matt) to approve the side setbacks as requested, to eliminate the deck variance request and to approve the rear variance, straightening it out to the extent of the eastern edge of the average setback line. Motion Passed: 6-For, 0-Against.

Mr. Fuchs reminded the petitioner he will have to comply with all other codes. He stated he will prepare the facts and findings of tonight's proceedings.

4.0 Adjournment

Respectfully Submitted,

Kelly Tarczewski
Clerk/Treasurer