

In attendance: G. Roth, G. Staven, M. Heise, and T. Matt. Also present were Zoning Administrator J. Gibbs, Community Development Director K. Woldanski and Recording Secretary K. Tarczewski.

- 1.0 Call to Order and Pledge of Allegiance - Chairman Roth called the meeting to order at 6:30 p.m.
- 2.0 Approval of Minutes Dated October 1, 2014

A motion was made and seconded, (T. Matt, M. Heise) to approve the meeting minutes dated October 1, 2014. Motion Passed: 4-For, 0-Against.

3.0 Public Hearings

- 3.1. Discussion and possible action regarding the petition of **DON & ANGELA PIENKOS** for the property located at **W277 N2820 OAK STREET (PWC 0934-025)** to raze the existing residence and build a new two (2) story home.
 - 3.1.1. The new home as proposed will result in noncompliance with the City of Pewaukee Zoning Code 17.0436(c)(5) to the 100 year Flood Plain setback requirements of 75 feet but can average to the adjoining parcels but no closer than 35 feet.

Mr. Roth swore in Mike Millikin, Millikin Homes (P.O. Box 182 Sussex, WI 53089), Jim Mella, Mella and Associates (909 Blackstone Avenue, Waukesha, WI 53186) and Angela Pienkos (5017 North Hollywood Avenue, Whitefish Bay, WI 53217).

Mr. Millikin stated the current structure is a 90-year home and doesn't accommodate a family member with ADA needs. He stated they would like to raze the home and build a 2800 square foot two-story home but due to the flood plain they need a variance.

Mr. Mella stated his design of the new home will accommodate this family member, but it wasn't without other challenges such as having all the mechanicals on the first floor because there won't be a basement due to the home being in the flood plain.

Mr. Roth commended Mr. Gibbs for the instructions he now gives all the petitioners, especially requiring them to specify what their hardship is. He stated it was necessary for the petitioner to demonstrate 3 items; 1) unnecessary hardship, 2) unique property conditions and 3) no harm to the public interest before a variance can be given. He also reminded the petitioner that the Zoning Board of Appeals (ZBA) is not allowed to alter their request or make suggestions in any matter that would appear as if they are negating with the petitioner to assist them in getting what they want.

Mr. Roth asked the petitioner what their unnecessary hardship was. Mr. Millikin stated it was building a home with ADA requirements within the 100-year flood plain. He stated surveyor John Downing came out to recertify where the 100-flood plain was and he noted the flood plain was

higher in the yard.

Mr. Roth asked if the granddaughter would be living there 100% of the time? Mr. Millikin stated no, it is a cottage and will be a gathering place for family.

Mr. Heise asked if there was as a particular reason why they needed the 15-foot variance on one side of the house and 25 feet on the other. He stated he thought there was room on the property to move it slightly. Mr. Millikin stated they were taking an average. Mr. Heise then asked Mr. Gibbs if they were beyond the normal setback. Mr. Gibbs stated the way the code reads it would need to be 35 feet and no closer. The way it is presently proposed, it does not work. Mr. Gibbs stated the flood plain doesn't meander the way other properties do and that is why there is an issue. Mr. Heise stated FEMA raised the floodplain level. He asked if the builder had discussion with the DNR as to whether or not the elevation of the swales could be raised to alleviate the problem. Mr. Millikin stated he did not.

Mr. Roth thought this might be evidence of a unique property condition, which in his opinion was a good thing. There was discussion regarding the elevations. Mr. Heise stated the neighbor's homes appear not to be conforming either. Mr. Gibbs state that should not be a consideration pertinent to the discussion pertaining to the Pienkos request.

Mr. Roth asked again why they didn't move the house back. Mr. Millikin stated they wanted to save as much lake frontage as possible. Mr. Roth stated this is a difficult case for them, since the Pienkos have the ability to move the house back to utilize the property.

Mr. Roth suggested that the petitioner contact the DNR first. Mr. Milliken stated he thought this request before the ZBA was a reasonable based on what has been done to the other properties in the past. He wanted to keep things uniform.

Mr. Heise, stated variance can only be granted if a house can't be built on the lot. He asked John if the City could be involved talking to the DNR. Mr. Gibbs state he didn't think the City would not want to get involved. He added the DNR is typically against fill.

Mr. Roth stated he believes the house could be moved back.

Mr. Milliken asked how far the house would it have to be moved back. Mr. Gibbs showed him a line drawn on his survey.

Mr. Heise stated it was City's requirements to be 75' from the floodplain. He stated he'd like Mr. Clinkenbeard to review to see if there was any ley way.

Mr. Roth suggested approaching the problem by getting permission from the DNR to fill in the property. Mr. Millikin stated the Pienkos property is in a "kettle", they flood out. Mr. Roth suggested that would be an excellent approach to bring forward to the DNR. Mr. Heise stated if they didn't grant that request there could possibly be a hardship.

Mr. Millikin stated that it is unfair that the Pienkos can't build a home equal in value to the other homes in the area. Mr. Roth and Mr. Heise agreed.

Mr. Heise suggested tabling this item and giving the Mr. Millikin time to meet with the DNR. There was a brief recess while the Clerk went upstairs to review the availability of the chambers.

A motion was made and seconded, (M. Heise, T. Matt) to table this variance request until June 11th at 6:30 p.m. allowing the applicant time to meet with the DNR to determine whether or not the two swales could be taken out of the flood plain. 4-For, 0-Against.

4.0 Adjournment

A motion was made and seconded, (M. Heise, G. Staven) to adjourn the meeting at 7:28 p.m. Motion Passed: 4-For, 0-Against.

Respectfully Submitted,

Kelly Tarczewski
Clerk/Treasurer

NOTE

Mr. Michael Millikin met with Harlan Clinkenbeard, City Planner on May 13, 2015 and discussed the project. Per Mr. Clinkenbeard the builder will revise his site plan and proceed with obtaining a building permit. There was no need to hold a meeting on June 11, 2015.