

PLANNING COMMISSION
Special Meeting – Wednesday, October 11, 2017
City Hall Council Chambers

Committee Chair Headley called the meeting of the Brainerd Planning Commission to order at 5:00 p.m. in the City Hall Council Chambers.

Noted present were Commissioners Gorham, Headley, Antolak, Lambert Wussow, Also present were City Planner Ostgarden and 2 others.

Public Hearing – Request from Bruce and Cynthia Thompson for a variance to construct an accessory building (garage) at 113 Carol Lane, Brainerd

City Planner Ostgarden explained the property consists of 140' on Carol Lane and 160' on Buffalo Hills Lane. For building setback purposes, Carol Lane is considered the front yard and Buffalo Hills Lane is the street side yard. The petitioner has applied for a variance to construct a 28' x 24' garage in the southwest corner of his property where a creek with a significant ravine runs northwest / southeast across the property. There is not sufficient room to construct the garage in the southwest corner of the lot to meet minimum setbacks and to not have a concern on encroaching on the ravine stability. It is being proposed to encroach 5' into the 20' street side yard setback and a 3' encroachment in the 10' rear yard setback.

The concern that we need to discuss is not whether a garage is permitted to be built on the property in the area desired; the issue is the desire to encroach into the street side yard setback and the rear yard setback to move the structure away from the ravine. There is currently an accessory building on the property which will be removed for the new structure. Photos of the property were discussed. It was pointed out the concern of the location of the underground storm sewer line. It was initially believed that the storm sewer line extends to the south extended at an angle northwest to southeast from the ravine to Buffalo Hills Lane. However, after further research with the engineering department, the alignment of the storm sewer line runs north, angles to the west and north again across the Thompson's property. There is not an easement that has been granted for that sewer line to be in place. In conversations with City Engineer Sandy, there will have to be special precautions taken regardless of the placement of the building if there is ever the need to dig up the line.

City Planner Ostgarden stressed the importance to the commission of keeping in mind the Criteria for Granting Variances and the Comprehensive Plan shown as:

- A. *Protect the public health, safety, and general welfare of the community and its people through the establishment of minimum regulations governing development and use.*
- B. *This Ordinance shall divide the City into use districts and establish regulations regarding location, erection, construction, reconstruction, alteration and use of structures and land.*
- C. *Protect neighborhoods.*
- D. *Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.*
- E. *Provide adequate light, air, and convenience of access to property.*
- F. *Prevent congestion in the public right-of-way.*

- G. *Prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population.*
- H. *Protect and preserve the natural environment of the City.*
- I. *Encourage the protection of historic and aesthetic resources in the City.*
- J. *Conserve energy using alternative energy systems and conservation through the encouragement of energy efficient structures for commercial, industrial and residential uses.*
- K. *Provide for compatibility of different land uses.*
- L. *Provide for administration of this Ordinance.*
- M. *Provide for amendments.*
- N. *Prescribe penalties for violation of such regulations.*
- O. *To define powers and duties of the City staff, the Planning Commission, the City Council and the Board of Zoning Appeals in relation to the Zoning Ordinance.*

Is the variance in harmony with the general purposes and intent of the Ordinance?

The Comprehensive Plan Goal and Strategy that may apply is:

LAND USE GOAL #3: Plan for the orderly, efficient and fiscally responsible growth of residential development in Brainerd.

Strategy

Encourage compatible infill residential development throughout the developed portions of the city, to encourage the efficient use of land, the establishment of a strong tax base and the cost-effective provision of city services.

Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance.

Subdivision 4. "Practical Difficulties"

Does the ravine pose enough to be considered a "Practical Difficulties" to warrant granting the variance? Is it reasonable to permit the garage to be 5' closer to the Buffalo Hills Lane property line and 3' closer to the rear property line?

The variance, if granted, will not alter the essential character of the locality.

Will a garage 5' closer to Buffalo Hills Lane property line and 3' closer to the rear property line for a 28' x 24' garage affect the neighborhood's character?

The Public Hearing was opened at 5:14pm.

The Chair recognized the petitioner Mr. Bruce Thompson, 113 Carol Lane. Mr. Thompson has pointed out the area in question is the only place he will construct the garage. Mr. Thompson indicated he believes there are some serious issues with the storm sewer and the ravine regarding erosion. If the garage was constructed in the allowed setback, it would be within 10' to 12' of the storm sewer line into the ravine. Because there is no easement, this garage could be built right from the west property line east which would be pretty close to the storm sewer line and it would be very difficult to trench or dig to make repairs. The variance would allow him to build away from the ravine in order to maintain stability in the structure and crews could access the storm sewer line. The building will match the house and existing garage and the roof will have the same 6' x 12' pitch. Other locations for the placement of the garage were discussed. The applicant now agreed there are other locations on the property this size of garage could be located without a variance, but as proposed this was the logical solution.

Commissioner Wussow explained that a variance is something that needs to meet all criteria as they are not intended to be issued to every request. Mr. Thompson indicated the ravine issue and where the storm sewer line is located would qualify as meeting subdivision 4 "Practical Difficulties".

Commissioner Wussow stated when the property was purchased, these issues were already there; every lot has certain limitations. Mr. Thompson agreed but it is unknown what future needs or wants will be. The driveway would be located off of Buffalo Hills Lane and it will be paved.

Commissioner Gorham referred to the letter from Crow Wing Soil and Water Conservation District and the concerns and recommendations they had. Mr. Thompson indicated there is tremendous erosion along the ravine; trees are falling in and down in the area. The neighbors that are affected have all talked with the county and Mr. Thompson feels surprised that his garage would affect any erosion issues more than what is taking place.

Chair Headley asked why Mr. Thompson feels there a "Practical Difficulty" in the placement of the garage in the allowed setbacks. Mr. Thompson provided a photo of the area staked out, and the corner of the garage would be approximately 24" into the ravine, which is very unstable ground. A significant pour of concrete could be done to try and stabilize the area. However, if a variance was granted due to the storm sewer line location and the ravine concerns, it would be more practical for both parties. The garage would be in a favorable location and the storm sewer line would be more accessible to city workers for repairs if the need arises. If the variance is not granted, the garage will still be built in that area and the city does not have an easement. If something were to happen to affect the storm sewer line, there will be some serious issues to get to the line.

The Chair recognized Ms. Alexis Diton, 321 Buffalo Hills Lane. Ms. Diton is concerned if the variance is granted and with the proposed road expansion, if 5' comes off the petitioners side, if will it affect her property. City Planner Ostgarden stated if the variance is granted and it is 5' closer to the street, it is permitted. It is still located on Mr. Thompson's property-it does not encroach into the right-of-way for Buffalo Hills Lane. If Mr. Thompson is granted a 5' variance, the city will not take 5' from any other property owner.

City Planner Ostgarden indicated any future plans of work on Buffalo Hills Lane will be within the existing right-of way that the city has. There still will be room for a potential bike lane.

The Public Hearing was closed at 5:37 pm.

The following findings-of-fact were read into the record as follows:

1. The property is in an R-1A (Single Family Residential) District and the owner desires to construct a 28' x 24' garage in the required street side yard and required rear yard setback areas.
2. The property is 140' x 160' with the narrow frontage on Carol Lane.
3. For zoning setback purposes, the narrower street frontage on a corner lot is considered the front yard.
4. The required street side yard setback is 20' and a 5' encroachment is proposed. The required rear yard setback is 10' and a 3' encroachment is proposed.

5. There is an attached garage located 30' from the front property line. R1-A zoning requires a 30' front yard setback leaving no room to add onto the attached garage.
6. The area of the existing garage and proposed garage will not exceed the maximum area permitted for accessory buildings on the lot.
7. The property is permitted 1 detached accessory building in addition to the attached garage. The garage is permitted; it's the location that is the issue.
8. The site has a ravine and a creek that limits the setback from the side street property line and in the southwest corner of the lot.
9. The Crow Wing Soil and Water Conservation District has submitted a letter with recommendations on how to protect the ravine should the garage be constructed.
10. Letters have been received from the property owners to the west and to the south opposed to the variance.
11. The storm water pipe location identified on the petitioner's diagram, is not accurate. The City Engineering Department has identified it runs directly north and south 10' east of the proposed garage.
12. The City Engineer has stated that the pipe is approximately 15' deep, so from an engineering judgement standpoint, placement of a garage in this location would make it extremely difficult to replace the storm sewer pipe.
13. The request is not consistent with the following Comprehensive Plan Goals and Strategy:
LAND USE GOAL #4: *Plan land uses and implement standards to minimize land use conflicts.*
Strategies
 Prepare and adopt a land use plan that designates land use areas and guides development to appropriate areas to ensure desirable land use patterns and minimize conflicts.

Commissioner Antolak sees difficulty in allowing a 5' encroachment on Buffalo Hills Lane as it will push it closer when more room is actually needed. Mr. Thompson has informed us about the erosion and if the storm sewer line needs to be enlarged, would this pose a problem in the future?

Commissioner Gorham questioned the four provisions indicated on the letter from the Crow Wing Soil and Water Conservation District which are as follows:

- Install stormwater landscaping practices
- Locate at least 20 feet away from the crest of the ravine and 10 feet from the foundations
- Basin less than 9" deep
- Size for a minimum 1.1" rain event

The location of the garage as proposed would not be 20 feet away from the ravine. The other suggestions would refer to a raingarden being created for overflow.

Commissioner Lambert would suggest denial due to the instability of the ground and other alternatives are available.

Committee Chair Headley argued the practical difficulty criteria is not met as there are other options for the garage location.

MOTIONED AND SECONDED BY COMMISSIONERS LAMBERT AND WUSSOW, DULY CARRIED, TO RECOMMEND DENIAL BASED ON THE DISCUSSION; REASONS SITED INCLUDING LAND USE GOAL #4.

Adjourn at 5:55 p.m.

Respectfully submitted,

Mark Ostgarden AICP, City Planner