

**VILLAGE OF PLEASANT PRAIRIE
ZONING BOARD OF APPEALS
Tuesday, May 24, 2011
6:00 PM**

Members Present: Christine Genthner, Chairperson; William Morris; Mark Riley; Jennie Holman; and Tom Glassman. David Hildreth (Alternate #1) was excused.

Also Present: Peggy Herrick, Assistant Zoning Administrator; and Jan Petrovic, Clerical Secretary.

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CORRESPONDENCE.**

Christine Genthner:

Is there any correspondence to review? I don't see any.

Peggy Herrick:

No I have none, but I just want to mention since our last meeting which was last July Sheryl Berner has resigned. She has moved to Illinois so she has resigned since we've met last year. So I'm not sure if everybody was aware of that.

- 4. CITIZEN COMMENTS.**

Christine Genthner:

Next on the agenda is citizen comments. Do we have any citizens to address the Board now? There will be an opportunity under the public hearing to address the specific agenda item. If there is anybody here who wants to speak on something else they're welcome to come forward.

—:

I was just wondering if you could turn your speaker up a little for me.

Christine Genthner:

Okay, citizens' comments. Is there anybody who wants to approach for citizens' comments? We will have a public hearing later on the specific agenda item.

5. CONSIDER THE MINUTES OF THE JULY 6, 2010 BOARD OF APPEALS MEETING.

Christine Genthner:

Has everybody had a chance to review it? Any additions, corrections? Seeing none, do I have a motion? Anybody want to move to approve?

William Morris:

I will so move to approve.

Mark Riley:

I'll second.

Christine Genthner:

All in favor say aye.

Voices:

Aye.

6. NEW BUSINESS

Christine Genthner:

Next on the agenda is the public hearing.

William Morris:

Madam Chairman, I would ask to recuse myself since I am the agent for this particular item this evening.

Christine Genthner:

That would be fine. We still have a quorum don't we with the balance?

Peggy Herrick:

Yes, we need four.

A. PUBLIC HEARING AND CONSIDERATION OF A VARIANCE for the request of William Morris, RA, agent for the West Lakeshore Properties Trust, owners of the properties located at 9987 and 9993 Lakeshore Drive from Section 420-139 (b) (2) (d) of the Village Zoning Ordinance related to average shore setback to Ordinary High Water Mark

of Lake Michigan. Specifically, the petitioner proposes to combine the two (2) properties and attach the two homes into one single family home at the same 55 feet setback to the Ordinary High Water Mark (OHWM) of Lake Michigan wherein the Ordinance would require the addition be setback 75 feet from the OHWM of Lake Michigan.

- B. The subject properties are known as Lots 16 and 17 of Block 33 in Carol Beach Estates Unit # 4 located in a part of U.S. Public Land Survey Section 20, Township 1 North, Range 23 East in the Village of Pleasant Prairie and further identified as Tax Parcel Numbers 93-4-123-203-0050 and 93-4-123-203-0055.**

Christine Genthner:

Peggy, do we have to have a formal motion to open this to public hearing?

Peggy Herrick:

No.

Christine Genthner:

With that do we have findings of fact? Do you swear to tell the whole truth and nothing but the truth?

Peggy Herrick:

I do.

1. This is the request of William Morris, RA, agent for the West Lakeshore Properties Trust, owners of the properties located at 9987 and 9993 Lakeshore Drive. They are requesting a variance from Section 420-139 (b) (2) (d) of the Village Zoning Ordinance related to the average shore setback to the ordinary high water mark of Lake Michigan. Specifically, the petitioners are proposing to combine the two properties and attach the two homes into one single family home at the same 55 feet setback to the ordinary high water mark of Lake Michigan wherein the ordinance would require the house addition to be setback 75 feet from the ordinary high water mark of Lake Michigan. Exhibit 1 attached to your packet is the application materials submitted by the petitioner.

On the overhead you will see photographs taken yesterday of the site. The larger house in the upper left hand corner is the house at 9987 Lakeshore Drive. And the smaller house to the left and just to the south is 9993 Lakeshore Drive. The top picture to the left is the front elevation. The back elevation is the upper right. Lower left, again, is the front elevation coming from the other direction. And lower right is a rear elevation of the property.

2. The subject properties are known as Lots 16 and 17 of Block 33 in Carol Beach Estates Unit # 4 located in a part of U.S. Public Land Survey Section 20, Township 1 North, Range 23 East in the Village of Pleasant Prairie, and they're further identified as Tax

Parcel Numbers 93-4-123-203-0050 and 93-4-123-203-0055.

3. The properties are currently zoned R-5 (LUSA), Urban Single Family Residential District with a Limited Urban Service Area Overlay District. In addition, a portion of the properties adjacent to Lake Michigan and Barnes Creek South Outlet may be located within the FPO, Floodplain Overlay District. Pursuant to the Village Floodplain Maps, the 100-year floodplain of Barnes Creek South Outlet is 584.2 feet, and that's pursuant to the Carol Beach/Chiwaukee Prairie Plan. The 100-year floodplain associated with Lake Michigan is 584.6 feet, and that's pursuant to the current FEMA FIRM map. The Lake Michigan ordinary high water mark is 0.1 feet higher. The location of the 100-year floodplain is 0.1 feet higher than the location of the ordinary high water mark on said properties.
4. The Village received the attached email correspondence from Ms. Tanya Meyer, Water Management Engineer with the Wisconsin Department of Natural Resources related to the 100-year floodplain on the property. Exhibit 2 is that correspondence with the DNR. As indicated in the email, Ms. Meyer reviewed the Preliminary DFIRM map which are Preliminary Digital Flood Insurance Rate Maps as prepared by Federal Emergency Management Agency or FEMA for the properties. The preliminary maps, which is also shown on the slide on the overhead, show a vast majority of the properties in 100-year floodplain, and she requested additional information to be placed on this survey. She stated that it appears the floodplain boundary is that of Lake Michigan rather than the Barnes Creek South Outlet.
5. In 2004, the owner of the property located at 9993 Lakeshore Drive which is the southern house obtained a Letter of Map Amendment or a LOMA determination from FEMA for the house that indicated that the structure is not located within the 100-year floodplain and the lowest adjacent grade is 585.3 feet. This is in Exhibit 3. When the home on the northern lot was built in 2004 the plat of survey indicated that the lowest elevation is 585.0 feet which is at the southwest corner of the property with a top of foundation of the house at 587.5 feet; therefore the existing homes are not located within the 100-year floodplain.
6. This floodplain information was provided to Ms. Tanya Meyer with the DNR as indicated in the email correspondence, which again is Exhibit 2. She also indicated that she would agree with the 100-year floodplain information that was provided and that the properties are out of the 100-year floodplain based on the lowest adjacent grade. Ms. Meyer does recommend that it may be helpful if the surveyor could provide a few more elevations for the Village's files. She also noted that once the preliminary maps become effective by FEMA, if they have a mortgage, the mortgage holder may require the property owner to have flood insurance or obtain another LOMA from FEMA indicating that the structures are out of the floodplain. Because what will happen is this map will get adopted showing this illustration, and this illustration will show those homes in the floodplain. So based on the survey and the elevations of the 100-year floodplain there will be documentation they can provide that will show it's not in the 100-year floodplain. We just want to make them aware that this may come up. If it hasn't come up already, it may have come up already living at the property.

7. Pursuant to Section 420-139 (b) (2) (d) of the Village Zoning Ordinance, the required shore setback for a principal structure located within a single-family residential district may be decreased in any shoreland jurisdictional area to the average of the existing shore setback distance of the abutting principal structures on each side, but in no case shall the setback distance be reduced to less than 50 feet from the ordinary high water mark of any navigable waterway. If one of the abutting lots to be used in averaging the setback is vacant, then to calculate the average shore setback, the shore setback on the vacant lot shall be 75. This provision would not apply where special conditions exist on the land. Examples of this include, but are not limited to, areas which have been filled and may be unsuitable for construction or areas which contain special flood hazard potential. So that's what the current ordinance says for that section.
8. Pursuant to the Village records the shore protection was installed at 9987 Lakeshore Drive which is the north house in 2008 and in 2004 it was installed at the southern house at 9993 Lakeshore Drive.
9. The existing house at 9987 Lakeshore Drive, again this is the north house, was constructed in 2004, and the house is located 69.3 feet from the ordinary high water mark of Lake Michigan. At the time this house was built Section 420-139 (b) (2) (d) of the Village Zoning Ordinance related to average shore setback allowed this home including the deck to be located a minimum of 60 feet from the ordinary high water mark, and that's taking 75 feet, the vacant lot to the north, plus 55 feet setback was the house to the south of the ordinary high water mark. Therefore, the average is 65 feet, 65 feet was the average that was allowed the house to be built, not 60. Exhibit 4 is a copy of the plat of survey submitted at the time the house was constructed. It clearly indicated that they are greater than 65 feet from the ordinary high water mark for the house to the north.
10. The existing house at 9993 Lakeshore Drive, which is the southern house, was constructed in 1973. Based on the zoning permit issued by Kenosha County, the sketch attached to the application indicated the house would be over 75 feet from the water's edge and that is shown as Exhibit 5. Pursuant to the survey submitted with the application as shown in Exhibit 1 and the survey described in Exhibit 4, the house is currently located 55 feet from the ordinary high water mark of Lake Michigan. So that means that this property to the south has eroded away over the years because shore protection was not installed until 2004 on this property.
11. The petitioner is proposing to combine the two lots and construct an addition between the two structures so that one single family home will be located on the combined properties.
12. If the lots are combined, there would be no home on either side of this new property, which would required any new addition to meet the 75 foot shore setback to the ordinary high water mark of Lake Michigan.
13. The petitioner has indicated that it is not practical due to the current interior configuration of the existing home on the lot. The information provided on Exhibit 6 illustrates the location of the existing kitchen and utility type rooms in the southwest area of the house with an open area at the southeast corner of the house the more logical area to make this interior connection. You can see on the overhead the red line illustrates the existing

property line, and you can see it's noted the existing kitchen and the existing utility walls. This wall, this is the exterior wall right now of the house to the north, and this is the kitchen, the utility rooms, and this is where the proposed connection is to be. The lake is out over here. This is the front of the house.

14. The existing foundation of the house at 9993 Lakeshore Drive which is the southern house will likely be removed and new foundation will be constructed in a similar location to that foundation but not closer than 55 feet to the ordinary high water mark which is its current setback. So the house to the south, this dashed line is the foundation of the house to the south. So you can see the addition will not encroach any closer than what the existing foundation is, and it will match into the existing house which is right over here. There is a proposed addition to the front of the house, but there is no question with the setback to the front property line.
15. The application which is See Exhibit 1 states the following reasons why this variance if granted will not have a negative impact.
 - a. The properties have substantial reduction in the buildable area as a result of years of ongoing erosion and demonstrated on Exhibit A and within Exhibit 1. This occurrence is not the result of any action of a previous or current owner but in fact because of the lack of adequate shoreline erosion control over the years and as a result of that nature eroding the shoreline away. With the use of the current revetments and shore protection the situation can now be controlled with all the proper permits and approvals obtained. Through the use of shoreline stabilization the current setback as it exists with the existing homes would not be reduced any further, and thus there would be no visual change in character for the neighborhood. As noted above the shore protection on both properties were recently installed in 2004 and 2008.
 - b. The parcel is unique in the current shape as it protrudes out into the lake slightly. The parcels to the north and south recede inward and are not currently buildable. This demonstrates how within a very small area the effects of erosion by the lake can be detrimental to a particular parcel or make a parcel unique to its directly adjacent neighbors. Because of the unique geometry between the owner's current parcel and the previously permitted home, the continued connection would be very cumbersome and problematic.
 - c. The granting of this variance will not change the current setback as it exists with the existing home. No infringement would be effected on the public interests, but rather the proposed improvements would add visual beatification along with greater protection on the natural surrounding with ongoing maintenance.
16. All of the abutting and adjacent property owners within 100 feet of the properties were notified via regular U.S. Mail on May 6, 2011. And the Board of Appeals agenda was published in the *Kenosha News* on May 17, 2011. And that is provided in Exhibit 7.
17. Under the State of Wisconsin Supreme Court case law pertaining to granting of variances, a variance may be granted only if the applicant can show that the standards set

forth in the statutes and interpretive case law for granting variances will be met. The statutes provide that a variance may be allowed when it will not be contrary to the public interest; where owing to special conditions a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done.

With that, I will let you continue the public hearing.

Christine Genthner:

Thank you. Is there anybody who would like to come forward at this time? Mr. Morris, please state your name for the record and provide an address.

William Morris:

William A. Morris, 5313 87th Place, Pleasant Prairie, Wisconsin.

Christine Genthner:

Do you swear that you'll tell the truth, the whole truth and nothing but the truth?

William Morris:

I do.

Christine Genthner:

Please proceed.

William Morris:

Thank you very much Madam Chair and members of the Board. I'm here this evening certainly to answer any questions that you might have relative to our request before you, and would gladly answer anything that you might want to address?

Christine Genthner:

Are the applicants here? I know you're here as their representative, but are they also in person?

William Morris:

Yes, they are. Yes, they are here sitting beside me. Thank you very much.

Christine Genthner:

Is there anybody else who'd like to come forward at this time? Thank you, before we get started, sir, can we have your name? And, Peggy, you need an address, too, correct?

Peggy Herrick:

Correct.

Robert Frawley:

My name is Robert Frawley at 400 S. Rice Street, Unit #12, Whitewater, Wisconsin.

Christine Genthner:

Can you raise your hand? Do you swear to tell the truth, the whole truth and nothing but the truth?

Robert Frawley:

I do.

Christine Genthner:

Alright, this is still part of the public hearing. What would you like to tell us?

Robert Frawley:

We own the property just to the south of it, Lot Number 18. All this going back to '04 when they put the 55 foot, they let them build on the 55 foot line and it was supposed to be 75 foot back evidently, right?

Peggy Herrick:

No, that is not correct.

Robert Frawley:

That's what they're saying here is they made a mistake?

Peggy Herrick:

No, that is not correct. The house to the north of your lot was built in the '70s, and at that time the permit indicated that the lake was more than 75 feet away. When the property north of that was built in 2004, they were allowed to average between the house to the south and the vacant lot to allow them to build at a 65 foot setback to the ordinary high water mark. And their closest point is 69.3. So everything was built according to the regulations at that time.

Christine Genthner:

Sir, you can continue.

Robert Frawley:

So that means our property on Number 18 has to be 75 foot from the water mark?

Peggy Herrick:

No, because you could use the averaging as well. So if this house remains at 55 feet then we'd take 55 plus the vacant lot to the south of you which we use 75, add those two together and you would be able to have a 65 foot setback from the ordinary high water mark of Lake Michigan. That would be your setback from the ordinary high water mark.

Robert Frawley:

Okay, thank you.

Christine Genthner:

The public hearing is still open. Is there anybody else who would like to come up and provide any additional testimony? Seeing none, the public hearing still continues. Is there a staff recommendation?

Peggy Herrick:

Based on the findings of fact and the variance application filed, the Village staff finds that the application may meet the requirements for granting the requesting variance to build and combine the two properties and construct an addition to the house where the setback of the structure would be reduced to 55 feet from the ordinary high water mark of Lake Michigan wherein the ordinance would require the addition to be set back 75 feet now. If the Board finds the application and facts present warrant the granting of a variance requested, then the following conditions as outlined in the staff memorandum numbers 1 through 6 would be conditions of that approval.

Christine Genthner:

Thank you. Any questions of staff before I close the public hearing? Seeing none, at this time I guess I'll close the public hearing. Do I have any motions?

Mark Riley:

You're really demo-ing--you're buying both properties or you own one property or you're adding the other property?

William Morris:

We own both properties.

Mark Riley:

You already own both properties. And then you're going to tear down the one house and put an addition on the other house.

Christine Genthner:

Do we need to reopen the public hearing?

Peggy Herrick:

No, because we can have discussion before the motion. And the addition would be kept at the same sight line the existing house to the south is which is 55 feet. And as you can see from the overhead there the property to the south where the southern house is on the property dips down. That's why there's a 55 foot setback to there. The shore ordinary high water mark comes closer to that house than it does to the existing house on the northern lot. And that's a result of not having adequate shore protection over the years.

If we look back at this slide you can see, not very well, but there are yellow dash lines down here. This was the original shoreline out here back when this was platted. This line I believe according to the Kenosha County map is a 1975 estimated shoreline and this is where we are today. And as indicated in the staff memo, they have installed shore protection in the 2000's to stabilize that shore so we should not have any further erosion of these two properties into the future because it's pretty substantial shore protection work.

As you can kind of see from the overhead of this picture up here, this is the shore protection. I'm standing like right here on this corner. There's shore protection that comes around this corner right here. And from the top of this shore protection there's a drop maybe five feet from the top of the shore protection down to the sandy beach here. And this is all manicured lawn as you can see in here. Here is the existing house and the other house is directly in line with the back of this house. It just so happens that the shoreline curves in further than it does here so that's why this setback is currently at 55 feet.

Mark Riley:

I guess what I'm struggling with is kind off the chicken and the egg. If the shoreline had eroded away at any other property and they can't make the setbacks they can't build, right?

Peggy Herrick:

They would have to apply for a variance. So if a property—like these properties where the erosion has taken place and they get too thin they can't get their front or back variance.

Mark Riley:

Then those are likely unbuildable. So what happens first? First there was a house built there, there used to be 75 feet of setback but it's gone.

Peggy Herrick:

No, that's this house. When this house was built—

Mark Riley:

Right it has 75 feet.

Peggy Herrick:

—it had 75 feet and it's eroded away.

Mark Riley:

Right, but now we're going to tear the house down and there's no longer 75 feet so it's a vacant lot.

Peggy Herrick:

Correct, so that's why they're requesting to reduce to allow that averaging on this property. If they would keep the foundation of this house and just put an addition and keep that foundation and go forward, the connection would have to be way up in this front portion. And if we recall looking back at their floor plan the way the existing house is constructed.

Mark Riley:

I understand all that. How would we handle this if it was just a single lot and somebody was putting an addition on? Would we make them—

Peggy Herrick:

They would have to apply for a variance because any addition needs to meet whatever the current setback requirements are at the time they're doing the addition. And it just so happens when this house was built this was its own separate lot so they could use this into the averaging, this 55 plus this vacant one of 75. That's how this house was built at the 65. Now they are looking to enlarge this and make one larger home at the same setback (unintelligible).

Tom Glassman:

Peggy, do we know how many properties are going to face a similar situation?

Peggy Herrick:

No. Most people don't find these homes to make an addition (unintelligible). All up and down Lakeshore Drive there are areas where shore protection hasn't been installed and you have pieces like this. And there are some instances where the road is actually washed away further south. And if you go further north up to Unit W those lots have been protected for a long time and they're almost out at their original shore protection, the original platted lake levels because they

protected their shore a long time ago.

As we go further north and south, about three lots south of here I think you have a few more homes that are very close to the water's edge as well. The ordinance doesn't allow any averaging to go less than 50 and they will be at 55. We had no objections from the DNR stating that they are objecting to the reduction of the setback. They were concerned with the floodplain, and once I presented that information to them they had no other issues.

Mark Riley:

What would you do if somebody had—if there was no house on that lot? Just say you've got a whole different situation where you had a house and you had a lot next door and there was no house on it and their setback was 65 feet and they wanted to put an addition on? How would you handle that?

Peggy Herrick:

They would need to meet the current setback of 65 feet. Or, if they couldn't make it for some peculiar reason they could then come to the Board of Appeals and ask for a variance from that.

Mark Riley:

Doesn't this kind of fall under that situation being how you're going to take the entire house down?

Peggy Herrick:

Correct. That's why they are here requesting a variance to build right back at that same setback, similar setback than what's there existing now.

Jennie Holman:

I'm curious on something. This shore erosion protection that has been done it works? There's been no further erosion since 2004?

Peggy Herrick:

Can you come to the microphone?

—:

He (unintelligible) to both lots.

Christine Genthner:

Peggy, we should get his name and address. Do we need to reopen?

Peggy Herrick:

Why don't we reopen the public hearing because there's a lot of discussion that shouldn't have been held in here.

Christine Genthner:

We can have discussion on the motion, but when we have the audience come up and add additional information I think we need to reopen the public hearing. Can you state your name for the record and provide your address.

Zenon Nie:

My name is Zenon, Z-E-N-ON, last name is Nie, N-I-E. Primary residence right now is at 586 Spruce Avenue in Lake Forest, Illinois. And our intention is—

Christine Genthner:

Okay, before we get to your intention do you swear to tell the truth, the whole truth and nothing but the truth?

Zenon Nie:

I do.

Christine Genthner:

Okay, do you have some additional information that you want to provide in response to some of the questions we've had by the members.

Zenon Nie:

Yes, let me give you a little background. Our intention is to expand the house so that this is going to be our permanent residence once I retire in five years. That's why we're looking for this variance. Pete Kocourek is the one that did the lot to the south. And when we bought the lot to the north I believe Pete had done that, too, but we put in additional protection because we wanted to protect the lot to the north of us, too, so that there wouldn't be any further erosion. The lot to the south was at 75 feet, had the erosion to where it is now, but Pete Kocourek had built in the protection over there. Then we're at 65 feet or 69.3 feet actually to the house, and we put additional protection there and we protected it on the north side.

Now, somebody else owns the lot to the south and we can't do anything about that but that doesn't affect us. There is that old concrete circular sewer dump if you will that's protection to the lot to the south of us. Your comment about tearing down the house, our objective was to hold onto the foundation. If that's something we absolutely have to do we'll do it. But I've got to tell you that 1973 construction was not nearly as good as today's construction so we would have to reinforce that. If that's what we have to do we'll do it, but it's just an added unnecessary expense.

Jennie Holman:

I don't know if that answers my question. Has all this protection worked?

Zenon Nie:

Oh, yes.

Jennie Holman:

Since the time it was done has there been any other loss?

Zenon Nie:

No loss whatsoever.

Peggy Herrick:

When shore protection is installed they have to have it designed by an engineer, reviewed by the DNR's engineer, and these aren't just little rocks. These are big quartz boulders that are like three feet by three feet that are placed. And then once they are placed by Pete Kocourek who does the shoreline protection or most of the shoreline protection in Pleasant Prairie over the last 30 years, there are engineers that have to come back and re-certify that it was installed pursuant to his approved plans and the DNR permit. So very rarely, I don't recall any instance where we've seen any shore protection that was installed following those procedures fail.

Zenon Nie:

And we've owned the house three years. We've had some real bad storms and there has been no erosion whatsoever.

Christine Genthner:

Thank you.

Zenon Nie:

Sorry, I didn't realize I was answering your question incorrectly.

Christine Genthner:

Thank you. Anybody else in response to that who would like to come up and add something since we're allowing opportunity. How about your name and address first.

Louise Frawley:

Louise Frawley, 400 South Rice Street, Whitewater, Wisconsin.

Christine Genthner:

Okay, you swear to tell the truth, the whole truth and nothing but the truth?

Louise Frawley:

I do.

Christine Genthner:

Okay, what is it you'd like to let us know?

Louise Frawley:

This is supposed to be an addition to the house that's existing. And you keep saying in all the papers it says new home, new house. Why? Why doesn't it say that it's an addition?

Christine Genthner:

Peggy, would you like to address that?

Peggy Herrick:

It is an addition. The new house we're referring to is the house built in 2004. That's the brand new house that was built in 2004 the one I'm pointing to. The addition is to that new house south to incorporate the location where the existing home to the south of that was.

Louise Frawley:

It says proposed new house.

Peggy Herrick:

It's an addition.

Louise Frawley:

It doesn't say addition. It says proposed.

Peggy Herrick:

Proposed new house floor plan, correct, because when they're all done it will be a new house with one big floor plan. This right here is the existing floor plan of this house. This is the existing floor plan of this. This will be a brand new house with this existing remaining and this being the addition. So the existing home in 2004 that was built will remain.

Christine Genthner:

So there's no home being demolished?

Peggy Herrick:

The southern home.

Christine Genthner:

The southern home will be demolished?

Mark Riley:

It's going to be razed.

Peggy Herrick:

Razed and demolished. And the addition we put on to the house to the north.

Christine Genthner:

Would extend.

Peggy Herrick:

Correct. So it will have one new bigger home.

Louise Frawley:

I understand that. What bothers me is the fact that it's a proposed new house.

Peggy Herrick:

I guess it's semantics. When the house is built it will be a new house because it's an addition.

Louise Frawley:

Then it won't be a single family home?

Peggy Herrick:

Correct, it will be a single family home, one large single family.

Louise Frawley:

A single family home.

Peggy Herrick:

Correct. That's all that's allowed in this district. Two family homes are not allowed in this district. It will be one single family home. They will have to combine the lots so it will all be on one lot, and only one dwelling unit is allowed per property, one family. And when they combine these properties into one, because currently it's two properties, once they combine it into one they can no longer have two separate families living in the home. They'd have to either occupy one or the other until the addition is completed. They can't occupy each dwelling once they combine the properties into one property. So only one dwelling unit is allowed per property.

Christine Genthner:

So, Peggy, when you mentioned that the staff recommendation was to approve based upon the six conditions listed under staff recommendation, that's one of them. That the point that the property is combined into one parcel only of those dwellings can be occupied?

Peggy Herrick:

Correct, that's condition number 2. And I believe the southern home is not occupied at this time?

(Unintelligible)

Peggy Herrick:

And during the construction of this addition will you be living in this house?

(Unintelligible)

Peggy Herrick:

Recommend that you don't live in it.

(Unintelligible)

Peggy Herrick:

So during construction there won't be anybody living in either home likely?

Zenon Nie:

Right.

Peggy Herrick:

And when the whole addition is done built to the new home that was constructed in 2004 then you'll be moving into it at a single family home. So it will be a single family home, one home encompassing those two lots.

Christine Genthner:

Okay, and even if it gets sold down the road it has to remain a single family house.

Peggy Herrick:

It has to remain a single family home.

Christine Genthner:

They don't have to worry that if somebody–

Peggy Herrick:

Correct. It cannot be a two family home. That is not allowed in this zoning district.

Christine Genthner:

Okay, anybody else who would like to come forward at this time and express an opinion or observation? Okay, I'm going to close it once again. At this particular time then we've closed the hearing. Is there anybody who would like to make a motion or have additional questions for staff?

Mark Riley:

I'll make a motion. I'm going to say something and then make the motion. I guess I'm going to make a motion that we approve. But I still struggle with in the past—the reason I struggle with this one is because in the past we made people notch additions and notch homes to meet these. I don't know, for whatever reason we're not doing it here. As a contractor I agree you don't want to leave that foundation in. You would more meet the ordinances and the spirit of things, but as a contractor it's dumb to put a new structure on an old foundation. If it were mine I'd tear that foundation out. If I were your contractor I'd recommend you tear it out, too. I guess you could get around it by doing that. Therefore, I'm going to make the motion that we approve it and let them tear the foundation out and have the setback. And we'll do it per staff recommendations.

Christine Genthner:

All six?

Mark Riley:

All six.

Christine Genthner:

I have a motion. Do I have anybody to second it?

Tom Glassman:

I'll second it.

Christine Genthner:

I have a motion and a second. Is there any discussion on the motion before we take a vote? Seeing none, do we need a roll call vote?

Peggy Herrick:

Yes, please.

Christine Genthner:

In light of the findings of fact and the recommendations I support the motion to approve subject to the six conditions set forth in the staff recommendation.

Mark Riley:

Approve.

Jennie Holman:

Approve.

Tom Glassman:

Approve.

Christine Genthner:

Anything else?

Peggy Herrick:

I have nothing else.

7. ADJOURNMENT.

Jennie Holman:

I'll make the motion to adjourn.

Tom Glassman:

I'll second it.

Christine Genthner:

All in favor say aye.

Voices:

Aye.