



**CRYSTAL LAKE PLANNING AND ZONING COMMISSION
WEDNESDAY, OCTOBER 21, 2009
HELD AT THE CRYSTAL LAKE CITY COUNCIL CHAMBERS**

The meeting was called to order by Vice Chair Greenman at 7:30 p.m. On roll call, members Goss, Jouron, McDonough, Skluzacek, and Greenman were present. Members Batastini, Esposito, and Hayden were absent.

Elizabeth Maxwell, Planner, and Rick Paulson, Building Commissioner, were present from Staff.

Mr. Greenman stated that this meeting is being televised now as well as being recorded for future playback on the City's cable station.

APPROVE MINUTES OF THE OCTOBER 7, 2009 PLANNING AND ZONING COMMISSION MEETING

Mr. Skluzacek moved to approve the minutes from the October 7, 2009 Planning and Zoning Commission meeting as presented. Mr. Jouron seconded the motion. On roll call, all members present voted aye. Motion passed.

2009-54 FLECK - 805 Wedgewood – PUBLIC HEARING

This petition was continued from the October 7, 2009 PZC meeting.
Variation for a patio with seating wall.

Mr. Greenman stated that the fees have been paid, and the sign has been posted. He said the surrounding property owners have been notified and the Certificate of Publication is in the file. Mr. Greenman waived the reading of the legal notice without objection.

Robert Fleck was present to represent the petition. Mr. Fleck said he is requesting approval for a patio that was built over the property line. He has talked with the utility companies and received letters from them to allow the patio to stay in the easement. Mr. Fleck said he has also spoken with the neighbor and they are ok with the patio being there.

Mr. Greenman asked if the petitioner received the staff report and if they had any concerns with the recommended conditions. Mr. Fleck said he had received the report and was confused about moving the patio 2 feet from the property line. Ms. Maxwell said staff is requesting the patio be a minimum of 2 feet from the property line in case the neighbor puts up a fence or a shed there will be room to maintain the area between them. Mr. Fleck said the neighbor has a row of trees there. He has spoken with the neighbor and the chance of putting a structure there is slim.

Mr. McDonough asked if the trees were in the easement. Ms. Maxwell said the trees may be in the easement. She did not check them. Ms. Maxwell stated the easement is maintained by the Homeowner's Association for drainage and there could eventually be a pipe in the easement.

Mr. Greenman said staff suggested the patio be moved to 2 feet from the property line. Mr. Fleck said

the neighbor has trees on the property line. Mr. Greenman asked if there were any other questions regarding the recommended conditions. Mr. Fleck said no.

There was no one in the public who wished to speak on this petition. The public hearing was closed at this time.

Mr. McDonough asked if the seating wall had a foundation. Mr. Fleck said no and that is why he didn't get a permit. He said when he put in the original patio 8 years ago he did not need a permit and he understands that now you do. He said he didn't recheck with the City.

Mr. McDonough said the condition #2 states the variation is one thing and condition #5 states to move the patio 2 feet from the property line. Ms. Maxwell said that is an error and it should be 2 feet from the property line. Mr. McDonough asked if the petitioner wants the patio up to the property line. Mr. Fleck said yes.

Mr. McDonough said people don't know how much he hates to see variation requests like this. The homeowner needs to do their homework before something is built. He said this patio is beautiful and doesn't want to have to change it. Mr. Fleck said he doesn't want to be at this meeting either but his neighbor brought it to the City's attention. Mr. McDonough said 2 feet is a big impact on the patio – it's not just a few inches. Mr. Fleck said he would prefer to keep the curve. Ms. Maxwell said staff doesn't want this patio to cause a problem for the neighbor. This space also allows the owners to maintain the area. Mr. McDonough asked who mows the grass now. Mr. Fleck said they each take care of their side of the property line.

Mr. Goss said he struggles with this being on the lot line and the work being done without a permit. Mr. Fleck said he has already paid the fine for not getting a permit. He understands he was wrong.

Mr. Skluzacek said the report states the utility companies don't have an objection. Ms. Maxwell said they received a letter from the HOA and staff is not sure what they mean by removing the easement. She has not spoken with the association, but the City won't re-record the easement or remove the restrictions. Mr. Fleck said he received a letter from the HOA and they will approve the patio only after the City approves it.

Mr. Skluzacek asked if the petitioner was on the review body for the association at one time. Mr. Fleck said he was. Mr. Skluzacek thought the petitioner should know what was needed to be done and where his lot line was. He said he likes the patio but can't vote for something that goes up to the property line. Mr. Fleck asked what Mr. Skluzacek's vote was based on. Mr. Skluzacek said they originally needed to be back 16 feet from the property line per the ordinance. Mr. Fleck asked about the neighbor's trees. Mr. Skluzacek said those trees are not structures and can be removed at any time. Mr. Fleck said the patio was built in several stages. Ms. Maxwell said staff understands it was built at different times but they consider it being attached to the structure. Any accessory structure must meet the required setbacks.

Mr. Jouron asked if a contractor built the patio. Mr. Fleck said it was a contractor who is a friend of a friend. Mr. Jouron asked who determined the property line. Mr. Fleck said he gave the contractor the

wrong information. Mr. Jouron asked if 2 feet from the property line is enough room. Ms. Maxwell said if the patio is still in the easement any utility company that needs to get in the easements will be allowed to rip it out. Mr. Jouron asked about the fire pit that needs to be 25 feet from a structure. Mr. Paulson said it is a Building and Fire Department requirement. Staff is asking that the fire pit be removed so it won't be used. Mr. Jouron said the trees are closer than 25 feet. Mr. Paulson said it must be 25 feet from a structure.

Mr. Greenman said the Commissioners are struggling with this request. They are only a recommending body to the City Council. He recommends the petitioner move on to the Council since they have the final say in the matter. Mr. Greenman said he has been on the PZC for some time and as a fellow resident he understands where they are coming from. He said they need to look at the ordinances and to be sure the requests are in harmony and intent of the ordinance. Mr. Greenman said they are not here to point any fingers. This is not a good planning decision to allow this patio within 2 feet of the property line. He said even if the petitioner had come before them prior to the construction for a variation he would not have been in favor of it.

Mr. Fleck said what needs to be done can't be done this year. Mr. Greenman said the petitioner can work with staff. Mr. Fleck asked if this has ever been allowed. Mr. Greenman suggested he check with staff but could not recall a time when something was allowed on the property line. Mr. McDonough recalls recently a shed that was too close to the property line and the property owner had to move it 3 feet back. Mr. Paulson suggested the petitioner contact the neighbor to work out when the patio work can be completed by.

Mr. Greenman said if a new owner moves in next door, they can remove the tree line and do what they want with the property. There is not a lot of room and no leeway for a future owner. Mr. McDonough said the biggest issue is setting precedent.

Mr. Goss said there needs to be a hardship to grant a variation and the owner creating the hardship is not a hardship. Mr. Fleck said he wants to enhance his property values and the neighborhood.

Mr. Greenman suggested the petitioner bring a rendering to Council showing what would change in the patio if it were moved 2 feet from the property line.

Mr. Paulson said if there is a metal fire pit in place, it needs to be 15 feet from the house.

Mr. McDonough moved to approve the Variation (Article 4 Section 4-600 Accessory Structures and Uses) to allow a patio with seating wall area to be within 2 feet from a property line, within a recorded utility easement and within a recorded restricted public utility easement at 805 Wedgewood Drive with the following conditions:

1. Approved plan, to reflect staff and advisory board comments, as approved by the City Council:
 - A. Application (Fleck, received 9/14/09)
 - B. Wedgewood Association approval letter (Norman Wentland, dated 8/31/09, received 9/14/09)
 - C. Site Plan (Fleck, received 9/14/09)

2. The simplified residential variation is hereby granted to allow a variation from
 - A. Section 4-600 E 2 a. to allow an accessory structure closer than the minimum 16 feet from the property line and within a recorded utility easement and a recorded drainage easement to allow the patio to be at **2 feet from** the property line.
3. The patio shall be relocated off of the neighbor's property within ~~3~~ **8** months of the date of this approval. The neighbor's property shall be restored to its original state.
4. ~~The flower garden area shall be planted with appropriate flowers and plants prior to final inspection approval. This area shall not be used as a fire pit as it does not meet life safety requirements.~~ **The fire pit shall be removed.**
5. The relocated seating wall area must be at least 2 feet from the property line and 6 feet from the house.
6. The petitioner shall comply with all of the requirements of the Engineering and Building and Planning and Economic Development Departments.

Mr. Jouron seconded the motion. On roll call, members Jouron and McDonough voted aye. Members Goss, Skluzacek, and Greenman voted no. Motion did not pass with the vote of 2-3.

Mr. Goss said the variation is too large and the hardship has not been proven. Mr. Skluzacek agreed. Mr. McDonough also agreed but felt bad for the petitioner.

2009-56 REECE – 996 Ridgewood Ln. – PUBLIC HEARING

Variation and a Special Use Permit for a deck.

Mr. Greenman stated that the fees have been paid, and the sign has been posted. He said the surrounding property owners have been notified and the Certificate of Publication is in the file. Mr. Greenman waived the reading of the legal notice without objection.

Richard Reece was present to represent his petition. Mr. Reece thanked staff for their help. He said the report stated that the deck was completed. He understood that they had started the deck, the City stopped the work but was told he could continue working on the deck. He didn't realize he had encroached into the setback and is requesting a variation.

Mr. Greenman asked if the petitioner received the report and if there are any questions regarding the recommended conditions. Mr. Reece said the deck hasn't been completed. He also doesn't understand the doubling of the permit fee. Mr. Paulson said he has no knowledge of the inspector giving the ok to continue working on the deck. It hasn't been done in the past and won't be done in the future. He also stated that no deck was shown on the original permit for the pool and the doubling of the fee is per ordinance. Ms. Maxwell said the information that was given to Mr. Reece was that the deck could be removed without adjudication or the need for the variation, but if the petitioner wanted to keep the deck

he would go to adjudication and request the variation and Special Use Permit. Mr. Reece said he was told by the inspector to stop but that he would not be back.

There was no one in the public who wished to speak on this petition. The public hearing was closed at this time.

Mr. Skluzacek said he is ok with the distance from the deck to the property line and he is also ok with the Special Use Permit request.

Mr. Jouron said it doesn't matter who is at fault here but this is aggravating. Mr. Reece said this has been an educational experience. Mr. Jouron said he is also concerned with the watershed too with the amount of impervious surface area created.

Mr. McDonough said he is troubled by this request. This project requires concrete to have been poured which would mean a permit would be required. Mr. Reece said the kids are getting older and it's a safe place for them to be. He understands that they should have contacted the City about a permit.

Mr. Goss asked if the original permit in 2005 was a previous owner's or the petitioner's. Mr. Reece said he has lived there for some time and it was his permit. Mr. Goss asked about the deck. Mr. Reece said there was a deck on the original permit when the pool was put in and they are adding to that deck. He said everyone has said it is a nice deck.

Mr. McDonough asked how the Building Division would inspect the deck now. Mr. Paulson explained how the inspections would be handled.

Mr. Greenman said this is a tough call for the Commission. He is not certain the variation would have been granted if the petitioner came before them prior to starting the work. It is a struggle to say it is ok.

Mr. Paulson said if the variation is approved, the Building Division will need to have plans submitted for the deck from 2005.

Mr. Skluzacek moved to approve the Variation (Article 3 Section 3-200 A) to allow an encroachment of a deck beyond the 4-foot exception to be an additional 5 feet into the required rear yard setback (11 feet from the property line); and Special Use Permit to allow an accessory structure over 600 square feet at 996 Ridgewood Lane with the following conditions:

1. Approved plan, to reflect staff and advisory board comments, as approved by the City Council:
 - A. Application (Reece, received 10/02/09)
 - B. Request letter and site photos (Reece, dated 10/02/09, received 10/02/09)
 - C. Site Plan (Reece, received 10/02/09)
 - D. Plat of Survey (Ronald Leipnitz, dated 07/10/97, received 10/02/09)
2. The following is hereby granted:

- A. A simplified residential variation to allow the deck to be within 11 feet of the rear property line, an encroachment of 5-feet, and
- B. A special use permit to allow an accessory structure over 600 square feet.

3. The rear deck was completed without the required building permit. A building permit and inspection will be required at double the original permit fee.

4. Any new accessory structure attached to or designed to provide access to the deck or an expansion to the deck shall be required to amend the Special Use Permit.

5. This violation is referred to the adjudication process for additional fines.

6. The petitioner shall comply with all of the requirements of the Engineering and Building and Planning and Economic Development Departments.

7. Plans for the 2005 deck extension shall be provided to the Building Division.

Mr. Jouron seconded the motion. On roll call, members Jouron, McDonough, and Skluzacek voted aye. Members Goss and Greenman voted no. Motion passed 3-2.

Mr. Reece asked who maintains the drain tiles in that area. Mr. Paulson said it is not on the plat of survey and suggested the petitioner contact the Engineering Division who will then research it.

REPORT FROM PLANNING

- 2007-87 Main Street Crossing – NW Congress Pkwy and Main St – Annex, Zone, Prelim Plat
- 2009-39 Crystal Creek – NW Miller & Randall – Prelim PUD, SUP, Rezone, Comp Amend
- 2009-52 Oleson – 1325 Teakwood – Variation

Ms. Maxwell said the joint workshop with Council has been set for Tuesday, November 10. If there are any topics the Commissioners would like to discuss please let her or Ms. Rentzsch, Director of Planning and Economic Development, know.

COMMENTS FROM THE COMMISSION

There were no comments from the Commissioners.

The meeting was adjourned at 8:35 p.m.