

PLANNING COMMISSION MEETING MINUTES

CITY OF GRANT

December 19, 2017

Present: John Rog, James Drost, Jerry Helander, Jeff Schafer, Jeff Geifer and Robert Tufty

Absent: Matt Fritze

Staff Present: City Planner, Jennifer Swanson; City Clerk, Kim Points

1. CALL TO ORDER

The meeting was called to order at 6:30 p.m.

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF AGENDA

MOTION by Commissioner Schafer to approve the agenda, as presented. Commissioner Tufty seconded the motion. MOTION carried unanimously.

4. APPROVAL OF MINUTES, October 17, 2017

MOTION by Commissioner Tufty to approve the September 19, 2017 Minutes, as presented. Commissioner Helander seconded the motion. MOTION carried unanimously with Commissioner Helander abstaining.

5. NEW BUSINESS

A. PUBLIC HEARING, Consideration of Variance Application, Wetland Setbacks for Septic System, 8635 Kimbro Avenue N – City Planner Swanson advised the Applicant and Owner (“Applicant”), Ronald Gillaspay, has requested a variance from wetland setbacks for installation of a new mound septic system on the property located at 8635 Kimbro Lane North. The existing septic system which serves the property has failed, and therefore the system must be replaced to safely serve the home. The Applicant has been working with a septic designer that identified the only suitable location on the lot given lot dimensions and presence of wetlands. The septic designer informed the Applicant that a variance from wetland setback would be needed from the City and that such application should be made as soon as possible given the failing system and season (winter).

A duly noticed public hearing has been published in the newspaper for December 19, 2017 at 6:30 PM, and individual property owners within ¼-mile were sent a letter informing them of the public hearing.

Project Summary:

Applicant & Owner: Ronald T. Gillaspay	Site Size: 1.25 Acres, and vacant lot – 1.79 Acres (3.04 Acres Total) Location: 8635 Kimbro Lane North (also own, and part of application, 2303021130008) Existing Home: Constructed in 1963 Zoning & Land Use: R-1
Request: Variance from wetland setbacks and grading buffer to install a replacement subsurface sewage treatment system (ISTS) at the existing home	

As referenced above, the Applicants have requested the following variance:

- Request for variance from wetland setback requirements to allow for installation of a replacement septic system on the subject property.

The Applicants have stated that the existing sewage treatment system that served the home is failing (failed) and must be replaced which is supported by the Septic Designer’s memo contained within the Applicant’s submittal. According to the Applicant’s narrative the only location on site that the septic designer could find that would adequately support a replacement system is the proposed location which encroaches into both the sewage treatment setback from a wetland and the no-build wetland buffer.

City Planer Swanson advised City Code Sections 32-59 and 32-60 establish the criteria to review and approve variance requests. The variance application process requires the Applicants to prepare a statement of reasons why the request is made describing the hardship (or practical difficulty) describing how, “the proposed use of the property and associated structures in question cannot be established under the conditions allowed by this chapter or its amendments and no other reasonable alternate use exists; however, the plight of the landowner must be due to physical conditions unique to the land, structure or building involved and are not applicable to other lands, structures or buildings in the same zoning district....Economic considerations alone shall not constitute a hardship.” The Applicant’s statement can be found in Attachment A.

The subject property is located in the Glen Oak Terrace subdivision which was platted in the early 1960s. All of the lots within the subdivision range in size between approximately 1.0 and 3.0 acres, and are all oriented around a loop road (Kimbro Lane). The subject parcel(s) are oriented to the northeast of the northerly curve of Kimbro Lane with primary frontage along the southerly boundary of the subject parcel(s). Per GIS records, the existing homestead is setback approximately 70’ from Kimbro Lane, and 17.5’ from the northerly property line. The lot

containing the home is heavily vegetated and includes wetland and ponding areas south of the existing home and northeast of the home according to GIS records. The vacant lot north of the subject lot is currently vacant with no structures. The lot includes a large wetland complex covering the entire southeastern corner of the property and is heavily vegetated along the western edge of the property.

City Planner Swanson noted the wetland setbacks are established in Chapter 12 of the City's Code, which breaks down the applicable standards for wetland by type, unclassified and classified water bodies. The following description of the variance and standard is identified in the following table (See Attachment B for Certificate of Survey):

Standard	Required	Proposed	Variance	Description
Wetland	75'	50' +/-	25' +/-	There is a large wetland and ponding area that is on both the subject lot and the adjacent vacant parcel where the proposed new septic system will be located. Given the extents of the wetland and ponding area, the only available location for a new septic system will encroach in the required wetland setback.
Wetland Buffer	50'	45'+/-	5-10' +/-	The no-grade/no-touch buffer is measured from the wetland edge. While the proposed system will be setback the full 50' from the estimated wetland edge, staff believes that the slope of the mound may encroach into the buffer, and some encroachment may also occur during construction. Staff provided an estimate of anticipated encroachment assuming normal construction activities.

The Applicants' lot was created in the 1960s and the existing home was constructed in 1963. At the time, the lot and home complied with the adopted lot standards. Since the 1970s lot size and area standards have changed and as a result the lot is now considered a legal non-conforming lot with respect to size, area and dimensions. Given that the existing lot area and dimensions are significantly smaller than those that regulate lots today, it would be impossible to site a replacement septic system on the property and meet all the current setback requirements even when considering the lot in conjunction with the adjacent parcel (Parcels considered collectively are 3.04 Acres). The lot is naturally constrained not only by natural features on the property (wetlands and hydric soils) but also by the non-conforming nature of the lot area and dimensions. Staff believes the proposed location of the replacement system is reasonable and is properly located based upon topography and other natural site limiting factors, and that the variance requested has been minimized to the extent possible. Additionally, the Applicant must remedy

the situation to comply with new standards for septic systems as identified by Washington County.

The Applicant did not provide correspondence from Washington County's Environmental Services staff; however, the Applicant's septic designer did identify why the proposed location is the only available area on the site to construct the new system. Staff will contact Washington County for their review/comment prior to the Planning Commission meeting, and if available will provide a verbal update to the planning commission at the meeting.

The Applicant has provided a copy of the soil borings and testing completed for design and installation of the new system. A copy of this information is available at the City Offices for review and consideration. The Applicant will submit this information to Washington County for review and approval since they are the permitting authority for the City for new septic systems.

The site is located in the Browns Creek Watershed District, and the Applicant indicated in their narrative that they have contacted them for their comment and review. It is the Applicant's responsibility to obtain any required BCWD permits prior to construction and installation of the new system. As referenced previously, the Applicants must obtain a permit from the Washington County Department of Public Health and Environment prior to installation of the system, as they are the permitting authority for new and replacement septic systems in the City.

City Planner Swanson reviewed the following draft findings related to the hardship (practical difficulty) are provided for your review and consideration:

- The Applicants must replace the failing system to comply the standards of the Washington County Department of Public Health and Environment, and for the safety of their home.
- Replacement of the failing system is a health, safety, and welfare issue and must be completed to the satisfaction of Washington County to protect the current, and any future, home owners as well as any adjacent properties which could be affected if the failing system were to remain.
- The subject property is considered a legal non-conforming lot with respect to size, area and dimensions which constrains the buildable area on the site and limits the available locations to site a replacement septic system.
- A significant portion of the subject property contains a wetland which severely limits the available area to site the replacement system.

Draft Conditions:

- The Applicants shall be required to obtain the proper permits from the Washington County Department of Public Health and Environment prior to installation of the replacement system.
- For purposes of this variance and for any considerations of the lot moving forward, both PIDs must be considered collectively, and the variance must be recorded against both properties. The lots may not be sold independently of each other given that the septic system serving the lot will now be located on the adjacent parcel.
- The replacement system must be placed outside of all wetland/ponding areas on the site.
- The Applicants shall be required to obtain any necessary permits and/or approvals from the Valley Branch Watershed District prior to installation. A copy of any correspondence or permits shall be provided to the city prior to installation of the new system.

Staff is seeking a recommendation from the Planning Commission regarding the application. Staff recommends approval of the variance, and if the Planning Commission agrees, staff would request the Planning Commission make a recommendation to the City Council to approve the variance from wetland setbacks with draft conditions and findings as presented by staff.

MOTION by Commissioner Schafer to open the public hearing at 6:42 p.m. Commissioner Geifer seconded the motion. MOTION carried unanimously.

MOTION by Commissioner Tufty to close the public hearing at 6:43 p.m. Commissioner Geifer seconded the motion. MOTION carried unanimously.

Mr. Gillaspay, applicant, advised the Commission that the drain field will have slope that goes away from the pond which per the County, is a far superior situation than the current on.

MOTION by Commissioner Geifer to recommend approval of the application for variance, as presented. Commissioner Tufty seconded the motion. MOTION carried unanimously.

This item will appear on the January 2, 2018 City Council Meeting agenda.

B. PUBLIC HEARING, Consideration of Revision to Frontage Requirements and Corrections to the Zoning Ordinance Regarding Lots of Record – City Planner

Swanson advised at the regular Planning Commission meeting in October, the Commission considered an application for a variance from the lot frontage requirements as stated within Chapter 32, Section 32-246. The Applicant's request fell under the provisions related to Existing Lots of Record contained within subsection (b). After consideration by the Planning Commission and a duly noticed public hearing, the Commission was deadlocked and did not reach consensus on the issue but passed along comments and considerations to the City Council to assist with their decision making.

In November, the City Council considered the application and determined that the Codified language contained within subsection (b) was not clear, and should have included a frontage exception for existing lots of record provided that other dimensional requirements stated within the ordinance could be met. Given that the codified language is not clear, the City Council directed City Staff to revise the language and bring it to the Planning Commission so that a public hearing could be held to consider the revisions. Staff understood the City Council's direction to include revisions to Section 32-246 (b) of the following:

- **Frontage** – The City Council generally agreed that the intent of subsection (b) was to include an exception for lot frontage provided that the existing lot of record in question could meet the other lot dimensional requirements of section 32-246 (i.e. is a minimum of 2.5 acres, has adequate area for a septic system, setbacks, etc.) Since the codified language is silent on frontage, the City Council directed staff to draft an amendment to the code language to include an exception for frontage.
- **Clean up references to subsections** – The codified language has errors in subsection b(2) and did not correctly codify the ordinance; this should be corrected.

Commissioner Rog asked why the ordinance revision would relate to 2.5 acres as the minimum and not the current 5 acre minimum. City Planner Swanson stated the City cannot take away entitlements from lots of record.

Commissioner Schafer suggested the revised ordinance include a statement regarding depth in addition to the other criteria.

MOTION by Commissioner Geifer to open the public hearing at 7:14 p.m. Commissioner Schafer seconded the motion. MOTION carried unanimously.

MOTION by Commissioner Tufty to close the public hearing at 7:15 p.m. Commissioner Drost seconded the motion. MOTION carried unanimously.

MOTION by Commissioner Schafer to recommend approval Ordinance Revision to Frontage Requirements, as amended. Commissioner Tufty seconded the motion. MOTION carried unanimously.

This item will appear on the January 2, 2018 City Council meeting agenda.

6. **OLD BUSINESS**

There was no old business.

7. ADJOURNMENT

MOTION by Commissioner Geifer to adjourn the meeting at 7:19 p.m. Commissioner Shafer seconded the motion. MOTION carried unanimously.

Respectfully submitted,

Kim Points
City Clerk

APPROVED