

**BELLE PLAINE PLANNING & ZONING COMMISSION  
REGULAR SESSION  
JULY 13, 2009**

**1. CALL TO ORDER. 1.1. Roll Call.**

The Planning and Zoning Commission met in Regular Session on Monday, July 13, 2009 in the Government Center at 218 North Meridian Street, Belle Plaine, MN. Chair Henry Pressley called the meeting to order at 7:00 p.m. with Commissioners Bob Chaussee, Scott Schneider, Daniel Tix and Chris Potter present. Also present were Community Development Director Trisha Rosenfeld and Council Liaison Gary Trost.

**2. APPROVAL OF AGENDA.**

MOTION by Commissioner Tix, second by Commissioner Chaussee, to approve the agenda as presented. ALL VOTED AYE. MOTION CARRIED.

**3. APPROVAL OF MINUTES. 3.1. Regular Session Minutes of June 8, 2009.**

MOTION by Commissioner Chaussee, second by Commissioner Potter, to approve the Regular Session Minutes of June 8, 2009 as presented. ALL VOTED AYE. MOTION CARRIED.

**4. PUBLIC HEARINGS.**

**4.1. Variance Request. The Planning and Zoning Commission will accept public comment on a request by Dr. Roger Hallgren, 109 Robert Circle, Belle Plaine, MN for a variance from Section 1109.06 of the Zoning Ordinance to allow a zero-foot setback from the bluff line and also a front yard variance from Section 1105.05 to allow the construction of a detached garage at 109 Robert Circle in the R-1 District.**

Chair Pressley referenced a memo dated July 13, 2009 from Community Development Director Rosenfeld regarding a variance request by Dr. Roger Hallgren, 109 Robert Circle.

Community Development Director Rosenfeld explained that property owner, Roger Hallgren, is requesting the review a variance to encroach into the front yard and bluff line setbacks for the construction of a detached garage at 109 Robert Circle. The zoning classification for this property is R-1 Single Family (Low Density) Residential District. The property owner has joined lots 13, 14 and 15 of Oakwood Subdivision, Block 1. The home was built on both lots 14 and 15, and the proposed detached garage would be located on lots 13 and 14. There are no required setbacks or building restrictions over property lines between lots 13, 14 and 15, as they have been joined and filed with the County. They are now treated as one lot. Currently the driveway leading up to the location of the proposed detached garage is improved with concrete. There is mostly grass cover over the location of the proposed garage with approximately 20 percent slope from the north to the south end of the proposed garage. To the immediate east there is bluff land with sparse evergreen tree cover and sporadic natural vegetation. The slope immediately to the east of the proposed garage has an approximate slope of 70 percent.

The property owner is requesting the variance to encroach into the front yard setback by approximately 25 feet, and the bluff setback by 30 feet. The reason for this request is presented by the layout of the lot, alignment with the principle structure, and proximity to the bluff. Enclosed you will find the layout of the property and aerials providing contours of the bluff. You will notice the lot is irregularly shaped and fronting a cul-de-sac. The principle structure is setback approximately 100' from the front property line. The proposed garage would be located approximately 75' from the front property line. The Bluff Preservation Ordinance, Section 1109.06, states the setback from top or toe of bluff to any structure in any district shall be no less than thirty (30) feet. The top of the bluff definition reads: *The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope. If no break in slope is apparent, the top of the bluff shall be determined as the highest end of a fifty (50) foot segment that*

*exceeds twenty (20) percent slope.* The top of the bluff for this property is immediately abutting the northeast corner of the proposed garage. The property owners have indicated erosion control will be maintained with vegetation and trees. The property owner has indicated he will not be using fill to provide a level grade where a slope currently exists at the location of the proposed garage. The building plans indicate the south side of the garage floor elevation will be met by constructing a block wall. A grading plan will need to be submitted indicating how runoff from the proposed structure will be addressed in order to prevent erosion from the bluff.

Staff received comments for City Engineer Duncan and Jason Swenson, Scott County Natural Resources Engineer regarding the encroachment into the bluff setback. Both had similar comments, but somewhat different for a proposed location. City Engineer Duncan indicated the bluff line is subjective. If the property owner was willing to extend the existing driveway to the south and move the detached garage further to the east, the need for bluff setback variance could be eliminated. However, this may increase the front setback issue. County Engineer Swenson has indicated that if the garage were to be shifted to the south, or closer to the street, this would increase the setback to the street, but reduce the setback to the bluff from 0 feet to at least 15 feet. Swenson, along with the Scott County WMO, has requested the City consider approving the variance request only if the proposed location of the structure is modified to provide a minimum of 15 feet of setback from the bluff face. They have also requested the City require a plan indicating how runoff from the proposed structure be handled so as to prevent it from running down the face of the bluff.

City staff recognizes the hardship placed upon this lot due to two competing city regulations – setback from the street and setback from the bluff. The hardship was not of the applicant's creation, as the bluff setback did not exist at the time the lots were platted, and the home and driveways were built. Staff recommends approval a 30-foot (actual footage will be determined by staff) variance from Section 1105.05 to allow the construction of a detached garage to encroach the front yard setback at 109 Robert Circle, contingent upon the following conditions: 1) The property owner is to construct the proposed detached garage, meeting bluff setback requirements, in a location indicated by Engineer Duncan's comments and illustration dated July 8, 2009 and 2) A grading plan is submitted indicating how runoff from the proposed structure will be addressed in order to prevent erosion from the bluff.

Chair Pressley opened the public hearing at 7:13 p.m. and asked for public comment.

Dr. Roger Hallgren, applicant, 109 Robert Circle, asked for approval of the variance to allow the proposed garage to encroach the bluff line. He said that he has owned the ravine for 37 years and wants to preserve the bluff. He said that storm water does not cause erosion to the bluff as the water runs south, towards the street rather than towards the bluff. The elevation of the lot serves as a natural rain garden. He also noted that the location of the proposed garage would be hidden within the trees, preventing any type of unsightliness to the neighborhood.

John Hallgren, son of applicant and speaking on the applicant's behalf, also asked for approval of the bluff line variance. He said that a location closer to the street would cause the removal of existing trees. He also said that there is a natural rain garden to mitigate storm water runoff. John Hallgren asked for consideration of Scott County WMO Jason Swenson's recommendation of allowing a 15-foot bluff line variance.

MOTION by Commissioner Chaussee, second by Commissioner Potter, to close the public hearing at 7:17 p.m. ALL VOTED AYE. MOTION CARRIED.

Community Development Director Rosenfeld stated that staff could mark the 30-foot setback and locate the proposed garage quadrants, if so desired by the Planning Commission. Commissioner Chaussee inquired about Scott County WMO Swenson's comments to allow a 15-foot bluff line setback. John Hallgren responded that he would prefer the 30-foot variance to allow a zero setback, but is amenable to the 15-foot setback.

Commissioner Tix noted that City Engineer Duncan was opposed to allowing the garage to be placed in the bluff line setback. John Hallgren commented that he preferred the garage to be placed at bluff line rather than closer to the street. If the garage is placed closer to the street, the site would be disturbed because it would require additional fill to be brought in and would add to the amount of impervious surface caused by the extension of the driveway.

Commissioner Schneider explained that he visited the site. He noted that water appears to be infiltrating on the site with the existing rain garden and a berm is stopping water, preventing erosion to the bluff area. He did not observe any disturbance or erosion of the ravine/bluff area. Commissioner Schneider, who is employed by the Scott County Soil and Water District, stated he understands the importance of bluff line setbacks and noted the costly situations it has caused the district due to poor planning in the past. Commissioner Schneider noted that if the Scott County Watershed Management Organization has viewed the site and agrees to a 15-foot bluff line, he also supports it. Commissioner Schneider said from his observation, a garage would not be detrimental to the site. He suggested that the applicant obtain soil borings to ensure stable footings of the garage as the bluff soils are very different than the typical clay or loam soils in the area.

Commissioner Pressley concurred with the assessment by Scott County WMO and Commissioner Schneider for allowing a 15-foot bluff line setback. Commissioner Tix commented that he prefers the applicant abide by the 30-foot setback. He noted the construction of the garage within the setback may disturb the bluff area. Commissioner Potter suggested that soil blankets be required to prevent erosion during construction. Community Development Director Rosenfeld commented that a silt fence and soil blanket will be required, including a grading plan. She explained the 15-foot bluff line variance recommended by the Planning Commission will cause the need for a 36-foot front yard variance. John Hallgren stated that he is contracting with a professional builder to construct the garage and that the silt fence and soil blankets will be provided and was amenable to obtaining soil borings.

#### **4.1.1. Resolution PZ-09-010 Recommending Approval of Front Yard and Bluff Line Variances for 109 Robert Circle.**

MOTION by Commissioner Chaussee, second by Commissioner Schneider, to approve Resolution PZ-09-010 Recommending Approval of 36-Foot Front Yard and a 15-Foot Bluff Line Variances for 109 Robert Circle, with the following conditions: 1) The applicant is to submit a grading plan indicating how runoff from the proposed structure will be addressed in order to prevent bluff erosion, and 2) The applicant is to submit a report of the results of soil borings for the proposed garage. Commissioner Tix VOTED NAY. ALL OTHERS VOTED AYE. MOTION CARRIED.

#### **4.2. Ordinance 09-03. The Planning and Zoning Commission will accept public comment on proposed Ordinance 09-03, amending Section 1105.04, Subd. 4 (2) of the Zoning Ordinance by adding language allowing non-profit organizations serving a charitable educational purpose as a conditional use in the A-2, Rural Residential District.**

Chair Pressley referenced a memo dated July 13, 2009 from Community Development Director Rosenfeld regarding proposed Ordinance 09-03.

Community Development Director Rosenfeld explained that Kimberly K. Devine Johnson, on behalf of Prairie Oaks Institute, has requested consideration for an ordinance amendment to expand the current listing conditional uses in the A-2 Rural Residential Zoning District. The request is to expand the current, limited listing of educational institutions and uses to include nonprofit organizations serving a charitable educational purpose. The applicant has suggested the following underlined language be added to Section 1105.04 subd. 4(2)" Public or semi-public recreational buildings and neighborhood or community centers; public and private educational institutions limited to elementary, junior high and senior high schools and nonprofit organizations serving a charitable educational purpose; hospitals and religious

institutions such as churches, chapels, temples and synagogues. The applicant would like to operate their nonprofit organization, Prairie Oaks Institute, at 1200 South Street West. Currently this type of nonprofit organization is not classified under any of the permitted, accessory or conditional uses in the A-2 Rural Residential District. Should City Council amend the ordinance to reflect the applicant's request, the applicant would be required to apply for a conditional use permit. Staff concludes the added language is compatible with present and future uses of the area. Performance standards would apply to the added language.

Chair Pressley opened the public hearing at 7:38 p.m. and asked for public comment.

Kim Devine Johnson, applicant, 1303 Rockbend Parkway, St. Peter, MN, asked for approval of the proposed ordinance. She understands a conditional use permit will be required to the operation of the educational facility by Prairie Oaks Institute, a non-profit organization, at 1200 West South Street.

Mary Whettle, Chair of the Board of Directors for Prairie Oaks Institute, asked for approval of the proposed ordinance to allow the organization to conduct activities on the property to cultivate ways in interdependence with all living things, combining community, spirit and earth.

MOTION by Commissioner Potter, second by Commissioner Schneider, to close the public hearing at 7:40 p.m. ALL VOTED AYE. MOTION CARRIED.

Commissioner Chaussee inquired as to why the applicant did not choose to apply for an Interim Use Permit. Ms. Devine responded that an IUP does not stay with the land and that it is temporary. Prairie Oaks Institute will be an investment in land and energy resources and they would like to have a long term commitment for the use of the Devine century farm.

Commissioner Tix asked if staff obtained similar ordinance language from other cities as a comparison. Community Development Director Rosenfeld explained that the proposed language was prepared by the applicant. Commissioner Schneider inquired as to whether the City's legal counsel has reviewed the proposed language. Community Development Director Rosenfeld replied no. Commissioner Pressley commented that he did not foresee any issues with the proposed language. Commissioner Schneider and Potter concurred.

#### **4.2.1. Resolution PZ-09-011 Recommending Approval of Ordinance 09-03.**

MOTION by Commissioner Schneider, second by Commissioner Potter, to approve Resolution PZ-09-011 Recommending Approval of Ordinance 09-03. ALL VOTED AYE. MOTION CARRIED.

### **5. BUSINESS.**

Chair Pressley noted that there were no business items to discuss this evening.

#### **5.1. 6. ADMINISTRATIVE REPORTS.**

##### **6.1. Upcoming Meetings. 1. Next Regular Session, 7:00 p.m., Monday, August 10, 2009.**

The Commissioners were reminded of the upcoming meeting as listed.

### **7. ADJOURNMENT.**

MOTION by Commissioner Schneider, second by Commissioner Tix, to adjourn at 7:47 p.m. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,  
Patricia Krings

Recording Secretary