

**CITY OF BATTLE LAKE
PLANNING COMMISSION**

The Battle Lake Planning Commission met Tuesday, June 4, 2020 with some members participating via video conference pursuant to Minn. Stat.13D.021 due to a health pandemic. Chairman Don Maslow called the meeting to order at 7:00 p.m. Present were Commissioners Dawn Swisher, Gene Kelm, Greg Maynard, Steve Seufert, and Tim Carlson. Also present were Val Martin, Clerk/Treasurer/Zoning Officer, and Chris Johnson, Public Works Director. Visitors included Scott and Connie Peterson and John Mess.

The Pledge of Allegiance was recited.

Seufert made a motion to approve the agenda. Maynard seconded. MCU

Carlson made a motion to approve the minutes. Seufert seconded. MCU

Hearing opened on Conditional Use Permit Request: – *Starting a new business for a very small automotive corporation. This business will not exceed more than 2 cars on the property at one time, however, the state requires that there is room for five which there clearly is. The vehicles will be parked inside the building located on the lot. There will not be any additional traffic, noise or odors coming from the building. There will be building improvements and a small sign on my door. I will not be displaying vehicles on the property for advertising. That will be done via my website and other internet platforms. I will be cleaning and taking pictures of these vehicles for internet sales. Customers may choose to stop by for test drives, but that will be infrequent. I will be obtaining my dealer's license and have all the necessary insurance and paperwork for the business. Vehicles will have an offsite display lot and vehicles will not be displayed in the yard.*

John Mess presented his request as described above. He stated that it is not a traditional used car lot. The building will only be used for cleaning vehicles, vacuuming, etc. and for his office. Any vehicle he has on the property would only be there a short period of time – most of them will be less than 24 hours. Access will be from the alley and he has access to a display site in another community if he would need it. The request to use the property for this purchase is a formality from the state in order to get a used car license.

STAFF FINDINGS:

1. *The subject property is legally described as Lots 7,8, 9 and 10, Blk 1 of Tharaldsen's 1st Addition and is currently zoned as Residential. There is a home with an attached garage and a 2nd garage located on the rear side of the property. I suggested a conditional use permit might be a better request versus rezoning in the middle of a residential area.*
2. *The owner needs approval to do this type of commercial work due to state regulations for reselling vehicles.*

If CUP is approved, you might want to put conditions on it such as – no cars displayed for sale on the property and no more than two vehicles for the business on the property at a time (as he says in his application). You may also want the application to have a sunset or review periodically, especially if there are any issues or complaints.

Planning Commission had several questions for Mess and concerns about a business in a residential area.

There was a call for public comment. Bob Estes was in attendance representing Helen Estes. He saw no issues with the project after hearing what John described. Martin stated that Mary Zucker called and had an issue with it. She felt there were better areas to have a used car lot. No other communication was received.

Planning Commission formulated Finding of Fact:

1. **Will the requested use create an unreasonably excessive burden on existing streets or other utilities? No**
2. **Is the requested use in any way incompatible with surrounding areas? No**

3. Will the intended use have an appearance that will unreasonably adversely affect nearby properties? No
4. Will the intended use create an unreasonably adversely affect because of noise, odor, glare, or general unsightliness, for nearby property owners? No
5. Is the intended use, in the opinion of the Planning Commission, reasonably related to the existing land use and environment? Yes
6. Is the intended use consistent with Battle Lake Land Use Ordinances? Yes- with conditions
7. Is the intended use compatible with the Battle Lake Comprehensive Plan? Yes

Swisher made a motion to recommend the council approve the Conditional Use Permit with the following conditions. Seconded by Seufert. MCU

1. No more than two cars can be parked on the property for the business
2. No cars can be displayed outside for sale or parked outside for an extended use of time – not to exceed 48 hours.
3. Conditional Use will expire if the property is sold or he drops his dealer's license.
4. The property/building can only be used for cleaning/detailing and for his office.
5. The Conditional Use Permit will be reviewed by Planning Commission one year from now.

Scott and Connie Peterson were present to discuss the variance application that was tabled and considered incomplete.

Background: Sand Bay LLC is requesting a variance from the building setback requirements to add a deck/, pergola and exterior stairs to the 2nd floor structure that was approved by the City in September 2019 for Cabin 13 & 14 (essentially one building). **They are updating their request by removing the request for a deck and changing the location of the outdoor stairway.**

The following is their proposed update to the plan:

Dear Committee.

This is the site plan for cabins 13 and 14 at the former Sand Bay Resort to add a deck, pergola, and outdoor stairway. The plans for this project have been approved by the Sand Bay Association.

- 1) *Deck- We have decided to omit the deck from our plan*
- 2) *Pergola: The pergola will cover the current patio area. It will extend past the edge of the patio only for the purpose of pole supports. The purpose of this configuration is so that the pergola supports do not interfere with the current aqua pavers drainage system of the patio. This is depicted in blue on attached site plan. The approximate size of the pergola is 18' by 30'. As stated in prior meetings of this committee, a pergola is not considered impervious so no adjustment to current impervious footage is needed.*
- 3) *Stairway: The planned outdoor stairways will be on both sides of the cabin. The steps on the west side of the building will be 5' X 25'. The steps on the east side of the building will be 4' X 25'. The steps edges will remain on the inside of the current aqua paver sidewalk system, therefore, the water drainage that may occur from the stairs will percolate through the existing aqua pavers system.*

The following impervious surface square footage will be needed to accomplish this project:

- A. **West side stairs:** (5' X 25') = 125 square feet

31.5 square feet of this footage is already existing from the current eave structure: (1.5' X 21')

*The remainder of the impervious surface requirement is **93.5 feet** (depicted in pink on the site plan)*

B. **East side stairs: (4'X25') = 100 square feet**

31.5 square feet of this footage is already existing from the current eave structure: (1.5' X 21')

*The remainder of the impervious surface requirement is **68.5 feet** (depicted in yellow on the site plan)*

C. **Total area needed for additional impervious surface:
93.5 + 68.5 = **162.5 square feet****

Plan to "find" 162.5 additional square feet to accommodate the proposal.

*Two of our currently assigned parking spaces are impervious surface (100% gravel). They are each 10'X 25 feet (250 square feet each) for a total of 500 square feet. Our plan is to add an aqua pavers drainage system to these 500 square feet of space. Since aqua pavers are designated as 50% pervious, this would change ½ of the 500 square feet (**250 feet**) of impervious footage to pervious footage. Since we only need **162.5 feet** of surface, this would be more than adequate to accommodate the outdoor stairs.*

This plan was approved by the Sand Bay Association prior to the May meeting.

We believe that we have more than satisfied the request of the city and because of the unique circumstance of the building being all brick and having no room for stairs inside the building, the project should be approved.

*Thanks for your consideration.,
Scott and Connie Peterson.*

STAFF FINDINGS:

- 1. The subject property is legally described as "Sand Bay CIC #71. This work is specifically for cabin 13 and 14. As the work is being done outside the property line of the Peterson's, the CIC had to apply.**
- 2. The applicant has asked for a variance to add a deck/pergola and stairs to the 2nd story of the future 2nd story addition per the variance they received in September.**
- 3. They plan to extend the deck/pergola the full length and over the pavers.**
- 4. Sand Bay received a variance from the setbacks to the lake in 2016 to extend a number of decks a little closer to the lake. With this variance, impervious surface usage was reconfigured to make the additional space work. A spreadsheet was prepared by the owners to calculate impervious that was or had been removed and proposed construction additions were added. Part of the calculation included the pavers used in front of Cabin 13 and 14. Pervious pavers were installed which allowed them to get credit for 50% of the space which reduced that impervious calculation in half.**
- 5. Even though decks may have slats to allow water to run through them, they are still counted as impervious and there is still run-off.**
- 6. I would recommend the Planning Commission carefully consider the Findings of Fact – specifically Question 2: Unique Circumstance – I think it will be difficult to make this argument. With the addition of the 2nd floor deck, they will be adding impervious surface over an area that has pervious pavers and utilizing the 50% rule.**

- 7. Update – the impervious is a wash with just the installation of aqua pavers. They have currently eliminated the deck request and just want to install the pergola along with the stairs on the outside of the building.**

Planning commission had a lengthy discussion on the variance request with a number of questions being directed at the Petersons.

Planning Commission formulated Findings of Fact:

Planning Commission Discussion and Findings of Fact:

- 1. Is it reasonable?** The Planning Commission members agreed that it is reasonable due to the nature of the CIC and the building itself.
- 2. Unique Circumstances:** It is unique
- 3. Essential Character:** It will not alter the essential character - It will blend in with their current structure and others within the CIC.
- 4. Is it in harmony with the general purpose of the zoning code?** Yes
- 5. Is it consistent with the Comprehensive Plan?** Yes
- 6. Will the request have an adverse impact on government services such as street usage, snow removal, stormwater runoff, emergency services, etc.?** It will not
- 7. What portion of the variance request is based upon economic considerations? (economic considerations alone should not be a reason for granting a variance)** None
- 8. Does the existing sewer treatment need upgrading?** No
- 9. Are there conditions that should be imposed in granting the variance?** Yes

Kelm made a motion to recommend the council approve the variance with conditions. Swisher seconded. Motion carried with Kelm, Maynard, Swisher and Carlson voting yes. Maslow and Seufert voted no. The conditions are as follows:

1. Pergola can never get a solid cover or used as a landing for the upper level and trusses have to be a minimum of six inches apart.
2. Stairs cannot exceed 4' x 25' on west side and 5' x 25' on east side.
3. 250 feet of aqua pavers will need to be installed as presented within six months of having the outdoor stairs completed.

Kelm suggested a new on-site, review process be developed with Seufert and Maynard taking on the role of on-site visits with Martin completing the paperwork. He also suggested the presentation of the plans for projects need to be more specific such as a scale drawing, etc. Martin stated that changing the job description and adding positions would be a council decision. She also stated that she was very willing to change what was included in the planning commission packets but needed to know what type of information the committee wants. She also was available to answer questions about projects that are happening in the community. A number of concerns from Kelm, Maynard and Maslow were brought up with Martin answering their questions. Note – a follow up letter was sent to the planning commission and the City Council by Martin. The letter explained their questions with a caveat that Martin was perfectly willing and capable to do the on-site visits and provide any additional materials they needed. This letter was shared with the City Council and City Attorney.