

CITY OF BERKELEY LAKE
4040 Berkeley Lake Road
Berkeley Lake, GA 30096-3016

PLANNING AND ZONING COMMISSION
Meeting April 12th, 2005
Full Minutes

Call to Order: The meeting was called to order by Chairman Bob Herb at 7:33pm on April 12th at 4040 S. Berkeley Lake Road.

Present: Commissioners Skip Johnson, Rodney Hammond, Gary Moore and Craig Belt. Chairman Bob Herb

Guests Present: Theresa Sipe (Lake Berkeley Chapel), Greg Roberts (Boy Scout), Charles Dean (River District), Paul Geary and Tim Adams (Architects- TS Adams and John Willis Homes), Charlie Sewell (OEO), and Jackie Wall (Clerk).

Old Business

Minutes: Commissioner Hammond, motioned to approve the minutes for the November 22nd, 2004 meeting. Commissioner Johnson seconded the motion. All were in favor of the motion.

New Business

- *4043S. Berkeley Lake Rd (Chapel – B): Variance to build a gazebo within the rear setback at a distance of 31 ft vs. required 40 ft setback from the lake. (39-804-5)*

Theresa Sipe described the proposed gazebo for the chapel which will be built and funded by Boy Scout Greg Roberts. She requested it be located 33 ft (not 31ft as originally requested) which would encroach 7 ft into the set back.

Herb read the requirements for approval of a variance.

39-1401 Variances - Application for, Procedure and Notification

- a. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography, and*
- b. The application of the Ordinance to this particular piece of property would create an unnecessary hardship, and*
- c. Such conditions are peculiar to the particular piece of property involved, and*
- d. Such conditions are not the result of any actions of the property owner, and*

- e. *Relief, if granted, would not cause substantial detriment to the public nor impair the purposes or intent of this Ordinance, and*
- f. *The variance is granted for a use of land or building or structure that is not prohibited by this Ordinance.*

There was discussion as to the reason for the location of the gazebo in relation to the driveways and the boat ramp, and which would also require less removal of trees. The 40ft set back was originally designed to keep a view of the lake and this would not change that. Sipe provided a plat of chapel property to prove it is on Chapel property and not on the FPR Property.

**Commissioner Johnson motioned to approve the variance as requested.
Commissioner Hammond seconded the motion.**

In discussion Commissioner Moore motioned to amend the motion so that no permanently installed electricity would be allowed in the gazebo. Commissioner Belt seconded the motion. All were in favor of the motion and the Variance was approved.

- *The River District at Berkeley Lake: consider modification to final development plat to allow homes to be built at a height greater than 35 ft and to consider change in layout of amenity area.*

Geary and Adams described four examples of designs and architectural styles of the 35 homes that will be built in the village area. They said their intent is to keep them looking like they have low roofs but as 3 ft is required for a chimney stack and they would like to get space in attics, they would like them to be higher than the ordinance allows. They described the heights of the homes which would be a maximum of 35 feet. There was discussion that the original purpose of ordinance was to stop a wall of roofs around the lake. The downward view will make the homes look smaller too.

Commissioner Johnson motioned to approve for the Village Lots a Maximum of 42 feet to the highest point of the structure (including the chimney), measured at the front; not to exceed 52 feet, measured at the rear, on a downward sloping lot on the village lots. Commissioner Belt seconded the motion.

There was discussion and clarification as to how the maximum heights are measured.

All were in favor of the motion and the motion passed.

Dean asked that the homes on the ridge also have a modification of height on the final plat. He asked that they could be built at 42ft on the high side and 52 ft on the lower side. He said that the houses would be set back along way from road as they are estate lots with more acreage they would be as far as 200ft from the road. He said when the foliage is there, they would be harder to see too.

Commissioner Johnson motioned to amend the final plat, so the homes on the ridge would be a maximum of 42 feet to the highest point of the structure, measured from the highest finished ground level of a sloping lot and not to exceed 52 feet measured from the lowest finished ground level of a sloping lot. Commissioner Belt seconded the motion. Commissioners Belt, Johnson and Moore voted in favor of the motion, Commissioner Hammond voted against as he had not had time to consider this request. The motion passed.

There was also some discussion regarding the temporary for sale sign to be erected for the roadside but it was not considered a P and Z issue. The change in layout of amenity area was also considered to be a County requirement and not a City issue.

Dean was advised to bring the revised plat with the new elevations to the Council meeting on April 21st for their review.

- Ordinance 39-807 Driveway grates

Chairman Herb said that the issue had arisen because the ordinance requires “driveways sloping towards a road shall be equipped with a grate, the size to be determined by the Zoning Enforcement Officer, but it shall be no less than 4”. This is not always necessary due to curb and gutters for example. There was discussion regarding the purpose of driveway grates, the use of curb and gutter to prevent shoulder erosion, and curb and drain grates to stop water run-off into the road. All of new subdivisions do not require grates in driveways because of the curb and gutters. The ordinance was originally intended to protect run off near the lake. There was further discussion as to defining when to require a grate and what type, including the Steepness of driveway, curve and whether it has curb and gutter. The idea is to avoid and discourage a sheet of water across the road. Commissioner Moore agreed to write a new draft version of this section of the ordinance to clarify it.

- Chairman Herb noted that he had granted 6 administrative variances since the last meeting, the details of which will be attached to the minutes.
- Chairman Herb noted that since the last meeting, Commissioner Belt had been re-elected to serve 5 years which would run from 1.1.2005 to 1.1.2009. He was originally serving out the term of another commissioner who had resigned.
- Chairman Herb suggested the next meeting would be on May 17th due to a variance request and he described the variance request briefly.

Commissioner Johnson motioned to adjourn the meeting at 8:50 pm, Commissioner Hammond seconded the motion and all were in favor.

Respectfully submitted by Jackie Wall, P and Z Clerk, and approved on May 17th, 2005.

CITY OF BERKELEY LAKE
4040 Berkeley Lake Road
Berkeley Lake, GA 30096-3016

PLANNING AND ZONING COMMISSION
Meeting May 17, 2005
Full Minutes

Call to Order: Chairman Bob Herb called the meeting to order at 7:33pm on May 17, 2005 at 4043 S. Berkeley Lake Road.

Present: Commissioners Skip Johnson, Rodney Hammond, Gary Moore and Craig Belt. Chairman Bob Herb. Jackie Wall (P and Z Clerk)

Guests Present: Eric Johansen (Crescent Development), Barry Etheridge (I-Engineering), Jim Brennan (Atlanta Land Group), Rick Edinger (Clark Patterson Associates), Lois Salter, Marcie Zielazienski, Ann Yessick, Amy Norman, Nicholas Lore and George Kaffezakis.

Old Business

Minutes: Commissioner Johnson motioned to approve the minutes for the April 17, 2005 meeting. Commissioner Moore seconded the motion. All were in favor of the motion.

New Business

The 9.28 acre tract of real property at the southeast corner of the intersection of North Berkeley Lake Rd and Peachtree Industrial Blvd.: consider approval of a concept plan to construct commercial and office- industrial properties.

Chairman Herb described the special zoning on the property that was negotiated by the City and property owners during a rezoning settlement in 1999 which declared the property could be developed half commercial, and half Office and Industrial (O and I). The property also has some special requirements with regard to drainage requirements etc. He said that the developer and P and Z commissioners were aware of the specific requirements of the zoning and that they would be taken into account during the discussion.

Eric Johansen from Crescent Development described the 9.28 acres. He said that there was a current request from Gwinnett County to purchase a tenth of an acre strip along the roadside to extend the bike path currently being installed, therefore the property to be considered was 9.18 acres. He said his company was able to comply with all the conditions set forth in the agreement for the property in 1999.

Johansen said that they had two concepts to consider- Plan A and Plan B, and he then described the differences between the two. Plan A required no variances from the City of Berkeley Lake; Plan B required two variances from the City of Berkeley Lake. Otherwise the square footage of the buildings, users and density of the plans was the same. He described the main difference- Plan A has a 50 ft buffer against two Gwinnett County zoned industrial tracts: Fire Station #19, and the detention pond owned by the Blue Ridge North Property Association (a descendent of O'Neel Steel). He said he had spoken to representatives from both groups. Plan B required a reduction in that buffer.

Johansen described the look and feel of the upscale office buildings based on those that he had already built in Duluth and the Johns Creek area. The eight office buildings he had planned would be 6000 sq feet each and he described them in detail. There would be a 4000 sq ft bank out-parcel on the front corner. There would be three driveways for access in and out which would need to be approved by Gwinnett County DOT. He then described the shops, and possible restaurant use with an outdoor plaza on the corners. He said it would be an upscale village style plaza that was pedestrian friendly. The intent was to bring in retail to compliment office users.

Johansen described the challenges of the property- specifically the 40 ft grade change from one end of the property to the other, and therefore the need for a wall along Peachtree Industrial Blvd (PIB).

Johansen then described Plan B. The total square footage of the buildings would be the same but with a different layout. He said that they would prefer to build Plan B because of the flexibility of the space, and both the retail and office buildings were spread out in a better way. He said he also felt that it was a better option for the City.

Johansen described the two variances that Plan B would require: he said that the City of Berkeley Lake parking ordinance requires that the parking spaces should be 9 ft by 21 ft deep. He said that they would request that the parking spaces would be 9 ft by 19 ft spaces to allow for less impervious area, and to be able to plant all the trees required.

Johansen described the other variance Plan B would require: a 25 ft buffer instead of a 50 ft buffer against the fire station and the detention pond area. He said that they have asked Gwinnett County for a 20ft construction grading easement, which will go before the Board of Commissioners for approval within the next month. He said he did not think it would be an issue for the County as they will get a better buffer for their Fire Station property, which was not the case when the fire station was built. The grading easement would be to allow a true 2 to 1 slope that would serve as a true buffer for screening and acoustical purposes. He showed some pictures to illustrate the foliage that would be planted there.

Johansen then described their proposal to use the detention pond which is alongside the property to control run off of the stormwater as described in the requirements of the agreement. He said he was talking to the current owners to see if his company could upgrade it and bring it up to the current Gwinnett County standards. He said the pond was

not working sufficiently right now for the volume necessary, and they wanted to rebuild it so it would control the run off at a better rate, filter it and act as a detention facility, instead of an underground detention area that would be necessary in Plan A. He described the alternative for Plan A. He said that Plan B would be a better proposition for the City.

Chairman Herb reiterated that the agreement requires the company to divert 5 acres of stormwater away from Berkeley Lake.

Johansen then described the number of trees that would need to be planted to adhere to the City tree and landscaping ordinances, which require 32 units an acre with trees of a 4 inch caliper- a total of 400 trees or 490 trees with a caliper of 3 inches. He said that in order to plant that many trees Plan B would also be a better option. He described the landscaping and showed visual renderings of what it will look like for screening capabilities too. He described the types of trees they would use: Magnolia and hollies, wax myrtles and Leyland cypress, which would start between 8-10 feet tall. All of them would be irrigated. He also described the foliage on North Berkeley Lake Rd. There will be a 10 ft landscape strip with a mix of 3 inch and 4 inch caliper trees mixed with sod and upscale landscaping. He said that the City could require an inspection after the first year after the Certificate of Occupancy is granted to check that the original plans were adhered to. He said that there would be a strict covenant for the owners association that will require the maintenance of landscaping and other services, so they would always be responsible for it and trees could not be removed at a later date.

Johansen said that they work with Georgia Power to develop the light requirements of the site, so they would not to direct light onto the road or towards the residences. He later described the lights which would be 12 ft tall poles facing down to keep the light on the property, but would be attractive to retail users. The lighting would be the same on both plans. He also offered later to make a review of the lighting requirements to be a part of the Land disturbance permit approval, so it would all be in writing, as well as a notation on the plat itself. The lights would be kept on overnight for security reasons, especially for the retail area.

Johansen described the wall that would be erected along PIB to allow for the 40 ft grade change from one end of the site to the other. He said there would be a steep but safe driveway at the entrance to get a better natural grade on the site. He said that the wall would be approximately 40 ft at the highest point. He said it was possible to have the wall tiered into two walls.

Chairman Herb suggested cascading greenery to soften the walls.

Johansen said that shrubbery type greenery would be possible, as they do not have big root areas like trees that could undermine the safety of a two tiered wall. He described the options for the material of the wall and asked not to have a final decision on that at this point. However the wall could be treated to retard any graffiti and to make it easier to clean off.

Johansen also described the differences in the entryways on both plans, which may affect the retail users. Plan A did not have as much accessibility as Plan B as it included an area with a dead end.

There were questions as to whether Johansen would consider purchasing the land with the detention pond on in Plan B, and then consider annexing it into the City to protect it further in the long term. Johansen agreed that he would approach the owner of the detention pond about selling it to him.

There were questions about the high tech ways that could be implemented to clean the water from the run-off in the detention ponds. Etheridge described the process, which would adhere above and beyond the requirements of Gwinnett County and the ARC standards and remove at least 80% of the pollutants. There were further questions about the silt run off, removal of petroleum products and trash in the detention pond on a regular basis.

Johansen said that the ongoing maintenance of the pond, the frequency of cleaning and whose responsibility it was would be determined beforehand as part of covenants of the property. He said that the City could have a written copy of the covenants, and suggested he could provide a draft example copy for the City to look at before then too.

There were questions about the site during the construction phase.

Edinger said that there were regulations in the site development plan that would have to be reviewed before construction.

Johansen agreed that the largest issue could be the impact of soil erosion. He said they would go beyond the usual requirements to stop that happening: No dirt on the road, good construction site supervision, wash-down stations for vehicles etc. In an effort to provide for due diligence before the start of the project, he had already agreed to pay for a pre-construction silt survey of the lake.

It was clarified that there would also be a topographic survey of the property on the preliminary plat in order to review potential run off, and see the final levels of the land. It was also clarified that the land would be at the road level at the intersection but would rise along PIB. There were some concerns that the height may deter retail stores if it was not possible to see them from the road. However, it was suggested that they would be seen at the intersection and traveling all directions except north on PIB for a short distance.

There were questions about the possible hours of operation at the location. There was general discussion about the opening time options and it was agreed that normal hours of business could be from 6 am to midnight, with deliveries between 7 am and 7 pm.

There was discussion about the level of the performance bond, which is calculated at \$3000 an acre at a total of \$27,000. It was suggested that it should be higher to provide

for silt removal from the lake should it become necessary. It was agreed it should be set at \$75,000.

There was further discussion about the terraced walls and it was agreed that no one wall should exceed 20ft. Terracing of the walls would mean that the eventual overall height would be higher than one single wall. There was also further discussion about the choice of trees for landscaping and whether they could be trees with longer life spans. It was agreed that a potential list of other possible trees would be provided, so that P and Z could choose from a different variety should they wish to and then add it to the land disturbance plan.

There was a request that other associations in the City, such as the BLHA, would like to have some input to the development plans due to the possible impact on the lake. Herb explained that P and Z and City Council are the governing bodies that approve and control development plans, not associations like BLHA. Johansen said that he would not mind hearing suggestions from BLHA.

There were questions about the dry hole on the corner of the property by the proposed bank and whether it would be fenced. It was described as very shallow and would be surrounded by landscaping and not a fence.

There was clarification by Chairman Herb as to the next procedures that the property would go through. After the concept plan was approved by P and Z and City Council, there would be review of the preliminary plat with the additional wording requested. That would be approved again by both P and Z and Council. Clark Patterson Engineers would continue to review the plans for the City as the project plans evolved.

Commissioner Hammond motioned to move forward with Plan B with the following conditions being added:

- 1) To approve the buffer variance requested for Plan B to reduce it from a 50 ft to a 25 ft buffer which would be replaced by trees 8-10 feet tall in 2 rows of 2 on both sides of the property rows for a total of 4 rows with a type of trees to be planted contingent on P and Z approval. Notation to be made that the tree buffer could not be removed at a later date.**
- 2) There would be a two tiered retaining wall on PIB that would be treated with a graffiti retardant. No one wall could exceed 20 ft in height.**
- 3) No lighting should spill onto PIB or North Berkeley Lake Rd. There shall be a review of the lighting plans by Clark Patterson engineers at the time of land disturbance review.**
- 4) The developer should purchase and own the detention pond from the adjacent owners and maintenance of the pond should be put in the commercial owners association deed covenants and by laws, which the Berkeley Lake City attorney would have the opportunity to review before**

finalizing. The developer should agree to the annexation of the land after the purchase. If this is not possible, the concept plan would have to come back to P and Z for review.

- 5) To approve the variance to reduce the depth of a car space stall depth from 21 ft to 19ft**
- 6) The canopy on bank drive-through should be modified to comply with the required setback.**
- 7) The developer agrees to conduct a silt level survey of the lake before and after construction at their cost provided BLHA will grant the developer lake access.**
- 8) The Performance Bond should be increased from \$27,000 to \$75,000 to cover problems that could arise in stabilizing the site and to clean out any silt from the lake.**
- 9) The Normal Hours of business will be 6am to Midnight. Delivery and waste collection time shall be limited between 7 am to 7 pm.**

Commissioner Johnson seconded the motion. All were in favor and the motion passed.

Chairman Herb said there was one more variance request to consider:

- *462 Lakeshore Drive (PT lot 49-BL, DC): Variance to build a dock with zero feet set back on both sides of the property versus required 12 ½ feet set back. (39-401-2)*

Chairman Herb described the reason for the variance request as he understood it, as the property owner was not at the meeting. The request was to build a dock from one side of the property to the other, versus the required 12½ foot set back. He described the history of the previous variance, which was granted when the owner owned the lot next door as well as the fishing lot as one parcel. However, since then he had split his lot into two parcels and sold the larger lot. The dock currently in place was granted a variance when the two lots were treated as one parcel. He now wanted to build a dock on the fishing lot as the current dock is connected to the property no longer owned by him. The dock that is currently on the lot will need to be removed if the variance is denied.

Commissioner Hammond reclused himself from the discussion and vote of the matter due to avoid perception of a possible conflict of interest as he had inquired to the realtor about purchase of the property.

Commissioner Belt motioned to deny the variance request. Commissioner Johnson seconded the motion. Commissioners Belt, Johnson and Moore approved the motion. Commissioner Hammond abstained. Variance denied.

Chairman Herb said for the record that he had recently granted the following administrative variance:

- *519 Lakeshore Drive(Lot 10,Sec.4-BL): variance to expand a non-conforming structure (39-602-1); add pergola over existing patio at rear of home that will be in full conformance and will not increase existing non-conformance impact.*

Chairman Herb proposed tabling the discussion of Chapter 39- 807 (Driveway grates and curb and gutters) until next meeting due to the time.

Chairman Herb suggested the next meeting should be on Wednesday June 22nd and asked commissioners to confirm the date as soon as possible. He gave commissioners the variance requests for their review before the next meeting.

In other business, Commissioner Johnson suggested that the commission review the height of sea walls on the lakeside as some were being built that were higher than the need for erosion control. He agreed to investigate the possibility and propose wording for such zoning.

Commissioner Hammond motioned to adjourn the meeting at 9:35 pm. Commissioner Moore seconded the motion. Motion passed.

Respectfully submitted by Jackie wall (Adopted on June 22nd, 2005)

CITY OF BERKELEY LAKE
4040 Berkeley Lake Road
Berkeley Lake, GA 30096-3016

PLANNING AND ZONING COMMISSION
Meeting June 22, 2005
Full Minutes

Call to Order: Chairman Bob Herb called the meeting to order at 7:36 pm on June 22, 2005 at 4043 S. Berkeley Lake Road.

Present: Commissioners Skip Johnson, Rodney Hammond, Gary Moore and Craig Belt. Chairman Bob Herb. Jackie Wall (P and Z Clerk)

Guests Present: Eric Johansen (Crescent Development), Rick Edinger (Clark Patterson Associates)

Old Business

Minutes: Commissioner Johnson motioned to approve the minutes as amended for the May 17, 2005 meeting. Commissioner Hammond seconded the motion. All were in favor of the motion.

New Business

- *The 9.28 acre tract of real property at the southeast corner of the intersection of North Berkeley Lake Rd and Peachtree Industrial Blvd.: consider approval of a concept plan to construct commercial and office-industrial properties.*

Crescent development presented their final preliminary plat with the provisions as requested by P and Z and Council. He said that the layout is the same. Herb read the notes and conditions:

- 1) To reduce the 50' buffer to 25' adjacent to the industrial zoned properties along the southeastern most property line. The 25' buffer will be re-graded and replanted with 8' to 10' tall evergreen trees at the time of planting in (2) staggered rows on the subject property and (2) rows of trees on the adjacent properties for a total of (4) rows of evergreen trees. The trees shall be spaced 15' on center within each row. Spacing between each row to be determined by the Landscape Architect of record. Proposed evergreen buffer plant material would include Cryptomeria, Leyland Cypress, Southern Magnolia, Southern Wax Myrtle, and Tree Form Hollies. A note to be placed on the Final Plat to read "Buffer trees on the subject property can not be removed at a later date."

2) Any wall over 10' in height must be constructed in a two-tiered manner along Peachtree Industrial Boulevard and treated with a graffiti retardant. No single wall can exceed 20' in height. Walls to be planted with plant material intended to cascade over the walls

3) No lighting shall spill onto Peachtree Industrial Boulevard or North Berkeley Lake Road. There shall be a review of the lighting plan and photometric study by the City Engineers at the time of Land disturbance permitting.

4) The developer shall own and maintain the adjacent detention pond currently owned by the Blue Ridge North Property Association. The detention pond shall be put in a Gwinnett County Maintenance Agreement and be made part of the newly established commercial property owners association's restricted deed and covenants. The restrictive deeds and covenants would be reviewed by the Berkeley Lake City attorney prior to issuance of a Land Disturbance Permit. The developer shall agree to the annexation of the detention pond land after acquisition. If the acquisition of the adjacent detention pond is not possible, the concept plan approval would come back through P and Z for review and approval.

5) Approval of the parking space depth to be reduced from 21' to 19'. The overall required parking space shall be a minimum of 9' x 19' for standard parking spaces.

6) The developer agrees to conduct a silt study of Cohen's Pond and Berkeley Lake both pre and post construction. The limits of the silt study will be determined by the developer Geotechnical engineer, Civil Engineer and the City Engineer. The BLHA must grant the developer access to the lake to conduct the silt studies.

7) A Performance Bond in the amount of \$75,000 shall be established to cover erosion control related items and the other contaminants that could arise in stabilizing the site and to clean out the lake in the event of a breach.

8) The Normal Hours of business operation shall be limited from 6am to Midnight. Delivery hours shall be limited from 7 am to 7 pm.

Commissioner Johnson motioned to approve the final preliminary plat with an amendment to include waste removal hours to also be limited from 7 am to 7 pm. Commissioner Hammond seconded the motion. All were in favor of the motion and the motion passed

- *4015 S. Berkeley Lake Road (Lot 39, Sec. 1- BL,DC): variance to expand a non-conforming structure (39-602-1); add screen porch over existing rear deck that is set back 27 ft. versus required 40 ft.*

Spruell handed out copies of pictures of the location and described where he would like the screened porch to be. He described the existing roof line. He said that if part of the existing deck area is enclosed, it will be 34 ft from the lake rather than the required 40 ft.

There was discussion as to what is non-conforming about the building. Spruell said that no views would be obstructed from either side of the property as a result of a screened in porch. He showed the views.

Commissioner Johnson motioned to approve the variance request as requested. Commissioner Moore seconded the motion. All were in favor of the motion. The variance was approved.

- *60 Lakeshore Drive (Lot 59B): variance to expand a non-conforming structure (39-602-1); to expand structure upward over the existing rear footprint of the house that is set back 19 ½ ft. versus required 40 ft.; to expand front of structure to be equal to existing front porch that is set back 55 ft 10 inches vs req. 65 ft;*

Chairman Herb said that he had initial discussions about the variance request before the meeting in order to help the homeowners. Therefore the original variance request had changed, as the last of the variance requests regarding the side set back had been withdrawn.

Mrs. Colletta said that the original plan was to build a whole second story, but they had since changed the plan. She said that they would still raise the roof line. She described what their original request was and why. She then described the new roof line which would be 23'9" on the front and 31'3" on the back compared to 35' on the front allowed and 45' in the rear, which is well below. She showed a picture of what the house would look like.

The footprint showed the variance request. The entire house would be 6 feet closer to the road, which would be the same distance as the porch currently is, and well within the 65 feet allowed. The new roof will be about 10 ft higher than the current one which is already lower than the norm. The house is also below the gradient of the road.

Commissioner Hammond motioned to approve the variance as requested. Commissioner Johnson seconded the motion. All were in favor of the motion and the variances requested were approved

- *4090 Berkeley View Drive (Lot 12, Unit 1, BB - MM): variance to add a second kitchen in the basement (39-1202-2)*

Chairman Herb described what is says in the current ordinance.

39-1202 Use Permit Required

No building or other structure shall be erected, moved, added to or structural altered without a Use Permit issued by the Zoning Enforcement Officer. This would not apply to ordinary maintenance and repairs to existing structures.

No Use Permit shall be issued except in conformance with the provisions of this Ordinance. The Planning Commission must approve compliance prior to issuance of any Use Permit in the following circumstances:

- 1. Construction in any residential district which partitions a dwelling into 2 or more non-interconnected spaces.*
- 2. Construction in any residential district resulting in more than 1 kitchen in a dwelling or any kitchen in an accessory structure.*

Mr. Pandy said that he would like to add the kitchen for family use only for meetings and family gatherings for his large Indian family. He described that he found out later that the code does not allow a second kitchen.

Herb described what the history of the ordinance was. He said that the code was added so there would not be mother- in law suites added or separate apartments. He said that such a request had not be granted before for that reason. He said that if the house has another entrance this still allows for an apartment and this was the case in this property.

Mr. Pandy offered to sign documents to agree not to rent it out as an apartment, but it was clarified that this cannot be enforced to later owners. He clarified that there is clear access from the top of the house to bottom. Herb clarified that the commission realized the intent was not to have an apartment, but the ordinance does not allow it.

It was suggested that Mr. Pandy could use a hot plate instead of a full oven.

Commissioner Johnson motioned to decline the variance. Commissioner Moore seconded the motion. All were in favor of the motion and the variance was denied.

- 39-807 Driveway and water run off control ordinance amendment. Moore said that he had looked at other variances from other cities. He read the current ordinance.

39-807 Grassing and Paving Required

All driveways and parking areas on residential lots shall be paved with asphalt or concrete and all areas not paved shall be suitably grassed or landscaped, including all banks and slopes to a degree sufficient to effectively prevent erosion, or siltation and sedimentation in run off waters. All banks and slopes are to be grassed or stabilized immediately upon completion of grading. Driveways sloping towards a road shall be equipped with a grate, the size to be determined by the Zoning Enforcement Officer, but it shall be no less than 4".

Moore described a suggestion that Charlie Sewell (OEO) had sent to him by email. Then he read his own suggestion including to change the title

39-807 Driveway and Parking Area Water Runoff Control

All driveways and parking areas on residential lots shall be paved with asphalt or concrete and all areas not paved shall be suitably grassed or landscaped, including all banks and slopes to a degree sufficient to effectively prevent erosion, or siltation and sedimentation in run off waters. All banks and slopes are to be grassed or stabilized immediately upon completion of grading. Driveways sloping towards a road shall control the discharge of storm water runoff into rights of way by either

There was discussion about the difference in the wording and further discussion about the grate size.

Rich Edinger (a City Engineer) also offered to find some examples of such ordinances to show P and Z. Moore agreed to bring a final version to the next meeting.

- Johnson reiterated his concerns about the height of sea walls and retaining walls. It was agreed to discuss this at a following meeting should Johnson like to propose an ordinance to restrict this.

The Commission agreed to meet again on Thursday August 4th, 2005.

Commissioner Johnson motioned to adjourn the meeting. Commissioner Moore seconded the motion and all were in favor. The meeting adjourned at 9.05 pm

Respectfully submitted by Jackie wall (Correct of August 9, 2005)

CITY OF BERKELEY LAKE
4040 Berkeley Lake Road
Berkeley Lake, GA 30096-3016

PLANNING AND ZONING COMMISSION
Meeting August 4, 2005
Full Minutes

Call to Order: Chairman Bob Herb called the meeting to order at 7:38pm on August 4, 2005 at the Chapel- 4043 S. Berkeley Lake Road.

Present: Commissioners Gary Moore, Rodney Hammond, Craig Belt and Skip Johnson. Chairman Bob Herb. Jackie Wall (P and Z Clerk)

Guests Present: Joe Voyles, Carol Christa, Helen Crowell, Ben and Keith Nash, and Debbie Guthrie.

Old Business: It was agreed to postpone the acceptance of the June 22nd meeting minutes until it was clarified that the requests made at the last meeting had been carried out.

Administrative Variance

Chairman Herb described the following administrative variance (under 39-602.1) that had been granted and fully and legally advertised.

- *882 Lakeshore Drive (Pt. Lot 10A-BL ,DC): variance to expand a non-conforming structure (39-602-1); add deck at rear of home that will be in full conformance and will not increase existing non-conformance impact.*

New Business

- *830 Valley View Lane (BL,DC): variance to locate front of house at a distance of 54 feet from the edge of the road pavement vs the required 65 foot front set back. (39-804-4)*

Joe Voyles described the original modular home. He said it was not a structure that could be added on to, but the new home would be a similar footprint and design with a concrete foundation. He said that the location had some topographical challenges. He described the future home. He said that the architect had not yet finished the final plans. He said that the old home had already been removed from the site.

Chairman Herb reviewed the criteria to grant a variance:

39-1401 Variances - Application for, Procedure and Notification

- a. *There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography, and*
- b. *The application of the Ordinance to this particular piece of property would create an unnecessary hardship, and*
- c. *Such conditions are peculiar to the particular piece of property involved, and*
- d. *Such conditions are not the result of any actions of the property owner, and*
- e. *Relief, if granted, would not cause substantial detriment to the public nor impair the purposes or intent of this Ordinance, and*
- f. *The variance is granted for a use of land or building or structure that is not prohibited by this Ordinance.*

Commissioner Johnson motioned to approve the variance request. Commissioner Belt seconded the motion.

Commissioner Johnson said that the house was still not very visible from the road due to the pitch of the property even with a change in variance.

All were in favor of the motion. The variance was approved.

- *554 Lakeshore Drive (Lot 64, Sec. 6 -BL,DC): variance to construct an accessory structure (free standing carport) in the front yard (39-401-1)*

Mrs. Crowell requested a free-standing car port as she does not have a garage.

Chairman Herb repeated the above criteria to grant a variance.

Crowell said that it would be to the side of the house and in line with the property. She said that her property went down hill and it would not be seen until you approach the house.

There was discussion as to whether the variance request would qualify, and it was agreed it would not.

Commissioner Moore motioned to deny the request, Commissioner Hammond seconded the motion.

All were in favor of denying the request. The motion was approved. The variance was denied.

- *Hear and vote on a request to annex into the City of Berkeley Lake, the Capital Commons office complex on Peachtree Industrial Blvd.*

Chairman Herb described the background to the annexation request. He said that the property could not be developed as Nash would like to according to the County code as their road frontage requirements require a certain amount of road frontage per lot. He said that Council had heard the initial concept and Nash had already agreed to hide the retaining wall and increase the number of trees in the buffer. He said that the current plat would require a number of variances largely on the set backs and side setbacks to be complaint with the City codes.

Nash thanked the Commission for their time. He gave the Commission a detailed copy of the variances that he would require broken down into both the whole property and each individual plot. He said that he already verbally agreed to Council that he would finish all the paving, infrastructure and landscaping. He said that there was one building already completed, and two buildings were almost completed. He said that he had also agreed to a down zoning from M1 to O and I.

Nash described the different lot sizes and why the variances would be required. He also said that he was willing to plant more trees along the buffer in order to fulfill the tree density requirement for the whole property to be complaint with the tree ordinance instead of counting tree density units per lot. It was agreed that there were enough trees near the buildings, and the remainder would be used in the buffers to hide the development form the surrounding homeowners. Nash said that he would plant the trees in the buffer within 120 days of the annexation being granted.

There was discussion about the lighting. Nash said that his lighting plan had already been discussed with the City attorney when he had originally tried to permit the property with the County. He said he had therefore worked with Georgia Power so that the lighting would be directed for security purposes but would restrict impact to the surrounding residents. It was suggested that the City engineer should review the lighting plans.

There was also discussion regarding waste collection and the times of collection. Nash said that he would include the waste removal costs as part of the association fees.

Nash then described all the variances he would require (see attached).

Commissioner Hammond motioned to approve the annexation of property in question with the following conditions:

- **Two rows of 8-10 ft tall Leyland cypress trees would be planted cross set every six feet off center on the North side of the property by the retaining wall**
- **2 gallon ivy plants would be planted every 5 ft along the wall,**
- **Lighting would be reviewed and approved by the city engineer for the purpose of minimizing impact to the surrounding residents**

- **Waste collection hrs would be restricted to conform to the City noise ordinances and would be no earlier than 7am and not after 7pm.**
- **The 10 acre complex would comply with the tree ordinance density, not necessarily lot by lot.**
- **The agreed upon Lot sizes and buffer zone variances as attached.**

**Commissioner Johnson seconded the motion
All in favor of the motion and the motion passed.**

**Commissioner Johnson motioned to change the zoning from M1 to O and I.
Commissioner Hammond seconded the motion and all were in favor.**

The Clerk noted that she would clarify the procedure for annexation.

Old Business

- 39-807 Driveway and Parking Area run off control

Commissioner Moore said that the current ordinance read as follows:

All driveways and parking areas on residential lots shall be paved with asphalt or concrete and all areas not paved shall be suitably grassed or landscaped, including all banks and slopes to a degree sufficient to effectively prevent erosion, or siltation and sedimentation in run off waters. All banks and slopes are to be grassed or stabilized immediately upon completion of grading. Driveways sloping towards a road shall be equipped with a grate, the size to be determined by the Zoning Enforcement Officer, but it shall be no less than 4".

There was discussion regarding the wording of this ordinance and the need to clarify it. The wording had also been discussed with Rich Edinger, a City engineer.

The Commission agreed to propose the following to Council:

All driveways and parking areas on residential lots shall be paved with asphalt or concrete and all areas not paved shall be suitably grassed or landscaped, including all banks and slopes to a degree sufficient to effectively prevent erosion, or siltation and sedimentation in run off waters. All banks and slopes are to be grassed or stabilized immediately upon completion of grading. Driveways sloping towards a road shall control the discharge of storm water runoff into rights-of-way by either curving the driveway in such a manner that most of the runoff is directed onto grassed or landscaped areas, by providing structures such as humps in the driveway to divert the storm water runoff onto grassed or landscaped areas, by using pervious surfaces permitting a substantial portion of the stormwater to penetrate the surface instead of flowing down the driveway, or by equipping the driveway with a covered catch basin with a grate having an opening of no less than 6". The grate should be traffic load rated

and be removable for maintenance purposes. This will typically mean that it will be made from cast iron or steel. Storm water runoff may discharge directly into rights-of-way of any road if the overall storm water management plan for the road is designed to accommodate the runoff.

Commissioner Johnson motioned to accept the new wording and propose the change to council. Commissioner Hammond seconded the motion. All were in favor of the motion and the motion passed.

- 39-401 Boathouses

Commissioner Johnson described the history of the boathouse ordinance, as he had been part of the Commission who had reviewed it in the first place. He said that the intent was that any enclosed area should be used for storage purposes only. He said it had since been interpreted that 'enclosed' did not mean screened in boathouses and were therefore allowed. He said that the intent was that there should be nothing to obstruct the view around the lake. He said that the Commission was originally trying to stop large lakeside enclosed areas, and this was already beginning to happen.

Chairman Herb said that the current ordinance reads as follows:

Boat Houses and docks may not extend more than 25 feet into the lake from the natural shoreline, must be at least 12 ½ feet from the side lot line, projected into the lake, must be at least 75 feet from the opposite shore, may not exceed 14 feet in height from the mean water level, and may not have an area enclosed on 2 or more sides greater than 100 square feet.

There was also discussion regarding the clarification of this ordinance. The Commission agreed to discuss revised wording at the next meeting.

The Commission agreed to meet again on Tuesday Aug 30 at 7:30 pm.

There was a motion to adjourn at 9.35pm by Commissioner Belt. Commissioner Moore seconded the motion and all were in favor.

CITY OF BERKELEY LAKE
4040 Berkeley Lake Road
Berkeley Lake, GA 30096-3016

PLANNING AND ZONING COMMISSION
Meeting August 30, 2005
Full Minutes

Call to Order: Chairman Bob Herb called the meeting to order at 7:38pm on August 30, 2005 at the Chapel- 4043 S. Berkeley Lake Road.

Present: Commissioners Gary Moore, Rodney Hammond and Craig Belt. Chairman Bob Herb. Jackie Wall (P and Z Clerk)

Guests Present: John and Ginny Nevins, Eric Johansen (Crescent Development) and Rich Edinger (Clark Patterson).

Old Business:

Minutes: Commissioner Hammond motioned to approve the minutes as amended for the June 22nd, 2005 meeting. Commissioner Moore seconded the motion. All were in favor of the motion. The motion passed

Minutes: Commissioner Belt motioned to approve the minutes as amended for the June 22nd, 2005 meeting. Commissioner Hammond seconded the motion. All were in favor of the motion. The motion passed.

Administrative Variance

Chairman Herb described the following administrative variance (under 39-602.1) that had been granted and fully and legally advertised.

- *3695 North Berkeley Lake Road): variance to expand a non-conforming structure (39-602-1); add an in ground swimming pool and spa that will be in full conformance and will not increase existing non-conformance impact.*

New Business

- *350 Lakeshore Drive (Lot 36 & 37, Sec. 3 - BL): variance to expand structure to occupy 20% of property versus occupying the required maximum 15% of total property space (39-805)*

Chairman Herb described the history behind the ordinance that currently requires 15% of the maximum total property space.

39-805 Floor Space Requirements R-100 Single Family Residence District

All single family residences shall contain not less than 2,000 square feet of floor space exclusive of unfinished basements, carports, garages, attic and open porches/decks. The footprint of all structures however shall not occupy more than 15% of the property upon which they are located.

He also read the requirements that must be adhered to in order to grant a variance.

39-1401 Variances - Application for, Procedure and Notification

- a. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography, and*
- b. The application of the Ordinance to this particular piece of property would create an unnecessary hardship, and*
- c. Such conditions are peculiar to the particular piece of property involved, and*
- d. Such conditions are not the result of any actions of the property owner, and*
- e. Relief, if granted, would not cause substantial detriment to the public nor impair the purposes or intent of this Ordinance, and*
- f. The variance is granted for a use of land or building or structure that is not prohibited by this Ordinance.*

Nevins said that a structural engineer has said that the house foundation will not support a second storey, which is why they need to exceed the current footprint of the home. She said it would be 4 bedrooms and 3.5 baths. She said that the plans would be within the allowed setbacks, but there would be a covered patio and open areas. She described and showed the house plans. She said that the lot is a double lot and they were trying not to build what would not have an over-imposing structure.

Herb questioned why the property could not be built up. There were further questions as to why this would be deemed an extraordinary reason to exceed the 15%. Herb explained that the home would need to have a particular reason to exceed the 15% ie the unusual shape or topography of the lot, which this house did not seem to have, even if the structural engineer stated the house could not be built up.

Nevins explained that the plans were drawn before they understood there was the 15% rule.

The Commissioners felt that the code was clear in what it required and that the variance request did not qualify.

Commissioner Hammond motioned to deny the variance request. Commissioner Belt seconded the motion. All were in favor of the motion. The variance was denied.

- *350 Lakeshore Drive (Lot 36 & 37, Sec. 3 – BL): variance to expand structure to be at 60 foot set back from pavement edge versus required 65 foot setback (39-804-4)*

As the previous variance was denied, the second variance was not considered.

- *Hear and vote on a request to approve another preliminary plat option to the Crescent Development office and retail complex located at the corner of Peachtree Industrial Blvd. and North Berkeley Lake road (40-10-2-5)*

Johansen updated the commission on the current issues. He explained the problems in acquiring the tract with the detention pond on due to the current owners of Blue Ridge Owners Association not being a current active association, but assured all would be taken care of. There are also issues with the right of way and the county easement which are being resolved. Finally, *Walgreens* wants to be where the bank was planned, the building is bigger, but everything else will stay the same. He showed the plans which include a change in the road layout too. He said they would put in road humps if needed to stop traffic taking a cut through. He also described the change in the grade. The *Walgreens* would be visually appealing and include a pitched roof like the rest of the buildings. The area will be called ‘Berkeley Lake Village’

The size of the parking spaces will not change, and all the other preliminary plat conditions would remain the same including the opening and closing hours. Johansen said that *Walgreens* did know of these operating hours conditions too and may still change their mind.

Commissioner Moore motioned to approve the request. Commissioner Hammond seconded the motion. All were in favor of the motion. The preliminary plat option was approved.

- Driveway and Parking Area Water Runoff Control

Chairman Herb recommended changing the wording as decided at the last meeting to remove the conflicting sentence ‘by using pervious surfaces permitting a substantial portion of the stormwater to penetrate the surface instead of flowing down the driveway’. It would now say:

All driveways and parking areas on residential lots shall be paved with asphalt or concrete and all areas not paved shall be suitably grassed or landscaped, including all banks and slopes to a degree sufficient to effectively prevent erosion, or siltation and sedimentation in run off waters. All banks and slopes are to be grassed or stabilized immediately upon completion of grading. Driveways sloping towards a road shall control the discharge of storm water runoff into rights-of-way by either curving the driveway in such a manner that most of the runoff is directed onto grassed or landscaped areas, by providing structures such as humps in the driveway to divert the storm water runoff onto grassed or landscaped

areas, or by equipping the driveway with a covered catch basin with a grate having an opening of no less than 6". The grate should be traffic load rated and be removable for maintenance purposes. This will typically mean that it will be made from cast iron or steel. Storm water runoff may discharge directly into rights-of-way of any road if the overall storm water management plan for the road is designed to accommodate the runoff.

Commissioner Belt motioned to accept the new wording and Commissioner Hammond seconded the motion. All were in favor.

- **39-401 Boat dock**

The Commissioners discussed new wording for this ordinance and recommended the following:

1. **Boat Houses and Docks.** Boat Houses and docks may not extend more than 25 feet into the lake from the natural shoreline, must be at least 12 ½ feet from the side lot line, projected into the lake, must be at least 75 feet from the opposite shore, may not exceed 14 feet in height from the mean water level, and may not have an area enclosed on 2 or more sides with any material including, but not limited to, screening and glass that is greater than 100 square feet.

Commissioner Hammond motioned to approve the new wording. Commissioner Moore seconded the motion and all in favor. All agreed Chairman Herb would not forward this wording change to Council until Commissioner Hammond had time to consider additional wording changes to limit the total size of the docks and boathouses.

The Commission discussed possible further rewording to restrict the size of docks in 39-401. They decided to look into, and discuss it, at a future P and Z meeting. They also decided not to forward the new wording of 39-401 until they had decided whether to add further wording to restrict the size of docks or not.

The Commissioners agreed to meet again on Tuesday October 4th, 2005.

There was a motion to adjourn at 9.05pm by Commissioner Moore. Commissioner Belt seconded the motion and all were in favor.

Minutes approved at the October 4th Planning and Zoning meeting.

CITY OF BERKELEY LAKE
4040 Berkeley Lake Road
Berkeley Lake, GA 30096-3016

PLANNING AND ZONING COMMISSION
Meeting October 4, 2005
Full Minutes

Call to Order: Chairman Bob Herb called the meeting to order at 7:33pm on October 4th, 2005 at 4040 S. Berkeley Lake Road.

Present: Commissioners Gary Moore, Rodney Hammond Skip Johnson and Craig Belt. Chairman Bob Herb. Jackie Wall (P and Z Clerk)

Guests Present: Roy Campbell, Joe Voyles, Dan Huntington, Barbara Carroll, Dag Sandbakken and Bill Kent.

Old Business:

Minutes: Commissioner Hammond motioned to approve the minutes as amended for the August 30th, 2005 meeting. Commissioner Moore seconded the motion. All were in favor of the motion. The motion passed.

- *Hear and vote on a request for annexation and rezoning into the City of Berkeley Lake, by the Nash Corporation, owner of the Capital Commons office complex on Peachtree Industrial Blvd. The rezoning will be from M1 to O and I.*

Commissioner Johnson motioned to approve the annexation of property in question with the conditions as prescribed at the August 4th, 05 P and Z meeting. Commissioner Moore seconded the motion.

In discussion Chairman Herb read the conditions that had been decided previously:

- Two rows of 8-10 ft tall Leyland cypress trees would be planted cross set every six feet off center on the North side of the property by the retaining wall
- 2 gallon ivy plants would be planted every 5 ft along the wall,
- Lighting would be reviewed and approved by the city engineer for the purpose of minimizing impact to the surrounding residents
- Waste collection hrs would be restricted to conform to the City noise ordinances and would be no earlier than 7am and not after 7pm.
- The 10 acre complex would comply with the tree ordinance density, not necessarily lot by lot.
- The agreed upon Lot sizes and buffer zone variances as attached.

All in favor of the motion and the motion passed.

Commissioner Hammond motioned to change the zoning from M1 to O and I. Commissioner Belt seconded the motion and all were in favor. The motion passed.

- *4580 Berkeley Walk Point: variance to build a new viewing stand for the Homeowner's Association tennis courts set back 40 ft from the front property line versus the required 50 ft set back.(39-804.4)*

Barbara Carroll described how the current viewing stand had been built by the original builder. She said that they wanted to relocate it in a better place, put it at a better height and make it even less visible from the road, which would also make it more in compliance than it currently is.

Chairman Herb read the following:

39-1401 Variances - Application for, Procedure and Notification

- a. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography, and*
- b. The application of the Ordinance to this particular piece of property would create an unnecessary hardship, and*
- c. Such conditions are peculiar to the particular piece of property involved, and*
- d. Such conditions are not the result of any actions of the property owner, and*
- e. Relief, if granted, would not cause substantial detriment to the public nor impair the purposes or intent of this Ordinance, and*
- f. The variance is granted for a use of land or building or structure that is not prohibited by this Ordinance.*

There was a short discussion about the changes requested.

Commissioner Johnson motioned to approve the variance request. Commissioner Belt seconded the motion. All were in favor of the variance request. The variance was approved.

- *3695 North Berkeley Lake Road: variance to alter a non-conforming structure (39-602.1); changing windows and doors, remove and reconstruct rear deck to same size, add a half-roof over the rear deck and add a roof over the front entry door. All of these alterations will be in full conformance and will not increase the existing non-conformance of the house sitting back at the front at 60' versus required 65 ft and the front building line being at 84 ft versus the required 100 ft.*

Chairman Herb said that the house is a non-conforming property already, so that any work done on it would require a variance request.

Dag Sandbakken said that they were not touching the footprint of the house, they were upgrading both the exterior and the interior of the house.

There was a short discussion about the changes.

Commissioner Johnson motioned to approve the variance request. Commissioner Hammond seconded the motion. All were in favor of the variance request. The variance was approved.

- *3695 North Berkeley Lake Road: variance to construct a covered boathouse and dock at a distance of 3 ft from the side property line versus the required 12 ½ ft side set back. (39-401.2)*

This Variance request was withdrawn. Sandbakken thanked the Chairman for helping him to find a better solution that did not require the variance.

- *882 Lakeshore Drive (Pt, Lot 10A-BL,DC): variance to expand a non-conforming structure (39-602.1); add a rear porch on the back of the house that will be in full compliance and will not increase the non-conformance impact of the side porch and roof overhand being at a ½ ft set back from the side property line versus the required 12 ½ ft set back.*
- *882 Lakeshore Drive (Pt, Lot 10A-BL,DC): variance to enlarge a non-conforming structure (39-602.1); construct a foyer entrance at the front of the house that would be approx. 1 ½ stories high. This change to the entrance of the house will be in full compliance and will not increase the non-conformance impact of the side porch and roof overhang being at a ½ ft set back from the side property line versus the required 12 ½ ft setback.*

Chairman said that it was an older property that was also non conforming. He said that he had already granted an administrative variance for a rear deck. However the request was not to enclose that deck.

Joe Voyles (for Brad Nessler) said that 882 and 888 Lakeshore drive currently shared a driveway, and both neighbors wanted to change that. He said that they were going to take the entrance away from the current position at the side and remove the side deck to allow for more separation between the properties. He said they would then be able to move the driveway.

There was discussion about the current location and how it would affect the setbacks from the property line.

Commissioner motioned to approve the variance request for the front foyer entrance. Commissioner seconded the motion. Commissioners Belt, Moore and Hammond were in favor of the variance request. Commissioner Johnson abstained

from the vote. The variance was approved.

Commissioner Belt motioned to approve the variance request to remove the side deck to make it more in conformance and flush with the house and to add the roof to the deck, which will not be enclosed at all with screen or glass. Commissioner Hammond seconded the motion. All were in favor of the variance request. The variance was approved.

Voyles reiterated that the rear roof over the deck would not be visible from the street. He also said that they would be adding a stone wall down the side of the driveway to make the courtyard as described. He said there would be a retaining wall on the side to separate the homes but it would not be attached to the side of the house.

- *350 Lakeshore Drive (Lot 36 & 37, Sec. 3 - BL): variance to expand structure to occupy 18% of property versus occupying the required maximum 15% of total property space (39-805)*

This variance request was also withdrawn.

- **39-805 Floor Space Requirements R-100 Single Family Residence District**

Chairman Herb said that he would like the Commission to consider changing the last sentence of the ordinance:

All single family residences shall contain not less than 2,000 square feet of floor space exclusive of unfinished basements, carports, garages, attic and open porches/decks. The footprint of all structures however shall not occupy more than 15% of the property upon which they are located.

He said he was suggesting the last sentence should read further to say:

The footprint of all structures however shall not occupy more than 15% of the property upon which they are located when any structure has a building height that exceeds 25 ft at the highest point when measured at the front or has a building height that exceeds 35 ft at the highest point measured at the rear, if the structure is located on a downward sloping lot. The footprint of all structures however may occupy up to 20% of the property upon which they are located when all the structures on the property have a building height that is 25 ft or less at the highest point when measured at the front AND has a building height that is 35 ft or less at the highest point when measured at the rear, if the structure is located on a downward sloping lot.

He said that the intent of the original code was originally to stop houses becoming too big vertically on small lots. However he felt that one story homes that had a larger lot should be able to have 10 ft at the floor level and 15 ft roof space, and be able to have a larger footprint on the ground and he gave an example.

Commissioner Johnson motioned to adopt the suggested wording into code. Commissioner Hammond seconded the motion and all were in favor.

Chairman Herb asked the Clerk to send the wording to the City attorney in preparation for the next council meeting.

Chairman Herb said that the P and Z suggestions for the Driveway and Parking Area Water Runoff Control ordinance were turned down by Council.

Chairman Herb noted that the property at 326 Lakeshore Drive had been re-measured on the plans and had been shown to be 0.1% over the 15% allowed. He said that they would be applying for a variance request, (which would be an administrative variance), if they did not remove a side deck, which they were currently considering.

New Business

There was discussion about whether the P and Z could limit the number of pontoon boats allowed at each lot on the lake, and whether it was a P and Z issue. It was also questioned whether the use of retaining walls could be restricted.

The Commissioners agreed to meet again on Tuesday November 1st, 2005.

There was a motion to adjourn at 9.05pm by Commissioner Moore. Commissioner Belt seconded the motion and all were in favor.

CITY OF BERKELEY LAKE
4040 Berkeley Lake Road
Berkeley Lake, GA 30096-3016

PLANNING AND ZONING COMMISSION
Meeting November 1, 2005
Full Minutes

Call to Order: Chairman Bob Herb called the meeting to order at 7:35pm on November 1, 2005 at 4040 S. Berkeley Lake Road.

Present: Commissioners Skip Johnson, Rodney Hammond and Craig Belt. Chairman Bob Herb. Jackie Wall (P and Z Clerk)

Guests Present: Laraine and Bill Downey, Eric Zusmanis, Jack and Virginia Andreu, and Claude Murphy.

Old Business:

Minutes: Commissioner Hammond motioned to approve the minutes as amended for the October 4th, 2005 meeting. Commissioner Johnson seconded the motion. All were in favor of the motion. The motion passed.

New Business

- *120 Ridge Road (Lot 1, BA-BL): Variance to construct a free standing carport at a distance of 4 ft from the side property line versus the required 12 ½ ft side set back. (39-804.6)*

Zusmanis described where he would like to put the car port. He said he would like to amend the variance request so that the distance requested for the set back would be less, and he would back fill some gravel to level out the area.

Chairman Herb read the following:

39-1401 Variances - Application for, Procedure and Notification

- There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography, and*
- The application of the Ordinance to this particular piece of property would create an unnecessary hardship, and*
- Such conditions are peculiar to the particular piece of property involved, and*
- Such conditions are not the result of any actions of the property owner, and*

- e. *Relief, if granted, would not cause substantial detriment to the public nor impair the purposes or intent of this Ordinance, and*
- f. *The variance is granted for a use of land or building or structure that is not prohibited by this Ordinance.*

There was discussion regarding whether the Variance could be reduced further to 2.5 ft versus 8 ft as originally requested, therefore 10 ft rather than 12.5 ft. It was noted that there is a permanent 15-25 ft buffer zone to the right of the property line. Zusmanis also said his objective was to make it as unobtrusive as possible. It was noted that the structure would be almost out of sight, (even from the road), not attached to house in any way, a free-standing structure with no power, and that was why it would have to have the same setbacks as other buildings.

Commissioner Belt motioned to approve the variance with the change of distance to 10 ft from the property line setback on the side, for a 2.5 ft variance from the required minimum. Commissioner Hammond seconded the motion and all were in favor. The amended variance passed.

- *106 Ridge Road (Lot 5, BA- BL): Variance to alter a non-conforming structure (39-602.1); the existing non-conformance of the house is due to it set back at the front at 58' versus the required 65 ft from the road edge and the rear of the house is located at a distance of 33' from the rear lot line versus the required 40' set back. Variance request is to add a den and deck that further encroaches on the rear set back to a distance of 21 1/2' from the rear lot line (39-804.5) and a variance request to add a front entry that further encroaches on the front set back to a distance of 49' from the road edge.*

Chairman Herb said that the property was already non-conforming both at the front and rear and he reiterated the measurements.

Bill Downey described why they decided to move to their new house. He said the house had been empty for 2 yrs. He described their proposed changes, and he said they wanted to make a rustic cottage style home in keeping with homes already on Ridge Road. He said that the shape of the lot was strange He said that the lot had a large area (almost 60 ft) on the on left side (facing the home) but they did not want to change the current location of the home, and not add to that side as it would be expensive and cause trees to have to be removed. He said that their proposed changes would be to add to the existing porch on the rear only add 300-400 sq ft to the home.

Chairman Herb again described the following.

39-1401 Variances - Application for, Procedure and Notification

- a. *There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography, and*
- b. *The application of the Ordinance to this particular piece of property would create an unnecessary hardship, and*
- c. *Such conditions are peculiar to the particular piece of property involved, and*

- d. *Such conditions are not the result of any actions of the property owner, and*
- e. *Relief, if granted, would not cause substantial detriment to the public nor impair the purposes or intent of this Ordinance, and*
- f. *The variance is granted for a use of land or building or structure that is not prohibited by this Ordinance.*

Chairman Herb said that the lot is very shallow and the home should have been located in a better position in the first place, the unusual shape and topography would make this application relevant. Normally applications are not making non conformity any worse than it is. He said that the Downeys were however asking it to make it more non-conforming than it already is.

There was discussion regarding the shape of the lot, and the variance request for the front variance. It was noted that the addition of a porch would not be impactful, especially as the shape of the road and curve made it a difficult property shape.

Commissioner Hammond motioned to approve the front variance request for a 49' variance setback, Commissioner Johnson seconded the motion. It was noted that the opposite ends of property are very close to the set back and they would take the curve in the road into account. **Commissioners Hammond and Johnson were in favor of the motion. Commissioner Belt abstained. Chairman Herb therefore was required to vote, and he voted in favor of the motion. The variance request was approved.**

There was further discussion regarding the variance on the rear. The request for the den on the left side (when facing the rear) was basically in compliance. The deck would not have a roof structure on it and sit approximately two feet off the ground to be equal with the existing foundation.

Downey suggested the deck be rounded off on the corner to make it less non-conforming and to allow for better access from the side of the house anyway.

There was further discussion about the measurements on the rear setbacks of the house and particularly regarding the extension to the screened in porch to the right facing the rear.

Commissioner Johnson motioned to approve adding den on the left side (facing the back), and adding the deck to right of existing area, however omitting the extension to the current screened in porch. Commissioner Hammond seconded the motion. Therefore the setback would be 43 ft on the den (left side facing the back) and 21.6 setback on the deck.

Herb clarified that no other application could be made for the same area for another year. He also said that the approval would be for the footprint and the Downeys could decide to change the use of the area ie the den could be a porch, so long as they stayed in the approved footprint. The existing sunroom could not be extended towards the right (facing the back) but there could be decking there.

Commissioners Hammond and Johnson approved the motion, Commissioner Belt abstained. Chairman Herb therefore was required to vote, and he voted in favor of the motion. The variance request as amended was approved.

Chairman Herb said that citizens or the Downeys' could appeal the decision within the next 15 days.

Old Business

39-805 Floor Space Requirements

Chairman Herb said that city attorney had recommended a change in wording from 'property' to 'lot.'

Commissioner Johnson motioned to change the wording as suggested to the following:

- **39-805 Floor Space Requirements R-100 Single Family Residence District**

All single family residences shall contain not less than 2,000 square feet of floor space exclusive of unfinished basements, carports, attic and open porches / decks. The footprint of all structures however shall not occupy more than 15% of the lot upon which they are located when any structure has a building height that exceeds 25 ft at the highest point when measured at the front or has a building height that exceeds 35 ft at the highest point when measured at the rear, if the structure is located on a downward sloping lot. The footprint of all structures however may occupy up to 20% of the lot upon which they are located when all the structures on the lot have a building height that is 25 ft or less at the highest point when measured at the front and has a building height that is 35 ft or less at the highest point when measured at the rear, if the structure is located on a downward sloping lot.

Commissioner Hammond seconded the motion. All were in favor and the motion passed.

39-401.2 Boat house and docks.

The Commissioners discussed editing the wording for this ordinance and recommended the following:

39- 401.2 Boat Houses and docks:

- shall not extend more than 25 feet into the lake from the natural shoreline, and
- shall be at least 12 ½ feet from the side lot line, projected into the lake, and
- shall be at least 75 feet from the opposite shore, and
- shall not exceed 14 feet in height from the mean water level, and
- **shall not have a total footprint that exceeds 875 square feet, and**

- **shall not have a total roof footprint that exceeds 675 square feet. and**
- shall not have an area enclosed on 2 or more sides **with any material including, but not limited to, screening and glass** greater than 100 square feet.

Commissioner Hammond motioned to approve the new wording. Commissioner Johnson seconded the motion and all in favor. The motion passed.

Chairman Herb asked the clerk to forward the wording to the city attorney for comment.

- There were questions from Phil Gilbert regarding his variance request to be heard at the next meeting. He was referred to 39-602, which Chairman Herb read to him and explained.

39-602 Continuance of a Building Occupied by a Non-Conforming Use

A building occupied by a non-conforming use at the time of enactment of amendment of this Ordinance may be retained except that it shall not be:

1. Enlarged or rebuilt except in conformance with this Ordinance, but it may be repaired to the extent necessary to maintain it in a safe and sanitary condition.
2. Rebuilt, altered or repaired after damage exceeding 40% for principal structures, and 25% for accessory buildings, of their replacement cost at the time of destruction, except in conformity with this Ordinance.

Gilbert was therefore advised just to do repairs (using different materials was permissible), and therefore no variance would be required.

The Commissioners agreed to meet again on Tuesday December 4th, 2005.

There was a motion to adjourn at 9:05pm by Commissioner Johnson. Commissioner Hammond seconded the motion and all were in favor. The motion passed