

PLANNING COMMISSION MEETING
July 11, 2006

MEMBERS PRESENT: Bob Craggs, Richard Glasgow, Sharon Lee, Joe Paiement, Chris White, Diane Wirth

STAFF PRESENT: Chris Wallberg

OTHERS PRESENT: Al Bergevin, Marlene Bergevin

1. **CALL TO ORDER** by Chair Joe Paiement at 7:00 p.m.
2. **PLEDGE OF ALLEGIANCE** was said.
3. **MEETING MINUTES** – White had two changes; language clarification will be made. **M/S/P ((White/Lee) to approve the June 6, 2006 PC meeting minutes as amended. Motion passed.**

4. **VARIANCE APPLICATION TO SETBACK & EXTRA ACCESSORY STRUCTURES BY ALLEN P. BERGEVIN**

A. Public Hearing on an Application by Allen P. Bergevin for variance to side yard setback and to allow an extra accessory structure at 703 Quinnell Avenue North

- 1) **Call to Order** at 7:05 p.m.
- 2) **Introduction of Application** – Wallberg noted complaint received regarding Bergevin's shed; building inspector and she have both have worked with them since advising need to apply for two variances - one to side yard setback on north property line (closer than required 10'), and other to allow extra accessory structure since Ordinance limits number of accessory buildings to one in addition to a garage.
- 3) **Public Comments** – none
- 4) **Written Comments** –
Allan Bergevin, 703 Quinnell Avenue North. Before building storage shed, checked with Building Inspector's Office regarding need for building permit for 10 x 12 and she indicated yes; asked about 10 x 10 and she said he didn't need permit; went ahead and built 10 x 10; day after done, received call from her instructing him to have permit; he advised it only 10 x 10 to which she requested need for site plan (wasn't told before she would need site plan); did site plan, took it down, and gave to her; was informed by she and Gilles that you can't have third building at that time; should have been told that when he inquired about storage building because not permanent structure but for power mower, snow blower, etc. and on skids – not real foundation; side setback problem his own fault; owns property next door and they decided when building more aesthetic to line up with that building; after talking with building inspector, he knew there was side setback of 10'; current setback 4.5' but can be moved; would prefer not to move because it looks good the way it is; as far as third building, they could join two buildings, but he would rather not do that either; they are selling property next door where there is a two car garage and storage shed full of their items; needs a place to store them; existing buildings on property finished off and have been for 20-30 years; not conducive to storage; wouldn't want to put snow blower on hardwood oak floor; still have many things in old garage that will go mostly in dumpster; wouldn't have put building up without applying for variance, but when told he didn't need it, they went ahead and built it; needs storage or otherwise will need to store outside and cover with tarps that will lead to neighbors complaints and theft.
- 5) **Hearing Closed** at 7:07 p.m.

B. Discussion & Recommendation

Lee asked if building aligned with another also 4.5' from property line; grand fathered structure. Bergevin answered yes, has been there over 100 years. Craggs noted word 'finished' and rationale; way rules written is limitations in terms of accessory buildings; Bergevin said accessory buildings he presently has finished; asked current use of those buildings. Bergevin said for his own private use, family use; wife does sewing, hobby things; no telephone, TV, or interruptions; totally finished off, hardwood floors, air conditioned/heated, even water, but they haven't hooked water up yet; other accessory building totally finished off and has air conditioning and heat that he uses for an office; as things accumulated, he has done away with office and it is now used for personal storage; not appropriate for outside implement storage; reason for accumulation is they did not rent out the garage and storage building next door when renting out house; wouldn't be selling house, except has been empty for 10 months and really tough to rent; costing too much money to have it sit there empty. Craggs continued regarding Bergevin's conversations and characterization that he made phone call and had conversation with building

inspector. Bergevin corrected he actually went down to Building Inspector's Office; Gilles and Wallberg there; Morris actually walked in while there; was told he didn't need permit for 10 x 10 building; didn't talk about location at all; location his fault; knew there was 10' setback, but because he was trying to align with other building and he owned the place next door, he didn't consider; was not informed about extra buildings on the property; doesn't recall having discussions about existing finished buildings when talking initially – former building inspector saw both of those buildings previously; hardship defined as having to store things outside if he didn't have building; storing outside and covering with tarps inviting theft; building could be moved 5.5' easily, so would be 10' away from property line; if he has to attach the two buildings, that would be more difficult because he would have to turn around. Lee asked regarding setback situation, if building moved, how close it puts it toward main house. Bergevin thought maybe 10-15'; distance between new structure and old existing structure between 9-10'; left that wide so ramp could be there to get mowers in and out; total of all buildings together, excluding house, about 420 sq. ft.; understands he can have garage that is 720 sq. ft. Paiement asked rationale or reason behind Ordinance restriction on number of outbuildings, and if issue before. Wallberg believes it is one of the things that came from original model Ordinance; therefore would be widely used in Valley. Gilles clarified you are only allowed one accessory building and one shed up to 160 sq. ft.; referred to 703.02 - Permitted Uses of Accessory Buildings - that he thought was shown to Bergevin. Bergevin said he has never seen Ordinance. Glasgow asked Wallberg if it would also require a concrete slab or foundation; looking at 703.14 stating all accessory buildings over 35 sq. ft. in area shall have foundation or concrete slab. Gilles confirmed Bergevin does have foundation; foundation can be wood. Bergevin also confirmed foundation, not concrete, but skid foundation 4 x 4 treated lumber easily moved on planks. White asked about Bergevin's time outline putting up accessory building, and at what point in time did building inspector visit. Bergevin said the day after it was finished, she called him and mentioned getting a permit; he advised it was 10 x 10; she said he didn't need permit, but she would appreciate his submitting a site plan; when he brought site plan in, he was informed at that time he wasn't to have more than two outbuildings; nothing happened until he received a letter back from her that he needed to get a variance. Wallberg noted letter sent on May 10, 2006 from the building inspector requesting site plan. White asked if Bergevin were to put two sheds together, he would have 220 sq ft and 160 sq ft allowed – could he abut the two sheds with door on west; confirmed when building inspector mentioned site plan, he was totally done with shed and it was the first time he was notified there was any problem. Bergevin said the buildings could be put together, but would have to be turned totally around because of door and ramp; in response to Glasgow's question regarding contacting City Hall, confirmed Wallberg had informed him he needed to see the building inspector to get a permit before he started. Craggs thought since one of Bergevin's concerns is information conveyed to him, it only appropriate to provide Gilles an opportunity to characterize how discussion went, since he was there at the time. Gilles said basically Bergevin came in asking different sizes of sheds – never said anything regarding site plan, where he was going to put building, what property – just said he wanted to build a shed and asked about a 10 x 12 and 10 x 10; had some paperwork, and almost positive he had a copy of 703.02 - Permitted Uses of Accessory Buildings - because he had just come from City Hall; said he was selling his house, but didn't said where shed was going. Wallberg said Bergevin came in to City Hall; process ordinarily when someone comes to ask that question is to provide an applicant a copy of Ordinance 703.02 and 602 (chart of setback requirements) and specifically asked Bergevin to check with the building inspector regarding size, a standard procedure as well for her determination. Paiement said this seems another classic case of putting them in the wonderful position of determination of hardship; apparently was miscommunication between applicant and City at best; shed built; need to determine if following Ordinance and if application constitutes hardship; tired of struggling with same issue over again, but that is what they do; doesn't see any end to it until meaning of hardship straightened out; can grant application for variances that opens door to any hardship that walks through the door meeting hardship; nothing particularly unique to this situation; miscommunication, and because of that there is an extra shed. Bergevin thinks hardship would be not having any storage space; has seen variances granted for things that should never have been granted. Craggs said rules and regulations are set up to create some order within the way the City of Lakeland develops; as a PC, their obligation and responsibility is to basically look at rules and apply them as best they can; thinks Bergevin said it best in terms of hardship, it is suppose to be a case by case basis; that provides some flexibility in terms of applying rules; empathic to his situation, but rules as they are set require shed be set at side yard setback, as well as fact there is limit in terms of accessory buildings; Bergevin not concerned about side setback because it can be moved and they can be connected; challenge to assess hardship asking other reasonable alternatives; if other reasonable alternatives, belief there is no hardship; from his perspective, he believes other buildings could be used for storage, so doesn't see that as hardship based on information provided. Bergevin also mentioned 'economic considerations shall not constitute hardship'; economic problems here too, but only part of it; had to have a place to store his things, so built building because they are selling the place next door; living on fixed income; haven't rent house for 10 months - no income - so had to sell; if he didn't have to sell it and had it rented, he wouldn't have done any of this, including putting in water; in answer to White's question regarding the smaller

building, Bergevin said it has concrete floor, carpeted, sheetrock, electricity, air conditioning used for personal storage, but it is full; has been trying to downsize and eliminate; believes they began building in April 2006. Glasgow in same situation as Bergevin; needed extra storage and has two outbuildings; went down to Cheep Storage and purchased storage there. Bergevin said he couldn't store his lawn mower and snow blower down there when he needs it at his home. White asked if Bergevin has visited with the building inspector, and she had advised he could do a 10 x 10 building -however, he is only allowed two buildings - what he would have done. Bergevin said he would have still applied for a variance to try to get one or add on to one already there; as he said in the letter, had he been informed of this upfront, he would have filed appropriate paperwork prior to building. [Timeline discussed further] Wallberg reiterated standard procedure when someone comes to her office, she provides them documents so as they proceed with their plans, they have that information available; they have no way to know everyone's property, how much is there, where plans to put things; only alternative to way handling now and to avoid what is represented as 'miscommunication' is to insist there be a site plan for every question they are asked; doesn't change whether Bergevin needs variance in either of his cases, but procedure was followed; suggests it was not a miscommunication. Gilles said in defense of the building inspector, she is 'building,' this is a zoning issue; Bergevin came down and asked about a building issue, not her job to do zoning; Wallberg did her job by providing paperwork; resents miscommunication being called every time because there was no miscommunication on City's part. Paiement used term miscommunication, but didn't intend fault; obviously applicant and City had two different ideas of what happened. Bergevin also confirmed he was not saying the building inspector did anything wrong; she answered questions when he asked. White asked if Bergevin were to take west side of the current building (10 x 12) and about 6 x 10 which is the additional he would be allowed under Ordinance (he would still have to request setback), would 6 x 10 provide him footage needed. Bergevin doesn't think so; building can be moved to adjoin; three other addresses where there are three buildings within two blocks. White said as far as that goes, he would have to make complaint just as someone made about his extra building. Craggs thinks unfortunate this is end result, but from his perspective, their role is to determine hardship; in his opinion, there are reasonable alternatives for storage; Bergevin stated before, even had he known ahead of time, he would have requested variance; his reasonable alternative is that there are other buildings that could be used for storage; may be considered finished, but there is another building that is a storage like building that could be used; another alternative could be potentially storing offsite. Bergevin gets a little bit irritated because he feels he is being picked on; happened to him once before a long time ago; three other properties with extra buildings and a plastic Quonset hut sitting across the street and they get away with that; tries to do the right way and he gets shot down; doesn't understand it; didn't get any paperwork from City Hall at all. Lee asked if Bergevin built onto the older structure and it is grand fathered, does addition need a variance on the setback or does it fall under 'grand fathered.' Wallberg said it should have a variance; he would be expanding non-conformance; recalls a building previously non-conforming for a number of reasons and that request for variance denied. Motion by Glasgow, seconded by Craggs, to make recommendation to the City Council to deny the application for variance application to setback and extra accessory structure by Allen P. Bergevin at 703 Quinnell Avenue North because hardship requirement not met. Glasgow asked if Bergevin were to move the building and apply for another variance, if there a way to suspend the application fee if he wants to build onto his other building. Wallberg would be concerned as the Chair pointed out that there are real costs involved in public hearings, so it is needed as a general budget item. Craggs said there are been examples where the CC would waive a subsequent fee; can be requested; called question. Wallberg said as an alternative, the City can extend this application for 120 days (from June 22, 2006) and if the PC were to ask Bergevin to make those changes that would bring it into compliance, that is a call they could make whether that would be an option; can postpone and extend to allow people to change their plans. Glasgow withdrew original motion and Craggs concurred with that. **M/S/P (Craggs/Lee) to table the application by Allen P. Bergevin for variance to side yard setback and allow an extra accessory structure at 703 Quinnell Avenue North and make recommendation to the City Council to address issue whether an amended application would require an additional public hearing.** Wallberg suggested in terms of language, she thinks they would want to table until next month and send a recommendation to the CC for consideration on whether an additional public hearing will be required if properly amended; in the meantime, Bergevin needs to amend and resubmit. **Motion passed.** Craggs confirmed that CC will review PC minutes, and in meantime, Bergevin should consult with Wallberg how to amend original application. Wallberg will send an extension letter on behalf of the City to the applicant, so that formally the variance application itself will have 120 days from June 22, 2006.

5. MEMBER REPORTS

Glasgow leery about \$2,300 until he saw the basketball courts; huge asset to this City and Jeri Ryan did outstanding job of picking out that surface; looks great. Craggs noted workshop held last night continuing discussion about Ordinance Recodification and thinks they are 95% complete; still working on a couple issues; has been discussion about size of PC

as well as make-up; encourages them offline to have discussion with the CC members; tomorrow evening Design Review Committee meeting; based on presentation made by transportation engineers, the Design Review Committee will address a couple outstanding issues; unfortunately he will be out of town, but Glasgow will attend.

6. ADJOURN - M/S/P (Craggs/Glasgow) to adjourn meeting at 8:12 p.m. Motion passed.

Joe Paiement, Chair

Kate Piscitello, Recording Secretary