

**CITY OF BAYPORT  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
DECEMBER 19, 2022  
6:00 P.M.**

**CALL TO ORDER**

Pursuant to due call and notice, Commissioner Kelly called the regular Bayport Planning Commission meeting of December 19, 2022 to order.

**ROLL CALL**

Commissioners Present: Elizabeth Kelly, Orin Kipp, Coleen Siegfried, Carl Bliss, and Aaron Ochs

City Staff Present: City Administrator Adam Bell, Assistant City Administrator/Planner Sara Taylor, Public Works Director Matt Kline, City Attorney Christina Benson, and City Council Liaison Michele Hanson

**APPROVAL OF MINUTES**

It was moved by Commissioner Kipp and seconded by Commissioner Bliss to approve the August 22, 2022 minutes. Motion carried 5-0.

**PUBLIC HEARINGS**

1. Consider an application submitted by Nathan Jespersen for setback and impervious coverage variances to allow an expansion of the existing substandard single-family home at 317 Lake Street South: Planner Taylor noted that the applicant purchased the property earlier this year, which consists of a 3-story single family house and attached garage. It is surrounded by residential uses on the north and south, River Park Marina on the west, and St. Croix River on the east. The property is zoned R-2 single family urban and is also located within the Lower St. Croix River Shoreland and Bluffland and Floodplain Management areas. The existing house is considered substandard because it does not meet the required 100 foot setback from the ordinary high water mark, 40 foot setback from slopes greater than 12%, or 20% maximum impervious coverage as required by city ordinance. Section 601.03 of the Lower St. Croix River Shoreland and Bluffland ordinance allows for certain exceptions to setbacks, but stipulates that subsequent expansion or alteration to existing substandard structures shall only be allowed laterally (parallel) or landward to the river and shall not include alterations to the roof line of the structure. To facilitate a proposed expansion to the north side of the structure to create a 1<sup>st</sup> floor entry into the existing home and an expansion of the 3<sup>rd</sup> floor to create additional living area, the applicant is requesting multiple variances.

Planner Taylor reviewed the history of the property, noting variances were granted in 2002 to allow for the house to be reconstructed and elevated on fill at the existing setback from the river. In this case, compliance with flood protection regulations were considered paramount over riverway setback regulations. However, these variances did not set precedent for allowing future expansion of the structure further into the setback, toward the river, or in roofline, as proposed by the applicant. Planner Taylor proceeded to review the specific details of the proposed north addition, which included removing the exterior stairwell to the 2<sup>nd</sup> floor and creating a new enclosed entry to the 1<sup>st</sup> floor of the house. She explained that the proposed addition is reasonable and will facilitate more practical and efficient accessibility. The addition will consist of a lateral expansion of the house, which is permitted by the ordinance and it will comply with required setbacks from the river and north side yard property line. Impervious coverage resulting from the addition will be mitigated elsewhere on the property and a raingarden will be installed to address stormwater drainage and infiltration, both of which will be an improvement over the existing conditions. Planner Taylor summarized the details of the east addition, which included extending the 3<sup>rd</sup> floor toward the river to meet the front building line of the 1<sup>st</sup> and 2<sup>nd</sup> floors to create additional living space. She explained that the proposed expansion is not necessary to make reasonable use of the house. Circumstances are not unique to this property to justify further encroachment of the structure toward the river or modification to the roofline, particularly when other opportunities exist to expand the house laterally or landward, as permitted by the ordinance. Architecturally, this home is already distinct in scale as a 3-story when compared to other surrounding 1 and 2-story homes. Further expansion of the 3<sup>rd</sup> floor and modification of the roofline would suggest further departure from the character of the neighborhood.

Planner Taylor indicated staff support for the north addition, but lack of support for the east addition based on the findings of fact outlined in the staff report. She summarized a review memo provided by the Department of Natural Resources (DNR) concurring with staff's recommendation on the variance requests.

Commissioner Kelly opened the public hearing. Nathan Jespersen, 317 Lake Street South, introduced himself as the applicant, accompanied by his architect Vince Meyer and outlined desired outcomes for the renovation project. His proposal attempts to achieve the lowest impact to the existing structure, with the highest return in additional living area, stating the desire is to work with the existing design as opposed to demolition and rebuilding a more expansive home. He also is seeking to achieve better overall design with the proposed project, inside and out. He plans to bring some continuity to the structure by adding a new entry, as well as expanding the 3<sup>rd</sup> floor to create three full bedrooms and an ensuite for the master bedroom. Finally, he summarized his approach as proactive and forward-looking, understanding there are rules and regulations created to protect and conserve the city, the land, and the river, and his desire is to work with the city and DNR towards a solution that adds both value to his home and the city. The applicant closed with presenting an alternative to his proposal, which would include demolition of the existing house and construction of a new home capitalizing on a lateral expansion as permitted by the ordinance. Planner Taylor noted that the applicant had not discussed or presented the alternative lateral expansion option with staff prior to tonight's meeting, leaving staff unable to provide direction to the Planning Commission on whether the alternative met the applicable ordinances for new construction and/or would be permitted.

It was moved by Commissioner Kelly and seconded by Commissioner Ochs to close the public hearing. Motion carried 5-0.

Attorney Benson reviewed state statute requirements the Planning Commission must use when considering a variance application. Discussion followed on the proposed additions and whether criteria was met to justify the granting of the variances. Overall, the consensus of the Planning Commission was consistent with staff's findings of fact and recommendation to approve the variances associated with the north 1<sup>st</sup> floor entry addition. However, the Planning Commission expressed a lack of consensus on whether the east addition met the variance criteria and differing levels of concern for the proposed hypothetical lateral expansion presented by the applicant. Commissioner Kelly questioned whether demolishing the existing house and rebuilding was a real possibility and financially feasible or just a consideration. The applicant responded that he would be willing and able to rebuild, if necessary. Discussion continued on the spirit and intent of the ordinance when applied to the east expansion and visual impact it would have when viewed from the river. Commissioner Kelly reiterated the statute criteria the Planning Commission must use to consider the variances, as well as DNR's position regarding further encroachment of the structure toward the river. Planner Taylor noted that the city has adopted the DNR's model ordinance to regulate development within the riverway and reiterated the importance of applying the same principles consistently to all properties.

It was moved by Commissioner Kelly and seconded by Commissioner Kipp to recommend the City Council approve variances to allow an expansion of the existing substandard single-family home at 317 Lake Street South by 157 square feet, for the purpose of creating an enclosed 1<sup>st</sup> floor entry on the north side of the house, subject to mitigation/removal of existing impervious surface resulting in no net increase above 23.6%. Approval is subject to findings of fact and conditions listed in the staff report and presented at this meeting. Motion carried 5-0.

It was moved by Commissioner Kelly and seconded by Commissioner Ochs to recommend the City Council deny variances to allow an expansion of the existing substandard single-family home at 317 Lake Street South for the purpose of extending the footprint and roofline of the 3<sup>rd</sup> floor to create additional living space, subject to findings of fact listed in the staff report and presented at this meeting. Upon roll call being taken thereon, the following voted via voice (nay voters indicated their support for the variance):

Elizabeth Kelly – aye  
Coleen Siegfried – nay

Carl Bliss – aye  
Aaron Ochs - nay

Orin Kipp – nay

**OLD BUSINESS** - None

**NEW BUSINESS** - None

**GENERAL INFORMATION** - None

**OPEN FORUM** – None

**ADJOURNMENT**

It was moved by Commissioner Kipp and seconded by Commissioner Siegfried to adjourn the meeting at 7:03 p.m. Motion carried 5-0.

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City Administrator/Clerk