



MINUTES

REGULAR MEETING OF THE CITY OF NISSWA
PLANNING COMMISSION/BOARD OF ADJUSTMENT
TUESDAY, FEBRUARY 5, 2019, 6:00 PM

Members Present: Don Jacobson, Josh Young, Bob Fier

Members Absent: Gary Harris (Excused), Anne Laufman (Excused)

Others Present: Mark Hallan

Staff Present: Desmond McGeough

1. Call to order

2. Roll Call - Meeting

3. Approval of Minutes:

- a. January 8, 2019 Regular Meeting Minutes

4. Open Forum: None

5. Public Hearings: (New applications requiring public notice published in the Echo Journal December 27, 2018 & notice was mailed to all property owners within 350 feet & the affected state agencies.)

- a. Conditional Use Permit Application – CUP-001-19 - Approved
- b. Variance Application – VAR-002-19 – Approved

6. New Business:

None

7. Old Business:

None

8. Planning & Zoning Administrator's Report

- a. Permits
- b. Violations
- c. Status of Architectural Materials Subcommittee

9. Commission Discussion Items

- a. Shoreland Planned Unit Development (Section 4.10.1)
- b. Mobile/ Temporary Concession Vendors
- c. Land Use Chart/ Storage Building Regulation

10. Future Commission Discussion Items

Planning Commission/Board of Adjustment Meeting February 5, 2019

- 47 a. Zoning Violation/Conditions Enforcement
- 48 b. Residential Structure Size Maximums
- 49 c. Open/Clear Cutting /Tree & Brush Management
- 50 d. VRBO
- 51 e. Housing
- 52 f. Highway 371 Corridor Development (Section 4.8.3)
- 53 g. Central Business District Development
- 54 h. Housekeeping Ordinance Corrections / Editing
- 55 i. Central Business District Impervious Coverage Allowances
- 56 j. Application of Salt on City Streets

57
58 **11. Adjourn**

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60 **MEETING MINUTES FROM FEBRUARY 5, 2019**

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62 **1. Call to Order:** Jacobson calls the meeting to order at 6:00 PM.

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- 64 a. Jacobson calls for a deletion of items 9 and 10 for this meeting since the
- 65 full Commission is not present to discuss the Commission Discussion
- 66 items.
- 67

68 **2. Roll Call for Meeting:**

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70 **3. Approval of Minutes:**

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72 a. **January 8, 2019 Regular Scheduled Meeting:**

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74 **Motion:** Fier motioned to approve the January 8, 2019 minutes as presented,
75 Young seconded. All members voting “Aye”, motion carries.

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77 **4. Open Forum: None**

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80 **5. Public Hearings:**

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82 **MOTION:** Fier motioned to open the public hearing at 6:05 PM, Young
83 seconded. All members voting “Aye”, motion carries.

84
85 Jacobson noted that the Commission would consider the variance application first
86 (5b.) with the CUP to follow (5a.) as the decision on the variance could have
87 bearing on the CUP

- 88
- 89 a. **CONDITIONAL USE PERMIT APPLICATION 001-19:** Consideration of
- 90 plans to construct an approximate 20,000 square foot expansion to the Nisswa
- 91 Elementary School. Subject site is located at the southwest corner of Lakers Lane
- 92 and School Street on a 8.2 acre parcel within a Central Business (CB) Zone
- 93 District. PIN 280123200M00009 Applicant, Justin Maaninga; Owner,
- 94 Brainerd School District – ISD # 181 – Laine Larson, Superintendent.
- 95

- 96 b. **VARIANCE APPLICATION 002-19:** Consideration of a request for variances
97 to the required building height within a Central Business (CB) Zone District and
98 requirement for parking lot landscaping islands associated with the expansion of
99 the Nisswa Elementary School. Subject site is located at the southwest corner of
100 Lakers Lane and School Street on a 8.2 acre parcel within a Central Business
101 (CB) Zone District. PIN 280123200M00009 Applicant, Justin Maaninga;
102 Owner, Brainerd School District – ISD # 181 – Laine Larson, Superintendent
103

104 Jacobson noted that district would be first to speak on the item followed by any
105 member of the public that would like to speak on these items.
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107 McGeough read the variance request into the record.
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109 Jacobson asked for the applicant to speak to the variance requests and why the
110 Commission should grant them. Tim Ramerth of WSN noted that he would
111 address the variance request on the parking lot. Mr. Ramerth indicated that they
112 were seeking relief from the provisions in the parking area because they were not
113 changing or expanding the existing parking lot facility and that they were only
114 looking to restripe the pavement. Mr. Ramerth further indicated that inclusion of
115 parking lot islands would be of detriment of an underground retention facility
116 under the parking lot. Mr. Ramerth noted there were no landscape provisions in
117 the code; however, in lieu of the required parking island the district would
118 enhance the front reception area of the school with the addition of a raised planter
119 and shrubs next to the building.
120

121 Erica Marcussen of WSN noted that one-story structure was considered but the
122 request for the height variance was so that the school could build a two story
123 structure. By doing so, the playground space could be maintained and impervious
124 coverage of the site would be reduced. Mr. Marcussen also noted that the 3-foot
125 parapet would help reduce visibility of the roof top equipment. Marcussen
126 indicated only a small sliver of the equipment was above the parapet. Marcussen
127 noted that they didn't think any of the roof top equipment would be visible from
128 any street frontage, that the equipment was placed toward the middle of the
129 structure. The Commission noted that the roof top equipment needed to be
130 screened from adjoining properties as well. Marcussen noted that the design team
131 did not believe that the equipment would be seen from any vantage point but that
132 screening could be added if needed.
133

134 Jacobson noted that the plan set had not been certified by an architect as required
135 by the Conditional Use Permit. WSN responded that the final plans for the land
136 use permit submittal would be UBC certified.
137

138 No members of the public provided testimony on the subject application.
139

140 **MOTION:** Fier motioned close the Public Hearing, Young seconded. All
141 members voting "Aye", motion carries.
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143 **MOTION:** Fier motioned that the Commission Approve Variance 002-19,
144 including all findings of fact presented in the Staff Report, second by Young. All
145 members voting "Aye", motion carries.

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Variance Findings of Fact for building height 6-feet over permitted standard:

1. There are practical difficulties, as defined in the ordinance.

The property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality.

2. Deviation from the Ordinance is still in harmony with the general purposes and intent of the Ordinance and Comprehensive Plan. The proposed redevelopment nearly brings the site into full conformance with the standards of the zoning ordinance and is in harmony with the general plan.

The subject building is consistent with the intent of the standards of the zoning ordinance. While the proposed two story unit is two-stories in height, with a total height of 31 feet, it is located 67 feet from the east property line. From a line of sight perspective, the code allows up to a 25 foot height with a zero foot setback. However, since School Street is located upon the applicant’s property near the east property line, the closest a 25 foot high building meeting height requirements could be placed 38 feet away from the east property line, immediately west of School Street. If such hypothetical building was constructed, even with the 25 foot height, it would cause a greater sense of mass and building height from a line of site perspective at the west property line than the proposed 31-foot high foot building placed 67 feet away.

Because of the 20 ft. height of the existing gym facility on Lakers lane, a majority of the two story classroom structure will not be able to be seen from the north side. The rear 15 feet of the classroom building would be able to be seen from a standing position on Lakers Lane, looking directly south on School Street. It is possible a slight portion of the 2-story, 31 foot height building will be slightly seen from about 300 feet way on Lakers. To the west the building will not be seen due to the existing school structure height. One would need a clear line of sight from 500 feet way to see any portion of the two story structure. From the south, it is possible that the very top of the two story structure will be visible from the far south end of the playground area.

In summary, the proposed building has no impact to surrounding properties regarding height, scale or mass from a view shed standpoint from the south, west or north. The subject 31 foot high building school room addition, where placed, has less of a visual impact than a 25 foot structure placed 38 feet from the property line. It also should be noted that the true height of the main roof structure is 28 feet. The three foot parapet not only adds architectural interest to the building but also helps screen roof mounted equipment.

Furthermore, it might be considered that two-story buildings ought to be permissible in our Commercial Zone Districts, though the 25 feet maximum height generally thwarts that possibility without going through a variance process. The City has recently approved a variance request for height on a two story

196 building, but that in no way establishes precedence. It is intended to demonstrate
197 that commercial height provisions need to be addressed. Two-story school
198 structures are very common throughout the entire State of Minnesota. It is staff's
199 finding that this request for height variance is very much in harmony to the intent
200 of the Nisswa Zoning Ordinance, the City of Nisswa Comprehensive Plan and
201 educational needs of the students of Nisswa Elementary
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204 3. The plight of the property owner is due to circumstances unique to the
205 property and is not caused by the property owner.
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208 The Nisswa Elementary has been located on this site, in the core of the City, for
209 many years. The plight of the district is unique as there are not many, if any, 8 +
210 acre sites that the school can build on within the core of the City, the school must
211 use this site and make an addition to the existing facility, rather than build a new
212 school on a new site. Due to the large size of the parcel, the applicant has been
213 able to set back the two-story building a considerable distance from the east
214 property line. The two story addition generally won't be seen by persons from the
215 north, south or west. An additional circumstance, albeit not directly related to the
216 property, there is a unique circumstance related to the growing enrollment at the
217 school. The school needs to expand to address capacity related to future
218 enrollment projections. The best method to do so is to utilize a 2-story classroom
219 structure with parapet to reduce impervious area.

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221 4. The terms and conditions of the variance protect the essential character of
222 the neighborhood.
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224

225 The two story classroom structure generally cannot be seen from the north, west
226 or east of the subject property. The classroom building addition is set back 67
227 feet from the west school property line. As noted above, a building fully meeting
228 zoning code requirements for 25- foot height and setback requirements, located at
229 36 feet west of the east property line would cause a greater visual impact in terms
230 of mass, scale and height than the proposed addition. The project will also provide
231 an attractive addition to the school that is in keeping with the general character of
232 the structure and neighborhood. Conversely, granting of the variance for height
233 protects the essential character of the neighborhood so that the district can build a
234 facility that meets the needs of their students for many years to come.

235

236 5. The variance is based on findings of fact other than economic
237 considerations. As noted above, when Smiley Road is relinquished there will be
238 no encroachment and the infill site is relatively small.

239

240 Yes the need for variance is based on the necessity to build on this site and
241 expand this existing facility. While that can be conceived as an economic benefit,
242 this is the only site that is centrally located within the City in the Central Business
243 District that can accommodate a school facility of this size.

244

245 6. An Elementary School use is permitted within the Central Business Zone
District.

246 **Variance Findings of Fact for excluding parking islands**

- 247
- 248 1. There are practical difficulties, as defined in the ordinance.

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250 The property owner proposes to use the property in a reasonable manner not

251 permitted by an official control; the plight of the landowner is due to

252 circumstances unique to the property not created by the landowner; and the

253 variance, if granted, will not alter the essential character of the locality. An

254 underground retention system had been installed under the parking lot prior to the

255 establishment of the ordinance requiring the islands. The applicant indicates that

256 the planter areas and the soil area needed to sustain vegetation would have an

257 impact to the existing system.

- 258
- 259 2. Deviation from the Ordinance is still in harmony with the general
- 260 purposes and intent of the Ordinance and Comprehensive Plan.

261

262 The proposed restriping of the parking area to accommodate 50 employee parking

263 spaces is in harmony with the general plan. However, a total of four parking

264 spaces would be lost to put islands in at the ends of each row. The installation of

265 18 new parking spaces is seen to be beneficial as to eliminate some of the street

266 parking that occurs on Lakers Lane during the student pick up times. From a staff

267 perspective, losing the potential for an additional 4 spaces for landscape islands is

268 questionable when considering some of the congestion occurring on Church Street

269 and Lakers Lane during student pick-up time. It should be noted that the District

270 is not looking to make any improvement or expansion to the paved parking

271 surface other than restriping to accommodate 18 more vehicles to meet the

272 schools employee parking needs.

273

274 In lieu of landscape islands the District has proposed to provide an enhanced

275 landscaping area in the front of the receiving area that includes a raised planter

276 with tall grasses for the base of their proposed flagpole, rain garden planted with

277 wetland seeding, and a large grass area bounded with a steel header, and an area

278 of bark mulch complemented by a large area of tall grasses, small flowering

279 shrubs and a ground cover Cyprus plants

- 280
- 281 3. The plight of the property owner is due to circumstances unique to the
- 282 property and is not caused by the property owner.

283

284 The Nisswa Elementary has been located on this site, in the core of the City, for

285 many years. The plight of the district is unique as there are not many, if any, 8 +

286 acre sites that the school can build on within the core of the City, As noted above,

287 the subject area where the planters would be located currently contains the

288 schools underground retention system . As such, planters in the parking field are

289 not a viable option.

- 290
- 291 4. The terms and conditions of the variance protect the essential character of
- 292 the neighborhood.

293

294 Pertaining to the physical nature of the parking lot, there will be no change to the

295 character of the neighborhood. Conversely, granting of the variance helps

296 maintain an additional 4 offsite parking stalls which is a benefit to area circulation
297 in the morning and afternoon during the school year.

298
299 5. The variance is based on findings of fact other than economic
300 considerations. As noted above, when Smiley Road is relinquished there will be
301 no encroachment and the infill site is relatively small.

302
303 Yes the need for variance is based on the necessity to build on this site and to
304 expand this existing facility, including the number of parking stalls to the extent
305 possible. While it is possible that the underground system could be altered, that
306 would come with and be detrimental expenses in facilitating the improvement of
307 this public facility, and with the loss of four parking stalls.

308
309 6. An Elementary School use is permitted within the Central Business Zone
310 District

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313 Young seconded. All members voting “Aye”, motion carries.

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317 McGeough read the Conditional Use Permit into the record.

318
319 **MOTION:** Young motioned to approve CUP-001-19 based on the findings
320 of fact contained in the Staff Report and Conditions of Approval. Jacobson
321 made an addendum to the motion requiring; that the applicant provide
322 completion of certified building plans along with final plans submitted with
323 architect signature for the land use permit submittal, that the applicant provide 50
324 parking stalls as demonstrated by the site plan, and approval by ISD 181 School
325 Board to vacate the ROW on Lakers Lane; Confirmed by Young.

326
327 **Findings of Fact:** The following findings of fact are the basis of the
328 Commission’s approval of the subject application:

- 329 1. The subject property is generally located at the southwest corner of Lakers Lane
330 and School Street at 5533 Lakes Lane (PIN 280123200M00009)
331 2. The subject property is zoned “Central Business District.”
332 3. The applicant is proposing to construct an approximate 20,000 square foot, two-
333 story expansion to the Nisswa Elementary School on an 8.2 acre parcel within a
334 Central Business (CB) Zone District.
335 4. The applicant is requesting granting of variances to the required building height
336 within a Central Business (CB) Zone District, to allow a 31-foot high structure,
337 and for deviation from parking lot landscaping island requirements.
338 5. The applicant has provided the following plans & exhibits: CUP & Variance
339 Project Narrative, Response to Variance Criteria, Parking Analysis, Addendum
340 to proposed plans and rendering exhibit showing updated rear elevation, Lighting
341 Exhibit & Cut Sheets, Floor Plan, Building Elevations, Title Sheet with Legend,
342 Civil Detail Sheets, Existing Conditions Exhibit, Site Plan, Grading and Erosion

- 343 Control Plan, Utility Plan.
- 344 6. The architecture of the structure is contemporary, primarily composed of brick,
345 large glass windows and metal accents.
- 346 7. There is an existing underground storm water retention system that is adequately
347 sized to accommodate additional impervious areas related to the Nisswa
348 Elementary School expansion.
- 349 8. 50 parking spaces have been provided and found to be adequate to meet off-street
350 parking demand.
- 351 9. Findings of fact meeting the criteria for granting of a variance have been
352 established.
- 353 10. The development, with conditions, will not impede the normal and orderly
354 development and improvement of surrounding property.
- 355 11. Adequate utilities, access roads, drainage and other necessary facilities have been
356 or are being provided for this development.
- 357 12. The development will not depreciate property values within the immediate
358 vicinity of the subject property.

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360 **Conditions of Approval**

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- 362 1. The exterior finish of the building shall be in substantial compliance with the
363 Planning Commission approved architectural plans.
- 364
- 365 2. The site shall be developed in substantial conformance with the Planning
366 Commission approved plans.
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- 368 3. Exterior lighting shall employ full cut-off fixtures to minimize light trespass and
369 glare.
- 370
- 371 4. The property owner shall be responsible for the maintenance of any vegetation
372 within the public right-of-way adjacent to the subject property.
- 373
- 374 5. The 50 parking spaces have been found to be adequate. The applicant shall
375 provide the 50 parking spaces as demonstrated on the site plan.
- 376
- 377 6. Applicant shall provide completed UBC certified building plans, stamped and
378 signed by a licensed architect, for the Land Use Permit application submittal.
- 379
- 380 7. The ISD # 181 shall dedicate to the City of Nisswa the Lakers Lane Street Right-
381 of-Way that lies upon the School District property.
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384 Fier seconded. All members voting “Aye”, motion carries.

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387 **8. Planning & Zoning Administrator’s Report**

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a. Permits

McGeough noted that no permits had been issued in January

b. Violations

c. Status of Architectural Materials Subcommittee

McGeough stated that the subcommittee had met twice and that an additional meeting may be needed.

McGeough noted that this would be his last meeting with the Commission as the City’s Planning and Zoning Administrator due to family obligations.

9. Commission Discussion Items

Nothing discussed at this time for these items – deleted from agenda.

10. Future Commission Discussion Items

Nothing discussed at this time for these items – deleted from agenda.

11. Adjourn

MOTION: Jacobson motioned to adjourn the February 5, 2019 meeting, seconded by Young. All members voting “Aye”, motion carries. Adjourn at 6:42pm.

Respectfully submitted,

Desmond McGeough, Planning and Zoning Administrator