

City of Berkeley Lake
4040 Berkeley Lake Road
Berkeley Lake, GA 30096

PLANNING AND ZONING COMMISSION

Meeting February 5, 2004
Full Minutes

Call to Order: The meeting was called to order by Commission Chairman Bob Herb at 7:35 on February 5, 2004 at 4043 South Berkeley Lake Road.

Present: Commissioners Gary Moore, Rodney Hammond, Skip Johnson, and Chairman Bob Herb. In addition there were about 12 Berkeley Lake citizens present including Mayor Lois Salter and Council member George Sipe.

Minutes: Approval of the minutes from the December 17, 2003 meeting. Chairman Herb stated the minutes were approved as corrected:

New Business:

Commissioner Herb explained to all, that the purpose of this meeting was to allow the developer, Charles Dean, to present for approval a “concept plan” for the Henderson Property. It was further explained that this was the first of many approval processes that Dean would have to go through in order to get a final approval to develop the Henderson Property. In addition to the City of Berkeley Lake having to approve the plans for this development, the Atlanta Regional Commission (ARC) pursuant to the Metropolitan River Act will also have to provide approval due to the proposed developments being within the Chattahooche Corridor.

Dean made a presentation of his concept plan for the Henderson property development. He showed a drawing of the proposed development and explained he wanted to have 10 estate lots and homes along the ridge that paralleled Berkeley Lake Road. These estate lots and homes would be accessed with single entrance to a private road that would be separate from the developments primary entrance.

Dean further explained that the primary entrance to the development would be located where the current entrance and driveway was for the Henderson sod farm and the Henderson house. In the area know as the sod farm, Dean’s drawings shows that he plans to develop an additional 70 lots and homes in area to be identified as the “village”.

Dean explained that in the development he would more than double the required 6% of the property to be set aside for non-residential common use. The development would have a common pool, tennis courts, and club house.

Dean also noted that there would be a gated pedestrian entrance adjacent to the main entrance to the Village area of the development. In addition, there would be a 20' wide common access area to the river between lots numbered 24 and 25 in the Village.

Dean showed the P&Z commissioners and citizens pictures of homes that illustrated the style architecture of homes he planned to build.

There were numerous questions raised by both P&Z commissioners and the citizens that were discussed and answered by Dean

Commissioner Johnson made a motion to approve Dean's concept development with two additions: One being that a turn lane should be added for cars traveling east into the main entrance for the Village area of the development. The second, addition to the concept plan was to require a 100' undisturbed buffer for the lots along the river.

Commissioner Moore seconded the motion with these two additions.

There were some more discussions by the commissioners about what were the next steps, if this concept plan were approved.

A note was taken that the City Attorney said he would look at issues concerning liability if the dam were to breach.

Commissioners Johnson and Moore voted in favor of the concept plan and Commissioner Hammond voted against. The motion to approve the concept plan with the two additions was approved.

There being no further business, the meeting was adjourned at 9:12 pm.

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

PLANNING AND ZONING COMMISSION
Meeting March 9th, 2004

Call to Order: The meeting was called to order by Chairman Bob Herb at 7:35pm on March 9th, 2004 at City Hall.

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

Guests Present: Charles Dean, OEO Charles Sewell, Joe Voyles, Clay Keller and Billy Cassels.

Chairman Herb said that there were three variances to be heard that night. He also clarified they would not be able to officially talk to Charles Dean at the meeting as it was not advertised as part of the public hearing. He said he would be closing the meeting after hearing the variances, and Herb and Sewell would be discussing the plans with Dean. He said the other commissioners would be welcome to stay should they wish to do so.

Old Business: Approval of Minutes from the February 5th, 2004 meeting. Chairman Herb stated that he had completed the minutes by memory as the recorder had malfunctioned. There was discussion about minor changes.

The Minutes were approved as amended

New Business

- 186 Lakeshore Drive

The request is to build within the front set back at 58 feet verses a required 65 feet per code 39-804-4. Also a second variance to build within a stream buffer set back at 28 feet verses the required 35 feet as in the definitions Chapter 22-104.

Joe Voyles explained since requesting the original variance, they had spun the building, and they had moved the house to be in compliance with the side and rear lot line, and the side of the house with the stream buffer is at 35 feet. Voyles also explained that the curve of the road now also means that the house is now only out of compliance by two and a half feet at the front set back due to the moving of the house to comply elsewhere. Clay Keller had plans for the Commission to look at.

Sewell clarified that the house was now not within the stream buffer set back of 35 feet. He explained the current lot lines. The Commission compared the original plans with the

proposed plans. Chairman Herb explained the drip lines of the roof are where the house lines are located. The retaining wall is exempt from set back regulations as it is landscaping and it is not considered to part of the house. Keller showed pictures regarding the measurement.

Commissioner Johnson motioned that they approve the variance as requested. Commissioner Belt seconded the motion.

In discussion Moore asked why there was a need to grant a variance to the 65 foot set back requirement.

Voyles said he wanted to make sure that the roof overhang was covered by the variance.

Chairman Herb suggested the motion be amended to allow a 33 foot set back versus the required 35 feet at the stream buffer, and grant a front set back of 61 feet versus the requirement of a 65 foot set back.

Commissioner Johnson agreed to amend the motion to those figures, and Commissioner Belt agreed.

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

- 468 Lakeshore Drive

A variance to locate an accessory garage structure within the front yard Code 39-401-1

Joe Voyles said he was not aware originally of the need for a variance for this structure. He said he thought if it met all the set backs it would not be an issue. Sewell saw it after the permit had been issued. The structure is attached to the house by a foundation and roof line but there is no heated space between the two. He said both the house and garage are conforming, and he provided pictures.

There was discussion regarding the setbacks from the house next door. Chairman Herb reminded the group that the variance was for this house and not the neighbor's house. Sewell pointed out that a breezeway is not considered attached to the house.

Voyles showed pictures of the property.

39-1401 – Variance Guidelines-Chairman Herb read and reviewed the following:
Such variances may be granted in individual cases if the Planning commission finds that:

- 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 garage met all the setbacks, and that the variance was to approve an accessory structure in the front yard.

Commissioner Johnson motioned to approve the variance request as submitted and Commissioner Moore seconded the motion.

All were in favor of the variance and the variance was approved.

Chairman Herb also explained that regardless of the decision on the variance request by the P&Z; the decision is subject to appeal by anyone for a period of 15 days.

- 3945 South Berkeley Lake Road

To expand a non-conforming structure Code 39-602-1, and a variance to build an accessory structure in the front yard Code 39-401-1.

Cassels said he wanted to withdraw the variance to expand a non-conforming structure as he would not be expanding the non-conforming structure now.

Cassels gave out copies of the plat of his property and the structure he wants to build. He said he had a ranch house with no storage and no basement. He also wants a workshop, instead of using his garage. He explained where the accessory building would go, and that it would not be seen from South Berkeley Lake Road. He said it would be 116 feet from the street, 52 feet from the Dennison property next door and 54 feet from the Lackey property on the other side.

Commissioner Hammond moved to approve the variance as requested, and Commissioner Johnson seconded the motion.

Commissioner Moore said that although the structure would not be visible from the road, that it would still be seen by the neighbors. He said just because it cannot be seen, the variance says that accessory structures should be avoided. He said he understands the need for extra space, but the variance says that a shed type structure is not allowed.

Cassels said he had talked to both his neighbors about it. However Chairman Herb said they could not take that into account as neighbors sell houses eventually.

Commissioner Herb read from the code 39-401.1 *Accessory Uses or Structures*

Accessory uses or structures shall be permitted only in rear yards, except as otherwise provided in this resolution. An accessory use or structure shall be set back not less than 12 1/2 feet from any lot line.

He also read 39-1401

Such variances may be granted in individual cases if the Planning commission finds that:

- 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 Belt asked if the drawing accurately reflects what Cassels was going to build.

Cassels said it did. He said electricity would run to it for power tools and lights. He said there may be a utility sink too. He said it could not be used for living in.

Commissioner Moore said it he had difficulty in seeing how this could be granted as it said the opposite of what the variance allows.

Cassels reiterated what he wanted to use it for.

There was more discussion about whether the structure would be seen by the neighbors and from the street.

Commissioners Hammond, Belt and Johnson voted to approve the variance, Commissioner Moore voted against. The variance was therefore granted.

Chairman Herb suggested that they hold the next meeting on Wednesday April 7th at 7:30 pm to hear one more variance. He said that he would confirm with everyone by email.

OTHER NEW BUSINESS

There being no further New Business the meeting was adjourned at 8:21 PM.

**City of Berkeley Lake
4040 Berkeley Lake Road
Berkeley Lake, GA 30096**

**PLANNING AND ZONING COMMISSION
Meeting April 7, 2004
Full Minutes**

Call to order:

The meeting was called to order by Commissioner Bob Herb at 7:36 pm on April 7, 2004 at 4040 Berkeley Lake Road.

Present: Commissioners Gary Moore, Rodney Hammond, Craig Belt and Chairman Bob Herb. In addition, Charles Dean, the Henderson property developer and citizen Tom Peters were present.

Minutes:

Approval of minutes from the February 5, 2004 meeting. Chairman Herb stated the minutes were approved as corrected.

New Business:

Commissioner Herb explained that the purpose of the meeting was for Charles Dean, the developer of the Henderson property, to review and explain proposed changes he was wanting to make to the development concept plan approved by the P&Z Commission on February 5, 2004.

Mr. Dean explained that the new concept plans being proposed had the following changes made from the concept plan approved on February 5, 2004:

---Pool and cabana were moved from the west entrance side of the development to the north side of the development fronting the river.

---Tennis courts were eliminated

---Roadways were re-designed to eliminate the "oval race track" design originally proposed and replaced with one major road running along the river with four dead ended roads coming off this main road each having park medians in them.

--Increased the number and configuration of the development lots from being 10 Estate lots and 70 village lots to instead now be 9 Estate lots and 73 Village lots.

-- Added large evergreen trees along the south side of the Village lot #73 to provide a screen buffer.

There was discussion among the Commissioners about how much improved the new roadway design was from the original plan and the added value of having the pool and cabana being moved to be fronting along the river. This provided a 100 foot common access to the river now instead of the originally proposed 20 foot common river access. There was agreement among the Commissioners that the proposed changes to the original concept plan were worthy enough to allow the development to have 2 additional lots designed in the new development concept plan.

Commissioner Moore made a motion to approve all of Mr. Dean's changes to the concept plan.

Commissioner Belt seconded the motion.

A vote was taken. Commissioner Moore, Belt and Hammond voted in favor of the motion to approve the revised development concept plans. The motion was approved.

There being no further business, the meeting was adjourned at 8:54 pm.

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

PLANNING AND ZONING COMMISSION
Meeting May 24th, 2004
Full Minutes

Call to Order: The meeting was called to order by Chairman Bob Herb at 7:35pm on May 24th, 2004 at City Hall.

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

Guests Present: Citizens- Bob Flaherty, Jackie Henderson, and George Sipe. Charles Dean -Developer, Richard Deal- employee of Charles Dean, David Braswell- Braswell Engineering, Robert Thibault- Prospective buyer, Dick Carothers- City Attorney.

Old Business: Approval of Minutes from the April 7th meeting. There was discussion about minor spelling changes. **The Minutes were approved as amended.**

New Business

Chairman Herb said the Purpose of the Meeting pertained to the original adoption of the Henderson Property Development Concept Plan and that the City has adopted the Gwinnett County Development Code. This has brought up two issues: the new Code does not allow development below a dam, and the Code requires the building and construction of the base floor level be 3 feet above the flood plain level.

Carothers clarified that the County does allow sub-division development below a Category One dam, which Berkeley Lake dam is, just not below a Category Two dam. Berkeley Lake dam is inspected annually by Safe Dams. However, he suggested that the plat should indicate that these lots/homes are in a dam breach zone as an acknowledgment that they know that.

Charles Dean handed out some background information about the new study. (Attached) His engineer described how the study has changed as there is now history of flood levels available which were not available when the Corps of Engineers did their original model flood plain levels of the Chattahoochee River. They were only estimations at the time. Engineers are now able to estimate flood levels from 1958 when the dam was built, to present day, and they are a lot lower than the original estimates. FEMA (Flood Emergency Management Agency) has reviewed their work and come up with the same projected lower levels. He described how flood levels are currently calculated. FEMA have not yet however formalized these flood levels though.

There was discussion about the City's liability. Carothers said that there would not be any liability to the City as the base floor levels of the homes would be above the legal levels required by FEMA. He also said that the County FEMA maps have been under study for approximately 10 years and they know the entire County's FEMA maps are too low because of all the impervious surfaces due to development. The levels are going to have to be increased with one exception- the Chattahoochee corridor because of Buford dam that stops the basin flowing whenever it wants to. It is likely that these levels will go down, which is where this development is located.

Carothers asked Dean if the FEMA maps are not to be revised fully until 2006, why a Letter of Map Revision from FEMA has not been issued which would be sufficient for insurance companies to issue flood insurance.

Dean said he understood it was problems with money and a change of engineers acting on behalf of FEMA. However he said his development would still be meeting FEMA requirements under their current maps. He showed the elevations on a model and described the levels.

Carothers said the issue was obtaining an amendment to the Concept Plan from the Planning Commission. He said that the City would not have any legal liability should they make such an amendment.

Dean said all his plans would clearly state that they were on flood plain, for his own protection too.

Henderson said she had never seen the river flood since 1975 when she had moved on to the property.

Sipe pointed at that the Gwinnett County Development Code was a blanket policy for the whole County but did not make sense for the Chattahoochee corridor because of Buford dam, which would hold back any floodwater. Any amendment should take this exception into consideration.

Dean described an email from Hollis Brown saying he should use all the updated data available for his plans for development.

There was discussion regarding FEMA issuing a Letter of Map Amendment. Insurance would be available as they were currently at levels above the FEMA requirement anyway. There may be an extra surcharge if the levels changed. Carothers said that it is important to look at the Map of Revision issue but the Corps of Engineers and FEMA have always been way behind in issuing revisions. Funding for FEMA is also tight and it is unlikely that it is considered a priority in current times.

Commissioner Johnson motioned for an amendment to the original concept plan that was approved on February 5th, 2004, to incorporate a minimum of 898.6 on the base floor elevation of the homes constructed. Commissioner Moore seconded the

motion.

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

Chairman Herb suggested that they hold the next meeting on Wednesday 9th June at 7:30 pm to hear a variance for a change of use. There was a short discussion regarding the issue they would be considering.

He said that he would confirm with everyone by email.

OTHER NEW BUSINESS

There being no further New Business the meeting was adjourned at 8:28 PM.

Correct and adopted on June 8th, 2004

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

PLANNING AND ZONING COMMISSION
Meeting June 8th, 2004
Full Minutes

Call to Order: The meeting was called to order by Chairman Bob Herb at 7:30pm on June 8th, 2004 at City Hall.

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

Guests Present: Citizens- Waid and Phyllis Ingham. Jane and Charles Hardwick. Dudley and Martha Simpson. Pam Cote, Ray Bateman and Marvin Stringer. Charles Sewell (OEO), Bernie Cohen and Debbie Guthrie- Council members.

Old Business: Approval of Minutes from the May 24th meeting. **The Minutes were approved by Commissioners Moore, Belt and Johnson. Commissioner Hammond abstained as he was not at the last meeting.**

New Business

- 610 Hilltop Lane

Variance request was regarding 39-1203 Certificate of Occupancy required- Part 1. Chairman Herb read the text:

A Certificate of Occupancy issued by the Zoning Enforcement Officer is required in advance of use or occupancy of:

- 1. Any lot, or a change in the use thereof.*

Chairman Herb said that this normally refers to when building work is completed. The boat house in this case is being temporarily used as sleeping quarters. The OEO has said that the boat house should not be used in this manner as it is a change in use. The Inghams were asked to explain the situation.

The Inghams said that they had their neighbors with them, and a letter representing another neighbor. They said they had had their house since 1980. Mr. Ingham said the boathouse had a bunk built into it for the previous owner to use for himself and for visitors to sleep in on rare occasions. They explained that their son is a recovering alcoholic, and is unable to drive until October 2006 because of a DUI conviction. He said he is doing well in his job. However, as they are in their 70's, they have different interests

to their son. In order to gain privacy for everyone, their son opted to sleep in the boat house. He said the boathouse has no running water and no kitchen facilities. He returns to the house to eat and shower both in the morning and in the evening. No other people go down there. He said he was sympathetic to concerns but would like an variance for him to stay there until October 2006 when he will be able to drive again. He is able to save money to help him later. He is quiet and no bother to the neighbors.

Mr. Ingham described the boathouse as one room with a bunk and a small porch. Mr. Ingham had used it as an office in the past. There is electricity, a TV and an AC unit for his use. He said that his son uses the bathroom in the house when possible but has a hospital type collection container if he needs to use it. There are no lights on the pathway.

Neighbors said that they rarely heard their son, and they had no objection to him being there. Charles Hardwick said that his main concern was how he got rid of his waste products. He said he did not believe that he would go up in the hill to the house in the middle of the night. He also asked that he not put his cigarette butts in the lake. Jane Hardwick said that the ordinances were being broken, and that precedence should not be set. No one should be allowed to live in a boathouse. She explained other options.

Dudley Simpson said he was sympathetic to the problem but he agreed it could set a precedence.

Chairman Herb read a letter from Sydney Dassinger (attached).

Chairman Herb said that there had been many questions about the variance request, and he pointed out that each variance request stands on its own. No precedence would be set as the reasons are unique as always.

The variance request was “to use the boat house as sleeping quarters”. Chairman Herb read the Chapter 39-1203 again:

Certificate of Occupancy Required

A Certificate of Occupancy issued by the Zoning Enforcement Officer is required in advance of use or occupancy of:

- 1. Any lot, or a change in the use thereof.*
- 2. Any building hereafter erected or a change in the use of an existing building.*
- 3. Any non-conforming use that is existing at the time of the enactment of this Ordinance or any amendments thereto, that is proposed to be changed, extended, altered or rebuilt. The Certificate of Occupancy shall state specifically wherein the non-conforming use fails to meet provisions of this Ordinance.*

There was discussion as to how well this applied to this situation. Chairman Herb read the code that determines how variances can be granted:

39-1401 Variances - Application for, Procedure and Notification

1. All applications for variances shall be submitted initially, in writing, to the Planning Commission of the City of Berkeley Lake, which shall consider these requests at its next regularly scheduled meeting. The Planning Commission may authorize such variance from the terms of this Zoning Ordinance as will not be contrary to the public interest. The spirit of the Zoning Ordinance shall be observed, the public safety, health and welfare secured and substantial justice done. Such variances may be granted in individual cases if the Planning commission finds that:

- 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 further discussion as to the violation, and whether there were grounds to grant a variance.. It was clarified that that there was no citation issued- just a warning notice to comply. There were questions as to whether other ordinances had been violated.

Commissioner Belt said he was sympathetic to the situation but he motioned to deny the variance request as the requirements for granting a variance did not exist. Commissioner Moore seconded the motion.

There were three votes in favor of denying the motion (Commissioners Belt, Hammond and Moore) and one against (Commissioner Johnson). The variance was denied.

The Inghams were advised that they could appeal the decision to the City Council.

OTHER NEW BUSINESS

There being no further New Business the meeting was adjourned at 8:30 PM.

The meeting was reopened at the request of Marvin Stringer, regarding the building of a kitchen in a basement area, which could become a rentable space. His appeal had been

turned down by both P and Z and Council. He asked P and Z to come up with a way of seeing whether this could be possible as the intent was for personal use and not renting space. Chairman Herb reiterated that a ruling would not be made, merely a discussion of suggestions of possibilities.

Mr. Stringer explained his situation again. He wanted to have a second kitchen for canning purposes as well as for family cooking and entertainment, strictly for their own use.

Chairman Herb read where this is applicable currently in the code:

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.*

There was discussion regarding whether this would be possible without opening the door to apartments again. All the components for an apartment are already in place in this situation, which could enable a future owner to take advantage of it. The idea of the ordinance was to keep the R100 status of the community, which does not allow for apartments. Changing the current ordinance may not be possible to allow for such situations.

Chairman Herb asked if the Commissioners could think if there are further options to consider at a later date.

The meeting adjourned again at 9 pm.

Last corrected on July 13th, 2004.

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

PLANNING AND ZONING COMMISSION
Meeting July 27th, 2004
Full Minutes

Call to Order: The meeting was called to order by Chairman Bob Herb at 7:30pm on July 27th, 2004 at the Chapel- 4043 S. Berkeley Lake Road.

Present: Commissioners Gary Moore and Skip Johnson. Chairman Bob Herb
Guests Present: Charles Dean- Developer. Joe Walter – Precision Planning. Citizens- Charles and Jane Hardwick. Deb Robinson. Julie Stuart. Gary Northcutt. Robert and Jane Burke. Lois Salter. Bernie Cohen. Debbie Guthrie. Delicia Reynolds. Marcie Zielazienski. Jackie Wall. Carol Seitz.

Old Business: Approval of Minutes from the June 8th meeting. **The Minutes were approved with changes discussed by Commissioners Moore and Johnson.**

Administrative Variance

Chairman Herb described the following administrative variance he had granted in April.

The following administrative variances (under 39-602.1) have been granted and fully and legally advertised.

- *385 Lakeshore Drive (Lot 4, BL Estates): variance to expand a non-conforming structure (39-602-1); removal of existing deck and replace with a new deck; removal of existing rear staircase and replace at different location at rear of house; expansion will be in full conformance.*

New Business

Chairman Herb said that the purpose of the meeting was to review the preliminary plat for the development now known as ‘Berkeley on the River’ formally known as the Henderson property, and consider it for approval.

Chairman Herb described previous open meetings where the development had been discussed and reviewed by the Commission. The final preliminary plat was also as a result of the discussion with the City attorney and City appointed engineers (Precision Planning Inc.)

Chairman Herb read through the General points now annotated on the plat itself and explained the points where necessary. (See attached plat)

There were questions regarding the 100ft buffer from the Chattahoochee River and how it could be better protected. Both the ARC and City of Berkeley Lake would monitor and protect the buffer.

There were further questions regarding access to the River by citizens in the City. It was clarified that it would have to be negotiated between Homeowners Associations within the City limits. It would not have general public access.

There was discussion about the proposed access and deceleration on Berkeley Lake Road. It was clarified the Georgia DOT would have to agree and pass any changes made to the current entrance as it is a County road. Any changes would have to meet county regulations. The developer would have to get many different permits from different entities in the state in order to develop the property.

There was discussion regarding the wording pertaining to the liability to the City of Berkeley Lake should there be a breach of the dam. It was suggested that further wording should be added to include extreme flooding from the spillway area, as it is technically the breach zone should there be an excess of water in the lake. The spillway and related flood zone area is designed to flood first, and it drains towards the new development. The dam is unlikely to ever breach but the spillway has flooded and caused damage to surrounding areas in the past. It was suggested that the City attorney approve additional wording to reflect this.

There were questions about landscaping in the 100 ft river buffer. Planting is encouraged by the ARC, however City tree ordinances prohibit anything put in undisturbed buffer areas except specified plants and trees. It was suggested that designated planting may mark undisturbed buffer areas to make it easier for homeowners to see the zone. The plat should have such wording included on it as ordinances can change at a later date and it is more final in the plat. Additional wording could be added to the plat to include what can and cannot be planted in the buffer zone. The ARC wording on the plat is clear but City Ordinances overrule what is allowed because City Ordinances are more stringent. It was suggested that additional planting be allowed in the undisturbed buffer but it would need to be approved by the Ordinance Enforcement Officer on a case-by-case basis.

Commissioner Moore motioned to accept the plat with the provisions that have been discussed in general, including allowing additional vegetation in the undisturbed buffer zone on a case-by-case basis, and adding additional wording to include the spillway on point 13 in addition to the breach of the dam subject to the City attorneys approval. Commissioner Johnson seconded the motion. Herb, Johnson and Moore were in favor of the motion with changes as noted.

Chairman Herb said that the changes should be reflected in the preliminary plat that would be presented for their approval at the next City Council meeting on August 12th, 2004.

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

PLANNING AND ZONING COMMISSION
Meeting August 24th, 2004
Full Minutes

Call to Order: The meeting was called to order by Chairman Bob Herb at 7:35pm on August 24th at 4040 S. Berkeley Lake Road.

Present: Commissioners Rodney Hammond and Craig Belt. Chairman Bob Herb

Guests Present: Martin Nordland, Jesse Garcia, Bob Aickelin and Jackie Wall.

Old Business

Minutes Acceptance of the minutes of the last meeting was postponed to the next meeting as Commissioners who were at the last meeting were not present at this meeting.

New Business

Variance hearing

- *236 Lakeshore Drive (Lot 22, Section 5 – Berkeley Lake): variance to build retaining wall on right side within side setback of 8 feet versus required 12 ½ feet (39-804-6); variance to build retaining wall on left side within side setback of 8 feet versus required 12 ½ feet (39-804-6).*

Aickelin described the reasons that he felt they needed to build the retaining walls. The left side would divert water correctly and stop erosion of the bank that was already there. It would not be visible to the neighbor on the left side. The right side wall would also divert water away from the property. The retaining walls would be connected to the house, and therefore the variance request was necessary.

Nordland was concerned about two deciduous trees close to the area. There was discussion about impact on tree roots in the vicinity.

Commissioners adjourned the meeting temporarily (from 8:15pm to 8:30pm) to visit the site to determine if further action regarding the trees needed to be included in a motion. It was decided that the trees would not be impacted.

Commissioner Belt motioned to accept the variance to build an 8 ft retaining wall on the north side of the property (left). Commissioner Hammond seconded the motion. There was no further discussion. All were in favor of the motion and the motioned passed.

Commissioner Belt motioned to accept the variance request for the wall on the right (south) side of the property to be added at the shortest distance of 8 ft versus the required 12 and a half foot set back. The request is also that a sealant be put on the wall to match the rest of the house. Commissioner Hammond seconded as read. There was no further discussion. All were in favor of the motion and the motioned passed.

Chairman Herb said in future he would always read the following to ensure that all conditions were met to accept the 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.*

All agreed that all parts of this ordinance were applicable to this variance. Chairman Herb asked that this was included in all future motions as part of the motion in order to make it clearer to citizens. It will justify how Commissioners are able to make their decisions.

Commissioner Hammond motioned to adjourn the meeting. Commissioner Belt seconded the motion. The meeting adjourned at 8:37 pm.

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

PLANNING AND ZONING COMMISSION
Meeting November 2nd, 2004
Full Minutes

Call to Order: The meeting was called to order by Chairman Bob Herb at 7:30pm on August 24th at 4040 S. Berkeley Lake Road.

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

Guests Present: Charles Dean.

Old Business

Minutes: Minutes were approved for the July 27th and August 24th meetings with typing errors changed as noted.

New Business

- **Amendment to the Plat for the subdivision known as ‘Berkeley on the River’.**

Chairman Herb described the survey commissioned by developer, Charles Dean, completed by *StreetSmarts*, (attached) a company recommended by the County, to see if the left turn lane previously required is necessary. They found that the prevailing speed in both directions was 45 mph. They said there was adequate sign distance in both directions and also adequate sight distance looking from the entrance.

The revision to the plat is to remove the original left turn lane. (Point 8).

There was some discussion regarding the survey and the removing the turn lane.

Commissioner Johnson motioned to accept the revised plan which will eliminate the left hand turn lane heading east bound from the west off North Berkeley Lake road into the village area of development. Moore seconded the motion.

In discussion Chairman Herb read the other additions to the plat:

PPI have added a disclaimer removing their liability for building in a flood zone.

The DOT added corner sight distance requirement for internal driveways.

Sidewalks are not allowed within 13 ft of the edge North Berkeley Lake Road without

curb and gutter and any necessary draining structure.

The name of the subdivision has been changed to the 'River District'.

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

The next meeting is scheduled for November 22nd, 2004 to hear a variance for 186 Lakeshore Drive. He asked Commissioners to visit the location before the meeting.

The meeting adjourned at 8:03 pm.

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

PLANNING AND ZONING COMMISSION
Meeting November 22nd, 2004
Full Minutes

Call to Order: The meeting was called to order by Chairman Bob Herb at 7:37pm on November 22nd at 4040 S. Berkeley Lake Road.

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

Guests Present: Clay and Julie Keller, Ken Keller, Jackie Wall, Joe Voyles, and Charlie Sewell, OEO.

Old Business

Minutes: Commissioner Hammond, motioned to approve the minutes for the November 2nd, 2004 meeting. Commissioner Moore seconded the motion. All were in favor of the motion.

New Business

- *186 Lakeshore Drive (Lot 9, Berkeley Lake): Variance to build driveway retaining wall within front setback at 42 ft. vs required 65 ft (39-804-4) and variance to build a deck that is within stream buffer setback at 28 ft. vs required 35 ft. (22-104) and within the rear setback at 30 ft. vs required 40 ft (39-804-5).*

Clay Keller showed some plans and described the variance request. The request is now 2 ft into the stream buffer and 7 ft encroaching on the back property line. He described what their future plans would be should the variance be approved.

Chairman Herb advised the Commissioners that as they considered these variance requests they should not take into consideration the fact that construction had been started or completed on any of the structures needing a variance. The variance requests should be decided based on whether they meet all the requirements for granting a variance and should not be based on the fact that a structure has been built or is in the process of being built. Chairman Herb then read the requirements to approve variances, and stated that all of the points had to be considered together and met.

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 also described the retaining wall that was now also in violation as it had been connected to the house, which made it part of the footprint of the house.

Clay Keller showed some pictures to illustrate the issue.

There was discussion as how the Kellers could bring their property back into compliance without losing the usability of the deck.

Commissioner Hammond motioned to approve a modified rear set back to allow the deck in question not to encroach more than the 5ft on the required 40ft rear set back, therefore granting a variance to have a 35 ft rear set back. (39-804-5) Commissioner Johnson seconded the motion.

In discussion, it was decided that the Stream buffer would not be encroached and therefore the stream buffer variance would not be necessary. (22-104)

All were in favor of the motion. The motion passed and a variance was granted.

Chairman Herb said that 39-804 required a 65ft set back on the front of the house. The retaining wall should not have been attached to the house. There was a small gap between the retaining wall and the house that had been bricked over.

Commissioner Moore asked whether 39-501 would apply:

39-501 Walls and Fences

The setback requirements of this Ordinance shall not prohibit any necessary retaining wall nor prohibit any wall or fence except that in a Residential District, no wall or fence shall exceed six feet in height within a side yard, rear yard or front yard and no chain link fence is permitted in a front yard.

Commissioner Hammond motioned to approve the requested variance at the front set back line to build the driveway retaining wall within front setback at 42 ft. vs required 65 ft. Commissioner Johnson seconded the motion.

It was clarified that the wall was not technically a retaining wall now as it is attached to the house and becomes part of the footprint of the house, so it is not subject to the 6ft height restriction.

All were in favor of the motion. Motion passed and the variance was granted.

Other Business

Chairman Herb extended the invitation to the P and Z board to hear a presentation from *Municode*, a company who will describe their process to codify the ordinances on December 15th. They will also be looking at Chapter 39, and therefore it could have ramifications for P and Z.

Chairman Herb said he had received a request to re-word 39-807 to include an exemption where there are curbs and gutters. Commissioner Moore offered to look at the wording.

Commissioner Johnson left the meeting at 8:30 pm.

There was discussion about other restrictions that may need to be considered in the building of new homes.

Commissioner Moore motioned to adjourn the meeting at 8:35 pm. Commissioner Hammond seconded the motion. Motion passed.