

**CITY OF CROSSLAKE  
CITY COUNCIL SPECIAL MEETING  
6:00 P.M., MONDAY, FEBRUARY 14, 2005  
CITY COUNCIL CHAMBERS, CITY HALL  
MINUTES**

**MEMBERS PRESENT:** Mayor Jay Andolshek, Dean Eggena, Dean Swanson, Dick Phillips, and Terry Curtis.

**OTHERS PRESENT:** Tom Swenson, City Administrator; Ken Anderson, Community Development Director; Jim Perry, Planner/GIS Coordinator; Kirk Adams, Associate City Attorney.

**CALL TO ORDER:** Mayor Jay Andolshek called the Public Hearing to order at 6:00 p.m.

**1. APPEAL 2005-001, JERRY ILLIES**

Community Development Director Ken Anderson stepped forward to introduce the request. He reminded Council Members that action must be taken based on the variance criteria and ordinance requirements, and that he would like to see a motion for approval or denial.

Mr. Anderson stated that this is a request for an appeal of the Board of Zoning Adjustments decision to deny Variance 2004-029, which was a request to reconstruct a boathouse in the Shore Impact Zone. The variance was denied on a 3-1 vote due to the fact that a hardship could not be found. He added that a Zoning Permit was issued for demolition of the existing home and reconstruction of a new home on the lot, but not for any work to the boathouse. Mr. Anderson said that when he performed a footing inspection on the new home, he noticed the boathouse was torn down and, at that point, told the builders that the structure would not be able to be rebuilt. He added that on November 3, 2004, staff was driving by the site and saw new framing up for the new boathouse structure, at which time a Stop Work Order was placed on the framing for the new boathouse structure. Mr. Anderson noted that no work has been done since the placement of the Stop Work Order. Mr. Anderson stated that the boathouse is about five feet from the Ordinary High Water Mark of Rush Lake, and that both surrounding properties appear to have similar structures. Mayor Jay Andolshek asked if there is any provision in our ordinance that permits boathouses. Mr. Anderson explained that covered boat ports are a prohibited use and are not allowed. He noted there were letters of support and opposition included in the packet.

Jerry Illies was present and stated that he purchased the lot and the house and boathouse were both seriously deteriorated. He stated that he spoke with Jim Perry at City Hall and that Perry told him that he could rebuild the structure on the original foundation in the same manner that it was originally constructed. Illies stated that he never would have removed the structure because of its value to the property, adding that he felt that its condition created an enormous liability to him as the property owner.

Tom Swenson asked Ken Anderson if an over the counter permit would have been issued for this project. Mr. Anderson explained that repair and maintenance are allowed without a permit, but structural repair requires a permit. He said a permit would not be issued because the structure is prohibited and is located in the Shore Impact Zone. Mr. Anderson read from Chapter 8 of the City Code, Section 8.10, Subd. 4, 3.,d. which stated that "Normal maintenance of a non-conforming structure is permitted and does not require a permit. Normal maintenance may include a necessary non-structural repairs and incidental alterations. Examples include siding, shingles, replacement windows and doors, and repair to the existing foundation. Increase in wall height or placing a new foundation are excluded as normal maintenance." Dean Eggena stated that the DNR has allowed boathouses for about ten years. He also said the ordinance does not do a good job of clarifying the difference between repair and maintenance, and structural repairs. Dean Swanson noted his opposition, stated that the intent of the ordinance is to eliminate non-conforming structures once they are beyond repair, and that he agrees with Planning and Zoning's decision that there is no hardship. Dick Phillips said that he is against new construction of boathouses, but he felt that the applicant could have replaced beams one at a time, so he should be able to rebuild. Councilmember Eggena agreed with Phillips, stating that there are many ways around the ordinance on this issue. Dean Swanson added that he sees no reason to approve the variance since there seems to be no hardship. Terry Curtis asked if a permit would be issued to rebuild the structure. Mr. Anderson answered that a permit could not be issued without a variance. Dean Eggena stated that he does not agree with the non-conforming structures section of the ordinance, explaining that he feels it is better to rebuild and repair these type of structures rather than just leaving them to rot. He added that he would like to see the ordinance amended to allow for rebuilding of non-conforming structures, so long as they are not expanded. Terry Curtis noted that there are special circumstances in this case, but that care must be taken to address how this issue is handled for future reference. Dean Swanson reiterated that the City Council needs to follow the ordinance, which states that there must be a hardship involved.

MOTION MADE BY DEAN EGGENA, SECOND BY DICK PHILLIPS TO APPROVE APPEAL 2005-001 SUBJECT TO THE FOLLOWING: 1.) THE PROPOSED STRUCTURE SHALL BE CONSTRUCTED IN THE EXACT MANNER AS THE ORIGINAL STRUCTURE, 2.) A ZONING PERMIT SHALL BE REQUIRED FOR REMOVAL OF THE ORIGINAL STRUCTURE, AND FOR RECONSTRUCTION OF THE PROPOSED STRUCTURE, 3.) MEASURES SHALL BE TAKEN TO ENSURE THAT CONSTRUCTION DEBRIS IS COLLECTED AWAY FROM RUSH LAKE, AND 4.) MEASURES SHALL BE TAKEN TO PREVENT SOIL EROSION WHILE WORK IS BEING PERFORMED.

Mayor Andolshek asked if the structure would still be allowed to have the deck on top. Me. Anderson stated that it would be constructed in the exact manner as the original 14 ft. x 20 ft. structure with a deck rail across the top. Terry Curtis stated that he would like to see the non-conforming structures ordinance clarified.

MOTION CARRIED BY A 3-2 VOTE WITH COUNCILMEMBERS EGGENA, CURTIS, AND PHILLIPS VOTING "AYE" AND MAYOR ANDOLSHEK AND SWANSON VOTING "NAY."

Mr. Anderson noted that Mr. Illies must obtain a zoning permit and that construction must not commence before the permit is issued. Mr. Illies thanked the City Council and Staff for their time and hard work.

**2. APPEAL 2005-002, SCOTT CORDAHL dba OX LAKE TAVERN**

Ken Anderson stated that this is an appeal of the Board of Zoning Adjustments decision to deny Variance 2005-002. He added that the variance was denied on a 4-0 vote, on the basis that the proposal would not resolve the current noise problems experienced by neighbors in the area. Mr. Anderson explained that the applicant is looking to create an enclosed addition over an existing deck and overhang along with constructing a new deck. He stated that this addition would create a kitchen and additional seating, which will require additional parking. Mr. Anderson stated that the applicant has proposed to expand the parking lot to the south to create a total of 18 onsite parking spaces. He added that a variance is required because the site requires 22 commercial parking spaces along with two (2) spaces to accommodate the underlying residential unit. A second variance is required because the proposed lot fails to meet the required 24-foot drive aisle width from the end of the parking spots to the end of the lot. Mr. Anderson noted that another variance is required for the proposed loading area which fails to meet the five foot parking setback required from lot lines and the impervious coverage exceeds the 25% maximum allowed in the Waterfront Commercial zoning district. Mr. Anderson explained the drainage plan, and stated that the Crow Wing County Highway Engineers office has recommended a "root rap" which is a covered drainage swale.

Terry Curtis explained that he felt the noise issue is irrelevant to this case, stating that that would be an issue for another department and wasn't the primary reason for denial. Curtis noted that he had spoke with Planning and Zoning Commissioners and he felt that the primary reason for denial was a lack of information provided by the applicant and that the Commissioners needed more answers. Mr. Anderson added that the applicant wants to get a liquor license and possibly sell the establishment, and that it may have also been denied due to the uncertainty about how the future owners will manage the business, along with the history of problems at the establishment. Anderson also said that the lot size and topography do create problems, and that commissioners may have felt that the lot was too small if it required four variances. Dean Swanson and Curtis agreed that the plans could be reworked in order to make the proposal work with fewer variances. Anderson stated that Commissioners were advised by the City Attorney that they needed to be careful not to mix issues, such as noise, that would be relevant to the issuance of a liquor license with other issues relevant to issuance of a variance. Anderson added that the ordinance does contain some maximum noise standards, stating that residential noise standards should be applied to a commercial area abutting a residential area.

Jonathan Trexler, an attorney with Thomas & Associates was present to represent the applicant, Scott Cordahl, and distributed a letter to the Council dated February 14, 2005. Trexler stated that the minutes from the January 28<sup>th</sup> Planning and Zoning meeting give noise as the reason for denial. He added that the Ox Lake Tavern must increase its food service and seating capacity in order to obtain a liquor license, and that a liquor license is necessary in order for the establishment to remain viable. Trexler stated that legal standards apply to the variance process, adding that Cordahl has a hardship and should have been granted a variance.

MOTION BY DEAN EGGENA, SECOND BY TERRY CURTIS TO APPROVE APPEAL 2005-002.

Councilmember Swanson compared the project to putting ten pounds of potatoes into a five-pound bag, stating that there is not enough real estate to do what is being proposed, and that the business may need to relocate in order to accommodate the proposed expansion. He also expressed concern about parking, which he feared would spill onto a major thoroughfare, and said that on-street parking creates an undesirable situation. Curtis argued that everything should be done to allow an existing business to survive, and that the problems need to be solved rather than simply denying the application. Swanson said he is in favor of allowing business to thrive, but is concerned that the City is giving out variances too easily, and that the applicant should come back with another option. Jay Andolshek added that he was at the Planning and Zoning meeting, and that there were many factors, aside from noise, that were considered in the denial.

Margaret Denzer, 14330 Cabin Cove Trail, stated that noise isn't the only issue. She added that after the parking lot is extended, it will be about 200 feet from her bedroom window. Denzer said that two years ago, the applicant's "cesspool" froze and ran onto her property. She also complained about the garbage from the establishment ending up on her property. Denzer added that she had no problem with the project, as long as noise and garbage concerns would be alleviated.

Terry Curtis asked if there are any additional concerns about drainage in the area. Mr. Anderson noted that staff has recommended that measures be taken to divert run-off away from the drainfield.

MOTION BY DEAN EGGENA, SECOND BY TERRY CURTIS TO APPROVE APPEAL 2005-002 SUBJECT TO THE FOLLOWING: 1.) THE HANDICAP RAMP SHALL BE BUILT TO A MAXIMUM 1:20 RISE AND ALL BUILDING FACILITIES SHALL BE UPDATED TO MEET STATE ACCESSIBILITY REQUIREMENTS, 2.) A ZONING PERMIT SHALL BE REQUIRED FOR THE BUILDING ADDITIONS AND DECK, 3.) ALL EXPANSION SHALL BE COMPLETED IN FULL ACCORDANCE WITH PLANS SUBMITTED WITH THE APPLICATION, 4.) BEST MANAGEMENT PRACTICES AND APPROPRIATE MEASURES SHALL BE TAKEN TO PROTECT BOTH THE EXISTING AND PROPOSED SEPTIC AREAS, ALONG WITH THE DESIGNATED ALTERNATE DRAINFIELD AREA, 5.) THE ABANDONED DRAINFIELD LOCATED UNDER THE PROPOSED PARKING ADDITION SHALL

BE REMOVED, FILLED WITH A PROPER MATERIAL, AND COMPACTED, ABANDONMENT SHALL BE SUBJECT TO INSPECTION BY CITY STAFF, 6.) A DIVERSION SHALL BE INSTALLED UPSLOPE OF THE SYSTEM TO INTERCEPT AND DIRECT RUN-OFF AWAY FROM THE DRAINFIELD, 7.) SIX (6) DECIDUOUS SHADE TREES, FOUR (4) CONIFEROUS TREES AND FOUR (4) ORNAMENTAL TREES SHALL BE PLANTED, IN ADDITION TO THE PROPOSED PLANTINGS, IN ORDER TO MEET THE MINIMUM LANDSCAPING REQUIREMENTS, 8.) LIGHT FIXTURE DRAWINGS AND ILLUMINATION PLAN SHALL BE SUBMITTED AND SHALL MEET ALL CITY REQUIREMENTS FOR THE WATERFRONT COMMERCIAL DISTRICT, 9.) VEGETATION MUST BE RE-ESTABLISHED IN ALL AREAS DISTURBED BY CONSTRUCTION ACTIVITIES, 10.) PARKING SPACES, LOT DIMENSIONS, AND EGRESS/INGRESS MUST BE CONSTRUCTED AS SUBMITTED AND SUBJECT TO CONDITIONS SET FORTH BY THE CITY AND COUNTY ENGINEER. CONCRETE OR BITUMINOUS CURB SHALL BE REQUIRED IN LIEU OF RAILROAD TIES. THE HANDICAPPED PARKING STALL SHALL BE SIGNED AS VAN ACCESSIBLE AND SHALL HAVE A MINIMUM ACCESS AISLE AND PARKING STALL WIDTH OF 8 FEET EACH, A SLOPE NOT TO EXCEED 20 TO 1, AND MUST MEET ALL OTHER FEDERAL/STATE MANDATED ACCESSIBILITY REQUIREMENTS.

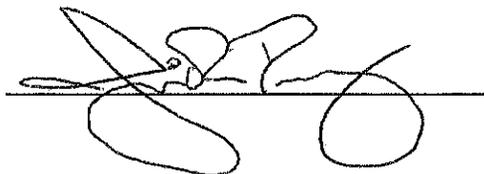
Jay Andolshek stated his opposition due to the fact that he felt there was not enough room on the site for what is being proposed. Dean Swanson agreed, adding that removal of the proposed deck would eliminate many of the problems associated with the project. Swanson suggested reworking the plans and resubmitting the application to Planning and Zoning. He suggested that the variance fees could possibly be waived for the re-submittal. More discussion followed as to whether removal of the deck would eliminate noise. Terry Curtis stated that he felt it is unfair to deny the application based on laws that are anticipated to be broken. He added that noise complaints are a separate issue and should be referred to the proper department, and dealt with accordingly. Anderson stated that a considerable alternative would be to remove the proposed deck, or limit the hours of usage to no later than 8:00 or 10:00 p.m. for example. He added that noise complaints should be referred to the proper department, and dealt with accordingly.

MOTION PASSED BY A 3-2 VOTE, WITH COUNCIL MEMBERS EGGENA, CURTIS, AND PHILLIPS VOTING "AYE," AND MAYOR ANDOLSHEK AND SWANSON VOTING "NAY."

## **ADJOURN**

Mayor Jay Andolshek adjourned the meeting at 7:30 p.m.

Minutes respectfully prepared by Jim Perry

A handwritten signature in black ink, appearing to be 'Jim Perry', written over a horizontal line.

