

**CITY OF CROSSLAKE
CITY COUNCIL
SPECIAL PUBLIC HEARING
6:00 P.M., MONDAY, AUGUST 8, 2005
CITY COUNCIL CHAMBERS, CITY HALL
MINUTES**

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

OTHERS PRESENT: Ken Anderson, Community Development Director; Tom Swenson, City Administrator; Jim Perry, Planner/GIS Coordinator; Darlene Roach, City Clerk.

SPECIAL PUBLIC HEARING/CALL TO ORDER: Mayor Jay Andolshek called the meeting to order at 6:00 p.m.

1. Appeal 2005-005, Duane and Mary Demesy

Community Development Director Ken Anderson stated that the requested appeal was a request to overturn the Planning and Zoning Commission's decision to deny Variance 2005-007, which was a request to construct a 22 ft. by 22 ft. garage within the required sideyard and right-of-way setbacks. He added that the Commission denied the request due to the fact that they did not see a valid hardship. Anderson also said that although the proposed structure is only about 6 feet from the right-of-way, it is about 52 feet from the actual road surface. Dean Eggena questioned how staff came up with that measurement. Jim Perry stated that he measured the distance during a previous site visit. Duane Demesy was present and added that his driveway is on the right-of-way and that parking currently occurs in this area, and that allowing construction of a garage would allow him to keep his vehicles out of the right-of-way. Dick Phillips stated that the lot seemed very small and asked whether the applicant would consider downsizing his proposal. Demesy stated that he would go down to a 20-foot by 20-foot structure if necessary. Terry Curtis asked why there was so much right-of-way in front of the property. Councilmember Eggena said felt that if the area was platted today, it would be platted around a cul-de-sac. He stated that the right-of-way used to be an outlot, and that when the City took over the road it took the entire outlot. Eggena noted that having that much right-of-way seems useless to the City and that he would be in favor of abandoning the portion of the easement not needed for road surface and snow removal. Eggena added that abandoning a portion of this easement to the applicant would allow him to maintain the proper setback. Dean Swanson said that he thought it should be up to the property owner, not the City, to initiate the process of vacating right-of-way. Curtis said that he believed that the excessive right-of-way could constitute a hardship. Mary Demesy stated that the lot was purchased in 1974, and that they would have been allowed to construct a garage at that time, but could not afford it. She asked whether they could be grandfathered in. Eggena stated that the variance process was designed to deal with substandard lots and structures. He added that the variance process could be avoided by abandoning a portion of the road easement, stating that there is no chance the City will ever need that much right-of-way.

Tom Swenson noted that the Dream Island area has had many septic system problems in the past, and cautioned Council members that giving up that property may limit future options in correcting septic issues. Councilmember Swanson agreed, stating that the property may be needed for a cluster system in the future. Curtis said that if the Council feels that there is excessive right-of-way, they should approve a variance as that appears to constitute a hardship. Swanson said that he was more concerned about the side-yard setback, and how the dwelling would be accessed in an emergency. Phillips stated that he would like to see a smaller proposal, noting that a two-car garage is not completely necessary. Councilmember Swanson added that he would be in favor of a single stall garage. Curtis said that rather than making the applicant start over, the Council should solve the problem at this time. Eggena noted that a smaller garage still would require a variance from both setbacks. Crosslake resident Leo Fraser was present and stated that the City has no use for the large amount of right-of-way, and that the proposed garage would not be obtrusive. Anderson asked Council members whether they felt that not having a garage was a hardship due to climate, etc., and whether there is a minimum size garage that would eliminate the hardship. He said that this information would be helpful to staff and Commissioners in evaluating future requests. Swanson stated that arguments could be made both ways as far as the lack of a garage constituting a hardship. He added that, in his opinion, a two-car garage is not necessary and that a single-car garage would give the applicant reasonable use of the property. Eggena argued that most every family has at least two vehicles, and that a two-car garage is an absolute necessity. Eggena added that he is in favor of the proposal, stating that a 20 by 20 garage would be too small, and that 22 by 22 is the minimum reasonable size for a two-car garage.

MOTION BY DEAN EGGENA TO APPROVE APPEAL 2005-005 DUE TO THE FACT THAT THERE IS NO OTHER REASONABLE LOCATION FOR A GARAGE ON THE PROPERTY. MOTION NOT ACTED ON.

Mayor Andolshek stated that the public should be given an opportunity to comment. Eggena said that this was not a public hearing. Anderson stated that the meeting was a public hearing and that the Council could take action now, or refer the appeal to the regular meeting. Councilmember Curtis noted to Eggena that the excessive right-of-way should be included in the motion.

MOTION PH8-01-05 MADE BY DEAN EGGENA, SECOND BY JAY ANDOLSHEK TO APPROVE APPEAL 2005-005 DUE TO THE FACT THAT THERE IS NO OTHER REASONABLE LOCATION FOR A GARAGE ON THE PROPERTY AND BECAUSE OF EXCESSIVE RIGHT OF WAY IN FRONT OF THE PROPERTY.

City Attorney Kirk Adams reminded Council members to keep with the spirit of State variance requirements. Eggena stated that the application meets the State requirement of a hardship. Phillips stated that by approving the variance, the Council may be inviting a large amount of variance requests from other property owners looking to construct garages on the island. Curtis stated that he likes the idea of abandoning right-of-way because it may also create a solution for other property owners in the area. Eggena said

that he now agrees with the idea of retaining the road right-of-way due to septic issues, while recognizing that it is excessive and therefore granting a variance.

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

Councilmember Eggena asked whether the vote would have been different if the garage was smaller. Phillips stated that he would have favored a request for a smaller garage. Swenson asked Eggena whether it is possible to construct a one and a half stall garage. Eggena said that it could be constructed, but noted that the half could only be used for storage. Duane Demesy asked whether the Council could consider a 20 by 20 foot garage.

MOTION PH8-02-05 MADE BY DEAN EGGENA, SECOND BY TERRY CURTIS TO REVISE THE APPLICATION TO ALLOW A 20 FT. BY 20 FT. GARAGE DUE TO THE FACT THAT THERE IS NO OTHER REASONABLE LOCATION FOR A GARAGE ON THE PROPERTY AND DUE TO THE EXCESSIVE AMOUNT OF RIGHT-OF-WAY IN FRONT OF THE PROPERTY.

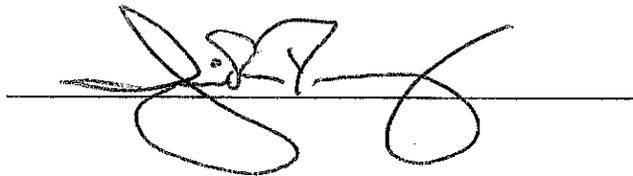
Curtis asked whether the new request was required to go back to the Planning and Zoning Commission. Anderson stated that the Council could approve the revised request, and noted that it seemed to be a legitimate request.

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

ADJOURN:

MOTION PH8-03-05 MADE BY DEAN SWANSON, SECOND BY DEAN EGGENA TO ADJOURN THE MEETING AT 7:02 P.M. MOTION CARRIED WITH ALL "AYES."

Minutes Respectfully Prepared by Jim Perry

A handwritten signature in black ink, appearing to be 'Jim Perry', is written over a horizontal line. The signature is stylized and cursive.

