

**CITY OF CROSSLAKE  
CITY COUNCIL  
SPECIAL MEETING AND PUBLIC HEARING  
5:30 P.M., MONDAY, SEPTEMBER 13, 2010  
CITY COUNCIL CHAMBERS, CITY HALL  
MINUTES**

**MEMBERS PRESENT:** Mayor Jay Andolshek, Steve Roe, Dean Swanson, John Moengen and Rusty Taubert.

**OTHERS PRESENT:** Tom Swenson, City Administrator; Planning and Zoning Commissioners Mike Winkels, Gary Heacox, Nancy Addington and Dale Melberg; Kenneth Anderson, Community Development Director; Bryan Hargrave, Planner/GIS Coordinator; Mike Couri, City Attorney; Bruce Peck, City Council applicant.

**SPECIAL MEETING/CALL TO ORDER:** Mayor Jay Andolshek called the meeting to order at 5:30 P.M. He read the public notice for the purpose of the special meeting.

**Appeal 2010-001, Schueller Properties LLC appeal of V2010-006 denial by the City of Crosslake Planning and Zoning Commission**

Ken Anderson gave a history of the application. He stated that the Planning and Zoning Commission considered the original application on July 23, 2010. Mr. Anderson said that current City ordinance states that a person can have up to 250 sq. ft. of patio with an over-the-counter permit outside of the building envelope, but not in the Shore Impact Zone. The approval of a CUP allows a person to have up to 400 sq. ft. in this same area of the parcel; however, he said there is over 1600 sq. ft. of patio existing on this property presently. He also noted an after-the-fact variance was necessary to allow a four-foot encroachment of the concrete parking area inside the sideyard setback of ten feet. Mr. Anderson asked the City Attorney to summarize the June, 2010 State Supreme Court ruling regarding the City's approval of variances. Mike Couri stated that the courts have been using a more lenient standard in order to grant variances under state law; the State Supreme Court affirmed a much more stringent standard for approval of variances. He said the Council has to find that the applicant does not have reasonable use of their property. He stated that making a specific finding of a hardship is a requirement. Mr. Couri said that cities are denying most variances because of this ruling.

Steve Roe asked about the existing conditions that the City Attorney talked about. Mr. Couri said that the City has to ask if the applicant has reasonable use of the property without the variance. If they have reasonable use of the property, then it becomes very difficult to approve a variance.

Dave Peterson, 12396 Arrowhead Lane, asked the City attorney who would challenge the variance approval. Mr. Couri said that anyone could challenge the approval. Mr. Peterson said that Mr. Schueller has been a great neighbor and he hoped that the Council would reverse the denial of the variance application by the Planning and Zoning Commission due to the narrow lot and the expense of the lot.

Mayor Jay Andolshek asked the City Attorney if the DNR could challenge a variance approval. Mr. Couri stated that the DNR could and has challenged variance approvals if they disagree with them.

Jim Schueller, 12697 Arrowhead Lane, said that the areal extent of the patios was overstated by staff. He stated that by the time you take out walkways, the areal extent goes down to a little over 1000 sq. ft. He went over the steps that he took to prevent shoreline erosion. He asked forgiveness for the after-the-fact application. Mr. Schueller stated that according to City ordinance, they would be allowed to have seven walk-ways to the water because the length of shoreline exceeds 700 feet. He said that would really butcher up the shoreline. He said that the lot is unique, with water on three sides; they cannot move the house back because of the configuration of the lot. Mr. Schueller then went over some other points. He emphasized the uniqueness of the lot and he asked that if the City Council wanted to deny it, then he asked that they table the appeal. Dean Swanson asked what the benefits would be to table the appeal. He did not see any benefits of doing that. John Moengen said that when he looked at the plans, he asked himself where the decks or patios would go. They built out to the edge of the building envelope. He asked Ken Anderson why staff would not anticipate that the applicant would wish to put on decks or patios or things like that. Mr. Anderson said that it was not uncommon for people to pull a zoning permit for a new structure and not issue a permit for land alterations. He said that a person could put in a 4-foot walkway out of each door; they are not considered patios. Mr. Anderson said that Mr. Schueller had indicated to the Planning and Zoning Commission that he had spent over three years planning the building. He went over the process staff goes through after the permit is issued. Mr. Anderson said that one possible option to avoid this in the future is to have staff perform a final inspection on all permits. Mr. Anderson later pointed out that the permit was issued and specifically stated that land alterations were not approved and would require a separate permit. He said that the system had not failed; the failure was people not being held personally accountable. Another solution would be to adopt the building code, which would then trigger 10-13 inspections of the building as it was going up. Steve Roe asked if the owner was ever in receipt of the appropriate City ordinances that covered land alterations. Mr. Anderson said that he didn't know. He said the City ordinance is on-line and available for public information. Discussion followed on this.

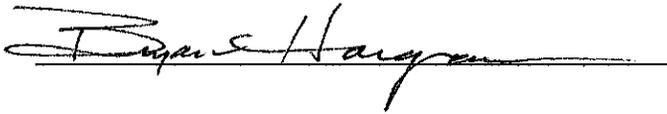
Mike Winkels, 35844 Robert Lane, the current Planning and Zoning Commission Chair, said that the applicant had a 9000 sq. ft. building envelope in which much could be built. He said that the Commission could not see a hardship and that is why it was denied. He said that the Commission approved the Conditional Use Permit, but the vote was not unanimous. He said the after-the-fact variance was "over the top", so it was denied. Mike Couri said that the law assumes that everybody is aware of the ordinances. He said that the real issue is: is there a hardship? Dean Swanson said that if the patios were not there, they would still have reasonable use of the property. John Moengen asked that if the variance were denied, what would be the result. Mike Couri said that the applicant could build seven pathways to the water, because that was allowed in the ordinance. Discussion followed on this. Mayor Jay Andolshek asked if the patio would have to be removed if the Council denied the appeal. Ken Anderson went over the draft of denial that was prepared by staff. Steve Roe asked if the City would allow the applicant 400 sq. ft. with an after-the-fact conditional use permit. Mr. Anderson said that the applicant could apply for another conditional use permit to allow up to 400 sq. ft. and ap-

pear with a site plan in front of the Planning & Zoning Commission once again for approval or denial. Mayor Andolshek said that the City Council would act on the appeal in it's regular meeting. He asked for any other comment from the public. Nancy Addington, 13002 Verna Drive, a member of the Planning & Zoning Commission, wished to be heard. Ms. Addington said that when she moved to the community, she was very naïve and had no knowledge of the City ordinance and what she could or could not do on her lot. She said that she has learned a lot since then and she thanked staff for their interpretation of the ordinance. She said that she was offended that people did not attempt to inform themselves of the rules before starting on a project.

**ADJOURN:**

MOTION 09PH1-02-10 WAS MADE BY JOHN MOENGEN, SECOND BY RUSTY TAUBERT TO ADJOURN THE MEETING AT 6:55 P.M. MOTION CARRIED WITH ALL "AYES."

Minutes Respectfully Prepared by Bryan Hargrave

A handwritten signature in black ink, appearing to read "Bryan Hargrave", written over a horizontal line.