

PUBLIC HEARING  
CITY OF CROSSLAKE  
THURSDAY, OCTOBER 13, 2003  
5:00 P.M. - CITY HALL

Pursuant to due notice and call, the Crosslake City Council met on October 13, 2003 at 5:00 P.M. to hear an appeal of a variance request by Dan White and Betsy Hoffman which was tabled from a previous meeting held on September 4, 2003. The Planning and Zoning Commission/Board of Adjustment denied a variance request of approximately 3.8 feet to allow the construction of a home with the basement floor elevation below the elevation currently allowed by ordinance. Present at the hearing was Mayor Darrell Swanson, Dean Eggena, Dick Phillips and Irene Schultz. Councilmember Chuck Miller was absent. Also present was City Administrator Tom Swenson, Community Development Director Ken Anderson, City Attorney Paul Sandelin and Clerk/Treasurer Darlene Roach. Other individuals in attendance included Attorney Lonny Thomas, DNR Hydrologist Ron Morreim, Kevin McCormack of Landecker & Associates, Tedd Mattke of Mattke Surveying & Engineering, Inc. and Lake Country Echo Reporter Betty Ryan. (Sign in sheet included as a permanent part of the minutes).

Mayor Swanson called the public hearing to order at 5:00 P.M. and turned the meeting over to Community Development Director Ken Anderson to update the Council with what activity has transpired since the September 4<sup>th</sup> meeting. Anderson stated that the basis for tabling the variance appeal was to allow the applicant's consultant, Mr. Tedd Mattke more time to do further research regarding the existing conditions at the White residence and to determine to what extent the construction of the new home encroaches in the required floodplain setback elevation. To assist the Council with some of the key terms and elevations, Anderson prepared a handout showing various elevations pertinent to this appeal. Anderson reviewed these elevation levels with the Council. He stated that the Normal Ordinary High Water (OHW) level on Cross Lake is registered at 1,229.57 feet. The September 3, 2003 "as-built" survey (basement with poured concrete floor) elevation is 1232.2 feet. The FEMA Flood Elevation Standard is 1232.8 feet (which is .6 feet higher than the White/Hoffman basement floor elevation) and the DNR Regulatory Flood Plain Elevation (RFPE) standard is 1233.8, which is 1.6 feet higher than the White/Hoffman basement floor elevation. The difference between the DNR Standard and the FEMA Standard is 1', which accounts for the DNR requirement to have 1 foot of freeboard. Additionally, the Shoreland Management Ordinance requires the lowest floor elevation to be at (1231.98 plus 3 feet) 1234.98 feet. These elevations all have an affect on how the variance request is considered.

Community Development Director Ken Anderson stated that Staff sees three options available for consideration by the Council. These three options consist of: (1.) approving the variance request based upon findings of fact that the variance criteria have been met; (2.) denying the variance request based upon findings of fact that the variance criteria have not been met; and (3.) table the request due to the Corp of Engineers Reservoir Operating Plan Evaluation (ROPE) Study that is currently underway and reconvene the public hearing at the time the study results are known. Mr. Mattke has indicated, based

on conversations with the Corp of Engineers, that the reservoir elevations may change based on data being reviewed and that a new report may be available as early as April or May of 2004. If the base flood elevations do change as a result of the ROPE Study, the applicant's property may be outside the floodplain area and not subject to FEMA guidelines. City Attorney Sandelin stated that approval of the variance request, at this time, could put the City in jeopardy with FEMA. Councilmember Phillips inquired as to how long the City could table the issue. City Attorney Sandelin stated that normally the City has to make timely decisions and act within sixty days, however if the City were to receive something in writing from the applicant indicating their concurrence with an extension, the City could table the issue to the agreed upon extension date. Community Development Director Anderson commented that if the Council does agree to table the matter, Staff would request that no additional work be done by the applicant during the agreed upon extended timeframe and that the City would not waive any rights or legal remedies based upon approval of the extension.

Kevin McCormack addressed the Council to clarify elevations appearing on a survey presented to the Council at the September 4<sup>th</sup> meeting. Mr. McCormack stated that the April 4<sup>th</sup> survey, which showed an elevation of 1231 feet, has been revised to reflect the correct elevation of 1232.2 feet to the finished concrete basement floor.

Mr. Tedd Mattke of Mattke Surveying and Engineering of Fridley, Minnesota addressed the Council and stated that at the September 4<sup>th</sup> meeting there were a number of unknowns regarding the elevations. Mr. Mattke feels that the ROPE study being conducted by the Corp of Engineers will come in with a recommended base flood elevation less than the current level of 1232.8 feet and may result in the applicant's not requiring a variance. It was the recommendation of Mr. Mattke that the Council not approve or disapprove the variance request, but table the issue until the ROPE study has been completed. There was some discussion as to whether the City could expect the results of the ROPE Study by Spring and it was agreed that it may be better to table the issue for up to one year. Mr. Mattke felt that the applicant would be agreeable to this.

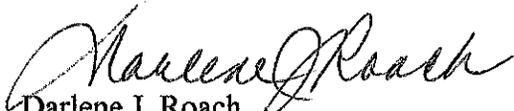
Attorney Lonny Thomas addressed the Council and stated that he agrees logically that it should be tabled. However, has some procedural issues between the difference in the need for a variance of 3.8 feet and 1.6 feet from the RFPE of 1233.8 feet and may wish to submit a new variance application requesting a variance of 1.6 feet based upon the revised survey elevations. He stated that he also would include "no prejudice to his client's rights" due to a tabling of the issues. It was agreed that if the Council tables the matter, wording would be included in the agreement which would protect both the applicant and the City's rights in this matter.

Ron Morreim of the DNR addressed the Council and stated that the Council still needs to adhere to the State DNR Standards which requires a 1' freeboard above the base flood elevation (which is also known as the RFPE) to allow space for utilities, floor joists and etc. Discussion ensued regarding shoreland elevations not only on the Whitefish Chain, which sits within a dike system, but how the City should deal with properties outside the dike system on other lakes within the City.

There being no further comments, MOTION PH10-01-03 WAS MADE BY DEAN EGGENA AND SECONDED BY IRENE SCHULTZ TO TABLE UP TO ONE YEAR THE WHITE/HOFFMAN VARIANCE APPEAL WITH THE STIPULATION THAT NO FURTHER MODIFICATIONS OR IMPROVEMENTS BE MADE TO THE BASEMENT LEVEL OF THE EXISTING HOME UNTIL SUCH TIME AS FINAL ACTION IS TAKEN BY THE CITY COUNCIL AND THAT THE CITY ATTORNEY HAS AUTHORITY TO ESTABLISH PROVISIONS FOR MUTUAL PROTECTION OF RIGHTS. MOTION CARRIED WITH ALL AYES.

MOTION PH10-02-03 WAS MADE BY DICK PHILLIPS AND SECONDED BY DEAN EGGENA TO ADJOURN THIS PUBLIC HEARING AT 6:04 P.M. MOTION CARRIED WITH ALL AYES.

Recorded and transcribed by,

  
Darlene J. Roach  
Clerk/Treasurer

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