



## STATED MINUTES

### City of Crosslake Planning Commission/Board of Adjustment

September 25, 2015  
9:00 A.M.

Crosslake City Hall  
37028 County Road 66  
Crosslake, MN 56442

1. Present: Aaron Herzog, Chair; Dave Nevin, Vice-Chair; Joel Knippel; Mark Lafon and Council Member Gary Heacox
2. Absent: Matt Kuker
3. Staff: Paul Herkenhoff, Survey/Planning Coordinator; Jon Kolstad, Crosslake Land Services Specialist and Cheryl Stuckmayer, Technical/Administration Specialist
4. 8-28-15 Minutes & Findings – **Motion by Nevin; supported by Herzog to approve the minutes & findings as written. All members voting “Aye”, Motion carried.**
5. Old Business
  - 5.1 None
6. New Business
  - 6.1 Steven A & Barbara Kuklock – After-the-Fact Variance for side yard setback
  - 6.2 Bruce K & Julie A 6.2Larson - Metes & Bounds Subdivision
  - 6.3 Public Hearing Ordinance Revisions - Article 11 Shoreland District Standards; Article 12 Rural Residential District Standards; Article 33 Signs; Article 36 Accessory Structures; Article 43 Definitions
7. Other
  - 7.1 Nuisance ordinance review
8. Amend Agenda
  - 8.1 Planning and Zoning Commission Stipend
9. Adjournment

**Steven A & Barbara Kuklock  
142130030110009**

Kolstad read the request into the record along with a detailed background of the Kuklocks obtaining their permit. Herzog invited the applicants to the podium and requested additional detail pertaining to the shoreline property stake. Kuklock, owner and McCormick, surveyor, stepped up with McCormick explaining the history around the old existing stake and the stake that was placed recently by Stonemark after their survey. Kuklock described the procedure that was used to establish the property side yard setback for the permit and building location. Nevin clarified the procedure that is needed to get an accurate property line locate. McCormick agreed with Nevin's procedure and explained several alternative methods that could also be used. Kuklock expounded that the method they used included verifying the southern property, Deeter, side yard structure setback of 11 feet per the permit information, as an additional means of enforcing their accuracy of determining the side yard setback. McCormick mentioned that the Kuklocks were not pursuing adverse possession but instead going for a variance. Kuklock stated that approximately a sheet and a half of plywood is the amount that they are requesting in this variance. Herkenhoff stated that the method used to determine the lot line was where there was a discrepancy. Kuklock explained that they have been owners since 1987 and there has always only been one pin at the shoreline side yard and the idea of a survey had not entered their minds since they knew where the pin was and others had been using that same pin also, as is evident by the neighboring landscape. Herkenhoff indicated that the pin that was used to determine the side yard setback was a reference point determined by a surveyor. The commissioners, Kolstad, Kuklock and McCormick discussed the pin locate procedure and what was available to work with in staking the property line. Herzog opened the public hearing. Glass a resident of the lakes area and an associate of the Kuklocks for over 35 years described the exceptional character of the Kuklocks, their respect for the neighbors and the community. Glass explained his professional history, his understanding of the ordinance and that the Kuklocks are encroaching upon their own property setback not using the neighbor's property. Nevin asked Glass who he felt was the responsible party to determine the property line. Glass stated a survey was done for the plat and the stakes were there and that is what the Kuklocks went by. Nevin and Glass agreed that possibly the ordinance should require a survey. Herzog asked for any additional input from the public. Thomas the attorney for the Deeters, property owners on the southern shared property line, explained the property line history as he knows it and his feelings on the use of surveys and their costs. Thomas reiterated some of his answers to the required finding of fact questions which he had submitted in a written form dated September 16, 2015. Discussion pursued pertaining to the property line and the ins and outs of the need for a survey or not. Herzog asked if Thomas was opposed with leaving the footings as is, knowing Thomas was against squaring off the garage. Herzog was wondering what, if any, there was a fix that they were looking for, as for example a privacy fence. Thomas felt that creativity was not the answer, but that the law should be enforced as written. Herzog asked if there was any others who would like to speak. Ward, Kuklock's builder, approached the podium to clarify that the original print always had the jog off the garage. The plan was to leave room on one side for equipment to access the lake area. Whirley, Rem-Whirl, LLC indicated that it is clear a mistake was made, not

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done on purpose, but granting this variance would send a message to professionals and everyone that assumptions can be made based on experience and if they are wrong it will just be approved. Herzog again asked for public participation with no further response. Kolstad read into record three comments received during the week of this public hearing; two approving and one denying. Nevin asked Kuklock if during the string procedure to find the side yard lot line did Deeters come over to question where the lot line was. Kuklock responded that they did not speak with them; it was in the fall and Deeters were not in resident. Kuklock stated the garage and bedrooms are relatively in a similar location with the Deeters floor plan with our structure angling away from the lot line. Herzog welcomed Deeter to the podium for his comments. Deeter stated that this matter is about the law and in the spring he did ask if the setback was going to be 10 feet. Kuklocks agreed that he did make that comment. Deeters specified that they oppose this variance. Kuklock approached the podium to state that he would at least hope to keep the current footings. McCormick stated that a decision today does not set a precedence. A variance is part of the law and is to be looked at individually. Herzog said it is unfortunate that some do look at past determinations and form assumptions. Nevin asked if they had come for a variance before the building started would the commissioners have granted it; also the other side of the house has plenty of room to have moved the structure over. Herkenhoff stated that it needs to be looked at as an after-the-fact and that is why there are two different processes. Lafon stated the closeness of the building project should have triggered the need for a survey. Knippel asked if there is a solution or compromise that can be found. Lafon felt with the closeness a survey should have been done. Nevin expressed that it would be hard to allow it to remain as is. Herzog was interested as to the difference in original location versus actual survey stake. The commissioners and Kolstad followed with a discussion on this topic. Herkenhoff stated that it sounds like squaring off the garage is not an attainable thing and a privacy fence as a form of mitigation was not accepted by Thomas. Herzog explained that the commissioners go thru a findings of fact procedure and asked Kolstad to proceed with this process; the board members deliberated and responded to each question.

**September 25, 2015 Action:**

**Motion by Nevin; supported by Lafon to deny the variance for:**

- 1. Side yard setback of 4.76 feet where 10 feet is required to proposed attached garage**

**To construct:**

- 2,310 square foot dwelling with attached garage within the setback**

**Per the findings of fact as discussed, the on-site conducted on 9-24-15 and as shown on the certificate of survey received at the Planning & Zoning office dated 8-28-15 and revisions dated 8-25-15 located at 13534 East Shore Road, Crosslake, MN 56442**

**Conditions:**

- 1. None**

**Findings: See attached**

**All members voting “Aye”, Motion carried.**

**Bruce K & Julie A Larson  
120171202GB0009**

Kolstad read the request for the Metes & Bounds Subdivision into the records for recommendation to the City Council. Nevin asked Larson about the northern strip above the Larson property. Larson stated that strip was attached to the northern neighboring property. Nevin inquired about the procedure for an access if a driveway would be installed. Kolstad replied that it would be up to the county highway department at the time someone put the request in. Larson stated at this time there is no intent to sell the lot. Herzog opened the public hearing with no response, so the public hearing was closed. Kolstad stated that all requirements of the ordinance were met and completed. Herzog requested Kolstad to initiate the findings of fact procedure with the board members deliberating and responding to each question.

**September 25, 2015 Action:**

**Motion by Lafon; supported by Knippel to approve a recommendation to the City Council to:**

- **Subdivide parcel 120171202GB0009 involving 186,263 square feet / 4.276 acres into 2 tracts**

**Per the findings of fact as discussed, the on-site conducted on 9-24-15 and as shown on the certificate of survey received at the Planning & Zoning office dated 8-28-15 located at 13244 County Road 16, Part of Government Lot 2, Section 17, City of Crosslake**

**Conditions:**

- 1. Park dedication fee submitted to Planning & Zoning office prior to the City Council meeting on October 12, 2015**

**Findings: See attached**

**All members voting “Aye”, Motion carried.**

**Crosslake Planning & Zoning  
City of Crosslake, Chapter 26 City Ordinance  
Land Use Revisions - Articles 11, 12, 33, 36 and  
43**

Kolstad presented to the board a summary of Chapter 26 of the City of Crosslake Land Use Ordinance, Articles 11, 12, 33, 36, 43, the memo dated 9-15-15 and stated there were no public comments. Herzog opened all articles for public comments. Discussion pursued on each article with the board, staff, and Miller of Miller Construction.

- Article 11 – No Changes as presented

**September 25, 2015 Action:**

**Motion by Nevin; supported by Knippel to recommend the Crosslake City Council approve the revisions to the Code of Ordinances for the City of Crosslake, Chapter 26 Land Use.**

**All members voting “Aye”, Motion carried.**

- Article 12 – No Changes as presented

**September 25, 2015 Action:**

**Motion by Knippel; supported by Lafon to recommend the Crosslake City Council approve the revisions to the Code of Ordinances for the City of Crosslake, Chapter 26 Land Use.**

**All members voting “Aye”, Motion carried.**

- Article 33 – No Changes as presented

**September 25, 2015 Action:**

**Motion by Nevin; supported by Knippel to recommend the Crosslake City Council approve the revisions to the Code of Ordinances for the City of Crosslake, Chapter 26 Land Use.**

**All members voting “Aye”, Motion carried.**

- Article 36 – Sec 26-960 (1) table - change the structure size on line one from 900 to 1200 square feet in size and eliminate the second line

**September 25, 2015 Action:**

**Motion by Lafon; supported by Knippel to recommend the Crosslake City Council approve Article 36 as presented with revisions noted above to the Code of Ordinances for the City of Crosslake, Chapter 26 Land Use.**

**Herzog, Knippel and Lafon voting “Aye” and Nevin voting “Apposed”, three to one, Motion carried.**

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- Article 43 – No Changes as presented

**September 25, 2015 Action:**

**Motion by Nevin; supported by Knippel to recommend the Crosslake City Council approve the revisions to the Code of Ordinances for the City of Crosslake, Chapter 26 Land Use.**

**All members voting “Aye”, Motion carried.**

**City of Crosslake Nuisance Ordinance**

Kolstad read into the record the current ordinance on nuisance and his memo dated 8-25-15.

**September 25, 2015 Action:**

**Motion by Nevin; supported by Knippel to recommend the Crosslake City Council approve the updates as presented in the 8-28-15 memo to Chapter 30 of the Crosslake City Code.**

**All members voting “Aye”, Motion carried.**

**Planning and Zoning Commission Stipend**

Herzog stated he sent an email to city director and the City Council approved the requested increase to reflect a stipend of \$35.00 per meeting.

**Matters not on the Agenda:**

1. The possible need for surveys were discussed among the board, Kolstad, Herkenhoff and Heacox

**Motion by Knippel; supported by Lafon to adjourn at 12:30 P.M.**

**All members voting “Aye”, Motion carried.**

Respectfully yours,

*Cheryl Stuckmayer*

Cheryl Stuckmayer  
Technical/Administrative Specialist