

SPECIAL COUNCIL MEETING AND PUBLIC HEARING
CITY OF CROSSLAKE
MONDAY, MARCH 5, 2012
2:00 P.M. – CITY HALL

The City Council for the City of Crosslake met in the Council Chambers of City Hall on Monday, March 5, 2012. The following Council Members were present: Mayor Darrell Schneider, Steve Roe, John Moengen, Dean Swanson and Rusty Taubert. Also present were City Administrator Tom Swenson, Community Development Director Ken Anderson, Planner/Zoning Coordinator Lane Braaten, City Engineer Dave Reese and Planning and Zoning Commission Members Mike Winkels, Ron Hagen and Gary Heacox.

A. CALL TO ORDER – Mayor Schneider called the Special Council Meeting to order at 2:00 P.M. and opened the public hearing.

B. PUBLIC HEARING

1. APPEAL 2012-001 OF THE PLANNING AND ZONING COMMISSION'S DENIAL OF VARIANCE 2011-020. JOHN AND MARY LALLY are requesting approval of Appeal 2012-001 for an after-the-fact variance to allow 37.1% of impervious coverage vs. the maximum 25% impervious coverage allowed in the R-3, Medium Density Residential zoning district. The property is located at 12904 Manhattan Point Blvd.

Ken Anderson introduced Appeal 2012-001. Mr. Anderson explained that Mr. and Mrs. Lally were appealing the Planning and Zoning Commission's denial of after-the-fact Variance 2011-020, which was a request to allow 37.1% impervious surface vs. the 25% maximum allowed within the R-3, Medium Density Residential zoning district. Mr. Anderson went on to explain that the applicants had submitted a revised stormwater plan that exceeded the 5 yr. storm event design required by Ordinance and which included removal of 1,021 sq. ft. of concrete drive along with additional berms and water retention areas. Also, Mr. Anderson informed the City Council that the subject parcel was split between the City of Crosslake and the City of Manhattan Beach with the majority of the impervious surface improvements in the City of Crosslake. He informed the Council that the notice for Appeal 2012-001 was published in the newspaper, but the mailed notice had been sent out late and in order to meet the 10 day mailed notice requirement the Council cannot take action on this application until their March 12, 2012 Regular City Council meeting. Mr. Reese, City Engineer, commented that the revised plan exceeded the 5 year storm event requirement and that the applicant's engineer had tried to maximize the amount of water retained on the Lally property. He reinforced the comment made by Mr. Anderson earlier in the meeting reminding the City Council that even if the applicants removed the concrete drive the impervious surface(s) would not be reduced unless the surface replacing the concrete were pervious. Class V is considered an impervious surface in City Ordinance along with compacted soils.

John Moengen asked for the history of the property in order to better understand how the property had been developed. Mr. Anderson explained that the lot was

substandard in width and size. Furthermore, City Ordinance requires all substandard lots not meeting Ordinance minimums and which are directly adjacent to one another and in common ownership to be combined. This property was sold and developed in direct violation of the ordinance in place at the time (1997). Discussion followed regarding development of the property and the last zoning permit issued in 2005 for an attached garage addition. Steve Roe stated that the problem on the parcel started with the Daverns (neighboring property owner) selling the Lallys the property and the City of Crosslake issuing a permit for construction of the original home and the attached garage. Mr. Roe stressed that due to these circumstances the Council should really work with Mr. Lally to resolve the impervious and stormwater issues. Discussion followed regarding the history of the parcel and the ordinance language pertaining to the development and sale of non-conforming lots.

Tom Watson, Whitefish Area Property Owners Association (WAPOA), stated that he had served on the City of North Oaks Council for nearly 20 years and the Ordinances are in place for specific reasons. He gave a brief example of a similar application that he had been involved with, which required the applicant to remove some existing structures from a setback area. He stated one option could include pervious pavers in order to reduce the impervious surface on the lot. He felt that the hard surfaces on the lot could be reduced to meet the 25% impervious surface standard and that he would like the Council to reject the appeal request made by Mr. and Mrs. Lally.

Paul Allen, Mayor of Manhattan Beach, stated that he had been working with Mr. Lally on this issue due to the fact that the berms and a few retention areas would be located within the City of Manhattan Beach. He reinforced the fact that the driveway had been shown on the site plan submitted with the attached garage addition zoning permit application. Mr. Allen stated that due to the errors that were made on the property and due to the substandard lot size the applicants would fall under the practical difficulties standard by which all variances are to be approved or denied. He stated that he was in support of the proposed stormwater plan submitted by Mr. and Mrs. Lally.

John Lally, 12904 Manhattan Point Blvd., thanked everyone for their time and agreed that ultimately the property owner is responsible to know the laws of the Local Governing Unit. He stated he was unaware of the 25% impervious surface maximum at the time he developed his property and he surely would have come in for a variance prior to construction if he were aware of the ordinance requirements. He understood that the best interest of all parties involved was to protect the lake and the neighboring property owners. He informed the City Council that he was also very concerned about protecting the lakes and he felt that the plan submitted was very aggressive and could handle the stormwater on his property. He explained the proposed improvements included in the stormwater plan. One of the improvements was located within the Manhattan Point Blvd. road right-of-way, which Mr. Lally said was to replace the former retention area that they had filled

during construction of the driveway and attached garage. Discussion followed regarding water retention areas, gutters and downspouts, and the proposed retention area in the road right-of-way. Ted Strand, Public Works Director, stated that he had no issues with the proposed improvements in the road right of way, but he reminded the Council that there may be an issue if any utilities are buried within the area. Discussion followed regarding ditching, utilities and the proposed future improvements to Manhattan Point Blvd.

Dean Swanson stated that there was opportunity to reduce the impervious surface by using a pervious surface in place of the existing concrete driveway and walkways. Mr. Lally replied that he had looked into the pervious surfaces and he felt the cost was too excessive. He informed the City Council that instead he would like to find a stormwater and mitigation plan that could work.

Discussion followed regarding the proposed stormwater plan and gutters and downspouts.

Steve Roe commented that the real goal of the impervious surface ordinance was to handle stormwater. Mr. Roe felt that if the applicants could prevent all the stormwater from leaving their property, they would for all intents and purposes be in compliance with the intent of the ordinance. Dave Reese explained that all properties have runoff, both pre and post development. He stated that Ordinances usually require the property owners to handle all post development runoff so that no additional stormwater is forced onto neighboring properties or the lake. He said requiring them to handle all of the stormwater may be excessive. Steve Roe replied that based on the improvements and excessive impervious surface, requiring the applicants to handle all of the stormwater could be warranted.

Discussion followed regarding the proposed removal of a section of the concrete driveway and other possible options. John Moengen stated that the most critical section of the driveway would be the section of the concrete driveway that is currently pitched toward Big Trout Lake, while the other section of the driveway drains toward the Manhattan Point Blvd. road right-of-way.

Ken Anderson reminded the Council that a decision needed to be made on the application by March 15, 2012 in order to meet the 120 day State Statute requirement or the application would be automatically approved. The only way to exceed the 120 day requirement would be if the applicant agreed to approve a further extension.

Rusty Taubert asked if the fact that the lot was substandard in size had any bearing on this application. Mr. Anderson replied that the substandard lot size could justify a finding of a practical difficulty for the applicants.

Discussion followed regarding the revised stormwater plan and the possibility of sending it back to the Planning and Zoning Commission for review. Mike Winkels,

Planning and Zoning Commission Chairman, stated that they had denied the variance application due to the excessive amount of impervious surface. He said that the revised plan looked like a step in the right direction and was flummoxed as to what the solution could be for this application. Mr. Winkels stated that Mr. Lally has been great to work with, but the Commission could not find a solution that worked with so much impervious surface on the lot.

Discussion followed regarding removal of a section of the driveway, what amount of impervious surface on the lot would be acceptable, and possible solutions to the application.

Gary Nelson, 12920 Manhattan Point Blvd., gave a brief description of the situation and discussed how much of Mr. and Mrs. Lally's stormwater has been directed onto his lot. He stated that the stormwater entering his property from the Lally property has caused issues with the grass he has planted and erosion and sedimentation on his parcel. Mr. Nelson provided multiple pictures to show how the stormwater from the Lally property was causing problems on his property. Mr. Nelson hoped that whatever was decided would take care of the drainage issue once and for all.

MOTION BY DEAN SWANSON, SECOND BY JOHN MOENGEN, TO CONTINUE THE PUBLIC HEARING FOR APPEAL 2012-001 ON MONDAY, MARCH 12, 2012 AT 6 P.M. AT CROSSLAKE CITY HALL. MOTION CARRIED WITH ALL "AYES."

C. OTHER BUSINESS

1. Request to refund a portion of the application fees for Robert and Kathleen Mellas.

Ken Anderson introduced the topic. Mr. Anderson informed the Commission that Mr. and Mrs. Mellas had requested to withdraw their variance and conditional use permit application and get a refund of the application fees. Mr. Anderson had indicated to the Mellas's designer that the fees could be refunded less the expenses that have already been incurred by the City in review and publication of the applications. Mr. Anderson asked the Council to approve the \$700 refund, less the fees already incurred by the City.

Discussion followed.

MOTION BY JOHN MOENGEN, SECOND BY RUSTY TAUBERT TO APPROVE A REFUND FOR MR. AND MRS. MELLAS IN THE AMOUNT OF \$592.34. MOTION CARRIED WITH ALL "AYES."

There being no further business, MOTION WAS MADE BY JOHN MOENGEN AND SECONDED BY STEVE ROE TO ADJOURN THIS SPECIAL CITY COUNCIL MEETING AT 4:06 P.M. MOTION CARRIED WITH ALL "AYES."

Respectfully submitted by,

A handwritten signature in black ink, appearing to read "Lane L. Braaten". The signature is fluid and cursive, with the first name "Lane" and last name "Braaten" clearly distinguishable.

Lane L. Braaten
Planner/Zoning Coordinator

SIGN-IN SHEET

PHONE