

PUBLIC HEARING
CITY OF CROSSLAKE
MONDAY, JUNE 11, 2001
6:00 P.M. – CITY HALL

Pursuant to due notice and call, the Council for the City of Crosslake met in the Council Chambers of City Hall on Monday, June 11, 2001. The following Councilmembers were present: Mayor Darrell Swanson, Sandy Eliason, Irene Schultz and Dean Swanson. Also present was City Administrator Thomas (Tom) Swenson, City Attorney Paul Sandelin, Community Development Director Paul Larson and Clerk/Treasurer Darlene Roach. Absent was Charles (Chuck) Miller. There were approximately sixteen individuals in the audience.

Mayor Swanson called the public hearing to order at 6:00 P.M. The purpose of the hearing was to hear the appeal of Variance 01-03, submitted by Kent Johnston of Plymouth Plumbing. The Mayor stated that the sequence of the hearing would include a presentation by the Planning and Zoning Staff, a legal opinion from the City Attorney, a presentation by the applicant, public comments and a decision by the Council. Mayor Swanson stated that a quorum of the Council was present even though Councilmember Miller was absent.

Community Development Director Paul Larson stated that the applicant Kent Johnston requested an appeal to the City Council based on the decision of the Planning and Zoning Commission to deny a variance request by Mr. Johnston. The variance request was to construct a 20'x11' addition onto the existing dwelling which would attach the existing detached garage to the dwelling, construct a 2nd story living addition over the existing 28.1'x24.3' attached garage, change the roof pitch, convert the existing 20.2'x24.3' detached garage into living quarters and convert the existing 11'x8.1' wood shed into living quarters, all of which do not meet the 35 foot setback requirement from the Bay Shores Road right-of-way. The property is described as Lot 1, Block 1, Bay Shores, Section 2, Township 137, Range 27 and is zoned R-3, Medium-Density Residential. The surrounding property is zoned R-3, Medium Density Residential. The Planning and Zoning Commission denied this request at a meeting held on February 16, 2001. The appeal public hearing was originally scheduled for April, however the applicant needed more time to prepare for the hearing, therefore, the hearing was scheduled for this date.

Several letters were received regarding this variance request which had been given to the Council previously but were reviewed for public information. These letters include 1.) a letter dated February 8, 2001 from Dennis Hanson opposed to the request; 2.) a letter dated February 16, 2001 from Dennis and Marilyn Lind opposed to the request; 3.) a letter dated February 9, 2001 from Raymond Severson opposed to the request; 4.) a letter dated February 12, 2001 from Edward and Deanna Cummings opposed to the request; 5.) a letter received February 1, 2001 from Ronald and JoAnn Hughes opposed to the request; and 6.) a letter dated February 5, 2001 from John Sherman opposed to the request. Several phone calls in opposition to the request were also received by the Planning and Zoning Department.

Mayor Swanson stated that the City received notification from a resident that a detached garage on the property was being used as living quarters. Upon receiving this information, a letter was sent to the property owners regarding a violation since guest quarters require a minimum lot area of 40,000 square feet and the property only contains 30,000 square feet.

City Attorney Sandelin presented the legal requirements for granting a variance which include proving undue hardship where the property cannot be put to a reasonable use due to circumstances unique to the property, not created by the landowner, and if granted, will not alter the essential character of the locality. Economic considerations alone cannot constitute an undue hardship if reasonable use for the property exists under the terms of the Ordinance. He stated that the burden is on the applicant to prove the hardship.

Attorney Ray Charpentier, representing the applicants Kent Johnston, addressed the Council. He stated that the folks that own the property are the persons using the property. Mayor Swanson asked Mr. Charpentier if it was his testimony that only their family would be at the property. Mr. Charpentier stated that they do have friends come up to the property in addition to family. Mayor Swanson asked if the property was used 90% of the time by family and Mr. Charpentier replied "yes". Regarding the law enforcement complaint which the City has received, Mr. Charpentier replied that it was the kids in the hot tub that were loud resulting in a noise complaint. Mr. Charpentier handed out a list showing various variances that have been approved by the Planning and Zoning Commission which he felt were similar in nature to that of the applicant. He also handed out a survey which showed the building envelope. He stated that the portion of the survey indicated in red, was outside the building envelope and contained a foyer. He stated that the survey does not show the topography of the property which drops substantially to the lake. He also handed out photos showing the buildings on the property. Discussion ensued regarding which buildings were constructed first and how what is being proposed works with the current structures. He felt that the number of cars on the property is not a zoning issue but a traffic issue. Councilmember Eliason asked how many cars could be parked on the property and she was told two within the garage. The driveway is located within the public right-of-way. Councilmember Swanson stated that if the road right-of-way is being used for parking and the road is upgraded to bituminous the City could have a problem. City Administrator Swenson asked if there were any calculations of the useable building space. Mr. Charpentier stated that if the addition is completed, the living space would contain five bedrooms. Mayor Swanson asked if it was reasonable to have a five bedroom home with only two parking spaces.

Attorney Tom Fitzpatrick, representing various adjacent property owners, addressed the Council. He stated that the decision of the Planning and Zoning Commission was a unanimous decision. He handed out several drawings color coded to show the applicants intent. He stated that the proposed garage is 9' from the right-of-way, the 75' setback from the lake will not be met since what is proposed is 69' from the lake, the proposed side yard setback is 6' versus the required 10' which when combined represents a

significant variance request. Regarding proof of hardship, the dwelling already has three bedrooms and he does not feel the applicant has identified a hardship. In the case of Luger versus the City of Burnsville, the judge ruled that the applicant must provide the burden of proof. In the original application, he stated that the applicant requested a change in the pitch of the roof in order to accommodate ice and snow buildup. Now, it appears that the hardship has changed to the topography of the property. Regarding changing the essential character of the property, the adjacent property owners feel that since this is a dead end street leading to a cul-de-sac, the character of the property would be changed since the home would be constructed on the public right-of-way. The neighboring property owners also feel that the property is being used as a perk for company employees. Mayor Swanson then asked if the statement made by Attorney Charpentier was not accurate when he stated that it is used 90% of the time by the applicants. Jack Webster, a member of the Planning and Zoning Commission, stated that at the Planning and Zoning Meeting it was stated that company employees visit often.

Mayor Swanson stated that the hour of 7:00 P.M. has approached and asked the Council to continue discussions in order to resolve the issue.

The hearing was open to the public for comments. John Sherman of 16832 Bay Shores Road stated that he had called the police due to a fire on the point where huge fireballs were going up into the pine trees. He stated that Plymouth Plumbing employs a large number of employees (200-300) who utilize the property.

Chris Christian, partner of Kent Johnston, addressed the Council and stated that the company has 120 employees. He stated that originally the company owned a cabin on Lake O'Brien which they sold prior to purchasing this property. He stated that the two families consist of twenty-three family members who use the property. He stated that it would not be unlikely that five cars would be on the property at any one time all owned by family members. He stated that they are a large family with friends. He stated that while they have only owned the property about a year they feel they are being attacked by the neighbors.

Howard Jordet asked if the property owners had checked on being able to expand the residence prior to purchasing the property. Mr. Christian stated that they had not checked with Planning and Zoning before purchasing the property.

Mr. Johnston apologized to the neighbors if he had offended them.

Ron Hughes, property owner on Bay Shores Road, stated that in friendly conversations with visitors to the property, he knew that some of the visitors were employees of Plymouth Plumbing because they inquired as to where they worked. He stated that with a company that employs 120 people, a lot of people could frequent the property.

Councilmember Eliason stated that she has no problem with the family's use of the property but the applicant has not shown a hardship and the property is useable by the family without a variance. Councilmember Swanson agreed that he does not see a

hardship presented and that part of the building envelope can be used with a different design.

MOTION 06PH2-01-01 WAS MADE BY IRENE SCHULTZ AND SECONDED BY SANDY ELIASON TO UPHOLD THE DECISION OF THE PLANNING AND ZONING COMMISSION AND TO DENY VARIANCE 01-03 SUBMITTED BY KENT JOHNSTON OF PLYMOUTH PLUMBING BASED ON EVERYTHING PRESENTED BY THE PLANNING AND ZONING STAFF AND BASED ON THE TESTIMONY HEARD AT THE PUBLIC HEARING. Mayor Swanson noted that the applicant is required to show proof of hardship and currently the hardship is uncertain. MOTION CARRIED WITH ALL AYES.

MOTION 06PH2-02-01 WAS MADE BY SANDY ELIASON AND SECONDED BY DEAN SWANSON TO ADJOURN THIS PUBLIC HEARING AT 7:20 P.M. MOTION CARRIED WITH ALL AYES.

Recorded and transcribed by,



Darlene J. Roach
Clerk/Treasurer

Plymouth Plumbing Public Hearing June 11, 2001

PLYMOUTH PLUMBING PUBLIC HEARING - 6:00 P.M.

S. KRISTIAN
 DONALD JOHNSTON
 TOM FITZPATRICK
 RAY SEVERSON
 LUCILLE SEVERSON
 DELMA CUMMINGS
 EDWARD J. CUMMINGS
 HOWARD A. JORDAN
 ALAN E. JORDAN
 RONALD F. HUGHES
 JAMES R. HUGHES
 JOHN T. SHERMAN
 KLEEN BROS. INC.
 TED PEDERSON

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