

PUBLIC HEARING
CITY OF CROSSLAKE
MAY 8, 2000
6:00 P.M. – CITY HALL

The Council for the City of Crosslake met in the Council Chambers of City Hall on Monday, May 8, 2000 at 6:00 P.M. Councilmembers present at the hearing were: Mayor Darrell Swanson, Chuck Miller, Irene Schultz, Dean Swanson and Richard Upton. Also present was City Administrator Tom Swenson, City Attorney Paul Sandelin, Community Development Director Paul Larson and Deputy Clerk Darlene Roach. Members of the Planning and Zoning Commission in attendance were Nancy Koch, Dean Brodin and Jim Trautman. Sign in sheet attached as a part of these minutes.

Mayor Swanson called the public hearing to order and stated that the purpose of the meeting was to review the appeal of a conditional use permit for Robert Daugherty. Mayor Swanson stated that the order of business would be a presentation by Community Development Director Paul Larson; a presentation by City Attorney Sandelin; questions from the Council; comments from the applicant; comments from the public; and final Council comments and vote.

Community Development Director Paul Larson stated that on March 17, 2000 the Planning and Zoning Commission approved Conditional Use Permit 00-05 for Robert Daugherty, however, an appeal was filed by Debra Gearou against the CUP. The CUP allowed for expanded use within the original structure. The property is part of Outlot B of White Island Beach plat, which consists of approximately seven non-conforming lots, either by lot width or area. Upon approval, the Planning and Zoning Commission allowed Mr. Daugherty to increase his existing guest quarters according to the floor plan submitted provided seven conditions were met. These conditions were: (1) that the septic system location be re-evaluated by a state licensed designer and a revised design submitted; (2) the onsite septic system must be relocated to meet all Minnesota Pollution Control Agency State standards or the permit will be voided; (3) no further work will be done on the garage until the septic system is relocated and meets state standards; (4) The island and mainland property will be tied together with the County, which will not allow the property to be sold separately; (5) The submitted floor plan will be adhered to and any deviation will be a violation of the conditional use permit; (6) no future expansion of the living quarters will be done in the future; and (7) an after the fact fee of \$450 will be assessed against the property owner, of which \$150 has been paid.

City Attorney Sandelin commented on the application submitted by the applicant. He stated that the garage was built in 1988 and at that time, second stories were allowed under the City code. The application submitted was to place a kitchenette in the lower level covering approximately 88 square feet. He stated that there was a lot of opposition at the Planning and Zoning Public Hearing and that several letters were submitted to the Council in opposition to the CUP. He further stated that the septic application was not a part of the CUP and should not be considered as such. When the septic system was installed it was originally thought that the Gearou's well was a deep well, however, it was later

discovered to be a shallow well which required the septic system to be installed further from the lake and from the neighbor. The applicant has his primary principal residence on the island and it was City Attorney Sandelin's opinion that the two properties could be tied together for purposes of meeting the lot requirement. Regarding the conditions placed on the CUP by the Planning and Zoning Commission, the septic has been relocated to an alternate location which meets State Standards and all other conditions have been met.

Mayor Swanson stated the Council was provided copies of all of the letters and E-mails received regarding this issue so there would be no need to read the letters during the hearing. City Attorney Sandelin concurred that there was no requirement under law to read the letters into the record. He stated that the Council's role is to review the decision of the Planning and Zoning Commission and to determine whether it meets the City code. The Council has three options. One is to accept and uphold the issuance of the CUP, secondly to reverse the decision if the standards have not been met, or thirdly to modify the CUP with additional conditions. City Attorney Sandelin clearly pointed out that neighborhood opposition is not a reason to deny the CUP and that specific facts must be presented that show that the proposed use would be injurious to public health, safety and welfare. By joining the lakeside property with the island there is sufficient property to meet Code requirements. If approved, when recorded the County needs to be put on notice that the property is to be considered one lot.

Councilmember Upton asked City Attorney Sandelin for a clarification on the terms CUP and variance since they have both been used in discussion. City Attorney Sandelin stated that a variance applies in situations where setbacks can not be met and a hardship needs to be shown. A conditional use permit allows use with conditions that mitigate against safety, health and welfare. Variance requests are generally more difficult to obtain.

Councilmember Schultz asked if the structure could still be used as a garage since the garage doors have been removed. Community Development Director stated that the Planning and Zoning Commission looked at this and the City has no rules regarding this in the City Code. Councilmember Upton stated that the garage has sliding doors so it is possible to drive a vehicle into the garage.

Mr. Daugherty addressed the Council and stated his appreciation to the Council for the opportunity to speak and complimented the Council on how the City looks and on the professionalism of the Planning and Zoning Commission. Mr. Daugherty stated that his purpose in adding the kitchenette is to allow use during times when storms prevent them from getting to their primary residence on the island. He stated that anyone else putting a refrigerator in their garage would not approach Planning and Zoning for approval. Mr. Daugherty stated that he had spoken with Mr. and Mrs. Gearou about a mound system and no objection was stated at the time. He stated that he was not aware of a problem until he heard from the Planning and Zoning Department. He also spoke with the president of the White Island Beach Owners Association who agreed that the present building needed sprucing up. He stated that his intent in obtaining the CUP was to

improve the looks of the structure and for his family's use when not being able to access the island.

The meeting was open to the public for comments.

Debra Gearou stated that she was an adjacent property owner to Mr. Daugherty. She stated that she did not agree with everything Mr. Daugherty said. She stated that work was going on all winter on the garage and when she inquired as to whether a permit had been issued she was informed that one was not applied for. She stated that doors were replaced, a fireplace was put in, floors and etc. She stated that the permit for the septic system was issued prior to Mr. Daugherty's purchase, however, Car Col Sewer never asked her what type of well they had. She stated that the President of the White Island Beach Owners Association did not have the right to speak on the behalf of others. She asked where the Council would draw the line on bundling if only 26' of shoreline is required. Councilmember Miller stated that Mrs. Gearou can bring up any impairment she would like to bring up, however, she doesn't get to vote on the issue and the Council must have a legal reason for denying the CUP. Councilmember Miller stated that the septic system problem has been corrected and changing doors and windows does not require a permit.

Mayor Swanson stated that the Council needed to review the facts and cannot base their opinion on neighborhood opposition, but must find something injurious to the public health, safety and welfare of others in order to deny.

Ms. Gearou felt that parking created a dangerous situation with the sharp curves. She also inquired as to what was issued in 1988 and whether it was a garage or a guest house. Councilmember Upton stated that the City doesn't issue building permits only zoning permits.

Planning and Zoning member Jim Trautmann stated that the Commission gave considerable thought to the bundling of the two lots. He further stated that in 1988 when the zoning permit was issued there was no city code preventing guest quarters so the Daugherty property is grand-fathered in. He stated that the Commission was only requested to act on the 88 square feet being requested for a kitchenette. If the entire garage area was being used as living quarters that would be another issue to be dealt with. He stated that the Commission considered all aspects and determined that the area was to be used as a refuge for inclement weather. He stated that this was clearly Mr. Daugherty's intention and this is how the guest cabin has been used prior to this time and will continue to be used. He stated that the Commission felt comfortable with their decision.

City Administrator Swenson asked if the County would be made aware of the conditions and City Attorney Sandelin stated that the permit should be recorded with the conditions.

Paul Smith of Car Col Sewer stated that the mound system was installed 89' from the well, so it was moved 11' to meet the required setback from the well. He stated that the State Health Inspector was on site.

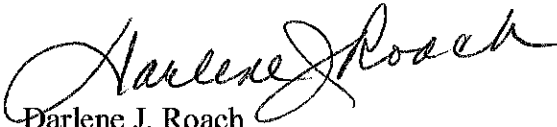
Councilmember Upton asked if there was an easement on the property. Mr. Daugherty stated that there was an easement for them to use the Gearou's driveway. Paul Larson stated that parking could be a condition imposed by the Council if they so choose. Mayor Swanson stated that this could be a modification to the CUP if the Council upholds the decision of the Planning and Zoning Commission. Councilmember Miller stated that in his twelve years on the Council and on the Planning and Zoning Commission he is not aware of any situation where parking can be controlled. City Attorney Sandelin stated that parking is a public safety issue and can be addressed by the Police Department if necessary.

Jane Pollack addressed the Council and asked how it is determined when it is appropriate to tie properties together. City Attorney Sandelin stated that the Planning and Zoning Commission and City Council can determine reasonable use of property.

MOTION PH1-01-00 WAS MADE BY RICHARD UPTON AND SECONDED BY DEAN SWANSON THAT CONSIDERING THE USE IS AN APPROPRIATE CONDITIONAL USE IN THE LAND USE ZONE, THAT ITS USE CONFORMS TO THE CITY'S COMPREHENSIVE PLAN, THAT ITS CONDITIONS ARE COMPATIBLE WITH THE EXISTING NEIGHBORHOOD AND THAT ITS USE IS NOT A DANGER TO HEALTH, SAFETY AND WELFARE THEREFORE THE DECISION BY THE PLANNING AND ZONING COMMISSION IS UPHELD PROVIDED THE CONDITIONAL USE PERMIT IS RECORDED. MOTION CARRIED WITH ALL AYES.

MOTION PH1-02-00 WAS MADE BY CHUCK MILLER AND SECONDED BY DEAN SWANSON TO ADJOURN THIS PUBLIC HEARING AT 6:53 P.M. MOTION CARRIED WITH ALL AYES.

Recorded and transcribed by:


Darlene J. Roach
Deputy Clerk/Treasurer

Public Hearing – Daugherty Appeal

