STATED MINUTES

City of Crosslake
Planning Commission/Board of Adjustment

August 23, 2019
9:00 A.M.

Crosslake City Hall
37028 County Road 66
Crosslake, MN 56442

1. Present: Chair Mark Wessels; Vice-Chair Mark Lindner; Joel Knippel; Bill Schiltz; and Liaison Council Member Aaron Herzog

2. Absent: Jerome Volz

3. Staff: Jon Kolstad, Environmental Services Specialist and Cheryl Stuckmayer, Customer Service Specialist

4. 6-28-19 Minutes & Findings – Motion by Knippel; supported by Lindner to approve the minutes & findings as written. All members voting “Aye”, Motion carried.

5. Old Business-Variances are heard on their individual requests, past variances hold no precedents. Commissioners may table the request if needed and an applicant can withdraw their request. If the variance(s) is/are approved, all existing nonconformities will be eliminated and will hereafter be required to follow the variance decision. If a variance is denied the applicant can rebuild the nonconformity as is per the Crosslake Ordinance.
   5.1 Kenneth Michael Mooney & Alison Kay Callender Mooney Trust – Variance for a road right-of-way setback

6. New Business
   6.1 None

7. Other Business
   7.1 Staff report

8. Open Forum – No action will be taken on any of the issues raised. If appropriate, the issues will be placed on the agenda of a future PC/BOA meeting. Speakers must state their name and address. Each speaker is given a three minute time limit.

9. Adjournment
Kenneth Michael Mooney & Alison Kay Callender  
Mooney Trust  
14040570, 14040571

Wessels announced the variance request and invited Mooney the Owner/Applicant to the podium. Kolstad read the variance request, project details, impervious percentage, submitted stormwater management plan, septic compliance inspection date of 5-17-19, comments received, history of the parcel and the revised proposal versus the original submission that was tabled in June into the record. Wessels asked if the commissioners had any comments. Mooney remarked on the comments that were submitted and explained the revised project details. Kolstad stated that the association rules are not enforced by the city but the city does work with the association as much as possible. The association’s email was passed to the commissioners to review. Wessels commented that in the past the dwelling had a tuck under garage. A discussion was held on the original versus the revised application submission, the building details pertaining to the stormwater management plan, topography, screening between the road right-of-way (ROW) and proposed garage, along with the condition that the two parcels would need to be consolidated. Mooney agreed to the consolidation of his two parcels before a Land Use Permit on this variance request would be submitted for approval. Lindner stated that a past variance request, on a different parcel, was denied due to a curve/corner in the road and that the request did not allow for parking before the garage. This request has minimal traffic, no curve/corner and a building height of approximately 15 feet to mid-peak. Wessels opened the public hearing with no response, therefore the public hearing was closed. Wessels asked if any of the commissioners had additional questions or comments, but none were forthcoming. Wessels requested Kolstad to initiate the findings of fact procedure with the board members deliberating and responding to each question.

August 23, 2019 Action:  
Motion by Knippel; supported by Schiltz to approve the Variance for:  
- Road right-of-way setback of 16.0 feet where 35 feet is required to proposed garage  
To Construct:  
- 676 square foot garage  

Per the findings of fact as discussed, the on-site conducted on 6-27-19, 8-22-19 and as shown on the certificate of survey received at the Planning & Zoning office dated 7-17-19 for property located at 38478 Ojibway Circle, Sec 04, City of Crosslake

Conditions:  
Chapter 26 – Land Use; Sec. 26-227 Variance Decision - Variances must be substantially completed within two years of receiving approval – the approval of this variance will expire on 8-23-21  
1. Work with the staff to review, alter and implement as needed the submitted stormwater plan in accordance with the City of Crosslake land use ordinance  
2. Work with staff to implement and maintain erosion/sediment control during and after construction  
3. Record a Consolidation of the two parcels (14040570, 14040571) at the Crow Wing County Land Services department before a Land Use application is submitted and/or approved  
4. Retain as much screening as possible between the garage and the road  

Findings: See attached  

All members voting “Aye”, Motion carried.
Other Business:

1. Staff report
   a. Monthly city council report
   b. Development Review Team (DRT) had six August meetings
   c. Crow Wing County (CWC) contract cancellation

A recommendation as a type of feedback was made for the Crosslake City Council to do whatever is needed to keep the current staff (hire the current P&Z staff as Crosslake city employees). All commissioners in favor. The commissioners voiced that they like working with the current staff. A discussion was held on why the contract was cancelled with Kolstad stating that the CWC and Crosslake’s ordinances were different which did not allow staff rotation in Crosslake.

d. Septic update to Land Use Ordinance Language - Article 31 (SSTS)

**Proposed Change to Land Use Ordinance**

**Article 31 Subsurface Sewage Treatment Systems (SSTS)**

**Sec. 26-821 SSTS Maintenance**

The owner of an SSTS, shall regularly, but not less frequently than every three (3) years, engage a city-licensed Septic Maintenance Business, which shall inspect the tank(s) in order to maintain the system in accordance with the procedures specified in MN Rules 7080.2450. Removal of septage shall include complete removal of scum and sludge. Maintenance reports, on forms approved by the City, are required to be submitted to the City within thirty (30) days of servicing the system. A filing fee, as set by resolution, shall be required to be paid by the Maintenance Business upon filing the reports.

MN Rule 7083 does not use the word **Inspection** when referencing Maintainers – they use the word **Assessment**

The State has different level of Licensure:

- Designer
- Inspector
- Installer
- Maintainer

An **Inspector** does:

- **Compliance Inspection** – an evaluation, investigation, or other such process for the purpose of issuing a certificate of compliance or notice of non-compliance
- **Certificate of Compliance** – a document, written after a compliance inspection, certifying that a system is in compliance with applicable requirements at the time of inspection.

- A licensed **maintenance business** is authorized to:
  - measure scum and sludge depths in sewage tanks for the accumulation of solids and removing those deposits;
  - transport septage;
  - land apply septage or dispose of septage in a treatment facility;
  - identify problems related to sewage tanks, baffles, maintenance hole covers, extensions, and pumps and make repairs;
  - evaluate tanks, pump tanks, distribution devices, valve boxes, or drop boxes for leakage;
  - identify cesspools, septage pits, leaching pits and drywells; and
  - clean supply pipes and distribution pipes for all SSTS.

**Responsibilities.** Maintenance licensees must:

A. record pump-out date, gallons removed, any tank leakage below or above the operating depth, the
access point used to remove the septage, the method of disposal, the reason for pumping, any safety concerns with the maintenance hole cover, and any troubleshooting or repairs conducted. This information must be submitted to the homeowner within 30 days after the maintenance work is performed. Maintenance business pumping record information must be maintained by the business for a period of five years;

B. observe and provide written reports of any noncompliance to the system owner within 30 days; and

C. obtain a signed statement if the owner refuses to allow the removal of solids and liquids through the maintenance hole.

Article 31 Subsurface Sewage Treatment Systems (SSTS)

Sec. 26-821 SSTS Maintenance

The owner of an SSTS, shall regularly, but not less frequently than every three (3) years, engage a State-licensed Septic Maintenance Business, which shall assess the tank(s) in order to maintain the system in accordance with the procedures specified in MN Rules 7080.2450. Removal of septage shall include complete removal of scum and sludge. Maintenance reports, on forms approved by the City, are required to be submitted to the City within thirty (30) days of servicing the system. A filing fee, as set by resolution, shall be required to be paid by the Maintenance Business upon filing the reports.

Facts

- the non-compliance rate in the city has been between 2 & 4 percent over the past 5 years.
- What are the main reason for non-compliance over those years? Separation from ground water
- need to look at how many were specifically ‘immanent threat to public health’ – not many

Suggest a step by step approach

- Privies and holding tanks are SSTS
- starting with Waterfront Commercial businesses (FOG) & VRBO/Air B&B (3 bedroom system with up to 25 people using it)
- next step - down the road = riparian residential and high density?
- does a home sitting in the middle of 40 acres really need an assessment?

Could we require actual Compliance Inspections for Riparian Businesses and Riparian VRBOs every 2-3 years – this may be more beneficial than Assessments at catching problems/failing systems.

Are local Maintainers set up to service 1,000+ septic systems within the city each year?

- Let’s meet with local maintainers to determine if they could do this.
- could the property owner provide documentation instead of the maintainer? Most Maintainers are already overwhelmed with paperwork – now we want to increase the load… is that wise?

MPCA review of the changes:

- MN Rule 7082 requires a 30-day review period from the MPCA prior to adoption of septic ordinance changes. Staff has been in contact with the MPCA.

MPCA Rules changes normally happen over the winter – one change may be a requirement to pump your tanks prior to a Compliance Inspection – again, additional work that Maintainers will need to schedule and added workload.

A discussion was held per the information provided above. Kolstad explained the proposed language versus the state alignment language; the difference of an inspection versus pumping; assessment requirement regulations versus assessment procedures; inspectors versus maintainers; enforcement issues/items; past compliance inspection results; reason for failing is separation from water requirements not being met; imminent threat to public health; 3,500 septic systems in Crosslake; phase in process of a
year or two starting with the waterfront commercial district and VRBO along with stricter requirements; state assessment every three years; maintainers in the area to handle this new demand; MPCA changes are coming and ability to meet or exceed the state requirements.

What other changes are you wanting to see? We need to have proposed changes in time to proceed through the update process along with changes to Article 31 SSTS changes Proposed changes at October PC/BOA Meeting (10/25/2019) Parking Land Use Table updates Zoning Districts Definitions Pitch of roof change only – requires a variance

Open Forum:

1. Housing needs in Crosslake. Herzog stated that the Lakers committee will be having a conversation with the Planning & Zoning staff and/or city pertaining to housing needs with possible half acre lots. A discussion was held on this topic.

Matters not on the Agenda:

1. There were no matters not on the agenda

Motion by Knipel; supported by Schiltz to adjourn at 10:30 A.M.

All members voting “Aye”, Motion carried.

Respectfully submitted,

Cheryl Stuckmayer

Cheryl Stuckmayer
Customer Service Specialist