

SPECIAL COUNCIL MEETING
CITY OF CROSSLAKE
MONDAY, MARCH 12, 2012
6:00 P.M. – CITY HALL

The City Council for the City of Crosslake met in the Council Chambers of City Hall on Monday, March 12, 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, City Attorney Mike Couri, Community Development Director Ken Anderson, Planner/Zoning Coordinator Lane Braaten, and Planning and Zoning Commission Members Mike Winkels, and Gary Heacox.

A. CALL TO ORDER – Mayor Schneider called the Special Council Meeting to order at 6:00 P.M.

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 reminded the Council that this was a continuation of the public hearing for Mr. and Mrs. Lally, which was previously discussed on March 5, 2012 and continued until today. Mr. Anderson provided an email from Tom Watson, which asked for denial of the proposed Appeal. He also provided and read written comments from Tom and Connie Peterson, 12934 Manhattan Point Blvd., requesting denial of the Appeal. He provided a summary of the existing impervious surfaces and necessary reductions to meet the 25% impervious surface standard. He gave a quick explanation of the neighborhood, the subject parcel and the proposed stormwater plan, which had been revised to include a 4 inch berm between the subject parcel and the property to the east.

Discussion followed regarding the current site conditions.

Gary Nelson, 12920 Manhattan Point Blvd., questioned if there was a well setback from the proposed water retention areas because the proposed retention areas would be in close proximity to his new deep well. Furthermore, Mr. Nelson discussed the location of his septic system, the Davern easement, and provided an aerial image of the neighborhood for discussion purposes. Discussion followed regarding the new garage on Mr. Nelson's property and the existing drainage issues on his property.

John Moengen stated that he had concerns that the stormwater issue would persist even with the impervious surface reductions. Mr. Moengen stated that it was more important to resolve the issue with the stormwater plan than by reducing the

impervious surface on the parcel. Steve Roe stated that Mr. Lally should install the proposed stormwater plan and reduce the impervious surface on the parcel. Dean Swanson stated that the applicant caused the problem on his own and according to Tom Watson of WAPOA there is an opportunity to get the impervious surface down to 25 percent. He stated that fixing the problem is up to the Lally's not the Council. Discussion followed regarding approval and denial of the variance appeal. John Moengen stated that the City has some exposure on this application due to the issuance of permits and the site plans submitted. He felt the Council needed to work with Mr. Lally on the issue in order to mitigate the financial hardship. Discussion followed regarding sub-standard lots.

John Lally, 12904 Manhattan Point Blvd., addressed the Council. Mr. Lally stated that there have been a series of unique circumstances on the lot and the development of the lot. He stated that he was not trying to deceive anyone when he initially developed the property. He felt there was no blame to be put on anyone and that no one was directly at fault. He also felt that he had submitted an aggressive stormwater plan including the removal of a section of the driveway. He informed the Council that he is also working with Crow Wing County Soil and Water Conservation District to assist in developing rain gardens on the property. He was adamant about keeping hard level surfaces for access to both the house and the lake due to health concerns and aging parents. He gave an explanation of the current site conditions and the proposed improvements included in the stormwater plan. He thought that this was an opportunity to approve a plan that works for everyone.

Darrell Schneider stated that there has been a lot of consideration given to this application. He asked Mr. Lally to clarify the final plan to be considered due to the fact that they had discussed many different options regarding this appeal hearing. John Lally stated that his final submittal would be to remove the concrete driveway from Manhattan Point Blvd. to the high point of the driveway and install the proposed stormwater plan submitted, which would bring the impervious surface down to 33.4 percent. Discussion followed regarding the proposed plan and other possible solutions.

MOTION BY DEAN SWANSON, AND SECOND BY RUSTY TAUBERT, TO CLOSE THE PUBLIC HEARING. MOTION CARRIED WITH ALL "AYES."

The Council discussed approval and denial of the variance application based on the final plan submitted by John Lally. Dean Swanson said they had to approve or deny the original proposal denied by the Board of Adjustment and not try to design it. He said there was a way to get the impervious cover down to 25% and solve the water drainage problem as well.

MOTION BY DEAN SWANSON, AND SECOND BY RUSTY TAUBERT TO DENY APPEAL 2012-001 BASED UPON THE FINDINGS OF FACT STATED

IN THE RESOLUTION OF DENIAL ADOPTED BY THE PLANNING AND ZONING COMMISSION.

Discussion followed regarding Mr. Lally's options moving forward. Mr. Lally was informed that he could re-apply for a variance from the Planning and Zoning Commission with his revised stormwater plan.

John Moengen asked if there were any similar variance applications that the City has approved. Mr. Anderson explained that the City had approved prior applications to exceed the 25 percent maximum, but each application should be approved or denied based on its own merits. Steve Roe commented that to his knowledge the City has not granted impervious surface variances on parcels as small as the Lally property.

MOTION CARRIED 4-1 WITH SCHNEIDER, SWANSON, TAUBERT, AND ROE VOTING "AYE" AND MOENGEN VOTING "NAY."

There being no further business, MOTION WAS MADE BY JOHN MOENGEN AND SECONDED BY DARRELL SCHNEIDER TO ADJOURN THIS SPECIAL CITY COUNCIL MEETING AT 7:05 P.M. MOTION CARRIED WITH ALL "AYES."

Respectfully submitted by,



Lane L. Braaten
Planner/Zoning Coordinator

**CITY OF CROSSLAKE
CITY COUNCIL
RESOLUTION NO. 12-011**

Parcel ID Number(s): 14148003009A009

Case Number: Appeal 2012-001

Property Owner: John & Mary Lally

Legal Description: The property is described as that part of Lot 9, Block 3 located in the City of Crosslake, Manhattan Beach Entrance Addition, Section 5, Township 137 North, Range 27 West, Crow Wing County, MN. The property is located at 12904 Manhattan Point Boulevard.

Pursuant to due call and notice thereof, a special meeting and public hearing of the City Council of the City of Crosslake, Minnesota, was held on the 12th day of March, 2012. **Council members Darrell Schneider, Steve Roe, John Moengen, Dean Swanson and Rusty Taubert were present.**

Dean Swanson introduced the following Resolution 12-011, and moved its adoption:

WHEREAS, the applicants, John and Mary Lally, are requesting approval of Appeal 2012-001 of the Planning and Zoning Commissions denial of V2011-020 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, and

WHEREAS, City ordinance requires a maximum 25 percent impervious cover in the R-3, Medium Density Residential zoning district, and

WHEREAS, the applicants have stated that they were unaware of the maximum 25% impervious surface allowed in the R-3, Medium Density Residential zoning district when they constructed their home and that requiring them to reduce the impervious surface from 37.1 % to 25 % would cause extreme financial hardship, and

WHEREAS, a copy of the Certificate of Survey is attached hereto as EXHIBIT A, and

WHEREAS, an area map showing the location of the property is attached hereto as EXHIBIT B, and

WHEREAS, the public hearing notice was published and mailed per ordinance requirements and said notice was forwarded to the Minnesota Department of Natural Resources and comments were received from Lonnie Thomas, Area Hydrologist, and

WHEREAS, written comments of support were received from Lynn M. Davern, 12886 Manhattan Point Blvd., and

WHEREAS, written comments of opposition were received from Tom Watson, Whitefish Area Property Owners Association (WAPOA), and

WHEREAS, written comments of opposition were received from Tom & Connie Peterson, 12934 Manhattan Point Blvd., and

WHEREAS, comments were received from Dave Reese, City Engineer, and

WHEREAS, the subject parcel is located in both the City of Crosslake and the City of Manhattan Beach. Mr. Paul Allen, Mayor of Manhattan Beach, commented at the March 5, 2012 Special City Council meeting that he was in support of the stormwater plan proposed by Mr. and Mrs. Lally, and

WHEREAS, the public hearing was heard on March 12, 2012 and all public comment was received both verbally and in writing.

NOW, THEREFORE, BE IT RESOLVED that the Crosslake City Council makes the following findings of fact and decision:

FINDINGS OF FACT

1. The City Council finds that the maximum of 25 % impervious surface is a reasonable amount of impervious surface on a parcel in the R-3, Medium Density Residential zoning district and exceeding that maximum would cause harm to neighboring property owners and to Big Trout Lake by increasing the amount of runoff to each of them. The applicant's excessive amount of impervious surface within the shoreland area will cause additional runoff into the lake, thereby reducing the quality of the lake water.
2. The City Council finds the practical difficulty standard *has not been met* as the lot will exceed the 25 percent impervious surface maximum by 12.1 percent and the additional impervious surface within the shoreland area will cause additional stormwater flow into Big Trout Lake, which directly and negatively impacts water quality.
3. The plight of the applicants is due to circumstances that were created by the applicant in that the applicant used much of the impervious surface allowed in construction of the home and attached garage and did not accommodate for the large concrete driveway and other impervious surfaces when the property was originally developed. Furthermore, many of the improvements on the subject parcel were completed without first obtaining the necessary zoning permits.
4. The variance is not a reasonable use of the property in that the applicants are not managing their stormwater on site and the excess impervious surface on the parcel is causing stormwater drainage issues and problems on neighboring properties.
5. Approval of Appeal 2012-001 would alter the essential character of the neighborhood because: 1) the additional impervious cover on the subject parcel will cause stormwater runoff into Big Trout Lake, which directly and negatively impacts water quality; and 2) the amount of impervious surface on the subject parcel within

the shoreland area would greatly exceed the amount of impervious surface on other properties in the neighborhood.

DECISION

Accordingly, based on the findings set out above and the records before it the Crosslake City Council **DENIES** Appeal 2012-001 of the Planning and Zoning Commissions denial of V2011-020 for an after-the-fact variance, for John and Mary Lally to have 37.1% of impervious coverage vs. the maximum 25% impervious coverage allowed in the R-3, Medium Density Residential zoning district.

BE IT FURTHER RESOLVED, the applicant shall submit a plan demonstrating the impervious surfaces to be removed from the site to insure the 25 percent maximum impervious cover is not exceeded. Said reduction in impervious cover shall be completed not later than June 1, 2012. City staff shall be contacted to inspect the site alterations when completed.

The motion for adoption of the foregoing Resolution was duly seconded by Rusty Taubert and upon vote being taken thereon, the following voted in favor thereof: Schneider, Swanson, Taubert, and Roe.

The following voted against: Moengen.

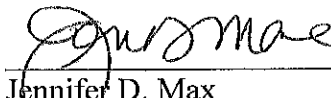
The following abstained from the vote: None.

Approved and adopted by the City Council of the City of Crosslake this 12th day of March, 2012 by a 4/5ths vote.



Darrell Schneider, Mayor

ATTEST:



Jennifer D. Max
City Clerk

Attachments: Exhibit A and Exhibit B