

CITY OF EAST GULL LAKE
MINUTES
PLANNING AND ZONING COMMISSION
January 29, 2008

1. Meeting called to order at 6:30 p.m. by Chairperson Mason.
2. Roll Call
Members Present: Commissioner Anakkala, Chairperson Mason, Commissioner Lee
Members Absent: Commissioner Dunphey, Commissioner Lang
Staff Present: Zoning Administrator Schmidt
3. Organization
 - a. Appointment of Chairperson

Robert Mason is nominated as Planning Commission Chairperson.

Motion by Commissioner Anakkala to appoint Robert Mason as the Planning Commission Chairperson, seconded by Commissioner Lee. Motion passed unanimously.

- b. Appointment of Vice Chairperson

Commissioner Lang is nominated as Vice Chairperson.

Motion by Commissioner Anakkala to appoint Commissioner Lee as Planning Commission Vice Chairperson, seconded by Commissioner Lee. Motion passed unanimously.

4. Public Hearings

Variance to Construct a Twin Home Upon a Nonconforming Lot
Denis Villella, Property Owner
Application 2008-01

Zoning Administrator Schmidt reads the public notice and provides an overview of the application and the findings presented by Staff.

Chairperson Mason asks who is present on behalf of Mr. Villella.

Mr. Walter Gartner states that he is present on behalf of the applicant.

Commissioner Mason asks if there is anything Mr. Gartner would like to add.

Mr. Gartner states he has nothing to add.

Chairperson Mason opens the meeting for public comment.

No comments received.

Chairperson Mason provides an overview of the property. He states that there has been a series of variances granted to the properties. He asks members of the Commission if they recall the history of the property.

Commissioner Anakkala agreed that the property was for commercial use.

Chairperson Mason asks if there are any public comments received on the application.

Administrator Schmidt notes that there is a letter from Alma Miller and reads the letter to the Commission.

Chairperson Mason asks if a member of the Commission would like to make a motion.

Motion by Commissioner Anakkala to recommend denial of Application 2008-01 based upon the following findings:

- 1. The maximum density allowed upon the subject property is less than one unit (.72) as computed per the requirements of the Commercial Waterfront zoning district. No hardship exists as reasonable use of the subject property would not be deprived due to the property owner's ability to construct a single family dwelling upon the property under a Variance which was previously approved by the City in May 2007.**
- 2. The property owner proposes to exceed the density requirements of the Commercial Waterfront District. This is a circumstance which is under the control of the property owner as the City previously approved a Variance in May 2007 which allows a single residential dwelling unit.**
- 3. Variance from the density requirements of the Commercial Waterfront District is not in keeping with the spirit and intent of the Ordinance as the density requirements are intended manage density and prevent overcrowding within the City.**
- 4. The Comprehensive Plan does not directly comment on development of this type, however the policies of the Housing and Residential Development action plan states that shoreline redevelopment must happen in a manner that stays in character with the existing neighborhood.**
- 5. The proposed use is permitted within the C-W Commercial Waterfront District and therefore does not create a use not provided for within that District.**
- 6. The subject property borders Commercial Waterfront zoned property on the east and west.**
- 7. Variance from the Ordinance to allow the increased density appears to be for economic reasons as the reasonable use of the property for a single dwelling unit was previously established by a Variance approved by the City in May 2007. The primary reason for granting a Variance from the**

density requirements of the C-W District would be to create an additional dwelling unit to be made available for sale, lease or other use permitted under the Ordinance.

Motion is seconded by Commissioner Lee.

Motion passed unanimously.

5. Additions or Deletions to the Agenda

Zoning Administrator notes that there is an addition to the agenda with an application by Joe Hall for shoreline riprap.

Mr. Schmidt asks Mr. Hall if he has a copy of his proposal.

Chairperson Mason adds Mr. Hall's application to New Business.

6. Approval of Minutes

- a. November 27, 2007 Regular Meeting

Motion by Commissioner Anakkala to approve November 28, 2007 minutes, seconded by Commissioner Lee. The motion passed unanimously.

7. P&Z Administrator's Report

- a. Permits
- b. Correspondence
- c. Potential Violations/Enforcement Action

Zoning Administrator Schmidt notes that the City has received a complaint from a property owner regarding the dock lighting system at Ernie's on Gull Lake. He explains that the property owner believes that the lighting system does not conform to the Ordinance. Schmidt states that he has visited the property with Commissioner Lang and both have concurred that although the light source may be visible from the lake, the lighting does not create glare on adjacent properties.

Commission discusses provisions of the Ordinance pertaining to lighting and glare.

Chairperson Mason directs Zoning Administrator Schmidt to prepare a letter to Ernie's on Gull Lake notifying them that the lighting appears to conform to the Ordinance, however remind the property owner of Ordinance provisions pertaining to lighting.

- d. Council Action
- e. Applicant Feedback Survey
- f. Variance/CUP Follow-up

8. Open Forum

9. Old Business

- a. Application 2007-86: Variance to Construct a Deck on a Nonconforming Structure; Colleen Holmquist, Property Owner.

Mr. Holmquist states that he is the husband of Colleen Holmquist.

Mr. Holmquist states that the lot was created prior to and that he was not aware of the property boundaries. He states that he was looking to construct on the property and that he obtained a survey. He says that his structure is within the property line.

Chairperson Mason notes that the house is located within the public right-of-way. He states that the deck would be large enough.

Commissioner Anakkala states that he is not sure why the house was not constructed along the property line.

Mr. Peterson states that Mr. Marohn placed the stake on the property to mark the OHW.

Zoning Administrator Schmidt states that he has spoken with Mr. Marohn and Staff did not, and does not, place stakes while reviewing property.

Chairperson Mason states that the road would not be constructed larger.

Chairperson Mason asks what Commissioner Lee thought of the application.

Commissioner Anakkala states that he would stay with his original vote.

Commissioner Lee states that a good drawing was the key to considering the Variance.

Chairperson Mason states that the applicant would have to change the deck.

Commissioner Anakkala states that the reasonable use of the property includes a deck and the applicant is not increasing the nonconformity. He acknowledged that the property owner brought this to the attention of the City.

Mr. Holmquist states that this is something that happened.

Commissioner Anakkala states the applicant could have applied for a permit from the City and it would have happened.

Commissioner Lee states that reasonable use could be debated.

Chairperson Mason states that he appreciates that the applicant has changed the deck. He states that he doesn't believe that it increases the nonconformity.

Motion by Commissioner Anakkala to approve Application 2007-86 based upon the following findings:

- 1. The strict interpretation would eliminate the reasonable use of the property as reasonable use would include a deck.**
- 2. A deck is a permitted use within the R-3 Shoreline Residential District.**
- 3. The construction of a deck would unlikely alter the essential character of the locality.**
- 4. This request for a variance does not appear to be for economic considerations alone, however there appears to be reasonable use of the subject property, as a single family dwelling with improved surfaces currently exists upon the property.**

The motion was made with the following conditions:

- 1. The impervious surface coverage shall not be increased with the exception of a landing area for stairs.**
- 2. The deck shall remain within the envelope as provided on the certificate of survey provided by the property owner.**
- 3. The stairs shall not be constructed within the front and side yard property setback and shall remain parallel to the deck.**
- 4. The property shall be inspected upon completion by the Zoning Administrator and a member of the Planning Commission.**
- 5. The site plan shall be consistent with the conditions placed upon the Variance and shall be reviewed by the Zoning Administrator prior to Land Use Permit approval.**
- 6. The dimensions of the deck shall be 35' x 20' with stairs as indicated on the site plan approved by the City.**

Motion seconded by Commissioner Lee.

Passed Unanimously.

10. New Business

- a. Extension of Application 2007-96 and 2007-97, Variance to Construct a Structure Upon a Nonconforming Lot; Ronald and Patricia Manglesdorf.

Commissioner Mason stated that this is a one time extension and the Commission will make a decision at their February meeting.

Motion by Anakkala to extend applications 2007-06 and 2007-97 provided a decision is made within 60-days, seconded by Commissioner Lee. Motion passed unanimously.

- b. Application 2007-98, Lot Line Adjustment; Patrick McGuire, Property Owner.

Commissioner Anakkala states he has read the report on the application.

Motion by Commissioner Anakkala to approve Application 2007-98 based upon the following findings:

- 1. Both properties have already been developed. The applicant is not proposing any further development on either lot.**
- 2. Both properties are currently served by the municipal sewer system.**
- 3. The lots that are being proposed by the applicant are both nonconforming lots. With a boundary line adjustment, Tract A will become less nonconforming. There is a garage structure on Tract A that overlaps to Tract B. By the straightening of the lot line, the garage will be entirely inside Tract A and meet setback requirements. It will also straighten a jag that currently exists in the property line.**
- 4. The applicant has submitted a Certificate of Survey indicating all proposed property lines.**
- 5. The survey indicates the location of adjoining lot lines and existing structures on the accompanying Certificate of Survey.**
- 6. Each existing lot meets the minimum of 33 feet of frontage on a designed right of way. Tract A contains 108.9 feet of frontage on the right of way and Tract B contains 90.86 feet of frontage on the right of way.**

The motion was made with the following conditions:

- 1. The property owner shall record the lot line adjustment with the Cass County Recorder of Deeds within one year of approval by the Planning Commission.**
- 2. The approval of the lot line adjustment shall be for the adjustment as shown on the Certificate of Survey submitted by the applicant. Any further lot line adjustments shall require the approval by the City of East Gull Lake.**

Seconded by Commissioner Lee.

Passed Unanimously.

- c. Joe Hall, Hall Landscaping. Application for Rip Rap.**

Administrator Schmidt notes Joe Hall is present to represent application for riprap.

Mr. Hall states that he will try the natural vegetation. Mr. Hall states that they had a vertical drop on the property and that erosion has been caused by the mowing of the property.

Chairperson Mason asks if the shoreline could be beveled.

Mr. Hall states that the riprap should be stabilized. He states that grading would not be proposed within the area as it would damage the trees. Mr. Hall states he didn't think that the logs could be stabilized.

Chairperson Mason states that the shoreline could be adjusted to remove the shoreline.

Mr. Hall states that the proper riprap should be installed above the OHW and that a survey will establish the OHW.

Commissioner Anakkala states that there is nothing that can be within that area.

Mr. Hall states that vegetation versus rock could fall within the ice.

Chairperson Mason notes Dunphey's property.

Administrator Schmidt states that he had discussed the planting versus the riprap and natural vegetation is the preferred method.

Chairperson Mason said he should discuss the property with the DNR hydrologist. He also states that no one has come up with a way to establish shoreline.

Mr. Hall states that the riprap is an option.

Chairperson Mason states that the riprap is an option with the DNR but not with the City.

Commissioner Anakkala states that there should be something that can be done within the OHW.

Mr. Hall states that they would have to go to the top of the slope.

Chairperson Mason directs Mr. Hall to work with the DNR to riprap the shore and return to the City with a revised application.

11. Adjourn – This agenda is not exclusive. Other business may be discussed as deemed necessary.

**Motion to adjourn by Commissioner Anakkala, seconded by Commissioner Lee.
Motion passed unanimously.**