

**CITY OF EAST GULL LAKE  
APPROVED MINUTES  
PLANNING AND ZONING COMMISSION  
April 24, 2007 – 6:30 PM**

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1. Call to Order

Chairperson Mason calls the meeting to order at 6:30p.m.

2. Roll Call

Members Present: Chairperson Mason, Commissioner Lang, Commissioner Anakkala, Commissioner Dunphy, Commissioner Lee.

Staff Present: Timothy Schmidt, Zoning Administrator

3. Public Hearings

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Application for a Variance to Construct a Home Upon a Nonconforming Lot  
Denis Villella  
Application 2007-10

Alma Miller, Squaw Point Road. Comments that she lives four houses away from the proposed structure. Questions whether this will be a private home or rental. Questions if there would be another garage structure across the street from the structure. She comments that she didn't receive any information on this property and couldn't see if there is any building proposed across from the road. She explains that the area is currently covered with buildings. She comments that the two cabins are an eyesore and thinks that she wants to see an improvement. She states that she hopes her questions will be answered.

Mr. Villella, the subject property owner, is present. He states that there would be no building on the other side of the road and that the home will be served by a two car garage.

Chairperson Mason asks the applicant what the property would be used for.

Mr. Villella states that the property would be sold as a single family home.

Administrator Schmidt stated that a condition could be attached to the application that would require the rezoning of the property if the adjacent property would be rezoned.

Ms. Miller asks if this property would be taxed as commercial or residential.

Mr. Schmidt states that would be subject to the County Assessor.

Mr. Vilella stated that the home would be sold as a single family home.

Chairperson Mason asks if there are any other questions on the application.

Chairperson Mason asks if there are any questions of the Commission. He states that the property is unique in that the property is zoned commercial but would be used for single family use.

Chairperson Mason asked if there would be an issue with the rezoning.

Commissioner Dunphy stated that he agreed that it could be spot zoning if it were rezoned now. He states that the property is used for single family and is an allowed use within that district.

Chairperson Mason closes the public hearing portion of the hearing.

Commissioner Dunphy asks about the conditions.

Administrator Schmidt reads the proposed conditions.

**Motion by Commissioner Dunphy to approve Variance application #2007-10 based upon the following findings of fact:**

- 1. The strict interpretation of the Ordinance presents a hardship as defined by the Ordinance. The property cannot be put to reasonable use as applicant would not be able to build anything upon the subject property without the granting of a Variance.**
- 2. The hardship is due to the size of the lot, which prevents the lot from meeting the requirements of the C-W Commercial Waterfront District, or any other Zoning District prescribed by the Ordinance, and the fact that the subject property is preexisting and that the circumstance which causes the property to be nonconforming is beyond the control of the property owner.**
- 3. The Variance is in keeping with the spirit and intent of City Ordinances in that the site plan subject to the Variance meets the hardship definition of the Ordinance and provides for a use which is permitted within the C-W Commercial Waterfront District.**
- 4. 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.**
- 5. The Comprehensive Land Use Plan does not specifically address this kind of permit request. Current zoning is consistent with the comprehensive plan.**

6. The use, with conditions, is compatible with the existing neighborhood, in that C-W Commercial Waterfront property exists on both sides of the subject property and the property setbacks of neighboring structures are equal to or less than the setbacks proposed by the site plan submitted by the applicant.
7. The property is served by Squaw Point Road.
8. The site plan submitted by the applicant indicates the total impervious surface coverage to be 15.9% which is well below the C-W District requirement of 25%. The Variance will not result in the further destruction, loss or damage of any other known natural, scenic or historical feature.
9. Before construction begins, appropriate erosion control measures (including silt fences) shall be installed on the north, west and south sides of the project area. The erosion control measures must contain runoff on the property, and prevent any pollution of ground and surface waters.

The motion is made with the following conditions:

1. Best management practices shall be used during construction, including the installation of silt fence around the project area, to eliminate the flow of sediment onto wetland areas, adjacent parcels and into Gull Lake.
2. Ground cover shall be reestablished as soon as possible after construction.
3. No structure shall be constructed within ten feet of any public right of way, within ten feet (10') of any side lot line, or within fifty feet (50') of the Ordinary High Water (OHW) mark of Gull Lake.
4. Trees greater than four inches in diameter shall not be removed except for those would interfere with the proposed addition or existing structure in the future.
5. Upon completion of construction and reestablishment of ground cover, the applicant shall notify City Staff. The proposed structures shall be inspected by Staff to ensure the terms and conditions of the Variance are met.
6. No additional buildings shall be constructed upon the property, south of Squaw Point Road.

The motion is seconded by Commissioner Lang.

The motion passed unanimously.

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Application for a Preliminary Plat "East Pointe Seventh Addition"  
 Bob Hunstad, East Point Association  
 Application 2007-12

Will Hoyt, Landecker Associates, is present on behalf of the applicant. He states that he is representing the East Pointe Association. He affirms that they have no problem with the condition that the parking lot be redesigned to meet 50 foot setback from wetland. He comments that they are preparing covenants and the ownership of the garages will be included within them.

Chairperson Mason asked about removal of the excess material.

Mr. Hoyt said that it would remain onsite and replaced on a higher portion of the property.

Commissioner Lang asks where other wetlands are located.

Mr. Robert Hunstad, East Pointe Association President, stated that the fill would be moved to another location on the site.

Chairperson Mason asks again for public comment.

Commissioner Dunphy asked if the garages were owned by the Association property owners.

Mr. Hunstad explains that the townhomes have one to two garages and that this would bring the total to 36 garages. He explains to the Board they will not build more than one garage per unit and that they approached the home owners of the 24 garages and the association asked the remaining owners of interest and nine expressed interest. He stated that the remaining units were then distributed by lottery to the remaining property owners.

Chairperson Mason asks if there are any other questions.

**Commissioner Anakkala makes motion to approve based upon the following findings:**

- 1. The property is zoned R-3, Shoreline Residential District. The proposed accessory structures are a permitted use within the R-3 zone.**
- 2. The proposed lots will not generate any sewer demands and therefore room for sewage treatment systems is not applicable.**
- 3. The proposed lots are not riparian and will not be used for any water based recreation.**
- 4. The lot area and dimensions, with the conditions included in this report, meet the requirements of the Zoning Ordinance.**
- 5. The layout of the proposed lots is compatible with the existing layout of adjoining properties, which are also part of the East Pointe Association.**
- 6. The East Pointe Association has access off of public right of way on East Pointe Drive.**

7. There are no proposed streets with the subdivision.
8. There are no easements needed or required within the proposed subdivision.
9. A proposed drainage plan, designed by a licensed engineer, has been submitted and will handle the stormwater needs of the development.

The motion was made with the following conditions:

1. Best management practices, including the construction of the silt fence to the north, west and south of the project area, shall be used during the grading to eliminate the flow of sediment. Ground cover shall be re-established as soon as possible.
2. The proposed accessory structures shall be owned by owners or occupants or the East Pointe PUD.
3. The proposed accessory structures may be rented only to other owners within the East Point PUD.
4. Construction materials shall be earth tone colors and screening on the property must be permanently maintained.
5. The parking and/or proposed lots shall be relocated to provide for fifty feet of natural buffering between the parking lot and the wetland. As an alternative, the stormwater retention plan shall be modified to prevent direct runoff of stormwater into the wetland.
6. Final plat submittals shall include association documents sufficient to provide for the perpetual maintenance of the property consistent with the submittals and conditions of this approval.
7. The East Point Association shall apply for a Conditional Use Permit for grading in excess of 50 cubic yards within the shoreland area.

The motion seconded by Commissioner Dunphy.

The motion passed unanimously.

Administrator Schmidt asked the applicant if they are prepared to submit a final plat soon.

Mr. Hoyt states that they are prepared to submit the final plat and conditional use permit application.

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4. Additions or Deletions to the Agenda

Chairperson Mason asks if there are any additions or deletions to the agenda.

Administrator Schmidt states that he has received none.

5. Approval of Minutes
  - a. March 27, 2007 Regular Meeting

**Motion by Commissioner Dunphy, seconded by Commissioner Lee to approve the March 27, 2007 meeting minutes.**

6. P&Z Administrator's Report
  - a. Permits
  - b. Correspondence
  - c. Potential Violations/Enforcement Action
  - d. Council Action
  - e. Applicant Feedback Survey
  - f. Variance/CUP Follow-up

7. Open Forum

Mr. Demgen, Birch Road, states he would like to present a drainage issue on Birch Road property.

Mr. Demgen provided the Commission with pictures of drainage on the property and explained the drainage issues.

Administrator Schmidt states he would visit the property and discuss options with the property owner to correct the situation.

8. Old Business
  - a. Application 04-38: Variance for a Metes and Bounds Subdivision; Ronald Manglesdorf

Administrator Schmidt reads the minutes of the April 3, 2007 City Council meeting.

Chairperson Mason asks Mr. Gammello to provide an overview of the project.

Mr. Gammello stated he is present on behalf of the applicant. Mr. Manglesdorf is also present at the meeting.

Mr. Gammello states that Mr. Manglesdorf has incurred a lot of expense, negotiated with neighbors and has learned of the drainage issues in the area. He explains a series of motions the City Council made to direct the Planning Commission on this application. He comments that Mr. Manglesdorf has presented a full proposal to the Commission.

Mr. Gammello explains that they are seeking two buildings on the two remaining lots within the development area.

Mr. Gammello stated that they are simply asking the Commission to approve this lot line adjustment to show the three lots and that two additional buildable lots make sense for this property.

Mr. Gammello asks the Commission to please keep in mind that the only variance that is needed is from the bluff setback. He provides an overview of the information in the record on past decisions and asks the Commission to compare and contrast cases before the City such as the Timmons request.

Ronald Manglesdorf, the subject property owner, presents to the Commission. He explains that he bought the property in 1972 and that he had 5 buildable lots during that time. He states that there are four remaining lots. He comments that he has addressed the concerns of the neighborhood and the Commission.

Commissioner Anakkala asks if there was another property owner.

Mr. Manglesdorf explains that there was a silent partner in the ownership, but that there was never any other owner.

Commissioner Dunphy asks about conversations with the neighbors.

Mr. Manglesdorf states he has acquired the services of an engineer to track down the source of the water issue.

Commissioner Anakkala asked about the berm on the bottom of the hill.

Mr. Manglesdorf states there was never a berm.

Commissioner Anakkala states he remembers a berm being present.

Mr. Manglesdorf states that if a berm existed, it was not constructed. He explains that the berm didn't address all of the issues.

Mr. Gunsbury explains that the berm now has established vegetation and that the berm does now address the situation.

Commissioner Anakkala asks if the summaries would be addressed and resolved by the Manglesdorf's.

Mr. Ramerth states that he will address the drainage issues and the benefits to the property owners.

Commissioner Anakkala states that he is irritated that it appears that what was agreed to was not adhered to. He further states that the Commission agreed to vacate the road.

Chairperson Mason asked Mr. Manglesdorf to present what he would like to do with the lots.

Mr. Ramerth presents the preliminary stormwater plan. He said that the applicant originally proposed to complete drainage improvements, however after further review.

Mr. Gammello explains that the area to be vacated had changed somewhat and that it would be explained to the commission.

Mr. Ramerth presents the direction of the water runoff to the Commission and shows how the water that accumulates at the bottom of the hill comes from the top. He states whatever generates at the beginning of the road ends in the road. He explains how they approached the Council to address a comprehensive solution by crafting a joint project. Maintenance would be done on the city ROW and that it would provide benefits to all property owners on the south portion.

Mr. Ramerth provides an overview of the City ROW and where they were proposing to fix the drainage situation. He states that they are asking for the City portion of the project.

Mr. Gammello explains that the City Council decision expresses interest in the project, but it is contingent upon city funds and project approval.

Commissioner Anakkala asks where the applicant proposes to vacate the roadway.

Mr. Ramerth shows where the ROW is proposed to be vacated.

Chairperson Mason asks if the Carlson's are aware of this.

Mr. Gammello said they absolutely are aware although they haven't signed an agreement.

Mr. Ramerth said the intent of the vacation is to minimize the disturbance in the neighborhood.

Commissioner Lang asks about the preliminary project costs.

Mr. Ramerth provides the Commission with the approximate cost sharing. He states that they intend to keep the City portion at a rate that is reasonable.

Chairperson Mason asks about the road width and the proposed improvements.

Mr. Ramerth provides overview of the improvements including curb and gutter, 12 foot driving surface and the tipping of the driveway.

Chairperson Mason asks if the road will cant to the north.

Mr. Ramerth states yes.

Chairperson Mason asks how comfortable people would be with a 12 foot road.

Alma Miller stated that there was no road at the top of the property and describes the property in its past state when she had owned the property.

Mr. Demgen asks about a turn-around to turn vehicles and states that he is asking on behalf of the road committee.

Mr. Ramerth provides an overview of the turnaround area.

Mr. Demgen said that if there was a turnaround, the road committee's concerns would be addressed.

Commissioner Anakkala asks about the building envelope. He further states a variance from the bluff setback would be needed. He comments that the architect should be able to push the homes as far to the buildable area as possible.

Commissioner Anakkala states that any construction would have to be in the bluff impact zone and that the Commission hasn't been shown design outside of the bluff impact zone. He states that they are being asked to bypass the state bluff rules.

Mr. Gammello states that a variance would be needed to build on these sites.

Chairperson Mason states he has a concern with Tract C of the property in that the building pad is proposed within the bluff area.

Commissioner Dunphy stated he agrees that there are 4 lots existing, and that the two additional seem reasonable.

Mr. Gammello states that it would be considered by the state and not this application.

Administrator Schmidt provides the Commission with the procedural requirements of the application in that the applicant would be required to submit a separate variance application for each of the building site.

Schmidt reads section 10.6, subdivision 5.

Variations shall be decided within the required time frame with consideration for the following:

- A. The strict interpretation of the Ordinance would create undue hardship, and
- B. The strict interpretation of the Ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the land owner,

- and
- C. The deviation from the Ordinance with any attached conditions will still be in keeping with the spirit and intent of the Ordinance, and
- D. The variance will not create a land use not permitted in the zone, and
- E. The variance will not alter the essential character of the locality, and
- F. The variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.

Administrator Schmidt explains that if the Planning Commission approves the Variance request, the approval should be based upon a series of findings related to Section 10.6, subdivision 5 of the Ordinance.

Chairperson Mason asks for comments by members of the public.

No additional comments received.

Chairperson Mason closes the public hearing portion of the meeting.

Chairperson Mason requests the development of the findings to be followed by a motion.

**Motion by Commissioner Anakkala to approve the Variance based upon the following findings of fact:**

1. The strict interpretation of the Ordinance would create undue hardship, and
2. The strict interpretation of the Ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the land owner, and
3. The deviation from the Ordinance with any attached conditions will still be in keeping with the spirit and intent of the Ordinance, and
4. The variance will not create a land use not permitted in the zone, and
5. The variance will not alter the essential character of the locality, and
6. The variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.

**The Motion was made with the following condition:**

1. A separate Variance application shall be required for each of the remaining two lots within the development area.

**Motion seconded by Commissioner Dunphy.**

**Motion passed unanimously.**

9. New Business

a. Extension of 60 day review of Application 2007-08

Administrator Schmidt explains that Staff had received a written notice by Mr. Deanovic, applicant for a Variance, granting a waiver of the 60-day review period. He states that the Commission should approve the extension and wavier of the 60-day review period.

Chairperson Mason asks for a motion to extend and waive the 60-day review period for application 2007-08.

**Motion to extend and waive the 60-day review period for application 2007-08 made by Commissioner Dunphy, seconded by Commissioner Lang. Motion passed unanimously.**

**Motion by Commissioner Anakkala, seconded by Commissioner Duphy to adjourn at 9:00 p.m. Motion passed unanimously.**