

UNAPPROVED

**CITY OF EAST GULL LAKE  
MEETING MINUTES (UNAPPROVED)  
PLANNING AND ZONING COMMISSION  
October 31, 2006 – 6:30 PM**

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1. Call to Order

Meeting called to order at 6:30 p.m. by Chairperson Mason.

2. Roll Call

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

Members Absent: Commissioner Lang

Council Members Present: Councilor Demgen

Staff Present: Timothy Schmidt, Zoning Administrator

3. Public Hearings

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Application 06-60  
Variance for a Metes and Bounds Subdivision  
Applicants: Charles and Lance Johnson

Schmidt read the public hearing notice.

Chairperson Mason asks if Mr. Johnson is present or if someone is present on his behalf.

Mr. James Kraemer, Licensed Surveyor, states he is present on behalf of the applicants Mr. and Mr. Johnson.

Mr. Kraemer reviews the application with the Planning Commission. He clarifies the lot widths of the parcels proposed to be subdivided. He states that the lot width of the parcel with the guest house, which is Tract A, is 175 feet in width rather than the 180 feet referenced by the report and the width of Tract B is 100 feet at the ordinary high water mark rather than the 95 feet referenced by the report.

Mr. Kraemer further states that the variance requested by Mr. Johnson is also to waive the requirement of the ordinance which requires the parcels subject to this request to abut a minimum of 33 feet of public right-of-way.

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Commission discusses the procedure for providing an easement.

Mr. Schmidt states that section 8.4(5) of the Ordinance very clearly requires a 33 feet of ROW and the provisions of section 5.5(6) clearly requires 180 foot lot width at the ordinary high water mark for lots containing a guest house and that the decision of the Commission should follow the literal interpretation of the Ordinance.

Mr. Mason asks where the roadway is located.

Mr. Kraemer explains the location of the nearest public roadway, Lower Gull Lake Lane and Circle is to the south of the subject parcel.

Commissioner Dunphy explains that he believes that the City may be creating a problem if this application is approved without each parcel being guaranteed access to public right-of-way.

Commissioner Lee states that he agrees with Commissioner Dunphy and that he also believes that in order to meet the intent of the Ordinance, access should be legally guaranteed.

Mr. Kraemer explains that the property is currently served by driveway easements, however he could not find clear evidence of these easements. He reads the statement he prepared for the property survey.

Mr. Schmidt explains the Ordinance requirements and recommendations contained within the staff report.

Mr. Kraemer states that he understands that the application does meet the requirements of the Ordinance and that is the reason for the variance request. He further states that this is a unique application due to the size and location of the subject parcel and that the applicant would be open to discussion on conditions.

Chairperson Mason requests comments from members of the public.

No member of the public speaks.

The Commission discusses conditions with Mr. Kraemer including providing access to both parcels through deeded easements.

Chairperson Mason asks if members of the Commission have any additional comments on this request.

Commissioner Dunphy states that he is more likely to approve the application with conditions as discussed by the Commission.

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Commissioner Lee states that although he feels that the strict interpretation of the Ordinance would be better applied in this case, he also feels better about approving the application.

Mr. Mason asked Mr. Schmidt to state the conditions discussed with Mr. Kraemer. These conditions are as follows:

1. The applicant shall obtain deeded easement access to nearest public right-of-way within 6 months of receiving notice of approval. Evidence of such deeded easement shall be submitted to the Zoning Administrator prior to approval of the Variance by the City Council.
2. The Metes and Bounds Subdivision shall be filed with the Cass County Recorder within six months of Variance approval by the City Council.
3. No further subdivision of these parcels shall be allowed without meeting the strict interpretation of the Ordinances of the City of East Gull Lake.

Chairperson Mason asks Mr. Kraemer if these conditions are acceptable to him and would be possible for him to complete in the time allotted.

Mr. Kraemer states that the conditions are reasonable and he will be able to complete these conditions in the timeframe allotted.

Chairperson Masons again requests comments from members of the public.

No public comment recieved.

Chairperson Masson asks Zoning Administrator Schmidt if the Commission should make one motion in approving or denying the variance and subdivision request.

Administrator Schmidt explains that the Commission should make separate motions for each action item, one motion for the variance request and one motion for the metes and bounds subdivision request and that each motion should include separate conditions.

Chairperson Mason calls for a motion to approve the Variance of section 8.4(5) and the lot width at the ordinary high water mark of section 5.5(6) of the Ordinance with conditions as discussed by the Commission.

**Motion to approve the Variance of section 8.4(5) and the lot width at the ordinary high water mark of section 5.5(6) of the Ordinance with the conditions as imposed by the Commission made by Commissioner Dunphy, seconded by Commissioner Anakkala. Motion carried unanimously.**

Commission discusses the conditions to be placed upon the metes and bounds subdivision request. These conditions are as follows:

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1. The Metes and Bounds Subdivision request is contingent upon the approval of the request for a variance of the Tract A lot width requirement of section 5.5(6) and the requirement of Section 8.4(5) of the Ordinance.
2. The applicant shall obtain deeded easement access to nearest public right-of-way and evidence of such deeded easement shall be submitted to the Zoning Administrator within 6 months of receiving notice of approval.
3. The Metes and Bounds Subdivision shall be filed with the Cass County Recorder within six months of Variance approval by the City Council.
4. No further subdivision of these parcels shall be allowed without meeting the strict interpretation of the Ordinances of the City of East Gull Lake.

Chairperson Mason calls for a motion in relation to the metes and bounds subdivision request.

**Motion to approve the Metes and Bounds Subdivision request with conditions as imposed by the Commission made by Commissioner Dunphy, seconded by Commissioner Lee. Motion carried unanimously.**

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Variance to Construct New Home Upon a  
Non-conforming Lot  
Denis Vilella, Applicant

Chairperson Mason asks Administrator Schmidt to read the public hearing notice and application information.

Administrator Schmidt reads the public hearing notice and states that this application is for a variance of the lot width at the ordinary high water mark requirement of section 5.5(6) of the Ordinance. He further states that a hardship is clearly present in this circumstance due to the fact that Mr. Vilella is proposing to build a reasonable home and garage structure, which meets all setback requirements of the Ordinance, upon an existing non-conforming lot.

Mr. Vilella asks if the conditions recommended by staff mean that he would have to remove both structures simultaneously prior to any start of construction.

Mr. Schmidt explains that the conditions should be interpreted to mean that before construction begins on the new principal structure, the existing must be removed and before construction begins on the accessory structure the existing accessory structure must be removed.

Mr. Vilella states that he now understands the condition.

Mr. Mason requests comments from members of the public.

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Alma Miller, Squaw Point Road, stated that she understands that Mr. Villella needs a new home. Ms. Miller further stated that when the neighboring building was built, the Ordinance did not exist. She further stated that we need to accept that the house is there and further mentions the four car garage and that a year ago a Variance was granted to Mr. Villella for that structure.

Ms. Miller states that she is here to suggest three things. First, would it be possible to move this house five feet east upon the lot so it would be fifteen feet away from the neighboring house. Second, put it in writing that it must remain a single-family dwelling next door. Third, Mr. Villella's office would have to go somewhere and is concerned that it would go to this house. She states that she understands that a lot of people have a three car garage, but she recommends asking him to build a smaller garage and home because it would support good neighbor relations and asked the Commission to consider this.

Mr. Villella responded that his proposed home and garage are consistent with those within the Squaw Point area and that his proposal would not interfere with the neighbor's garden or home. He further states that he didn't mind that his neighbor's house encroaches upon his property.

Chairperson Mason states that the home proposed by Mr. Villella is actually set back further from the lake than the old cabin so his neighbor to the west will actually have a more open view of the lake.

Kurt Ebert stated that the issue here is the congestion within the area and that this would create more congestion. He also mentioned that the three car garage on that property is too big and would add to the congestion.

Commissioner Dunphy mentions that although he is sensitive to this, congestion is apart of being on a general development lake. He further states that he does not feel that facts support that there will be significantly increased congestion as a result of this application being approved.

Commissioner Anakkala states that he feels there is a safety concern with the overhead power line above the proposed garage structure. He states that Mr. Villella should be required to contact the electric utility to ensure compliance with electrical codes.

Administrator Schmidt explains that the Ordinance asserts that the City does not examine plans as to compliance with building or electrical codes and does not assume any liability for such codes.

Commissioner Anakkala asks if the City could require Mr. Villella to contact the local utility to ensure that the garage is not built immediately underneath the overhead power line.

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Administrator Schmidt states that a condition could be imposed upon the variance which would require Mr. Villella to provide written evidence of compliance with state electrical codes.

Commissioner Anakkala states that such a condition should be imposed.

Chairperson Mason asks if there are any additional comments from members of the public.

No additional comments are received.

Chairperson Mason asks if there are any additional comments from members of the Commission.

Chairperson Mason asks Administrator Schmidt to read the conditions placed on the Variance request with the additional condition requested by Commissioner Anakkala.

Administrator Schmidt reads the following conditions:

1. The applicant shall obtain a land use permit to construct the proposed structures according to the site plan submitted by the applicant.
2. Stormwater shall not be directed toward the lake, neighboring properties, or the public right-of-way.
3. 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.
4. Ground cover shall be reestablished as soon as possible after construction.
5. 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.
6. The existing principal and accessory structures shall be removed by the applicant prior to the construction of new structures.
7. 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.
8. The applicant shall contact his local electric utility to ensure the proposed garage structure is in compliance with electrical codes in relation of the proximity of the structure to overhead utility lines. The applicant shall submit written evidence of such compliance to the Zoning Administrator.

Chairperson Mason asks Mr. Villella if these conditions are acceptable to him and would be possible for him to complete in the time allotted.

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Mr. Villella states yes.

Chairperson Mason calls for a motion.

**Motion to approve the Variance of the lot width at the ordinary high water mark of section 5.5(6) of the Ordinance with the conditions as imposed by the Commission made by Commissioner Dunphy, seconded by Commissioner Anakkala. Motion carried unanimously.**

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Revision to Metes and Bounds Subdivision (No Public Hearing Required)  
“Dutch” Cragun

Mr. Cragun requests that the Commission consider approval of a revision of the Metes and Bounds Subdivision approved by the Commission earlier in the spring. Mr. Cragun states that the revision includes moving the west boundary of Tract A to the east by 10 feet. He also requests that staff prepare a letter stating whether or not the parcel will carry the potential to be split through metes and bounds subdivision in the future.

Administrator Schmidt states that such a letter does not imply approval of such a proposal in any way and that such information provided by Staff is done so without any guarantee of accuracy or any other guarantee, implied or otherwise.

**Motion to approve the revision of the Metes and Bounds Subdivision as indicated on the Certificate of Survey submitted by the applicant made by Commissioner Lee, seconded by Commissioner Dunphy. Motion carried unanimously.**

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Intent to Adopt the City of East Gull Lake  
Comprehensive Plan  
City of East Gull Lake

The Commission reviews revisions of the comprehensive plan as discussed through the September Planning Commission meeting which includes the following edits to the comprehensive plan document:

1. Change word “one” to “some” at the beginning of last paragraph on page 6.
2. Delete third strategy under “Short-term Strategies” on page 14.
3. Delete “5” and replace with “2.4” under fifth strategy under “Short-term Strategies” on page 14.

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4. Add strategy to address a new residents guide under the last strategy on page 22.
5. Add word “non-taxing” prior to word “joint” in second strategy under “Long-term Strategies” on page 29.
6. Delete last strategy under “Short-term Strategies” on page 39.

**Motion to recommend approval of the City of East Gull Lake Comprehensive Plan, as revised, to the City Council made by Commissioner Anakkala, seconded by Commissioner Dunphy. Motion carried unanimously.**

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4. Additions or Deletions to the Agenda
5. Approval of Minutes
  - a. September 26, 2006 Regular Meeting

Chairperson Mason asks if there are any revisions to the minutes as presented within the Staff Report.

No changes indicated.

**Motion to approve the minutes of the September 26, 2006 meeting made by Commissioner Anakkala, seconded by Commissioner Dunphy. Motion carried unanimously.**

6. P&Z Administrators Report

Administrator Schmidt summarizes the permits issued by the City since the previous Planning Commission meeting and all correspondence received.

Administrator Schmidt states that the City has received one complaint since the previous Planning Commission meeting and that the complaint has been forwarded to the City Attorney and Streets Committee for review.

Administrator Schmidt provides a summary of actions of the City Council at their October 3, 2006 meeting including the approval of applications 06-53 and 06-55.

Administrator Schmidt states that he anticipates inspections will be required in November to assess the completion of previously approved variances and conditional use permits.

7. Open Forum

Chairperson Mason asks if there are any open forum items or topics to consider.

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No response.

8. Old Business

Chairperson Mason requests that the items under old business be carried to the next meeting of the Commission.

9. New Business

Chairperson Mason asks if there are any new business items or topics to consider.

No response.

10. Adjournment

**Motion to adjourn by Commissioner Dunphy, seconded Lee. Motion carried unanimously. Meeting adjourned at 9:46 p.m.**

Respectfully Submitted,

Timothy Schmidt, Zoning Administrator