

Breezy Point Planning Commission/Board of Adjustment

**June 11, 2024
Regular Meeting**

The regular meeting of the Breezy Point Planning Commission/Board of Adjustment was called to order by Commission Chair Marcy Weaver at 7:00 p.m. Those in attendance included members Joe Ayers, Lee Brisbin, Roger Theis, Teddy Zierden, Board Chair Marcy Weaver, Planning and Zoning Administrator Peter Gansen and Deputy Clerk Deborah Runksmeier.

Approval of Agenda

Motion Ayers/Brisbin to approve Agenda, Motion Carried 4-0.

Open Forum

No one spoke.

Approval of 4/09/2024 Regular Meeting Minutes

Motion Theis/Zierden to approve the minutes as written, Motion carried 4-0.

Approval of 5/14/2024 Regular Meeting Minutes

Motion Zierden/Theis to approve the minutes as written, Motion carried 4-0.

New Business

A. Variance Application V-24-001: Suarez Family Trust, Lot 55 Block 2 Whitebirch Seven

The Commission Chair Weaver noted the applicant was present.

Planning and Zoning Administrator Gansen read the staff report into record. See staff report on file.

Theis asked if the subject property was serviced by Municipal Sewer.

It was determined that it was.

The Chair asked if there were any questions relating to the staff report.

There were none.

The Chair asked the applicant to state their name and address.

Linda Suarez 30392 Circle Creek.

The Chair asked the applicant to summarize the request before the Commission.

Suarez talked about the condition of the property line when they purchased the property and that when the encroachment was found was when the adjacent neighbor had their own

property surveyed. It was found the well was on the other property and they had the well abandoned and re drilled a well on their property.

They also found out the building was not meeting the required property line setback of 15FT. So the Suarezs had their own property surveyed to figure out what the setback distance was from the property to their house. See Survey in file.

Commissioner Theis asked Gansen if this is R1 and has a 15 ft setback and R2, 3, 4 have 10 foot setbacks. Why the different setbacks in the various zoning districts.

Gansen responded that he was not here when the ordinance was adopted, but typically property line setbacks are inclusive of the respective zoning district. Its not uncommon to see increased setback distances on properties that have a more rural zoning classification.

Then when properties of different zoning borders intersect or share boundaries the more restrictive setback is typically applied.

Gansen verified that this was not the case though because this whole area is R1 zoned.

The Chair dismissed the applicant from the presentation.

The Chair called for public input on the variance request for or against.

Judy Meyer30482 Creek Circle asked why the permit was okayed by Breezy Point and asked does the City not require surveys to verify correct setbacks? Noting that the builder built this and then the current owners are having to fix the problem after-the-fact. And if the City has any rules in place for surveys. She stated that her son said that the marking could be moved.

The Chair stated when she applied for a permit a survey was required and asked Gansen if he could speak to the process of applying for permit.

Gansen stated, yes all of the above. Surveys are required upon residential construction permit request. And sometime builders make mistakes or put things in the wrong spot as a lot of modifications are happening to a property during the construction process. That its not out of the ordinary to have a stake moved by someone other than the surveyor. Especially when excavators plow over the survey stakes.

Typically, the property is pinned prior to construction and there is no after construction survey unless there is a question about a property boundary. Contractors can certainly be liable for relocated or unapproved dimensions.

Meyer asked if well drillers are required to locate a well.

Gansen replied, ultimately it's the property owner's responsibility to mark the lot lines and provide an accurate site plan. That everyone relies on the homeowner to address their project location.

There was additional discussion between Gansen and Meyer about surveys. That some projects require surveys and some don't and people don't realize that at the end of the day its the land owner responsibility.

The Chair asked for any other public comment.

None.

The Chair closed the public comment period and opened the meeting to Board deliberation.

Chair then read the findings of fact questions to the Planning Commission for consideration.

See file.

The Chair asked the Commission if there were any further discussion regarding the findings.

None.

The Chair then asked for motion.

This made a motion to approve the request reducing the setback.

Zierden seconded.

All members voting 5-0 to approve **Variance Application V-24-001.**

See file for findings and notice of decision.

B. Conditional Use Permit Application C-24-003: Daniel & Lisa Anderson, 31945 Harvest Road

The Commission Chair Weaver noted the applicant was present.

Planning and Zoning Administrator Gansen read the staff report into record.

See staff report on file.

This asked if the two small sheds are existing.

Gansen responded they were, and the applicant could speak to that.

The applicant stated they would be removed to be in conformance with the 1600 square feet.

Applicant stated they changed the site plan however are still within they setbacks and did this to address onsite drainage.

The Chair asked if there were any questions relating to the staff report.

There were none.

The Chair asked if the applicant to state their name and address and to summarize the request before the Commission.

Dan Anderson spoke about the site grading in relation to the building request.

Theis said he liked the design of the building.

The Chair asked the Board if they had anymore questions for the applicant.

None.

The Chair dismissed the applicant from the presentation.

The Chair called for public input on the conditional use request for or against.

None.

The Chair closed the public comment period and opened the meeting to Board deliberation.

Chair then read the findings of fact questions to the Planning Commission for consideration.

See file for findings.

The Chair noted there were no recommended conditions at this time.

The Chair asked the Commission if there were any further discussion regarding the findings.

Zierden asked Gansen if there was reason this was CUP request and not a variance.

Gansen responded and said he probably should have specified that in the staff report. Variances are typically for dimensional standards and setbacks. Where this is actually a use requirement in the ordinance as the City likely desires to have some control on the larger accessory structures. Where it can be reviewed for placement on the lot and site screening etc., that without the standards the size of accessory buildings would be very unlimiting.

Gansen stated current ordinance requires a CUP for all accessory buildings between 1280 and 1600 square feet. This is something we may change in the ordinance moving forward with the Ordinance Update Project.

Zierden asked about screening from Harvest Court.

Applicant stated there will be.

Theis asked about the status of Bushman moving.

Gansen replied that project is still in its conceptual stages.

The applicant stated the easement area is actually for the power line and his property will not be effected by the road project.

The Chair asked for motion.

Ayers made a motion to approve.

Theis seconded.

All members voting 5-0 to approve **Conditional Use Permit Application C-24-003.**

Conditions: None.

See file for findings and notice of decision.

C. Subdivision Application S-24-002: Greg & Roseanne Haglin, That Part of Government Lot 2, Section 1, Township 135, Range 28 Crow Wing County

The Commission Chair Weaver noted the applicant was present.

The Chair asked for the staff report.

Gansen read the staff report into record. Crow Wing County commented on consolidating the driveway access locations. See Crow Wing County comment on file.

See staff report on file.

Gansen spoke to the Commission about the ordinance requirements and process for preliminary plats and the recommendation the Commission would give to the City Council.

The Chair asked if there were any questions relating to the staff report

Ayers asked if any of the property have access to Fawn Lake.

Gansen responded, the applicant could speak to that.

The applicant said there was not any access to Fawn Lake.

Gansen spoke about some of the criteria for the shoreland overlay district with respect to riparian lands and the public waters inventory map. Noting how this effects the zoning status of properties and the MNDNR area hydrologist addressed this concern. See PWI map on file.

The Chair asked if there were any more questions relating to the staff report.

There were none.

The Chair asked if the applicant to state their name and address and to summarize the request before the Commission.

Greg Haglin spoke about the property he jointly owned with his wife and was looking to subdivide the property in to 7 lots.

The Chair asked if the applicant was going to build on the lots or sell them off.

The applicant replied he is retired and just looking to sell the lots off as vacant rural lots to be built on by whomever buys them.

Theis asked about lot 5's access.

The applicant stated, that part of the property is very challenging and between the 5 acre minimum and site topography that they really didn't see a lot of development potential at this time. So there for they left the access point large enough if someone in the future would like to plat a road to access the property for further subdivision they could have that option.

Theis stated that lot 5 has a lot of challenging grade/topographical change.

The applicant agreed, there is 20 more feet of variable elevation. The thought was the larger property may be attractive to someone that wants more privacy.

Theis asked about the building locations.

The applicant stated it was just a general concept showing that it met the minimums.

Chair stated it was proof of a concept.

Theis said it looked like they were shed sites.

The applicant responded, the intention was home sites.

The Chair asked the Board if they had anymore questions for the applicant.

None.

The Chair dismissed the applicant from the presentation.

The Chair called for public input on the preliminary plat request for or against.

Tony Fyle 27177 CR 107 Pequot lakes.

Fyle stated he was the landowner to the east. He said he owns the honey wagon septic services and that his company uses the land to the east of this to spread septage and to farm. He is concerned the increase of residential density will increase complaints about his pre-existing use of his property. Their intention is to continue this use and they don't really have any option to change locations and one or two angry residents can create a lot of problems for a Mayor or Council.

Fyle spoke about how the MPCA is involved with compliants and they are like mosquitoes in a tent in that they don't go away and bother you a lot. Fyle stated its important to maintain the land application sites in the region. He stated again his concern is on the density increase, increasing complaints.

Ayers asked for the specific location of the land application site.

Runksmeier adjusted the map to show the Commission the site.

Kathy Stults 12152 Fawn Lake Rd Crosslake, stated her comments about the property getting developed that she understands. She said she never got original notice of the 80 acre tract. She asked about some of the property lines based on the survey and the road location.

Runksmeier adjusted the map to show the Commission the site.

Stults spoke about property lines and if anyone can give her assurance her garage location.

Gansen specified the Board cannot speak to property line boundaries, that is up to a surveyor.

Gansen also stated there was likely no notice on the division of 80 acres that it was likely an administrative approval when it happened years ago.

Stults said she was pleased with the driveway locations as they are proposed and has concerns about additional access points on that road.

Gansen, noting the office did receive a written comment via email and that was read into record.

See file.

Mike and Kathy Mathews, 12252 Fawn Lake Road Crosslake. Stated they have property on the other side of the Fawn Lake Road by one of the proposed driveway locations.

Runksmeier adjusted the map to show the Commission the site.

Stults came back up to the podium stating she was confused about the layout of the lots.

Runksmeier adjusted the map to show the Commission the site.

This asked if the lots on the north of display were in Crosslake.

Gansen replied, they are in Crosslake.

The Chair asked for additional public comment.

Angela Sherack 12496 Fawn Lake Rd, Crosslake. She read a letter into the file that they live in the Twin Cities and want to retire here. Since 2016 when they have bought, pole sheds have been built in the area. They are concerned about the City allowing houses to be built in the town that adding more houses will disrupt their tranquility. That they oppose the application.

Sherack said she was a realtor and asked about covenants. If there would trailers or pole buildings. She said she did not go through the application and didn't know who she talked to about adding driveways and the speed limit concerns.

Sherack said she could see a subdivision happening on lot 5 sometime in the future.

The Chair replied to Sherack's comment as to whether the property would have pole buildings or trailers. The Chair stated the Wood Residential zoning class effects what can be built on the property and controls the size of such structures as well.

Sherack asked about shouses instead of pole buildings.

Zierden responded that if there were any pole buildings, they would be required to have 700 square foot of living quarters in them and be permitted as a the primary residence.

Unknown commentor from the audience asked what the setbacks were in the zoning district.

Theis responded 30 from the right of way and a person could build a 5,000 square foot structure in this zoning district on a lot great than 2 acres.

Zierden specified, however they would need to build a house first before an accessory structure would be permitted.

The Chair asked for any further pubic comment.

Michael Mathews 12252 Fawn Lake Rd Crosslake. Said that he has to count to 3 before he pulls out his driveway. He believes the driveway locations will pose a safety hazzard.

The Chair specified that it appears the developer is actually consolidating the driveway locations.

Mathews stated he was concerned about the access location on the curve.

Zierden responded that this a County Road and has nothing to do with what the City can or cannot allow. As far as speed limits on the road the concerns need to be addressed with the County. The County has seen the plan and commented on it. This is preliminary and can change through the process.

Kathy Stults asked about addition time to review the documents.

Gansen stated public notice was sent out and copies are available to review at the office as any other public hearing item.

Tom Ruis 12348 Fawn Lake Rd Crosslake.

Runksmeier adjusted the map to show the Commission the site.

Ruis stated that 20 years ago he created a housing development in Milaca. He asked the Commission about what the building standards are for this piece of property.

The Chair stated that all the zoning regulations are available to the public and also on the website. That when someone is developing this property they will be developed to the standards set forth in the respective zoning district. Additionally the process does involve reviews by City staff.

The Chair stated additionally the applicant is actually exceeding minimum lot size.

Ruis spoke about some of the history of the surrounding properties, and mentioned his concern for the speed limit on the road.

The Chair again stated this is a County road and you would want to contact Crow Wing County regarding those concerns.

Matt Kallroos 1203 9th ave Brainerd, Transportation Planner for Crow Wing County.

Kallroos said the County follows the state statute there as its unmarked, it's a 55mph speed limit. Yes people tend to drive to what the environment of the road allows, which is not always what the speed limit is. Posting a speed limit or changing a speed limit is not a quick simple process. However I can talk to the County Engineer about this.

Kallroos said that its more ideal to limit the number of access points to the County Road. The applicant did work with County to address access concerns for the proposed lots.

Theis asked if Kallroos dealt with any of the wetland regulations.

Kallroos said he did not.

Chad Sherack 12496 Fawn Lake Rd. Spoke about his concerns regarding traffic on Fawn Lake Road. Also concerned that the developer might continue to subdivide lot 5.

The Chair asked for anymore public comment.

Greg Haglin stated that he has no intention to develop lot 5, that is not part of the plan tonight and it would be cost prohibitive to do so. His plan he feels meets the minimum standards of what the City requires for Subdivision.

The Chair closed the public comment period and opened the meeting to Board deliberation.

Chair then read the findings of fact questions to the Planning Commission for consideration.

See file for findings.

The Chair noted there were 2 conditions at this time.

The Chair asked the Commission or Staff if there were any further discussion regarding the findings or conditions.

None.

Ayers made a motion to approve with 3 conditions.

- 1) The applicant must consolidate the driveway access points as presented in this application.**
- 2) Submit required park dedication fees prior final plat approval.**
- 3) There be continued consultation with Crow Wing County regarding traffic concerns.**

Brisbin seconded.

All members voting 5-0 to recommend the Preliminary Plat to City Council. **Subdivision Application S-24-002.**

Old Business

A. None.

The Chair called for staff reports.

Staff Reports

Gansen said City Council did select HGKI as lead consultant for the Zoning Code Update Project. there were a couple pre application meetings for standard setback variances that may apply.

Gansen said there will be a couple variance applications at the next meeting.

The next PC meeting is July 9th.

That concludes the staff report.

The Chair asked for any Commissioner reports.

Commissioner reports

A. None.

There being no further business the meeting adjourned at 8:30 p.m.

Submitted by Peter Gansen
Planning & Zoning Administrator.