

LOWER ST. CROIX MANAGEMENT COMMISSION PARTNERSHIP TEAM

MINUTES OF MEETING #76

August 29, 2023

Oak Park Heights City Hall, Oak Park Heights, Minnesota

1. Roll Call – Introductions – Sign-in

The meeting was called to order by Buck Malick at 7:00 p.m. Present: Buck Malick, St. Croix County and St. Croix Scenic Coalition; Jan Cuccia, Town of Troy; David Beaudet, Sierra Club; Lucia Wroblewski, City of Afton; Carter Hayes, City of Prescott Planner; Wendy Ward, Marine on St. Croix; Dan Scollan, Minnesota DNR; Mike Wenzholz, Wisconsin DNR (via phone at 7:38 p.m.); and Ellen Denzer, visitor from St. Croix.

2. Approval of Minutes of May 30, 2023

Wroblewski, seconded by Cuccia, moved to approve the Minutes. Motion carried unanimously.

3. Land Use Decision and Reviews

- a. Skagen lift, St. Croix County: Wroblewski reviewed her report which is attached and incorporated herein.
- b. Lockwood garage, St. Croix County: Ward provided a PowerPoint presentation which is attached and incorporated herein.
- c. Morris home, St. Mary's Point: Denzer reviewed her report which is attached and incorporated herein.
- d. Mellum Utility, Pierce County: Beaudet reviewed his report which is attached and incorporated herein.
- e. Adkins/Somerfeld lift, St. Croix County: Beaudet reviewed his report which is attached and incorporated herein.
- f. Zappa grading, St. Croix County: Beaudet reviewed his report which is attached and incorporated herein.

4. General Riverway Announcements

Cuccia reported the navigation markers were removed from the river. She said she did research and discovered the Coast Guard removed them because they had drifted and were not in the proper locations. She said the boat could not make it past the Kinnikinnic River to mark the proper spots, but they were working with the state for channel access.

5. Adjourn

Ward, seconded by Wroblewski, moved to adjourn the meeting at 8:44 p.m.

LSCMC Partnership Team
Land Use Action 12-1-22

1. Applicant Name/address: **Jason and Catherine Skagen, 1434 Triangle Drv, Houlton, WI**
2. Local Govt decision-maker: **St. Croix County, Zoning Board of Adjustment**
3. Project Description: **Construct a lift to provide shoreline access**
4. Type of Permit(s), Variances, CUP - Standards in Ordinance/Requested Deviation:
Conditional Use Permit
5. Did the applicant submit adequate material to enable the local govt to make a sound decision? **Yes.** When? **10-3-22**
6. Did the local govt notify DNR in the proper time frame and include appropriate materials?
Unknown. Staff rat indicates the Comment letter from WI DNR not yet submitted.
7. Did the local govt hold a proper hearing? **Yes.** When? **12-1-22**
8. Did the local govt document its decision with appropriate findings? **Yes.** If a hardship was found, what was it? **N/A.** If variances were granted, what were they and were they justified? **N/A.**
9. Did the DNR respond in the appropriate time frame? **Apparently not, but perhaps N/A.**
Unknown if DNR responds to CUP's as normal course of action.
10. What was the outcome? **CUP was approved unanimously and included the following conditions:**
 1. **The lift is constructed according to plan and schematics.**
 2. **All landings shall not exceed 50 sq ft. Below floodplain elevation shall be constructed to be floodproof.**
 3. **On-site meeting with staff scheduled and the extent of area of vegetation removal shall be flagged and shall not exceed beyond 1 ft on either side of lift route and shall not exceed 8 ft in overall width.**
 4. **A revegetation plan shall be submitted to staff prior to the meeting and shall provide for vegetation that will effectively screen the lift within 5 yrs.**
 5. **Applicant shall have 1 yr from approval date of CUP to begin construction and 2 yrs to complete the project and final inspection from the dpt.**
 6. **All applicable federal, state, local permits shall be obtained prior to construction.**
 7. **If work with the Bldg permit isn't completed and inspected approval may be revoked.**
 9. **All present and future owners must adhere to the CUP. Applies to property.**

When? **The decision was made after the hearing.**
11. Is the outcome consistent with protection of the river's outstandingly remarkable values (scenic, recreational, geologic)? **Yes.** How is the visibility from the river affected? If any conditions or mitigation are required, what are they and how effective will they be?
The visual and protective (of the slope) standards to mitigate the visibility issues

LSCMC Partnership Team
Land Use Action 12-1-22

are required to be met and set out in the CUP. They include the design for person transport only, that the lift car and landing size do not exceed strict standards, that the lift be located in the most visually inconspicuous portion of the lot, that the visible part of the lift shall be finished in earth tone, non reflective colors and visually inconspicuous, and that vegetation shall effectively screen the lift from the river within five years.

12. Reviewer, date: **Lucia Wroblewski 08/29/23**

Exhibits:

1. Map of location on the river
2. Map showing slope to the river.
3. Map showing the proposed lift location.
4. This checklist.

Lower St. Croix Management Commission Partnership Team
Land Use Action Review Morris 8-29-23

1. **Applicant name/address:** Virginia “Ginny” Morris/2711 Itasca Avenue South
2. **Local government decision-maker:** St Mary’s Point Plan Commission and City Council
3. **Project description:** Demolition of the existing house and driveway and construction of a new house with attached garage, driveway, auto court and terrace on 3.43 acres.
4. **Type of permit(s) - Variances(s) or Conditional/Special Use Permit(s)- Standards in Ordinance/Requested deviation:** Variance to Bluffline Setback for construction of a new single family home and Conditional Use Permit for filling in the Flood Fringe District
5. **Did applicant submit adequate material to enable the local government to make a sound decision?** **No**
6. **Did the local government notify DNR in the proper time frame and include appropriate application materials?** **Unsure**
7. **Did the local government hold a proper hearing (if required)?** Mostly, however the applicant’s name was not included in the hearing notice, the variance did not state the specifically how much reduction to the setback was requested and the conditional use did not state the amount of fill in the flood fringe district **When?** Monday May 24th, 2021, 7 pm
8. **Did the local government document its decision with appropriate findings, etc. **Not that I could find.** If a variance was granted, what hardship (practical difficulties) was found? What was the uniqueness? **There was no explanation of the hardship, unique property limitations or how the variance criteria were met in the application, plan commission discussion or in the city council discussion. I was not able to obtain a copy of the final decision. The city council minutes were also confusing in that they put the same 20 conditions on the variance as the conditional use permit for filling and grading. It is not clear from the minutes of the Council that the members or staff know the difference between a CUP and a Variance or know that there are criteria that must be met.****
9. **Did the DNR respond in the appropriate time frame?** Yes, the day of the hearing. **What were DNR comments?**
 - The proposed structure height was 8 feet too tall;
 - the proposed filling was excessive in area, the City’s regulation allowed only the minimum area of fill necessary;
 - the proposed 150 foot walkway would not be allowed within the 150 foot setback of the OHWL; the walkway was intended to be ADA accessible, DNR suggested gravel or small aggregate walkway could be allowed as long as it does not run with the land for future property owners.

- the proposed stone wall would be subject to grading and filling, also unless erosion is present there should be no land alterations, so the stone wall is probably not allowed; **the stone wall was later determined to be a preexisting non-conforming structure that cannot be expanded;** and
- a concrete dock would not meet DNR's no permit required criteria for docks so the proposed dock should be redesigned to meet the no permit required criteria; **the concrete dock was later determined to be a preexisting non-conforming structure that cannot be expanded.**

10. What was the outcome? **The variance and conditional use permit were approved with 20 conditions which were the same for both the setback variance and the floodplain fill conditional use permit. A condition was added that the structure height allowed is a maximum of 35 feet. If variances or permits were denied, why? When?**

11. Is the outcome consistent with protection of the river's outstandingly remarkable values (scenic, recreational, geologic, unpolluted, etc)? How is visibility from the river affected? This was not addressed. How is water quality of the river affected? Stormwater was contained onsite. How is stability of the river slope affected? It is unclear how this was addressed. If any conditions or mitigation are required, what are they and how effective will they be? The conditions/mitigation were not listed in any of the documents I was able to obtain.

12. Reviewer, date: Ellen Denzer MacSwain, 8-29-23

Exhibits

1 analysis

2 regional map - none

3 site plan - attached

4 DNR position – no recommendation, correspondence attached

5 City Council minutes - pasted below

6 Public Hearing Notice - attached

CITY COUNCIL MEETING OF THE CITY OF ST MARY'S POINT
ST MARY'S DRIVE WASHINGTON COUNTY, MINNESOTA
June 1, 2021

CALLED TO ORDER BY ZOOM AT 7:02

ROLL CALL: Councilmembers Williams, Freesmeier, Olfelt-Nelson, Pierson, Mayor Roettger
OTHER PRESENT: Charlie Witzke - Morris Project Manager, Virginia Morris - Applicant, Joe Dvorak

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Variance & Conditional Use Permit Application - Morris 2711 Itasca Ave So.

Charlie Witzke and applicant Virginia (Ginny) Morris are both present. Engineer Paretto presented the Project drafted by Planner Brea Grace. Proposal is for a flood proof and rebuild and requires a CUP along with a variance to the bluff line for 40 feet. He presented the comments in Planner Grace's memo in regards to the comments received from WMO and DNR. He noted the comments from them have been addressed. The WMO's concern is being worked thru with the applicants. He explained the difference of the Cities 693 elevation code requirement to the 694 elevation of the WMO, thus the DNR comment addressed as the applicant is choosing to follow the 694 elevation with fill. The DNR comment about a concrete dock is actually preexisting items and so it is a non-issue. Also it is more like a walk vs. dock. The existing footprint was addressed along with the proposed footprint. The variance with 18 conditions and added 2 conditions. The CUP is the same as the variance for conditions. Mr. Witzke provided a diagram showing the bluff lines.

Mayor Roettger noted a part of the driveway is at 691.5 and suggests it be at elevation 693.

Applicant Morris is agreeable to more fill to elevate the driveway for health and safety concerns.

The City Attorney noted the Resolution presented does not include the concrete sidewalk (which the DNR noted to be a dock but it isn't). So one more condition should be added - Attorney Sandstrom will revise the resolution and provide via email.

Discussion of appurtenance in regards to a proposed path way down to the River provided it should not to be asphalt or concrete.

Councilmember Olfelt-Nelson noted she spoke to Matt Downing at WMO and noted the path was not a great concern but it does need to be counted as impervious surface. Per Engineer Paretto impervious percentage is at 11% going to 13%. Ginny notes it is planned for ADA for future use, for safety of safe travel and access.

Mayor Roettger suggestion of a driveway elevation does not need to be a condition. It was noted that 691 elevation is per the City Ordinance and thus applicant site plan is 691.3.

Councilmember Freesmeier asked if the proposed house is in the same location as the existing and Mr. Witzke noted it was.

Councilmember Olfelt-Nelson asked about the condition of #6 regarding the stormwater management system agreement and maintenance and she asked who will inspect and maintain it. Applicant Morris provided that she is able to provide a copy of the agreement to the City if they would like.

Councilmember Freesmeier asked if any conditions are needed to be memorialized in the Resolution (approval for the project.)

Attorney Sandstrom notes #5 memorializes all the correspondence by finding -of- fact of the information in the memos as presented at the Planning Commission. He presented the Resolution (final Draft) with added edits of the amount of fill 5000-6000 sq feet fill also and #6 separate maintenance agreement of the Stormwater and also no added concrete on the stone walk.

MOTION WAS MADE BY COUNCILMEMBER OLFELT-NELSON AND SECONDED BY COUNCILMEMBER PIERSON TO APPROVE RESOLUTION 2021-06-1 WITH EDITS OF UP TO 600 CUBIC YARDS OPTION TO FILL TO 693 OF DRIVE WAY, TO MAINTENANCE AGREEMENT OF STORMWATER SYSTEM AND NO CHANGES TO EXISTING STONEWALL AND CONCRETE WALK (DOCK).

DISCUSSION:

Councilmember Olfelt-Nelson questioned concrete trucks and Councilmember Williams inquired about the option to elevate the driveway. Councilmember Freesmeier noted all the work of the applicant and the Planning Commission did make it much easier for the City Council.

ROLL CALL: 5 AYES

Engineer Parotti noted that the two added conditions will need to be updated on the site plan before any building permit is issued.