

City of Columbus
Public Hearing – 14609 Lake Drive NE Variance (PC-13-115)
(Cemstone Products Company – owner)
October 16, 2013

The October 16, 2013 Public Hearing to receive testimony regarding the request for a variance at 14609 Lake Drive NE, Columbus, MN was called to order at 9:17 p.m. by Vice Chair Garth Sternberg at the City Hall. Present were Commission members Andy Anderson, Myron Organ, Pam Wolowski, Jesse Preiner, and Jody Krebs; City Administrator Elizabeth Mursko, Planner Dean Johnson, and Recording Secretary Karen Boland.

Also in attendance was Pat Bergin.

Sternberg: At this time we'll have the Public Hearing and discussion regarding 14609 Lake Drive Northeast variance application request, pages 81 through 92. And at this time I'll ask the secretary to read the notice.

Notice was read at this time.

Sternberg: Thank you. At this time I'd like to ask the applicants to come forward.

Bergin: Hello.

Sternberg: Hi. Please state your name and address for the record.

Bergin: Patrick Bergin. I live, ur, I guess Cemstone's address is in Mendota Heights, Minnesota. I'm their Environmental Manager

Sternberg: And what is it that you're asking of us?

Bergin: Well, Dean, do you have those little structural drawings?

Mursko: Which one do you want to start out with?

Bergin: Oh yeah, there we go. Yeah, what we're asking is...well, I was approached by my boss Tim Bekin, who is Vice President of Operations, and he just simply asked me, 'You know, I know our conditional use permit requires us to enclose our mixer, but not our silos. Could we enclose those as well?' And I thought, well, it would probably look better if we did. The other option would be to paint them. So I said I could, I could ask to at least see if we can get a variance to enclose everything. And, I guess, that's, basically, where I'm at right now.

Mursko: Can you also explain to them the advantages of enclosing, that you are allowed to...it allows you to do winter operations if need be?

Bergin: Yeah. It's, it's, but, I mean, in terms of the silos, we can still do winter operations whether they're enclosed or not. So it is pretty aesthetic. I mean, it probably does help to curb little dust and noise issues as well. So, it's hard to find a negative with it, I guess.

Mursko: I think there were other options (referring to drawings). Was this the other option?

Bergin: Yeah, where the silos would come through the top or, or even behind the enclosure. Yes. That's the way the variance would read now.

Johnson: They can do that with a 75-foot roof, without consideration of a variance. So you'd, you'd leave the silos above the roof line.

Organ: That was a question I was going to bring up. Why was that ever any... is it that silos are less unsightly so they can be taller or what? What was ever the reasoning?

Johnson: You know at the time that this conditional use was examined in 2011 or whenever we did that, there was a bit of debate on this, and our normal building height was 50 feet. And the amendment to the zoning ordinance allowed 75 feet for enclosures of conveyors, mixers, things of that nature. We also allowed the silos to go up to 95 feet, but we didn't add enclosures at that height. And I think part of the concern at that time was, could somebody else come in with, say a building like Bergen's, and the whole thing ends up being 100 feet and, I mean, it'd be bigger than the Metrodome. So, I can't explain it, but that's, that's what we're dealing with, and we kind of played it, should we consider another amendment to the ordinance? and our suggestion to the applicant was, apply for the variance. And if you had identical circumstances to this, then if you granted this variance, you'd have to grant the next one. We felt that was a little easier than...

Anderson: Perhaps, Dean, you could explain to me, why, in our ordinance, we set a height limitation. In other words, normally, if you have scenic views and so on, you, you have height restrictions so that you don't block somebody else's view of the lake or whatever. But, in this particular case, there's no view. Is this just a general, all-purpose ordinance?

Johnson: I, I would say that height regulations -all of them, and setback regulations all stemmed originally from guaranteeing that all property has access to light and to air.

Anderson: Okay.

Johnson: And so, if you allowed single-family homes to be five feet from a property line and didn't regulate the height, then, one neighbor's got a one-level rambler, and the next one's got a six-story palace, and they get no sunlight. So the attempt in all zoning is to create at least minimum standards that it creates some protection. So, in this case, it's all arbitrary. I mean you go to Minneapolis and buildings are a thousand feet tall. And, uh, it's very common in the suburbs that you get 55-foot height limits, and rarely do you encounter those. This is an industry component that is unique, not unlike farming. All the current farm elevators that are left, and the new ones that are being built – the mega-elevators – they're at heights over 100 feet for conveyors and, uh, the loading systems for trains and so forth. And so, this is just one of those

exceptions where you try to accommodate them and, again, we tried to do that two years ago, and, this time we said, why don't we talk about variance.

Anderson: Well I, I drove by the property and those two towers would look considerably better if they were enclosed.

Sternberg: I agree. I don't see any reason to...I think that looks a lot nicer than having two silos sticking out the roof too.

Anderson: Yes.

Organ: Fully covered.

Sternberg: Yeah. Fully covered.

Wolowski: Yeah. Don't have them out the top.

Organ: Not that square, or the...

Bergin: We would prefer, yeah, the first, staged one. Seventy-five, 100, 75.

Anderson: Would I be out of order to ask the applicant a question? I don't if you could even see this (referring to aerial photo of Cemstone presented at the previous public hearing)?

Bergin: Yeah, I saw that.

Anderson: Just for my own information, what is that big pile of...?

Bergin: That's actually our neighbor's pile. That's not ours. (laughter) I meant to speak up. (Laughter)

Anderson: Okay. Well I didn't see it when I drove by the property and...

Bergin: Yeah, you need to compare that to the plan view and then you'll get...

Anderson: I thought I overlooked it, but it's not yours.

Bergin: No. That's not ours.

Sternberg: Did he have a picture of the rusty tower though?

Bergin: Yeah. That he probably did. (laughter)

Anderson: Alright, good. Thank you.

Sternberg: Okay, at this...any other questions?

Organ: I don't know when this, to bring up. Was there a lighting issue or did that go away?

Mursko: You know, Pat, I don't know...I know Dean talked to you briefly about the lighting. I guess I don't know the outcome of what happened.

Bergin: Yeah, I, I researched it and it was a, it was a user error on our part. It was, the operator just either forgot or for some reason didn't shut off I'd say probably 70% of the actual lighting that he should of. And that included the lighting on the wash racks out front and then anything above our current enclosure, so, basically, that first story. So, the only lights that should remain are just the soffit lights and then the security lights on the side. So, I do believe there might be a requirement...

Johnson: Yup.

Bergin: ...for a lighting plan, so I'll have to...

Johnson: I, I talked to pat because this came up at our last Planning Commission meeting when we were talking about lighting in general. And, as I drove home, it, it's...if I don't look or if it's cloudy out or if it's summer you don't see the lights. But, I sure saw 'em last week, and it is part of my recommendation.

Bergin: And I did have before and after pictures. I, after I talked to you, I talked to the batch guy, and every day since they've been off. I stopped there on my way here today. He said that, he told me that, they were off when I got there. I'll check 'em on the way out of here too, so...

Johnson: And, I'll bet pat can tell you how many times I've called him in the last three years about painting the one silo.

Bergin: Yeah, a few times.

Sternberg: Okay, at this...

Krebs: I just have one question, quick.

Sternberg: Go.

Krebs: So, the lights are shrouded in some form? Is that true?

Bergin: The, the ones on the soffits are facing directionally down, so, this, I do think going forward we will need to decide on the security lightings, if they're too bright or not. 'Cause they're probably 400 watts, I think, per. And so, the question then becomes, is that a complaint issue for neighbors?

Johnson: Well that's...the original CUP had a requirement to review the plan and we didn't. So the lights went on without a plan.

Mursko: We didn't have a plan to review.

Johnson: Pardon?

Mursko: We didn't have a plan to review.

Johnson: Yeah, that's what I'm saying. We didn't get a plan, the lights just went up. So, it's a violation of the conditional use permit. So, we could correct it, and, right not, I'd say 80% of the lights that you see are on the equipment. They're going to be covered by the building.

Bergin: Yeah, they won't be there and there will be no lights on that enclosure. No more additional lights.

Johnson: And the remaining lighting, if it isn't shrouded or if we feel it's too bright, then we're going to change that. And we will get a plan this time. I'm asking that you consider that as a part of your motion to the City Council. I, I'd like to explain one other thing. It doesn't appear we're going to get any public comment. When I did this...my deadline last week...Elizabeth and I were trading phone calls. I couldn't find your current checklist, so I structured my memo according to the State Statute which your ordinance is based on. And so it's very similar to yours. And I will just comment as we walk through these, and you can use your checklist, but I'm going to use...or I'll help you discuss this in light of what's in the Statute. Um, in particular, one of the peculiarities is circumstances unique to the property not created by the landowner. All of the examples that you have are traditional ones, just like this last gentleman that was in here. 'I've got too many wetlands' or 'I've got this big tree' –we've had those variances—'I don't want to cut the tree down.' There's no physical characteristics that are unique to this property. What's unique to it is we created the ordinance that provides the limitation that we can't close it. Now, he certainly didn't create that condition. And, I only wanted to mention that as I structured this, I didn't have the benefit of your checklist, so I wasn't worried about how it read. And as I, when Elizabeth got it to me, after I had finished the memo, I thought, you know, just looking at your examples, this is not traditional. And so, you're going to have to think out of the box when you make that finding.

Krebs: Okay.

Sternberg: At this time I'll open it to the public. Okay, and at this time I'll close the meeting with the right to re-open if necessary.

Hearing closed at 9:27 p.m.

Respectfully Submitted:

Karen Boland, Recording Secretary