

**City of Columbus**  
**Public Hearing – XXXX Crossways Lake Drive Variance Application (PC-17-109)**  
**June 7, 2017**

The June 7, 2017 Public Hearing to receive testimony regarding a request for a variance from the required 16.5-foot wetland buffer setback to a four-foot wetland buffer setback for the construction of a new home was called to order at 7:28 p.m. by Chair Garth Sternberg at the City Hall. Present were Commission members Jim Watson, Pam Wolowski, Jesse Preiner, and Jody Krebs; City Administrator Elizabeth Mursko, and Recording Secretary Karen Boland.

Also in attendance were City Council members Denny Peterson, and Bill Krebs; Amy and Troy Lund, Jeff Brown, Brent Kinder, Mary Kinder, Brian Kinder, Andrew Landstrom, Pat Preiner and Jim Windingstad.

**Sternberg:** So now we have a Public Hearing and discussion for Crossways Lake Drive, parts unknown,--address, no address yet-- variance, pages 67 through 74. And, at this time, I'd like to ask the recording secretary to read the notice as published.

Notice was read at this time by the recording secretary.

**Sternberg:** Thank you. And, at this time, if the applicant could please come forward. And if you could just state your name and address for the record, please.

**Brown:** Yeah, Jeff Brown, 25220 Grizzly Court, Wyoming, Minnesota.

**Lund:** Troy Lund, 2120 Viking Boulevard Northeast, East Bethel.

**Sternberg:** Thank you. And if you can just give us a little background on your variance request.

**Brown:** Ah, Troy, where we're going to be building Troy's house over on Crossways there, and—I don't know if you're familiar with the area uh, where he's at, but . . .

**Sternberg:** I think I am, actually, familiar with that lot.

**Brown:** Yeah, he's got the 20 acres on the other side of the road there, and, for the most part, the stuff on the south side of the road is just unbuildable, and, for the most part, on the north side of the road, we have a very specific area that we can really only do a septic area in one location only. I mean we've had it—yeah, I actually have that information in here for where we have to put the septic system.

**Mursko:** It's up on the screen. It's right in this area (referring to overhead).

**Brown:** Yeah, right in that area there. That's pretty much the only area. And then if you look where we're going to position the house, to the right of that, that delineation line, right there, is the wetland delineation. So everything beyond that is wetland. So, we're very restricted on where we can put the house and the septic system. We're look—so, in other words, I know it sounds

like, '20 acres, well, why can't we just move it anywhere?', but that's not the case. So, um, the other thing is, we've been dealing with Rice Creek Watershed on this as well. Um, I don't know if you're aware of this or not, but they actually have a zero setback to the wetland, so they're fine with whatever you guys decide. But we're here to try to—Couldn't really figure out why Rice Creek Watershed has a zero setback and then there's a 16-foot setback, but, it is what it is. So, that's why we're here.

**Mursko:** Uh, the State—to answer your question—the State has left it up to the local government unit to administer buffers, so they actually changed theirs from 16.5 feet to zero, and said it was up to the local government unit to establish that.

**Brown:** Oh, okay. I just didn't understand that. I was thinking they would be the one that, you know, the ones that would decide what you're going to do with the wetland, so . . .

**Mursko:** Sure. That was several years ago that they delegated to the local government unit.

**Brown:** Sure.

**Sternberg:** So, do you have a permit through Rice Creek Watershed?

**Brown:** We're in the process. They were out yesterday actually and inspected the property. I'm going in tomorrow to give them the, um, hundred dollars that they want to . . . They've determined where the—I already have the silt fence up and all that, and they've inspected that. But, basically, they wanted a SWPPP done on . . . so I have to have my surveyor come in and tell them where we want the silt fence. It's a 1500 dollar bill to tell me where to put the silt fence, which is already up. So, um, I asked my surveyor, I said, 'I'm really paying you \$1500 to tell me where to put the silt fence?', and he said, 'Yup. That's pretty much it.' I said, 'Okay.' So, that's, so we do have that up. We do have, basically, all the erosion control in place. We have the culvert in, you know. So, everything's being done, you know, legit. So, it's just a matter of them now issuing the permit, and that kind of thing, so . . .

**Sternberg:** And then you need that permit before you can get the building permit, right?

**Brown:** Ah, yeah.

**Sternberg:** Is that step the first step?

**Brown:** Before I do anything on the property further, they won't, I need the permit, I'm sure.

**Mursko:** We need it to determine whether the wetland boundary was, in order to determine the setback, and now you've determined the setback, and so, one led to the other, but, yes, we do require, not a wetland permit, but the wetland, um, watershed. What we require is that they either determine that it does not need a permit or it needs a permit. So, when you apply for a building permit, if you have very little wetland and you're not impacting then you're not required to get a permit. In this particular case, I think they required you to get a permit.

**Brown:** Mmm-hmm. Mmm-hmm. They did. One of the things that we had, that I think—just to back up here a little bit. One of the things that we had happen was, they’re building the new, um, liquor store by Kohl’s, and there was an excess amount of dirt that they were going to be getting rid of, that we needed. So, we were able to get like an early start kind of a thing. And I sort of okayed that through the City, and things like that as well, but, um—just to make sure it was okay that we did this. And, while Rice Creek didn’t, I don’t think they understood the amount of, maybe the amount of fill I was getting, and blah, blah, blah. So, that’s I think where they wanted, now they want the permit, so . . . Which, I’m fine with. I’m going through that now and getting that.

**Krebs:** So, I’d just like to make note that Rice Creek Watershed did submit a letter on May 25<sup>th</sup>, and they were asking for an after-the-fact permit, um, application to be submitted. And that was supposed to be submitted by Monday. Did you do that by Monday? Because we didn’t, we haven’t received notification that you submitted that application.

**Brown:** Right. Um, Kellogg actually, um, has been, we hired them to deal with Rice Creek, but they asked for an extension to June 12<sup>th</sup>.

**Krebs:** So, an application has not been filed yet?

**Brown:** No. It will be filed tomorrow.

**Mursko:** And they met on-site yesterday.

**Brown:** And they were on-site yesterday.

**Krebs:** Right. The TEP group?

**Mursko:** We did have City representation on-site also.

**Krebs:** Okay.

**Preiner:** So, what’s, Mr. Chair, what’s the best way to handle it? Just do a continuation on this application until we have Rice Creek’s . . .

**Sternberg:** That probably would be the thing to do, right?

**Krebs:** Yup.

**Mursko:** I think you can continue with the public hearing, you know, with the public hearing. If you feel you want to continue the discussion, you can certainly do that. At this point, um, I think the wetland boundary has been determined, so right now, they’re asking for a variance from the wetland boundary buffer setback. So, whether you feel like you need more information or the Rice Creek permit, that’s really up to you, the Planning Commission.

**Watson:** Mr. Chair?

**Sternberg:** Go ahead.

**Watson:** Elizabeth, don't we require two septic sites by law?

**Sternberg:** Yeah, that's a good questions.

**Mursko:** We do require two septic sites if it's a new lot. This is an existing lot of record, so they are only required to have one.

**Watson:** Wonderful. Just one. That's fine.

**Brown:** There is actually, there is actually an area for two.

**Watson:** Okay.

**Mursko:** And, there is, actually, you know, one site that's good for the septic system, which everyone is clear on, that, if that site is somehow hurt in any way, that, they won't be able to build on that site. It's that tight. But, again, we commend you for trying. This is the hurdles that we face in Columbus, with a lot of wetland, and so . . . You have a really nice lot, and you'll have a really nice home, and a lot of privacy.

**Lund:** I can't wait. I'm trying to build this for my retirement, so I, I've got quite a few kids and I just, I hope all works out. That's all.

**Preiner:** Well, we'll be done by then. So, how do we want to handle it?

**Wolowski:** Can't we move it forward, just barring any, you know--

**Krebs:** I think we wait for Rice Creek.

**Wolowski:** You think we wait for the (unintelligible)?

**Krebs:** Oh, yeah. Oh, yeah. We don't need to put them at belabored, and, it just ensures, when we deliver it to the City, that it's sound.

**Wolowski:** So, there is some, there is some gray area there then?

**Krebs:** We're waiting for their approval of their . . . And, they, my understanding is they don't even have the application yet, so, how can they approve anything if they don't even have the application.

**Wolowski:** That's true, and that it'd be right by next week?

**Krebs:** And, not to say that it won't get there, I'm just saying, we can't really make a de--

**Brown:** Well, yeah. We're not looking, we're not . . . I guess, that's Elizabeth's point. I guess, you know, what we're looking for is for what you guys think about the setback, not necessarily what Rice Creek . . .

**Wolowski:** Oh, okay.

**Brown:** . . . if they're going to approve it or not. Obviously if they don't approve what we're doing, that's, it's kind of a moot point, right? So, I mean we're looking for your variance, not Rice Creek's approval to . . .

**Krebs:** And we take Rice Creek's recommendations under consideration greatly, especially because that covers our City, our City Council, and our City staff when we make a recommendation. So that's where, I believe, where we as a committee sit.

**Brown:** Okay.

**Sternberg:** But I think we, couldn't we do the, what we just did with the Coon Lake property? Where we continue the discussion? And then we can just get—when he gets his Rice Creek thing, we fire up another meeting. I mean, don't hold him up, you know, let's, we'll expedite it as fast as we can.

**Mursko:** So at this point you would, you could open it up to the public, because I think there are some, may be people here that want to speak during the public hearing. You could then, you know, close the public hearing, and then indicate to him that you would like to see the Rice Creek permit before you make your recommendation to Council. Um, what that will do is, it puts them back for two weeks. So, we'll come back in two weeks, once you get the permit, because it should coincide. And that will go to Council the 28<sup>th</sup>. However, they will not be able to get a building permit until the variance is in place, because he wants to build his house there. So, there's certain things that do need to happen in order.

**Sternberg:** Well, at this time, I'm going to open the—is there any other questions for the applicants?

**Watson:** No sir.

**Krebs:** I'd like to make one notation. On the application it's actually XXX Crossways Lake Drive, not Boulevard. The actual address is Lake Drive, Crossways Lake Drive.

**Sternberg:** Oh, on the application?

**Krebs:** Yeah, on the application itself.

**Sternberg:** Okay. Okay, and now I'm going to open the hearing to the public. And if you gentlemen (referring to applicants) want to have a seat, we'll open the hearing to the public here. Come on up.

**M. Kinder:** Do we just stand?

**Sternberg:** No, you can just come up to the table here.

**Preiner:** The hot seat.

**Sternberg:** The hot seat. Welcome. And if you could just state your name and address for the record.

**M. Kinder:** Mary Kinder, 8037 Crossways Lake Drive.

**B. Kinder:** Brent Kinder, 8037 Crossways Lake Drive.

**M. Kinder:** That's my husband Brian too, back there. And we're neighbors of this project, and frankly, it was heartbreaking to drive by this the first time, when this started, to see that woods just destroyed. And, I would, I would say the entire woods is a wetland. If it rains, you cannot walk in the woods. But, that's just a personal opinion, and I know it's not political, and it isn't the law. But, we have some questions of the City. So, they have done quite a bit. Can we be confident as neighbors, and, other people in Columbus, that you had approved what they've done? I mean, all this sand, equipment in there, trees knocked down, is that all fine with the City? This looks horrible. From an environmental standpoint, it looks horrible.

**Mursko:** The City does not have an ordinance that says that you cannot take down trees. In other words, you can, anybody, you know, if you own the property, you can hire someone and literally clear-cut it from one end to the other and there's nothing the City—the City will not stop you from doing that.

**M. Kinder:** Okay.

**Mursko:** So, that is, that is, so you don't need a permit in order to take down trees. Um, you do need a permit, however, for excavation and fill. The exception is, when you apply for a building permit, they're kind of one and the same, because most times you do have to bring in fill in order to build a driveway and a home. And so, I think we got a little out of synch on this one, but, I think the intent was to follow the rules, even though I think the order might have gotten a little out of order, let's just say.

**M. Kinder:** And I hope that doesn't happen again in our City, because our City is beautiful. It's just heartbreaking that this would just, people would take these liberties with the environment. And then, so I guess that answers the question, that, as much as they've started, you're aware of and you approve. They're well into it.

**Mursko:** Uh, they're required to bring in fill, because they have to meet requirements, and so, their requirement is that they've, the building pad must be three feet above the highest known water table and mottled soil, and so must the driveway. And so, my assumption is that they've figured out where mottled soil is and brought enough fill to balance the site. It's a tough site--

**M. Kinder:** Yeah, it's a wetlands.

**Mursko:** . . . to build on.

**M. Kinder:** Unbuildable as across the street.

**Mursko:** And so, um, I do think that Kellogg, I think they were very conservative in their wetland determination. I, I've worked with them before. They're a good company to work for. So, I'm confident that the boundary for the wetland is accurate. I do know that the City was present yesterday when the TEP panel—which is the technical evaluation panel—was out there. And they too confirmed the wetland line. So, I don't think there was an issue as to where the wetlands were. I think, again, we had some, a little bit of confusion on steps in order, and signatures that may have messed up the order on how things were being processed, but I do think the intent was there to get the right permits.

**B. Kinder:** I think you mentioned the dirt came from the liquor store next to Kohl's or something like that. That's where you brought it in from, right?

**Brown:** Yeah.

**B. Kinder:** Yeah, okay.

**Mursko:** The fill?

**B. Kinder:** The fill. Yeah. I was just wondering about that. And the . . . No, it just kind of shocked me that—like I came, I go to school in Augsburg, so I came back every other few weekends, and I came back, and I saw like a dump truck there, and I saw like a makeshift road already started. So, it just like shocked me. And I just, I don't know, I talked to my mom about it. It didn't feel right.

**M. Kinder:** Yeah, we both had the same heartbreak. And we're not running around doing this anywhere else. It just, it's just a gut reaction: heartbreak and I also felt like, 'Wow. I know you are really going to —'

**Lund:** I understand it was a beautiful area. It's very beautiful and I love it.

**M. Kinder:** Right. So, do what you can to preserve the deer and --

**Lund:** Just like I'm sure you would do. (Unintelligible) Yeah, it's very beautiful, and thank you. I appreciate it.

**B. Kinder:** And, did you just, you chose it for the woods, right? To have the woods around you?

**Lund:** That's the only spot I can build. I bought that place for—it's either going to be very expensive hunting land, and it was a gamble for me. So I offered them an amount that, either I

had very expensive deer-hunting land or a nice piece of property that was mostly wetland, or I could maybe build a house on it.

**B. Kinder:** Did you uh . . . ?

**Lund:** It was strictly a gamble.

**B. Kinder:** Did you happen to check out the lots further down the road?

**M. Kinder:** There's many lots for sale further down.

**Lund:** I can't afford those lots.

**B. Kinder:** They're too expensive?

**Lund:** Yeah. That piece of land I could afford. That's why . . .

**B. Kinder:** Did you have a guy to check the trees?

**Sternberg:** I'm just going to bring the comment back up here.

**M. Kinder:** What's that?

**Sternberg:** We're just keeping the comment up here. It's just, you know, this is a public hearing. He, you know, he bought a piece of land. Like he said, it was a gamble. I mean I understand where he's going. I understand your point too. You know, it's saddening. Like, I drive by the turkey farm, and it's saddening. But it's progress; it's the way of the future. The turkey farm has been around Columbus --I've lived here most of my life--and it's kind of sad to see it get turned into a bunch of houses. But, that's what --it is what it is. He owned the land, he sold it, and now we have houses coming in. Same deal here. You know, it's . . .

**M. Kinder:** We just appreciate being able to voice our opinion.

**Sternberg:** Yup, that's what we need. That's what the --

**M. Kinder:** Thank you.

**Sternberg:** Thank you for coming, and thank you for your speaking. Anybody else from the public? Anybody else? Okay, I'm going to close the hearing with the right to reopen.

Hearing closed at 7:48 p.m.

Respectfully Submitted:

Karen Boland, Recording Secretary