

# ROCK LAKE IMPROVEMENT ASSOCIATION

[www.rocklake.org](http://www.rocklake.org)

## Special Board Meeting

Minutes for December 2, 2020 at 7:00 p.m.

Via ZOOM

1) **Call to Order** – 7:005 p.m. This was a special Board meeting, as allowed per the [bylaws, 5.c.](#) John C announced at the start of the meeting that given the importance of the decision, he would not exercise his right to vote to break a tie. Passage would require a clear majority. Members present: Jim Colegrove, Mike Nesemann, Nathan Pyles, John Crump, Stan Smoniewski, Susan Trier, Bruce Ward, Sharron Webster, John Thode  
Guests: none Absent: Ralph DePasquale

2) **The meeting was called to discuss the following motion made by Susan (see email attachment):**

“RLIA will engage Kurt Anderson to file a brief requesting reversal of the ZBA decision. This brief shall not exceed \$7,000 and will be paid in two installments. In Kurt’s notice to the city council, RLIA will insert our concerns and why we felt it was necessary to pursue this action. We will also voice support for the city’s shoreland zoning ordinances.”

The motion was made in response to an 11/4 Lake Mills Zoning Board of Appeals (ZBA) hearing approving a variance sought by the owners of 304 Lakeshore Dr. to expand the Vision and Access corridor to build a patio adjacent to an existing boathouse. (see attachments).

This meeting was called to address the motion made by Susan and seconded. John C divided the issue into three sections: A) Should the ZBA decision be challenged, i.e., do we agree that the City ordinances were not followed? B) Do we have legal standing to file such a challenge? C) Is this allowed by our Bylaws.

The discussion was wide ranging and enthusiastic, these minutes are a summary of a meeting that lasted over 2 hours.

### **A. Should the decision be challenged?**

Susan explained that the ZBA is unlike other City boards in that it is not advisory, i.e., the City Council cannot reverse its decision. The only recourse the Council has is removal of a member, not a step they would take lightly. She then reviewed the 3 conditions that must be met for issuance of a variance and noted that the City attorney, pertinent city staff, and the ZBA Chair all recommended against approval. In brief the required conditions are:

- i) An exceptionally unique property. The property in question shares the attributes of several properties on the lake, including proximity to a public pier/access
- ii) Hardship. There is a specific legal standard/definition, which was not met and
- iii) No effect on the public interest. Cutting down vegetation and adding a patio clearly adversely affects the lake, i.e., public interest.

Adding to the complexity was the impact it would have on the public right-of-way. The unanimous sentiment of the Board was that approval was a misapplication of the ordinance.

Several members were concerned about the difficulty of saying ‘no’ to a neighbor, but it was pointed out that the reason for laws and ordinances is to establish a level playing field and objective standards to avoid the perception of favoritism. Concerns were also raised re the appearance of unfairness, since all Board members are aware of the very prominent development that has occurred in several places on the eastern shore; these seem to have clearly violated the City’s standards.

Would this action seem to unfairly single out the current petitioners? It was a general consensus that the City ordinances need some teeth, e.g., apparently failure to follow guidelines for riparian development involves a \$250 fine, a pittance for people who have been doing these things. But although that area clearly needs attention, it was not the issue before the Board.

Another question was how to respond to those who might complain that “others have done this and had no problems.” It was felt that past events can’t be undone and to cite them as an excuse to continue to disregard the rules renders the rules meaningless. Stan pointed out that we are clearly losing the battle for maintaining native shoreline habitat, let alone the stated goal of increasing it. There was also concern that this would represent a dramatic change in the RLIA’s approach to lake issues and as such would merit preparing the membership through education and communication. Jim pointed out that about 28% of our members live in the City and 66% in the Town, and most are riparian owners many of whom may have varied feelings about this effort. However, the apparent filing deadline of 12/4 precluded such efforts. That deadline is open to some debate, as apparently one has 30 days after a filing of the decision to appeal it, but it’s unclear what constitutes “filing.” The final report of the ZBA hadn’t yet been signed off and handed to the City Council, so there may be more time. But Mr. Anderson felt it prudent to “assume the worst” and consider Friday as the deadline.

As far as our being perceived as “suing the City,” it was pointed out that we are actually asking an outside expert, a Judge, to review the ZBA’s findings – findings that the City apparently disagrees with but cannot rescind. So we would actually be assisting the City and merely requiring the ZBA to follow the ordinances/laws.

Susan had spoken to the City Attorney and ZBA Chair for background, and then to Kurt Anderson, an attorney experienced in such matters. Given the tight time window, Kurt had already spent time preparing a filing and gathering information. He seemed confident about a positive outcome, and it’s possible the City would not contest the action, thus cutting the costs almost in ½, to about \$3,500.

**B. Does the RLIA have legal standing to sue?** Mr. Anderson felt we did because we are an entity concerned with the health of the lake, but that it would be helpful to have several individuals, especially city residents, willing to participate in the action.

**C. Is this allowed by [our bylaws](#)?** Mike had reminded Board members of Section 6 which requires at least three written proposals from qualified vendors or consultants if the estimated

cost is over \$3,000. Jim pointed out that attorneys do not normally give estimates and given the splitting of the cost into two sections, the motion could be considered in compliance with the bylaws. Mike then apologized for not bringing up Section 5 earlier, which stipulates that “all contracts...shall be in writing [and]...be available to board members at least one week prior to the meeting in which the contract will be brought to a vote.” It was pointed out that our bylaws had not been reviewed or amended in 8 years while it is generally recommended that be done every 2 years. Regardless, Mike didn’t see how we could award this contract and be in compliance with our bylaws.

**John C. called for a vote.**

Ayes – Susan, John T, Stan, Bruce

Nays – Jim, Mike, Shar, Nathan

Thus, per John C’s opening statement, he would not vote to break the tie so the motion failed.

All the members thanked Susan for her efforts, felt it was an educational meeting, and would produce beneficial results. Mike made a motion, which was seconded, to authorize up to \$1,000 to reimburse Mr. Anderson for the work he had already performed, as it was done in good faith and we would likely be turning to him in the future for similar work.

**John C. called for a vote.**

Ayes – Mike, Susan, Shar, Bruce, Jim

Nays – John C., Stan, Nathan (John T. had signed out prior to this motion).

The motion carried, 5-3.

**3) Adjourn** – A motion was made to adjourn, which was seconded and unanimously passed at 9:10 p.m.

Respectfully submitted,  
Michael Neemann, Secretary