



CROW WING COUNTY

BRAINERD, MINNESOTA 56401

Enjoying and Protecting Our Lakes

By Timothy J. Houle

The recent *Minneapolis Tribune* story about land use variances in Cass and Crow Wing Counties is a great example of a pre-ordained premise desperately seeking facts. Reporter Jim Spencer's extraordinary gymnastics to make the numbers fit his pre-determined conclusion were heroic, if not honorable.

The fact is, Crow Wing County variance approval rates have changed very little since 2005. This is remarkable given the Minnesota Supreme Court's watershed ruling in July of 2008 substantially lessening the legal standard property owners must meet to receive a variance.

However, many things indeed have changed in Crow Wing County since 2008, when the County Board of Commissioners combined five separate departments into a single Land Services Department to consolidate and better coordinate land use regulation and environmental services.

What now exists is a proactive, professional approach to protecting the resources we are blessed with in Crow Wing County. More communication with citizens about what the rules are, consistent and transparent application of policies and procedures no matter who you are, and a commitment to excellent customer service in helping landowners do what's right are now being achieved on a consistent basis.

Some of these far-reaching improvements include:

Site Visits Before Permits. Crow Wing County used to grant land use permits to customers at the front counter without anyone ever looking at the property. No more. Now, specialists assigned to specific areas of the county go out on site, meet with property owners and look at the proposed use before granting a permit. Doesn't this just make sense if one is truly interested in achieving consistent, sensible protection of our lakes? Frequently these pre-approval site visits create modifications in original plans that are acceptable to the homeowner and better protect our environment. Potential violations are prevented by this approach also, and existing problems on the property can be addressed and resolved cooperatively.

What we have found by following this approach is the vast majority of property owners want to do the right thing when it comes to protecting our lakes. Yet, many folks just don't know what the rules are or don't realize how their actions might be detrimental to our natural resources. We help them understand that, and our lakes benefit.

Effective Enforcement. Our commitment to excellent customer service and working cooperatively with land owners does not mean we will hesitate to use the long arm of the law when necessary. Simply put,

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if we can't achieve voluntary compliance, we will prosecute land use violations aggressively. Since 2008 we have significantly expanded our enforcement capacity, from one land use enforcement officer county-wide to three positions, despite substantial reductions to the County budget as the State deals with its multi-billion dollar deficits. In the last two years, with the assistance of the County Attorney's Office, we have successfully prosecuted 11 land use violations, and additional cases are currently before the court.

Site Specific Storm Water Management. Managing stormwater runoff to the lake is one of the single-most important things lakeshore owners can do to protect the lake and it often is quite simple and inexpensive to achieve. Prior to 2008, Crow Wing County had no program addressing storm water management issues prior to issuing land use permits on lakeshore. Now our specialists work with each applicant to create storm water plans tailored to their own individual property – and we established a partnership with the University of Minnesota Extension Service to provide follow up services and assistance to lakeshore owners in this critical area.

Following up on Permits. All land use permits issued on lakes in Crow Wing County are now followed up within a year of issuance to ensure the construction was performed in accordance with the permit. Such follow-up inspections used to be the exception. Now they are the rule. Our first round of follow up visits for permits issued in 2009 found, again, that most property owners did the right thing. Of the 282 permits issued, only 10 were found to be non-compliant. We are following up with each of these homeowners to achieve compliance. Under prior practices, these problems would not have been discovered or corrected.

Improving Community Based Decision Making. By any objective measure, Mr. Spencer gave short-shrift to the fact that variances are rare, and requesting them is a right of all Minnesota property owners under state law, and in accordance with rights provided in both the Minnesota and U.S Constitutions. A variance, by definition, is a request to vary from the strict application of the provisions of an ordinance to a specific set of circumstances. A variance is not—as the Tribune headline proclaimed—“breaking the rules”; it is a constitutionally protected right of every citizen to petition the government for a redress of their grievances. Therefore, Minnesota law provides a community-based mechanism for considering variance applications by citizens serving on a Board of Adjustment, appointed by local elected officials.

And here as well, substantial improvements have been made to the process in Crow Wing County since 2008. For example, members of the Board of Adjustment previously were not required to actually go look at a piece of property before considering whether or not to grant a variance. Now, they do, prior to consideration of any variance or conditional use permit.

Moreover, Board members now receive regular training by Minnesota's top land-use attorneys on their roles and responsibilities under state law. The *Tribune's* article would leave you to believe that the County has unlimited discretion to deny every variance, when the law is clear we do not. Losing lawsuits because we let our emotions, instead of the law, guide such decisions will come at no price to the *Tribune*, but will come at a price to Crow Wing County taxpayers.

In addition, Board of Adjustment and Planning Commission meetings are now conducted in the County Board Meeting Room, where technology allows all attendees in the audience to view documents that are being discussed in a clear way. We are also working on televising these meetings so the public is better informed on how the process works and what decisions are being made.

Bringing all Levels of Government to the Table. Perhaps the most significant improvement ignored in Mr. Spencer's reporting is the creation of a development review process that did not exist prior to 2008 in Crow Wing County. Modeled after Scott County's successful DRT (Development Review Team) process, applicants for zoning changes, conditional use permits and all variances must now meet with county staff, relevant state agency staff, and local township officials prior to submitting an application. Imagine that! All the various land use regulatory folks across government jurisdictions sitting down in one room with the applicant to discuss the rules and the proposed land use prior to moving forward. A 2009 survey of those who participated in this process reported overwhelming support for this common-sense, effective innovation. The result: excellent customer service, various government agencies working together and better protection of our lakes.

A Commitment to Continuous Improvement. There are more improvements we've made – like environmental fact sheets and FAQs on our website at www.co.crow-wing.mn.us -- and significant innovations we are planning for the future. Among them: a future land use map for Crow Wing County to replace the current zoning map first created in the 1970's. This will lay out our vision for preserving and enjoying our water and forest resources for generations to come. It will include new approaches such as performance-based zoning standards to achieve actual, measurable outcomes in protecting our lakes, rather than assuming we're achieving public good by simply limiting lot sizes.

In addition, we are working proactively with our neighbors in Cass County and numerous municipalities and township partners within our counties to create common sets of rules and more consistent application of land use protections throughout the Brainerd Lakes area regardless of political division lines on a map. The Brainerd Lakes Area Chamber of Commerce has taken a leading role in this effort, bringing civic leaders together to advocate for more effective land use planning in our area – to protect the natural assets that bring so many visitors to our area.

Those of us who call Crow Wing County home will know the precious value of our lakes and natural environment – that's why we live here! Although we appreciate the *Tribune's* interest in this subject, it is profoundly disappointing to see such misleading and hyperbolic coverage on such an important matter.

Mr. Houle is County Administrator for Crow Wing County.