

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**JANUARY 2, 2003**

**1. CALL TO ORDER**

Chair Sodergren called the meeting to order at 6:30 p.m.

**2. ROLL CALL**

Commissioners Clinton, Egge, Knight, Wagner, and Sodergren were present. Gallop and Hart were absent.

Staff members present: Planning Director Geoff Olson, Principal Planner Cary Teague, and Planner Susan Thomas.

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted. Olson described additional documents provided for item 8A, site and building plan review of existing warehouse and parking stall additions at 13201 Ridgedale Drive (Target Greatland) for the City of Minnetonka (94034.99a).

Olson explained the number of votes necessary to pass a motion for each item.

- 4. APPROVAL OF MINUTES:** December 19, 2002

*Egge moved, second by Wagner, to approve the December 19, 2002, meeting minutes as submitted.*

*Clinton, Egge, Knight, Wagner, and Sodergren voted yes. Gallop and Hart were absent. Motion carried.*

**5. REPORT FROM STAFF**

Olson informed the Commission that at its meeting on Monday, January 6, the City Council would be appointing Brad Wiersum to the Ward 3 City Councilmember position.

Olson announced the following meetings:

- The Glen Lake Planning Committee will meet from 4:30 p.m. to 6:00 p.m. at the Glen Lake Community Center on Wednesday, January 8, 2003. A consultant will present ideas for redevelopment of the area based on discussions from the first two meetings.

- A meeting will be held Thursday, January 9, 2003, at 3:00 p.m. in the Boards and Commissions Room of City Hall regarding a proposal to develop thirty townhomes on County Road 101, just north of Minnetonka Boulevard, that would include six affordable homes. The proposal would require a Comprehensive Guide Plan change. The Planning Commission will hold a public hearing regarding the application.

**6. REPORT FROM PLANNING COMMISSION MEMBERS:** None

**7. PUBLIC HEARINGS: CONSENT AGENDA**

No items were removed from the Consent Agenda for discussion or separate action.

*Wagner moved, second by Egge, to approve the items listed on the Consent Agenda as recommended in the respective staff reports as follows:*

**A. Resolution approving a conditional use permit for an accessory apartment at 19106 Town Line Road for Michael and Lucinda Blanchfield (02072.02a)**

Recommend that the City Council adopt the resolution on pages A1–A4 of the staff report. This resolution approves a conditional use permit for an accessory apartment at 19106 Town Line Road for Michael and Lucinda Blanchfield. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

1. Record this resolution with the County.
2. The City Council may reasonably add or revise conditions to address any future unforeseen problems.
3. Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.
4. The applicant must agree to the above conditions in writing.

*Clinton, Egge, Knight, Wagner, and Sodergren voted yes. Gallop and Hart were absent. Motion carried and the items on the Consent Agenda were approved as submitted.*

Chair Sodergren stated that the application is tentatively scheduled for the January 27, 2003, City Council meeting.

## 8. PUBLIC HEARINGS

### **A. Site and building plan review of existing warehouse and parking stall additions at 13201 Ridgedale Drive (Target Greatland) for the City of Minnetonka (94034.99a)**

Chair Sodergren introduced the proposal and called for the staff report.

Thomas reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Mike Hille, 1000 Nicollet Mall, Minneapolis, Target Corporation Real Estate Manager, thanked Olson and Thomas for hammering-out the issues and reminded the Commission that Target cooperated with the City in good faith. He offered his assistance if there were any questions.

The public hearing was opened. No testimony was submitted and the hearing was closed.

Chair Sodergren noted that in its motion, the Commission would also be approving the letter of agreement submitted by Target. It is this agreement that will cover landscaping at the site.

***Clinton moved, second by Knight, to approve the site and building plan based on the following findings and the Change Memo dated January 3, 2003:***

1. The warehouse addition meets all architectural and site standards pertaining to structures within the Planned I-394 District.
2. The use of proof-of-parking is acceptable, as the warehouse addition is not intended to increase employee or customer demand for parking or generate additional vehicle trips to the site, but rather to increase Target's storage capabilities.
3. The five parking stalls constructed in accordance with the 1999 administrative review were cut into an existing berm. The grade of the berm above these stalls remains unchanged and the stalls do not have a significant visual impact on the neighboring residential properties. The berm continues to meet the intent for which it was established.

Approval is subject to the following conditions:

1. The site must be maintained in substantial conformance with the proof-of-parking plan dated November 7, 2002.

2. Spaces shown as proof-of-parking may not be paved or restriped, unless approved by the city upon showing of a demonstrated need for these spaces. The city may require these spaces be paved or restriped.

*Clinton, Egge, Knight, Wagner, and Sodergren voted yes. Gallop and Hart were absent. Motion carried.*

Chair Sodergren stated that an appeal of the Planning Commission's decision must be made, in writing, to the Planning Director within ten days.

**B. A front yard setback variance from 35 feet to 2 feet and a flood plain setback variance from 35 feet to 26 feet for a new garage at 2612 Crosby Road for Katherine Taylor Homes, Inc. (02070.02a)**

Chair Sodergren introduced the proposal and called for the staff report.

Teague reported. He recommended denial of the application based on the findings and subject to the conditions listed in the staff report.

Wagner asked if the existing detached garage received variances. Teague explained that no building permit or variances were located for the existing detached garage. Wagner asked how restricting an addition to 50 percent of a non-conforming use would be enforced when people are doing repairs to a nonconforming structure. Teague stated that there is no specific standard; rather a "reasonable" standard would be used. If someone were to do an addition or repairs on a nonconforming structure then a year or two later make more improvement that between the two projects exceeded 50 percent, the rule would be enforced. However, a ten-year time span between the completion of an addition and additional construction may be considered reasonable.

Knight asked what would trigger a building permit being required for home improvement. Teague explained that residing, changing windows, building a new roof, or work on a foundation would require a building permit. Replacing a board or painting would not require a building permit.

Knight asked if the City could require the owner to remove the garage. Teague stated that if the garage was new construction and the City received a complaint, the owner could be required to go through the variance application process. Olson stated that if a building was constructed without a building permit and it was nonconforming, the City could take legal action to require the owner to remove it. It would be considered an illegal nonconforming use and would be subject to citation or court action. Practically speaking, when a structure has existed for a long period of time, it may not be in the best interests of the City to require it to be removed.

Jennifer Mullin, 2612 Crosby Road, bought the residence in 1997. She stated:

- She met with Curt Gutoske before purchasing the house to find out what improvements were allowed.
- The property had gravel over the entire front yard and no landscaping when she purchased it.
- She kept the small garage to house materials during the remodeling of the residence.
- After the remodeling, she added nine trees, removed a great amount of the gravel, and paved a driveway.
- Turning the garage doors inside, to face the house, would enable three feet of blacktop to be added to continue the driveway and the front of the garage could be turned into grass.
- The proposal would allow for landscaping which would allow the property to fit in with the neighborhood.
- There are two residences with detached garages in the neighborhood.

Knight asked how many vehicles could park in the attached garage. Ms. Mullin explained that it now has a capacity of up to two vehicles; it previously was able to store four vehicles.

Knight asked if the garage could be built in accordance with setback requirements. Ms. Mullin explained that they use the area between the little garage and the house to back-out. It would also eliminate some landscaping features. She was concerned that moving the garage would require entering the garage from the street, resulting in more impervious surface area. Ms. Mullin measured that the distance from the garage to the street is 30 feet.

Chair Sodergren explained that vegetation could not be planted in the right-of-way.

Clinton asked what the height of the proposed structure would be. The builder told Ms. Mullin that the proposed garage's pitch could not match the residences' because it would violate ordinance requirements. Teague stated that the mid-point of the pitch of the roof would be ten feet in height.

Ms. Mullin stated that Curt Gutoske, in 1997, told her that it would not be a problem to redo the garage as long as it remained the same size, did not have a second floor, and did not have a bathroom. Chair Sodergren acknowledged that Mr. Gutoske reviewed the ordinance requirements with her.

The public hearing was opened.

Ken Pucel, 2608 Crosby Road, neighbor adjacent to the applicant's lot, supported the plan and the

proposed “face lift” of the structure. He understood that the structures were built in the 1940s and are no longer architecturally pleasing. The type of garage proposed would match the residence and would be an aesthetic improvement. He has seen the site and does not feel the 50 percent improvement standard would do the property justice.

Bill Mullin, 2612 Crosby, owner, explained the history of the property. He stated:

- Problems to the existing garage have been caused by the wood structure being located on a cement slab.
- The proposal reflects what the builder recommended, which includes removing the wood structure, but not the concrete pad.
- The proposal would require no change in grade.
- The owners opposed moving the garage back.
- To meet the requirements without a variance, there would be no way to turn the cars around and enter onto Canal Street.
- Keeping the garage where it is would be better for the environment.
- The small lot creates a unique hardship.
- Moving the garage would increase hard surface.
- There is no precedent because there are no other detached, non-conforming garages in the area that would require this variance.

The public hearing was closed.

In response to Egge’s question, Olson stated that a property owner would be responsible for removal of a cement slab located in the right-of-way.

Egge viewed the site and provided options that would not increase the impervious surface and allow the setbacks to remain within ordinance requirements. The current garage area could be used as a turn around. She commended the owners for the improvements completed.

Mr. Mullin understood Egge’s comments. He explained that the proposal would allow them to move the garage onto an existing hard surface. To access the garage, 500 square feet of hard cover would be added to provide a driveway on a 15,000 square foot lot. He acknowledged that impervious surface is an issue for the location.

In response to Knight’s question, Teague pointed out where the 150 feet from the shoreline border would be. He designated the area that was used to calculate the impervious surface requirement. Teague determined that the garage would be outside the regulated area for impervious surface area.

Chair Sodergren asked if the lot met the small lot requirement. Teague stated this was not a small lot. A small lot is determined by calculating the median average of all lots within 400 feet. If the median is less than 15,000 square feet, then the setbacks may be reduced. The median average is over 15,000 square feet in this instance. Mr. Mullin stated that the City classified their lot as a small lot when they applied to do their remodeling.

Ms. Mullin explained that confusion was caused by the surrounding wetlands in the area and in the final calculation the City classified their lot as a small lot in 1999. Teague stated there is a lot that is over 100,000 square feet in size in the area which may have been excluded, in previous calculations.

Chair Sodergren reviewed the issues: size of the lot; remodeling the garage space into living space is not considered a hardship; and a two-car garage is considered a reasonable use.

Clinton believed the lot size met the hardship standard. An existing structure is already there and the proposal fits the footprint and the height requirement. The neighborhood is condensed and there is no encroachment of the proposed structure into the right-of-way. There would be no adverse impact to the neighborhood because of the variety of homes in the area. The garage could use remodeling and would stay without the remodeling. The best way to do it would be to start from scratch. He would be opposed to the structure if it was new and did not already exist.

Chair Sodergren asked for clarification regarding if the proposed garage's elevation would be raised. Teague responded that the builder stated that the proposed structure would be raised a few inches.

Mr. Mullin explained that the proposed structure could be mortared to the existing slab and filled with concrete to create a solid footing. He would add perimeter footings and pour a new slab inside the garage.

Knight felt the hardship burden was not met. He was concerned that variances were not warranted to allow four vehicles to be stored inside garages for one household. There is an option that would meet ordinance requirements. On the other hand, the existing garage would remain. He wanted to know if the lot was designated as a small lot. He felt that would make the applicant's argument stronger.

Chair Sodergren asked if the proposal would meet small lot setback requirements. Teague stated that the proposal would still need a variance, but it would be from 20 feet to 2 feet rather than 35 feet to 2 feet.

Wagner asked if the garage doors illustrated on the optional plan could be located facing the

residence. Teague provided the distance there would be to maneuver (eighteen feet and twenty feet).

Wagner was torn because the structure currently exists and, after a given time frame, the structure could be done without being reviewed, in accordance with the 50 percent rule. On the other hand, there is an alternative that could be done and not require a variance.

Chair Sodergren asked if drainage could be improved if the garage location was modified. Teague stated that the area is susceptible to flooding due to the wetlands, but drainage of the area was not reviewed since the proposal contained no changes to the grade.

Chair Sodergren stated that the proposal would be a good opportunity to improve a situation, but, then again, this is the City's opportunity to correct a non-conforming use and there is another option available that would not require variances. She acknowledged the practical side that Clinton discussed.

Clinton agreed with Chair Sodergren's points, but he did not believe that the alternative location would be much of an improvement. He would want a condition requiring the removal of the hard surface in front of the garage.

Wagner asked that the City Council receive clarification regarding if the lot was treated as a "small lot" previously and drainage information for the site regarding the proposed plan and different options.

Edge expressed difficulty in making the decision. She agreed that the garage would be an improvement and moving the garage would be more expensive, but there are other options that would adhere to ordinance requirements. In her role as a Commissioner, she favored following the ordinances and was more inclined to deny the application.

Chair Sodergren still wanted a hold harmless clause that the City could not be found responsible for drainage issues and the removal of the cement slab.

Edge was still not quite clear on the buried cement slab and how it affected drainage.

Knight believed that the proposal would not improve the site's adherence to the City's ordinances, but would improve the aesthetic value of the property. He was concerned it would encourage non-conformance for other residents. Small lot standards would still require a variance from 20 feet to 2 feet, which is a large variance. He was concerned with setting a precedent. He leaned towards staff's recommendation.

Wagner asked Teague if the 50 percent rule applied to conforming and non-conforming uses. Teague explained that the 50 percent rule applies only to non-conforming uses of setback or height requirements.

Chair Sodergren encouraged the applicant to work with staff to explore options that would require less of a variance. She felt the extreme options were presented. She could not recall the City approving a variance for a four-stall garage.

***Knight moved, second by Egge, to deny the proposed front yard setback variance and flood plain setback variance for construction of a new detached garage based on the following findings:***

1. The property does not contain any unique physical circumstance to justify a hardship for the variance.
2. The applicant has reasonable use of the property with the existing attached two-car garage.
3. The reduced setback for a detached garage would not be in character with the neighborhood.
4. Granting of the variance may set a precedent for similar variances in the neighborhood.

***Egge, Knight, and Sodergren voted yes. Clinton and Wagner voted no. Gallop and Hart were absent. Motion carried.***

## 9. ADJOURNMENT

***Wagner moved, second by Clinton, to adjourn the meeting at 7:52 p.m. Motion carried unanimously.***

By: \_\_\_\_\_  
Bernadette H. Leaf  
Planning Administrative Assistant