

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**APRIL 1, 2004**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

Commissioners Periolat, Allendorf, Bonoff, Britain, Gallop, Maes, and Hart were present.

Staff members present: Planning Director Geoff Olson, Principal Planner Cary Teague, Planner Susan Thomas, Environmental Coordinator Jo Colleran, and Planning Intern Megan Kelly.

**3. APPROVAL OF AGENDA:** The agenda was approved as submitted.

**4. APPROVAL OF MINUTES:** March 18, 2004

*Allendorf moved, second by Bonoff, to approve the March 18, 2004, meeting minutes as submitted.*

*Allendorf, Bonoff, Britain, Gallop, Maes, and Hart voted yes. Periolat abstained. Motion carried.*

**5. REPORT FROM STAFF:** None

**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.

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

- A. Resolution approving a front yard setback variance from 50 feet to 38 feet to build an 18-foot by 22-foot garage addition at 15205 Excelsior Boulevard for Glen Edgell (04010.04a)**

Adopt the resolution on pages A1–A3 of the staff report. This resolution approves a front-yard setback variance from 50 feet to 38 feet at 15205 Excelsior Boulevard, based on the following findings:

1. Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
  - a. Excessive right-of-way exists between the applicant's home and Excelsior Boulevard.
2. The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
  - a. The proposed garage addition is consistent with sightlines established with the home to the east and west.
  - b. There will be no adverse impact on neighboring properties.
  - c. An existing berm properly screens the home and garages from Excelsior Boulevard.

Approval is subject to the following conditions:

1. Submit proof of having recorded this resolution with the county before the city issues a building permit.
2. Applicant must maintain a 20-foot vegetative buffer between the wetland and home.
3. This variance will end on December 31, 2004, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

***Periolat, Allendorf, Bonoff, Britain, Gallop, Maes, and Hart voted yes. Motion carried and the items on the Consent Agenda were approved as submitted.***

## 8. PUBLIC HEARINGS

**A. Sign plan review for Waterstone Place Apartments at 9700 Waterstone Place, for Imaginality, Inc. (90021.04a)**

Chair Hart 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.

Myrna Ornstein, of Imaginality, Inc., 6182 Olson Memorial Highway, stated that she spent a long time trying to accommodate the city and the client. She believed a successful solution was being presented.

Barbara Halverson, Waterstone Place Apartments, Steven-Scott Management Company, was present to express that the sign is needed to reduce the current state of confusion for delivery vehicles and prospective tenants trying to find the site. The directional signs and monument signs are necessary to distinguish the two buildings.

Chair Hart confirmed with Ms. Halverson that one sign would be visible only from Highway 169. The monument sign on Minnetonka Boulevard would help identify the south building.

Gallop was concerned with the wall sign. He noted the past controversy with the project and the desire for a natural look to the buildings because of their proximity to the wetlands. He was concerned it would negatively impact the aesthetics of the area. He asked what justified the need for the wall sign.

Ms. Ornstein stated that an attempt was made to keep the sign understated and simple. The size of letters was based on being readable from Highway 169. The elevation of the building is substantially lower than the freeway, so the alternate of having a second monument, which would be allowed by code, was not an option.

Ms. Halverson stated that "Waterstone Place Apartments" would be the only thing written on the sign.

Allendorf agreed that the Waterstone Place application was controversial. He was comforted by the fact that only one negative response was received. He felt that the neighbors' reactions are a very real issue with the site and noted that there was little objection to the sign by surrounding neighbors.

Chair Hart asked if "Apartments" would be on the sign. Ms. Ornstein explained that "Apartments" would be written in metallic gold to be as understated as possible.

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

Gallop was uncomfortable with the aesthetics of the wall sign and with the possibility that this would set a precedent for wall signs on apartment buildings. He had no problem with the directional signs or monument sign.

Britain asked if staff was aware of any apartment building with a wall sign. Thomas stated that staff did not find any other apartments with wall signs.

Britain asked Thomas if staff had a problem with setting a precedent that would allow wall signs on apartment buildings. Thomas explained that staff felt that the property was unique and a wall sign reasonable for this particular site.

Bonoff had difficulty finding the apartments, so she thought there was a need for the sign.

***Allendorf moved, second by Maes, to approve the sign plan for Waterstone Place Apartments. Approval is based on the finding that the plan meets the intent of city code; allowing for reasonable identification, while maintaining a high aesthetic standard. Approval is subject to the following conditions.***

- 1) Sign permit applications must be submitted for the proposed wall sign and directional signs.
- 2) Sign permit applications must be in substantial compliance with the wall sign drawing date-stamped March 10, 2003.
- 3) Upon installation of permanent directional signs, temporary directional signs must be removed from the site.

***Periolat, Allendorf, Bonoff, Britain, Maes, and Hart voted yes. Gallop voted no. Motion carried.***

Chair Hart stated that a written request to appeal the planning commission's decision must be given to the planning director within ten days.

**B. Multiple variances to tear down and rebuild a home at 2504 Bantas Point Lane for Kathleen Nelson (03091.03a):**

**Lot Variances:**

- **buildable area variances from 2400 square feet to 60 square feet; number of sides from 4 to 3 and minimum length from 30 to 0 feet;**
- **lot area variance from 22,000 square feet to 3,728 square feet;**
- **lot width at the required setback from 110 feet to 70 feet;**
- **lot width at the right-of-way from 80 feet to 70 feet;**
- **lot width at the shoreline from 75 feet to 70 feet;**
- **lot depth variance from 125 feet to 55 feet;**

**Setback Variances:**

- **shoreland setback variance for the principal structure from 35 feet to 24 feet;**
- **shoreland setback variance for a deck from 25 feet to 11 feet;**
- **flood plain setback variance for the principal structure from 35 feet to 17 feet;**
- **flood plain setback variance for a deck from 25 feet to 11 feet; and front yard setback variance for the principal structure from 20 feet to 11 feet.**

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

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

Chair Hart asked if the residence at 2511 is one and a half stories tall. From the waterside, it appeared to be one level. From the street, it gave the appearance of a two-story. She asked for the size of lot 2515 Bantas Point Lane. There was more room between 2515 Bantas Point Lane and 2512 Bantas Point Lane and the lots were larger. Teague estimated the size of 2515 Bantas Point Lane to be just under twice the size of 2504 Bantas Point Lane.

Allendorf asked about the change memo that dropped the finding regarding obstruction of neighbors' views. He asked why the language was removed. Olson explained that the city attorney advised that the St. Louis Park staff had made that finding, but the court did not include that finding in their decision.

Gallop asked Teague to clarify the 35-foot height requirement. Teague explained that the maximum height of a residence allowed in an R-1 district is 35-feet. It is measured from the highest pitch of a pitched roof.

Perolat asked for the age of the surrounding residences. Teague was unsure.

Bonoff asked Teague to predict if other property owners would tear down their existing home to build a new one. Teague stated that the last variances approved were in the late 1980s. No applications had been received since. He was unsure of when residents might want to build new homes on this block.

Bonoff asked if the residence was unstable to the point that the city might have condemned it. Teague stated that from the residences' appearance, it looked like it was headed in the direction of total disrepair.

Bonoff thought there are three-story homes on Bantas Point Road. Teague confirmed that there are three-level homes on Bantas Point Road, but they are located on much larger lots.

Chair Hart pointed out that there are larger homes on larger lots to the east.

Maes asked for an explanation of "grasscrete" drive. Colleran described grasscrete and noted that it was intended to reduce impervious surface area. She supported its use, especially near the lake.

Britain commented that the proposed height would be acceptable on a normal lot, so the main issue of the proposal is the neighborhood character. Teague answered in the affirmative.

Bonoff clarified with Teague that side setback requirements would be met without a variance.

Kathleen Nelson, applicant, St. Louis Park, was present with her architect, Tim Fuller, to answer questions. She passed around a model of the proposed residence. She stated that the requested variances are the same that would be required for any house on the site. She is requesting fair, not exceptional, treatment.

Ms. Nelson presented written material and legal opinions regarding variances. She felt the application met the reasonableness, uniqueness, and essential character of the location standards. She recited court findings. The city is not held to a standard that would not allow another reasonable use of the property,

but merely a determination of whether the proposed use of the property would be reasonable under the circumstances. She concluded that the area is zoned as residential and, as determined by the courts, a single-family residence would be considered a reasonable use of the property. Staff concurred that the lot has special circumstances. She provided the entire St. Louis Park case. It was not properly referenced in the staff report. The citation referenced in the change memo, dated April 1, 2004, was not a ruling of the court, but merely a reference made by a city of St. Louis Park staff person.

Ms. Nelson stated that the court's ruling supported the application. Staff has not met the standard to demonstrate how the proposal would affect the essential character of the neighborhood.

Ms. Nelson referenced the Nolan case where the court found that the city of Eden Prairie's findings included a statement that the proposed use was residential and that was enough to determine that the essential character of the neighborhood would not be altered.

Ms. Nelson stated that the statute requirement has been met to grant the application. She calculated a 1,500 square foot residence would meet ordinance requirements to be located on a lot worth \$300,000. The average size of a new home in the United States is 2,300 square feet and larger, in the Midwest it is 2,200 and larger square feet. She felt a one and a half story home would be an undue hardship for the landowner.

In response to Gallop's question, Ms. Nelson stated that the proposed residence would be roughly just over 2,000 square feet.

Allendorf commented that the value of the lot is not something the commission can base a decision on. Ms. Nelson understood that economic hardship is not considered undue hardship.

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

Chair Hart reviewed the primary issues. She favored discussing the character of the neighborhood issue first.

Perolat had a hard time determining the essential character of the neighborhood. The lakeshore is a mix of housing types. She thought that the existing homes would eventually be replaced. The two homes adjacent to the site are one story

tall, but there are higher ones in the immediate area. The fact that the proposal met the height requirement was a positive.

Chair Hart stated that there were two houses in the 1980's that were replaced. Chair Hart felt the issue was if a three-story residence would be in character with the area.

Allendorf noted that the two replaced homes were 25 feet high. If this case would be approved, a precedent would be set to allow 35-foot-high residences. He would be comfortable with a 25-foot-high home on the site.

Bonoff envisioned that the neighborhood would redevelop fairly quickly and that the neighborhood includes a larger area around Bantas Point Road. She thought that the architecture was attractive and consistent with the area. She would like to see a two-story home, but did not believe that the height was out of character with the area.

Britain agreed with Bonoff and noted the eclectic character of the neighborhood. He felt that a two-story house would be acceptable. Britain considered a two-story residence rather than a story and a half as a compromise. Teague stated that staff discussed that a story and a half or a two story residence would be a reasonable use.

Chair Hart stated that if the planning commission did not approve the proposal, staff could discuss other options with the applicant.

Maes stated that development is inevitable, but it may not occur for 30 years. Commissioners do not know when it will happen, but they could decide how it would develop. She favored a two-story to better fit the area.

Perolat disagreed that the neighborhood is just Bantas Point Lane. The homes on the hill, across the inlet, are part of the neighborhood. She did not believe that the city should require a smaller house when the height meets the ordinance requirement. The plan would only have room for one bedroom.

Gallop respected each commissioners' points raised. He agreed with Allendorf that the proposal would set a precedent. He felt a two and a half story residence in that particular geographical area would be very dominant, set a precedent, and not fit given the small lot sizes. He empathized with the developer, because in a lot of respects it is a reasonable request, but the particular area with so many homes on small lot sizes would not benefit from the precedent.

Bonoff named other communities that have large homes on small lots and are located on water that are attractive. She felt that she did not have the right, as a commissioner, to deny the proposal since it meets the height requirement. The trend has changed from maintaining a primary residence and a vacation cabin, to a residence on the lake becoming the primary living residence as residents cannot afford two separate households.

Allendorf asked if a 25-foot-high house was typical of a two-story home. Teague answered in the affirmative. Allendorf did not think that a 2,400 square foot house should be considered small. His residence is smaller than 2,400 square feet and it has four bedrooms and a den. Staff's recommendation provides what could be done on the property. He felt that the commission has the right to consider and interpret the neighborhood character. Allendorf stated that the applicant chose to purchase the property.

Perolat noted that homes in the area are unable to have basements. She felt there would be no need for the discussion if the site could have a basement. She was unsure if it met the hardship standard. Teague stated that the inability to have a basement could be used as a finding to determine hardship.

Chair Hart reviewed the definition of a reasonable use.

***Gallop moved, second by Britain, to deny the variances to build a 2.5 story home at 2504 Bantas Point Lane. The denial is based on the following findings:***

- 1) Strict enforcement would not cause undue hardship because of the following circumstances:
  - a. A reasonable sized home could be built on the site with similar variances. The size of the home could be reduced to a story and a half to be more in character with the neighborhood.
- 2) The variance would not be consistent with the spirit and intent of the ordinance for the following reasons:
  - a. The proposed structure is not considered of reasonable size for this lot.
  - b. The scale of the proposed 2.5 story home is not consistent with the existing homes in the neighborhood.

- c. The proposed home would substantially change the view from a nearby property, and would be more imposing on nearby properties.

***Allendorf, Britain, Gallop, Maes, and Hart voted yes. Periolat and Bonoff voted no. Motion carried.***

Chair Hart stated that a written request to appeal the planning commission's decision must be given to the planning director within ten days.

## **9. ADJOURNMENT**

***Maes moved, second by Britain, to adjourn the meeting at 7:45 p.m. Motion carried unanimously.***

By: \_\_\_\_\_  
Lois T. Mason  
Planning Secretary