

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**JULY 15, 2004**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

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

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

**3. APPROVAL OF AGENDA:** The agenda was approved as submitted. Olson reviewed modifications listed in the July 15, 2004, change memo.

**4. APPROVAL OF MINUTES:** July 1, 2004

*Bonoff moved, second by Maes, to approve the July 1, 2004, meeting minutes.*

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

**5. REPORT FROM STAFF**

Olson briefed the commission on the proposed State Highway Number 7 and Williston frontage road project. An abandoned Total station occupied the site for some time. The proposal would remove the Total station, realign the frontage road, and construct a bank with a drive-through. A neighborhood meeting is scheduled Monday, July 19, 2004, in the Boards and Commissions Room of city hall at 4:00 p.m. for the business owners and 5:00 p.m. for residents.

**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.

***Allendorf moved, second by Britain, to approve the items listed on the consent agenda as recommended in the respective staff reports as follows:***

**A. Resolution approving a side-yard variance to build a second garage stall addition on the home at 3701 Elmwood Place for Sharratt Design & Company (04041.04a)**

Adopt the resolution on pages A1–A3 of the staff report. This resolution approves a side-yard setback variance from 8 feet to 3 feet at 3701 Elmwood, based on the following findings:

- 1) Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
  - a. The position of the home on the lot is at an angle to the lot line, creating a hardship.
- 2) The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
  - a. The variance requested is a minor point-intrusion into the setback.

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) Garage must be sheet rocked.
- 3) This variance will end on December 31, 2005, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

**B. Resolution approving a two-lot subdivision, with variances, at 309 Plymouth Road for Bernadette Benson (00030.04a)**

Recommend that the city council adopt the resolution on pages A1–A4 of the staff report. This resolution approves a lot division at 309 Plymouth Road, with a lot area variance from 22,000 square feet to 20,104 square feet and a lot width at setback variance from 110 feet to 102 feet. Approval is based on the following findings:

- 1) Except for the variances, the proposal meets the required standards and ordinances for a lot division.
- 2) The proposal meets the required standards for a variance, because:
  - a. There is a unique hardship to the property caused by the location of the existing house. While the property is large enough to be divided without variances, the house would need to be completely removed. This is a unique circumstance, not common to every single-family property in the city.
  - b. The variances would meet the intent of the ordinance because, though lot area and width variances are required, the proposal would not alter the character of the neighborhood. Residential properties in the Plymouth Road area vary in total size and width.

Approval is subject to the following conditions:

- 1) The following items must be submitted to the city before the city releases this resolution:
  - a. The following document for the city attorney's approval:
    - (1) Ten-foot-wide drainage and utility easements along the public right-of-way and seven-foot-wide drainage and utility easements along all other lot lines.
    - (2) If the existing Plymouth Road access is used for Parcel B, submit a private driveway easement across Parcel A.
    - (3) Restrictive covenants to be recorded against the individual lots with the lot-split resolution. The covenants must include the conditions that have not been met as of the release of the resolution.
    - (4) Title evidence that is acceptable to the city attorney. Title evidence must be current within thirty days before release of the lot split resolution.

These documents must be recorded with the lot split resolution, and a drawing of any easements must be attached to the easement deed.

- b. A park dedication fee of \$2,750.
  - c. Pay any outstanding utility bills.
  - d. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
- 2) The following must be completed before the city issues a building permit:
- a. A grading and tree preservation plan must be submitted to the city for the new lot, subject to staff approval.
    - (1) Existing drainage patterns, including the existing swale, must be maintained across the lot.
    - (2) Any drain tile must be connected into the storm sewer system.
    - (3) Sewer and water services must be shown to minimize impact to the significant trees.
  - b. The installation and maintenance of a temporary rock driveway, erosion control, tree protection and wetland protection fencing must be installed subject to review and approval of the city's environmental resources coordinator.
  - c. A copy of the recorded resolution and a copy of any easements or restrictive covenants required to be recorded must be submitted to the city.
  - e. A hook-up fee for sanitary sewer and water.
- 3) No new access to Plymouth Road is permitted. Provide a driveway turnaround before the new house is occupied.
- 4) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- 5) Trees must be planted to compensate for significant trees removed from each site that would be outside of the building pad and driveway area. The trees must be primarily species native to the area. They must be at least 2

1/2 inches in diameter for deciduous trees and 6 feet tall for coniferous trees. The property owner or original developer must replace the required trees if they die within one year after installation.

- 6) This resolution must be recorded by the county within one year, unless the city council approves a time extension. If the council does not approve the extension, the lot division approval will be void.

**C. Resolution approving a front-yard setback variance for a two-story addition to the home at 4720 Hamilton Road for David and Marsha Sewell (04044.04a)**

Adopt the resolution on pages A1–A4 of the staff report. This resolution approves a front-yard setback variance from 50 feet to 23 feet at 4720 Hamilton Road, based on the following findings:

- 1) Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
  - a. The existing home is non-conforming.
  - b. The position of the home on the lot is at an angle to the lot line, creating a hardship.
- 2) The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
  - a. The proposed additions are consistent with sightlines established with the homes to the south and east.
  - b. There will be no adverse impact on neighboring properties.
  - c. The addition would not encroach further into the existing setback.

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) The required 35-foot front yard setback to Hamilton Road must be met.

- 3) Prior to the onset of construction, require that the applicant install tree protection fencing adjacent to the driveway in order to minimize damage to critical root zone, subject to review and approval by environmental staff.
- 4) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- 5) This variance will end on December 31, 2005, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

**D. Resolution approving a front yard setback variance for a townhome at 14201 Excelsior Boulevard for GL Development LLC (03085.04b)**

Adopt the resolution on pages A1–A3, granting a front yard setback variance from 35 feet to 25 feet for Lot 1, Block 1, The Glen at Glen Lake. Approval is based on the following findings:

- 1) Strict enforcement would cause undue hardship because of the following circumstances that are unique to the property:
  - a. The shift of the building to the west is caused by the city's need to re-route sewer and water lines through the development.
  - b. The variance would be consistent with the spirit and intent of the ordinance for the following reasons:
    - (1) The variance requested is for a point intrusion into the required set back.
    - (2) Required screening would not be affected because of the shift in building location.
    - (3) There will be no adverse impact on neighboring property.

Approval is subject to the following conditions:

- a. Submit proof of having recorded this resolution with the county before the city issues a building permit.

- b. The installation and maintenance of temporary rock driveways, erosion control, tree protection, and wetland protection fencing must be installed, subject to review by the city's environmental resources coordinator.
- c. This variance will end on December 31, 2005, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

***Allendorf, Bonoff, Britain, Gallop, Maes, and Hart voted yes. Periolat was absent. Motion carried and the items on the consent agenda were approved as submitted.***

## **8. PUBLIC HEARINGS**

### **A. Resolution approving a front yard setback variance to build a tennis court at 1617 Linner Road for Oslund and Associates (03074.04a)**

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

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

Tadd Kruen, a landscape architect with Oslund and Associates, applicant, stated that Teague did a fine job. He was available to answer questions.

Gallop asked if the height of the fence for the single tennis court would be 10 feet. Mr. Kruen answered in the affirmative.

Chair Hart asked what the decorative fence would look like. Mr. Kruen described it as six-foot tall, iron, with square pickets and stone piers on both sides of the driveway. It would be located along the west property line. It would be six feet in front of the tennis court. The hedge would be planted on the east side of the decorative fence.

The public hearing was opened.

Ceryl Silverman, 1714 Pondview, neighbor south of the property, was concerned with what was being constructed and that the project would not meet city ordinance requirements.

Teague explained that the homeowner obtained the proper grading permit and that was the work currently being done. The homeowner worked closely with staff for six to nine months to adhere as closely to city ordinances as possible. The setback variance is the only part of the project that did not meet ordinance requirements.

Mr. Silverman stated that it appeared that the project "was within the regulations." He asked if the drawings that were distributed represented the entire project. Chair Hart explained that the planning commission was reviewing the plans because a variance would be needed. If the homeowner has additional plans that meet ordinance requirements, the planning commission would not review those plans.

Mr. Silverman requested knowing the whole scope of the project before the current application would be approved. Chair Hart stated that if another project met ordinance requirements, the planning commission would not be included in that permit process. Allendorf asked Mr. Silverman if he knew his neighbor. Mr. Silverman stated that he spoke to Mr. Nelson and his wife, Marjorie, but he did not understand what was going on. It looked like a huge project.

Gallop suggested that he stay in contact with staff.

Mr. Silverman questioned if the tennis court would have lights. He wanted confirmation that tall lights could not be added and that the current plan would be adhered to. Gallop affirmed that a change to the presented plan would need to be reviewed by the planning commission.

Mr. Silverman asked if the property owner could install a 15 foot, galvanized, chain link fence all around the property line. Chair Hart stated that if the fence met ordinance requirements, it would be allowed.

Mr. Silverman wanted an assurance that the plan presented would be adhered to. He said it is a very nice plan, but he opposed additional lights and fencing. Chair Hart stated that installing a fence around the entire property was not part of the current plan and had nothing to do with the current request. The planning commission was reviewing the plan because it proposed a 35-foot setback rather than a 50-foot setback. If the setback would be 50 feet, the planning commission would not be reviewing the plan.

Mr. Silverman asked if the applicant's representative could provide information regarding "the rest of the project." Chair Hart stated that the planning commission

has no control over projects that meet ordinance requirements. There is no reason for that discussion to take place in the planning commission.

Allendorf invited Mr. Silverman to talk with Mr. Kruen. Mr. Silverman wanted the record to show that Chair Hart encouraged Mr. Silverman to talk with Mr. Kruen, and that projects unrelated to the current application were not necessary for the planning commissions to discuss.

Jim Winkels, 1715 Meadow Road, resident south of the project, asked if the fencing would be located on the city right-of-way. Chair Hart assured Mr. Winkels that the decorative fence, bushes, tennis court fence, and tennis court would be on the applicant's private property.

Mr. Winkels stated that the fence would be on the property line. Teague pointed out the location of the property line. Mr. Winkels stated that his house is 48 years old. He asked to do a 12-foot extension, but the city would not allow it because his house is located in the right-of-way. Chair Hart explained that the setback would not be met because of the widening of the road. In response to Mr. Winkels' question, Teague stated that a typical, local street right-of-way is 50 feet.

Mr. Winkels had nothing against the project. Gallop explained that the fence would be on the homeowner's property. Mr. Winkels understood that the setback regulates how far back a structure can be located from the property line and that the fence would be located on the applicant's property.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issues.

Gallop had no problem with the proposal, but he asked if a tennis court met the hardship justification. Teague explained that because the tennis court could be constructed to meet ordinance requirements with the removal of seven trees, the preservation of seven mature trees justifies the hardship. It would not negatively impact the character of the neighborhood. The existing trees along the street would provide screening and an arborvitae hedge would be planted.

Bonoff appreciated that the applicant worked to preserve the trees. The site is beautiful. She also appreciated Colleran figuring out a way to save the trees.

Maes pointed out the benefit to the neighbors of saving the trees.

Chair Hart added that the neighbors would also benefit from the road being shifted to locate the driveway further away from Mr. Winkle's property line.

Maes agreed that it would be a big project, but the property is five acres and would accommodate it.

Allendorf noted that the residents were not opposed to the proposed tennis court. They had questions regarding the development on the site. He explained that if another project required a variance, another public hearing would be held and the neighbors would have an opportunity to provide input.

***Britain moved, second by Gallop, to adopt the resolution on pages A1–A3 of the staff report, which approves the proposed variance. This resolution approves a front-yard setback variance from 50 feet to 35 feet at 1617 Linner Road, based on the following findings:***

- 1) Strict enforcement would cause undue hardship because building a tennis court to meet all setback requirements would result in the removal of seven additional significant trees.
- 2) The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
  - a. The tennis court would not be visible from the road due to the existing mature trees.
  - b. There will be no adverse impact on neighboring properties.

Approval is subject to the following conditions:

- 1) Complete the following before starting grading or construction of the tennis court:
  - a. Submit proof of having recorded this resolution with the county.
  - b. Submit proof of the lot combination application being filed with the county.
  - c. Install tree protection fencing around all trees to be saved.
- 2) This variance will end on December 31, 2005, unless construction has started for the project covered by this variance or the city has approved a time extension.

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

**B. Minor amendments to the Meadowwoods master development plan to change some of the house designs for Nedegaard Custom Homes (90019.04a)**

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

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

In response to Maes' question, Teague described a rain garden as a planted, depression to provide storm water infiltration to remove sediment. Chair Hart clarified that, along with the plants, an underground filtration system is utilized.

Bonoff asked why the application chose to include the lower lookout rather than the main floor concept. Teague stated that the applicant believed the basement would provide better marketability.

Bonoff questioned what size the deck would be. Teague stated that a 10-foot setback would need to be adhered to. He suggested the applicant provide additional details.

Maes asked if a deck could be enclosed to act as a three-season porch. Teague answered in the negative. A three-season porch would be considered living space and would be prohibited.

Allendorf noted the improvement of using pervious pavers for the drive to reduce stormwater run-off.

Maes stressed how important the rain gardens located next to the wetland would be to keep the water clean. Maes appreciated the installation of pervious pavers along the driveways.

Chair Hart listed the project's architectural improvements: narrower houses, side-loaded garages, and pavers that would provide architectural detail.

Britain asked if the property owner would be restricted from constructing an impervious surface driveway. Teague stated that nothing would prevent that from taking place, but stated that commissioners could include a condition requiring the driveway remain a pervious surface.

Tim White, Nedegaard Construction, and Roger Humphrey, of Humphrey Engineering, were present on the applicant's behalf to answer questions.

Allendorf calculated the .04 acre loss would equal 1,700 feet. Pervious surface would be increased by each of the driveways. He felt the project would result in a benefit.

Mr. White agreed. The benefit would be proportionate to the size of the rain gardens. The pavers on the driveways would better the project.

Bonoff questioned whether the deck size would be adequate for a family. Mr. White felt that the deck size would accommodate a family viewing the wetlands and enjoying nature. A minimum and maximum size has not been determined. He envisioned a 12-foot by 14-foot or 14-foot by 14-foot deck that would meet ordinance requirements.

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

Chair Hart reviewed the primary issues. The proposal provided architectural and drainage pattern gains. The request seemed straight forward.

***Britain moved, second by Allendorf, to approve the minor amendment to the Meadowwoods master development plan with the modification provided in the July 15, 2004 change memo and a condition that would require the driveways to remain pervious surfaces. The previous PUD master plan conditions are modified as follows: (Additions are underlined and deletions, or items completed are crossed out.)***

- a. The site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
  - Development Standards plan, date-stamped September 5, 2003
  - P.U.D. plan, date-stamped September 5, 2003
  - Building elevations, date-stamped May 28, 2003
  - Grading plan, date-stamped ~~September 5, 2003~~ June 22, 2004
  - Development Image Package for Meadowwoods, dated April 2003
  - Landscaping plan, date-stamped May 13, 2003
  - ~~Utility~~/Site plan, date-stamped September 5, 2003
  - Utility plan, date-stamped June 22, 2004
  - Wetland plan, date-stamped September 5, 2003

- Restoration Plan, date-stamped ~~May 2, 2003~~ June 22, 2004
- Floor Plans, Elevations and site plan for the affordable building, date-stamped September 5, 2003
- Cross-section elevations date-stamped July 8, 2004

b. ~~The following must be completed before the city issues a grading permit or before starting any site work:~~

- ~~(1) The installation and maintenance of a temporary rock driveway, erosion control, and tree and wetland protection fencing for each lot, subject to review by the city's environment resources coordinator.~~
- ~~(2) Grading and drainage plans must be approved by Barr Engineering.~~
- ~~(3) Final site, grading, drainage, utility, street and erosion control plans must be approved by city staff. Final plans must include the following revisions:
  - ~~a) must have 1-1/2 inch water services and 6 inch sewer services;~~
  - ~~b) the private drive to the three northerly homes must be at least 20 feet wide;~~
  - ~~c) the sewer and water lines must be stubbed to the east to provide future service;~~
  - ~~d) central stormwater detention area number 3 must be shifted south out of the public right of way and provide a minimum of one foot freeboard between the 100-year flood elevation and the street elevation; and~~
  - ~~e) retaining walls supporting public streets must be modular block or other approved material approved by city engineer.~~~~
- ~~(4) If the developer is constructing any public improvements, the developer must submit a signed agreement with the city. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements. This agreement must include an escrow to ensure that the developer~~

~~completes all public improvements and complies with all city regulations. This escrow must be a letter of credit or cash deposit or other form acceptable to the city attorney. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.~~

- ~~(5) Submit a letter of credit, cash escrow, or other form acceptable to the city attorney for the estimated cost to comply with grading permit requirements and restore the site. The city will not release the letter of credit or cash escrow until the developer submits asbuilt drawings and a letter certifying that the grading has been completed according to the plans approved by the city. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.~~
- ~~(6) Submit a letter of credit or cash escrow, or other form acceptable to the city attorney for the estimated cost to restore the wetlands, including the wetland plantings, the upland forest, and the rain gardens. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.~~
- ~~(7) Submit a final landscape and irrigation plan for staff approval. The plan must indicate wetland restoration and percent totals of tree sizes for the reforested areas, as outlined in attachment G (Specifications for Ecological Restoration and Management of the Meadowwoods Wetland Permit Application).~~
- ~~(8) Fence all trees and vegetation to be preserved and install erosion control measures for staff approval.~~
- ~~(9) Submit a construction management plan, including a phasing plan for staff approval.~~
- ~~(10) Submit copies of the watershed district permit, NPDES permit and county permits for driveways and utility connections. The city may require revisions to the approved plans to meet these agencies' requirements.~~
- ~~(11) Submit a soils study for staff approval that addresses at least the following items:~~

- ~~Street construction recommendations, including pavement section and subgrade corrections;~~
  - ~~Public utility construction methods;~~
  - ~~Private utility services construction methods;~~
  - ~~Viability of the use of rain gardens, given soil types and groundwater conditions;~~
  - ~~Impacts to street integrity and underlying soil corrections due to close proximity of rain gardens; and~~
  - ~~Impacts to house foundations due to close proximity of wetlands and storm water retention.~~
- c. The following must be completed before the city issues a building permit:
- (1) The installation and maintenance of a temporary rock driveway, erosion control, and tree and wetland protection fencing for each lot must be installed, subject to review and approval of the city's environmental resources coordinator.
  - (2) Grading and drainage plans must be approved by Barr Engineering.
  - (3) Final site, grading, drainage, utility and erosion control plans must be approved by City staff.
  - (4) A hookup fee for sanitary sewer and water.
  - (5) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance. If the grading for proposed streets has not been completed, the planning director may approve a time extension to this requirement.
  - (6) A copy of the recorded plat and any easements or covenants required to be recorded.
  - (7) Homes must be slab on grade or lookout. There may not be any walkout homes.

- (8) Driveways on Lots 1-6, Blocks 1 and 2, must be construction of pavers that allow water to infiltrate.
- (9) Upper level decks must be built off the main level living area. These decks could not be enclosed into additional living space.
- d. Retaining walls in the public right-of-way must be modular block or other, as certified by a licensed engineer and approved by the city engineer.
- e. Minimum floor elevations must be two feet above the 100-year flood elevations, as determined by the city engineer after acceptance of final drainage calculations.
- f. The homeowners' association is responsible for replacing any required wetland plantings, woodland plantings, and landscaping that die or are destroyed after the developer's guarantee period.
- g. The three affordable units must be priced at \$170,000 or less and be subject to resale indexing covenants approved by the city council, or the units be sold to a housing organization designated by the city for no more than \$170,000. The city must approve specifications for the construction and the homeowners' fees for the affordable units.
- h. Construction of the trails are subject to city staff approval. The north-south trail should be crushed rock or paved. The wetland boundary may be altered to accomplish this, if in accordance with city and WCA rules. If the city determines that the wetland boundary cannot be altered, any part of the trail crossing the wetland must be a boardwalk design that would comply with city and WCA requirements. A paved trail must be constructed along the north side of Ridgewood Road, between the proposed north-south trail and Sparrow Road.
- i. All signs for the development must meet city code, including obtaining sign permits.
- j. Sprinkler systems must be installed in each home.
- k. The floor area ratio and hard surface coverage each may not exceed 50% of the site area.
- l. Construction must begin by December 31, ~~2004~~, 2005 unless the planning commission grants a time extension.

- m. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- n. The maintenance of the stormwater ponds will be the responsibility of the homeowners association under the stewardship program.
- o. All private garden areas must have a ten-foot transition area between them and the wetlands.
- p. Each cul-de-sac shall have one mailbox bank, rather than one mailbox for each lot.

***Allendorf, Bonoff, Britain, Gallop, Maes, and Hart voted yes. Periolat was absent. 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 Bonoff, to adjourn the meeting at 7:25 p.m. Motion carried unanimously.***

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