

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**JANUARY 6, 2005**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

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

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

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

**4. APPROVAL OF MINUTES:** December 16, 2004

*Allendorf moved, second by Bonoff, to approve the December 16, 2004, meeting minutes as submitted.*

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

**5. REPORT FROM STAFF**

Olson briefed the commission on land use applications considered by the city council at its meeting of January 3, 2005:

- Adopted a resolution approving a preliminary plat, with variances, to divide 1927 Essex Road into four lots for Drake Lorence with the planning commission's recommendation.
- Introduced an ordinance amending the sign ordinance concerning scoreboards. The planning commission is tentatively scheduled to review the application at its January 20, 2005 meeting.
- Introduced an ordinance adopting a master development plan and approving site and building plans for an office building to be constructed on the former Chi-Chi's site in the Twelve Oaks Center area. The planning commission is tentatively scheduled to review the application at its January 20, 2005 meeting.

The city council reappointed Britain to the planning commission for another two-year term. Maes and Gallop declined serving an additional term.

Olson noted that two correspondences that expressed no objection to Item 7A, a front yard setback variance for a porch addition at 3941 Dartmouth Drive for Dale Sodahl (04083.04a), were received after the agenda was prepared.

Olson announced that a neighborhood meeting was scheduled for January 18, 2005 at 7:00 p.m. regarding the Minnetonka Boulevard/State Highway 169 Gateway project. The meeting will be held in the Waterstone Apartment community room. Commissioners are welcome to attend, but there will also be a joint study session with the city council, planning commissioners, economic development authority, and the park board chair on February 7, 2005 at 6:30 p.m. at city hall to discuss the project.

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

7. **PUBLIC HEARINGS: CONSENT AGENDA**

No item was removed from the consent agenda for discussion or separate action.

***Britain moved, second by Gallop, to approve the item listed on the consent agenda as recommended in the respective staff report as follows:***

**A. Front yard setback variance for a porch addition at 3941 Dartmouth Drive for Dale Sodahl (04083.04a)**

Adopt the resolution on pages A1–A3 of the staff report, which approves the proposed variance. This resolution is based on the following findings:

- 1) The hardship is caused by the location of the existing home that does not meet required setbacks.
- 2) The proposal would be a minor intrusion into the required setback..
- 3) The addition would not alter the neighborhood character.

Approval is subject to the following conditions:

- 1) Submit proof of having recorded this resolution with Hennepin County before the city issues a building permit.

- 2) The installation and maintenance of erosion control and tree protection, subject to review by the city's environmental resources coordinator.
- 3) This variance will end on December 31, 2006, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

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

## **8. PUBLIC HEARINGS**

### **A. Variance to relocate an existing driveway at 6043 Fairwood Circle for Maria Boley (04074.04a)**

Acting Chair Maes introduced the proposal and called for the staff report.

Thomas reported. She recommended denial of the application based on the findings listed in the staff report.

Periolat asked if the cul-de-sac bulb is larger or smaller than normal. Thomas stated that the engineering department did not report that it was unusual.

Allendorf requested clarification of the location of option B. He noted that the applicant believed that the turning movement of location B would be difficult. Thomas pointed out location B, represented by a dashed line, which was approved in 1999. She stated that the turning movement would be within the city's standards.

Allendorf questioned the slope of each of the drive options. Thomas explained that the city guideline for a maximum driveway grade is ten percent. The maximum street grade is seven percent. Locations B and C would result in a three percent grade, which would meet city standards.

Allendorf thought the three trees appeared to be dead. He questioned their worth. Thomas stated that the spruce tree is considered a significant tree by city code definition, but the birch tree is diseased and the cedar tree is too small to be considered significant.

Gallop asked if the angle of the home could be considered a hardship. Thomas agreed that generally staff does look at the location of the residence in relation to the property lines. In this case, the city attorney indicated that the location of the garage door is a self-created hardship and, therefore, does not justify a variance.

Gallop asked if the house's position is unusual for a corner lot in Minnetonka. Thomas stated that there are several corner lots that would allow the residence to access two different streets. She was unaware of the city receiving a similar variance request previously.

Bonoff asked if the location B drive could be realigned further out to go around the tree. Thomas explained that the compaction of the soil around the roots of the trees may cause a decline in health over the long term.

Bonoff asked if the driveway could be moved lengthwise to the northeast. Thomas stated that the length of the drive could be moved closer to the property line. There is no setback requirement for driveways. Bonoff stated that making the drive wider might give the applicant more room to turn around.

Perolat asked if option D could be utilized without a variance. Thomas answered in the affirmative. The existing drive is an existing non-conforming use and could remain.

Patrick Boley, 879 Cherry Lane, Mendota Heights, applicant's son, stated that:

- Moving the garage door would address the city's concern about the existing drive being the least safe option.
- The drive existed before the ordinance was adopted.
- The current drive is steeper, unnecessarily long, icy in the winter because of drainage problems, and the occupant has disabilities that prompt the need for a safer drive.
- The proposal would provide the safest drive, use the least amount of asphalt, protect existing trees, address neighborhood considerations, require the least amount of maintenance, and complies with the land use in the neighborhood.
- It is common to have four drives on one cul-de-sac.
- He interpreted the undue hardship requirement to mean that the applicant would not be ruled out from meeting the hardship requirement just because there is another option.
- Unique circumstances exist.

- Option B is longer; would use more asphalt; have the least amount of esthetic appeal; be inconsistent with the neighborhood; all traffic must pass the lead-in section; and would cost twice as much.
- Option A is the most reasonable use. It is a common occurrence in Minnetonka and is the safest.
- The cul-de-sac is the typical size in Minnetonka.
- He noted several examples of homes on corners of cul-de-sacs with drives on the bulb. Some were built after 1976.
- The proximity and angle of the house is a hardship.
- The denial of the current application is arbitrary and would be the only time the city denied this reasonable use.
- Councilmember Callison questioned why the city would deny a variance request when similar requests were allowed.

Allendorf commented that although the planning commission's role was not to discuss different options, but to review the application, he was curious why the applicant proposed option B at the time of the permit and now requested option A. Mr. Boley stated that the applicant wanted to pursue a variance at that time. The change in health of the applicant influenced their current position.

Maria Boley, 6043 Fairwood Circle, applicant, stated that in 1998, she entered into a contract for the garage door move. When the city withdrew the drive permit, she had to continue with the garage door or lose the money for the contract. She had fallen quite a few times. A 90-foot drive will prevent her from going to work because it is too long to shovel. The other options are not financially possible. She is able to shovel 40 feet, but not 90 feet. She relied on being told that she could "go for a variance."

The public hearing was opened.

Donald Marks, 6029 Fairwood Circle, stated that he views the garage from his kitchen window. He referenced a letter in opposition to the project and pictures he submitted to the city. He stated that:

- The drawings presented were sketches, not accurate depictions. The distances were skewed. The driveway is twelve feet from the edge of Fairwood Drive.
- Personal and economic hardships should not be pertinent to the variance.
- He has seen Ms. Boley on the roof removing leaves the fall of 2004.

- All homeowners on the cul-de-sac bulb are opposed to the variance.
- The proposal would cause snow plowing and parking problems.

Periolat stated that she read Mr. Marks' correspondence. She asked him to summarize his main reason for opposing the proposal. Mr. Marks answered that due to parking, traffic, and snow removal area homeowners would be inconvenienced. His property would suffer the bulk of the snow removal.

No other testimony was submitted and the public hearing closed.

Periolat asked if traffic counts were available for Fairwood Drive. Thomas answered in the negative.

Britain asked if the existing driveway would be required to be removed. Thomas answered in the affirmative. Allendorf clarified that a condition of approval of the 1999 permit required the removal of the existing driveway.

Periolat asked if Ms. Boley could legally continue to drive over the grass and curb. Olson explained that driving on the grass is not specifically prohibited, but locating a driveway in that location is in violation of the city ordinances. Olson clarified that if the property owner put the garage door back, the existing drive could be used.

Bonoff asked Olson to comment on driveways accessing the lead in or bulb part of cul-de-sacs. Olson stated that four drives on a cul-de-sac are not unusual, but the ordinance is designed to reduce drives on the bulb portion.

Gallop felt there were good arguments on both sides. The proposed location would provide a reasonable use. The home's location could be considered a hardship. There are only three drives on the bulb. The proposal would cause the least amount of hard cover. Snow storage and parking would not be problems. It would not set a precedent, because it is common in the city. He supported the approval of the variance.

Britain thought the house angle was a hardship and the proposal is the common sense solution. He supported saving the trees and minimizing the hard cover. The impact on parking and snow removal would be minimal. He did not consider the personal aspects. The neighbors would benefit from preserving the trees. He supported approval of the project.

Allendorf identified the main issue to be whether the variance is justified. The property would maintain its reasonable use without the variance. There is no hardship. The applicant moved the garage door. The grade is less than the city's standard. Consideration of variances should be done long term and not for the current resident's individual needs. Therefore, he did not support the variance.

Bonoff concurred with Allendorf. She focused on the primary issues. The applicant chose to put the garage door where it is now. The variance is not justified.

Periolat: felt this was her most difficult decision while on the commission. She agreed with Gallop and Britain regarding the proposed location being the common sense choice. But, she also thought Allendorf's point was valid and approval could set a precedent. In April of 1999, the applicant received denial of the permit eight days after it was received by the city. Since the garage door was moved after the original driveway permit application was denied, she supported denial of the application.

Maes agreed with Periolat, especially after looking at the dates. The situation is a self-created hardship.

***Bonoff moved, second by Allendorf, to deny the variance request to relocate an existing driveway at 6043 Fairwood Circle for Maria Boley. Denial is based on the following findings:***

- 1) The variance request is not based on a circumstance unique to the property. Rather it is based on the location of the existing garage door. Ms. Boley chose to relocate the door to its current position; the garage door location is a self-created hardship.
- 2) The proposal would add additional snow storage to other properties on Fairwood Circle.
- 3) There are two alternate driveway locations that would meet code requirements.

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

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

**B. Sideyard setback variance for an attached garage at 10901 Oak Knoll Terrace South for Absolute Home Solutions, Inc. (04081.04a)**

Acting Chair Maes introduced the proposal and called for the staff report.

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

Gallop asked how the existing garage was built eight feet from the property line. Sobota stated that a variance was granted.

Periolat asked if the six-stall garage could be built with a ten-foot setback. Sobota answered in the affirmative.

Gary Davis, 10901 Oak Knoll Terrace South, stated that a ten-foot setback would not be aesthetically pleasing, because part of the rear garage would be visible. It would cause him to move the drive over. The doors would not align well. He would make the garage doors the same size. It would look like a two-car garage.

Bonoff asked if he would build the garage at a ten-foot setback if the variance would be denied. Mr. Davis wanted an attached garage and affirmed that he would build the garage at ten feet if the application would be denied. He wanted to position the structure to provide the best appearance. He needs the space to store vehicles and trailers currently housed in his driveway. Just because there are no larger garages in the neighborhood does not mean that those property owners do not need them and have boats and campers outside.

Acting Chair Maes appreciated Mr. Davis' effort.

Gallop asked what hardship existed for the variance to be approved for the current garage. Mr. Davis wanted to put the garage at the end of an existing drive.

In response to Periolat's questions, Mr. Davis stated that the proposed structure would be the same height as the opposite end of the house and the garage doors would be two feet taller than the current garage door.

Britain questioned why the original garage was not attached to the house. Mr. Davis recalled that it was simpler and cheaper to build a detached garage at the time.

Allendorf was having trouble finding justification for a hardship.

Steve Wetteland, Absolute Construction, 3626 Kraemer Drive, White Bear Lake, contractor of the project, stated that the applicant is attempting to make the project as aesthetically pleasing as possible. It is not a question of hardship.

Doug Wetteland, Absolute Construction, 9340 Hallmark Avenue South, Cottage Grove, noted that the city attorney's opinion supported approving the application because it would be reasonable.

Mr. Davis stated that he attempted to address one neighbor's concern that the structure would look like a business. He wanted the project to look as much like a two-car garage as possible. He attempted to minimize the width of the driveway and decrease the visibility of the proposed garage.

Bonoff suspected that the previous commissioners and councilmembers would have reconsidered the variances that were approved if they knew a garage would be constructed in front of the residence. She wondered if it was considered grandfathered to approve an eight-foot setback for a garage on the same property to match up with the existing garage. Olson confirmed that a variance is approved for one specific use. It does not stay with the property. A variance needs to be within one year old of the current application to qualify as a precedent.

The public hearing was opened.

No testimony was submitted and the hearing was closed.

Gallop recalled when the city approved variances to allow a proposed project to line up with the existing structure. He questioned how this proposal was different. Teague responded that livable space typically would be treated differently. A 24-foot by 24-foot garage is considered a reasonable use. The fact that the proposal is for a much larger garage puts it beyond the reasonable use definition.

Perolat asked if the proposed mudroom would be considered living space. Teague included the "mudroom" and the existing garage as part of the garage area, since it would all be open.

Acting Chair Maes reviewed the primary issue.

Britain would look more favorably on the proposal if the garage would be replaced. He had a hard time with the proposal because of the amount of garage

space and because it would not be in character with the neighborhood. He supported staff's recommendation.

Gallop did not see the justification for a hardship, but it made aesthetic sense to match the front garage with the rear garage. He did not want to repeat an error made in the past.

Periolat took issue with calling the previous variance an error. It was presented, considered, and granted. This is a gray area. She appreciated the applicant's desire to make the site aesthetically pleasing. She was familiar with the neighborhood and did not see the hardship. It would establish an unwanted precedent, so she will vote to deny the application.

Bonoff concurred with the commissioners.

Acting Chair Maes appreciated that the applicant wanted to cover his vehicles and equipment, but could not corroborate a hardship for the two-foot variance. She supported staff's recommendation.

***Periolat moved, second by Allendorf, to deny the proposed two-foot side yard setback variance at 10901 Oak Knoll Terrace South. Denial is based on the following findings:***

- 1) The property does not contain any unique physical circumstance to justify a hardship for the variance.
- 2) The proposal would alter the neighborhood character, the existing garage is the largest in the neighborhood, and the proposal would bring the total number of stalls on the subject property to six-stalls, well beyond what is considered a reasonable use.
- 3) An attached three-stall garage could be constructed without a variance.

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

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

**C. Ordinance concerning temporary, outdoor advertising signs and sign permits (02029.04a)**

Acting Chair Maes introduced the proposal and called for the staff report.

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

Acting Chair Maes asked if outdoor advertising signs included political signs or on-site temporary signs for schools. Olson answered in the negative. The ordinance would not apply to on-site, temporary school signs because the ordinance would only apply to off-site signs. The ordinance would not apply to political signs because they are governed by a separate section of the sign code and state law; however, the city's definition of outdoor advertising is broad enough to allow someone to interpret it to include political signs. Olson said that he would ask the city attorney if the definition of outdoor advertising should be clarified to state that it does not include political signs. If so, staff would add the appropriate language prior to the city council meeting.

In response to Acting Chair Maes' question, Olson defined "parcel" to mean a city lot. Olson clarified that the proposed ordinance would only relate to off-premises signs and would not include signs located on a parcel owned by the same owner.

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

***Gallop moved, second by Britain, to recommend that the city council adopt the ordinance.***

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

## 9. ADJOURNMENT

***Bonoff moved, second by Britain, to adjourn the meeting at 8:21 p.m. Motion carried unanimously.***

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