

**MINNETONKA PLANNING COMMISSION
MINUTES**

JUNE 16, 2005

1. CALL TO ORDER

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

2. ROLL CALL

Commissioners Allendorf, Britain, Cheleen, Dahl, and Hart were present. Bonoff and Frisque were absent.

Staff members present: Principal Planner Cary Teague and Planner Susan Thomas.

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

4. APPROVAL OF MINUTES: June 2, 2005

Allendorf moved, second by Cheleen, to approve the June 2, 2005, meeting minutes as submitted.

Allendorf, Britain, Cheleen, Dahl, and Hart voted yes. Bonoff and Frisque were absent. Motion carried.

5. REPORT FROM STAFF

Teague briefed the commission on land use applications considered by the city council at its meeting of June 13, 2005:

- Adopted a resolution approving a conditional use permit to move 7,000 cubic yards of earth to build a berm at 15325 State Highway 7 for Jeffrey Wiita.
- Adopted a resolution approving a conditional use permit and lease agreement concerning proposed telecommunications antennas and equipment at the Hathaway water tower site at 5604 Hathaway Lane for T-Mobile.
- Indefinitely postponed action on a preliminary plat, with variances, for a two-lot subdivision at 3848 Haven Road for Lorraine J. Sorenson. The postponement would allow the applicant to work with the neighbors to meet the city ordinances and/or create

permanent open space by purchasing additional land. The applicant waived the 120 day review period. It would be brought back to the city council if an agreement is worked out.

Teague reminded commissioners that a training session with the city attorney will occur at 5:30 p.m. prior to the next meeting on June 30, 2005.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

Cheleen recently attended a planning seminar. After listening to the other cities' staff, he felt lucky to have Minnetonka's skilled staff and well engrained procedures of how things are done. Chair Hart agreed that Minnetonka's planning commissioners are at a great advantage because of the competency of staff. There was an attorney discussing variances. The best advice he heard was that a variance should not be approved unless it made the best sense and was legally defensible. Chair Hart agreed that staff did a great job explaining the issues for each item.

7. PUBLIC HEARINGS: CONSENT AGENDA

No items were removed from the consent agenda for discussion or separate action.

In response to Allendorf's question, Mark Radzwill, the applicant, 4601 Camden Avenue, Minneapolis, explained that the ongoing project at the time was kitchen remodeling. The proposed project was not started prior to the city's approval.

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

A. Side yard setback variance for an attached garage at 12108 Brenlyn Lane for Radz Wall Systems, Inc. (05030.05a)

Adopt the resolution on pages A1–A3 of the staff report, which approves a side yard setback variance from 10 feet to 7 feet to construct a garage and mudroom addition at 12108 Brenlyn Lane. This resolution is based on the following findings:

- 1) There is a unique hardship to the property caused by:
 - a. The location of the existing home and the angle of the side lot line.

- b. The lot width is 100 feet.
- 2) The variance would meet the intent of the ordinance since:
 - a. The variance request is for a reasonable use of the property.
 - b. The addition would have a greater side yard setback than the existing detached garage.
 - c. The proposed addition would not alter neighborhood character.

Staff approval is based on 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 fencing, subject to review by the city's environmental resources coordinator.
- 3) The building material and color of the garage must match the existing home.
- 4) The existing garage must be removed.
- 5) 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.

B. Side yard setback variances for a second-story living space over an existing garage at 16519 Seymour Drive for Paivi and Warren King (05031.05a)

Recommend that the planning commission 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) Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
 - a. The existing building has non-conforming side yard setbacks.

- b. The proposed addition would not encroach further into required setbacks than the existing building.
- 2) The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - a. As the addition would maintain existing setbacks, it would have no negative impact on the surrounding area.

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) A temporary rock driveway, erosion control, and tree protection fencing must be installed, 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, Britain, Cheleen, Dahl, and Hart voted yes. Bonoff and Frisque were absent. Motion carried and the items on the consent agenda were approved as submitted.

8. PUBLIC HEARINGS

A. Conditional use permit for school of up to 300 students at 14001 Ridgedale Drive for the Veritas Academy (05028.05a)

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.

Chair Hart asked Thomas to explain the traffic pattern. Thomas explained that traffic would enter the parking lot from Wayzata Boulevard. Students would be dropped off at the main entrance. The vehicle would circle back to exit on Wayzata Boulevard. The parking lots are separated.

Britain asked how the parking requirements for a charter school compare to a public school. Thomas explained that the same standard is applied that would be used for a typical high school. A school with 300 students would be required to have 30 parking stalls plus an additional stall for each faculty member.

Allendorf reviewed the traffic study. Thomas explained that the traffic projections were calculated with the assumption that the school would operate at its maximum capacity. An office use would create more trips than a school use at total capacity.

Cherokee Isles, interim director and recruiter for Veritas Academy, applicant, stated that the students would park in the low, north parking area. Staff and parent visitors would park in the south lot.

Allendorf asked if students from all over could attend the school. Ms. Isles stated that all students are welcome. The students that are already signed up mainly reside in Minnetonka, Wayzata, Plymouth, and a couple from Crystal. Most students reside in the western suburbs.

Allendorf asked the ability level of the students. Ms. Isles stated that, as a public school, special needs students must be accepted. Veritas is a college preparation type of a school. Hopefully there will be a self-selection process that would occur for the school to appeal to the serious student.

Allendorf emphasized that once the kids are in the building, they would not leave. Ms. Isles agreed. It would not be an open campus. Loitering would not be allowed. The whole philosophy is based on high morals and high standards. Students without high morals and good behavior would not be allowed to return.

Allendorf asked if there would be evening events. Ms. Isles stated that she could not promise that it would never happen, but there would not be a big enough space to house a performance. The school would need to contract another facility to have a large gathering. A small gathering would be possible, but that would be infrequent.

Britain asked for the background of Veritas Academy. He questioned if physical activities would take place off site. Ms. Isles explained that charter schools typically do not have gymnasiums. One thing discussed was utilizing the YMCA. She was a founder of a small school in Orono called Hill School. It does not have facilities on site, but the students travel to a golf course or ski resort. Parents are thankful that their kids are getting life sports experience rather than exercising in

a gym. Traveling to another site for physical activity occurs one or two days a week.

Ms. Isles explained that she is a certified teacher and has been approached numerous times to start a school for grades 9 through 12 that would continue the classic style of teaching done in Hill School. Hill School has operated for ten years. The proposed facility hopes to be similar to Providence Academy by providing the educational experience without cost to the students' families. Sponsorship has been provided by Friends of Ascension which currently has sponsored up to 20 charter schools.

Britain asked if she felt the proposed location would be appropriate. Ms. Isles felt it would be an awesome location. The location is desirable for the families of the students. It is on a major road. It provides accessibility and visibility. It is also close to the library and YMCA. The windows do not open, so there should not be a noise problem. The building is much better than store fronts that end up being charter schools. This facility would be viewed as a lucky one.

Cheleen was curious what provisions would be made for kids being dropped off early and picked up late. Ms. Isles stated that there would be an after school program and provisions would be made in the morning. Bus routes are being considered, possibly on Plymouth Road.

The public hearing was opened.

Steve Perlman, 14103 Laurel Road, behind the office building, was concerned with the curriculum of a charter school. It would be different than the public education schools.

Mr. Perlman's higher concern related to the transportation flow and parking. He did not have issues with ninth graders driving. He has issues with eleventh and twelfth graders driving, based on his own kids' actions. Chair Hart stated that the number of parking stalls is determined by the city's ordinance and would be met. Mr. Perlman's gut told him that more than 1 out of 10 students would drive. Chair Hart stated that the number of parking stalls and level of traffic flow meets ordinance requirements.

Mr. Perlman was concerned with student parking on the city street. He asked if it would be a situation where the street could have "no school parking" signs installed. Parking is not allowed on Ridgedale Drive.

Mr. Perlman had no issue, whatsoever, with the projection for the facility during the next couple of years, but he was concerned that in three or four years the projected number of students would equal 300 and staff equal 25. He did not believe that parents would be dropping off and picking up students. He believed that the students would drive. Chair Hart stated that if parking on the street became a problem, the city needs to be notified and parking restrictions may be implemented at that time.

Mr. Perlman doubted that Health Partners housed 325 people in the building. He was concerned that it would impact the water and sewer facilities. The facility would not be a revenue generating facility for the city. He agreed it would be a stellar location. He loved the location. Access for 300 people did not seem reasonable.

Mr. Perlman questioned if a police liaison officer would be located in the school. Mr. Perlman stated that 15 year old and 16 year old "select" students think similarly to other students. He favored education, but he supported people paying for what they receive. He pays taxes in Minnetonka. It is a public school, not a tuition based school. Up to 300 students using the YMCA and the Ridgedale library are not an issue and may not be a concern, but he wanted to raise the point.

Chair Hart confirmed with Ms. Isles that the college preparation materials used at charter schools is similar to college preparation materials used at larger schools. Ms. Isles said that the materials may vary, but would be very similar. Mr. Perlman defined a special needs child as one that is exceptionally bright, has learning disabilities, or has a physical disability.

Thomas explained that two conditions of approval require the facility to meet all state and federal safety regulations including creating a crisis management plan of action in conjunction with the police department and posting signs with the information. The police department has reviewed the proposal.

Allendorf asked if the city's ordinances require Minnetonka or Hopkins High Schools to house police liaison officers. Thomas answered in the negative. Allendorf recalled that the school itself requests a liaison officer. It is not up to the city council to require one at a public or private school.

Thomas explained that the building code would require the sewer and water systems to be adequate for the proposed use. The building code review would be included in the permit process.

Jennifer Garza-Stork, 14104 Laurel Road, was mostly concerned with security being compromised by a younger presence being introduced into the older neighborhood. A lot of the residents are older. Paths connect the site with people's back yards. It is a very nice neighborhood. She was concerned with kids walking in the woods. She went to a private school for the arts and knows how kids think. "Kids will be kids." Chair Hart stated that the campus would be closed during the day.

Ms. Garza-Stork requested a privacy fence be built around the site. Chair Hart confirmed with Thomas that Minnetonka High School and Hopkins High School do not have security fences surrounding the schools. In response to Ms. Garza-Stork's question, Chair Hart stated that homes are located close to the high schools. Ms. Garza-Stork stated that residences close to schools usually have some type of fence surrounding the back yard. Chair Hart stated that a fence is not a requirement and is not standard practice.

Ms. Garza-Stork stated that she can see the elevated parking lot from her back yard.

Brian Stork, 14104 Laurel Road, stated that:

- There is no berm.
- His land is washing out down a culvert.
- He installed a chain link fence for his dogs.
- When the trees loose their leaves, it is easy to see in his backyard.
- He explained the topography of his backyard.
- He was concerned with the traffic.
- The people that drive on Ridgedale Drive should have their driver's licenses revoked.
- He has to be careful driving on the frontage road in front of traffic.
- He used to be 18 years old. He squealed tires.
- He was concerned with the accessibility of his property.

Chair Hart explained that the school is a permitted use in a residential area with a conditional use permit. As long as the ordinance regulations are met, the city cannot deny the application. She appreciated the concerns and instructed that city hall and police be notified when necessary.

Mr. Stork had problems with a business having garbage removed at 2 a.m. Chair Hart requested Mr. Stork report noise complaints to the city.

Ron Weidenbach, 14008 Laurel Road, stated that the building is located directly behind him. He wished the use would be different. The parking and traffic capacity is unrealistic. Possible future problems should be planned for now. It is hard to say something against public education. It is hard to get out of his driveway now. With the bridge closed, it is really terrible.

Chair Hart explained that if the building was full of businesses, it would generate the same number of trips as the school would. As far as the realistic expectations regarding how many students would drive, the city ordinance requirement is met. It is an allowed use in any zoning district of the city.

Mr. Weidenbach asked if the road would be widened when the bridge is replaced. Chair Hart suggested he call the engineering department to find out what will be done.

Mr. Weidenbach invited commissioners to visit the site. Chair Hart explained that the commissioners had visited the site. He wished the commissioners luck and was confident they would make the right decision.

Cheleen referred to the condition that would allow the city council to modify requirements listed in the conditional use permit to address traffic and parking issues.

Mr. Perlman asked how long a conditional use permit is valid. Chair Hart explained that the conditional use permit does not expire, it can be reviewed any time the city council chooses to do so, and it can be revoked by the city council if a condition is not met.

Mr. Perlman's position was not adversarial, but the center for the arts is in a very rural area and not the same environment as the proposed location. He understood that ordinance requirements have been met and that there is little to talk about. If the building would be a traditional office building, the school drop offs and pick ups are similar. He accepted that. In this case, even though the average would be the same number, the trips would be heavily concentrated at 8 a.m. and 4 p.m.

Mr. Perlman stated that he tries to avoid driving near the Ridgehaven stores during Thanksgiving and New Years. Hundreds of trips would be added in the late afternoon. Chair Hart stated that the facility would be in the Interstate 394 Planned District. She reviewed the results of the traffic study that determined that the proposed use would create less trips than an office use and meets ordinance requirements. Mr. Perlman understood that.

Mr. Perlman stated that if there would be problems of trespassing or parking on residential streets, then he would request police coverage. The police department is working at capacity. The house across from him was occupied illegally by a group of nonaffiliated individuals. Chair Hart questioned the relevance of that situation. Mr. Perlman stated that while the police department's hands are tied, in terms of approving the permit, if Ridgedale Drive becomes a speedway and if Laurel Road becomes a parking lot, he will be contacting the police department daily. Chair Hart agreed that he should.

Mr. Dworsky, 14003 White Birch Road, was concerned with increased traffic and parking. More than 1 in 10 students would drive themselves. He felt that there would be a lot more drivers. Chair Hart stated that the adopted city ordinance is the standard the city uses.

Ms. Garza-Stork stated that she purchased her home unaware that there would be a school behind it; unlike most of the residents who reside around the large public schools. Chair Hart agreed. Ms. Garza-Stork invited the commissioners to visit her back yard.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issues.

Allendorf asked if the building was treated differently because it is located in the planned Interstate 394 district. Thomas responded in the negative. The public building would be allowed in any district with a conditional use permit.

Allendorf felt the use would be appropriate for the building and was the closest use to an office use. The concentration of morning and afternoon trips would be true of an office building as well. The traffic generation has been reviewed. The structure would still look and function similar to an office building. If a problem arises, the police department should be notified. He supported the use and welcomed it to the community.

Dahl felt that the school is a great concept. He was unsure if the location would be appropriate. He asked when the parking lot regulations were done. Teague stated that that part of the ordinance was updated in 1988. The traffic consultant indicated that the standard is still reasonable. Dahl felt the standard might be a little low.

Chair Hart stated that the use is permitted with a conditional use permit and the ordinance requirements have been met.

Allendorf moved, second by Cheleen, to recommend that the planning commission 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) Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
 - a. The existing building has non-conforming side yard setbacks.
 - b. The proposed addition would not encroach further into required setbacks than the existing building.
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- 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, Cheleen, Dahl, and Hart voted yes. Britain voted no. Bonoff and Frisque were absent. Motion carried.

Chair Hart stated that an appeal of the planning commission's decision must be made in writing to the planning director within 10 days.

9. ADJOURNMENT

Dahl moved, second by Britain, to adjourn the meeting at 8:20 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary