

**MINNETONKA PLANNING COMMISSION
MINUTES**

JULY 13, 2006

1. CALL TO ORDER

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

2. ROLL CALL

Commissioners Cheleen, Dahl, Frisque, Adams, Brandt, and Hart were present. Britain was absent.

Staff members present: Community Development Director Ron Rankin, City Planner Geoff Olson, Principal Planner Cary Teague, Planner Susan Thomas, and Planning Technician Jeff Thomson.

3. APPROVAL OF AGENDA: The agenda was approved with the following changes:

- Removal of Items 7A, site and building plan review, with variance from the south lot line, for a parking ramp expansion on the property between 9701 Data Park Drive and 9900 Bren Road East for Opus Corporation (06037.06a), and 8B, lot division, with lot width and lot area variances, for a two-lot subdivision at 5454 Mayview Road for Engineering Design & Surveying (06021.06a).
- Additions provided in the change memo dated July 13, 2006.

4. APPROVAL OF MINUTES: June 29, 2006

Brandt moved, second by Cheleen, to approve the June 29, 2006, meeting minutes as submitted with the changes from the change memo dated July 13, 2006:

First paragraph on page 6 of the June 29, 2006 minutes:

- c. The shed on Lot 1 must be removed if no building permit for a principal structure is applied for within one year of final plat approval. The property owner must provide a cash escrow or letter of credit to ensure removal of the shed if a building permit is not applied for within one year.

Cheleen, Frisque, Adams, Brandt, and Hart voted yes. Dahl abstained. Britain 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 July 10, 2006:

- Adopted a resolution approving a conditional use permit, with parking stall variance, for a restaurant at 17523 Minnetonka Boulevard for C & R Partners LLC.
- Adopted a resolution approving a preliminary plat for a three-lot subdivision at 2727 Ashborne Road for Peter Knaeble.

Olson announced that the next planning commission meeting will be held July 27, 2006.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA

Item 7A, site and building plan review, with variance from the south lot line, for a parking ramp expansion on the property between 9701 Data Park Drive and 9900 Bren Road East for Opus Corporation (06037.06a), was removed from the agenda at the request of the applicant.

Frisque moved, second by Cheleen, to approve items 7B and 7C as listed on the consent agenda and recommended in the respective staff reports as follows:

B. Amendments to an existing site and building plan for renovation of the Cedar Hills Townhome Development at 10858 Cedar Bend for BKV Group, Inc. (06035.06a)

Approve the site and building plan amendment for renovations of the Cedar Hills Townhome Development at 10858 Cedar Bend. Approval is based on the following findings:

- 1) The renovations would meet the required standards and ordinances for a site and building plan approval.

- 2) The renovations are consistent with the original 1981 approval of the development.

Approval is subject to the following conditions:

- 1) Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Site plan date-stamped May 31, 2006
 - Landscaping plan date-stamped May 31, 2006
 - Building elevations date-stamped May 31, 2006.
- 2) The following must be completed before the city issues a building permit:
 - a. Install temporary rock driveways, erosion control, and tree protection fencing as required by natural resources staff. These items must be maintained throughout the course of construction.
 - b. Submit a construction management plan for staff approval. Construction times must conform with the city's noise ordinance.
 - c. Submit a final site and final landscape/irrigation plan for staff approval.
- 3) The property owner is responsible for replacing any required landscaping that dies.
- 4) All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas, must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.
- 5) Approval does not include the signs shown on the drawings. Separate permits are required from staff.
- 6) Construction must begin by December 31, 2007, unless the planning commission grants a time extension.

C. Side yard setback variance to build a screen porch to the home at 12921 Woodbridge Trail for Howard Yesnes (06039.06a)

Adopt the resolution on pages A1–A3 of the staff report, which approves a side yard setback variance from ten feet to eight feet to build a screen porch on the home at 12921 Woodbridge Trail. 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 on the lot.
- 2) The variance would meet the intent of the ordinance since:
 - a. The variance request is for a reasonable use of the property since the proposed porch would be built on the footprint of the existing deck.
 - b. The proposed addition would not alter neighborhood character since the proposed porch will not extend any further into the setback than the existing deck.

Approval is based on the following conditions:

- 1) Submit proof of having recorded this resolution with the county before the city issues a building permit.
- 2) Install and maintain a temporary rock driveway, erosion control, tree protection, as required by the city's natural resources staff.
- 3) This variance will end on December 31, 2007, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

Cheleen, Dahl, Frisque, Adams, Brandt, and Hart voted yes. Britain was absent. Motion carried and Items 7B and 7C on the consent agenda were approved as submitted.

8. PUBLIC HEARINGS

A. Rear yard setback variance for a gazebo at 4915 Carleton Road for Lester and Mary Burg (06041.06a)

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

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

Mary Burg, 4915 Carleton Road, applicant, stated that the proposed location for the gazebo would be the best to provide a view of the backyard. She described the location of the deck and garages. The gazebo would provide protection from mosquitoes. She did not want to remove six feet from the deck. She requested the planning commission approve the variance. The proposal would assist with the location of the fire pit and help with physical limitations.

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

Chair Hart reviewed the primary issue and standards to approve a variance. She agreed with Thomson's reasons that found the use would not be reasonable. There is a different standard for accessory uses.

Dahl visited the property and felt that the north side would be a good location for the deck, but it would be close to the neighbor who supported the proposal. He wanted to approve the variance, as a common sense use of the property, but understood the conflict with policy.

Brandt saw that the property supported its share of driveways, garages, deck, and house. He believes the policy is in place for a reason. The adjacent neighbor could move next month. He identified alternatives to allow the gazebo while meeting ordinance requirements. Personally, he would screen in the deck. He supported staff's recommendation.

Cheleen struggled with the same issues as Dahl. When he looked at the site, he thought that if the neighbors in the rear are comfortable with the proposal, then there would not be a great deal of impact. After looking at the alternatives, he agreed with Brandt that there are alternative ways to achieve the same result. The gazebo would be there permanently. It could be done without a variance. To attach the gazebo without a variance makes the most sense.

Adams walked the property and noticed the shallowness of the rear yard. His concern was the impact on the neighbor to the east. The variance would not

meet the required standards. There is no hardship. There are a number of alternatives. He agreed with staff's recommendation.

Frisque concurred with Brandt. After seeing the closeness of the proposed site to the neighbors and understanding that there could be another location to build the gazebo attached to the deck on one level, she agreed with staff's recommendation. It did not meet variance standards.

Chair Hart supported staff's recommendation. Her main concern was the shallowness of the backyard. There are alternative ways to attach the accessory to the deck without a variance.

Brandt moved, second by Frisque, to adopt the resolution on pages A1–A3 of the staff report, which denies the proposed variance. This resolution is based on the following findings:

- 1) Strict enforcement would not cause undue hardship because of the following circumstances:
 - a. The variance is not limited to the greatest extent possible because the proposed gazebo could be located on the property meeting all required setbacks.
- 2) The variance would not meet the intent of the ordinance since:
 - a. The variance request is not for a reasonable use of the property since it is an accessory use, not primary living space.

Cheleen, Frisque, Adams, Brandt, and Hart voted yes. Dahl voted no. Britain was 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 ten days.

B. Lot division, with lot width and lot area variances, for a two-lot subdivision at 5454 Mayview Road for Engineering Design & Surveying (06021.06a)

At the applicant's request, Item 8B was rescheduled to the July 27, 2006, planning commission meeting.

9. ADJOURNMENT

Adams moved, second by Dahl, to adjourn the meeting at 6:55 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary