

**MINNETONKA PLANNING COMMISSION
MINUTES**

MARCH 29, 2007

1. CALL TO ORDER

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

2. ROLL CALL

Commissioners Schmitz, Adams, Brandt, and Lehman were present. Cheleen and Dahl were absent.

Staff members present: City Planner Julie Wischnack, Natural Resource Manager Jo Colleran, Planner Josh Metzger, and Planning Technician Jeff Thomson.

3. APPROVAL OF AGENDA: The agenda was approved as submitted with the modifications provided in the change memo dated March 29, 2007.

4. APPROVAL OF MINUTES: March 15, 2007

Adams moved, second by Brandt, to approve the March 15, 2007, meeting minutes as submitted.

Schmitz, Adams, Brandt, Lehman, and Hart voted yes. Cheleen and Dahl were absent. Motion carried.

5. REPORT FROM STAFF

Wischnack briefed the commission on land use applications considered by the city council at its meeting of March 26, 2007:

- Adopted a resolution approving an amendment of resolution 2006-028, approving a conditional use permit at 4703-4795 Highway 101 (Westwind Plaza) for Untiedt's Garden Market (Craig Gilb).
- Adopted a resolution approving a lot division for a three-lot subdivision at 4808 Williston Road for John Paulson.
- Introduced a new ordinance regarding nonconforming use language.
- Discussed the comprehensive plan update process.

Wischnack reminded commissioners of a board and volunteer recognition dinner to be held April 18, 2007 and announced that a workshop regarding the billboard

ordinance will be held April 25, 2007. Chair Hart encouraged commissioners to attend.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA: None

8. PUBLIC HEARINGS

A. Variances for an addition to the home at 17309 Bay Lane for Streeter and Associates, Inc. (95036.06a)

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

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

Adams asked if the neighbors' comments were in response to the revised plan. Thomson explained that the comments were in response to the initial plan. An additional comment was included in the agenda packet. Residents were notified of the date of the public hearing.

Jennifer Robb, 17309 Bay Lane, applicant, thanked Thomson for his thorough review of the application and changes.

Lehman asked Ms. Robb for her reaction to the changes. Ms. Robb stated that Streeter and Associates did an excellent job making the changes to the roof line and the front mass and still maintained the intent of the living area. The interior would still be functional.

The public hearing was opened.

Rick Herkenhoff, 17310 Bay Lane, saw nothing unusual with the appearance the proposal would create. Similar expansions have been done in the area. The proposal is well within reason.

No additional testimony was submitted and the hearing was closed.

Adams felt this application was a good example of how property owners can work with staff to find a reasonable solution. He was encouraged by the comments of the homeowner who resides across the street. He supported the project.

Lehman concurred. The design is very attractive from the street.

Chair Hart agreed the change would be reasonable. She appreciated the applicant working with staff.

Adams moved, second by Schmitz, to adopt the resolution on pages A27-A29 of the staff report, which approves a front yard setback variance from 35 feet to 20 feet for an addition to the house at 17309 Bay Lane. 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 substandard depth of the lot since the lot has a buildable depth of only 27 feet.
- 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 addition would be set back further than the existing garage, and the addition would match the height, roof-line, and style of the existing house.
 - b. The proposed addition would not alter neighborhood character since the height of the structure within the front yard setback is similar to other houses in the neighborhood.

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) The minimum low floor elevation of the addition must be 944.7
- 3) The property is limited to a total of 35 feet of curb-cut access at the right-of-way for both the existing driveway and the proposed driveway for the new garage.
- 4) The applicant must grade the new driveway to prevent street drainage from entering the garage and basement.

- 5) Install and maintain a temporary rock driveway, erosion control, and tree protection as required by the city's natural resources staff.
- 6) This variance will end on December 31, 2008, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

Schmitz, Adams, Brandt, Lehman, and Hart voted yes. Cheleen and Dahl were absent. Motion carried.

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

B. Lot-behind-lot setback variance for an addition to a home at 6016 Eden Prairie Road for Jeff and Purita Edson. (07009.07a)

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

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

In response to Brandt's question, Metzer explained that the building plan measurements were not exactly to scale and the living space was determined to be 1,600 square feet.

Chair Hart asked if the city's ordinance makes a distinction regarding six feet of separation between a residence and an accessory or principal structure. Metzer answered in the negative.

Jeff and Purita Edson, 6016 Eden Prairie Road, applicants, explained the history behind the proposal. Mr. Edson thought the setback requirement was met when he applied for the building permit. He was unaware that the lot behind a lot setback requirement changed from 25 feet to 40 feet in January 2007. He learned a variance would be needed during the building permit application process. He wanted to be reasonable. He stated that:

- He was happy to see there can be reasonable cooperation between an applicant and the city.
- A small portion of a corner of the residence would not meet the 40-foot setback requirement.
- A variance would be needed to add onto the front of the residence.

- They would like the roof of the new house to connect to the roof of the existing house. The roof line would extend into the setback.
- He requested that the roof be raised to provide 8-foot high ceilings. It would be a matter of raising the eaves a couple feet and increasing the pitch of the roof.
- The eaves would meet the peak.
- The peak of the two-story addition would be higher than the existing peak.
- The front of the house faces the bulk of the lot.
- The residence is not visible from the street.
- The item could be tabled to allow time to work with staff and revise the plans.

Adams felt the current proposal was similar to the variance just approved by the commission. He favored tabling the item if the applicant was agreeable.

Brandt questioned if the application should be denied and a new application submitted. Metzger was fine with action being tabled and working with the applicant to revise the proposal.

In response to Chair Hart's question, Metzger stated that staff met with the contractor and determined that a revision to the plan would decrease the variance's size significantly.

Chair Hart thanked the applicants for reconsidering the plans. The 60-day action requirement waiver would be provided by the applicant.

Schmitz moved, second by Brandt, to table action on the applicants' request for a lot-behind-lot setback variance for an addition to a home located in the R-1 zoning district until the April 26, 2007 planning commission meeting.

Schmitz, Adams, Brandt, Lehman, and Hart voted yes. Cheleen and Dahl were absent. Motion carried.

C. Sign plan review for the office condominiums at 1000 Twelve Oaks Center Dr. for Nordquist Sign Company. (07008.07a)

The applicant requested a delay until April 12, 2007.

D. Preliminary plat for a four-lot subdivision at 13800 Spring Lake Road for Steve Lynch. (05001.07a)

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

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

Adams asked if the existing residence would have a sprinkler system. Wischnack answered in the negative. The requirement only applies to new buildings and not additions.

Steve Lynch nodded in agreement with the conditions.

The public hearing was opened.

Randy Thompson, 3907 Haven Road, supported the proposal. His concern was access to the cul-de-sac. There is an easement through his property to get to the lot located between Mr. Lynch's property and his. He wanted access to the middle property from the cul-de-sac. Wischnack stated that the intention of the proposal would provide access to the middle lot from the cul-de-sac.

No additional testimony was submitted and the hearing was closed.

Chair Hart felt the proposal was reasonable.

Schmitz moved, second by Brandt, to recommend that the city council approve the preliminary plat date-stamped November 15, 2005, as revised by staff and with the additional condition included in the March 29, 2007 change memo. Approval is based on the following findings:

- 1) But for the front yard setback variance, the proposal meets all required standards and ordinances.
- 2) The proposed cul-de-sac is the only viable method of accessing the property.
- 3) The proposal meets the required standards for a variance for two reasons:
 - a. The property could be divided without variance if the existing house was removed. Removal of the existing house would be unreasonable.

- b. Moving the lot line to the east would create a lot depth variance on Lot 3.

Approval is subject to the following conditions:

- 1) Complete the following before final plat approval:
 - a. Amend the final plat to include:
 - (1) A "half cul-de-sac" outlot as illustrated on the staff-amended preliminary plat, page A6 of the staff report dated March 29, 2007.
 - (2) 50-foot wide right-of-way.
 - (3) Ten-foot-wide drainage and utility easements adjacent to the proposed public street right-of-way and seven-foot-wide drainage and utility easements along all other lot lines.
 - (4) Utility easements over existing or proposed public utilities, as determined by the city engineer. A 20-foot-wide easement centered on the existing sanitary sewer.
 - (5) Drainage and utility easements over wetlands, floodplains, and public storm water ponds, as determined by the city engineer. This includes a drainage and utility easement over the 100-year storm elevation of Spring Lake as determined by the city engineer.
 - b. Pay a park dedication fee of \$7,125.00.
 - c. If the developer is petitioning the city to construct the public improvements, the city council must order the improvements.
- 2) The following items must be submitted to the city prior to release of the final plat:
 - a. An engineering/utility inspection fee.
 - b. Payment for traffic signs and installation, as required by the city engineer.

- c. An electronic CAD file of the final plat in microstation or DXF on a CD disk.
- d. A signed agreement with the city for all developer installed improvements. The agreement must:
 - (1) Include language guaranteeing that the developer will complete all public improvements and meet all city requirements;
 - (2) Include an escrow to ensure that the developer completes all public improvements and complies with all city regulations. The escrow must be a letter of credit or cash deposit in the amount of 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.
- e. The following documents for the city attorney's review and approval:
 - (1) Title evidence that is acceptable to the city attorney. Title evidence must be current within thirty days before release of the final plat.
 - (2) 16.5-foot conservation easement upland from the wetland on Lots 1 and 2, and a drawing of the easement for the approval of the city attorney. The easement and drawings must be recorded with the final plat.
 - (3) A notice recorded against individual lots that the stub street may be extended to provide access to the adjacent property.
 - (4) Restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions that have not been met as of the release of the plat.
 - (5) A temporary access easement to the City of Minnetonka for the turnaround at the end of the proposed street.

These documents must be recorded with the final plat, and a drawing of any easement must be attached to the easement deed.
- f. Any other requirements included with final plat approval.

- 3) The following must be completed prior to issuance of a grading permit or before beginning any site work.
 - a. Submit the following for the city engineer's review and approval:
 - (1) Final grading, drainage, and erosion control plans. These plans must include the following.
 - (a) Existing stormwater and runoff rate and volume calculations. These existing rates and volumes must be maintained.
 - (b) Impervious surface calculations and associated storm sewer/ drainage calculations and design for all required design events.
 - (c) Appropriate storage, treatment, and abstraction of a 1-inch rainfall.
 - (d) Pond designs, including a typical cross-section. The minimum low floor elevation for new homes in the development will be determined based on this design.
 - (2) Final civil plans for any developer installed streets and/or utilities. These plans must include the following:
 - (a) Profiles for all utilities.
 - (b) Horizontal and vertical alignments for the public roadway. These alignments must be designed to Mn/DOT State Aid standards. Cross-sections may be required.
 - (c) A 10-foot separation must be maintained between the watermain and storm/sanitary sewers.
 - b. Submit a letter of credit or cash escrow for 150% of an estimated cost or 125% of a bid cost to comply with grading permit requirements and to restore the site. The city will not release the letter of credit or cash escrow until the developer submits as-built drawings and a letter certifying that the grading and public

- improvements have been completed according to the plans approved by the city.
- c. Submit a construction management plan for staff review and approval.
 - d. All trees to be preserved must be fenced and erosion control measures must be installed for staff inspection and approval.
 - e. The temporary turnaround must be shifted to the south to save the oaks on Lot 2. The location must be in substantial compliance with the staff amended preliminary plat, page A6 of the staff report dated March 29, 2007 and is subject to review and approval of the city engineer and natural resources staff.
 - f. Permits may be required from other outside agencies, including but not limited to Mn/DOT and the Minnehaha Watershed District. It is the applicant's and/or property owner's responsibility to obtain any necessary permits.
 - g. To maintain the integrity of the site and minimize impact to significant trees, the developer must notify staff upon sale of Lot 2. If Lot 2 is not sold prior to grading for streets and utilities, the developer and/or builder must consult staff prior to the house design phase for technical review.
- 4) The following must be completed before the city issues a building permit:
- a. Submit the following:
 - (1) A grading and tree preservation plan for each lot. The plans must be in substantial compliance with the building pads shown on the preliminary plat and must preserve trees designated for preservation at the time of preliminary plat, subject to staff approval. The city may require adjustments in the house pad location to maximize tree preservation. The sewer and water services must be shown to minimize impact to any significant trees.
 - (2) A copy of the recorded plat and any easement or covenants required to be recorded.

- (3) 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 city planner may approve a time extension to this requirement.
- (4) A hookup fee for sanity sewer and water.
- b. The driveway on Lot 2 must be located to minimize impact to oak trees on the east side of the lot. The specific driveway location is subject to natural resources staff approval.
- c. City approval of the installation of a temporary rock driveway, erosion control, tree protection, and wetland protection fencing for each lot.
- d. All houses must be protected with 13D automatic fire sprinkler systems.
- e. All minimum setbacks from floodplain and stormwater elevations must be maintained.
- f. The minimum low floor elevation for Lots 1 and 2 must be a minimum of two feet about the stormwater elevation as established by the city engineer.
- 5) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- 6) 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 ½ 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.
- 7) A driveway permit is required for Lot 1 to connect the existing driveway to the new street.

- 8) The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.

Schmitz, Adams, Brandt, Lehman, and Hart voted yes. Cheleen and Dahl were absent. Motion carried.

This item is tentatively scheduled to be reviewed by the city council April 9, 2007.

E. Commission Bylaws and Policies

Adams moved, second by Brandt, to adopt the City of Minnetonka Planning Commission's Bylaws and Policies as included in the staff report.

Schmitz, Adams, Brandt, Lehman, and Hart voted yes. Cheleen and Dahl were absent. Motion carried.

9. ADJOURNMENT

Brandt moved, second by Adams, to adjourn the meeting at 7:30 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary