

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**AUGUST 9, 2007**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

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

Staff members present: Community Development Director Ron Rankin, City Planner Julie Wischnack, Project Planner Josh Metzger, Planning Technician Jeff Thomson, and Natural Resources Manager Jo Colleran.

- 3. APPROVAL OF AGENDA:** The agenda was approved with the removal of Item 8A, a conditional use permit and variances to demolish the existing home and build a new home at 2529 Bantas Point Lane for Gary Medin, to allow time to review lot coverage calculation discrepancies, and additional comments provided in the change memo dated August 9, 2007.

- 4. APPROVAL OF MINUTES:** July 26, 2007

***Adams moved, second by Lehman, to approve the July 26, 2007 meeting minutes as submitted with the following changes:***

- Remove Dahl's name from each motion: "***Cheleen, ~~Dahl~~, Lehman*** . . ."
- Page 29, change: "Lehman ~~abstained~~ recused himself" in two locations.
- Page 21, after the recess, add: "Lehman recused himself from discussion of the next two agenda items due to a conflict of interest."
- Prior to adjournment, add: "Lehman rejoined the meeting."

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

**5. REPORT FROM STAFF**

Wischnack briefed the commission on land use applications considered by the city council at its meeting of August 6, 2007:

- Adopted a resolution approving a conditional use permit to build a detached garage greater than 12 feet in height at 11900 Live Oak Drive for Steven and Julie Freie.
- Adopted a resolution approving a conditional use permit to install wireless telecommunications antenna and equipment on the existing telecommunications tower at 2863 Hedberg Drive for Cingular Wireless/Hall Institute.
- Adopted a resolution approving a conditional use permit and variances to demolish an existing home and build a new home within the floodplain at 2504 Bantas Point Lane for Kathleen Nelson. The conditions requiring adherence with the mcmansion policy and shoreline buffer requirements were included in the resolution.
- Introduced an ordinance correcting the nonconforming use ordinance for the City of Minnetonka.
- Adopted a resolution approving a public hearing to vacate a drainage and utility easement between 1904 and 1910 Linner Road for David Gartzke.
- Adopted a resolution approving items concerning an expansion project at 5700, 5720, 5740 Green Circle Drive and 10350 Bren Road West for Opus Corporate Center with a condition that Opus look at a reduction in parking area.
- Adopted a resolution approving an ordinance amending the city zoning code to increase the park dedication fee for the city of Minnetonka.

**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.

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

**A. Ordinance correcting the non-conforming use ordinance for the City of Minnetonka. (Project 04062.07b)**

Recommend that the city council adopt the ordinance.

**B. Aggregate side yard setback variance for an addition to the house and third garage stall at 5720 Creek Park Drive for Dan Tillman. (Project 01044.07a)**

Adopt the resolution on pages A16-A18 of the staff report, which approves an aggregate side yard setback variance from 30 feet to 26 feet for an addition and garage addition to the home at 5720 Creek Park Drive. 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 decrease in lot width from the front to the rear property line.
- 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 addition would maintain the existing building lines.
  - b. The proposed addition would not alter neighborhood character since the addition would be buffered from surrounding properties by existing vegetation.

Approval is based on the following conditions:

- 1) The building and roof materials and colors must match the existing house.
- 2) All stormwater runoff to be directed to the street or to the rear of the property, not onto adjoining properties.
- 3) Install and maintain a temporary rock driveway, erosion control, and tree protection, as required by the city's natural resources staff.
- 4) Submit proof of having recorded this resolution with the county before the city issues a building permit.
- 5) 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.

***Dahl, Lehman, Adams, Brandt, Cheleen, Schmitz, and Hart voted yes. Motion carried and the items on the consent agenda were approved as submitted.***

Chair Hart stated that Item 7A, an ordinance correcting the non-conforming use ordinance for the City of Minnetonka, was tentatively scheduled to be reviewed by the city council at its August 20, 2007, meeting and the decision for Item 7B, an aggregate side yard setback variance for an addition to the house and third garage stall at 5720 Creek Park Drive for Dan Tillman, may be appealed to the city council if made in writing to the planning division within 10 days from the August 9, 2007 meeting.

**8. PUBLIC HEARINGS**

**A. Conditional use permit and variances to demolish the existing home and build a new home at 2529 Bantas Point Lane for Gary Medin. (Project 00032.07a)**

***Lehman moved, second by Brandt, to table Item 8A, a conditional use permit and variances for construction of a new house at 2529 Bantas Point Road, until the August 30, 2007 planning commission meeting to allow time to review lot size calculations.***

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

**B. Variances to tear down the existing home and build a new house at 17202 Gray's Bay Boulevard for Sharratt Design. (Project 07042.07a)**

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.

In response to Adams' question, Thomson explained that a 19-foot buffer would be measured from the edge of the rip rap.

Adams noticed a wall on the site that appeared to extend into the buffer area.

Colleran had discussed rip rap with the Department of Natural Resources and Watershed District. She is considering modifying the proposed shoreland ordinance to allow existing rip rap and soil stabilization within the buffer area. If a

resident wanted to put rip rap in after a buffer was already established, then a variance and a hardship would be required. Colleran would work with Mr. Lindsay to find the required buffer distance without compromising the integrity of the rip rap. The intent of the ordinance would be to allow residents to have reasonable use of the back yard.

Thomson explained that what appeared to be a wall was a fence. Part of the fence was located in the proposed buffer area. The fence would be allowed in the buffer if it is no higher than six feet tall and does not obstruct the view of the lake. If a fence obstructs lake views or is taller than six feet, then it would be required to have a 35-foot setback from the ordinary high water level of the lake.

Jonathon Jay Lindsay, 17202 Gray's Bay Boulevard, explained that the fence would be wrought-iron or aluminum painted to look similar to wrought iron. The fence provides safety for his children. Once the kids are older, the fence would be removed. Mr. Lindsay felt staff did a good job representing the city's perspective. The proposal was a compromise. It worked out well. Both of his neighbors' houses are closer to the lake than his proposal. The house would fit on the lot architecturally very well. He felt good about the project. It would be a great addition to the neighborhood.

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

Chair Hart reviewed the primary issues.

Adams felt the proposal was reasonable. He was concerned with the hard surface area. Thomson clarified that the pervious pavers would be used for the driveway of the new house, not for the existing shared driveway.

Chair Hart asked Colleran if she was comfortable allowing 31 percent hard surface cover. Colleran answered affirmatively, given the hardship of an adjoining driveway easement located on the site.

Chair Hart was comfortable with the setback variance because the proposal would have a larger setback than it has currently. The residence would fit the lot.

Lehman felt that the requested variances were consistent with variances provided in the neighborhood. It would be in character with the neighborhood and not set a precedent.

***Dahl moved, second by Cheleen, to adopt the resolution on pages A12-A15 of the staff report, which approves a front yard setback variance from 35 feet to 20 feet, and a hard surface coverage variance from 30 percent to 31 percent to construct a new home at 17202 Gray's Bay Boulevard. 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 substantial size of the right-of-way along Gray's Bay Boulevard.
  - b. The shared driveway along the western property line that provides access for the lots to the north, but is included in the impervious surface calculations of the subject property.
- 2) The variance would meet the intent of the ordinance since:
  - a. The new house would be located over 50 feet from the edge of the street, and would be set back similarly to other homes along Gray's Bay Boulevard.
  - b. Potential water quality impacts would be mitigated by a vegetative shoreland buffer.
  - c. The variances would not alter the character of the neighborhood.

Approval is based on the following conditions:

- 1) The existing sheds on the property must be removed prior to issuance of a certificate of occupancy.
- 2) The elevation of the lowest floor, including the crawl space, must be a minimum of 933.5.
- 3) Establish a vegetative buffer generally 19 feet upland of the shoreline. The buffer area and plantings must be approved by city staff, and must be placed in a permanent conservation easement.
- 4) The plans must be revised to include a maximum impervious surface area of 31%, or 6,751 square feet.

- 5) The covered deck on the back of the house must be setback a minimum of 35 feet from the OHW. Any uncovered portion of the deck may extend up to 5 feet into the required shoreland setback.
- 6) Install and maintain a temporary rock driveway, erosion control, and tree protection, as required by the city's natural resources staff.
- 7) Submit proof of having recorded this resolution and the shoreland buffer conservation easement with the county before the city issues a building permit for the new home.
- 8) 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.

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

## 9. ADJOURNMENT

***Cheleen moved, second by Brandt, to adjourn the meeting at 7:02 p.m.  
Motion carried unanimously.***

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