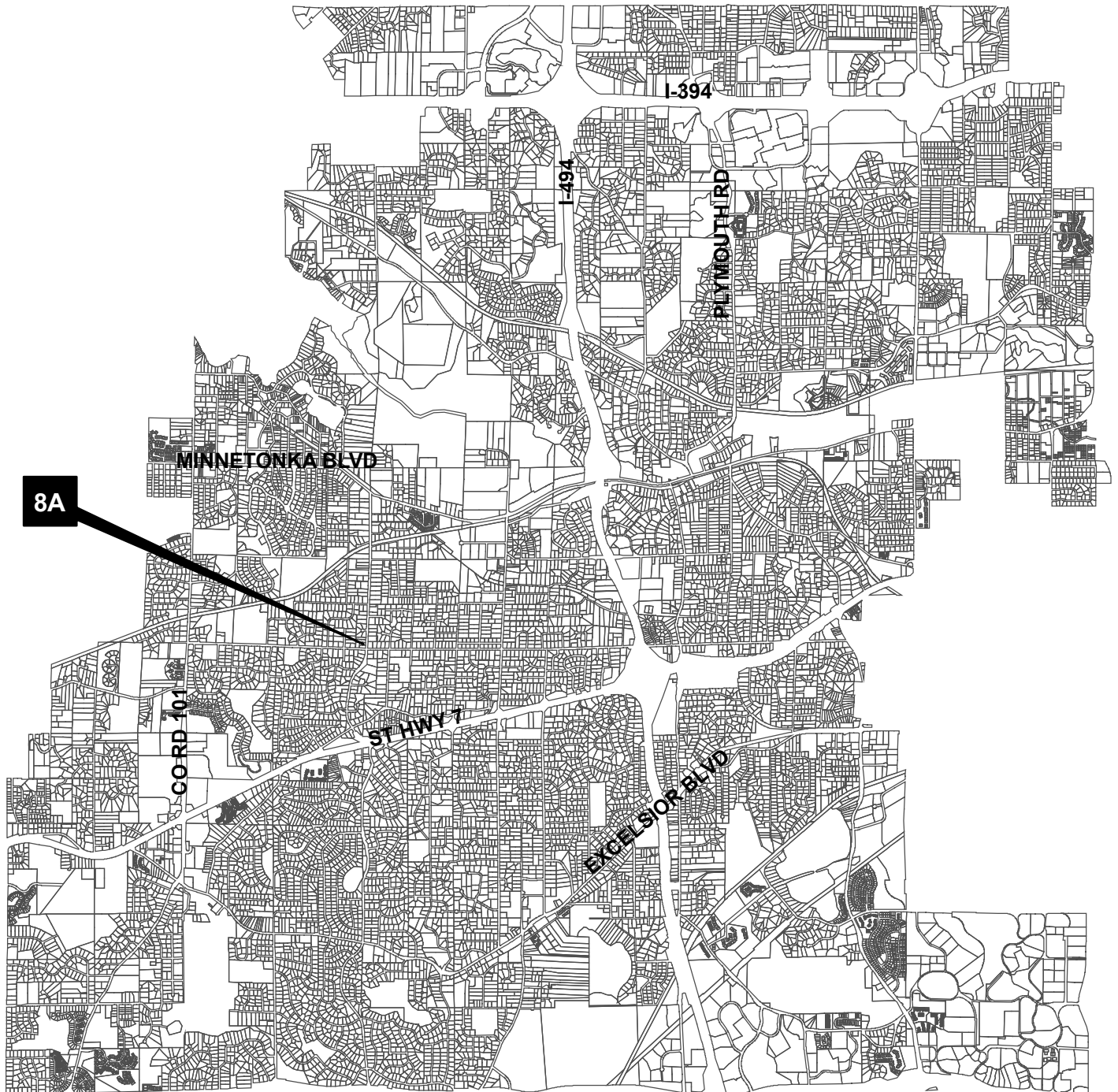


**AUGUST 20, 2009  
PLANNING COMMISSION MEETING  
AGENDA**





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## PLANNING COMMISSION AGENDA

AUGUST 20, 2009—6:30 P.M.

CITY COUNCIL CHAMBERS—MINNETONKA COMMUNITY CENTER

1. **Call to Order**
2. **Roll Call**
3. **Approval of Agenda**
4. **Approval of Minutes: August 6, 2009**
5. **Report from Staff**
6. **Report from Planning Commission Members**
7. **Public Hearings: Consent Agenda**

None
8. **Public Hearings: Non-Consent Agenda Items**
  - A. A side yard setback variance from 30 feet to 25 feet to construct an addition to the existing house, located at 4136 Tonkawood Road. (09019.09a)

RECOMMENDATION: Approve the request (5 Votes)

    - Final Decision Subject to Appeal
    - Project Planner: Jeff Thomson
9. **Other Business:**
  - A. Logis Computer Training
10. **Adjournment**



## **WELCOME TO THE MINNETONKA PLANNING COMMISSION MEETING**

This outline has been prepared to help you understand the public meeting process. The review of an item usually takes the following form:

1. The chairperson of the meeting will announce the item to be reviewed and ask for the staff report on the subject.
2. Staff presents their report on the item.
3. The Commission will then ask City staff questions about the proposal.
4. The chairperson will then ask if the applicant wishes to comment.
5. The chairperson will open the public hearing to give an opportunity to anyone present to comment on the proposal.
6. This is the time for the public to make comments or ask questions about the proposal. Please step up to the podium, speak clearly, first giving your name (spelling your last name) and address and then your comments.
7. At larger public hearings, the chair will encourage speakers, including the applicant, to limit their time at the podium to about 8 minutes so everyone has time to speak at least once. Neighborhood representatives will be given more time. Once everyone has spoken, the chair may allow speakers to return for additional comments.
8. After everyone in the audience wishing to speak has given his or her comments, the chairperson will close the public hearing portion of the meeting.
9. The Commission will then discuss the proposal. No further public comments are allowed.
10. The Commission will then make its recommendation or decision.
11. Final decisions by the Planning Commission may be appealed to the City Council. Appeals must be written and filed with the Planning Department within 10 days of the Planning Commission meeting.

It is possible that a quorum of members of the City Council may be present. However, no meeting of the City Council will be convened and no action will be taken by the City Council.

**UNAPPROVED  
MINNETONKA PLANNING COMMISSION  
MINUTES**

**AUGUST 6, 2009**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

Commissioners Lehman, Sjeklocha, A. Thomas, Adams, Blatz, and Cheleen were present. Walker was absent.

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Principal Planner Susan Thomas, Planner Jeff Thomson, and Planning Technician Stephanie Scott-Sims.

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted with a comment received for 8D, items concerning a parking lot expansion at Minnetonka High School located at 18301 Highway 7 (97001.09a), and a modification for 8E, ordinance amending Section 300.34 regarding telecommunications facilities (97031.09a), described in the change memo dated August 6, 2009.

- 4. APPROVAL OF MINUTES:** July 18, 2009

*Lehman moved, second by A. Thomas, to approve the July 18, 2009 meeting minutes as submitted with a clarification that Blatz was not indifferent to the height variance, but that she could support what the other commissioners were saying and rationalize it as a point intrusion and the following amendments:*

- Page 18: ~~Lehman- Walker~~ felt residents . . .
- Page 19: Lehman felt the government ~~should decrease taxes~~ “ought to keep its hands out of our pockets,” so he was less inclined to require the developer do something in exchange for the proposal.

*Lehman, Sjeklocha, A. Thomas, Adams, Blatz, and Cheleen voted yes. Walker was absent. Motion carried.*

**5. REPORT FROM STAFF**

Gordon briefed the commission on land use applications considered by the city council at its meeting of August 3, 2009:

- Directed the developer to provide a more comprehensive concept plan for the area surrounding 5430 Dickson Road.
- The final report for the Minnetonka Mills area was presented regarding suggestions for future redevelopment.

Wischnack invited commissioners to attend a light rail meeting at the Marriott Southwest in Opus Thursday. A public hearing will be held regarding station planning and environmental impact statement information. Two open houses will be held from 6:30 p.m. to 8 p.m. Wischnack noted that a public hearing will be held in front of the Policy Advisory Committee September 17, 2009 in Hopkins.

**6. REPORT FROM PLANNING COMMISSION MEMBERS**

Adams attended the city council meeting August 3, 2009. He was a member of the Minnetonka Mills Task Force. He has been concerned that there has not been enough time for public input prior to a developer coming forward with a proposal. The meetings held for the Minnetonka Mills area was a good process to go through. He spoke in favor of continuing the process for the other village centers that are identified in the comprehensive guide plan. It sounded like the city council and mayor supported that. He was not sure of the timing for each village center. It does not make sense to go through the process for an area that would not be developed for five years to ten years.

Chair Cheleen attended the Minnetonka Mills meetings also. He agreed that it took a while for the attendees to understand that the committee was there to discuss ideas before a development applicant was submitted. Once residents realized that the purpose was to gather input it went more smoothly. He agreed with getting ahead of development. There are some long-range plans for some areas. It would be nice to be able to have a general sketch of a concept plan with two or three options for the areas of Glen Lake, Minnetonka Mills, and Minnetonka Boulevard and Highway 101 because they are right for development. He agreed that the process was good.

**7. PUBLIC HEARINGS: CONSENT AGENDA: None**

**8. PUBLIC HEARINGS**

- A. A conditional use permit for an outdoor seating area for Panera Bread located at 12967 Ridgedale Drive. (89035.09a)**

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

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

A. Thomas was curious what safety feature would deal with one turning the corner and not making it between the end of the road and the outdoor seating area. It appeared that there is room for a lane of traffic. He suggested cement safety features be installed to prevent a vehicle from sliding into the outdoor seating area in the winter. S. Thomas responded the drive aisle is currently located directly next to the existing sidewalk. A condition of approval for all outdoor seating areas is that the seating area be enclosed by a fence. The commission could include requiring bollards. A safety bollard is a cement post or ball. Target has ball-shaped bollards. A. Thomas favored requiring bollards. S. Thomas recalled Dairy Queen was required to have the fence posts surrounding the outdoor seating area meet bollard structure requirements.

Blatz was concerned that the sign variance would cause sign inconsistencies in appearance. She understood the proposed sign would be located higher than the rest. S. Thomas explained that the sign ordinance requires signs be placed within a designated sign band or that the planning commission approve a location other than the designated sign band when a sign is to be architecturally part of the building. Part of the request is to repeal the sign covenant and allow for the Panera sign to be located outside of the existing sign band. If a tenant also wishes to raise its sign above the band, staff would consider the request and consider the possibility of integrating it into the actual structure of the building. Such a proposal would have to be approved by the planning commission.

Lehman asked if the covenant belongs to the property or the owner of the property. S. Thomas explained that the covenant is a document that runs with the property. It is recorded with the property and enforced by the property owner and the city. Lehman asked if it is appropriate for a tenant of the building to be requesting a repeal of the covenant or is it more appropriate for the landowner. S. Thomas explained that the property owner has provided a letter requesting the sign covenants be repealed and Panera's application approved. Lehman confirmed with S. Thomas that the entire property's sign covenants would be repealed.

Lehman asked if the intent is to have the separation between the sidewalk go around the tree or encompass the tree. S. Thomas explained that the plan is

conceptual at this point. Lehman felt it would be better to enclose the tree to protect it.

Adams asked how many other properties in Minnetonka have sign covenants in place. S. Thomas explained that there is a large, three-ring binder full of sign covenants. There are approximately 50 locations throughout the city. They include mainly small strip malls. Staff has been working with City Attorney Desyl Peterson for several months to update the city's sign ordinance. Staff has discussed getting in touch with property owners who have sign covenants to make them aware of the proposed changes to the sign ordinance and request their input on how to move forward. S. Thomas foresaw a review of all of the properties at one time after further research has been completed.

Adams was concerned that if all of the tenants had a sign similar to the proposal, then the store fronts would not be aesthetically attractive. He noted that it could be dealt with on a city-wide basis rather than an individual basis.

Adams noted that the view of the sign on the northeast corner may be obscured by a tree. He asked if the applicant intended to remove the tree. S. Thomas stated that staff was unaware of any tree removal.

Sjeklocha confirmed with S. Thomas that all tenants could have an awning. S. Thomas explained that awnings are considered decorative rather than signage. The property owner is able to regulate aesthetics of the businesses on a level stricter than the city's ability.

Sjeklocha noted that the word "daily" should be added after "twice" in the conditions of approval.

Mike Rolis, St. Louis Missouri, representing Panera, applicant, stated that it would keep both trees. Having the tree inside the railing makes sense. He intended it to be kept to provide shade. The current location of the sign on the east side of the building has good visibility. Panera feels it is important to incorporate the colors and signage to help with identification. The awnings are intended to do that. The large overhang and age of the covenants are out dated and need to be modified to maximize visibility and signage.

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

A. Thomas did not support a proposal without a safety feature. He suggested a condition requiring Panera work out with staff what would be adequate to prevent a car from entering the out-door-seating area.

Sjeklocha, Adams, and Chair Cheleen concurred.

***Lehman moved, second by Adams, to recommend that the city council adopt the resolution on pages A7–A10 of the staff report. This resolution approves a conditional use permit for an outdoor seating area at 12967 Ridgedale Drive. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:***

- 1) Prior to installation of enclosure and seating, record this resolution with the county. A copy of the recorded resolution must be returned to the city.
- 2) The area must:
  - a. Be surrounded by an enclosure which includes bollards or some other safety feature acceptable to city staff.
  - b. Be sized and located in general conformance with the site plan date-stamped June 29, 2009.
  - c. Be equipped with refuse containers and patrolled twice daily for litter pick-up.
  - d. Not have speakers or audio equipment that is audible from adjacent residential parcels.
  - e. Must not encroach on any required handicap accessibility components of the existing or proposed site plan.
  - f. Provide adequate protection for outdoor seating safety from vehicles.
- 3) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 4) Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.

- 5) The applicant must agree to the above conditions in writing.

***Lehman, Sjeklocha, S. Thomas, Adams, Blatz, and Cheleen voted yes. Walker was absent. Motion carried.***

- B. Elimination of existing sign covenants associated with Ridge Square South located at 12967 Ridgedale Drive. (89035.09b)**

***Sjeklocha moved, second by Adams, to approve the following items regarding the elimination of existing sign covenants associated with Ridge Square South located at 12967 Ridgedale Drive:***

**SIGN COVENANT**

- 1) Adopt the resolution on pages A9–A10 of the staff report which repeals existing sign covenants at Ridge Square Center. Approval is based on the following findings:
- a. The existing covenants are more restrictive than the current sign ordinance.
  - b. Elimination of the existing covenants ensures that any future sign would be subject to whatever regulations the sign ordinance contains at the time the sign permit application is submitted.
  - c. Regulation of signs through the sign ordinance, rather than covenants, decreases complication for tenants, sign contractors, and city staff.

**MODIFIED SIGN BAND**

- 2) Approve through motion a modified sign band for location of proposed Panera signs at Ridge Square South at 12967 Ridgedale Drive. Approval is based on the following findings.
- a. City Code 300.30.5(b)1(e) allows the planning commission to approve a modified sign band to allow for architectural integration of the tenant sign.
  - b. The proposed signs are been attractively designed to integrate into the Ridge Square building.

- c. The proposed signs have a proportional relationship to the scale of the building.
- d. As the proposed sign would be located on a large end-cap tenant space, the sign would not infringe upon other tenants signage.

Approval is subject to the following conditions:

- a. A sign permit application must be submitted for staff review and approval.
- b. Signs must be in general conformance with the plans date-stamped July 23, 2009.

***Lehman, Sjeklocha, A. Thomas, Adams, Blatz, and Cheleen voted yes. Walker was absent. Motion carried.***

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

**C. A front yard setback variance from 35 feet to 22 feet for a home addition to the property at 5716 Cedar Lane. (09015.09a)**

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

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

Lehman asked if the driveway moving from the east frontage to the north frontage would have an impact on which of the two lot sides is considered the primary and which is considered the secondary. Scott-Sims stated that it did not have a bearing on how the application was reviewed. The secondary frontage was considered where the new garage addition is going because it is closer to the street. The driveway access was not taken into account to determine where the frontage would be located.

Lehman asked what standard is used to determine the primary and secondary. S. Thomas explained that a corner lot is allowed a 10-foot reduction. The proposed residence currently meets the 35-foot setback on the east side. The residence does not meet the setback on the north. The reduction area has already been taken on the north side. On a corner lot, one frontage must

maintain 35 feet and the other frontage may be less than 35 feet. Based on the location of the existing residence, 35 feet is maintained on the east side and already less than 35 feet on the north side. So, the north side becomes the secondary frontage independent of the garage addition.

Michael Lecy, 5716 Cedar Lane, applicant, stated that he spent several months working with architects to ensure that the plans would respect the neighborhood and aesthetic quality. Moving the garage to the opposite side of the house would reduce the area where motorists cannot see a vehicle or pedestrian exiting or entering the property due to the slope. The plans make the proposal as functional for the living space as possible and ensure that the aesthetics of the neighborhood will remain.

Adams noted that the proposal includes removal of a 25-foot coniferous tree. Mr. Lecy stated that it would more than likely not be removed because the area for the garage has been reduced to preserve the tree. Adams was going to suggest that other landscaping replace the tree. Mr. Lecy explained that 8-foot tall ornamental trees will be relocated around that side of the garage.

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

Blatz was concerned since the lot protrudes into the street. The lot is small and relatively makes 13 feet a significant amount. After visiting the site, she determined that setting the garage back will help maintain the sight line. She is a little less concerned. She could support it. The whole neighborhood, except for one house, has 2-car garages. She learned that the third stall would be minimized and used to house a boat that would otherwise be parked on the driveway. She felt that would be a positive for the application. She was concerned with the 13-foot variance overall.

Chair Cheleen felt setting the garage back from the site is an advantage. The size of the landscaping located north and west of the garage should not restrict sight lines.

***Adams moved, second by Lehman, to adopt the resolution on pages A13–A15 of the staff report, which approves the proposed front yard variance from 35 feet to 22 feet at 5716 Cedar Lane. Approval is based on the following findings:***

- 1) The proposal is reasonable and would meet the required standards for a variance, because:

- a. **UNDUE HARDSHIP and UNIQUE CIRCUMSTANCE:** The pie shape of the subject property presents both an undue hardship and a unique circumstance.
  - (1) The applicants' existing home has a non-conforming front yard setback of 33 feet. As such, any addition to the home that maintains the front building line of the home would require a setback variance.
  - (2) Though functioning like a corner lot, the property is subject to standard lot setbacks.
  - (3) The property's pie shape is not common to most properties in the city.
- b. **INTENT OF THE ORDINANCE:** The proposed garage addition meets the intent of the residential ordinance requirements.
- c. **NEIGHBORHOOD CHARACTER:** The proposed garage addition would not alter the residential character of the neighborhood. A survey of the other homes in the neighborhood showed that the majority do not meet the front-yard setback requirement.

Approval is subject to the following conditions:

- 1) Prior to issuance of a building permit:
  - a. A copy of this resolution must be recorded with the County and a copy of the recorded document returned to the city.
  - b. Install a temporary rock driveway, erosion control, tree protection and wetland protection fencing as required by natural resources staff for inspection and approval. These items must be maintained throughout the course of construction.
- 2) If the total site disturbance is greater than 50 cubic yards or 5,000 square feet, the city's water quality standards must be met, which provides for the abstraction of 1-inch of runoff from all new and disturbed impervious surfaces. If this threshold is met, a stormwater permit from the Nine-Mile Creek Watershed District may also be required.

- 3) This variance will end on December 31, 2010, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

***Lehman, Sjeklocha, A. Thomas, Adams, Blatz, and Cheleen voted yes. Walker was absent. Motion carried.***

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

**D. Items concerning a parking lot expansion at Minnetonka High School located at 18301 Highway 7. (97001.09a)**

Chair Cheleen 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.

A. Thomas asked if an analysis has been done to determine if parking on Delton Avenue is good or bad. Thomson was not aware of specific complaints received by the city regarding parking on Delton Avenue creating a traffic hazard. Some of the businesses have expressed concerns regarding when street parking fills up and overflow parking uses space in the businesses' parking lots. It is hard to determine if parking on Delton Avenue relates to not enough parking being available on campus or whether that relates to students not wanting to pay for a parking permit. The city engineer could be requested to consider prohibiting parking on Delton Avenue.

A. Thomas felt commissioners should consider what traffic flow in the area makes sense. He described the area and its traffic pattern. If he was a business owner in the area, then he would be concerned customers would not be able to reach his business when vehicles fill the area for most of the day. He supported the city doing a study and sending the business owners a survey asking if each would support restricting parking to one side of Delton Avenue, prohibit parking on both sides, or just leave it as it is. He did not know if changing the parking regulations on Delton Avenue would help or make the situation worse.

Wischnack provided that during the comprehensive guide plan process, a focus group was formed to look at the neighborhood. Parking on Delton Avenue was one of its major concerns. Business owners have expressed concerns regarding the parking. The Park Nicollet building tenant is also concerned with parking. It would be handled as redevelopment occurs and analyzed as opportunities

become available. Everyone understands that there are approximately 45 vehicles parked there on a regular basis. People walking in the middle of the street as well as other hazards exist. A. Thomas agreed that development could trigger looking at the parking situation again. The parking and foot traffic is not fair to business owners.

Blatz understood that staff recommends approval of the application because it would have less of an impact than the initial proposal. She questioned if the proposal is the best option. She is not convinced that it is the best option. Gordon recalled the conversation with the applicant dealt with minimizing the environmental impact as much as possible. Staff looked at what point the slopes really begin to fall, where the property is relatively flat, and where the trees are located. This was an exercise in minimizing the impact from the first proposal to get to a reasonable compromise.

Blatz asked what tree loss would have been for the original proposal. Colleran explained that 113 significant or high priority trees would have been removed by the original proposal. The current proposal would remove 36 significant trees and 9 high-priority trees.

Paul Bourgeois, Executive Director of Finance and Operations for Minnetonka Public Schools, 5621 County Road 101, applicant, thanked staff for considering the proposal. He stated that:

- The site does not have a lot of other potential parking areas. There is potential for small future editions.
- There is a relatively limited number of parking stalls for the size of the high school. There are over 2,800 students.
- Hopefully by having additional parking on site, students would not park or walk down Delton Avenue.
- He would not be opposed to prohibiting parking on Delton Avenue because the whole idea is to get students on campus to monitor behavior.
- The number of students on campus is larger than most small cities in Minnesota.

Principal Dave Adney, representing the applicant, stated that:

- He is a tree hugger. His family plants thousands of trees every year.
- This is a matter of security and safety on campus to keep students safe and monitor and control their behaviors.

- Three people work in the parking lot during dismissal and arrival.
- The lot is safe and clean most of the time. The environmental club has worked with school staff to pair drivers with another driver to maximize carpooling. Law enforcement has told him that more than two teenagers in a vehicle is not the best thing to hope for, so the school has not pushed for more than two in a vehicle.
- Students, whether district residents or open enrollers, are not allowed a parking permit without pairing with another driver. Very few individual passes exist without a medical emergency that affects the family. An individual pass may be supplied to a student who participates in an educational program that is off campus when the school does not provide transportation.
- In his 7 years, the student body has increased by over 20 percent. Students want to be part of Minnetonka High School. It is a safe and secure place for students to come to school. Student parking has not been increased in 7 years.
- Available parking has been used very well.
- Appropriate doors have to be used to provide monitoring of who enters the building.

Adams asked if the 50 stalls at the athletic facility were considered for student parking. Mr. Adney stated that the lot is out of sight of the school and stretches the resources of school staff. Staff parking, public parking, and student parking are separated as much as possible to monitor who is coming and going and keep traffic away from students as much as possible. He would consider staff parking at the athletic facility. Adams noted that the site plan filed with the city in 2004 indicates that no events are held at the dome during the day. Mr. Adney stated that the dome is used for classrooms during the day. Adams was concerned with extending a parking lot into woods when there are unused parking stalls on campus.

Sjeklocha asked if only allowing seniors to get permits had been considered. Mr. Adney supports an inclusive culture. Before he was hired, there was a pecking order that allowed only seniors. That did not seem reasonable. It did not match surrounding schools' policies. The campus leaves a much smaller footprint than other schools. Wayzata and Eden Prairie have twice the footprint. To allow a select group of students impacts the building culture in terms of creating a hierarchy. He tries to eliminate that when possible. He receives more arguments questioning why the sophomores are not allowed to purchase parking permits.

Blatz asked how many students were denied parking permits. Mr. Adney estimated 70 to 100 applicants were denied and stay on a waiting list. More

permits than stalls are sold each year, but spots cannot be permitted for a portion of the day.

A. Thomas was curious how much the permit costs. Mr. Adney responded \$125 a semester. It is not a given that students can afford the cost.

In response to Adams' question, Mr. Adney stated that student government has looked at providing parking at the K-Mart site for two out of the last four years. The use of the lot is not a problem. K-Mart is a very good neighbor. The cost would be prohibitive because there would have to be two buses and traffic would cause delays. School staff will ticket student vehicles parked in retail spots that they are not allowed to park in. Mr. Adney described the timing and domino effect that prohibits making a retail lot a stop on a bus route.

Sjeklocha asked for the district's thoughts regarding the master plan idea. Mr. Bourgeois stated that a master plan was created in 2007. He reviewed what the book contains including infilling the court yard space and adding classrooms.

Sjeklocha asked if the 2007 plan is applicable today. Mr. Bourgeois responded affirmatively. The plan was developed to ensure things would be done in a logical sequence.

Chair Cheleen questioned if the K-Mart parking was eliminated and Delton Avenue did not allow parking, then would an additional 60 stalls be needed. He could see approving 61 stalls, but he did not want someone requesting 60 additional stalls in the future. Mr. Bourgeois said that he did not see that happening with the current school board and administration.

Gordon clarified that the master plan is an exercise necessary to best accommodate programs and students and determine when and how that would occur. It addresses many of the interdependencies of the facility and different programs.

The public hearing was opened.

Janet Swiecichowski, 15254 Fairfield Road, stated that:

- She is an open enrollment parent. She resides in Minnetonka an equal distance between Minnetonka High School and Wayzata High School.
- Additional parking is seriously needed. She is concerned with the safety of students who are walking on Delton Avenue. She

commended A. Thomas for trying to find ways to get students on campus. It is the safest place for students to be.

- One third of open enrollment students reside in Minnetonka.
- The research is very clear. No more than two teenagers should be in a car at any time. The legislature just put more restrictive driving laws into effect.
- She appreciated the commission's consideration of the application. She encouraged it be approved.

David Bingham, Shorewood, stated that:

- He brought e-mails expressing concern with the safety of students parking on streets and walking to the high school.
- Riding the bus costs \$100 per student who resides within a mile and a half of the school.
- He is a realtor. He takes buyers to the high school. The buyers always ask why all the vehicles are parked on Highway 7. They question if the school or city is liable for the safety of the students.
- He is very familiar with the area. The concern is to keep the students safe.
- One of the e-mails is from a neighbor who lost their daughter a year ago from a traffic accident with three teenagers in the vehicle. He disagreed that having more than two teenagers in a vehicle is safe. Everyone is in a hurry in the morning and it is dark. Kids walk down the middle of the street in the morning.
- The school district is a big draw for home buyers, but the parking situation creates a big concern.

Lori Strommen, 19001 Kingswood Terrace, opposes the expansion. She asked how many years the trees being removed have been there. She did not understand why parking at the athletic field could not be used during the school day. The kids would be on campus. Teenagers know how to walk on a sidewalk and in the street without getting hit by a car.

Colleran explained that the applicant would be required to mitigate trees removed outside from the 10-foot perimeter of the parking lot. Of those trees, 4 would be significant and 2 would be high-priority trees. Thirty-one 2-inch trees would have to be planted. Forty evergreens would also be required to provide screening. The age of the trees would depend on the species. A 2-inch tree can be anywhere from 7 to 15 years old compared to a 24-inch oak which is 150 to 200 years old.

In response to Chair Cheleen's request, Mr. Adney reiterated that the parking lot at the athletic building has not been utilized during the day because it is out of sight from the school; the area lacks proper security; and it would create constant traffic on a steep grade on a road that is not divided. Five classes walk to and from the athletic field almost every hour. Liability is limited as much as possible. It would not be a safe plan. Moving employee parking down there could be considered. He would not mix student parking with student traffic. Blatz confirmed that there is a sidewalk.

A. Thomas asked if it would be feasible to have faculty park in the athletic parking lot and students park where the teachers now park. Mr. Adney stated that would cause parking out of sight lines and secure areas. He would be very uncomfortable with that. The school monitors every vehicle that comes onto the site to identify who is on campus. A. Thomas asked what it would cost to locate a camera on the lot. Mr. Bourgeois reviewed where faculty and staff park. A. Thomas wanted to maximize what exists and be as efficient as possible. A. Thomas stated that if 40 spots can be created at the athletic facility by adding cameras and adding "no parking" signs to Delton Avenue, the Delton Avenue parking problem would be solved. That is a win-win situation.

Susan Gerome, 18900 Kingswood Terrace, asked if all of the proposed 61 parking stalls would be on the west side. Chair Cheleen responded affirmatively. She agrees with A. Thomas. The spots in the lower area could be utilized by young, able kids. The teachers and staff deserve not to walk up the hill. It would be more of a safety risk for them. Children are coddled way too much. She asked the school district to take care of the replacement trees. She questioned why there was no irrigation system.

Mike Condon, of Minnetonka Schools, 5621 County Road 101, applicant, stated that:

- The dome houses four or five classes every hour of the day which equals 75 to 100 kids being dismissed and arriving at the same time. They do not stick to the sidewalk. They walk on the whole drive. It needs to be a controlled parking environment. Staff parking may be a possibility.
- Even if those 40 spots are used, that would not take care of the problem.

No additional testimony was submitted and the hearing was closed.

In response to Sjeklocha's question, Thomson explained that approval of the 27 stalls would still require review by the planning commission.

Sjeklocha asked Mr. Bourgeois to tell her about residents paying fees to bus a child to school. Mr. Bourgeois stated that students who live within 1.5 miles to school are charged \$100 to ride the bus.

Sjeklocha asked how many students have his or her parking permit revoked each year. Mr. Adney stated that it is rare. Multiple offences or single grievous offenders will cause a pass to be revoked. Revocation of a permit occurs less than 10 times each year.

Sjeklocha felt interdependence during the day on campus is important information. The master plan idea should be brought forth.

Blatz asked what impact, if any, would there be if 27 stalls would be added on the shoulder. She questioned if it could be added to later with little cost or impact as well as extend out. Clearly there is a need for parking. Thomson stated that there would be grading impact on the sides. Tree impact would be significantly reduced.

Blatz asked what would need to be done to the community parking lot to add 30 stalls. Mr. Bourgeois said that storm water and snow management, grading, and a retaining wall would be needed. Blatz and Mr. Bourgeois discussed the site.

Blatz asked if a compact-car-only area already exists. Mr. Bourgeois explained how creating small parking spaces usually creates no gain. In response to Blatz's question, Thomson explained that the standard for a compact stall is 7.5 feet wide for a 90-degree-parking spot. It would not add a significant amount of parking for the west area.

Lehman asked if the commission's review is more on the legislative or judicial side. Thomson explained that the zoning ordinance provides standards for the conditional use permit and standards for the site and building plan review outlined in the supporting information section of the staff report. The charge of the commission is to review those standards and whether the proposal would meet or not meet the standards. It is more of a judicial role.

Adams stated that the site is intensely developed. It has a natural environment, sports facilities too numerous to mention, the school, and parking. With every application, the natural environment loses. It has to be frustrating for the neighbors. The applicant is responsible for some of the situation. The 9<sup>th</sup> grade

was added to the high school. The ice arena was built on campus. The district has openly promoted open enrollment. This is the consequence. He is not convinced that the available parking space on campus is being maximized. The community parking lot by the dome is unused during the day. A shot put and javelin practice facility blocks expansion of that lot. He cannot believe those are intensely used. He understood the concern of being out of the sight lines of the school. He was not opposed to taking the shoulders off of the west parking lot and adding 27 spaces. He was not opposed to adding parking by the art center. He saw plenty of impervious surfaces in the neighborhood. There are possibilities that do not require removing 100 trees and adding fill and retaining walls. He did not support the resolution as it stands. He would be o.k. if the lower parking lot was taken into account and adding 27 stalls to the existing west parking lot.

Blatz agreed with Adams. The site is limited. Safety is a legitimate concern. She did not think all of the options have been explored. She encouraged the school to explore other options including the community lot and the northeast corner. There would be too much impact to the natural resources and neighbors. She did not support it as it is.

Lehman understood trying to redesign the school district's site or legislating how it ought to use certain pieces of the property. When considering if the request is reasonable, then he sees it as reasonable. The proposal fits within the boundaries of the purpose of a conditional use permit assuming that the site and building plan review is more of a judicial review as opposed for a chance for commissioners to legislate what the school district does with its property. He did not see solid ground, as other commissioners may have, to deny the request for a conditional use permit. If a motion is made to approve staff's recommendation, then he would vote for it.

A. Thomas was prepared to probably support 61 stalls if utilizing the lower lot was considered. It looks like the commission is micromanaging the site. The commission has made suggestions on other applications to make a proposal better or request alternatives. He was concerned with natural resources and tree loss. More has been done to harm the natural resources on campus than to help. The neighbors are frustrated. The commission's role is to balance things out. People who live near a high school can expect change and activity. He did not have a problem with the 27 stalls on the shoulder. The northeast corner should be looked at. It may be impossible because of the time element, but he thought there are some issues and concerns and he understood the school district wants 61 stalls. He would feel more comfortable with the school district coming back and saying that the 61 stalls are needed; all other options have been considered;

and this is what we can do. He did not know if he had gotten that feeling yet. He did not support the application.

Sjeklocha has reservations in light of neighborhood comments. She asked if the lower parking would have to be reviewed by the city. Thomson explained that reallocating use of a parking lot would not require city review, but change of a footprint would.

Thomson corrected the staff report and clarified for Sjeklocha that the proposal would meet all site and building review standards. Thomson reviewed the standards that relate to the internal order of the campus and preservation of the site and its natural features. The planning commission has some flexibility in determining whether the proposal would meet every standard outlined in the site and building plan review.

Sjeklocha was comfortable with the 27 stalls part of the proposal and supported the change memo amending a condition to require "daily" pick up of debris.

Chair Cheleen believes the school district estimates its need to include the number of stalls provided in its original proposal. He agreed with putting some pressure to enforce the master plan and require clean up of the site. The school district does not have authority to regulate parking on Delton Avenue. Parking at K-Mart or another off-site location is a short-term solution. That parking could be gone next year. The merits of the proposal include that tree loss would be mitigated. He referred to the school district staff's expertise in regard to the lower parking lot because they have had the experience of dealing with student drivers. It is not as simple as putting a few cameras down there. It needs patrolling. It needs adults observing and present to provide control. Some of it is doable. The school district suggested they would be willing to have some nutrition staff park there. The nutrition staff arrives at a different time of day. The proposal is valid. The proposal has had thorough hearings. There is a lot of pressure being put on the district to do things in conjunction with this that does not belong in the motion. The motion relates to the site and building plan review and conditional use permit. He agreed with Lehman. The application has merit. The district has determined a need. Commissioners must trust district professionals to a certain extent. He supported staff's recommendation.

***Lehman moved, second by Adams, to recommend that the city council adopt the resolution on pages A74-A83 of the staff report, which approves the site and building plan review and conditional use permit for a parking lot expansion at 18301 State Highway 7. Approval is based on the findings***

***that the proposal would meet all site and building plan review and conditional use permit ordinances and standards.***

***Lehman and Cheleen voted yes. Adams, Sjeklocha, A. Thomas, and Blatz voted no. Walker was absent. Motion failed.***

Thomson reviewed commissioners' findings for denial: the parking lot expansion would not preserve the natural features of the site; a considerable number of high-priority trees would be removed; the grades and slopes in the area would be significantly changed; development has incrementally changed the footprint of the high school campus and nicked away at the site's natural features; an alternative approach of developing a longer-term master plan would address the needs of the high school and create a more harmonious and cohesive site design; the parking lot expansion does not provide a functional and harmonious site design and layout; and other parking opportunities exist including the northeast parking lot and reutilizing the south parking lot to maximize the efficiency and use of the parking at the school.

***Blatz moved, second by Adams, to recommend that the city council deny the site and building plan review and conditional use permit for a parking lot expansion at 18301 State Highway 7. Denial is based on the following findings that the proposal would not meet the standards for site and building plan review and conditional use permit:***

- a) The parking lot expansion does not preserve the natural features of the site. The parking lot expansion would remove a considerable number high priority and significant trees. Furthermore, the parking lot would significantly change the grades of the adjacent steep slope. The final grades and retaining wall are not in keeping with the general appearance of neighboring developments.
- b) Over time, development has incrementally expanded the footprint of the high school campus and nicked away at the site's natural features. An alternative approach of developing a longer term master plan would better address the needs of the high school, and would create a more harmonious and cohesive site design and layout.
- c) The parking lot expansion does not provide a functional and harmonious site design and layout. There are other opportunities to provide additional parking on the site, including expanding the northeast parking lot adjacent to the arts center and utilizing the south parking lot near the athletic dome and softball fields. Furthermore, any parking lot expansion should consider

the differing functions and events on the property to maximize the efficiency and use of the parking stalls.

- d) The incremental expansion of the high school campus has gradually increased the land use conflicts with the surrounding residential neighborhoods. The proposed parking lot would significantly impact the trees and slopes on the perimeter of the site which provide sound and sight buffers from the residential properties.

***Sjeklocha, A. Thomas, Adams, and Blatz voted yes. Lehman and Cheleen voted no. Walker was absent. Motion carried.***

**E. Ordinance amending Section 300.34 regarding telecommunications facilities. (97031.09a)**

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

Gordon reported. He recommended that the commission recommend the council adopt the ordinance.

Adams asked if the ordinance change delegates some of the commission's authority to staff. Gordon answered affirmatively. Adams was fine with that. He did not recall performing a 15-foot extension review. He asked if such reviews are anticipated. Gordon responded positively. He explained how collocating on monopoles occurs. Separation is needed between antennas.

Chair Cheleen noted an antennae near the Cub Foods on County Road 101 and State Highway 7 with a ball on top. He asked if another antennae could be collocated 15 feet from that antennae. Gordon said that is a perfect example. Chair Cheleen saw the benefits since the area is nonresidential.

S. Thomas provided an example where the city council approved extension of a previously approved 75-foot tower to a 90-foot tower. Industry professionals and other cities helped staff create the appropriate provision.

Sjeklocha felt that currently there was not an adequate incentive to collocate. An administrative review will be a more efficient route for telecommunication companies to receive a response quickly. Gordon commented that if review time is decreased by 2.5 months, it would be a benefit to the company and the city by minimizing the impact of adding another tower to the landscape.

Sjeklocha asked if the city council has ever rejected a collocated site. S. Thomas recalled one denial in 7 years where the city denied its own application to locate a tower on city property. She recalled no application that met the conditional use permit standards being denied.

Sjeklocha questioned if residents would still be notified. Gordon answered in the negative. Sjeklocha asked if Minneapolis staff have received concerns from residents who wished they had been notified. Gordon stated that Minnetonka staff have received that concern from residents. The concern is not the appearance of the facility itself, but the impact of radio waves. The city must follow the Telecommunications Act of 1996 and its amendments which dictate that the facilities are allowed to exist if certain criteria are met.

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

***Blatz moved, second by Adams, to recommend the city council adopt the ordinance on pages A8–A18 of the staff report, with the modification provided in the change memo dated August 6, 2009, which amends City Code Section 300.34 regarding telecommunications facilities.***

***Lehman, Sjeklocha, A. Thomas, Adams, Blatz, and Cheleen voted yes. Walker was absent. Motion carried.***

## 9. ADJOURNMENT

***Adams moved, second by A. Thomas, to adjourn the meeting at 9:30 p.m. Motion carried unanimously.***

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

# **Minnetonka Planning Commission Meeting**

**August 20, 2009**

## **Agenda Item 7**

**Public Hearing: Consent Agenda**

**NONE**

# **Minnetonka Planning Commission Meeting**

**August 20, 2009**

## **Agenda Item 8**

**Public Hearing: Non-Consent Agenda**

**MINNETONKA PLANNING COMMISSION**  
**August 20, 2009**

**Brief Description**      Aggregate side yard setback variance for an addition to the house at 4136 Tonkawood Road

**Recommendation**      Adopt the resolution approving the request

---

**Project No.**              09019.09a

**Property**                4136 Tonkawood Road

**Applicant**              Steven Warzecha

**Proposal**                The property owner is proposing an addition to the existing house. The addition would be located on the north side of the house and would consist of additional garage space. The proposal would not extend any closer to the north property line than the existing home, but requires an aggregate side yard setback variance due to an existing nonconforming setback. (See narrative and plans on pages A1-A10.)

**Proposal Requirements**

The proposal requires:

- Aggregate side yard setback variance: The zoning ordinance requires a minimum aggregate side yard setback of 30 feet. The property owner is proposing an aggregate setback of 25 feet.

**Approving Body**

The planning commission has final authority to approve or deny the request. Any person aggrieved by the planning commission's decision about the requested variances may appeal such decision to the city council. A written appeal must be submitted to the planning staff within ten days of the date of the decision. (City Code 300.06.4)

**Site Features**            The site is 23,000 square feet in size and contains a single-family house which was constructed in 1956. The house is

approximately 1,940 square feet in size, and has a two car attached garage. (See page A5.)

**Proposed Addition** The garage addition would be located on the front of the existing garage and would be 20 feet wide by 17 feet deep. The new garage would be a total size of 20 feet by 37 feet. Overhead doors would be provided on the front and back of the garage for access. (See pages A5-A6.)

**Staff Analysis** Staff finds that the applicant's proposal is reasonable and that it would meet the variance standards:

- **Practical Difficulty:** There are two practical difficulties in constructing the proposed addition. The first practical difficulty is the existing nonconforming setback of the house. Given the current setbacks of the house, an addition that maintains the existing building lines could not be constructed without the need for a variance. The second practical difficulty is the width of the lot. The lot is only 81 feet wide which is significantly less than the current ordinance requirement of 110 feet. The aggregate side yard setback requirement is based on the current lot width standard. (See page A5.)
- **Unique Circumstance:** The existing nonconforming setback and the width of the lot are circumstances that are not common to every R-1 property.
- **Neighborhood Character:** The addition would not adversely impact the character of the surrounding neighborhood. The garage addition would maintain the existing building lines of the house, and would not extend any closer to the property lines.

### **Staff Recommendation**

Adopt the resolution on pages A11-A13, which approves an aggregate side yard setback variance from 30 feet to 25 feet for a garage addition at 4136 Tonkawood Road. Approval is based on the following findings:

- 1) The proposal is reasonable and would meet the required standards for a variance, because:
  - a. **UNDUE HARDSHIP:** There is a hardship due to the existing conditions of the site. Given the width of the lot and the existing nonconforming setback,

a garage addition that maintains the existing building lines could not be constructed without the need for an aggregate side yard setback variance.

- b. UNIQUE CIRCUMSTANCE: The width of the lot and the existing nonconforming setback are circumstances that are not common to every R-1 property.
- c. INTENT OF THE ORDINANCE: The proposed garage addition is a reasonable use of the property and meets the intent of the ordinance.
- d. NEIGHBORHOOD CHARACTER: The addition would not adversely impact the character of the surrounding neighborhood. The garage addition would maintain the existing building lines of the house, and would not extend any closer to the property lines.

Approval is subject to the following conditions:

- 1) Prior to issuance of a building permit:
  - a. The site must be developed in general conformance with the building plans date-stamped July 16, 2009.
  - b. A copy of this resolution must be recorded with the County and a copy of the recorded document returned to the city.
  - c. Install a temporary rock driveway, erosion control, tree protection and wetland protection fencing as required by natural resources staff for inspection and approval. These items must be maintained throughout the course of construction.
- 2) This variance will end on December 31, 2010, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

Originator: Jeff Thomson, Associate Planner  
Through: Loren Gordon, AICP, City Planner

### **Supporting Information**

**Surrounding  
Land Uses**

All surrounding land uses are single-family homes zoned R-1 and guided for low density residential uses

**Planning**

Guide Plan: Low density residential  
Zoning: R-1, low density residential

**Standards:  
Variance**

A variance may be granted from the literal provisions of the ordinance when strict enforcement of the ordinance would cause undue hardship. By definition, undue hardship exists when a property cannot be put to reasonable use if used under the conditions allowed by city code. (City Code 300.07.1) The city attorney has advised that this definition does not mean that that applicant must show that land cannot be put to any reasonable use without a variance. Rather, the applicant must show that there are practical difficulties in complying with the code and that the proposed use is reasonable.

**Natural Resources**

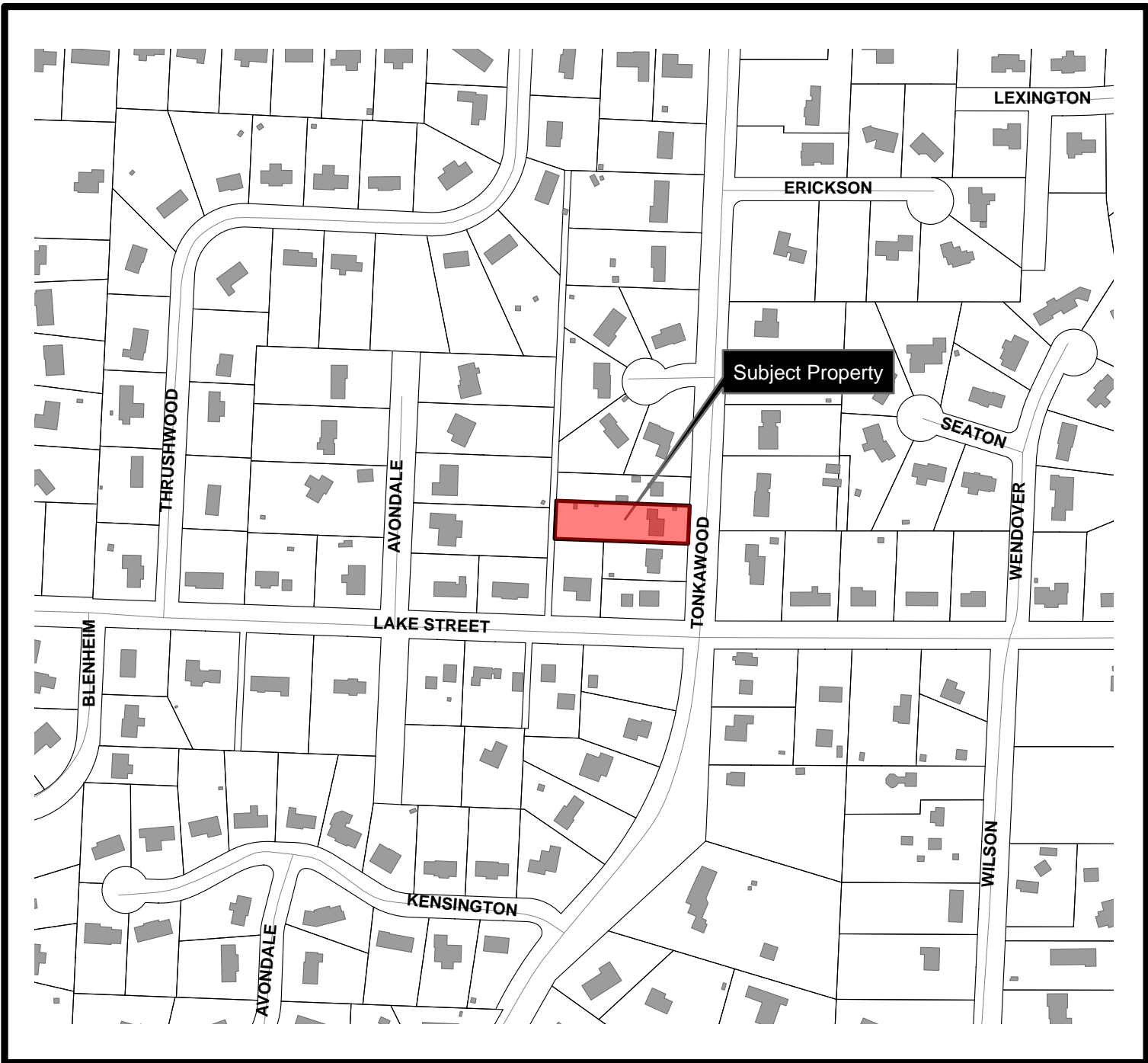
Best management practices must be followed during the course of site preparation and construction activities. This would include installation and maintenance of a temporary rock driveway, erosion control, and tree protection fencing.

**Neighborhood  
Comments**

The city surveyed 38 area property owners and did not receive any comments.

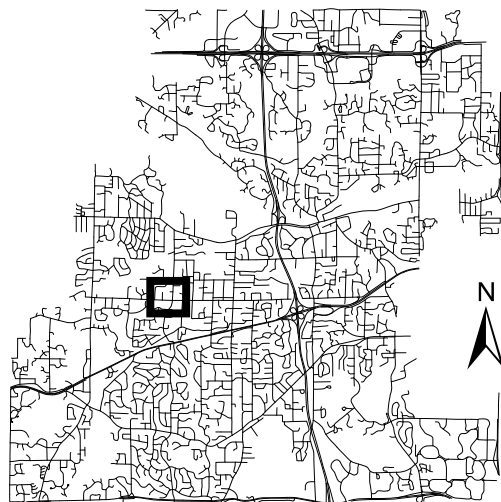
**Deadline for  
Decision**

November 13, 2009

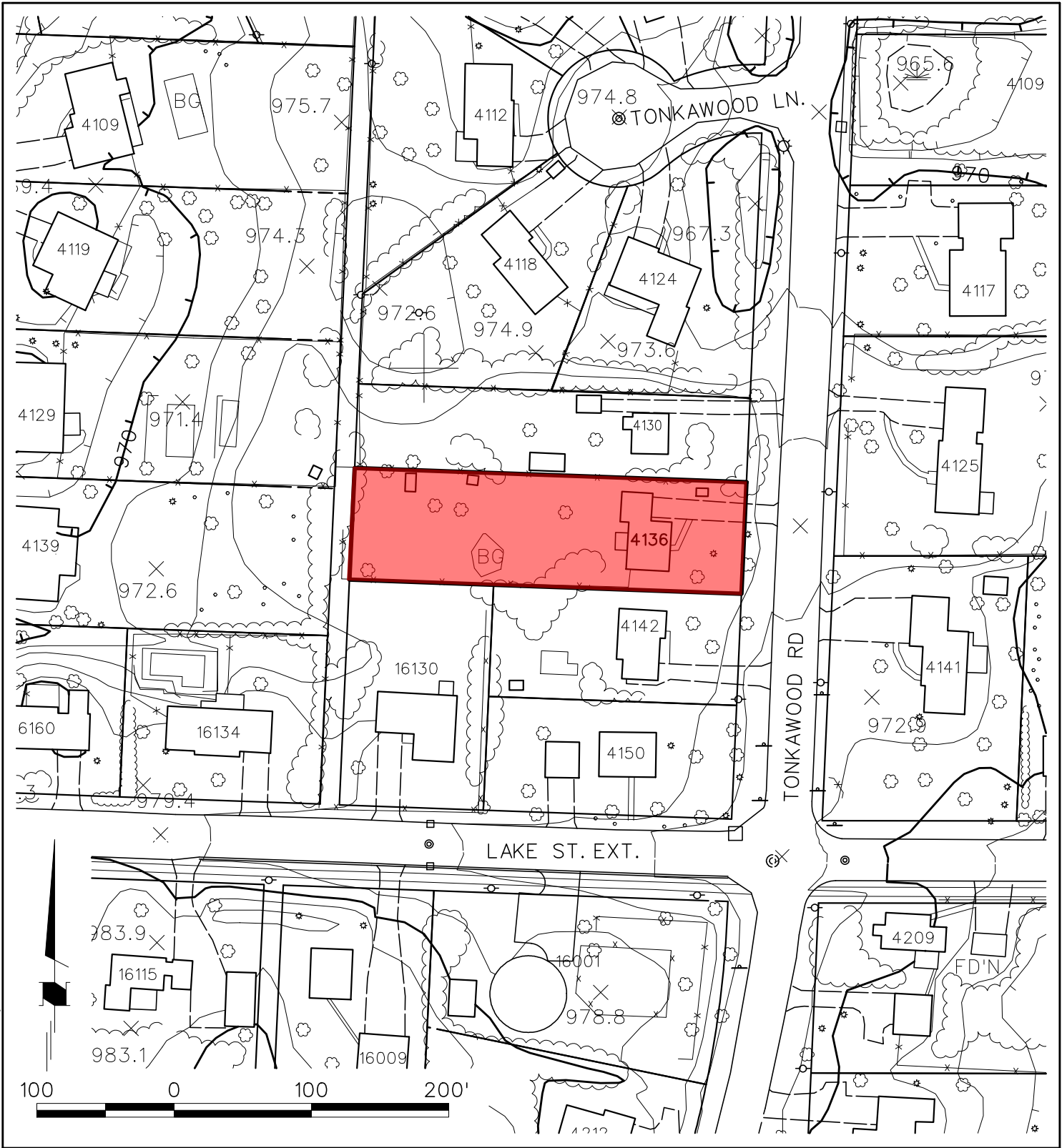


## LOCATION MAP

Project &  
 Applicant: Steven Warzecha  
 Address: 4136 Tonkawood Road  
 (09019.09a)



This map is for illustrative purposes only.



PATH: 4136 Tonkawood Rd.dgn  
 PLOTTED BY: fyong

PROPERTY LINES	BRIDGES	GUARDRAIL (BEAM)	MANHOLES	SPOT ELEVATION	WETLAND
ROW CENTERLINES	CURB & GUTTER	GUARDRAIL (CABLE)	WATER HYDRANTS	INDEX CONTOUR (10')	SHORELINE, STREAMS
ROW RADIAL LINES	EDGE OF PAVEMENT	WALKS & PATIOS	CATCHBASINS	INDEX DEPRESSION	WATER ELEVATION
SECTION LINE (FULL)	GRAVEL, TRAIL EDGE	SIGNS	CULVERT	INDEX APPROXIMATE	BELOW GROUND
SECTION LINE (1/4)	DRIVEWAYS	TRAFFIC SIGNAL	TREES	INTERMEDIATE CONTOUR (2')	ABOVE GROUND
BUILDINGS	RAILROAD	POLES, STREETLIGHTS	SHRUBS, BUSHES	INTERMEDIATE DEPRESSION	ORNAMENTAL LIGHT
BLDG'S (CONST)	FENCE	UTILITY BOX	TREE GROUP EDGE	INTERMEDIATE APPROXIMATE	
SHEDS & DECKS	RETAINING WALL	POSTS	STUMPS	COORDINATE GRID CROSS	

**NOTES**  
 500 FOOT GRID BASED ON HENNEPIN CO. COORDINATE SYSTEM  
 VERTICAL DATUM - 1929 MEAN SEA LEVEL DATUM  
 CONTOUR INTERVAL - 2'  
 DATE OF PHOTOGRAPHY - 1990

**DISCLAIMER**  
 This drawing is not a legally recorded plot or an accurate survey. It is intended to be only an approximate representation of information from various government offices and other sources. It should not be used for a purpose that requires exact measurement or precision. People who use this drawing do so at their own risk. The City of Minnetonka is not responsible for any inaccuracies contained in the drawing. The City of Minnetonka provides no warranty, express or implied, about the correctness of the information.

**City of minnetonka**  
 14600 MTKA BLVD, MTKA, MN. 55345 PH: 952-839-8200

DATE:  
 7/29/2009

**4136 TONKAWOOD RD.**  
 4136 Tonkawood Rd  
 Project No. 09019.09a



A3

4136 Topkawood Rd  
Project No. 09019.09a

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**APPLICANT'S NARRATIVE**

VARIANCE APPLICATION  
4136 TONKAWOOD ROAD

**RECEIVED**  
JUL 16 2009  
CITY OF MINNETONKA

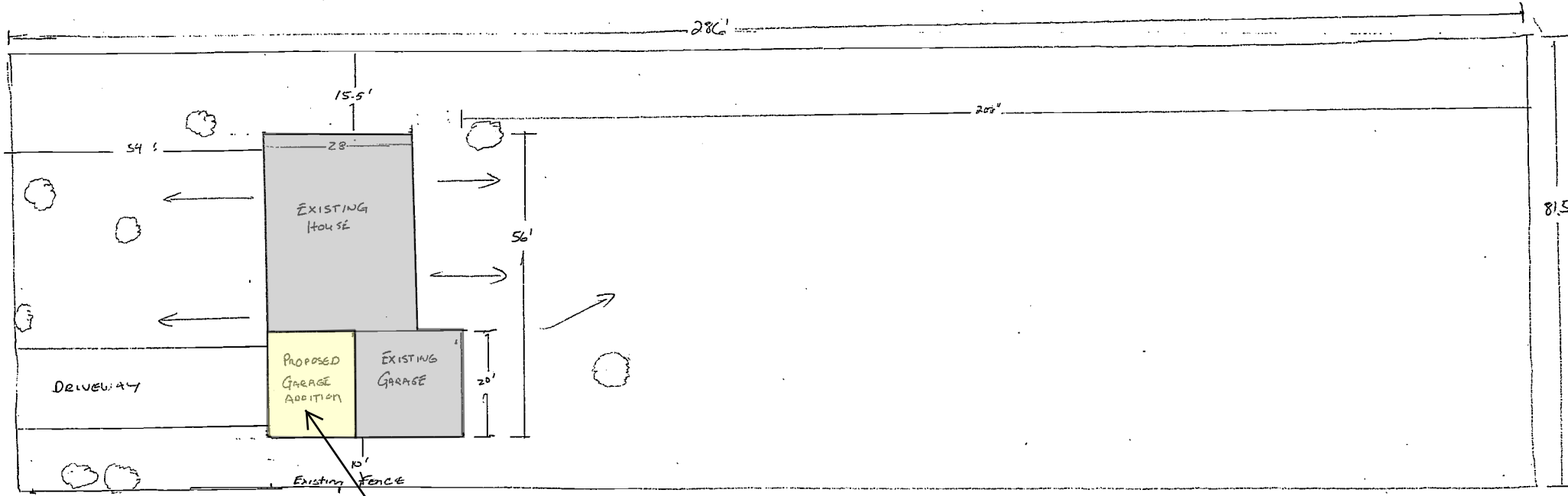
The requested variance is for an aggregate side yard setback of 30 feet. The variance is necessary for a proposed garage addition. My existing garage is positioned with an aggregate side yard setback of 25.5 feet. This allows for two cars to be parked side-by-side in the garage. If a 30 foot aggregate side yard setback is used it will not allow for two vehicles side-by-side limiting the amount of usable space for the garage. The proposed addition will not reduce the setbacks currently in place on the property. The proposed addition will allow for direct entry from the garage to the house and will make the garage more functional. The proposed addition will also facilitate future improvements to the property. Given the proposed addition will not reduce currently existing setbacks, I feel it will not alter the essential character of the neighborhood. Additionally, it will allow for additional improvements that will add value to property which will enhance the neighborhood.

**SITE PLAN**

GRADING AND EROSION CONTROL PLAN

N  
3/64 = 1'

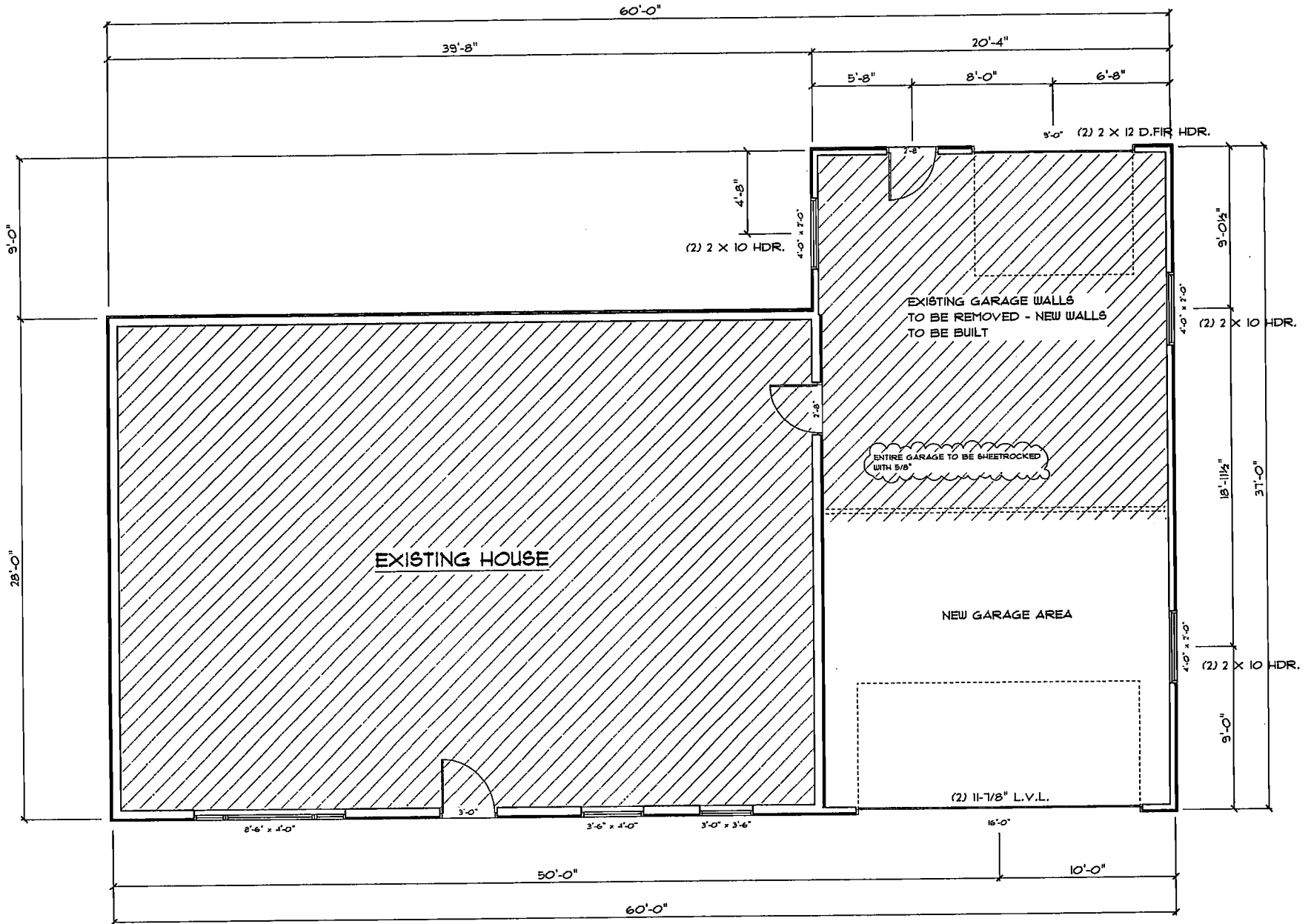
Tonkawood Road



Proposed addition

RECEIVED  
JUL 16 2009  
CITY OF MINNETONKA

**MAIN FLOOR PLAN**



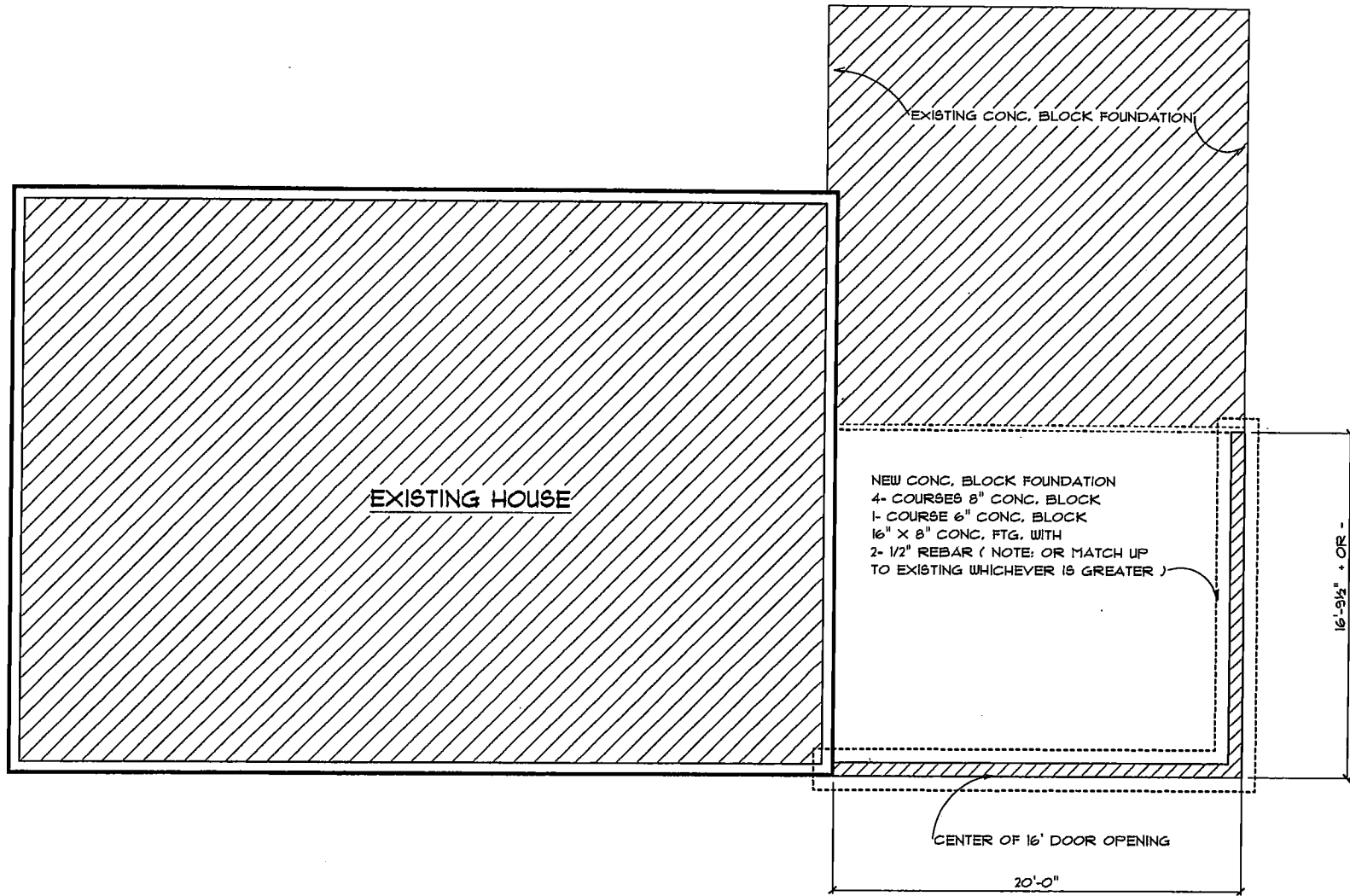
**MAIN FLOOR PLAN**

**RECEIVED**

**JUL 16 2009**

**CITY OF MINNETONKA**  
4136 Tonkawood Rd  
Project No. 09019.09a

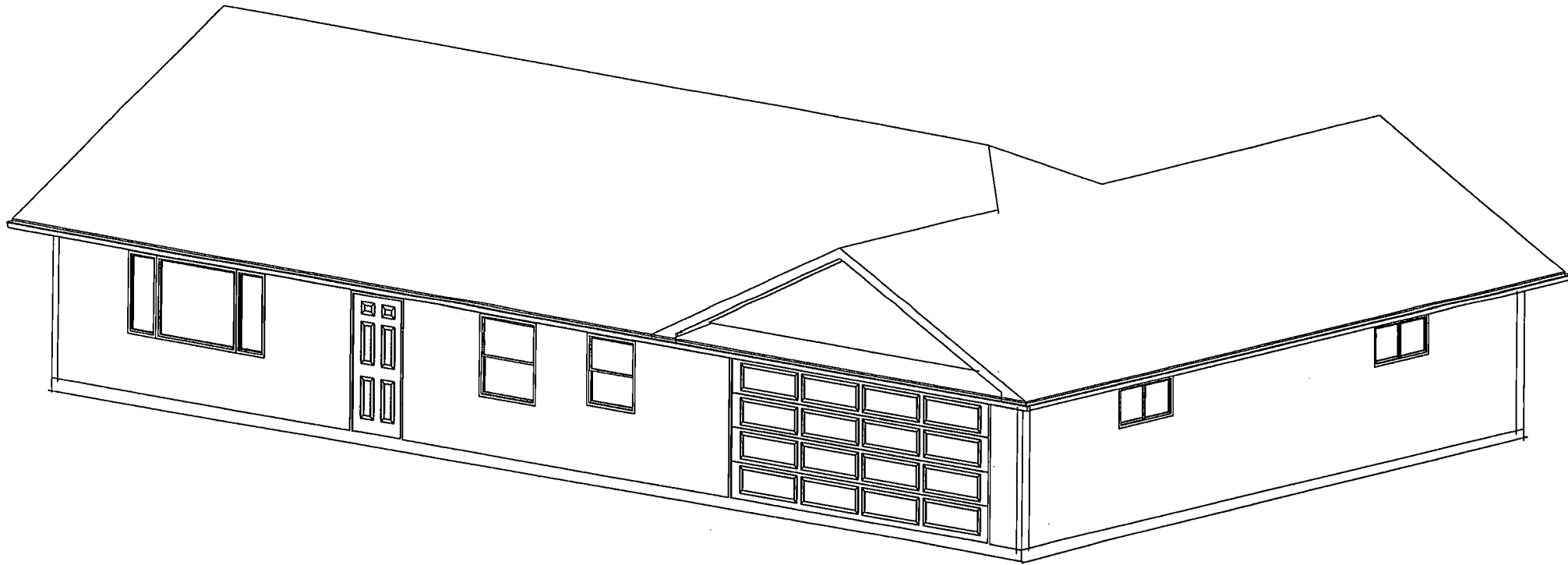
**FOUNDATION PLAN**



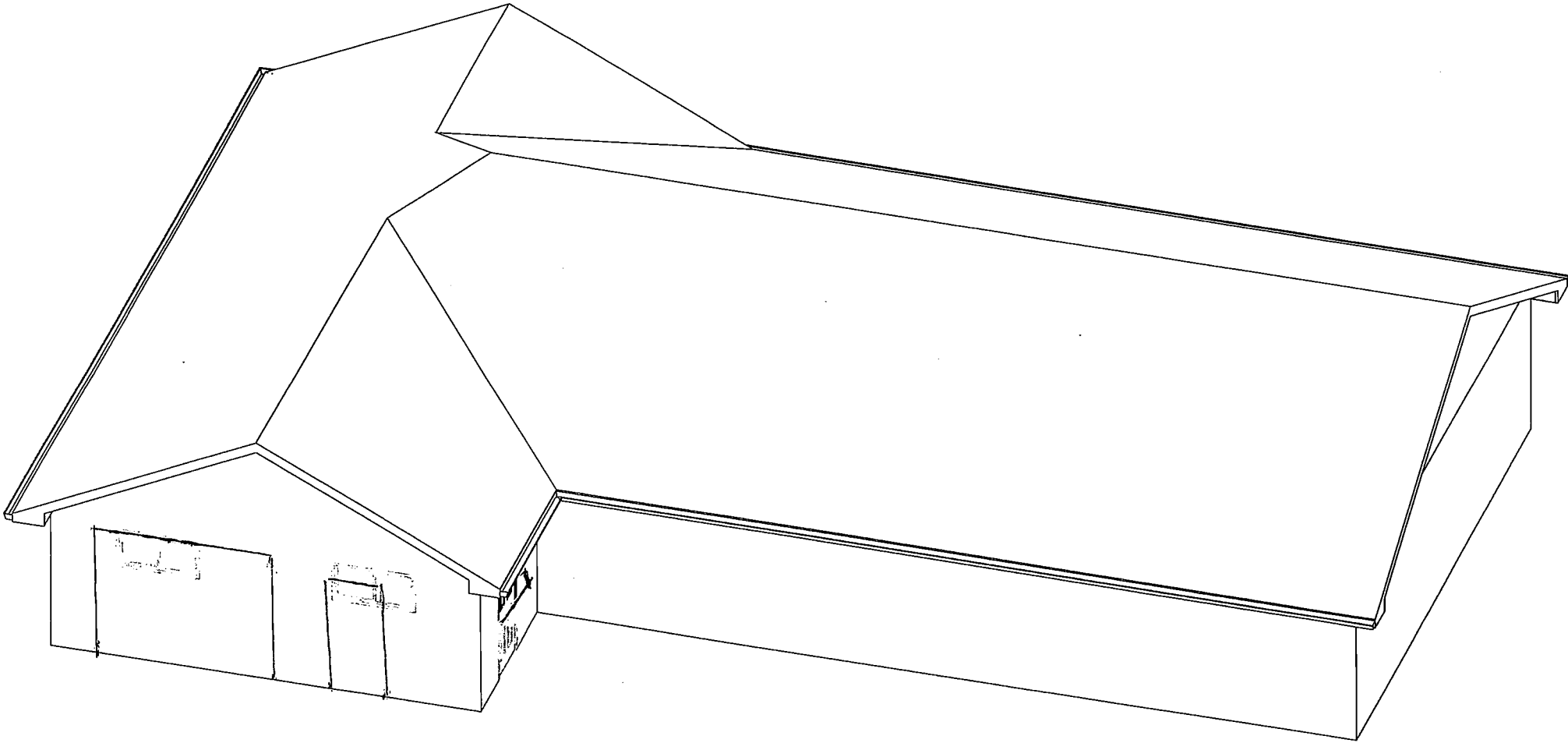
**FOUNDATION PLAN**

**RECEIVED**  
JUL 16 2009  
**CITY OF MINNETONKA**  
4136 Tonkawood Rd  
Project No. 09019.09a

**BUILDING ELEVATIONS**

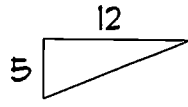


**RECEIVED**  
**JUL 16 2009**  
**CITY OF MINNETONKA**



**RECEIVED**  
**JUL 16 2009**  
**CITY OF MINNETONKA**  
4136 Tonkawood Rd  
Project No. 09019.09a

250# LANDMARK SHINGLES  
 15# FELT  
 METAL D- ROOF EDGE  
 ALUMINUM SOFFIT SYSTEM  
 2x6 SUB-FASCIA, ALUMINUM FASCIA  
 ICE & WATER SHIELD TO EDGE



MANUFACTURED TRUSSES  
 24" O.C.  
 1/2" PLYWOOD ROOF SHEET

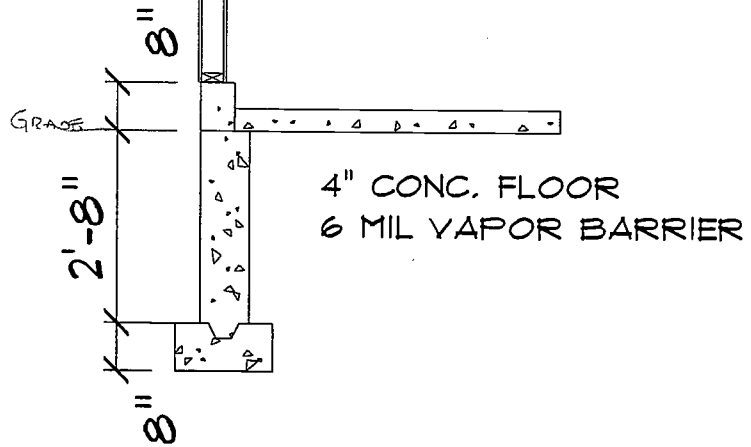
MATCH EXISTING  
 O.H. AND HEIGHT

WALL WITH HOUSE AND  
 CEILING WILL HAVE 1/2"  
 TYPE X GYPSUM BOARD

2 X 4 WALLS ( HGT. TO MATCH EXISTING  
 HOUSE WALLS) 16" O.C.

7/16" O.S.B. WALLS SHTG.  
 2 X 4 TREATED SILL. PLT. w/ sealer  
 12" PRIMED LAP SIDING  
 1/2" DIAMETER ANCHOR B&T 6' O.C.

1- COURSE 6" CONC. BLOCK  
 4- COURSES 8" CONC. BLK.  
 16" X 8" CONC. FTG.  
 2- 1/2" REBAR



# WALL SECTION

RECEIVED  
 JUL 16 2009  
 CITY OF MINNETONKA

**PLANNING COMMISSION RESOLUTION NO. 2009-**

**RESOLUTION APPROVING AN AGGREGATE SIDE YARD SETBACK VARIANCE  
FROM 30 FEET TO 25 FEET TO CONSTRUCT A GARAGE ADDITION AT  
4136 TONKAWOOD ROAD**

---

BE IT RESOLVED by the Planning Commission of the City of Minnetonka, Minnesota, as follows:

Section 1. BACKGROUND.

- 1.01 Steven Warzecha has requested an aggregate side yard setback variance from the city code for a garage addition at 4136 Tonkawood Road. (Project 09019.09a).
- 1.02 The property is legally described as follows:  
  
Lot 12, and the north 20 feet of Lot 13, Block 1, "WOODSTOCK", Hennepin County, Minnesota
- 1.03 City Code Section 300.10.5 requires a minimum aggregate side yard setback of 30 feet.
- 1.04 The applicant is proposing an aggregate side yard setback of 25 feet. This requires a variance of 5 feet.
- 1.05 Minnesota Statutes, Section 462.354, Subdivision 12, and City Code Section 300.04.2 authorize the Planning Commission to grant variances.

Section 2. STANDARDS

- 2.01 City Code Section 300.07, Subdivision 1(a) states that a variance may be granted from the literal provisions of this ordinance in instances where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration and when it is demonstrated that such actions would be consistent with the spirit and intent of this ordinance.

### Section 3. FINDINGS

- 3.01 The proposal is reasonable and would meet the required standards for a variance, because:
- a. **UNDUE HARDSHIP:** There is a hardship due to the existing conditions of the site. Given the width of the lot and the existing nonconforming setback, a garage addition that maintains the existing building lines could not be constructed without the need for an aggregate side yard setback variance.
  - b. **UNIQUE CIRCUMSTANCE:** The width of the lot and the existing nonconforming setback are circumstances that are not common to every R-1 property.
  - c. **INTENT OF THE ORDINANCE:** The proposed garage addition is a reasonable use of the property and meets the intent of the ordinance.
  - d. **NEIGHBORHOOD CHARACTER:** The addition would not adversely impact the character of the surrounding neighborhood. The garage addition would maintain the existing building lines of the house, and would not extend any closer to the property lines.

### Section 4. PLANNING COMMISSION ACTION.

- 4.01 The Planning Commission approves the above-described variance, subject to the above findings. Approval is subject to the following conditions:
- 1) Prior to issuance of a building permit:
    - a. The site must be developed in general conformance with the building plans date-stamped July 16, 2009.
    - b. A copy of this resolution must be recorded with the County and a copy of the recorded document returned to the city.
    - c. Install a temporary rock driveway, erosion control, tree protection and wetland protection fencing as required by natural resources staff for inspection and approval. These items must be maintained throughout the course of construction.
  - 2) This variance will end on December 31, 2010, unless the city has

issued a building permit for the project covered by this variance or approved a time extension.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on \_\_\_\_\_, 2009.

\_\_\_\_\_  
John Cheleen, Chairperson

ATTEST:

\_\_\_\_\_  
Kathy Leervig, Deputy City Clerk

ACTION ON THIS RESOLUTION:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Planning Commission of the City of Minnetonka, Minnesota, at a duly authorized meeting held on \_\_\_\_\_, 2009.

\_\_\_\_\_  
Kathy Leervig, Deputy City Clerk

# **Minnetonka Planning Commission Meeting**

**August 20, 2009**

## **Agenda Item 9**

**Other Business — Logis Computer Training**