

**UNAPPROVED
MINNETONKA PLANNING COMMISSION
MINUTES**

SEPTEMBER 3, 2009

1. CALL TO ORDER

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

2. ROLL CALL

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

Staff members present: City Planner Loren Gordon, Principal Planner Susan Thomas, Planner Jeff Thomson, Planning Technician Stephanie Scott-Sims, Natural Resources Manager Jo Colleran, and Community Development Supervisor Elise Durbin.

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

4. APPROVAL OF MINUTES: August 20, 2009

Adams moved, second by Sjeklocha, to approve the August 20, 2009, meeting minutes as submitted.

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

5. REPORT FROM STAFF

Gordon announced that the next planning commission meeting will be September 17, 2009. The city council will meet September 14, 2009.

6. REPORT FROM PLANNING COMMISSION MEMBERS

Adams attended a meeting August 19, 2009 that discussed the results of a study that was implemented by the Fair Housing Implementation Council which is an organization consisting of seven counties and six municipalities in the metropolitan area, including Minnetonka. Some of the results of the study were disturbing. Fair housing is different than affordable housing, but are somewhat related. Minnetonka is doing a good job keeping fair housing practices. Minnetonka does have an issue keeping affordable housing available to allow people with low incomes to live in the city.

The study found issues with housing complaints for potential homeowners within the twin cities areas related to local governments using ordinances to discriminate in zoning and land use practices. In general, Minnetonka does a pretty good job of making sure that discrimination does not take place in zoning and land use. Some of the other complaints are outside of the city's jurisdiction and relate to advertising for real estate sales, restriction of choices that realtors may make based on race or ethnicity, discriminatory terms and conditions of financing, and refusal to rent based on race or ethnicity.

Adams found most disturbing the denial rates by race and ethnicity for mortgages. The study looked at loans from 2004 to 2007 and found the denial rate for white applicants to be 12.2 percent; American Indian 24.5; Asian 24.9; African Americans 34.2; and Hispanics 30.8. Amazingly enough, denial rates for individuals with incomes over \$75,000 shows an even greater disparity: 9.3 percent for whites, 35 percent for African Americans, 20 percent for American Indians, and 24 percent for Asians. Unfortunately, this is one area that is not regulated well. Copies of the report are available from Mark Hendrickson at the Hennepin County Community Works and Transit Department at 612-348-2199. He took away from the meeting that the planning commission cannot influence lending and denial rates, but it can make sure that Minnetonka makes affordable housing available.

7. PUBLIC HEARINGS: CONSENT AGENDA:

No item was removed from the consent agenda for discussion or separate action.

Blatz moved, second by Adams, to approve the item listed on the consent agenda as recommended in the respective staff report as follows:

A. A front yard setback variance from 35 feet to 29 feet for a home addition at 5776 Glen Moor Rd W. (09020.09a)

Adopt the resolution on pages A13–A15 of the staff report, which approves the proposed front-yard setback variance from 35 to 29 feet at 5776 Glen Moor Road West. 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 existing house has a non-conforming front-yard setback. Any addition to the home along the front of the property would require a front-yard setback variance.
 - The addition would be built to maintain the existing building line and would not extend further into the front-yard.
- b. INTENT OF THE ORDINANCE:
- The proposed addition meets the intent of the single-family residential section of the zoning ordinance.
- c. NEIGHBORHOOD CHARACTER:
- The proposed addition would not alter the essential residential character of the surrounding neighborhood.

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) Any extension or expansion of the existing driveway must be paved.
- 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.

Adams, Blatz, Lehman, Sjeklocha, and Cheleen voted yes. A. Thomas and Walker were absent. Motion carried and the item on the consent agenda was approved as submitted.

8. PUBLIC HEARINGS

A. Items concerning Glen Lake Redevelopment.

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

Durbin reported. She recommended approval of the application based on the findings in the staff report.

Blatz asked how TIF funds could be used for affordable housing. Durbin explained that it could be used to support WHAHLT purchasing a property or to write down the rent of rental units.

Adams was surprised that funds from a TIF district could be used outside of a TIF district. Durbin explained that TIF funds can be used outside of TIF district boundaries; however, it must be used within the project area. The boundaries are established during the creation of the TIF district. The project area was created in the late 1970s. There was an original TIF district that was done in the Glen Lake area. The TIF district has closed, but the project area still remains.

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

Sjeklocha moved, second by Lehman, to adopt the resolutions (see pages A2-A5 of the staff report) finding that modifications to the Housing Development and Redevelopment Plan for the Glen Lake Station Housing Development and Redevelopment Project, the Tax Increment Financing Plan for the Glenhaven TIF District, and the Housing TIF District No. 2—Beacon Hill, conform to the general plans for development and redevelopment in the city.

Adams, Blatz, Lehman, Sjeklocha, and Cheleen voted yes. A. Thomas and Walker were 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.

B. Conditional use permit, with variance, for a detached garage at 14218 Quigley Road. (00061.09a)

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.

Jerry Roelofs, 4917 Beacon Hill Road, applicant, stated that the plan is good, staff has been a big help, and he is ready to move forward.

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

Chair Cheleen felt the project is cut and dry. It would fit the area. The architecture on the garage would match the storage area in the residence.

Adams moved, second by Blatz, to recommend that the city council adopt the resolution on pages A13–A16 of the staff report. This resolution approves a conditional use permit for a detached garage at 14218 Quigley Road, with the following variances:

- 1) Side yard setback variance from 15 feet to 10 feet.

Approval is based on the following findings:

- 1) Aside from the requested setback variance, the proposed garage would meet conditional use permit standards as outlined in City Code 300.16.3(g).
- 2) The proposed garage would meet the variance standard as outlined in City Code 300.07.1.
 - a. **UNDUE HARDSHIP:** While the garage could be situated to meet the required 15-foot setback, such location would result in greater impact to the critical root zones of these trees than the proposed 10-foot setback. The property owners desire to maintain these spruce trees presents a practical difficulty.
 - b. **UNIQUE CIRCUMSTANCE:** A conditional use permit and variance are required solely because the subject property already contains a large accessory structure. If the structure did not exist, the proposed garage with 10-foot setback could be administratively approved through the building permit process. This is a unique situation not common to all residentially-zoned properties.
 - c. **INTENT OF THE ORDINANCE and NEIGHBORHOOD CHARACTER:** The proposed garage would be located in relatively the same position as an existing storage shed and directly east of a detached garage on the adjacent property. Given these existing

conditions, the proposed garage would not negatively impact the character of the neighborhood

Approval is subject to the following conditions:

- 1) Prior to issuance of a building permit, the following must occur:
 - a. Record this resolution with the county. A copy of the recorded resolution must be returned to the city.
 - b. Install erosion control and tree protection fencing subject to the review and approval of natural resources staff. In particular, tree protection fencing must be located to protect three large spruce trees in the general vicinity of the proposed garage.
- 2) The garage must be constructed in relative conformance with the following plans:
 - a. Site Plan date-stamped August 3, 2009.
 - b. Building Elevations date-stamped August 3, 2009.
- 3) The garage is not to be used for commercial activities.
- 4) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 5) 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.
- 6) The applicant must agree to these conditions in writing.

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

- C. Conditional use permit to locate an automotive accessories business within the existing commercial building at 15700 Wayzata Boulevard. (88054.09a)**

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.

Sjeklocha asked if there is noise-level consideration for the project. Thomson explained that the building and fire codes address noise levels inside a structure and would be reviewed during the building permit process.

Blatz confirmed with Thomson that all automotive repairs would occur inside the building. She asked if inflating tires, changing wipers, and oil changes may be done outside of the building. Thomson stated that, given the use, those types of minor services would not occur. Staff's recommendation includes a condition of approval that prohibits servicing of vehicles outside of the building.

Chair Cheleen noted a letter from a resident concerned that vehicles would be stored outside of the building over night. Thomson stated that a condition of approval would prohibit vehicles from being stored outside over night.

Thomas Prezioso, Bravo Auto Bra, 2879 West Edge Boulevard, owner and applicant, stated that all services are done inside the building because the work has to be done in a clean environment. His clients would prefer their vehicles be stored inside or not stored at all. He welcomed questions and appreciated Thomson's work on the project. There is no other window-tint company in Minnetonka. A lot of homeowners utilize the service.

Adams asked where the business is currently located. Mr. Prezioso stated that his business is currently mobile. He services auto dealerships on site. He would now have a location for vehicle owners and auto dealers to bring vehicles for window tinting.

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

Lehman clarified with Thomson that no overnight storage would be allowed outside of the building and he supported a condition prohibiting gas pumps.

Lehman moved, second by Walker, to recommend that the city council adopt the resolution on pages A8-A11 of the staff report with the addition of a condition prohibiting gas pumps from the site and a clarification to allow parking overnight inside the building, but not outside the building. This resolution approves a conditional use permit for a 2,400-square foot automobile accessories business with service bay at 15700 Wayzata Boulevard. 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 issuance of a building permit, record this resolution with the county. A copy of the recorded resolution must be returned to the city.
- 2) The use must comply with all building and fire codes.
- 3) There may be no vehicle(s) stored outside of the building overnight.
- 4) All repairs and installation must be done within the building. Servicing of vehicles must not occur in the parking lot.
- 5) Must have no public address system audible from any residential parcel.
- 6) Must have no sales, storage or display of motor vehicles.
- 7) Must have no gasoline pumps.
- 8) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 9) 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.
- 10) The applicant must agree to the above conditions in writing.

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

D. Ordinance amending the zoning regulations regarding retail sales in residential districts. (08033.09a)

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

Gordon reported. He recommended approval of the application based on the findings listed in the staff report.

In response to Lehman's hypothetical scenario, Gordon explained that the proposed ordinance modification would allow a youth organization to hold an equipment sale to raise funds for their organization at the community center.

Adams understood the exemption for educational, religious, and public institutions. He asked if an organization would be able to conduct a sale at a private residence. Gordon explained that the sale would have to be conducted by the person who resides at the property or by friends of the resident. The items for sale must be owned by the resident or friends of the resident. The proposal would not allow a friend who has an organization to bring items to a sale being held in a single-family residence.

Sjeklocha asked what is considered a public institution besides city or county facilities. Gordon provided libraries and fire stations as examples.

Sjeklocha questioned if an educational, religious, or public institution would be allowed to have a sale every day. Gordon answered affirmatively. If that would become a problem, the ordinance could be modified.

Sjeklocha asked if she would be allowed to sell four semi-truck loads of stuff at an educational, religious, or public institution. Gordon responded affirmatively. The facilities that have parking lots have some amount of daily traffic. Having a sale on a non-use day would not be as disruptive to the surrounding area as it would to an R-1, single-family neighborhood.

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

Adams saw potential for abuse. He thought it should be monitored for unintended consequences.

Adams moved, second by Sjeklocha, to recommend that the city council adopt the ordinance found on pages A1-A9 of the staff report regarding sales in residential districts.

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

E. Ordinance amending the nonconforming-use section of the zoning code. (07013.09a)

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

Gordon reported. He recommended approval of the application based on the findings in the staff report.

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

Adams confirmed with Gordon that a city ordinance cannot allow something state law prohibits, but a city ordinance can be more restrictive than state law. Adams was curious what incident prompted the change. Gordon guessed property owners around the state requested relaxed building standards. Most of the lots in Minnetonka are already developed, so the modification would not impact the city too much.

Chair Cheleen asked if property owners could combine parcels and then subdivide them. Gordon stated that would be allowed. The ordinance would then enforce minimum lot sizes.

Blatz moved, second by Adams, to recommend that the city council adopt the ordinance on pages A1 – A6 of the staff report, which amends section 300.26 regarding non-conforming uses, primarily in the shoreland district.

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

9. ADJOURNMENT

Adams moved, second by Lehman, to adjourn the meeting at 7:34 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary