

**MINNETONKA PLANNING COMMISSION
MINUTES**

OCTOBER 7, 2010

1. CALL TO ORDER

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

2. ROLL CALL

Commissioners Daeges, Lehman, Magney, Sjeklocha, A. Thomas, Adams, and Cheleen were present.

Staff members present: City Planner Loren Gordon, Principal Planner Susan Thomas, and Planning Technician Stephanie Scott-Sims.

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

4. APPROVAL OF MINUTES: September 16, 2010

Sjeklocha moved, second by Adams, to approve the September 16, 2010, meeting minutes as submitted.

Daeges, Lehman, Magney, Sjeklocha, A. Thomas, Adams, and Cheleen voted yes. Motion carried.

5. REPORT FROM STAFF

Gordon briefed the commission on land use applications considered by the city council at its meeting of October 4, 2010:

- Adopted a resolution approving an extension for filing of the preliminary and final plats of Premier Place located at 16229 Temple Drive South and 16103 and 16115 Temple Lane.
- Upheld the planning commission's denial of a variance and approval of an expansion permit to allow an expansion of a non-conforming garage at 17622 Ridgewood Road.

Gordon announced a workshop to study the village center for the State Highway Number 7 and County Road 101 area will be held October 13, 2010 at the Minnetonka High School from 7 p.m. to 8:30 p.m. Feedback will be obtained from property owners in the area and staff will layout the process for the next several months. Commissioners are encouraged to attend.

Gordon noted that the next planning commission meeting will be October 21, 2010.

6. REPORT FROM PLANNING COMMISSION MEMBERS:

Lehman was able to attend one day of the Upper Midwest 2010 Planning Conference. He enjoyed the planning law and legislative update session. People spoke highly of Minnetonka's planning staff.

7. PUBLIC HEARINGS: CONSENT AGENDA: None

8. PUBLIC HEARINGS

A. Revised Expansion Permit for additions to the existing home at 16509 Elm Circle. (10031.10a)

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.

Lehman was curious how the structure of the expansion permit ordinance works. He questioned how the existing ordinance would deal with expanding an expansion 5 years or 10 years from now. S. Thomas noted that the proposal did not cause an expansion of the existing nonconformity. If something had already been constructed in accordance with an approved expansion permit, then staff would consider whether or not the approved permit made the condition conforming. Staff had a discussion regarding if a variance makes a condition conforming. The intent is that if a variance had been approved in the past, then an expansion permit could not be approved in the future. Lehman saw the function of the expansion permit to address legally nonconforming properties.

Kevin Schindler, 16509 Elm Circle, applicant, asked if the property is now prevented from further expansions into the easement area only or could the residence expand into the back of the property. S. Thomas provided an illustration of the site with the buildable area marked on it. The property owner could propose an addition within the buildable area by applying for a building permit. An expansion permit would not be necessary in that case. If an addition would be proposed to extend outside of the buildable area, then an application for an expansion permit would be required.

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

Adams moved, second by Daeges, to adopt the resolution on pages A5–A9 of the staff report, which approves a revised expansion permit for additions to the existing home at 16509 Elm Circle. Approval is based on the following findings:

- 1) The applicant has met the burden of proof outlined in City Code §300.29 Subd. 7(c):
 - a. REASONABLENESS: The proposed expansion is reasonable for several reasons.

1. It is functionally appropriate to locate a garage addition adjacent to the existing garage space.
 2. The proposal would provide for additional, enclosed off-street parking.
 3. The proposal would aesthetically enhance the property.
- b. UNIQUE CIRCUMSTANCE: When a building permit was issued in 1963, the home met front yard setback requirements. However, zoning ordinance changes over the following 40 years have resulted in a now non-conforming front yard setback. This is a circumstance not common to every similarly zoned property and not caused by the current property owner.
- c. NEIGHBORHOOD CHARACTER: The proposed expansion would maintain the home's existing front yard setback and would aesthetically enhance the property. It would not adversely affect or alter the essential 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) Construction must be in substantial compliance with Exhibit A of this resolution.
- 3) This expansion permit approval will end on December 31, 2011, unless the city has issued a building permit for the project covered by this resolution or approved a time extension.

Daeges, Lehman, Magney, Sjeklocha, A. Thomas, Adams, and Cheleen voted yes. 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. Expansion Permit to construct a new sunporch at 11963 Hilloway Road West. (10032.10a)

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.

The applicant declined to comment.

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

Lehman moved, second by Magney, to adopt the resolution on pages A24–A27 of the staff report, which approves an expansion permit for a sun porch at 11963 Hilloway Road West. Approval is based on the following findings:

- 1) The applicant has met the burden of proof outlined in City Code §300.29 Subd. 7(c):
 - a. REASONABLE EXPANSION: The proposed expansion is a reasonable use of the property.
 - b. CIRCUMSTANCE UNIQUE TO THE PROPERTY: The sun porch was originally constructed to conform to the city's zoning ordinance. Subsequent changes in the zoning ordinance made the sun porch non-conforming. This is unique to the property and was not caused by the property owner.
 - c. NEIGHBORHOOD CHARACTER: The proposed expansion will maintain the existing building line of the home. As such, it will not adversely affect the 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) This expansion permit approval will end on December 31, 2011, unless the city has issued a building permit for the project covered by this resolution or approved a time extension.

Daeges, Lehman, Magney, Sjeklocha, A. Thomas, Adams, and Cheleen voted yes. 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. Expansion Permit to construct a covered front patio on the house at 4949 Birchwood Lane. (10033.10a)

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.

Sjeklocha asked how staff would follow up on an anonymous letter received from a resident in regard to a proposed project. S. Thomas explained that if a name and contact information is provided, staff responds to specific complaints or questions.

Adams visited the site and saw that the patio would be a beautiful addition to the neighborhood. A porch would keep the doorway clear of ice and snow. It made a lot of sense.

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

Chair Cheleen agreed with Adams.

Adams moved, second by A. Thomas, to adopt the resolution on pages A12-A15 of the staff report, which approves an expansion permit for an unenclosed porch at 4949 Birchwood Lane. Approval is based on the following findings:

- 1) The applicant has met the burden of proof outlined in City Code §300.29 Subd. 7(c):
 - a. REASONABLE EXPANSION: A front porch is a reasonable use of property. It provides a covering from weather elements and adds aesthetic improvements to the front building elevation. Additionally, the proposed porch provides for a more functional house design since it would provide a covered entrance between the garage and the house.
 - b. CIRCUMSTANCE UNIQUE TO THE PROPERTY: The nonconforming front yard setback is a circumstance not common to every single-family residential property. This is not caused by the

property owner, is not solely based on the convenience of the property owner, and it is not based on economic considerations.

- c. NEIGHBORHOOD CHARACTER: The expansion would not adversely affect or alter the essential character of the neighborhood. The porch would maintain the existing front yard setback; it would not increase the height of the house; and it would not substantially increase the mass of the house.

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) This expansion permit approval will end on December 31, 2011, unless the city has issued a building permit for the project covered by this resolution or approved a time extension.

Daeges, Lehman, Magney, Sjeklocha, A. Thomas, Adams, and Cheleen voted yes. 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.

9. ADJOURNMENT

*Lehman moved, second by A. Thomas, to adjourn the meeting at 7:01 p.m.
Motion carried unanimously.*

By: _____
Lois T. Mason
Planning Secretary