

**APPROVED**  
**Minnetonka Beach Planning Commission Meeting Minutes**  
**February 28, 2022**

Mayor Lindstrom determined that an in-person Planning Commission meeting was not practical or prudent because of the COVID 19 health pandemic and that this meeting was held remotely using Zoom Teleconferencing. This was done in accordance with MN State 13D.02

1. Call to Order

Chair Breazeale called the meeting to order at 7:01 pm.

2. Roll Call

Present: Commissioners Anderson, Blodgett (arrived at 7:05pm), Breazeale, Halverson, Steinfeld, Swanson and Council Liaison Breazeale for Enlow. Absent: none

Staff in attendance: Phil Carlson, Zoning Administrator and Heidi Honey, City Administrator

3. Approve Agenda

**(Halverson motion, Anderson second to approve the agenda. Roll call vote: Anderson – aye, Halverson – aye, Steinfeld – aye, Swanson – aye, Breazeale – aye. All ayes.)**. Motion passed.

Breazeale stated that he received a resignation from the Planning Commission from Vice Chair Moriarty.

4. Approval of Minutes

4.1. Regular Meeting of January 24, 2022

Swanson edited the first sentence on page 4 to remove “discussed hardcover and stated” and replace it with “stated that zoning code requires that”.

**(Halverson motion, Steinfeld second to approve the minutes of the regular Planning Commission meeting of January 24, 2022 as amended. Roll call vote: Anderson – aye, Breazeale – aye, Halverson – aye, Steinfeld – aye, Swanson – aye. All ayes.)**. Motion passed.

4.2. Special Meeting of January 31, 2022

**(Anderson motion, Halverson second to approve the minutes of the Special Planning Commission meeting of January 31, 2022. Roll call vote: Anderson – aye, Breazeale – aye, Halverson – aye, Steinfeld – aye, Swanson – aye. All ayes.)**. Motion passed.

5. Old Business

5.1. 3104 Northview Road – Variance Request– Front, side and lake side setbacks, hardcover – tabled from the January 31, 2022 meeting

Carlson stated the request is for a new home that was discussed at the January 24 meeting and the commission recommended approval with conditions. At that meeting, the required side setback was represented at 17.7 ft but code is 20 ft. This was brought back at the January 31 meeting to correct the error and reconsider the motion. At the January 31 meeting, there was discussion about a 40” oak tree that could be impacted by moving the home east as recommended by the commission. The commission continued this item to tonight’s meeting to allow time for Carlson to consult with the city arborist, Erik Paulsen. The arborist stated the house could be moved east but not any closer than 10 ft from the

tree. He proposed installing a temporary fence 10 ft from the tree as shown in the arborist report to minimize damage to the tree. Paulsen recommended the work done around the tree be at the direction of an arborist. He also recommended that there be no excavating below limbs larger than 6". Jason Hilgers inspected the tree and verified there are no limbs larger than 6" in the proposed excavation area. Carlson explained that the builder needs 12 ft from the protection line (10 ft) to build. The house would move 4 ft to the east and be built 12 ft from the 10 ft line, which is 28 ft from the side lot line. On the west side of the house, the porch would be 16 ft setback from the lot line which is further than was previously proposed but still within the 20 ft setback. Carlson stated this plan works with the builder and homeowner and equalizes the home between the side setbacks as the Planning Commission recommended. If the house was centered on the lot, it would encroach significantly into the safe zone for the tree. Carlson then reviewed the conditions for approval in the packet.

Breazeale asked for public input at 7:21 pm. No input was given. He closed public input at 7:21pm.

Breazeale asked commissioners for comments.

Halverson stated she was happy with changes and research done to protect the tree.

Anderson agreed with Halverson.

Steinfeld stated they did the best they could with the small lot. It is an improvement, and the footprint of the home is no bigger than the previous house. He added that the 2<sup>nd</sup> story is consistent with the neighborhood.

Breazeale asked about the arborist determination of 10 ft from the trunk. Carlson stated he recommended not cutting closer than 10 ft from the tree and suggested the straight line fence as an easy visual to protect the closest point at 10 ft and the dripline to the north and south. Breazeale asked how people are able to excavate with an 8 ft setback. Carlson stated the digging is tapered from the foundation and some are only building on a slab. Carlson discussed the amount of space needed to excavate with Stantec engineers and their numbers were the same as the contractor's numbers.

The variance request is the garage at 13 ft and the porch at 16ft. These are improvements over the current setbacks.

Swanson suggested adding that it is a temporary fence for the tree protection. She added that the proposed setbacks added together are over 40 ft so that is good.

Commissioners did not have any additional comments on the lake side and street side setbacks.

Breazeale stated this improves the street side with the second floor set back and it is an improvement to save the tree. Carlson suggested adding "temporary" to condition #1 and adding that the fence will be removed when construction is finished.

**(Steinfeld motion, Anderson second to agree with the recommendation for approval of front, side, and lakeshore setbacks with following conditions (edited to add "temporary" to condition #1 and add fence will be removed when construction is finished, change "one" to "on" in condition #5):**

- 1) A temporary tree protection fence will be installed 10 ft from the inside (west) edge of the 40" oak tree on the east side of the lot. The temporary fence would be parallel**

to the east lot line and about 16 ft away from the lot line, extending north to the lake side retaining wall and south to the edge of the existing planting bed. The temporary fence will be removed when construction is finished.

- 2) Work on and around the oak tree will be at the direction of a professional arborist retained by the applicants. The arborist will develop a plan in writing to be shared with the City, before construction begins, for excavation, cutting and treatment of roots, pruning and treatment of branches above ground, and any other necessary steps to insure the survival of the tree during and after construction.
- 3) The area inside the fence will be protected from disturbance, digging, or heavy equipment before and during construction of the house.
- 4) The new home will be built with a footprint the same size and shape as the existing home, 4 ft east of the existing home, at a side setback to the east lot line of 28 ft. This will allow an additional 12 ft west of the tree protection fence for excavation of the new home, including the foundation and footing, 3 ft at the bottom of the trench for equipment and crew, a typical ground slope of 1:1, and one foot at the top of the slope.
- 5) On the west side, moving the house 4 ft east allows the new porch and deck at a setback of 16 ft. The chimney and fireplace on the new porch would be allowed to extend 2 ft beyond this dimension, as typically exempted from setback requirements by the Minnetonka Beach code. The new garage would be setback 13 ft from the west lot line.
- 6) The new house would move more or less east 4 ft along the alignment of the existing house, resulting in a front setback to the Northview Road ROW for the garage of 5.9 ft, compared to 6.0 ft existing. On the lakeshore side, the northeast corner of the house would be about 3.5 ft beyond the line of sight between the existing adjacent structures, vs. existing 3.4 ft.
- 7) The second story over the garage would be stepped back from Northview Road about 10 ft as illustrated on the architect's revised plans.
- 8) Hardcover on the site will be reduced to 30% or less by removing some hardcover elements and replacing others with pervious materials, to be verified by survey before a building permit is issued.

and with the following eight Findings of Fact:

- 1) The proposed use of the property to build a new home, garage, deck and porch is reasonable.
- 2) The dimensions of the existing lot and location of the existing home and garage create nonconforming structures, conditions not created by the applicants.
- 3) There is an existing 40-inch-diameter oak tree on the east side of the lot which would be severely impacted if construction were allowed for

**a house at the required 20-ft east side setback.**

- 4) Allowing the new home and garage to be placed on the lot with a variance to the required west side setback in order to avoid impacts to the oak tree on the east side of the lot is reasonable and in the City's interests.**
- 5) Allowing new porch and deck space on the home within the lakeshore setback but adhering to the same setback as existing structures to be removed is reasonable.**
- 6) Allowing new porch and deck space within the required side setback but adhering to an increased setback compared to the existing structures is reasonable.**
- 7) Allowing a new home with an upper floor similar in height to the adjacent homes in the area is reasonable, even though that added height expands the structure into the required setbacks.**
- 8) The request meets the criteria for granting a variance in Section 2.4(C)(4) of the Zoning Code.**

**(Roll call vote: Anderson – aye, Blodgett – aye, Breazeale – aye, Halverson – aye, Steinfeld – aye, Swanson – aye. All ayes.). Motion passed.**

#### 5.2. 2201 Huntington Point Road East – Variance Request and Public Nearing – Front and Corner Street Side Setback

Carlson stated the Colombos made significant changes to their initial variance request which was considered at the January 24 Planning Commission meeting. The changes include an entry gate and columns that was not discussed previously. Originally the shed was going to be pushed next to the garage. Now the shed and garage are proposed to be moved and rotated and new entry gates and columns are proposed in the street right of way. Carlson's recommendation is to approve the variances for the structure and deny the columns and entry gate because they would not meet the setback requirements. He recommended they pull the entry gates and columns back into the property to meet the 8 ft setback and no variance would be needed. The garage and shed would be pulled in a bit further out of the setback. The commission previously approved the variance request to move the shed to the garage, but the entry gate/columns were not a consideration.

Breazeale opened the public hearing at 7:49pm, no comments. Closed at 7:49pm.

Swanson stated that rotating the garage would involve tearing down the existing garage and building a new one. Carlson did not have information from the applicant if they plan to tear it down or remodel it significantly to this location. Steinfeld stated previously they were shown the shed moving to the garage with new siding and a change to the pitch of the roof. He asked if everything would still look the same as was presented previously. Carlson did not receive different plans. Carlson sent his recommendation of approval for the shed and garage and to move the gate back to meet setbacks to the applicant and he only received a thank you for sending the report and recommendation, but no comments. Swanson stated

they could come into conformity and build within the setbacks if it is a tear down and rebuild. Breazeale and Halverson discussed the shape of the lot and the difficulty in building in the small space where it is currently located. Breazeale stated the plan gets the structure further out of the 50 ft front setback, and the 20 ft side setback. He appreciates Carlson's recommendation to move the columns and gate back within the setback. He then stated it is an improvement over what is there today. Halverson supported Carlson's recommendation to move the posts back within the setback. Swanson referred to chapter 6 of the code and discussed that the intent is to bring nonconformities into conformity. Legal non-conforming structures are not to be expanded. Carlson stated it is expanding upward with the pitch being two feet higher. Breazeale, Steinfeld and Halverson stated the overall volume is not being expanded. Halverson stated this is an improvement because code requires the structure to be architecturally similar to the primary structure, and this proposal would do that. Steinfeld stated the structure does not block anything and he does not view this as an expansion. Halverson stated it is easy to say they want to move things into compliance, but they also have to consider lot irregularities and work with what they have which can be complicated. Blodgett stated the current buildings are ugly and they could be rebuilt as they are without any variances. He added that this plan moves them off the road which is an improvement. He would not approve the posts as proposed. He then stated gates are becoming more common, but he does not want to see them in the setbacks. Steinfeld stated they all agree with them not being within the setback.

**(Anderson motion, Steinfeld second to recommend that City Council the approve variances to the garage and shed variances, and deny the entry gate variance with the following five findings of fact, and the denial of the entry gate variance based on the following three findings of fact:**

**Findings of Fact for Approval of Garage and Shed Setback Variances:**

- 1) The proposed use of the property to combine shed and garage space, as well as improved design aesthetics for an increased roof pitch and more attractive building materials, is reasonable.**
- 2) The existing garage and shed are existing structures located on site, circumstances not created by the applicant.**
- 3) The project would improve the appearance of the garage and shed to be more compatible with the architecture and materials of the house on site. The variances would not alter the essential character of the locality.**
- 4) The revised plan would move the garage and shed further back from the street right-of-way, improving the nonconformity of the structures.**
- 5) The request meets the criterial for granting a variance in Section 2.4(C)(4) of the Zoning Code.**

**Findings of Fact for Denial of Entry Gate Setback Variance**

- 1) The proposed use of the property to build an entry gate is reasonable, but its location too close to the public street right-of-way is not.**
- 2) The City has an interest in keeping existing non-conforming and new structures out of its right-of-way and established setbacks and in improving the appearance and**

**function of its streetscape. Allowing an entry gate and stone columns within the required setback is not reasonable when these structures can be readily moved to comply with the setback.**

- 3) The setback variance requests for the entry gate within the required 8-foot setback does not meet the criterial for granting variances in Section 2.4(C)(4) of the Zoning Code.**

**Roll call vote: Anderson – aye, Blodgett – aye, Breazeale – aye, Halverson – aye, Steinfeld – aye, Swanson – no on approval of garage and shed variances, and vote in favor of denial of variance for entry gate.). Motion passed in 5 of 6 in favor.**

## **6. Reports**

- 6.1. Chair Report – Chair Breazeale stated that Vice Chair Moriarty resigned and asked that any referrals for potential Planning Commissioners be sent to City Council. City Council will report back on Planning project priorities after their next meeting.
- 6.2. Commissioner Reports – no report
- 6.3. Council Liaison Breazeale – Breazeale stated the February 15 Council meeting was abbreviated and they approved tree removals and took care of financial obligations.
- 6.4. Building Permit Report – received and filed

## **7. ADJOURNMENT**

**(Halverson motion, Anderson second to adjourn. Roll call vote: Anderson – aye, Blodgett – aye, Breazeale – aye, Halverson – aye, Steinfeld – aye, Swanson – aye. All ayes.). Motion passed.**

Chair Breazeale adjourned the meeting at 8:12 p.m.

**PUBLIC IN ATTENDANCE** – The following individuals were in attendance: Mayor Lindstrom, Nell Mathews, Kurt Schwarz, Andre LaTondresse, Todd and Megan Thul

Minutes respectfully submitted by City Administrator Heidi Honey

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Heidi Honey, City Administrator