

APPROVED  
Minnetonka Beach Planning Commission Special Meeting Minutes  
April 24, 2023 – 7 pm

1. Call to Order

Chair Breazeale called the meeting to order at 7:00 pm.

2. Roll Call

Present: Commissioners Blodgett, Breazeale, Finnegan, Steinfeld, Wortman and Council Liaison Halverson.

Absent: Commissioners Anderson and Swanson

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

3. Approve Agenda

**(Blodgett motion, Steinfeld second to approve the agenda; all ayes.)** Motion passed.

4. Approve Minutes

4.1. Regular Meeting of February 27, 2023

Wortman noted a typo on page 3.

**(Steinfeld motion, Wortman second to approve the Regular Meeting Minutes of February 27, 2023 as amended; all ayes.)** Motion passed.

4.2. Special Meeting of March 10, 2023

**(Steinfeld motion, Wortman second to approve the Special Meeting Minutes of March 10, 2023; all ayes.)** Motion passed.

5. Old Business

5.1. MN Shoreland Rules and City Code Update –DNR Comment on Impervious Surface - Chair Breazeale

Breazeale stated the proposed amendments to the zoning code were sent to the DNR for conditional approval review. The DNR did not think it was necessary to count individual boulders. They expressed concerns about language related to boulders and boulder walls. Breazeale and the task force then met to discuss language proposed by the DNR. Their proposed language is in the packet for discussion. Commissioners discussed the width of boulders for retaining walls and that some are angled with greater width at the bottom than the top. Carlson suggested excluding boulders and then listing exceptions to that exclusion. Commissioner then discussed allowing the city engineer to have discretion in determining if a proposed wall is larger than necessary to control erosion and limiting walls or boulders as retaining walls to the minimum footprint necessary for erosion control. Carlson stated some people want to flatten out some of their grade and use a retaining wall to create a level terrace of yard. There was discussion about the definition of boulders and allowing the city's professionals to use their expertise and discretion to meet the intent of the code. If his decision is disputed, it would come before the Planning Commission. The city engineer suggested adding pathways to gravel driveways.

**(Steinfeld motion, Wortman second to add "and pathways" after gravel driveways; all ayes.)** Motion passed.

**(Steinfeld motion, Finnegan second with regard to Impervious Surface: after "similar surfaces" add "Boulders and retaining walls are considered impervious unless in the opinion of the city engineer they are the minimum necessary to control an erosion problem." in definition of Impervious Surface (Hard Cover) add all ayes.)** Motion passed.

5.2. MN Shoreland Rules and City Code Update – Lakeshore Setback – Chair Breazeale

Breazeale stated this is the last item of the 3/5 agreement with the DNR. The DNR model ordinance lakeshore setback is 50 ft but the city is more restrictive at 75 ft or the average minimum building setback line (AMBS). Breazeale stated that the code was confusing on how to determine the line and it did not refer to a setback from the lake. He then explained that in 1996 a deck was considered part of the building structure and the AMBS was a perpendicular line from the building on each side and a line from deck on each side. You could not build your deck in front of your neighbor's deck and you could not build your home in front of your neighbor's home. Mathews explained this same method was also used for street setbacks. Breazeale stated this is a right angle line of sight so you can't build in front of it.

Breazeale stated they have had many discussions about confusion with determining lake setbacks and a preference to using a line of sight. He reviewed various examples of Right Angle, Line of Sight and Average Minimum Lakeshore Setback (AMLS) that were in the packet and stated that currently with AMLS lake shore undulations determine where a home could be built and may restrict views or move homes closer to the lake. Right angle and line of sight provided similar setbacks, but right angle may push one side of a home back further and it's not averaged out across the property. Right angle can greatly skew where a home is built especially for angled lot lines. There was discussion about how to describe the forwardmost point or more restrictive lakeside corner of a house, but commissioners were unable to define it. The intent is to protect views and to protect the lakeshore. Carlson and Breazeale recommended Line of Sight and to use the forwardmost point of the adjacent home, not closest point to the property line; specifically, "Line of Sight Standard (a) Average minimum building setback line shall be located by connecting a straight line between the forwardmost points of the structures on the adjacent lots." They then added "toward the lake" to the definition for clarity. This amendment would only be in the part of code that discusses lake setbacks, and they will review this for non-lake lots in the future. It would be in section 3.7(f) and replace AMLS with AMBS. Commissioners discussed that there will always be issues due to unique circumstances of each property but determined line of sight as the best standard and better than AMLS.

**(Steinfeld motion, Finnegan second with regard to Lake Shore Setback: that the Planning Commission recommends to City Council that the city seek conditional approval from the DNR on the following: use the Line of Sight Standard: the average minimum building setback shall be located by connecting a straight line between the forwardmost points toward the lake of the structures on the adjacent lots; all ayes.)** Motion passed.

Breazeale then discussed in the past there were two setback lines. One was for the home, and one was for the deck or raised patio. In 1996 code stated a deck was a structure but in 1999 two defined setback lines were used. Carlson stated 2017 code states anything over one ft off the ground needs to meet all setbacks. There was discussion about decks being off a second story and affecting views. Currently there is one line, and the structure (including decks) can be built up to it. If there is a separate line for the home and the deck, then that would keep a house further back from the lake and not able to build a home up to a deck line. Carlson stated they need to define deck by height off the ground like patios and terraces are in the code. Mathews stated that the city promised greater setbacks for structures, and anything attached to them than the DNR regulations in exchange for flexibility granted. Breazeale explained that by having two lines, decks would be built where homes are currently built, and homes would actually be built further from the lake. If there were no decks on either side of the subject property, then there would only be one line to build a home or deck up to. There was further discussion about homes built into a bluff with a deck many feet above ground or off an upper-level bedroom which could obstruct views. Commissioners favored two lines. A house can be built to the house setback line and a deck to a deck setback line. There was discussion about allowing a deck off the main/entry level. Breazeale stated if the deck is high, it should be considered part of the house. If a property had a deck and then enclosed, it would be considered part of the structure. They are trying to prevent new homes from being built up to a deck setback line. Currently a patio is a foot above ground or lower, terrace is three feet above ground or lower, and deck is not defined in height. They discussed allowing an entry level deck building to a deck line for homes on a

slope, but upper level decks being part of the structure and only built to the house setback. Honey mentioned that since decks are part of the structure in the current code, they can be enclosed but previously decks were allowed to be built in front of the setback. This allows movement toward the lake when they are enclosed.

**(Steinfeld motion, Finnegan second to amend the previous motion to add the following language with Zoning Administrator Carlson and Chair Breazeale to finalize language: in the case either adjacent property has an entry level deck or raised terrace, then a second deck AMBS line shall be located by connecting a straight line between the forwardmost points of the deck, raised terrace or structure on the adjacent lots; all ayes.)** Motion passed.

Breazeale then discussed setbacks for a property abutting a street, firelane or adjacent lot. With Line of Sight (AMBS), a structure up to 150 ft across the street or fireline could be used to create the setback. If there is no other property in that distance, the line of sight from the two adjacent properties next to each other is used.

**(Wortman motion, Steinfeld second to add to the definition: In the event there is not a structure on the adjacent lot or land (due to firelane, street, or empty lot) but there is a structure within 150 feet, that structure would be used to determine line of sight. If there is no structure within 150 feet on one adjacent lot, line of sight is calculated using line of sight on the two properties on one side of the lot. This language is to be finalized by Zoning Administrator Carlson and Chair Breazeale.; all ayes.)** Motion passed.

Blodgett left at 9:52 pm

#### 6. New Business

##### 6.1. 2024 – 2033 Capital Improvement Program (CIP)

Honey reviewed the Capital Improvement Program, the schedule, and the need for a member to represent the Planning Commission in the process. CIP requests will be reviewed by a committee for adherence to the Comprehensive Plan and necessity for the community.

**(Steinfeld motion, Wortman second for Finnegan to serve as member representing the Planning Commission for the Capital Improvement Program process and approving the schedule; all ayes.)** Motion passed.

#### 7. Reports

Halverson reported that the truth in taxation hearing was held over two dates to hear all of the requests for property value reductions. Updates on PFOAS treatment were presented and there were discussions about designing the water treatment plant to include the building for PFOAS treatment and hope to get funding and I have plans when the city is required to treat PFOAS.

#### 8. Adjournment

**(Steinfeld motion, Finnegan second to adjourn; all ayes.)** Motion passed.

Chair Breazeale adjourned the meeting at 10:00 p.m.

PUBLIC IN ATTENDANCE – The following individuals were in attendance: Task Force Members Nell Mathews and Susan Enlow.

Minutes respectfully submitted by City Administrator Heidi Honey

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Heidi Honey, City Administrator