

APPROVED
Minnetonka Beach Planning Commission Meeting Minutes
May 24, 2021

1. Call to Order

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

2. Roll Call

Present: Chair Haag, Vice Chair Moriarty, Commissioners Anderson, Breazeale, Halverson, Naylor, Swanson and Council Liaison Enlow. Absent: None

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

3. Approve Agenda

(Anderson motion, Naylor second to approve the agenda. Ayes: Anderson, Breazeale, Halverson, Moriarty, Naylor, Swanson, and Haag; Nays: none). Motion passed.

4. Approve Minutes: April 26, 2021

Swanson asked that Lang's response about variances granted in 2014 be reflected in the minutes. He responded that the variance was for a side setback for the driveway. Honey will review the recording and make the appropriate edit.

(Anderson motion, Halverson second to approve the minutes of the regular Planning Commission meeting of April 26, 2021 with the proposed edit, Ayes: Anderson, Breazeale, Halverson, Moriarty, Naylor, Swanson, and Haag; Nays: none). Motion passed.

5. PUBLIC HEARING

5.1. Variance Request – Front Setbacks – 2856 Northview Road (KC Chermak, Pillar Homes)

Zoning Administrator Phil Carlson stated that the owner is requesting to build a home. The required setbacks would make it impossible to build anything new on the lot other than a replacement of the existing structures. The property is bounded on three sides by streets. The current 1.5 story house was built in 1900 with a detached garage. The proposed home would equal or exceed setbacks of the existing home and garage but would be in keeping with the setbacks of other structures on the block. Carlson stated the proposed home is reasonable for this lot and is smaller than the current home. Carlson reviewed his report in the packet and variance criteria. He recommended approval of the request.

Breazeale referred to page 4 of the report, questioning the statement "since hardcover is reduced, no stormwater mitigation is required". Carlson stated that special stormwater mitigation is not required due to the reduction in hardcover however they would need to make sure there is no additional runoff. Water will be directed to the street and not neighboring properties. The Lafayette Club sent an email with concerns about stormwater. Carlson read the email from Greg Barker, Lafayette Club General Manager: "The project at 2856 Northview Rd. involves new construction or substantial rehabilitation of an existing land use which may result in runoff from the property to the Club parking lot and Lake Minnetonka. The Club requests that the city require stormwater mitigation including post construction stormwater management as a condition of any variance that is granted. This concern is being submitted on behalf of several board and committee members from Lafayette Club." Carlson explained that the city engineer reviews all new construction building permit applications and makes requirements for stormwater management as needed. "Post construction stormwater management" is required in the code for any increase in hardcover but the city also requires that stormwater is handled appropriately for all projects. Staff was not aware of stormwater complaints in the past. There is a street between the property and the Club parking lot. Carlson stated it would be a reasonable condition to convey commissioners concerns about runoff and state that stormwater management will be reviewed by the city engineer to ensure that the situation is not worsed, but this is part of the permit process.

Chair Haag opened the public hearing at 7:28 pm.

KC Chermak – Pillar Homes, Applicant

Chermak stated extensive research and guidance was provided by Carlson for designing the home. Pillar Homes has extensive experience with building on the lake and handling drainage and hardcover. They reduced hardcover, softened grades, and accommodated runoff concerns.

Nell Mathews – 2643 Arcola Lane –

Mathews commented that the design is wonderful. She spoke about stormwater discussions brought to council in 2020 and did not recall a final decision on if maintenance agreements are required for projects with pervious pavers. She asked that Amundsen be consulted to determine if a maintenance plan would be required. Carlson stated that the city will review the project and any city standards will be put in place.

Jill Bartel – Bartel supported the design and thinks it will look terrific.

Chair Haag closed the public hearing at 7:37 pm.

Breazeale stated there is no buildable space per zoning requirements and variances are needed.

(Breazeale motion, Moriarty second that the Planning Commission recommends that the City Council approve variances to the front setbacks to Northview Road and Cottage Lane for a new single family home and attached garage at 2856 Northview Road, as submitted, and with the following Finding of Fact:

- 1) The request is consistent with the City’s Comprehensive Plan and Zoning Code which envision the City as a village of single family homes, with zoning standards for such development.**
- 2) A new single family home and attached garage designed as proposed are reasonable uses of the property.**
- 3) The size and dimensions of the lot make it impossible to build a new structure that can meet the required 50 ft setbacks. These are characteristics of the lot not created by the applicant.**
- 4) The plan as proposed improves on the non-conformities in three ways: it reduces hardcover, it reduces the square footage footprint of the home, and it increases setbacks on three of the four lot lines and is equal on the fourth lot line.**
- 5) The proposed setbacks are reasonable, exceeding the setbacks of the existing house and garage on the lot, and in keeping with the setbacks of other existing homes on this block.**
- 6) The setbacks, height, and design of the proposed house will not alter the essential character of this locality.**
- 7) The request meets the criteria for granting a variance in Section 2.4(C)(4) of the Zoning Code**

Ayes: Anderson, Breazeale, Halverson, Moriarty, Naylor, Swanson, and Haag; Nays: none).

Motion passed.

5.2. Variance Request – Lake Shore Setback for Fence – 3017 Brooks Lane (McNally)

Carlson stated the McNallys built a new fence last year to enclose their yard for their dog and were unaware of the required setback for a fence involved in the AMLS. They are requesting the variance after the fact to allow the fence to remain. The AMLS on the lot is 190 feet from the lakeshore and the fence is about 100 ft from the lakeshore behind a dense row of evergreens that are taller than the fence. The fence is visible from the east but not from straight on or the west. Carlson stated the key issue to this request is the character of the lakeshore lots on Shoreline Dr. and the character of the fence. He added that most properties that back onto Shoreline Dr. have dense vegetation separating their yards from the

road. Carlson stated the purpose of not allowing fences in the AMLS is views, but this fence is short, open, and unobtrusive. He then discussed the variance criteria.

Haag noted letters of support from neighbors but did not see one from the neighbor to the east.

Chair Haag opened the public hearing at 7:51 pm.

Dan McNally, 3017 Brooks Lane – McNally stated this was an accident and they thought they were following the steps correctly. McNally stated that the neighbor to the east, Wendy Williamson, told him she supported the fence, as did the Crees family, but they did not provide written support.

Commissioner Anderson commented that it is difficult to see the fence unless traveling west.

Nell Mathews, Arcola Lane – Mathews commented on the character of the community and stated fences have always been prohibited in front yards and the lake side is the front yard, except for unusual circumstances. They are not allowed in the AMLS. Mathews stated the purpose of this restriction is to maintain a park-like atmosphere throughout the community where open greenspace is important and seen throughout the city, in parks, and on all lake side properties. She added that greenspace contributes to the atmosphere, makes the community unique and helps maintain property values. Mathews added that fences in front yards are seen in suburban and urban settings and the city has tried to differentiate itself from these cities because it is a village. She then discussed seeing rolling green lawns from the lake in Minnetonka Beach and Wayzata.

Jill Bartel – Bartel agreed with Mathews however she noted that the fence is not intrusive to the neighbors and is well screened from Shoreline Dr. She does not want this to become a precedence. She added that she hopes that there is a way to communicate the rules so this does not happen again.

Commissioner Anderson – Anderson read the letter that McNally's sent to neighbors which states they contacted the city and were told they did not need a permit and the city sent them a copy of the ordinances regulating fences.

McNally stated he is responsible for where the fence is located, not the city. He contacted the city and was correctly informed that no permit was required. The city sent him the ordinances, but he did not understand them and he made the mistake of placing the fence where it was. He presumed a 75' setback on a 2015 survey was the AMLS but it was not. He then discussed the number of homes on Shoreline Dr with vegetation between the property and the road and wood fences along Shoreline and fences similar to his to the east of his property.

Carlson discussed vegetation hiding fences on other properties along Shoreline. He agreed the city should preserve and enhance the character, but the rolling green lawns are not seen on Shoreline because of the dense vegetation on these properties.

Chair Haag closed the public hearing at 8:03 pm.

Haag agreed with Mathews but noted that most properties on Shoreline have dense vegetation.

Moriarty stated lots on Shoreline are unique with the county road between the property and the lake. Other properties have fences, green fences, and stairs. It is a unique situation and this fence is barely noticeable and within reason.

Halverson understood the need for a fence at the location. She also lives on Shoreline and has a fence as well as vegetation.

Swanson agreed with Bartel that the fence is not very intrusive. She added they need to provide a mechanism to inform people of the rules and the process for fences.

Breazeale stated the code is online and new residents can ask the city for direction. He added that the neighbors are not responsible for upholding community values long term. The Planning Commission is responsible for maintaining standards that create a certain feel for the community, and support property

values over decades. Historically, building a fence in the AMLS would not have been allowed and allowing a fence between a property and road is a slippery slope and sets a precedence. He stated he is highly concerned about this request.

Naylor discussed the option of building a fence up to the AMLS without need for a variance.

Swanson discussed an invisible fence option as she has at her property that abuts Shoreline Drive.

Anderson stated this part of Shoreline is different in that there are vegetation fences and the fence cannot really be seen. It was done on good faith and should be considered.

Commissioners discussed that variances runs in perpetuity with the property. They then discussed an interim use permit which is a temporary approval until a date or an event. State law sets up interim use permit criteria and the city code is more restrictive. Carlson stated they could deny the variance and recommend researching an interim use permit. Carlson discussed that fence requirements are in several places in code and they could be written up into a simpler hand out.

(Naylor motion, Anderson second to recommend that the City Council approve the variance request for a fence within the AMLS at 3017 Brooks Lane with conditions of approval and findings of fact:

Conditions for Approval

- 1) **The fence will be maintained in its current design and condition; black, wrought iron with thin vertical rains, 4 ft tall, and kept in good repair.**
- 2) **The fence will be screened along Shoreline Dr. by dense vegetation, either the existing evergreen trees or similar, at least 75% opaque, and at least 6 ft high.**

Findings of Fact for Approval

- 1) **The requested fence, being 4 ft tall, black and constructed of wrought iron with thin vertical rails, is unobtrusive and does not interfere significantly with lake views and therefore is consistent with the City's Comprehensive Plan and Zoning Code.**
- 2) **A fence to enclose the yard for a dog is a reasonable use of this property.**
- 3) **The character of the locality along Shoreline Drive is one of dense, opaque vegetations blocking the ground level view to the lake for most of the 31 lots that share this condition. the requested fence does not significantly alter this character.**
- 4) **The request meets the criteria for granting a variance in Section 2.4(C)(4) of the Zoning Code.**

Ayes: Anderson, Halverson, Moriarty, Naylor, and Swanson; Nays: Breazeale, Haag). Motion passed.

6. Old Business

6.1. Variance Request Lake Shore Setback for Accessory Dwelling Unit – 2508 Arcola Lane (Hedeem)

Carlson stated at the last meeting, commissioners asked that the city attorney be consulted for clarification between city ordinances and DNR regulations. Nell Mathews assisted in identifying items needing clarification with Enlow and Carlson. The city attorney understands the issues but needs time to determine what rules were in place when code was adopted. Nell Mathews did research with the DNR and has a letter stating when the Shoreland Code was adopted lists which issues that were given leeway with the DNR. The applicant has been notified that there is an extension to the June meeting. Swanson asked for variances requested and/or granted at 2508 Arcola in the past. Staff will research that and forward to the Planning Commission. She asked that future variance requests have background information on any other variance requests on a property. She said that Lang's stated one previous variance granted but it was later found there was a front setback variance granted also.

(Breazeale motion, Moriarty second to continue the topic of Variance Request to the Lake Shore Setback for Accessory Dwelling Unit for 2508 Arcola Lane to the June 28, 2021 Planning Commission meeting. Ayes: Anderson, Breazeale, Halverson, Moriarty, Naylor, Swanson, and Haag; Nays: none). Motion passed.

7. New Business

7.1. 2022 – 2031 Capital Improvement Program (CIP)

Honey asked that the Planning Commission review and approve the 2022 – 2031 CIP schedule.

(Halverson motion, Anderson second to approve the 2022 – 2031 Capital Improvement Program schedule. Ayes: Anderson, Breazeale, Halverson, Moriarty, Naylor, Swanson, and Haag; Nays: none). Motion passed.

7.2. Designate Planning Commission Member to CIP Review Committee

The Planning Commission designated Anderson to the CIP Review Committee.

8. Reports

8.1. Chairperson – Chair Haag - no report

8.2. Commissioner Reports- No further reports

8.3. Council Liaison Enlow - May City Council minutes were in the packet. She stated there is a special City Council meeting Tuesday, May 25 to discuss the City Administrator hire.

8.4. Building Permit Report – Received and filed.

9. ADJOURNMENT

(Moriarty motion, Halverson second to adjourn; Ayes: Anderson, Breazeale, Halverson, Moriarty, Naylor, Swanson, and Haag; Nays: none). Motion passed.

Chair Haag adjourned the meeting at 8:40 p.m.

PUBLIC IN ATTENDANCE – The following individuals were noted in attendance: Nell Mathews, Jill Bartel, Jason Hedeon, KC Chermak, Mayor Jaci Lindstrom

Minutes respectfully submitted by Interim City Administrator Heidi Honey.

Heidi Honey, Interim City Administrator