

APPROVED
Minnetonka Beach Planning Commission Meeting Minutes
September 26, 2022 – 7 pm

1. Call to Order

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

2. Roll Call

Present: Commissioners Anderson, Blodgett, Breazeale, Finnegan, Halverson, Steinfeld, Swanson and Council Liaison Enlow.

Absent: none

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

3. Approve Agenda

Request to add Task Force update to commissioner reports.

(Anderson motion, Halverson second to approve the agenda as amended; all ayes.) Motion passed.

4. Election of Officers

4.1. Chair

(Swanson motion, Steinfeld second to elect Jeff Breazeale as Chair; all ayes.) Motion passed.

4.2. Vice Chair

(Swanson motion, Steinfeld second to elect Jennifer Halverson as Vice Chair; all ayes.) Motion passed.

5. Approval of Minutes

4.1. Regular Meeting of August 22, 2022

Two typos were noted. Honey to fix.

(Halverson motion, Anderson second to approve the minutes with the two edits; all ayes.) Motion passed.

6. Commissioner Training – Phil Carlson, Zoning Administrator

Carlson provided Planning Commission Basics Training to the commission. Zoning ordinances were developed for safer and more healthy places for people to live by separating work and residential zones. Property rights were important and the right to life, liberty and property was written into the Bill of Rights. The Constitution grants power to the states over federal government. The states delegate the power to local government, including regulating regulate land use. Key Constitution principles: due process (State shall not deprive of life, liberty or property without due process), equal protection (nor deny any person within its jurisdiction the equal protections of the laws), and takings (cannot take private property for public use without just compensation). The city has regulatory takings (setbacks) which take the use of the land from the property owner, but it is allowed because the state allows the city to do so if it is reasonable. There is a balance of government power and individual rights.

The role of the zoning ordinance is to implement the Comprehensive Plan. States give the city the ability to regulate land use and it is limited to what is adopted in an ordinance and standards must be reasonable means to legal ends.

Types of Uses

Principal - main or primary use

Accessory - secondary use and not allowed on its own, requires a principal use exists

Permitted – a use that is permitted with no special approval or conditions attached

Conditional - a permitted use to which reasonable conditions may be attached and runs with the land. Example: the Lafayette Club operates under a conditional use permit.

Interim use - temporary use, with reasonable conditions, which expire at a certain event and permitted by state statute and provided for in the zoning ordinance.

Legal non-conformities. Something that was legal at the time it was built but the ordinance changed and is no longer legal. It becomes a legal non-conformity. State statute allows them to be continued, repaired, maintained, replaced and improved but not expanded. Cities can allow expansion by ordinance. Non-conformities become conforming when it is discontinued for more than a year or destroyed by more than 50% of market value by fire or peril and no permit is applied for within 180 days.

Subdivision. Regulations ensure new development meets standards.

Variances. Variances are an approval to depart from the requirements of the zoning ordinance; permission to break the rules. The standard is Practical Difficulty. They may be granted but are not required to be granted when there are practical difficulties. Practical difficulties: property will be used in reasonable manner; circumstances are unique to the property not caused by landowner; and the variance will not alter the essential character of the locality. Economic considerations alone are not sufficient to justify a variance. In most instances a standard is in place for a reason but there are cases where a variance is appropriate. Use variances are not allowed. An error by city staff does not entitle a person to a variance. Typically not precedent setting because there are usually unique qualities for each request. If there has been over a year since one was approved, generally a different decision can be made. This is due to different thoughts by new members of the commission or council.

Zoning ordinance amendments. Must comply with the comprehensive plan, must not impede orderly development, and must not endanger, injure or detrimentally impact surrounding properties.

Interim Ordinance/Moratorium. Used to prohibit a use for up to a year to authorize a study. It cannot stop a pending application. At the end of the study, you are not required to make changes to the ordinance if you do not think change is needed.

Findings. Planning commissioners must make sure all of the facts are put in the public record. Findings must be part of the record, especially for a denial of a variance.

60 – Day Rule

The city has 15 business days to review an application for completeness. If not, it is rejected in writing with reasons it is incomplete. If complete, the clock starts with application date and fees paid. Failure of the city council to act on a zoning application within 60 days after receipt of a

completed application results in approval of the request. The city may extend the time to act on an application up to an additional 60 days with written notice, reasons for extensions and state length of extension. The applicant may request an extension.

Carlson then reviewed the city's standards and setbacks - shown in the packet.

Average Minimum Lakeshore Setback (AMLS). Principal structures and accessory structures as may be required by the ordinance shall be located no closer to the lakeshore than a line derived by the greatest setback required by a combination of the following:

1. A line drawn 75ft parallel to the lakeshore;
2. If the lot is between two lots that contain principal structures, a straight line connecting points on each side lot line that are setback from the lakeshore a distance equivalent to the principal structures on the directly adjacent lots.
3. If the lot is adjacent to only one lot containing a principal structure, a straight line connecting points on each side lot that are setback from the lakeshore a distance equivalent to the setback of the lakeward most point of the adjacent principal structure.

He then reviewed issues the Planning Commission have or may wish to discuss: variances, setback (AMLS, Side), grading in AMLS vs. 75' minimum, steps and stairs, DNR model shoreland code, and unused right of way.

7. Reports

- 7.1. Chair Report – no report
- 7.2. Commissioner Reports – Swanson provided an update on the DNR code compliance task force. The proposed ADU zoning code was approved by the DNR and the code is now effective. She went on to say that the task force found inconsistencies in the code that are no longer compliant with the DNR. They plan to return to the 1996 city code (last version approved by the DNR) and then overlay anything in the current code they would like to maintain. They have asked the DNR for confirmation of expectations and timing. The task force consists of Susan Swanson, Nell Mathews and Susan Enlow.
- 7.3. Council Liaison Enlow – Summarized the September 12 City Council meeting.
- 7.4. Building Permit Report – received and filed

8. ADJOURNMENT

(Halverson motion, Swanson second, to adjourn; all ayes.) Motion passed.

Chair Breazeale adjourned the meeting at 8:25 p.m.

PUBLIC IN ATTENDANCE – The following individuals were in attendance: Nell Mathews, City Clerk Jane Burgess, Public Works Superintendent Jason Hilgers

Minutes respectfully submitted by City Administrator Heidi Honey

Heidi Honey, City Administrator