

APPROVED
Minnetonka Beach Planning Commission Meeting Minutes
November 22, 2021

1. Call to Order

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

2. Roll Call

Present: Commissioners Anderson, Blodgett, Breazeale, Halverson, Steinfeld, Swanson and Council Liaison Enlow. Absent: Commissioner Craig Moriarty
Staff in attendance: Phil Carlson, Zoning Administrator and Heidi Honey, City Administrator

3. Approve Agenda

(Steinfeld motion, Swanson second to approve the agenda. All Ayes;). Motion passed.

4. Approve Minutes: October 25, 2021

Breazeale asked Carlson to explain the aggregate setback. It has been in the code prior to Carlson working for the city but it is rarely used.

(Halverson motion, Swanson second to approve the minutes of the regular Planning Commission meeting of October 22, 2021. All Ayes.) Motion passed.

5. Public Hearing – 3034 Northview Road.

Carlson stated the request is for variances to the lakeshore and front setbacks and hardcover for modest expansions. The required setbacks on the lot allow almost no buildable area, so the proposed changes require variances. The plan reduces setback from the lake. The proposed plan significantly reduces hardcover from 46.3% to 31.4%, but not below 30% which is why a hardcover variance is also requested. Much of the pavement in front, a sidewalk, and a large portion of the area beyond the deck on the lakeside are proposed to be removed. The corner of the porch has hardcover but they plan to enclose it so there is additional hardcover. The home is a three-level walkout. Carlson then reviewed his memo and plans showing existing, proposed, and removed areas. The upper floor street side upward expansion is within the front street setback and needs a variance. Carlson reviewed variance criteria. He stated the significant removal of hardcover is important. Carlson discussed this is an improvement if this is a legal nonconformity. There are no records of any variances issued to the property so there is no way to determine if the features were put in legally or illegally. Previously, the city attorney has said the city would need to assume it was legal without proof features were put in illegally. Carlson stated the city does not need to grant the variance by taking the stance the city has rules that need to be abided by, or it can grant variances as allowed by state statute and city code. Carlson stated he thinks this is a reasonable use of the property, the setbacks are decreased and the reduction in hardcover is significant.

Breazeale opened the public hearing at 7:22 pm.

Nell Mathews – 2643 Arcola Lane – Mathews stated the city has strict land use regulations and she thinks the issue of legal and illegal non conformity is irrelevant because they are asking to expand and reconfigure, not asking to continue the 40+% hardcover. City code requires 30% hardcover, 13ft side setbacks, and 75ft lakeside (DNR minimum). She discussed the

Comprehensive Plan and city regulations that are designed to protect the lake and the village atmosphere. City code recognizes many lots are substandard and small houses are expected to be built on small lots. She then discussed Comp Plan goals of protecting the lake and adjoining neighbors from runoff and to provide safety. She added that the city is within 1000 ft of the lake which triggers standards, so the city takes efforts to protect the lake by reducing hardcover, increasing setbacks, and providing vegetative buffers. Mathews stated that the current homeowner purchased the home in the current situation and there should not be a relaxation of regulations, and their request for additional movement toward the lake is a design preference. She then said kudos to homeowners for proposing to remove hardcover which will help protect the lake but it should meet city regulations of 30%. Kudos to them for removing encroachment to side setbacks but further encroachment should not be allowed to the lake. She stated the city code asks that non-conforming properties come into compliance with regulations. Mathews stated the proposed encroachment to street is reasonable given the parameters and it is in the character of area as many of the homes are close to the road.

Beth Nygaard, 3034 Northview Rd – Nygaard explained that all current hardcover that looks like pavers is actually stamped concrete. They will be removing most of it. They are working with a landscaper to protect the lake and land on the lakeside to eliminate erosion but they wanted to see what they can build first and then work on the landscape.

Dave Nygaard, 3034 Northview Rd – Nygaard stated their goal is to keep the lake clean and prevent runoff. They will work on a landscape plan that is tiered to level out the land to slow down runoff to the lake. He stated they want to make the house more livable and increase the valuable of the property. They will remove a lot of stamped concrete and create a usable space with the porch.

Breazeale closed the public hearing at 7:33 pm.

Commissioners speculated on how work was done to allow so much hardcover. The property file has the original house build plans from 1979 and there are no records of variances granted in the past. If the variance request had not come up, the property would remain at the current hardcover so this is an improvement. They would not be able to expand it but could maintain, replace exactly as is or improve it. The homeowner stated all replacement of the proposed driveway and sidewalk will be pervious and downspouts will be buried to slow runoff. Carlson reviewed the survey stated it did not note the pavers and replacement material as pervious. Pervious pavers have a 25% credit and could be verified with an updated survey. A portion of the porch would also receive credit. Quick calculation was approximately 28% hardcover. If it is under 30%, the variance is not needed. Anderson stated they should require 30% hardcover.

Breazeale discussed that there is a lot of hardcover being removed. The lake setback is being reduced and commissioners agreed it is a significant improvement. The small triangle addition is about 12 sq ft and there is existing hardcover under, but it is not adding hardcover.

Commissioners discussed the setback on the street side. Swanson stated the request seems extremely reasonable. Steinfeld stated the property will be improved significantly and the proposed plan is not out of character. The roof expansion does not go above the existing roofline and will not affect the neighbors views.

(Steinfeld motion, Halverson second to recommend that the City Council approve variances requested to the lakeshore and front (street) setbacks, with the condition that the hardcover be 30% or less at 3034 Northview Road with the following findings of fact:

- 1) The proposed use of the property for additional living space, screen porch, and balcony is reasonable.**
- 2) The existing lot is constrained by its dimensions from meeting the required setbacks for any reasonable amount of new space. Allowing modest expansion of the structure encroaching into these setbacks is reasonable.**
- 3) The proposed plan improves the situation by increasing the lakeshore setback of the deck and new screen porch by 2.6 ft compared to the existing deck.**
- 4) The proposed plans will significantly reduce the hardcover on site from the current 46.3% to 30% or less.**
- 5) The reduction in hardcover includes removing a large portion of the pavement at the front of the lot which will improve the visual character of Northview Road.**
- 6) The request meets the criteria for granting a variance in Section 2.4(C)(4) of the Zoning Code.**

Votes: All ayes. Nay: none) Motion passes.

6. Old Business

1. Tree Preservation Ordinance Update – Enlow

Enlow stated the moratorium was approved in September. Dead trees, noxious trees and not significant trees can be removed. All others need to go through a permit process. She provided a high level summary of the ordinance. The city attorney is reviewing the ordinance. The proposed ordinance is very detailed and instructional. She stated that when a driveway was allowed to access via Northwoods and there was concern and discussion about protecting trees. The proposed ordinance regulates significant trees (6" at DBH or 12' or taller for coniferous) and heritage trees 30" DBH or 30 ft tall coniferous). Minimum tree density is 2 significant/heritage trees per 3500 sq ft of property. She then reviewed the summary in the packet.

- No permit needed for dead, noxious, non-significant trees or emergency with post removal notice to city.
- Staff issued permits for non-construction activity – meets minimum density, no heritage tree to be removed, not within 75 ft of lakeshore, not on steep slope, hazard tree that is not an emergency.
- Staff issued permits for construction activity – the tree removal permit would be part of the permit review process with staff, zoning, engineering and the city forester. City council needs to approve if part of variance request.
- Tree Preservation Review Board – minimum density not met, heritage tree to be removed, removal within 75' of lakeshore or on steep slope.
- City council review and approval – Minimum density requirements will not be satisfied, all replacement trees will not be planted and mitigation fee not paid, or it is part of a variance request.

Enlow gave a lot of credit to the other task force members Nall Mathews, Kim Petersen, Patty Rezabek, and Bridget Wortman for their work on the ordinance. She stated a vegetation section will be another phase. Carlson stated it is good that this is customized to the city because the city is fully developed and instead of allowing tree removal with payment of a fine or replacement, the city wants to save trees.

7. Reports

- 7.1. Chairperson – Breazeale asked all commissioners and Carlson to come to the December meeting with a list of priorities to present to Council for their approval. DNR/City Code comparison, enforcement, grading and filling had been previously discussed. Much of the work on these is done outside of a meeting and commissioners should think about what they would consider working on.
- 7.2. Commissioner Reports – no report
- 7.3. Council Liaison Enlow – Enlow stated the council extended the variance request for 3132 Northview 60 days to come back with an updated plan. Council had concerns about the setbacks of the existing garage at 1.3 ft from property line and proposed garage at 3.3 ft from other side property line for safety. She spoke with the fire chief, and he stated that there is a fear of radiant heat from a fire starting another home on fire. Enlow then stated it is not commissioners' job to try to give ideas to applicants of what they could do. She stated that they need to communicate that the rules exist for a purpose and they are mainly safety and privacy. Enlow then stated the 2012 bond was re-funded to save money. The Lafayette Club requested no parking on Woodbridge, which was approved. They also requested a variance from the noise ordinance. They are working on that.
- 7.4. Building Permit Report – received and filed

8. ADJOURNMENT

(Halverson motion, Steinfeld second to adjourn; All ayes ; Nays: none). Motion passed.

Chair Breazeale adjourned the meeting at 8:52 p.m.

PUBLIC IN ATTENDANCE – The following individuals were in attendance: David and Beth Nygaard, Nell Mathews

Minutes respectfully submitted by City Administrator Heidi Honey

Heidi Honey, City Administrator