

**APPROVED**  
**Minnetonka Beach Planning Commission Meeting Minutes**  
**April 24, 2017**

**1. Call to Order**

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

**2. Roll Call**

**Present:** Chair Orehek. Commissioners Anderson, Haag, Steinke, and Halverson. Council Liaison Bartel

**Staff in attendance:** City Clerk Heidi Honey, Zoning Administrator Ben Gozola

**3. Approve Agenda**

**(Anderson motion, Steinke second to approve agenda; all ayes). Motion passed.**

**4. Approve Minutes: March 20, 2017**

**(Steinke motion, Anderson second to approve the minutes of the regular Planning Commission meeting of March 20, 2017; all ayes). Motion passed.**

**5. Election of Vice Chair**

Commissioner Anderson nominated Commissioner Steinke. Steinke asked if others have a level of interest in being Vice Chair because his term is up this summer.

**(Anderson motion, Haag second to elect Jeff Steinke as Planning Commission Vice Chair; all ayes). Motion passed.**

**6. Public Hearing – Zoning Code Amendment – Lakeshore Setbacks**

Zoning Administrator Gozola explained they will be specifically discussing Lakeshore Setbacks. He explained the concerns with current setbacks:

- Due to the size and shape of some homes, a variance would be required and likely approved for nearly any improvements on those properties and they wanted to eliminate the need for variances in those situations.
- Historically the City considers the entire shared shorelines when considering variances.
- Because lakeshore setbacks are based on the location of adjacent structures, current setbacks are based on decisions of neighbors. He then described a scenario of how that happens.

He referred to the new Lakeshore Setbacks map which identifies all properties within the City. The map identified four categories: inland properties not subject to lakeshore setbacks, properties subject to minimum 50' setback from OHW, properties subject to 75' from OHW, and properties subject to a "specialized lakeshore setback". Administrator Gozola then reviewed the main maps showing proposed static setbacks and explained the process for determining setbacks for each street.

Administrator Gozola offered to look up specific addresses on the maps for residents so they could see the effect on their property of the proposed new setbacks.

**Mike Bloom – 3138 Northview Road** - After viewing the map, Bloom expressed concern that the remaining homes on Northview that have not been rebuilt over the years will be able to move forward of the other homes and toward the lake. The history of the beach is to keep things back and the current setback line is based on 30 to 50 years of not allowing houses to move forward. He thinks this proposal only benefits those who have not rebuilt their homes. He is also concerned about a sewer line near the lake on those properties which would not allow building up to the proposed setback line. He also explained that he has two parcels, one of which was purchased from the railroad and goes into the road. He wondered how that would be measured. He finished by saying the line should be moved back to more accurately reflect the current locations of the homes.

There was discussion about moving specific lines near the Fasching home and ways to move them differently.

Gozola explained that he was specifically asked to not take any buildable area away from any properties in determining the setback lines. Gozola then pulled up the map of the other end of Northview Road.

**Mike Fasching 2928 Cottage Lane** - Fasching agreed with Bloom and said a difference of five feet is a big difference for homes that only have 60' lots. He questioned what is driving the desire to move properties forward. He thinks the variance process is healthy. Bloom said this will devalue all the properties that have been rebuilt in the area.

Chair Orehek asked if Gozola had any more to his presentation prior to opening the public hearing.

Chair Orehek opened the public hearing at 7:35 pm. Although the public hearing was not yet open, the comments of Fasching and Bloom are to be considered as comments for the public hearing.

**Tom Enlow 1905 Beach Lane** – Enlow stated that if the property next to him went on the market, it would be a tear down. He would not be in favor of the proposed setback for a home built on that lot.

Residents discussed Beach Lane and thought the entire setback line could be pulled back toward the current line instead of moving it toward the lake.

Gozola explained that they wanted to determine if residents would accept the concept of the lakeshore setbacks with a static line. He said the line in various areas can be adjusted prior to approval. Council Member Kozloski asked who was driving this concept. Orehek said the current setbacks in some areas of the city are all over the place. This proposal would ease the variance process and eliminate exceptions. He also explained that there had been differences in interpretation between the prior and the present zoning administrators and the commission thought this would eliminate subjectivity.

**Anne Brilley – 2478 Lafayette Road** – Brilley asked if the home to be built at 1937 Beach Lane would be built toward the lake or further back. Gozola said the owner was going to put in a private easement which would require the home to be built further from the lake and the line here would be more restrictive. Residents expressed that the private easement is proof that neighbors do not want neighboring homes to be able to move closer to the lake.

**Betty Pakzad - 2306 Huntington Point Rd. W.** – Pakzad asked if houses are currently located beyond the new proposed setback line. Gozola said legal non-conforming homes today would likely remain legal non-conforming but hopefully non-conformities would be less. She asked if variances would go away. Gozola stated this proposal is based on studying each property along a shoreline and should eliminate the need for most lakeshore setback variances.

**Nell Mathews – 2643 Arcola Lane** - Mathews referred to page 3 of Gozola's memo regarding principal and accessory structures and asked if it was correct that some accessory structures could be built forward of the setback line. Gozola said current code allows that in Table 3-3: Specialized Yard and Setback Requirements. Mathews asked if Gozola used another city's language as a template or template language from the League of Minnesota Cities for creating the proposed lakeshore setbacks. Gozola stated this approach is unique and the city would be the only one in the state with tailored lakeshore setbacks based on existing conditions. Mathews then asked why the City is considering further changes to the lakeshore setback language given that changes were just made to the setback language in January of 2016. Gozola explained that the 2016 update was a minor amendment to clean up unclear language. The old code instructed staff to determine an AMBS by drawing lines "parallel to" adjacent setbacks. Because adjacent setbacks may be significantly skewed depending on the bends and twists of the lakeshore, drawing a line "parallel to" those setbacks did not result in the City's desired outcome, and did not match the City's past practice. The rewrite did not change the existing policy, but rather clarified the language to meet the City's intent to define points on each side lot line furthest away from the lake based on the adjacent home locations.

Mathews stated that all the houses on her road were built in the early 1900's with 60' wide lots. Moving any homes forward would have a significant negative impact on them and she does not think it is what the

community wants. She does not agree with the line moving forward. The idea is to be consistent with the city's Comprehensive Plan. So, when someone builds new, they move back from the lake as opposed to forward and that will maintain property values as well.

**Steve Howarth – 2520 Arcola Lane** - Howarth served on the Planning Commission. He thinks it was a meritorious goal to create a uniform guideline but it creates some nuisances. They were trying to remove anomalies. At the time, they told Gozola not to encroach on existing lines under the assumption that existing homeowners would appreciate additional buildable property. Maybe now they are hearing this is not true. Planning should take a step back and think about it more. They researched all of the properties around the lake and did not find a model to do what they wanted to do.

**Mike Fasching – 1928 Cottage Lane** – Fasching stated this was a good process and it is not simple. Buyers are educated and they have choices when buying a property. They know the requirements and options. Establishing a view with the neighbor and getting a variance is a good process. Outliers are tough problems but there are not that many of them and now that they have experience and a clarified code, they should be easier to deal with. Orehek said if you look at the maps, the existing setbacks are all over the place in some areas. Fasching stated that most are not a big distance between the existing and proposed and thought it looked like 5-6 feet at most. He thinks if they polled all the lakeshore owners, they may not be supportive. He appreciates that keeping existing setbacks does not solve how variances are dealt with.

Orehek explained – that the challenge is when there is a new resident, his thoughts may be quite different than the existing resident and they are trying to eliminate the line moving.

Chair Orehek closed the public hearing at 7:55 pm.

Orehek asked commissioners for feedback. Anderson was asked by a resident why they are doing this. She understands the variance process is difficult and costly but buyers do know the situation. Orehek said in the past, it was not always clear where the line was. Anderson said tonight residents did not support homes being built in front of others and she does not support the lakeshore setback as it was presented. She went on to say if they are trying to avoid lawsuits, they have only had one in 15 years. Steinke said the lawsuit may set a precedence for the next buyer who has legal power. This would be a way to avoid the situation.

Orehek said they also have difficulty with neighbors dictating what you can do with your property. Steinke suggested adjusting the line away from the lake. Gozola was trying to make lines parallel to shore because that is how people want to build their homes. Steinke said if you try to make lines parallel and still be further from the lake, there may be more positive feedback. Steinke asked if it was realistic for Gozola to go through the exercise to adjust the lines so no homes can be moved toward the lake. Gozola stated that some areas may have difficulties but he could get to a point of more satisfied people and only have a few difficult areas. Gozola said they could also keep existing language and look at specific areas later. Because re-doing the lines will take time, it will hold up the adoption of the zoning code updates. He suggested working on it after the Comprehensive Plan. Steinke said feedback was fairly unanimous but they still need to review all feedback next month. Orehek said they are trying to consider the entire community. Homes are not being built as they had been in the past.

Commissioner Haag said they need to review feedback from all public hearings and there are many concerns. He anticipates it may take a couple of months. Gozola will return with feedback and suggestions on how to address them.

Halverson said thinks the proposed lakeshore setback is challenging but it is a concrete line instead of constantly moving lines. The constant motion concerns her. She wondered how many residents would care if they were suddenly legally non-conforming. She said they may need to walk the shore and see the impact. She went on to say each variance can eventually move the line and they will affect overall setbacks later. This overlay line will at least prevent constant movement.

Anderson and the new commissioners to be appointed at the next City Council meeting will meet with Gozola to get up to speed on the zoning code updates.

## 7. New Business

### 7.1. 2018 Comprehensive Plan – Zoning Administrator Gozola

Administrator Gozola said the Comprehensive Plan is a document that must be updated and amended every ten years. The Planning Commission is the body, according to state statute, that writes the Comprehensive Plan. Gozola asked for feedback on how much they think it will need to be updated. Costs associated depend on how much time is spent updating the plan. If they think the overall vision remains the same, they will need to have a public hearing and simply update legal requirements. The Comprehensive Plan sets the legal base for zoning codes. It looks at land use, utilities and water, and other components. Orehek said they need to appoint someone to oversee the comprehensive plan update.

The Commission felt in working on the zoning code updates, they pay close attention to the Comprehensive Plan and reviewed it extensively in the past. The commissioners agreed that Gozola should take a light approach. Gozola will plan on meeting the minimum requirements which include a public open house and updating the document while maintaining the current vision. He will provide the associated costs at next meeting.

## 8. Old Business

### 8.1. Transportation Projects – Next Steps for Safe Crossing and Traffic Study

Chair Orehek stated they have received notice of people interested in being on the safe crossing subcommittee. Halverson will reach out to them with a formal email to confirm their commitment. Orehek suggested they do a site walk with Hennepin County and present their observations from the walk at the next Planning Commission meeting. Orehek will assemble preliminary feedback from the county regarding options to prepare for the walk. He will re-engage with the county to determine the next steps and get a proposal.

## 9. Reports

### 9.1. Chairperson

Chair Orehek had no report. He recommended that residents interested in serving on the Planning Commission submit an email stating their interest and qualifications to Administrator Griffin. Clerk Honey added that the deadline for submissions is May 3. Council will consider the submissions and appoint the commissioners.

### 9.2. Commissioner Reports

No reports

### 9.3. Council Liaison – Roles and Responsibilities

Liaison Bartel said Commissioner Max Hacker was removed from the Planning Commission until the lawsuit with the city is resolved. City staff is working on uploading audio of meetings on the website.

### 9.4. Planning and Zoning Administrator – no additional report

### 9.5. Building Permit Report – Received and filed

## 10. ADJOURNMENT

**(Steinke motion, Haag second to adjourn; all ayes).** Motion passed. Meeting adjourned at **8:35** p.m.

**PUBLIC IN ATTENDANCE** – The following individuals signed the sign-in sheet: John Woerner, Betty Pakzad, Sue & Paul Kozloski, Nell Mathews, Alice Seuntjens, Becky O’Grady, Shawn O’Grady, Sara (illegible last name), William Raisbeck, Steve Howarth, Craig Moriarty, other illegible signature.

Minutes respectfully submitted by City Clerk Heidi Honey.

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Heidi Honey, City Clerk