

MINNETONKA BEACH PLANNING COMMISSION

Chair:
Jim Haag

Council Liaison:
Susan Enlow

Members:
Joann Anderson, Jeff Breazeale, Jennifer Halverson, Craig Moriarty (Vice Chair), Susan Swanson, John Naylor, Susan Swanson

Staff:
Pat Melvin, City Administrator
Phil Carlson, Zoning Administrator (Stantec)

Planning Commission Meeting Minutes Monday, April 26, 2020 ~ 7:00 PM

Please note that Mayor Lindstrom has determined that an in-person Planning Commission meeting is not practical or prudent because of a health pandemic and that this meeting will be held remotely using Zoom. This is being done in accordance with MN State 13D.021.

1. CALL TO ORDER

Chair Haag called the meeting to order at 7:01 p.m.

2. ROLL CALL

Present: Chairperson Haag, Vice Chair Craig Moriarty, Joann Anderson, Jennifer Halverson, Jeff Breazeale, Susan Swanson & Council Liaison Susan Enlow

Staff in attendance: Phil Carlson, Zoning Administrator and Patrick Melvin, City Administrator.

3. APPROVAL OF AGENDA

(Moriarty motion, Anderson second to approve the agenda, all ayes). Motion passed.

4. APPROVAL OF MINUTES –

4.1 June 30, 2020 - Melvin explained that while reviewing and finalizing 2020 Minute Packets he found that these June 30, 2020 Minutes were not approved. It was an unusual month as there were two Planning Commission meetings that month **(Breazeale motion, Halverson second to approve the June 30, 2020 Minutes, all ayes except Swanson who abstained being that she was not on Planning Commission at the time).** Motion passed.

4.2 February 22, 2021 – Commissioner Breazeale corrected the language for stairs that are allowed in the AMLS under 5.1 section 1 in two different paragraphs to read “except for stairs on steep slopes or for direct access to the lakeshore.” **(Breazeale motion, Halverson second to approve the February 22, 2021 Minutes with the correction noted above, all ayes).**

5. Old Business

Variance Request Lake Shore Setback for Accessory Dwelling- 2508 Arcola Lane (Hedeem)

Zoning Administrator Phil Carlson shared with the Commission that the Hedeems are requesting variances to the 75 foot minimum lakeshore setback and the rear yard setback to build a two story structure- garage on the ground level and a living unit on the second level to accommodate their young adult son who is wheel chair bound. Accessory dwelling units (ADU's) are a permitted use

in the R-1 district as long as they meet certain criteria. This criteria includes the lot creating a practical difficulty as it is narrow and unable to meet the existing required 75 foot lakeshore setback and 40 foot rear setback requirements, the unit fitting within the character of the locality because it does have some screening with the existing vegetation located on the side of the trail and no neighboring properties on the east side that would be impacted by the unit which is a reasonable request associated with the goal of providing independent housing for their wheelchair bound son.

Carlson pointed out a complication that the property had previously received a Conditional Use Permit in 1998 for an above garage apartment which is accessed by a separate stairway. The Hedeens are willing to have that Conditional Use Permit removed and whatever changes are required to the above garage apartment made in order to pursue this ADU on the east side of the property.

There was some discussion about the additional hard surface associated with an additional driveway and the need for the Hedeens to approach the Hennepin County Regional Rail Authority for permission to add the driveway across the County's property. There will have to be a deed restriction on record with the County for their driveway to be installed as planned. John Daly advised the group that with the additional driveway and unit the hardcover is still under 30%.

There was significant discussion about the DNR shoreland regulations and whether or not the City Zoning could be different and/or less restrictive. Carlson indicated that the State gives authority to the City to determine the shoreland rules while Commissioner Breazeale shared his belief that the shoreland rules had to be at least as restrictive as the DNR. He further mentioned that the DNR rules are updated every several years and questioned does Minnetonka Beach update its code to ensure compliance? Carlson indicated that the Code has been reviewed and given authority to govern zoning decisions in Minnetonka Beach.

The public hearing on the variance being requested for 2508 Arcola Lane was opened for comment:

John Daly from Revision Renovation – John mentioned the significant work and research that he has done with the Hedeens to identify options for providing a more easily handicapped accessible dwelling unit for their son. He pointed out that the family has seven children all currently driving and that this plan will alleviate some of the parking needs associated with all the cars on the property.

Jason, Corin and Issac Hedeem – The family indicated that their goal was to provide an opportunity for their wheel chair bound son to live independently but still be close to family. Upon questioning from the Commission as to whether or not they had investigated an elevator to the existing second level apartment they indicated that they had not and they did not believe there was space. The family shared that they are currently using a ramp for Issac to access and exit the main house which still requires somebody to assist Issac.

Nell Mathews- Ms. Mathews reminded the group that all of Minnetonka Beach is within 1000 feet of the lake and is considered shoreland. Her concern was with protecting the lake as she questioned how much additional impervious surface is being added to the Hennepin County property and what will be the resulting water runoff onto the Hennepin County property and to the lake? She wondered should the DNR evaluate this variance request?

Ms. Mathews further mentioned DNR regulations 6120.330 wants and requires the City to protect shoreland and that if the City chooses to relax those restrictions it must be approved by the DNR. She inquired if the City provided notification to the DNR that this variance was being requested.

The Public Hearing was closed at 8:15 p.m.

Commissioner Breazeale agreed stating that the City must be as strict as DNR rules or obtain special approval from the DNR. He also pointed out that if the ADU were attached to the house it would be easier for him to approve the variance.

(Breazeale motion, Anderson second to have a continuance of this issue before the next Planning Commission to understand the extent to which the Minnetonka Beach code is to be consistent with MN Shoreland Mgmt Rules 6120.2500 thru 6120-3800, the requirement to keep updated and consistent with those rules, and the process for approving variances to those rules and is DNR approval required. All ayes, motion passed.)

Council liaison Enlow suggested that Zoning Administrator Carlson and Melvin put together the questions for City Attorney Batty so that Commission members have specifics on what was asked and the response from City Attorney Batty. It was also agreed that a draft of the questions be reviewed by Council Liaison Enlow prior to submitting to City Attorney Batty. Zoning Administrator Carlson indicated that he would extend the 60 day deadline for a decision through a letter to the Hedeens.

5.2 Variance Request Lake Shore Setback for Pool - 2651 Woodbridge Road (Lang)

The Langs own a single-family home on a lakeshore lot at 2651 Woodbridge Road. They want to build a below-ground 18 by 40 ft swimming pool, placed parallel to the house in the front yard facing the lake and are requesting a variance to the front setback to Woodbridge Road for the project.

The lakeshore and Woodbridge Road are at an angle to the lot lines and the house. Therefore, the pool, aligned with the house, is not parallel to the street right-of-way. With deck space provided between the house and pool, this arrangement pushes part of the pool into the 50-ft front setback, requiring a variance, at about 39 ft from the front right-of-way.

As submitted, the pool is over 3 ft above the existing yard which also would require a variance for this height – no more than 1 ft allowed. The applicants have agreed to revise the plan to meet the 1 ft standard.

For this property there are three required setbacks in the Zoning Code that potentially come into play for locating a swimming pool:

- Average Minimum Lakeshore Setback (AMLS): a below ground swimming pool is allowed between the 75-ft minimum and the AMLS, but only if the pool deck (meeting the definition of a “below ground” pool and a “patio”) is less than 1 ft above existing grade. The proposed retaining wall at the NW corner of the pool would be about 3.5 ft above existing grade (elev. 955.5 above existing grade elev. 952.0), so it would not be allowed without a variance to the elevation standard. If the pool and deck were lowered by 2.5 ft, then it could be allowed within the AMLS with only the front yard setback variance being requested. The applicants have agreed to revise the plan.
- 75 ft Lakeshore Setback: the minimum lakeshore setback of 75 ft would apply for a swimming pool, but as seen on the graphic below, that setback is well in front of the house in the front yard, almost to Woodbridge Road on this lot.
- 50 ft Front Setback – swimming pools must also meet the front yard street setback, which is the governing setback standard for this variance.

Zoning Administrator Carlson shared some different possible layouts of how the pool could be situated closer to the home so as not to require a variance but also indicated that his layouts when accounting for the columns did not leave minimal room between the columns and the pool.

A difference in the report from the applicant shows the distance from the pavement to the pool of 50 feet whereas in the City’s report the official setback is the distance from the Right of Way (ROW) to the pool which measures 39 feet. Having it set back from the ROW rather than the pavement is intended to provide more green space.

The applicant in his report provided examples through the City where other pools had been installed or approved for construction into the setback. This included some front AMLS setbacks as well as sideyard setback variances. Carlson pointed out that past precedent does not require the Planning Commission to approve this variance request.

The hardcover on the property is 27.4% with the proposed pool installed.

Mike Lang indicated that what he is proposing is the pool layout on the left side of Carlson's diagram of options. He stated that the Right of Way extends into his property making this a difficult decision. He reminded the Planning Commission that he can proceed without a variance to install a pool as shown in the top right hand pool layout but that would necessitate more hardcover and result in more water runoff.

At 9:05 PM the public hearing was closed.

Commissioner Breazeale inquired if there was room on the lot for a pool without having to go into the AMLS? Carlson indicated that yes options included a different alignment consistent with the ROW and the size of the pool could be smaller than the proposed 40 by 18. Commissioner Breazeale also asserted that a pool could be installed in the back yard where there is sufficient space and without any variance. Swanson asked what variance was granted for the property in 2014. Lang responded it was for the side setback for the driveway position.

(Anderson motion, Halverson second to recommend that the City Council approve a variance to the front setback for a swimming pool and deck at 2651 Woodbridge Road, with the condition that the plan be revised to lower the elevation of the pool and deck to no more than 1 ft above the existing ground elevation with the following Findings of Fact:

- 1. A swimming pool and deck for an existing home is a reasonable use of the property.**
- 2. The requested variance allows a more orderly design, centering the pool on the house, allowing it to be parallel to house, which is a reasonable design approach to allow.**
- 3. Limiting the height of a paved surface like the pool deck is an appropriate part of the City's lakeshore setback zoning scheme to protect lake views. The condition to lower the pool and deck to follow Code standards is reasonable. (role call vote- Breazeale- N, Halverson- Y, Anderson- Y, Moriarty- Y, Swanson – N, motion passes 3-2.)**

5.3 Proposed Amendment to Chapter 3 Zoning Districts to Modify Lakeshore Setback Requirements Within the Shoreland District Code and Setbacks for Steps and Stairways in the Zoning Code.

Chair Haag indicated that there were some lingering questions regarding the proposed new method for determining the AMLS and that he felt the Commission wished to further discuss before approving. Specifically he cited the scenario of how to establish the AMLS when only one adjacent property determines the AMLS.

The AMLS Public Hearing was posted in the paper and the Hearing was started at 9:34 PM.

Nell Mathews from 2643 Arcola Lane spoke. Nell felt that the AMLS was being rewritten to address a previous error in the code. She felt strongly that the one side AMLS determination has to be revisited and better defined. The AMLS should be reviewed for its impact on all riparian properties and the Commission should have one more discussion on this topic.

Commissioner Moriarty inquired as to what is driving the need for more discussion and Council Liaison Enlow shared that she has concerns about the AMLS measurements based on the development that occurred next door to her and that she feels more discussion is warranted. She suggesting that a meeting be held of the Planning Commission without the pressure of having to propose something and conduct a public hearing.

Nell further clarified that the old code was not from the lakeshore. The code rewrite change from the lakeshore to established setback lines was proposed and residents in public hearing declined because it moved new properties closer to the lake ahead of existing properties. Therefore code was never changed to measurement from the lake to fixed setback or line of sight for to be developed properties with one on both side. Nell feels that this is correcting it for the remaining properties. There are no minimum standards for properties that have no adjoining properties on either side which would default to DNR 75 foot minimum which is not consistent with Minnetonka Beach. Nell encouraged resolving all the AMLS challenges.

Carlson look back at the 2015 and 2012 codes and indicated that line of sight was not included in the code at that time. Carlson thinks further discussion is needed.

Chair Haag elected to close the public hearing at 9:53 PM

(Swanson motion, Anderson second to not make a recommendation to the City Council on the AMLS, all ayes, motion passed.)

7. REPORTS

7.1 Chair Report- Chair Haag did not have anything to report.

7.3 Council Liaison- Council Liaison Enlow took questions from Commission on Council meeting. She corrected an error in discussion at Council that lakeshore owners on Crystal Bay if they were in a Lake Improvement District would not be individually responsible for treating their own shoreline as was previously stated.

8. ADJOURNMENT

(Halverson motion, Moriarty second to adjourn the meeting at 9:57 p.m., all ayes). Motion passed.

Minutes respectfully submitted by City Administrator Patrick Melvin

Patrick Melvin, City Administrator