

UNAPPROVED

Minnetonka Beach Planning Commission Meeting Minutes

April 27, 2020

1. Call to Order

Chair Haag called the meeting to order at 7:04 p.m.

2. Roll Call

Present: Chair Haag, Vice Chair Moriarty, Commissioners Anderson, Breazeale, Halverson, Howarth, Naylor and Council Liaison Enlow.

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

3. Approve Agenda

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

4. Approve Minutes

(Moriarty motion, Anderson second to approve the Minutes with corrections to show that Naylor was not in attendance, correction to spelling of Kiesel in first paragraph of Section 5.1 and switching the motions for Approval of Minutes and Approval of Agenda, all ayes). Motion passed.

5. Public Hearing - Variance Request (Continued)

5.1 Variance Request Lake Shore and Side Yard Setback- 1901 Lake Road

Chair Jim Haag acknowledged he was not present for this last meeting but reviewed the video and is up to speed.

Zoning Administrator Carlson review the request for variance to lakeshore and side setback for new deck and stairs at 1901 Lake Road. Several reports are included in the packet. This issue was first brought up in February and there was an assumed AMLS line based on the neighbor's property to the east at 2950 Northview Road. The AMLS only considers the property to the east since the property to the west is across Lake Street. 136.1 feet was the measurement from the deck of the property at 2950 Northview Road.

At the February meeting, Commissioners questioned should the stairs at 2950 Northview Road be considered a structure for defining the AMLS. Carlson has since looked at code and concluded the steps should be considered. If a structure is allowed in the AMLS, he believes that it should be used to define the AMLS. If not allowed in the AMLS it would not be considered. Carlson shares this opinion in his March 12 memo. Based on this opinion, the new line for AMLS taking into consideration the stairs are at 125.2 ft.

Carlson reviewed several possible AMLS lines shown on his March 30 memo on page 4 of 8, green line at 136.1 which is from the east neighbor's deck, blue line at 125.2 ft. which is from the east neighbor's stairs and a purple line at 112.8 ft. which is not recognized in the code but was suggested by the applicants and calculates the AMLS based on 3004 Northview Road, the edge of the deck, and the property at 2950 Northview Road measured from the stairs. If the 112.8 ft. AMLS line were used, it would not require a variance however the other two AMLS lines would.

In Carlson's April 27th Memo he concludes steps and stairways no more than three feet wide and four feet in length are an allowed accessory use in the AMLS. Only some stairs are allowed in setback, lake or side yard setback, per table 3-5. The neighboring stairway at 2950 Northview Road is wider and extends further and would not be allowed in the AMLS today according to Table 3-5. Wider and longer stairs are allowed behind the AMLS, which Ms. Boschwitz confirms was the case when her deck and stairs were installed. Carlson concludes that some stairs are allowed in setback, some are not.

Carlson reviewed several tables from the Code including Table 3-3, Specialized Yard and Lakeshore Setback Requirements. In this table the stairway minimum required setback for stairs from the front, side street, rear and Minimum Lakeshore Setback is 0. Another table, Table 3-5, Allowed Yard Encroachments (previous code said side yard) allows 36 inch wide and four feet lengths of stairs to project into a required yard along the wall of the principal use.

Commissioners inquired about the history of the stairs on the 2950 property and any existing variances on 1901 Lake Street. Carlson indicated that the side setback is not currently being met for 1901 Lake Street and that he was not familiar with previous variances. Commissioners questioned should we be evaluating historical records if residents may be requesting variances on top of a variance. Commissioners felt there must be a record. Carlson advised the Commission that it is not typical to review each variance as the requested variance has to stand on its own.

Public hearing commenced at 7:49 P.M.

Janet Boschwitz-2950 Northview Road

When the Boschwitz's built they did not require a variance on their 125 feet of lakeshore, acre size lot. Stairs were within code and behind the AMLS by 4-5 ft. Her concern in including the stairs is that it moves the AMLS forward of the steps by 20-30 feet. The intent of the code is to avoid creep towards the Lake. At one time the Lake Road house was a one story and now it's a two story. Boschwitz is currently behind Kiesel's structure and any additional movement closer to the Lake means they are further behind. She believes the AMLS line should be from the deck not the steps.

John Daly, the builder representative for the Kiesel's.

The AMLS intent is to protect views. This project improves views for the Kiesel's while reducing an existing encroachment into the AMLS. Daly had photos showing what exists today. By making this change to Kiesel's, Daly states that the AMLS is being further set back from the lake. There are 6-7 steps today and 4 are proposed and the grade is being modified to help reduce the steps. Current deck structure has limitations because of a concrete wall underneath. The new deck extends further to allow a table to seat 4-6 people and provide space for a grill.

Carlson pointed out that having an average AMLS is a moving target dependent upon neighboring houses. Other cities have a set distance which is constant but the AMLS approach is dependent on neighboring properties

Nell Mathews - Ms. Mathews believes 75 feet from the lake or the AMLS should be enforced, whichever is greater. The most restrictive requirement is what the Commissioners should apply.

Lauren Kiesel- She would like outdoor seating. Stair could be left where they are but they believe it would benefit all for the stairs to encroach less into the AMLS. Most houses have the benefit of two homes setting the AMLS, but in this case Lake Street prohibits her from comparing to the east. No parking is allowed on Lake Street and there is only foot traffic so they would not be imposing on view so she requested to have 3004 Northview Road considered in calculating the her AMLS.

Commissioner Enlow pointed out the difference between principle structure and accessory structures as it relates to AMLS. From her perspective stairs are accessory structures. 1901 Lake Street has variances because it encroached over the AMLS. The AMLS calculation should be from the principle structure and stairways are accessory.

Commissioner Moriarty inquired about the classification of steps and decks and was informed stairs are accessory while decks are considered principle structure and can't encroach into the AMLS. Carlson stated that stairs larger than 36 inches in width and four ft in length are not allowed in the AMLS.

Close the Public Hearing at 8:45 P.M.

The stairs at 2850 Northview Lane were suggested to be a principle structure because of width and length. Boschwitz stairs could be viewed as more than accessory making it more of a structure. Comment was made that the Planning Commission should go back and clarify for all properties how stairs impact the AMLS.

Commissioner Breazeale shared his thoughts that the lake setback has been interpreted very strictly in the past, and Carlson said that the Planning Commission can stick with a strict letter of the code and grant few or no lake variances. Commissioner Breazeale said that's how he feels about lake setbacks and that's how the code is written and the green line at 136.1 is the line that applies and stated he would not be in favor of a variance into the AMLS, and was prepared to make a motion to deny the variance for these reasons.

Anderson motion to approve the front and side yard variance. Motion failed due to lack of a second.

Carlson informed the Commission that the 60 day has expired and an extension allowed by Statute was granted but that ends on May 29th so the Planning Committee has to make a decision to get this issue to the Council on May 11th for Council action unless granted another extension.

Breazeale motion, Howarth second to deny the variance because it encroaches into the AMLS which the Planning Commission is taking a strict interpretation of or strict position on sticking or complying to the code, all ayes except Halverson. Motion passed.

Old Business – Darren Amundsen - Storm Water Management Codes

City Engineer Darren Amundsen gave an introduction explaining that stormwater rules are different than hardcover. Minnetonka Beach is more restrictive when it comes to stormwater and applies rules to single family homes that are usually only applied to large projects.

Minnetonka Beach applies Minnehaha Watershed rules to every project. If more than 50 cubic yards of dirt is disturbed or 5000 sq. ft. of area, then stormwater rules apply. This is based on non-degradation principle- which is to not increase pollution to the Lake in any way.

Stormwater pollution can be measured in three ways- rate (how fast), volume (how much) and quality (what are the suspended solids in the water). If you control rate and volume the quality will be taken care of.

Bottom line Minnetonka Beach can be less restrictive on single family home projects. There are three options for the City, non-degradation which is the most restrictive, Minnehaha Creek Watershed rules which are less restrictive or something in between those two standards.

Do we want to continue with non-degradation standards? The benefit is that it minimizes impact to the Lake and the downside is that it's more costly and requires property owners to enter into a maintenance agreement with the City and get an easement that goes with the property so that the City can maintain it if neglected in the future. Cost to homeowner is one thing, requiring Maintenance Agreements and asking for easements and the administrative challenges to track people down and monitor maintenance is also challenging.

Some Cities have no follow up to mitigation efforts. i.e. pervious pavers for the driveway. In 10-15 years if not maintained, the pavers will not be pervious. Does the City want to dictate replacement in 10-15 years, probably not. Eventually everything plugs up without maintenance. There are limits on how much credit individuals can gain by doing mitigation to allow them to exceed the hardcover.

If the City elects to loosen the standards in line with the Minnehaha Watershed rules - project reviews will be less burdensome and there will be a small impact on Lake Minnetonka.

If we loosen up the standard there may be more City expense associated with the cost for trunk stormwater drainage systems, the cost of which may be shared among members of the community or drainage area.

Brooks Lane has the highest concentration of homes not redeveloped and highest drainage issue now and if redevelopment occurs. Commissioner Haag would like to know what others are doing and a Commissioner did want the focus to be on Brooks Lane because that is a drainage issue which has not been properly addressed in the past.

The Commission suggested getting a read on what surrounding communities are doing and have further discussion at a future meeting with examples.

New Business – 2020 Capital Improvement Plan

Chair Haag inquired if anybody had additional projects in mind for CIP. Craig inquired about Brooks Lane and stormwater plan- is it in the CIP and if not, he suggested that it should be. In choosing a liaison for the Capital Improvement Plan Committee to coordinate the CIP, Joann Anderson did it last year and has experience.

Commissioner Anderson agreed to be on the Capital Improvement Plan Committee as she has experience from being on it in the past.

Council liaison- Council member Enlow reported that there had been two council and two local board of review meetings since the last Planning Commission meeting. In addition, in connection with the Schussler litigation, there had been two closed meetings and the Mayor provides updates when appropriate. The case will be heard by a telephonic hearing and the City's attorneys are confident that Minnetonka Breach will prevail. Health pandemic is requiring meetings to be conducted by Zoom. The City Engineer is getting quotes for the water tower, three styles and bids at May 11 Council meeting. Ehlers is helping the Treasurer and Finance Committee review financing options for water tower. Got 2019 Audit Report and with a few changes, the audit was approved. Enlow looking at tree ordinance. Continuity of Operations Plan was approved. With Stantec's help, the City will apply for a grant from MDH for water treatment plant. The City became a member of MNWARN and will have access to qualified staff to assist in an emergency. Storm drain at 3040 Northview Avenue was repaired and wall is being rebuilt prior to streets being worked on. Capital Improvement Plan will be a longer nine year plan to coincide with Ehlers Financial Management Plan. Finance Committee will be meeting. Two Local board of review meetings for residents to show cause for adjustment to the values. Some did get adjustments. Anybody can move to plead their case at the County. Phil Carlson was asked to look further into several potential AMLS concerns to ensure compliance.

9. Adjournment

(Halverson motion, Moriarty second to adjourn the meeting at 10:23 p.m.) Motion passed.

PUBLIC IN ATTENDANCE- The following individuals were involved in the Zoom meeting:

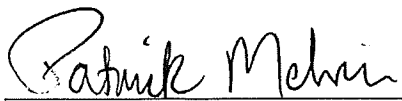
John Daly

Lauren Kiesel

Nell Mathews

Janet Boschwitz

Minutes respectfully submitted by City Administrator Patrick Melvin.



Patrick Melvin, City Administrator

