

APPROVED
Minnetonka Beach Planning Commission Meeting Minutes
July 24, 2017

1. Call to Order

Chair Orehek called the meeting to order at 7:04 pm.

2. Roll Call

Present: Chair Orehek. Commissioners Anderson, Breazeale, Haag, Halverson, Moriarty (arrived late), Steinke, and Council Liaison Bartel. **Absent:** None

Staff in attendance: City Administrator Susanne Griffin, Zoning Administrator Ben Gozola

3. Approve Agenda

Chair Orehek

(Anderson Motion, Breazeale second to approve agenda; all ayes). Motion passed.

4. Approve Minutes: June 26, 2017

(Anderson motion, Halverson second to approve the minutes of the regular Planning Commission meeting of June 26, 2017; all ayes). Motion passed.

5. Public Hearing

Variance Request – Average Minimum Lakeshore Setback - 2326 Huntington Point Road W – O’Grady

Zoning Administrator Gozola stated that Shawn & Becky O’Grady own the home at 2326 Huntington Point Road W and have plans to build a new home on the property. They are asking for a 13’9” foot variance from the AMLS for an underground pool and hot tub. Gozola reviewed the contents of the request. He stated that this is a buildable lot that is legal nonconforming with the existing structure nonconforming to both AMLS and rear yard setbacks. He stated that the existing home is 31 feet from road (requirement is 40’ and proposal is 62’) and approximately eight feet beyond the current AMLS. The proposed home would be 11 feet behind the AMLS, significantly improving from the current home. The issue comes up with a pool and hot tub beyond the AMLS (pool 10 feet and hot tub 8 feet). He pointed out the drawing on page 5 of the report.

Gozola stated that there are no floodplain issues, but would involve Shoreland requirements (75’ minimum lakeshore setback). Gozola reviewed the comprehensive plan guidance on page seven, and page eight, applicable definitions.

The applicant provided a thorough narrative that was included in pages 8-16 of the report. Gozola stated that as was previously directed, he provided no recommendations on the criteria but provided the requirements in the code relating to criteria for dealing with “practical difficulties” as potential discussion points, and the commission was encouraged to debate the criteria to determine whether the criteria were met. Applicant input on each of the criteria were also provided in the report. Gozola also pointed out that the applicant has submitted letters from neighbors of either support or no objections.

Chair Orehek thanked Mr. Gozola and asked commissioners if they were satisfied with his report due to recent direction from the commission to provide only guidance and no recommendations. Commissioners expressed that the report was satisfactory.

Chair Orehek invited the applicants to speak. Becky O’Grady, homeowner, stated that they want to build something that will be in the family for years to come. They want to respect the history of the community

and build something consistent with the community. They have shared their plans with neighbors and have received letters of support.

Nate Wissink, Streeter & Associates spoke next. He reiterated that they were asking for the AMLS variance as a result of what they perceive as a significant compression of the lot from north to south due to the lakeshore, and this is the practical difficulty. They are proposing to build a new home further back on the lot and they are the only lot on this road that has this extent of lot compression. Mr. Wissink showed the compression on a large survey map and pointed out the differences between the subject property and the existing homes on Huntington Point Road West. He showed the compression as about 80 feet. They intend to move the house as far back as possible so that the view corridor from adjacent properties (who have submitted letters of support) is protected on either side. The nonconformity will be underground which is a significant improvement over the existing home. He stated that they are reducing hardcover due to moving the home back toward the road requiring less driveway, and they spoke to the City Engineer who felt that due to the nature of the lot, there would be a number of stormwater management options. They have worked with their engineer on drainage plans.

Mr. Wissink reviewed each of the criteria and reviewed his comments in the report and discussed the establishment of practical difficulty based on the criteria:

- Is variance in harmony with the general purpose and intent of Chapter Two, City Code of Ordinances: the home is in keeping with the cottage look to the area. This is a single-family that will not adversely affect the public, but rather it will provide a family home for years to come and it contributes to the tax base.
- Is the variance consistent with comprehensive plan in that granting the variance will not alter the essential character of the locality: the home could be built the way the homeowner wants if not for the shoreline compressing the lot.
- Is the applicant proposing to use the property in a reasonable manner: Yes, there are a number of homes on Huntington Point with patios and pools or other nonconformities, so the homeowner is not proposing an unreasonable use of the property.
- Is the plight of the landowner due to circumstances unique to this property and not created by the landowner: the shoreline is unique to this property and not created by the land owner.
- Do economic considerations constitute practical difficulties: the request is not related to economic considerations, but the practical difficulty as noted.

Mr. Wissink stated that 12 neighbors signed letters of no objection and showed a map of the area denoting the locations of those neighbors. Andrea Swan was asked whether the house was designed before applying it to the land. She stated that they considered the proposed specialized lakeshore setback when designing the home. She explained at the beginning of each project that they study the city's code. With the specialized lakeshore setback not being applicable, they came for the variance.

Commissioner Anderson asked for clarification on the "compression" issue. Nate Wissink explained how the shoreline impacts the developable area.

Commissioner Steinke asked about rear yard and whether they have room to move it back. Mr. Wissink stated that they have moved the home back to the required 40-foot setback. Steinke then asked about instead asking for a rear setback and move it back further. Mr. Wissink explained that they considered how moving it back further would impact and relate to the adjacent homes and ended up deciding on the proposed plan taking that into consideration.

Commissioner Breazeale asked about rotating the house similar to another house in the area, and whether they looked at other options. Andrea Swan stated that they looked at a lot of other options and they try to avoid variances if possible. She said turning the house would not be feasible nor fit with existing homes. The problem is that the lakeshore and the road are not parallel.

Chair Orehek opened the public hearing 7:29 p.m.

Public Comment:

Robert Gillum – 2406 Woodwinds – asked Mr. Wissink for clarification on the portion of the proposal that would be outside of the required lakeshore setback. He said the proposal would have the home further back than the adjacent homes.

Kathy Gillum – 2406 Woodwinds - thanked the applicant for the well-written letter they received about the proposal. She stated she lives in a house with kidney shaped pool and wondered if the pool was shaped differently if it would fit within the setback. She feels the ordinances are what they are, and others have asked and not been approved for lakeshore variances.

Ms. Swan asked about whether fences or pool covers are required because they want a motorized pool cover, and that would be difficult on an irregular shaped pool.

Mr. Wissink reiterated the reasonableness of the request and stated they were asking for a nonconformity on a very small scale, and what is a variance for if not an anomaly or uniqueness. He stated that the applicant is not asking to be treated differently and asked commissioners to consider this information.

Chair Orehek closed the public hearing at 7:35 p.m.

Commissioner Moriarty asked about requirement to notify DNR. Zoning Administrator Gozola clarified that the city is required to notify the DNR of variance requests and approvals. Gozola stated that the DNR has deemed the city's code in substantial compliance with state Shoreland requirements and the city must enforce those requirements.

Chair Orehek stated that he doesn't see the property as unique and agreed with Steinke that perhaps the house could be moved back. Commissioner Haag asked about what is allowed within the AMLS and what has been allowed in the past. Mr. Gozola clarified that certain features have been allowed in the AMLS and pools have been allowed in the past, but not within the 75' setback. Commissioner Anderson asked about whether patios were allowed in the new code and Gozola clarified that a recent change to the proposed code was to allow patios in the AMLS but there was no change to pools and they can extend beyond the AMLS. Haag asked about the deck area around the pool and Gozola clarified that is not considered part of the pool. Commissioner Moriarty verified exactly how much of the pool would be in the AMLS.

Commissioner Anderson understood the compression of the lot issue. She stated they have a good reason to request the variance, there are letters of support and she believes the plan is much better than the current situation.

Commissioner Breazeale stated that his understanding is that the lakeshore setback is sacred and asked about where the city draws the line, and what is reasonable. Commissioner Steinke clarified for the audience that the Planning Commission has been working on a revised zoning code with part of the purpose being to reduce the amount/need for variances, which included consideration of the specialized lakeshore setback. There was discussion about bringing new homes more into compliance which this variance does. Commissioner Steinke asked commissioners how they felt about fencing around the pool which would be allowed. They also discussed putting conditions on the variance about the fence.

Commissioner Halverson asked about whether approval of this variance would affect adjacent structures since it's a pool that is being granted not a structure. Gozola clarified that it would not impact the future AMLS for adjacent structures since that would be based on the principle structure.

Commissioner Steinke asked about practical difficulties. Gozola clarified the three tests for practical difficulty which are reasonableness, unique circumstances and economic considerations. If those tests are passed, then it is deemed a practical difficulty.

Commissioner Anderson asked whether approval of this variance would set a precedent. Gozola stated that this is the importance of establishing findings of fact which differentiate this request from others and show how it will not establish a precedent.

Commissioner Steinke asked for Zoning Administrator Gozola's recommendation, knowing that the commission has asked him not to provide a recommendation. Gozola stated that he agreed with Commissioner Anderson's assertion that the change in the shoreline make this situation unique and can be a differentiating factor. He noted that they are moving the house back, and what they are requesting is flush to the ground so they are not blocking site lines. He pointed out that they could build a house up to the setback and that would be worse. With that, he believes there is a good argument to recommend approval.

Commissioner Moriarty asked about hardcover and the proposed permeable driveway to accomplish the 30% maximum requirement. Gozola stated that this would have to be worked out with the city engineer.

It was clarified that the applicant would have one year to pull a permit if the variance were approved.

Commissioner Breazeale discussed alternatives such as moving the house back and whether that could be a condition. Council Liaison reminded commissioners that moving the house back would impact the AMLS for future building. Chair Orehek reminded members that the specialized setback was considered in the past so the AMLS line wouldn't keep moving. Steinke stated he felt more comfortable with approval with a condition on fence restriction.

Chair Orehek thanks everyone for coming and the commissioners for their thoroughness in considering the request for a lakeshore setback variance. He stated that he believes there are unique circumstances to this request which should not create a precedence.

Commissioner Steinke made a motion which was seconded by Commissioner Moriarty to recommend the variance be approved with a condition that no fences be allowed in pool area. Before a vote was taken Zoning Administrator Gozola suggested that the commission include findings of fact in their motion. He went on to state that since he was asked not to provide a recommendation there were no findings of fact drafted for the packet of materials. However, he was prepared with a list of seven findings that were passed out and Commissioner Steinke read aloud.

The findings of fact were as follows:

1. The curve of the shoreline both on and adjacent to this parcel creates unique building challenges not shared by other lakeshore properties within the community.
2. The proposed new home will significantly eliminate existing legal nonconforming setbacks from the rear lot line (a 31' improvement) and from the required lakeshore setback (a 19' improvement).
3. The proposed pool and hot tub, while within the lakeshore setback, are below ground and will not impact views for surrounding properties, and allowing their placement as proposed, actually improves views by shifting the principal structure away from the lake.
4. Stormwater can be handled to meet all minimum requirements, and flood plain will not be impacted as a result of variance approval.
5. The improvements are consistent with the character of the area as surrounding lands also include pools within the lakeshore setback.
6. The request is reasonable as it achieves many of the City's goals (improved views, larger lakeshore setback, conforming rear yard setback) and is a logical configuration of improvements for this site.
7. The variance is not being sought to simply increase land value, but rather to improve the livability of the home which in turn allows the landowner to make the proposed home location possible.

The audio tape of the motion and second reflected the following:

(Steinke motion, Moriarty second to recommend to the City Council to approve the requested AMLS variance at 2316 Huntington Point Road, based on the findings of fact stated at the meeting, and including the recommended conditions on page 18 of the Zoning Administrator's report, and the additional condition that no fence be allowed around the pool and a pool cover be used instead; Ayes: Anderson, Haag, Halverson, Moriarty, Steinke, and Orehek. Nays: Breazeale). Motion passed.

– Old Business

5.1. Transportation Projects

6.1.1. Traffic Study proposal – Spack Consulting on speed bumps

Chair Orehek explained that this issue came up at the most recent City Council meeting and ultimately from the Civic Committee to add a speed bump on the curve on Lafayette Road near 2315 Lafayette Road. Orehek explained that the history of this issue was that the citywide traffic study did include studying speed bumps, but since this came up at Civic and Council there was emphasis on getting a proposal for this specific location and urgency expressed by Civic Committee members. Administrator Griffin reviewed the proposal in the packet from Spack Consulting which included a base qualitative assessment (without a site visit) to identify appropriate locations for speed bumps in the area of Lafayette Road identified in the study, and the 2315 Lafayette Road location at a cost of \$760. Additional options were included for a more thorough assessment to include site visits and identifying proactive measures that can be taken to improve transportation conditions for additional costs.

Commissioner Haag did not agree that an assessment could be done without a site visit. Commissioners discussed the other options in the proposal. Chair Orehek stated that speed bumps should be placed strategically. Commissioners discussed the options and locations to be covered. They discussed that in the public input sessions last year the Lafayette Road stretch was a priority area for traffic calming.

After much discussion, it was agreed to recommend that the base study and a site visit (option 1) would likely meet the city's needs. Commissioner Steinke stated that proceeding with the study offered a traffic professional's opinion on where and how many speed bumps would be necessary.

(Breazeale motion, Haag second, that given the proposal is in line with feedback received by the community, to recommend to the City Council approval of Spack Proposal dated July 21, 2017, specifically the base scope for \$760 and Option 1 (site visit) for an additional \$720 to identify the number and locations of speed bumps on Lafayette Road from approximately Shoreline Drive to Huntington Point Road; all ayes). Motion passed.

The Commissioners were also in agreement that they would like a recommendation on the type of speed bump from the consultant as well.

Commissioner Moriarty mentioned that once the study is done and recommendations are made, should they also recommend to City Council that the recommend action be taken so as not to delay this issue any further. They discussed what would be an appropriate amount to recommend to the City Council to be spent on purchasing and installing speed bumps.

(Moriarty motion, Breazeale second to recommend to City Council that based on the outcome of the speed bump study, and Planning Commission agreement, the City Council authorize the property city officers to purchase and install the recommended speed bumps in an amount not to exceed \$4,000; all ayes). Motion passed.

Administrator Griffin reminded commissioners that the currently approved Capital Improvement Program included \$10,000 for a transportation study in 2017, and \$20,000 in 2018 and 2019 for transportation improvements.

6.1.2 Safe Crossing Update

Chair Orehek stated that the planned meeting for July didn't occur as the county wasn't prepared with all of the study results. The Subcommittee is now meeting on August 24th. The next step is to bring the Park Commission into the discussion because the dirt bike lane would be along Lafayette Park from Woodbridge to Lafayette Road (near the Welcome sign). They discussed costs and funding for the bike lane and the crossing itself. Chair Orehek reminded commissioners that the CIP does include funds for traffic improvements, and that the county is paying for the Safe Crossing study itself.

6. Reports

- 6.1. Chairperson – Commissioners with Terms Ending: Jeff Breazeale and Jeff Steinke have terms expiring August 31st. Breazeale filled an unexpired term which is why the re-appointment is

coming up so soon. Commissioner Breazeale expressed interest in reappointment. Commissioner Steinke stated he was not interest in being reappointed. He stated he has served nine years and while he has enjoyed it, he wants to give someone else the opportunity. Chair Orehek stated that at the August meeting, a vice chair will need to be elected. Staff will advise Council at the August 14th meeting that the Planning Commission will need to recruit a new member to replace Steinke.

- 6.2. Commissioner Reports-none
- 6.3. Council Liaison Bartel – Stated that a special City Council meeting was held on July 13th just to approve the July bills and to approve a resolution for a Joint Powers Agreement for Community Development Block Grant program to allow for services through federal programs.
- 6.4. Planning and Zoning Administrator – Not present – Chair Orehek stated that the Zoning Code amendment is scheduled to go before the City Council meeting at the August 14th meeting and hoped that commissioners could attend.
- 6.5. Building Permit Report – Received and filed

7. ADJOURNMENT

(Halverson motion, Moriarty second to adjourn; all ayes). Motion passed. Meeting adjourned at 8:47 p.m.

PUBLIC IN ATTENDANCE – The following individuals signed the sign-in sheet: Jim and Laura Lindsay, Becky O’Grady, Nate Wissink, Todd Irvine, Andrea Swan, Carlos Bravo, Bob & Kathy Gillum.

Minutes respectfully submitted by City Administrator Susanne Griffin.

Susanne Griffin, City Administrator