

APPROVED
Minnetonka Beach Planning Commission Meeting Minutes
October 22, 2018

1. Call to Order

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

2. Roll Call

Present: Chair Haag, Vice Chair Moriarty, Commissioners Anderson, Breazeale, Enlow, Halverson, Howarth, and Council Liaison Bartel. **Absent:** None

Staff in attendance: Susanne Griffin, City Administrator, Phil Carlson, Zoning Administrator, and Darren Amundsen, City Engineer.

3. Approve Agenda

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

4. Approve Minutes: September 24, 2018

(Anderson motion, Moriarty second to approve the minutes of the regular Planning Commission meeting of September 24, 2018; all ayes). Motion passed.

5. Public Hearing

5.1. Request for Variance – 1928 Beach Lane - Knudsen

Chair Haag opened the public hearing at 7:02 p.m. Zoning administrator Phil Carlson reviewed his staff report providing the background on a request for a height variance for a new detached garage proposed to be built by Jim and Carole Knudsen. The city code states that the maximum height of a detached private garage shall not be more than half of the height of the principle structure, but not less than one story in height. The existing home is 25' 8" so half would be 12'10". The current garage is 14' 6" and the proposed garage is 19'5" or 6'6" feet taller than the code would allow. He reviewed his memo which stated that in reviewing the criteria it appears to be met. He summarized that the commission could find that the request is in harmony with the zoning ordinance and consistent with the comprehensive plan, that the request is reasonable, that the plight is not created by the landowner, and that it would not alter the essential character of the locality.

Commissioner Breazeale asked for clarification on why a variance is necessary. His reading of the code is that since the garage will be one story, that meets the criteria in the definition of "maximum height of a detached private garage shall not exceed one-half of the height of the principle structure, but not less than one story.": The proposed garage is one story and therefore meets the criteria without a variance. Zoning Administrator Carlson stated he felt the language was ambiguous and that the language in the accessory dwelling section was clearer which states that detached accessory units shall not be more than one story or 50% of the principle use, whichever is greater.

Carlson stated that the Planning Commission's interpretation of the language could be that garages can be one story without a variance. Carlson stated that this item could be added to the list of things that need clarification in the city code.

(Breazeale motion, Halverson second that Zoning Code section 5.3b, states major accessory buildings shall not exceed one half of the principle structure, but not be less than one story, and since this request is a one story detached garage it meets the zoning code and does not require a variance. All ayes.) Motion passed.

Carlson stated that since the request was ambiguous it was brought before the commission and he apologized for the Knudsen's having to go through the process.

Chair Haag closed the public hearing at 7:15 p.m.

6. OLD BUSINESS

6.1. Variance Requests – 2542 Lafayette Road – Jim and Kathy Dudley

Carlson stated that the Dudley's applied for five variances to build a new home on the property. The variances were to side setbacks, rear setback, encroachment plane, and impervious surface coverage. The variances should be considered as a whole for the property, yet the commission should review each one separately.

A public hearing for the variance request was held at the September Planning Commission meeting. At the September meeting two questions were raised that required the commission to continue the discussion to this meeting. The questions that were raised were; 1) whether the raised yard was a patio or terrace and subject to front yard setbacks, and 2) there were questions raised about impervious surface requirements relating to green roof credits.

Regarding the first question, Carlson's interpretation of the code is that because the proposed raised grass area is not covered or paved with any hard material, it is not a patio or terrace, but part of the yard, and does not need to adhere to the front setback as a terrace would. The retaining walls are allowed and well within the setback as well.

The second question had to do with impervious surface coverage. The applicants were proposing pervious pavers, green roof, and treatment of the non-green portion of the roof to collect water. City Engineer Amundsen has reviewed the updated proposed engineering solutions to the pervious surface requirements and stated that depending on how the code is interpreted they have possibly met the code requirements on hardcover.

Chair Haag called on the applicant, Jim Dudley who explained why they asked the city not to hold a special Planning Commission meeting as was determined at the last meeting but rather they preferred to wait until this meeting, so they could take time with their engineers and the city's engineer to thoroughly review the engineering solutions of their plan. He mentioned a new strategy that they will be hearing more about which would treat the non-green roof part of the roof with a cistern system to manage stormwater and that would reduce total hardcover to 30%.

Matt Byers introduced himself and his colleagues including Ben Lucas from the firm Solution Blue. He reviewed each of the variances again, explaining the existing conditions and how approval of the variances would improve the existing conditions on the property. The current home is at 39.6% hardcover and with their initial engineering plans, they were able to reduce that to 39.5 which is an improvement, but still requires a variance. At the last meeting the raised grass plane in the front yard was raised and has been resolved.

He discussed issues that were raised at the last meeting about whether green roofs were appropriate for this location and after speaking with the city engineer, it was determined that since they aren't seeking a reduction in phosphorus, a green roof in this area is not an issue. What was important is the volume, rate, and improved quality of water coming off the roof. He reviewed a hypothetical solution that didn't include a green roof credit, and no zoning-imposed cap on pervious paver credit which got them to 35.9%.

The next option they explored was making the entire roof to essentially be a green roof with a sub-grade cistern, which the code allows 50% with no cap, pervious surface credits (with 5% cap) and this got them to 34.6%. The amount of credit for the portion of the roof water that is managed by the cistern may not be the same as for green roof, but if the city were to interpret that credit in the same way, they would be able to achieve 30% hardcover.

Byers reviewed and explained slides showing the sub-grade cistern system underneath the raised grass plane with the stormwater daylighting into drain tiles in the front yard.

Commissioner Anderson asked city engineer Darren Amundsen to comment. He stated that he has reviewed the proposal and from an engineering perspective what they are proposing for stormwater management is significant. He reminded them that modeling and engineering of runoff is one thing, but the purpose and intent of regulating hardcover is another thing.

He commented on the question of suitability of green roofs near the lake and after speaking with his colleagues, they aren't concerned about that. They would be more concerned if the green roof drained directly into the lake because phosphorus can leave green roof systems under certain conditions, but studies are inconclusive. He stated that the applicants aren't looking for phosphorus reductions only hardcover credits. He stated that the east side of the property backs up to a known flooding area, but they reduced the volume and rates to the flooding area as everything drains to the west instead because of grading and pervious paver system drainage.

Commissioner Breazeale stated that technically they still need a variance for the 34.6% hardcover after additional modifications to the plan. Amundsen stated that can look at it two ways; 1) they still need a variance at 34.6%, or 2) the city can allow the same credit to the cistern system as is allowed for the green roof which takes them to 30% but this would be an interpretation of the code that isn't spelled out in the code in that way. Breazeale stated it would be better to consider the variance rather than make an interpretation of the code without going through a process. Carlson pointed out that considering the hardcover variance also can have conditions that wouldn't be there if the city allowed the credits.

Carlson explained each of the five variances again to commissioners including the hardcover variance, if they decide not to interpret the green roof credits for the cistern system. After discussion all members agreed to include the hardcover variance with the other variances, and not interpret the green roof credit for the cistern system.

(Enlow motion, Breazeale second to recommend to the City Council approval of a hardcover variance for 2542 Lafayette Road of 34.6% with a condition that the proposed sub-grade cistern system be implemented and there be a maintenance agreement, and in the event the maintenance agreement is not adhered to and the city has to pursue remedies including litigation, that those expenses are covered by the owner, and that the Planning Commission is interpreting the code that the roof deck cistern system does not meet the definition for the green roof credit in the zoning code. All ayes.) Motion passed.

Jim Dudley asked to make the point that even though they are considering the variance at 34.6% that due to the condition of the cistern system and maintenance, it gets them down to 30% hardcover, although the commissioners declined to put that in the motion. Enlow explained that the credit for the cistern system isn't in the existing code so they are uncomfortable including the statement that this is what gets them to the 30%.

It was also pointed out that 34.6% is an improvement over the existing condition of 39.6%.

Commissioners clarified that the rear yard setback has not changed, and the applicant confirmed that the rear yard setback is necessary to allow access to the garage (turning radius).

(Enlow motion, Howarth second to recommend to the City Council approval of a rear yard setback variance at 2542 Lafayette Road from the required 40 feet to 7 feet based on the following findings of fact: a) the request is in harmony with the general purposes and intent of the ordinance; b) the variance is consistent with the comprehensive plan; c) the applicant has established there are practical difficulties in complying with the code based on the fact that the applicant proposes to use the property in a reasonable manner, the plight of the landowner is due to circumstances unique to the property and not created by the landowner, and the variance will not alter the essential character of the locality; all ayes.) Motion passed.

Commissioners then moved to the south side yard setback to accommodate the driveway. The driveway will now all be pervious pavers.

(Enlow motion, Howarth second to recommend to the City Council approval of a south side yard setback variance at 2542 Lafayette Road from the required 7 feet to 1 foot with pervious pavers as presented, based on the following findings of fact: a) the request is in harmony with the general purposes and intent of the ordinance; b)the variance is consistent with the comprehensive plan; c) the applicant has established there are practical difficulties in complying with the code based on the fact that the applicant proposes to use the property in a reasonable manner, the plight of the landowner is due to circumstances unique to the property and not created by the landowner, and the variance will not alter the essential character of the locality; all ayes.) Motion passed.

Commissioners then discussed the variance request to the north side yard setback to project a cantilevered balcony 3'9" into the setback where 3' is allowed.

(Enlow motion, Halverson second to recommend to the City Council approval of a north side yard setback variance at 2542 Lafayette Road from 3' to 3'9", based on the following findings of fact: a) the request is in harmony with the general purposes and intent of the ordinance; b)the variance is consistent with the comprehensive plan; c) the applicant has established there are practical difficulties in complying with the code based on the fact that the applicant proposes to use the property in a reasonable manner, the plight of the landowner is due to circumstances unique to the property and not created by the landowner, and the variance will not alter the essential character of the locality; all ayes.) Motion passed.

Commissioners then discussed the encroachment plane variance request. Commissioner Breazeale asked about the solar protection references as it relates to the encroachment plane and whether the encroachment plane is more than solar protection and if it's about massing as well. Zoning Administrator Carlson stated that it's not just solar protection, but views and esthetics.

(Enlow motion, Howarth second to recommend to the City Council approval of an encroachment plane variance at 2542 Lafayette Road to extend 2' into the encroachment plane, based on the following findings of fact: a) the request is in harmony with the general purposes and intent of the ordinance; b)the variance is consistent with the comprehensive plan; c) the applicant has established there are practical difficulties in complying with the code based on the fact that the applicant proposes to use the property in a reasonable manner, the plight of the landowner is due to circumstances unique to the property and not created by the landowner, and the variance will not alter the essential character of the locality; all ayes.) Motion passed.

Commissioner Breazeale suggested that the commission consider recommending to the City Council that a moratorium be placed on stormwater management practices such as green roofs, the cistern solution, and other solutions that may come to the city, and how these solutions are dealt with in the zoning code. He feels the ordinance is unclear and wanted to know what the process is to recommend a moratorium. He stated that there is a cap for permeable pavers, but not green roofs which can be up to 50% credit. He suggests a six-month moratorium to study the issues.

There was discussion about hardcover and what the intention of the hardcover ordinance is. Carlson stated that you can look at it from the other perspective such as 70% green rather than 30% hardcover. Breazeale doesn't think the intention of the code is just to manage stormwater, but also to limit how big structures can be on the property.

The process would be that assuming council approves the moratorium, the planning commission would study the issues with assistance from staff, get public input and recommend possible code amendments to the City Council after a public hearing were held. They discussed looking at what other cities do regarding green roofs. Breazeale stated that the way the code is worded someone could fill 55% of their lot with structure with existing and potential new credits.

(Breazeale motion, Anderson second to recommend to the City Council that there be a 6-month moratorium on building permits and variances that propose or rely on green roof credits to meet hardcover requirements, with the purpose of studying green roofs and pervious surface credits and the impact on lot coverage, excluding a building permit for a home at 2542 Lafayette Road,

with the Planning Commission to bring a recommendation to the City Council before the moratorium expires. All ayes.) Motion passed.

Amundsen also brought up another section of the code that requires green roofs on extremely large buildings. This shouldn't be an issue for most residential buildings.

Council Liaison Bartel commended the planning commission for their work on this variance and thoughtfulness and follow through on the related issues.

6.2. Orono Comprehensive Plan Comments

Commissioner Anderson explained that she, along with Commissioners Enlow and Moriarty were tasked with reviewing the city of Orono Comprehensive Plan update. They split the Orono comp plan in thirds, reviewed it, and determined that while they wouldn't recommend any official comments on the plan, they made comments of interest on the plan which were included in the packet and were reviewed at the meeting.

Anderson stated that one issue that may impact Minnetonka Beach are proposed changes to the intersection of CR 15 and 19 in Navarre. Commissioners agreed that while the city has no formal comments on the Orono plan, they asked staff to note on the comment sheet to Orono that Minnetonka Beach has a high interest in working with them on the Navarre intersection.

7. Reports

- 7.1. Chairperson – Chair Haag thanked commissioners, Carlson and Amundsen for all the work on the variance. Haag announced that Carlson was confirmed by the City Council as the city's permanent contract zoning administrator
- 7.2. Commissioner Reports- Commissioner Moriarty asked about the garage height variance earlier in the meeting and what follow-up should be done to clarify the code language for the future. Carlson stated he would bring some clarifying language for commissioners to review informally at the next planning meeting for possible future code changes. Carlson also stated he was making a list of other possible code revisions
- 7.3. Council Liaison Bartel reported on actions of October City Council meeting: Berent working on bids to repair critical issues at the water plant, pavement management study underway, getting bids for Northview Wall repair, Lindstrom and other staff meeting with Orono to discuss shared water storage possibilities, Utilities Commission meeting with City Council on November 13th, Park Commission is cleaning up near dock 16, approved resolution on nuisance ordinance violation, discussed request for accessibility for city docks, Council approved Phil Carlson and Stantec as the city's zoning administrator
- 7.4. Building Permit Report – Received and filed.

8. ADJOURNMENT

(Breazeale motion, Moriarty second to adjourn; all ayes). Motion passed.

Meeting adjourned at 8:48 p.m.

PUBLIC IN ATTENDANCE – The following individuals signed the sign-in sheet (or were in attendance): Nell Mathews, Jim Knudsen, Carole Knudsen, Cathy & Jim Dudley, Mark Stankey, Peter Kluzak, Matt Byers from PLAAD, Ben Lucas, Betsy Myers, Jaci Lindstrom, Marianne Dudley, Greg Meland, Janet Boschwitz, Lee Goehring, Jillian Moriarty, Wayne Ramaker

Minutes respectfully submitted by City Administrator Susanne Griffin.

Susanne Griffin, City Administrator