



PLANNING COMMISSION MEETING MINUTES
February 22, 2016
7:00pm

1) Call to Order

Vice Chair Sandholm opened the meeting at 7:00pm.

In attendance: Commissioners –Vice Chair Lora Sandholm, Peter Vickery, Michael Molitor, Sylvia Allen, Gary Pettis, and John Tschumperlin; Council Liaison Pam Mortenson; Staff: Associate Planner Nick Olson and City Clerk Kris Linqvist.
Absent: Chair Mark Heck

a) Approval of Agenda

Motion by Pettis, seconded by Allen to approve the agenda as presented.
Motion passed 6-0. Absent: Heck

b) Elect Chair and Vice Chair for 2016

Vickery stated that since the Chair Mark Heck is not present, he would like to suggest to postpone the Elections of Chair and Vice Chair for 2016 to its next meeting.

Motion by Allen, seconded by Tschumperlin to table the Elections until the next Planning Commission meeting.

Motion passed 6-0. Absent: Heck

c) Approval of Minutes of January 25, 2016

Motion by Vickery, seconded by Tschumperlin to approve the minutes from January 25, 2016 as presented.

Motion passed 6-0. Absent: Heck

2) Business Items:

a) SKETCH PLAN: Application from Joseph & Berva Bocklage to subdivide the lot located at 3265 Eagle Bluff Road into two lots, R-1 Low Density Single Family Residence; PID # 27-117-274-11-0011

Associate Planner Olson presented the staff report found in the Planning Commission packet dated February 22, 2016. Highlights included in the presentation were:

- This lot was originally platted as part of Eagle Bluff 3rd Addition in 1983, at which time it was two separate lots legally described as Block 1, Lot 1 and Block 1, Lot 2.

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- In 1987, the applicants owned and combined both lots into one lot, presumably for tax purposes. At the time, there was no hose on the property.
- In 1988, the applicants subdivided the lots back into two separate lots as originally platted in 1983.
- In 1993, the applicants submitted an application to combine the two lots once again.
- The applicants are submitting for a sketch plan review as they desire to split the lot into two separate lots with a proposed log configuration that is different than the previous two subdivisions.
- The applicants are requesting that the minimum lot width variance that has been previously approved twice be upheld. Also being requested is a side yard variance of .7 feet due to an error in the placement of the foundation which was not caught due to the lack of a foundation as built survey requirement. All other subdivision and zoning requirements are being met
- Staff recommends that the Planning Commission recommend to the City Council direct the applicant to submit for preliminary plat

Chuck Alcon, 6138 76th Lane Suite 200, Greenfield – representing the applicant. He stated that he was available for any questions. None were presented.

Molitor questioned staff on what guarantees were in place to make sure the conditions would be met. Olson stated that the resolution and preliminary plat final approval would not be issued to the applicant until all conditions were met.

Motion by Molitor, seconded by Allen to recommend that the City Council direct the applicant to apply for a preliminary plat.
Motion passed 6-0. Absent: Heck

3) Public Hearings:

- a) **VARIANCE: Application from Mark Kauppi requesting a variance from the required setback established in Chapter 5, Section 505.07 Subd. 8(b) Riparian View Shed Protection to build a new home at a distance of 106.2 feet from the Ordinary High Water of Lake Minnetonka at the property located at 5107 Minneapolis Avenue, R-1 Zoning, PID# 12-117-24-13-0009**

Associate Planner Olson presented the staff report found in the Planning Commission packet dated February 22, 2016. Highlights included in the presentation were:

- The applicant purchased the property in 2008. At which time there was a home on the property located 75 feet from the OHW.
- In September 2015 an application was made to tear down the existing home and build a new one. The demolition permit was issued on October 27, 2015 and completed on October 30, 2015.
- At the appeals hearing, the Board of Appeals and Adjustments voted 3-2 in favor of overturning staff's interpretation of the riparian view shed

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ordinance as it applies to the Property. The building permit previously issued was revoked.

Staff made the following finding of facts:

- 1) The Applicant proposes to use the Property reasonably by constructing a 4,489 square foot single family home and a 728 square foot detached garage;
- 2) The proposed use of the Property is consistent with the current zoning and guided zoning in the comprehensive plan. The proposed location aims to preserve the views of all properties involved while protecting for any future improvements to Minneapolis Avenue;
- 3) The setbacks being imposed on the property are not common along Minneapolis Avenue as the Property is subject to two streetside setbacks and a greater lakeshore setback than most homes on Minneapolis Avenue;
- 4) 5115 Minneapolis Avenue is located at a much higher elevation than the required location of a home at the Property. This would degrade the views of a home built on the Property in conformance with the Riparian View Shed Ordinance;
- 5) The curvature of Minneapolis Avenue near the Property is significantly different than at other points along Minneapolis Avenue creating a longer, narrow lot;
- 6) There is a drastic difference in lakeshore from the west edge of 5115 Minneapolis Avenue to the east edge of 5107 Minneapolis Avenue. This makes the required location of a home at the Property to be further from the lake than 5115 Minneapolis Avenue;
- 7) The home built at 5115 Minneapolis Avenue was constructed closer to the road as opposed to the Lake. This has a significant negative effect on the Property and demonstrates the sometimes significant impediment to development imposed by the Riparian View Shed Ordinance;
- 8) The proposed home is consistent with the character of homes along Minneapolis Avenue. Many homes are actually located at or near the minimum required setback of 75 feet. Most homes also include a detached garage that is located much closer to Minneapolis Avenue than the required 50 feet.

Molitor had questions regarding the building pad that would not require a variance. Olson stated that with this building plan, a variance would be required.

Pat Steinhoff of Malkerson, Gunn, Martin - 200 South 6th Street, Minneapolis; Attorney for Mark Kauppi, outlined what his client is applying for.

Steve Sexton of Minnetonka Custom Homes, 3575 Tuxedo Blvd, Minnetrista – Builder for the applicant, overviewed how he and the applicant came to designing and building of this new home. He stated that there are three hardships for this

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variance. He also spoke on the Riparian Views of the adjacent property at 5115 Minneapolis Ave.

Molitor questioned if the house plan had changed. Sexton stated that it has not, the building plan is being moved back from the lakeside by an additional 20 feet.

Mark Kauppi – Applicant, explained the hardships that this is causing him.

Tschumperlin questioned if the Riparian View Shed had been used before on Minneapolis Avenue because most of the homes located on Minneapolis Avenue are at the 75 foot Ordinary High Water Setback. None have been noted.

Pettis questioned why the application was revoked. Olson explained the events leading up to the revocation of the building permit.

Vickery questioned if the unimproved Minneapolis Avenue will ever be improved. Olson stated most likely not since it is more like a ravine for drainage.

Vice Chair Sandholm opened the Public Hearing at 7:58 p.m.

Matt Seltzer of Stinson, Leonard, Street – 150 South 5th Street, Minneapolis; Attorney representing the Schmelings, stated that his client opposes the variance request. He stated that there will still be an impact on their view which is an issue. He overviewed why they felt the variance should not be granted. He commented that he would like to see the Planning Commission stay focused on what the variance ordinance is composed of.

Paul Schmeling – 5115 Minneapolis Avenue, handed out a letter to the commissioners and presented a power point which overviewed his reasons why the variance should be denied.

Pettis asked Schmeling if there was a number that they would agree to as a compromise for the setback to the Riparian View. Schmeling stated that he would answer that question later on in his presentation.

Jerry Aman – 5103 Minneapolis Avenue, spoke on his Riparian View Shed rights.

Cathy Stepanek – 5121 Minneapolis Avenue, discussed the unplatted Minneapolis Avenue.

Randy Lee – 5099 Minneapolis Avenue, stated that he was there to support the Schmelings.

Ken Amerman – 5087 Minneapolis Avenue, stated that there would be a sight issue and he was there to support the Schmelings.

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Walter Larson – 5135 Minneapolis Avenue, stated that he was in favor of the Schemling’s position. He wants to see the neighborhood protected and to be able to enjoy the lake. He provided his definition of the view of the lake. He also commented that he saw valid points made by each side.

Vice Chair Sandholm closed the public hearing at 8:58 p.m.

Pettis explained what a panoramic view of the lake should be and explained his position on why he is not in favor of the variance. He feels that there could be a compromise between the applicant and neighbors to where the placement of the home could be.

Pettis questioned if any other proposals have been made for this lot. Olson stated that staff has come up with some sketches but have not had to opportunity to present them.

Pettis once again asked Schemling about what a good compromised number would be for a setback. Schemling stated that he was not going to disclose a number at this time.

Molitor commented that during his term as a planning commissioner he has not seen a variance request to this magnitude and that the Commission should also understand the legal ramifications and other courses this issue could take.

Motion by Pettis, seconded by Tschumperlin to deny the variance request based on the finding of fact of that it will impede the view of the neighbors under the Riparian View Shed Ordinance along with the possible loss of value to the homes adjacent to the subject property located at 5107 Minneapolis Avenue. Motion passed 4-2. Opposed: Sandholm and Vickery. Absent: Heck

4) Informational Items:

a) Staff Reports

- Volunteers for the Steering Committee for the Comprehensive Plan
- Serenity Hills preliminary plat
- Solar Panel application

b) Council Reports – Pam Mortenson

- New Website should be live by March 1st
- Water Treatment Plants on schedule
- Pioneer Sarah Creek Watershed Commission – possible ordinance on sitting manure
- Trista Day – May 21
- Spirit of the Lakes Festival – July 15-16

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4) Adjournment

Motion by Pettis, seconded by Molitor to adjourn the meeting at 9:17 p.m. Motion passed 6-0. Absent: Heck

Respectfully Submitted,

Kris Linquist

Kris Linquist, CMC
City Clerk

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