

**Minnetonka Planning Commission  
Minutes**

**Aug. 4, 2022**

**1. Call to Order**

Chair Sewall called the meeting to order at 6:30 p.m.

**2. Roll Call**

Commissioners Waterman, Hanson, Henry, Maxwell, Powers and Sewall were present. Banks was absent.

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Assistant City Planner Susan Thomas and Planner Bria Raines.

**3. Approval of Agenda**

***Maxwell moved, second by Waterman, to approve the agenda as submitted with additional comments provided in a change memo dated Aug. 4, 2022.***

***Waterman, Hanson, Henry, Maxwell, Powers and Sewall voted yes. Banks was absent. Motion carried.***

**4. Approval of Minutes: July 21, 2022**

***Henry moved, second by Hanson, to approve the July 21, 2022 meeting minutes as submitted.***

***Waterman, Hanson, Henry, Maxwell, Powers and Sewall voted yes. Banks was absent. Motion carried.***

**5. Report from Staff**

Gordon briefed the commission on land use applications considered by the city council at its meeting on Aug. 1, 2022:

- Adopted a resolution approving the final plat of Weber Three, a residential two-lot subdivision, at 2326 Oakland Road.
- Adopted a resolution approving a conditional use permit for CREO Arts and Dance Conservatory at 15000 and 15100 Minnetonka Industrial Road.
- Adopted a resolution approving a conditional use permit for Brito's Burritos at 11044 Cedar Lake Road.
- Adopted a resolution approving a conditional use permit for First Light Doughnuts and Café at 11014 Cedar Lake Road.
- Upheld the planning commission's denial of a setback variance to build a new house at 2203 Windsor Lake Drive.

The next planning commission meeting is scheduled to be held on Aug. 18, 2022.

The annual bus tour with planning commissioners, councilmembers and EDAC commissioners is scheduled to be held on Aug. 25, 2022.

**6. Report from Planning Commission Members**

Chair Sewall appreciated all of the time and work councilmembers put into making informed land-use decisions. He also appreciated police officers and staff attending the Night to Unite neighborhood gatherings.

**7. Public Hearings: Consent Agenda: None**

**8. Public Hearings**

**A. Variance to the tree protection ordinance for the construction of a new house at 15325 Lake Street Extension.**

Chair Sewall introduced the proposal and called for the staff report.

Thomas reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

The person who designed the house on behalf of the applicant stated that:

- He tried numerous times to try to find a way to avoid needing a variance.
- The proposal would maintain good site drains along the perimeter so water would not travel onto surrounding properties. The perimeter grading would impact the trees, but it is the best thing to do.
- Additional healthy trees would be planted and create screening to give everyone privacy.

The public hearing was opened.

Caren Abdelaal, 15421 Lake Street Extension, stated that:

- Trees help prevent climate change, absorb sound, absorb CO2 and reduce energy use for air conditioners by 25 percent.
- Trees are Minnetonka's pride and joy.
- She likes new neighbors.
- She suggested the property share a driveway with the neighbor on the east to save trees.
- There is currently an electrical pole located in the area of the proposed driveway.

- She would like an arborist and staff person to oversee the removal of the trees to make sure only those authorized to be removed would be removed.

Tim Nguyen introduced himself and his wife, Janice Park, 15325 Lake Street Extension, as applicants. Mr. Nguyen stated that:

- They purchased the lot in March of 2021. The city passed the new tree protection ordinance that November.
- He understands the importance of tree preservation. He drives an electric vehicle.
- The proposal would plant new trees along the perimeter to create privacy between them and the neighbors.
- He and his wife met with most of the neighbors, who are great people.
- They are excited to build their dream home and be part of the neighborhood.

No additional testimony was submitted, and the hearing was closed.

In response to Chair Sewall's request, Thomas explained that natural resources staff determine which trees may be removed. Before a building permit is issued, natural resources staff make sure tree protection and silt fencing are installed. The city holds a natural resources escrow to fund completion or fix repairs if a project would not meet the conditions of approval. There is a significant fee associated with the removal of a tree that was not authorized to be removed. That fine has to be paid before a certificate of occupancy can be issued.

Thomas explained that the new tree protection ordinance identifies a significant tree as any tree over four inches in diameter regardless of its species. Prior to the change made fall of 2021, there were no tree protection regulations for single-family residential lots. It is by far the strictest tree protection ordinance in the metro area.

Waterman stated that:

- He appreciated the presentations.
- He supports the tree protection ordinance. He supports this application for the reasons listed in the staff report.
- This specific parcel was carved up in a specific way to allow a house to be built. The property is meant to have a house. It is not meant to be vacant. A house could not be built on the lot without a variance to the tree protection ordinance.
- He appreciates the applicant's plan to plant new trees.
- The project looks great.
- He supports the staff's recommendation.

Powers stated that:

- The property owners in 1997 did not envision the tree protection ordinance adopted in 2021. The proposal is a win for the tree protection ordinance. It shows that the property owners are being even more respectful of the importance of trees than they already are.
- The lot was designed to accommodate a single-family house. That is reasonable.
- He likes the proposal and agrees with the staff's recommendation.

Hanson stated that:

- He supports the proposal.
- He appreciates the property owner explaining the process.
- He suggested staff provide an update on how the tree protection ordinance is working during the city tour.
- He looks forward to supporting the proposal.

Maxwell stated that:

- She appreciated the presentation and comments from the neighbors.
- She agreed with the commissioners.
- She loves the idea of a shared driveway but understands it can be a hassle, especially with changes in property ownership. The topography would prevent a shared driveway from being a good solution in this situation.
- She appreciates that there would be no place to locate the house that would make a significant difference in the number of trees that would be removed. The lot is designed to support a single-family house.
- She supports the proposal and wishes the applicant luck.

Henry stated that:

- He supports the tree ordinance and preservation of the tree cover. He was glad tree number 52 on the tree inventory would be preserved since it is probably over 100 years old.
- He agrees with the staff's recommendation.
- He understands that the property is a single family home lot.
- He thanked the applicants for caring about the tree canopy, driving an electric vehicle, and being willing to plant new trees.

Chair Sewall stated that:

- The lot was created in 1997. The request is reasonable and practical.

- The staff did a fantastic job of considering every way to preserve as many trees as possible.
- The city manages a tree sale every year to promote diversity in quality tree species at a great price.
- He supports the staff's recommendation.

***Hanson moved, second by Waterman, to adopt the resolution approving a variance from the removal thresholds of the tree protection ordinance for the construction of a new house at 15325 Lake Street Extension.***

***Waterman, Hanson, Henry, Maxwell, Powers and Sewall voted yes. Banks was absent. Motion carried.***

**B. Variance to the side yard setback for a garage addition at 14722 Oakways Court.**

Chair Sewall introduced the proposal and called for the staff report.

Raines reported. She recommended denial of the application based on the findings listed in the staff report.

Chair Sewall confirmed with Thomas that Minnetonka's policy for a reasonable standard two-car garage is 24 feet by 24 feet.

Tyler Briggs, 14722 Oakways Court, applicant, provided photos of the yard. He stated that:

- Two adults and four children live in the house. They have many vehicles.
- He provided a photo of where the garage addition would be located.
- He provided photos of stuff outside that he would like to store inside.
- He has two storage units that house two vehicles.
- There is a slope that limits where a garage addition could be built.
- The houses in the neighborhood have a three-stall garage.
- The property has a concrete slab located in a drainage easement.
- The site has a 20-foot by 30-foot garage. The 20-foot side is four feet short of 24 feet and makes it difficult to get the doors open. More width would make it easier to open the garage doors.

Nick Olson, Olson Construction, on behalf of the applicant, stated that:

- He thought the previous item reviewed by the planning commission at this meeting set a precedent that allowed a variance to the tree protection ordinance.
- This proposal may cause the removal of one tree.
- The proposal would have proper drainage and gutters.

- The proposal would conform with the look of the house. The house across the street does not match the neighborhood.
- A three-vehicle garage is reasonable and should be the standard.

Sarah Briggs, 14722 Oakways Court, applicant, stated that:

- She loves the trees and privacy.
- The proposal would cause the trimming of tree limbs that need to be trimmed.
- The proposal would make the property more beautiful and fit in better with the neighborhood.
- There is a lot of sentimental value attached to motorcycles and vehicles.
- She wants the vehicles to start in frigidly cold weather.
- She wants to put her vehicle in a garage to prevent her tabs from being stolen.
- Her neighbors support the proposal.
- She appreciated the commissioners' consideration.

Waterman confirmed with Mr. Olson that the slope would prevent the garage from extending deeper than its current 52 feet.

The public hearing was opened. No testimony was submitted, and the hearing was closed.

Maxwell asked if the city has a standard three-car garage size. Raines answered in the negative. She explained that the standard single-car garage size is 13 feet by 20 feet.

Waterman stated that:

- He appreciated the presentations.
- He likes three-car garages which add value to properties and quality of life if it can be done within the setbacks.
- He was wrestling with deciding if the layout of the house creates a practical difficulty. He measured his single-stall garage and found that it has a nine-foot door with less than a foot and a half on each side, and it functions fine.
- He found it hard to find a reason to disagree with the staff's recommendation to deny the application. He was inclined to agree with the staff's recommendation.

Powers stated that:

- He was inclined to disagree with staff but had not made a final determination.
- He did not care how many vehicles the applicant had.

- The current owner of the property may not live there as long as the property exists. His decision must be based on future homeowners of the property as well.
- There is a practical difficulty in living with a two-car garage. Vehicles are larger now. He was inclined to support the proposal to allow a reasonable third-car garage.
- No neighbors expressed opposition to the proposal.

Hanson stated that:

- The garage being three feet one way or the other would not impact the character of the neighborhood.
- The neighbors probably prefer a third-stall garage.
- It does not matter that the applicant has a lot of vehicles.
- He leaned toward approving the proposal.

Maxwell stated that:

- She thought adding a third stall to the garage for the property was an excellent idea, and adding extra depth was a creative solution to get more space without being visible from the street.
- She noted that a 1,000-square-foot-detached garage could be added in the backyard without a variance and may require the removal of trees. She would rather have the proposal than a detached-storage structure that may cause tree removal.
- She had difficulty identifying a unique circumstance. She was not sure if the orientation of the house on the lot would be enough.
- Twelve feet in width for three stalls would equal 36 feet in width for a three-car garage. That might be unique to this circumstance.

Henry stated that:

- He was torn because he could see the benefit of the third stall and the security of vehicles being located inside.
- As a homeowner, he felt for the applicants.
- The proposal did not have enough of a practical difficulty to allow 15 feet instead of 12 feet of width.

Powers stated that:

- He felt that the increase in the size of vehicles that has occurred over time had caused a practical difficulty.
- He felt 15 feet would be justified.
- No one in the neighborhood opposes the proposal.
- At least half of the houses in the neighborhood have three-car garages.

- He supports approval of the application.

Chair Sewall stated that:

- He agrees that the applicants need the third stall.
- A 12-foot-wide-third stall would not need a variance. He felt that would be reasonable.
- He did not see a practical difficulty at this time to justify a variance.

***Waterman moved, second by Maxwell, to adopt the resolution denying the side yard setback variance for a garage addition at 14722 Oakways Court.***

***Waterman, Henry, Maxwell and Sewall voted yes. Hanson and Powers voted no. Banks was absent. Motion carried.***

Chair Sewall stated that an appeal of the planning commission's decision must be made in writing to the planning division within ten days.

**C. Items concerning the construction of a new house at 2507 Bantas Point Lane.**

Chair Sewall introduced the proposal and called for the staff report.

Thomas reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

In response to Hanson's question, Thomas explained the floodplain indemnification process.

In response to Henry's question, Thomas explained that engineering staff is comfortable with the proposal since it provides an evacuation route above the floodplain and does not block potential floodwaters on Bantas Point Lane from reaching the lake.

Ed Noonan, 2492 Bantas Point Road, stated that:

- He thanked Thomas, Gordon, and the engineering staff for spending hours with him to find a solution.
- The current structure was caving in.
- The parking area allowed a turnaround area for snow plows.
- The garage would be 21.5 feet by 24 feet.
- The bedrooms would be made as accessible as possible.
- He thought this would be a great solution for the property.
- The proposal would allow the property to accommodate water flow better than it does now.



In response to Henry's question, Thomas explained that there is an easement on another property that allows snow storage and room for a plow to turn around.

Mr. Noonan stated that there is no on-street parking allowed on the street. He appreciates being able to have a large driveway to provide parking for the residence.

The public hearing was opened.

Peter Strot, 2415 Bantas Point Road, stated that the applicants have already improved the area immensely. He would expect the applicant to improve this property. He supports the proposal.

Kathy Nelson, 2504 Bantas Point Lane, stated that:

- She appreciates the commissioners being so thoughtful and respectful at this meeting.
- She also appreciated that Thomas and Gordon were very helpful and respectful. They answered her questions and were fast at getting back to her.
- She appreciates what the applicant has done. She appreciates the effort to decrease the flooding situation.
- She understands how floor area ratio (FAR) is calculated since the McMansion policy was approved just before she built her house in 2008. She was held to a .52 FAR. She has a single garage. She had to remove a room above the garage to comply with the .52 FAR. She had a hardship to comply with the .52 FAR.
- In 2016, another applicant was required to comply with .52 FAR.
- She questioned the justification to allow .58 FAR now. She requested that all residents in the area be treated equally. She would like to add a home office.
- There was an incident on another property where the house was torn down without a permit and the lake was not protected.
- She trusted that the lake would be protected during the completion of the proposal.
- She appreciated commissioners listening to her comments.

Ted Ewing, 2506 Bantas Point Lane, stated that:

- The property has been a nuisance in the past.
- He appreciated the applicants improving the flooding issues.
- He requested that there be good communication if the applicant would need to drive on his property.
- He planned to be respectful to neighbors if he rebuilds in the future.

No additional testimony was submitted and the hearing was closed.

Thomas explained that staff looked at live, current data from the city tax assessor database and found that the current FAR for the area equals .58. The FAR for the neighborhood changes as assessors are able to gain more accurate information on the size of houses. There is a house in the neighborhood that has a FAR of .58. Other property owners in the neighborhood could request additions with a FAR up to .58 and meet the McMansion policy. Staff is able to calculate the current FAR for any address at any time.

Gordon explained that an addition to a house that meets all ordinance requirements is not required to meet the McMansion policy which could then increase the allowed FAR for a neighborhood.

Henry felt this would be a good use of the property. The proposal would have an acceptable FAR. The neighbors support the proposal. The variance is reasonable. He supports staff's recommendation.

Powers agreed that a new house should be built on the site. It is a unique area. He supports the proposal.

Maxwell supports the proposal. She appreciates the drainage improvements; keeping the roof lower to respect the neighbors' view of the lake; and she trusts the city engineers in regard to the hydrology and floodplain measurements. She supports staff's recommendation.

Waterman supports it as well. He appreciates the applicant working with staff to get to this point. He trusts the city engineers and looks forward to the proposal's completion.

Chair Sewall commended the applicant and staff for all of the work put into the proposal. He loves being able to improve the environmental aspect of a site while allowing the construction of a new house. He supports staff's recommendation.

***Powers moved, second by Henry, to recommend that the city council adopt the resolution approving a floodplain alteration permit and setback and impervious surface variances for the construction of a new house at 2507 Bantas Point Road.***

***Waterman, Hanson, Henry, Maxwell, Powers and Sewall voted yes. Banks was absent. Motion carried.***

9. Adjourment

*Hanson moved, second by Waterman, to adjourn the meeting at 8:33 p.m. Motion carried unanimously.*

By: \_\_\_\_\_  
Lois T. Mason  
Planning Secretary