

**Minnetonka Planning Commission
Minutes**

Oct. 14, 2021

1. Call to Order

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

2. Roll Call

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

Staff members present: City Planner Loren Gordon and Assistant City Planner Susan Thomas.

3. Approval of Agenda

Maxwell moved, second by Henry, to approve the agenda as submitted with a modification to postpone review and action on item 8A, a resolution approving a conditional use permit for an accessory structure over 1,000 square feet in size at 13907 McGinty Road East, to allow time to research a property line issue and the addition of a comment received after the agenda packet was completed for item 8B, a resolution denying a conditional use permit for an accessory structure over 1,000 square feet in size at 4127 Williston Road.

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

4. Approval of Minutes: Sept. 30, 2021

Waterman moved, second by Powers, to approve the Sept. 30, 2021 meeting minutes as submitted.

Powers, Waterman, Hanson, Henry, Maxwell, 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 of Oct. 4, 2021:

- Adopted an ordinance amendment authorizing approval of accessory dwelling units with the approval of a conditional use permit.
- Adopted an ordinance amendment to allow up to 10 residents to reside in a residential care facility and a 1,000 square-foot adjustment.

The next planning commission meeting is scheduled to be held on Oct. 28, 2021.

6. Report from Planning Commission Members

Hanson noted that early voting is available now at city hall.

7. Public Hearings: Consent Agenda

No item was removed from the consent agenda for discussion or separate action.

Henry moved, second by Hanson, to approve the item listed on the consent agenda as recommended in the staff report as follows:

A. Resolution approving an expansion permit for an addition to the home at 5800 Lake Rose Circle.

Adopt the resolution approving an expansion permit for an addition to the home at 5800 Lake Rose Circle.

Powers, Waterman, Hanson, Henry, Maxwell, and Sewall voted yes. Banks was absent. Motion carried, and the item on the consent agenda was approved as submitted.

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

8. Public Hearings

A. Resolution approving a conditional use permit for an accessory structure over 1,000 square feet in size at 13907 McGinty Road East.

The review of this item was postponed until the planning commission meeting scheduled to be held on Oct. 28, 2021.

B. Resolution denying a conditional use permit for an accessory structure over 1,000 square feet in size at 4127 Williston Road.

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

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

In response to Waterman's question, Thomas explained that conditional use permit standards do not cover impervious surface requirements, and there is no maximum impervious surface limit in Minnetonka unless a single-family residential property is adjacent to a lake. The city engineer would review all construction done on the site to ensure drainage would be contained on the site.

Maxwell confirmed with Thomas that the proposal would greatly exceed the setback requirements. The proposed structure, if approved with a conditional use permit, would be required to have a minimum 15-foot setback. A 1,000-square-foot building that would only be required to have a building permit and not a conditional use permit would be required to have at least a 10-foot setback.

Hanson confirmed with Thomas that a structure up to 1,000 square feet in size would be allowed to be built in the same location and with the same driveway with a building permit and no conditional use permit review.

Chair Sewall asked how the height of a building is determined. Thomas explained that the height of a structure is measured from grade to the midpoint of a pitched roof or top of a flat roof. When the grade changes more than 10 feet from one end of the footprint of a building to the other, then the height is measured from the highest grade. The proposed structure would be considered 12 feet in height, based on the city code. The south face of the proposed structure would visually be 22 feet tall.

Powers confirmed with Thomas that staff identified its reasons for recommending denial of the proposal (related to the size of the proposed structure, design of the proposed structure relative to the principal structure, and distance from the proposed structure to the principal house) with the applicant numerous times prior to the application being scheduled on the meeting agenda.

Zach Klonne, 4127 Williston Road, stated that:

- The proposed structure would provide ample space to do hobbies.
- The large open driveway is key to providing the usefulness and safety necessary now and in the future.
- There have been conditional use permits approved by the city council for sites to have an accessory structure with a footprint larger than the site's principal structure's footprint.
- In 2019, at 4124 Thomas Ave, a 50' x 30' garage with an 8' covered patio and 24' peak to grade front visual height was approved. That address is located approximately 800 feet from the applicant's property.
- The proposed structure would contain no sleeping, living, eating, or cooking areas. The structure would only be accessible by passing directly by the principal structure and would not be visible from any streets.
- The proposed location is the most practical. Relocating the structure closer to the principal structure would require the removal of more mature trees, relocation of a chain-link fence, and diminish the use of the area of the rear yard that does not have a steep grade.
- Due to the location and orientation of the existing house, the only location to meet the applicant's needs would be along the north or east property lines which would cause the same amount of earthwork as the proposal.
- There is a minimum of 80 feet that includes 30 feet of woods separating the proposed structure and neighboring houses. The only house that

would have a clear line of sight to the proposed structure would be the applicant's house.

- He would be willing to plant privacy trees along the property line and install a privacy fence to add further distinctions and buffer views.
- He appreciated the commissioners' review of the application.

Waterman asked if the garage doors would have windows. Mr. Klonne answered in the negative. The garage doors would be standard, solid steel.

Waterman asked if any construction equipment for commercial activity would be stored in the proposed structure. Mr. Klonne answered in the negative. He stated that no business or commercial activity would be held in the proposed structure. He would use the structure to store personal trailers and perform hobbies, including metalworking, woodworking, and 3-D printing. There would be no storage of commercial equipment. The proposed structure would store cooking equipment, have space to work on personal vehicles and provide an entertaining space. The grade of the property prevents an addition or deck from being built on the rear or sides of the house.

Henry confirmed with Thomas that the city ordinance prohibits a business from operating from an accessory structure on a residential property.

In response to Henry's question, Mr. Klonne explained that his work equipment is kept at the site during construction. Computer work is done out of his house. The office area would be used for 3-D printing of personal projects.

In response to Powers' question, Mr. Klonne stated that a 1,000-square-foot structure would limit its use to perform hobbies and not be able to house a trailer, so a covered patio might be added to park a trailer under it instead of being able to house it inside the proposed structure.

Mr. Klonne stated that the existing house has a stucco exterior. The exterior of the proposed structure would not be stucco but would have similar materials used in a residential house.

The public hearing was opened.

Donald Sundell, 14660 Lake Street Extension, stated that:

- His property would be adversely impacted by the construction of the proposal.
- The proposal would dominate the view from his deck and living-room window wall.
- Most of the trees have been removed. It is much worse in the winter because there is no foliage on the trees.
- He found it hard to believe that there would be no commercial activity since the height of the proposed garage door would be 12 feet, and two

additional garage doors would be eight feet tall. An internet search shows Zach Klonne's business address to be 4127 Williston Road.

- The site would be better served by expanding the existing house.
- The site currently has a paved turnaround on the top of the existing driveway with a temporary storage area in the front yard. That space would satisfy the site's turnaround needs.
- A condition of approval should require a screened barrier of evergreen trees with sufficient height to shield the neighboring properties from viewing the proposed structure.
- The proposed building would be an eyesore in a residential setting.
- He asked who neighbors could complain to if the 1,000-square-foot structure would be built.

Amy Sundell, St. Louis Park resident, stated that:

- Four properties would be able to see the proposed structure.
- A lot of trees have already been cut down. She would hate to see more cut down. The fence is fairly new.
- The proposed structure would not be similar to the house, which is stucco. The proposed building would be taller than her parents' house.
- It would be nice if the visual mass could be viewed by the property owner rather than neighbors.
- The property owner has commercial trailers parked on the property now. She thinks commercial equipment would be stored in the proposed structure when not being used at a site.
- It is not necessary to have an entertaining space located so far from the house.

Susan Sundell, 14660 Lake Street Extension, stated that:

- Mr. Klonne gave her and her husband petunias as a new-neighbor gesture.
- She asked Mr. Klonne twice why the trees were being cut down. He denied having plans to add a building.
- A chain-link fence was added.
- She found out about the proposal on Oct. 2, 2021. Everyone she talked to signed a petition opposing the proposal.
- The proposal would be larger than all but two houses in the area, including the Klonne's house.
- She reviewed the building plan. The structure looks like an airplane hanger.
- In the winter, she would see a trailer from inside her house.
- The chainsaw and bobcat make noise.
- The proposal would impact the property values in the area.

- She did not understand why the structure would need to be built so far back to the rear of the property. The structure should be built closer to the applicant's house than the neighbors' houses.
- There would be five vehicles traveling in and out of the property.
- The proposed plan is self-serving and does not care about the neighbors.
- She confirmed with staff that her letter is included in the meeting agenda materials.
- She appreciated the commissioners' time and attention.

Bill Anderson, 4103 Red Oak Ridge, stated that:

- Construction equipment cannot all be left at a site.
- He was concerned that the site would have construction traffic.
- A twelve-foot garage door is not needed for a pick-up truck or trailer.
- He asked what the recourse would be if a business would be operating out of the proposed building.
- He recommends that the proposal be denied.

Jacob Peterson, 14680 Lake Street Extension, stated that:

- When he bought his property, he was told that the proposed site could not be used for any other use.
- Someone from the city visited his property and said that an oak tree would have to be removed.
- The proposed structure would be "overkill."
- The proposed structure would be visible from the street and surrounding properties.

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

Chair Sewall reviewed questions posed by the public. Thomas explained the noise ordinance and that operating a home office is allowed by city ordinances in a residential, single-family house. Storage of business-related items and employees working out of a single-family residential house is not allowed.

Hanson asked if a 1,000-square-foot-accessory structure would be allowed to have a covered parking area. Thomas explained that the covered area would be subject to setback requirements from property lines but would not be considered part of the enclosed structure.

Chair Sewall clarified with Thomas that the proposal's main floor would have a 2,100-square-foot footprint with additional square footage on the second story.

Maxwell asked if a 1,000-square-foot detached structure could have a deck or porch. Thomas explained that an enclosed area would be included, but an unenclosed area would not be included in the square footage total.

In response to Maxwell's question, Thomas explained that the accessory dwelling structure at 4124 Thomas Avenue has a 1,500-square-foot footprint and livable space upstairs. Staff recommended approval of that application. That proposal did not appear to be a second primary structure because it had a barn-shaped second story. The location of the structure was near the back of the property. The location of the proposed structure on the site was dictated by the city because there is a large storm-sewer line that dissects the rear of the property. To avoid the storm-sewer line, the location of the proposed structure was pushed to the rear. The city has approved large accessory buildings in the past. In this case, it is the size, design, and location that factored into the staff's recommendation to deny the application.

In response to Henry's question, Thomas explained that city staff routinely receive complaints related to evidence of a business being operated out of a residential house. Staff complete an inspection of the property and send notice to the property owner if ordinance requirements are not being met to require that the violations be eradicated.

Waterman asked if the structure would be moved west, where the elevation is lower, then would the structure meet the 12-foot height maximum. Thomas answered that a change in elevation would impact the calculation of the height of the proposed structure.

Powers did not like the plan. It would violate the intent of the ordinance. He agreed with the staff's recommendation. He noted that a property owner does not own the view of a neighboring property. The property owner has the right to chop down every tree. An accessory structure could be built closer to the house and be made smaller to accomplish some of the applicants' goals.

Henry agrees with the staff's rationale. The proposal does not seem like a subordinate accessory structure. If it would be no larger than a 1,000-square-foot structure, then it could be built without a conditional use permit. Property owners do not own the view of a neighboring property. He encouraged the applicant to do more of a compromise with what the community would be willing to accept. He cautioned the applicant to work within the parameters of ordinance requirements.

Waterman said that the site is almost an acre. He agrees with the staff's recommendation to deny the application. The proposal does not meet the conditional use permit and site and building standards. He focused on the location of the proposed structure and its sheer size. He felt a better compromise could be found.

Maxwell agrees with the staff's recommendation. It appears that the structure could be built closer to the residence. There is a nice, flat area adjacent to the existing deck. A smaller structure could be built.

Hanson concurred with commissioners and agreed with the staff's recommendation. He sympathized with the applicant's desire for more space. He noted that the property owner has the right to make changes to the property within ordinance regulations. A neighbor does not own the view of another person's property.

Chair Sewall felt that the structure would be too big and not a good fit. He agreed with the staff's recommendation. The ordinance requirements are reasonable in this area. The property owners' needs could still be met. He gave the option to the applicant to remove the item from the agenda prior to commissioners taking action.

Thomas stated that the applicant would prefer for commissioners to vote to table taking action on the item until a future planning commission meeting.

Powers moved, second by Hanson, to table action on this item, a resolution denying a conditional use permit for an accessory structure over 1,000 square feet in size at 4127 Williston Road, until the Oct. 28, 2021 planning commission meeting.

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

Thomas announced that neighbors would receive a notification in the mail if an application for this address is scheduled to be reviewed by the planning commission. Chair Sewall clarified that if the structure would be 1,000 square feet or smaller, then no conditional use permit would be required, and notification of a public hearing would not be sent to neighbors.

9. Adjournment

Hanson moved, second by Maxwell, to adjourn the meeting at 7:58 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary