

**WAYZATA PLANNING COMMISSION
MEETING MINUTES
May 4, 2015**

AGENDA ITEM 1. Call to Order, Roll Call and Approval of Minutes.

Acting Chair Iverson called the meeting to order at 7:00 p.m.

Present at roll call were Commissioners: Gruber, Gonzalez, Iverson, Gnos and Young. Absent and excused were Commissioner Vanderheyden and Ramy. Director of Planning and Building Gadow and City Attorney David Schelzel were also present.

Acting Chair Iverson stated the minutes to be reviewed are from the April 20, 2015 meeting.

City Attorney Schelzel stated he had provided minor grammatical and spelling corrections to Mr. Gadow.

Commissioner Gruber made a motion, Seconded by Commissioner Gnos, to approve the April 20, 2015 meeting minutes as presented. The motion carried unanimously.

AGENDA ITEM 2. Regular Agenda Public Hearing Items:

- a. 532 Ferndale Rd W – Phillip and Margaret Soran**
 - i. Shoreland Conditional Use Permit**
 - ii. Impervious Surface Variance**
 - iii. Front Yard Setback Variance for Garage**
 - iv. Variances for Tennis Court**

Mr. Gadow stated Phillip and Margaret Soran have submitted a development application requesting zoning approvals to remove an existing non-conforming detached garage on the property at 532 Ferndale Road W to build a new attached garage and install a tennis court on the Property. He reviewed the Staff Report, the zoning requests included in the Application along with a zoning analysis, the relevant property information, hardcover calculations, and stormwater treatment methods.

Commissioner Gonzalez asked if the Minnehaha Creek Watershed had reviewed the Application.

Mr. Gadow stated the Minnehaha Creek Watershed would not need to review this Application. The City serves as the administrator of the Minnehaha Creek Watershed rules for these types of requests. The City Engineer would be the appropriate person to review the Application unless there are additional questions. The City Engineer has reviewed this Application and requested a grading permit be submitted prior to construction starting. He reviewed the grading that would be done with the Project.

1 Acting Chair Iverson asked if the City Engineer was familiar with the Storm Tech Chamber
2 System.

3
4 Mr. Gadow stated this and similar technology have been used with other projects in the City. He
5 suggested that if the Shoreland CUP is approved a Stormwater Management Agreement be
6 included as a condition of approval that would outline what these systems are, the maintenance
7 responsibilities and inspection responsibilities. This agreement would be recorded against the
8 property so that future buyers would be aware of these responsibilities.

9
10 Acting Chair Iverson asked what the life expectancy would be for this type of system.

11
12 Mr. Gadow stated he would not be able to speak to this specifically but could have this
13 information available for the City Council.

14
15 Mr. Phil Soran (the Applicant), 5625 Interlocking Circle, Edina, stated tennis is a large part of
16 their lives and they looked at ways to make the hardcover better by adding the stormwater
17 collection systems that are included in the project. They have also discussed this project with the
18 neighbors and they are supportive of the project and the tennis court addition does fit with the
19 character of the neighborhood.

20
21 Mr. Chuck Hanna of Outdoor Lab Landscape (Representative of the Applicant), 147 E. 10th
22 Street, St. Paul, explained the stormwater system is an infiltration system. It has been in use for
23 at least 15-years and is the same system under the TCF Bank Stadium and Target Stadium. It
24 has been oversized to meet the needs of the property for a 1.5-inch rainfall. The maintenance
25 includes having it cleared off but this is less of a concern with a tennis court versus a road and
26 cleaning the sump every 2-years. He explained there is an inspection schedule included as well.

27
28 Mr. John Daly of Revision LLC (Representative of the Applicant), 153 E. Lake Street, Wayzata,
29 stated the proposed garage would replace the existing detached garage and improve the current
30 setbacks.

31
32 Commissioner Gonzalez asked if the brick paver driveway would be replaced with pervious
33 pavers.

34
35 Mr. Daly stated the existing driveway is a brick paver system that is not calculated as
36 impervious. They would not be replacing these pavers at this time because the Storm Tech
37 Chamber System would meet the needs of the property.

38
39 Commissioner Gonzalez stated anything that can be done to mitigate the runoff into the lake
40 would be a plus. She asked if the Applicant had plans for additional landscaping in the back of
41 the property to offset the impervious brick there.

42
43 Mr. Soran stated the plan was to add trees and vegetation throughout the property. The brick
44 that are located in the back are part of the character of the property and are from the original
45 streets. They are working to minimize runoff to improve it over what it is currently.

1 Commissioner Gruber asked if the Applicant planned to retain all of the gardens on the property
2 and how many tennis courts were located in the neighborhood.

3
4 Mr. Soran stated they would be keeping the gardens on the eastside of the property along with
5 landscaping in the front and along the berm where the stormwater system is located. Some of
6 the gardens will be lost but there would be others added.

7
8 Acting Chair Iverson asked if any of the existing trees would be removed.

9
10 Mr. Soran stated there is one (1) tree that would be removed and the others would be close but
11 they should remain.

12
13 Mr. Daly stated there are five (5) other homes in this area that have tennis courts.

14
15 Commissioner Gruber stated this particular lot would be the smallest one with a tennis court on
16 it. She asked where the applicant planned to play tennis if the Application were denied.

17
18 Mr. Soran stated they would schedule time to play at another location although they would
19 probably not play as often.

20
21 Ms. Margie Soran, 5625 Interlocking Circle, Edina, stated this is also something that draws
22 people to their home and something they can enjoy with guests.

23
24 Acting Chair Iverson opened the public hearing at 7:29 p.m.

25
26 There being no one wishing to speak on the Application, Acting Chair Iverson closed the public
27 hearing at 7:30 p.m.

28
29 Commissioner Gonzalez stated there were four (4) requests that the Planning Commission is
30 reviewing as part of the Application. The request for a Shoreland Conditional Use permit for
31 hardcover above 25% with Stormwater mitigation has been addressed. She asked why they are
32 requesting a variance from the impervious surface maximum of 25%.

33
34 Mr. Gadow stated this was included because even if the Shoreland Conditional Use Permit is
35 approved the maximum amount of hardcover permitted in the R-1 District is 25%. What the
36 Applicant is showing, absent any treatment options, is 38.6%. Mr. Gadow said the record should
37 reflect what is existing today and what the Application is requesting. The Applicant is planning
38 water treatment options but Mr. Gadow said he is not sure if the treatment options would bring
39 the Applicant under the 25% maximum allowed for the District.

40
41 Commissioner Gonzalez asked if the tennis court were not approved if the impervious surface
42 variance would be necessary.

43
44 Mr. Gadow explained if the tennis court is not approved there would be approximately 5,000-
45 square feet of impervious surface not included in the plan and they would be within the 25%.
46 Commissioner Gruber asked how mitigation was measured.

1
2 Mr. Gadow stated he would discuss this with the City Engineer and get a clear answer on what
3 the percentages would be. The proposed system can treat a 1.5-inch rainfall, which is more than
4 the Minnehaha Creek Watershed standard of 1-inch of rainfall.

5
6 Commissioner Gnos suggested replacing the tree that would be removed as part of the landscape
7 plan.

8
9 Commissioner Young stated the garage would be an improvement because the existing garage is
10 further into the City right-of-way. This would move it back from the street more and improve
11 the safety.

12
13 Commissioner Gnos stated the neighbors are in support of the request.

14
15 Commissioner Gonzalez stated she is not comfortable recommending approval of everything
16 because there are too many variances needed. The other tennis courts in the neighborhood are
17 further from the lake on larger lots. The stormwater treatment system proposed does not bring
18 the hardcover into compliance with the Ordinances. Both the Statute and the Code state the
19 requests need to be reasonable in order to be approved and the tennis court would require four
20 (4) variances. She expressed concerns about what precedent this would be setting. She would
21 not support the variances for the tennis court or the impervious surfaces but she would support
22 the variance for the garage. The Applicant knew what the size of the lot was and the restrictions
23 prior to purchasing the property.

24
25 Acting Chair Iverson expressed concerns regarding the amount of green space that is
26 disappearing in the City. She would like to know what the long-term impact of this would be to
27 the lake and what would happen if the system failed. She would not be comfortable with
28 approving the variances for the tennis court at this time.

29
30 Acting Chair Iverson asked if Staff could prepare hardcover calculations so they could
31 understand the impacts if the tennis court were denied.

32
33 Mr. Gadow stated if the tennis court were removed they Application would meet all the
34 hardcover requirements.

35
36 Commissioner Gruber asked for specific information on the Storm Tech Chamber system and
37 how the City makes the calculations for what this system would mitigate.

38
39 Commissioner Young asked if Commissioner Gruber's concerns were about the short-term
40 integrity of the system or if they were more on the long-term performance.

41
42 Acting Chair Iverson stated those are concerns why also the number of variances that would be
43 needed for the tennis court.

44
45 Commissioner Gonzalez stated the State Statute and City Code state there must be practical
46 difficulties in granting a variance. This Application is not reasonable for the size of the lot and

1 the buyer knew this was a substandard size lot prior to purchasing it. The Ordinance requires
2 that the plight of the landowner is due to circumstances unique to the property and not created by
3 the landowner. The desire of the landowner to have tennis court is not a plight due to the
4 uniqueness of the property. These are practical difficulties created by the landowner's desire to
5 have a tennis court and are not justified according to the Statute and Ordinances. She clarified
6 she would support any variance needed for the garage.

7
8 Mr. Gadow stated if the tennis court were removed from the hardcover calculations the property
9 would be at 22.6% and they would meet the requirements of the R-1 District. There would not
10 be a need for any storm water mitigation methods.

11
12 Commissioner Young made a motion, Seconded by Commissioner Gnos to direct Staff to
13 prepare a Draft Planning Commission Report and Recommendation for approval of the
14 Application for a Shoreland Conditional Use Permit, Impervious Surface Variance, Front Yard
15 Setback Variance for the Garage, and Variances for the Tennis Court based on the discussion of
16 the Planning Commission for review and approval at the next Planning Commission meeting.

17
18 Acting Chair Iverson recommending adding a condition that a landscape plan be included when
19 this is presented to the City Council.

20
21 Commissioner Young suggested including the net hardcover calculations after the mitigation
22 system is installed.

23
24 Acting Chair Iverson suggested a condition that the report includes information from the City
25 Engineer regarding the grading on the property and a Stormwater Maintenance Agreement to be
26 recorded against the property.

27
28 Commissioner Young and Commissioner Gnos accepted the proposed conditions to the motion.

29
30 Commissioner Gruber asked how far the tennis court would be from the water.

31
32 Mr. Gadow stated it would be 27-feet from the lake. The Code allows options for determining
33 the setback from the lake: 75-feet from the lake or the line that connects the two (2) adjacent
34 properties, whichever is more restrictive. Using either method the tennis court would require a
35 setback variance.

36
37 Commissioner Young stated the Applicant is preserving the existing home, having the garage
38 setback further from the road is an improvement, and the Applicant is taking extensive steps to
39 mitigate the stormwater related to the tennis court.

40
41 Acting Chair Iverson asked if it would make a difference if the tennis court were made out of
42 grass or clay.

43 Mr. Gadow stated grass would be the same as any other grass surface and as long as it allowed
44 water to infiltrate the ground it would not be used to calculate hardcover. Staff would have to do
45 more research on a clay surface.

1 Commissioner Gonzalez clarified looking at the Statute and Ordinances the application does not
2 meet the requirements that would allow for a variance to be granted. It is the City Council that
3 votes on policy.

4
5 The motion was called to a vote. The motion carried 3-ayes; 2-nays (Iverson, Gonzalez)

6
7 **b. 637 Harmony Circle – Fritz Gullickson**

8 **i. Review of revised one (1) story residential designs**
9

10 Mr. Gadow stated in 2014, Mr. Gullickson submitted a Development Application requesting
11 concurrent preliminary and final plat subdivision approval of a two (2) lot subdivision at 637
12 Harmony Circle. The Planning Commission reviewed the Application on January 26, 2015 and
13 February 23, 2015 and found that the submitted house plans were not similar to the architectural
14 appearance, scale, and mass in the surrounding neighborhood. The Planning Commission had
15 requested the Applicant submit alternative plans and they recommended approval of the Original
16 Application with multiple conditions. The Applicant reached out to the architectural firm of
17 Charles Cudd & Co. Charles Cudd & Co., on behalf of the Applicant, has submitted a revised
18 preliminary plat and architectural plans reflecting two 1-story style homes on the lots. Mr.
19 Gadow reviewed the Staff Report, the analysis of the current development proposal, applicable
20 Code provisions for review, the grading, and the conditions of approval from the Original
21 Application.

22
23 Commissioner Gonzalez stated the original Planning Commission Report and Recommendation
24 on the Application had included a recommendation that a sewer line be relocated, which would
25 have meant the large Bur Oak tree would have either been damaged or removed. She clarified
26 that it had been determined at the April 21st Council workshop that this line would not need to be
27 removed.

28
29 Mr. Gadow stated portions of the sewer line would be removed in areas that would not impact
30 the tree.

31
32 Acting Chair Iverson asked if this was documented as a condition in the Staff Report.

33
34 Mr. Gadow stated Condition H.4 could be further clarified to reflect that the sewer line would be
35 removed in areas where it would not impact the bur oak tree and then abandoned in those areas
36 where removal would have a negative impact on the tree.

37
38 Acting Chair Iverson asked if an updated grading plan had been submitted.

39
40 Mr. Gadow explained the revised preliminary plat was being presented at this time. There has
41 not been much change other than the location of the 1-story home pads and the grading is the
42 same as what had been approved with the original application.

43
44 Mr. Rick Denman, Charles Cudd & Co. (Representative of the Applicant), 3515 Meadow Lane,
45 Minnetonka, stated they had reviewed all the discussions in order to determine what they would
46 need to design to get approval and acceptance from the City and the neighborhood. He clarified

1 they would take any reasonable measures to save the bur oak tree on Lot 1. One of the changes
2 that is not represented in the Application is the home on Lot 2 is pushed back in order to
3 accommodate the wishes of the homeowner on Lot 7 and improve the streetscape. They are also
4 proposing to add 2-feet to the length of each home in the garage. This will not affect the
5 setbacks as they are looking to add this to the back of the home. They are planning to construct
6 both homes at the same time and this would create a fair amount of construction traffic. They
7 will send out a letter to the neighborhood with their contact information so if there are problems
8 the neighborhood can contact them.

9
10 Commissioner Gonzalez asked if there were construction materials available for the Commission
11 to look at.

12
13 Mr. Denman stated he did not have a material board at this time but he did review they type of
14 materials he would use.

15
16 Mr. Gadow stated they are proposing the same materials as what had been approved by the
17 Commission previously.

18
19 Acting Chair Iverson asked where the heavy equipment would be staged during the construction
20 process.

21
22 Mr. Denman stated the backhoes would remain on the properties while they are digging and the
23 other equipment would come and go as they are needed. There would be one large dumpster put
24 between the two (2) lots.

25
26 Acting Chair Iverson asked if there was a written plan that shows the measures that will be taken
27 to protect the bur oak tree.

28
29 Mr. Denman stated he would be able to prepare this report for the City.

30
31 Acting Chair Iverson suggested clarifying how far from the tree the fence would be maintained
32 and include a plan for the upkeep of the fence in the event that it is damaged.

33
34 Acting Chair Iverson opened the public hearing at 8:19 p.m.

35
36 Ms. Jeanne Osterby, 636 Harmony Circle, Wayzata, stated she had talked with Mr. Denman.
37 She also put together a petition for the City to consider for the future development in Harmony
38 Circle. She suggested the Commissioners be sure to use their microphones so that the people in
39 the audience could hear what was being discussed. She provided a full timeline of her activities
40 with this project. She stated she would like to see the height of the homes reduced further. She
41 also asked why the lot sizes were different. She would like to see something in writing that
42 Charles Cudd & Co. would be responsible for the repair of any damages done to other property
43 and roads during construction.

44
45 Acting Chair Iverson closed the public hearing at 8:35 p.m.
46

1 Commissioner Gruber thanked Mr. Gullickson for continuing to work with the community and
2 the new plans that are being presented.

3
4 Mr. Gadow stated Condition D was a carry over from previous discussion regarding the 1-1/5-
5 story homes. This condition could be stricken then Condition A would be the prevailing
6 condition on the home construction or the Commission could change Condition D to reflect what
7 is being presented at this time.

8
9 City Attorney Schelzel recommended striking Condition D.

10
11 It was the consensus of the Commission to strike Condition D.

12
13 Acting Chair Iverson stated she would like to see either the landscape plan or Condition C
14 include the size of the trees that would be planted.

15
16 Mr. Gadow stated they would work with the Applicant but the minimum is no less than 3-inches.
17 He stated any motion should include the home on Lot 2 would be pushed back 8-10-feet and
18 each home would be built 2-feet larger, the Applicant will work with the neighborhood to
19 manage construction traffic and send out a letter to the neighborhood to let them know that they
20 would be responsible for any damage.

21
22 Acting Chair Iverson stated she would like to see a tree preservation plan included with the
23 Application as part of the packet for the City Council.

24
25 Mr. Denman stated the height of the homes would depend on the types of joists he uses and he
26 would like to make sure that there would be some flexibility in the height to accommodate as
27 much as a 6-inch variance. He also stated the large bur oak tree would be preserved so he does
28 not believe the three (3) additional trees would be required. As part of the landscape plan they
29 may be planting some trees. He would not have a landscape plan available by the City Council
30 meeting on May 5. He asked if this could be presented when he applies for the permits.

31
32 Mr. Gadow stated the Planning Commission can require that a landscape plan be provided when
33 a building permit is applied for.

34
35 It was the consensus of the Commission to modify Condition C to read: The Applicant and/or
36 future homeowners must provide a minimum landscape plan for Lots 1 and 2 prior to the
37 issuance of a building permit.

38
39 Mr. Gadow asked if the Commission would prefer to add Condition D back in and change the
40 height limit to 26-feet.

41 It was the consensus of the Commission to strike Condition D because the variance would be
42 less than a foot.

43
44 Commissioner Gonzalez made a motion, Seconded by Commissioner Gnos to recommend
45 approval to the City Council based on the findings of fact in the Staff Report and the conditions

1 outlined in the Staff report with the modifications that have been discussed. The motion carried
2 unanimously.
3

4
5 **AGENDA ITEM 3. Other Items:**
6

7 **a. Review and Adoption of Planning Commission Report and Recommendation on**
8 **313 Central Avenue S Subdivision and Shoreland CUP**
9

10 Mr. Gadow reviewed the draft Planning Commission Report and Recommendation, prepared by
11 staff at the direction of the Planning Commission, including the conditions.
12

13 Commissioner Young made a motion, Seconded by Commissioner Gruber to adopt the Planning
14 Commission Report and Recommendation for Approval for 313 Central Avenue S Subdivision
15 and Shoreland CUP. The motion carried 3-ayes and 2- nays (Iverson Gonzalez)
16

17 **b. Review of Development Activities**
18

19 Director of Planning and Building Gadow reviewed the items that would be on the next Planning
20 Commission meeting agenda including the 532 Ferndale West and a subdivision application for
21 Bushaway. The Commission will be reviewing the Telecommunications Ordinance at a future
22 meeting.
23

24 **c. Other Items**
25

26 Commissioner Gnos provided an update on City Council activity including the construction on
27 Bushaway, approval of the 151 Westwood subdivision, and discussion on Sunday liquor sales at
28 a few restaurants.
29

30 Mr. Gadow stated the Historical Society had been able to get a grant from Burlington Northern
31 Railroad to do a historical structures report on the Section Foreman's house.
32

33 Acting Chair Iverson stated the City has been working to address the potential loss of the City's
34 ash trees. The City is looking for volunteers to locate and tag the City owned ash trees.
35
36

37 **AGENDA ITEM 4. Adjournment.**
38

39 There being no further business, Commissioner Gonzalez made a motion, seconded by
40 Commissioner Gruber to adjourn the meeting. The motion passed unanimously.
41 The meeting was adjourned at 9:00 p.m.
42

43 Respectfully submitted,
44

45 Tina Borg
46 *TimeSaver Off Site Secretarial, Inc.*