

**GREENWOOD PLANNING COMMISSION**  
**WEDNESDAY, JUNE 18, 2008**  
**7:00 P.M.**

**1. CALL TO ORDER/ROLL CALL**

Chairman Lucking called the meeting to order at 7:00 p.m.

Members Present: Chairman Lucking and Commission members John Beal, Tom Fletcher, David Paeper, H. Kelsey Page, Todd Palmberg and Mark Spiers

Absent: None

Others Present: Mayor Bob Newman, Councilmember Hill, Councilmember Sharf, Council Liaison Jeff Sagal, City Attorney Mark Kelly and Zoning Coordinator Gus Karpas.

**2. APPROVE AGENDA**

Commissioner Beal moved to accept the agenda for tonight's meeting. Commissioner Paeper seconded the motion. Motion carried 5-0.

**3. MINUTES OF May 21<sup>st</sup>.**

Commissioner Beal moved to approve the minutes of May 21<sup>st</sup>. Commissioner Spiers seconded the motion. Motion carried 3-0-2. Chairman Lucking and Commissioner Paeper abstained.

**4. LIAISON REPORT**

Council Liaison Sagal said the Council reviewed the fence for the Schroeder property on Meadville Street. He said the plan showed a fence that would combine wood and steel and was placed in a manner agreed to at a previous Council meeting.

He said the Council also discussed a situation dealing with a dead tree, deciding that the City had no authority to make a property owner remove it unless it poses a public safety issue.

**5. PUBLIC HEARINGS**

**VARIANCE - Scott and Peggy Stefan, 5085 Greenwood Circle, (R-1A, 15,000)**

request for a variance to encroach into the required exterior side yard setback and to exceed the maximum permitted impervious surface area with the construction of a new garage and screened porch. The proposed garage would be placed on the north side of the property and connected by a small mudroom. The proposed screened porch would be attached to the east side of the existing home.

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The proposal is to encroach eleven feet into the required thirty foot exterior side yard setback and to exceed the maximum permitted impervious surface area of 30% by approximately 7%. The majority of the proposed additions would be constructed entirely over existing impervious surface area and the applicant proposes to remove impervious area from other portions of the lot equal to the addition areas not constructed over existing impervious surface. The result would be no increase in the amount of impervious surface area on the property.

Chairman Lucking summarized the request and opened the public hearing.

Peggy Stefan said she and her husband recently purchased the property. They're seeking to construct a new garage and screened porch. The existing home was constructed to meet the previous homeowner's needs, who was a single man. The house does not lend itself for use by a family.

Ms. Stefan said the garage would be used for storing vehicles and lawn care equipment. She noted that, due to the lack of a basement, a portion of the existing garage would be converted to a safe room for tornadoes. She said of the overall impervious surface on the property, only ten percent is attributed to the house itself, the rest are decks, driveway and the swimming pool.

She said a number of options were discussed on how to develop the property, with this plan being the one that minimized the impact on the impervious surface area. She said the placement of a catch basin and the topography limited the options. Topographic alterations on the property are limited since they could potentially change the drainage pattern on the property, which includes run off from the street.

Ms. Stefan spoke to the discrepancy in the application, which did not mention the variance for the side yard setback. She said they had met on numerous occasions with Zoning Coordinator Karpas to discuss the project, before they made an offer on it. It was never represented to them that a setback variance would be needed, only one for the impervious surface. It wasn't until the application had been submitted did the need for setback become known. She wanted the Commission to know that they did not try and deceive them by not mentioning it in their application.

She noted that they have been following the discussion on massing and have calculated their proposed volume at 2.65 cubic feet per square foot of lot area, which is within the regulations being proposed.

Mike Sharratt, Sharratt Design discussed the process that led to the current application. He noted that the house sits six feet lower than the street and contains a catch basin used to drain some of the water off the street. He said the property owners inherited these issues, including the lack of a basement. He said the thought was to design something that would have a minimal impact on the impervious surface. He believes they have done that with a zero gain in impervious surface with the proposal.

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Mr. Sharratt said the situation facing the property is that it is overbuilt under the current ordinance even though its development was known to the city. He suggested that the ordinances might have been different when it was developed. He also noted that the west property line jogs in a manner, which would be typically discouraged during platting.

Commissioner Beal discussed the corner lot requirement and asked about the address being changed. Chairman Lucking said he approached the City Council a number of years ago because there was confusion by the previous homeowner about what street he lived on, so on more than one occasion he had people coming to his house to provide services that were intended for the subject property.

The Planning Commission discussed various aspects of the setback issue. Chairman Lucking asked the City Attorney if it were possible the corner lot setback was different as the time the property was developed. Mr. Kelly said it was doubtful since this has been a standard ordinance in most cities for a number of years.

Commissioner Beal discussed the drainage basin on the property and verified it was included in the impervious surface calculations and if so how many square feet was it. The applicant said it was and that it contained about seven hundred square feet.

Mr. Sharratt said in order to believe the setbacks haven't changed, the question is why was the structure permitted to be constructed as it was without variances. Chairman Lucking said just because the structure is placed as it is doesn't mean the setback wasn't thirty feet. Commissioner Page suggested that the dimensions of the lot may have changed since the previous owner owned the lot next door. Ms. Stefan said all the information contained in the house file around the time the property was developed described the lot as it currently exists.

Chairman Lucking asked if there was any other public input. Hearing none, the public hearing was closed.

Commissioner Paeper said he's not so much interested in the past with this property, rather he is concerned about the current situation. He said the ordinance is clear that an undue hardship must be demonstrated and doesn't believe one has been in this request. He doesn't agree that an existing non-conformity is allowed in perpetuity, especially when there is an alteration on the property.

Commissioner Page doesn't believe a variance should be issued for the impervious surface. He doesn't feel the hardship criteria have been met. The argument that there is no basement is not unique; the property is currently being put to a reasonable use and believes permitting the alteration would alter the essential character of the neighborhood. He said he is opposed to the garage addition due to the additional setback variance required, but is supportive of the porch. He believes an effort should be made to reduce the impervious surface, but could live with existing percentage with the proposed porch. Commissioner Fletcher agreed with the comments of Page.

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Commissioner Spiers said that the proposed alteration would create a significant perception in massing from the west.

Commissioner Palmberg said he agrees with Commission Page regarding the porch, but questioned whether the catch basin creates a hardship.

Commissioner Beal agreed with Palmberg and said he was willing to exempt the catch basin area of hardcover, but noted, even using the number provided by the applicant it would only reduce the hardcover by 3%, meaning the property still exceeding the permitted amount. He said there is a large amount of decking on the lakeside of the property and feels there should be some efforts to reduce the hardcover. He noted the applicant has a larger lot.

Commissioner Palmberg confirmed Beal's willingness to exclude the catch basin. Beal said he would since it primarily is used to handle water from the street. Commissioner Page said he doesn't necessarily agree and said he has never noticed an extreme amount of water running down the driveway.

Chairman Lucking asked if the Commission was in agreement on maintaining the corner lot setback. Commissioner Beal said he wasn't as concerned about the setback as he was about the impervious surface. Beal said he would like the property to be brought into compliance with the requirements minus the area contained within the catch basin. Commissioner Page agrees the catch basin should be excluded. Commissioner Spiers also agreed on the catch basin, but said, based on the size of the lot a hardcover variance should be granted above 33%.

Chairman Lucking said the ability to move the garage into compliance with the required setback is hindered by the impervious surface requirements. Mr. Sharratt said that many options were considered and the one proposed was the only one that could maintain the imperious surface percentage since very little additional driveway is needed.

Mr. Sharratt questioned the property's protection under the State Statutes since the non-conformity is not being expanded. He asked about the need for a hardcover variance if the structure was built within the required setbacks, but the existing impervious surface percentage was maintained, since the variance would not be outside the existing non-conformity. City Attorney Kelly said a hardship would still need to be demonstrated since the configuration of the impervious surface is being altered, though the process would be simplified if the setback was being met.

Ms. Stefan said they were open to removing some of the decking and the use of permeable pavers, even though they aren't exempted from the impervious surface standards. She said when it was discovered a setback variance was needed, they discussed their options about what to do and it was suggested that they continue with their application.

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Mr. Sharratt suggested that a grass access be used for the garage rather than a driveway. Chairman Lucking said his only concern with that is it could easily be converted to impervious surface without the city's knowledge.

Commissioner Spiers said he would like to see the impervious surface reduced.

Commissioner Paeper doesn't believe the Planning Commission should entertain a setback variance since there are options available to the applicant to be within compliance. Commissions Page and Fletcher agreed.

**Action:**

Motion by Commissioner Lucking to continue the public hearing on the variance requests for 5085 Greenwood Circle to the July 16<sup>th</sup> meeting. The motion is conditioned that the applicant sign a waiver extending the time period for the city to render a decision on the request. Commissioner Page seconded the motion. The motion carried 5-0.

**CONDITIONAL USE PERMIT - St. Alban's Boathouse, 21960 Minnetonka Boulevard, (C-2) Lake Recreational** request for a conditional use permit to replace the existing temporary signage on the property with new permanent signage.

The proposal is place a forty-four square foot roof sign located on the south portion of the building. The sign would be down lit, with a maroon background and white lettering reading "Castaways." The existing signage on the building was approved as part of a previous conditional use permit when the property was redeveloped. At that time, the applicant was granted an allowable sign area of 18 square feet on the structure.

Chairman Lucking summarized the request and opened the public hearing.

There was no one representing the request at the meeting. The Planning Commission agreed to discuss request.

Karpas said he has received letters from Mitch Stover, President of the St. Alban's Villas Board of Directors, Sandy Strommen Carr, 5135 Greenwood Circle, Fred and Lori Badiyan 21750 Byron Circle and T. White, 5290 Meadville Street opposed to the proposal.

Terry White, 5290 Meadville Street spoke to the request. He submitted additional letters opposed to the request for the record. He read a list of people who contacted him opposed to the request in response to a letter he sent to his neighbors. He said when the property was developed in 2000 the signage was intentionally kept small due to the residential nature of the neighborhood. He said the business is trying to convert from a small dinner theatre to a more bar like use, with live music. He doesn't believe the neighborhood is conducive to such a use. Mr. White discussed the parking limitations on the property noting that the proposed change in use would only make the issue worse.

Hearing no further public comments, the public hearing was closed.

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Zoning Coordinator Karpas explained that the sign is in compliance with the sign ordinance, but since the signage for the structure was limited to eighteen square feet as part of a Conditional Use Permit when the property was developed, the applicant needs to alter the Conditional Use Permit to deviate from the eighteen square feet.

Commissioner Palmberg asked if the existing signage on the property was in compliance with the Conditional Use Permit. Karpas said it was not. Chairman Lucking commented on the temporary signs noting they are regulated and must be issued a temporary sign permit.

Commissioner Palmberg asked about the interior signs and whether they are regulated. City Attorney Kelly said they typically are not.

Commissioner Beal asked about lighting and whether the signage approved previously was allowed to be illuminated. City Attorney Kelly said it was.

Commissioner Spiers said it is his impression that the location and size of the sign and the intended use of the property is inappropriate with the neighborhood and feels the current illegal signage must be brought into compliance with the ordinance.

Chairman Lucking noted that the business never installed the signage they were permitted in the first place and questioned how they know they need more if they haven't done so.

Commissioner Page said he is not enthralled with what has been presented because it is lit towards a residential district and agrees the intended use of the property is inappropriate.

**Action:**

Motion by Commissioner Page to recommend that the City Council deny the request to amend the existing conditional use permit to replace the existing temporary signage on the property with a new forty-four square foot permanent sign located on the mansard roof, as presented at 21960 Minnetonka Boulevard. The proposed signage is too large and out of character due to the residential uses of the surrounding area. In addition, the existing signage must be brought into compliance with approved conditional use permit. Commissioner Lucking seconded the motion. The motion carried 5-0.

**6. OTHER BUSINESS**

**Joint Work Session with City Council** - Discuss the amendment of Section 1100 of the city Zoning Code to add provisions regulating the mass of a structure including the creation of a Volume Measurement standard and re-defining structure height.

The Planning Commissioners discussed the structure of the proposed massing ordinance with the City Council members present at the meeting. The ordinance has been redrafted so it is easier to understand and apply.

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Commissioner Beal discussed his thoughts on applying a cubic foot of house volume to square foot lot area measurement. Numbers have been devised based on measurements of existing homes allowing a range of five cubic feet per square foot of lot area for smaller lots to a two or three cubic foot allowance for larger lots.

The Commission discussed how finished grade would be determined and how to take steps to eliminate loopholes such as back filling or building up the grade on a lot prior to construction. The Commission agreed that an as built survey would be required prior to the issuance of a Certificate of Occupancy and a prohibition would be added to the ordinance preventing any grading on a lot prior to the issuance of a building permit.

The Council and Commission discussed the ability to address after the fact enforcement issues. Commissioner Paepfer said there is a need to develop a strong ordinance in the beginning, which may eliminate some of the enforcement issues. The city will need to address violations as they arise.

The Commission discussed the impact of the massing ordinance on smaller lots. Councilmember Hill suggested that visual aids be developed to help residents understand the direct impact of lots of specific sizes. This will allow the Council to calm some of the fears residents may have. Hill doesn't believe the proposed ordinance would create undue hardship on the residents. Commissioner Spiers agreed, stating that a big part of the ordinance is how it is presented to the public. Spiers said the residents have to understand that the city isn't looking to totally eliminate mass, rather to control those structures that go over the top in terms of massing.

Chairman Lucking said the previous ordinance may have been premature in the selection of numbers and that the numbers may not have been right for the city since they were modeled after number used by a city that gave exclusions such as garage not being counted as mass.

The Council and Commission discussed the impression of massing in terms of how a home is situated on its property and the properties around it. Mayor Newman noted it is difficult to devise an ordinance that would regulate massing as it is viewed from all four sides of a structure. Commissioner Fletcher agreed and discussed the concept of limiting height based on the setback from property lines.

Mayor Newman noted that the ordinance needs to be drafted in a manner to prevent situations in which the spirit of the ordinance is violated. He discussed the example of a property with vast amounts of wetland and very little buildable space. A lot such as this would be permitted a larger home, even though the actual buildable land is smaller.

Commissioner Spiers commented that the proposed ordinance is pretty straight forward as written and would recommend against adding additional provisions such as the one discussed by Commissioner Fletcher.

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The Commission discussed the process going forward and determined that they were at a point where they could fill in the blanks and hold a public hearing at the July meeting.

The Commission agreed on establishing a height of twenty-eight feet to the roofline of a structure with an overall permitted height of forty-two feet. They agreed to keep the height requirements for commercial structures the same since one commercial area in the city is already governed under a Conditional Use Permit and the other area contains such small lots that the height of structures are limited since larger structures could not meet the parking requirements created by multi-story buildings.

The Commission agreed to the range of allowed cubic feet, basing them on a square footage ratio with the allowed cubic feet per square foot of lot area decreasing as lots get larger.

Commissioner Spiers suggested including illustrations in the ordinance to help guide users in understanding the measurement procedure. Commissioner Beal said he was emphatically opposed to that because it is unnecessary. The volume calculation process is well known. It has its basis in simple geometry. Inclusion of explanations of how to calculate the volume of a number of different shapes will increase the length of the document and will open us up to criticism for complexity.

The Commission will hold a public hearing on the proposed ordinance at their July 16<sup>th</sup> meeting.

**7. PLANNING COMMISSION LIAISON**

Commissioner Page will serve as the Planning Commission Liaison at the July 1<sup>st</sup> City Council meeting.

**8. ADJOURN**

Motion by Commissioner Beal to adjourn the meeting. Commissioner Paeper seconded the motion. The meeting was adjourned at 9:45 p.m.

Respectively Submitted  
Gus Karpas - Zoning Coordinator