

**CITY OF MENDOTA HEIGHTS
DAKOTA COUNTY, MINNESOTA**

**PLANNING COMMISSION MINUTES
June 26, 2007**

The regular meeting of the Mendota Heights Planning Commission was held on Tuesday, June 26, 2007, in the Council Chambers at City Hall, 1101 Victoria Curve at 7:30 P.M.

The following Commissioners were present: Vice Chair Lally, Commissioners McManus, Norton, Povolny, Viksnins and Hennes. Those excused: Chair Dolan. Also present were Public Works Director Sue McDermott, Assistant to the City Administrator Jake Sedlacek, and Planner Steve Gritman. Minutes were recorded by Becki Shaffer.

Approval of May 22, 2007, Minutes

Page 1, paragraph 1, should read as follows:

“The regular meeting of the Mendota Heights Planning Commission was held on Tuesday, June 26, 2007, ~~Wednesday, April 25, 2007~~ in the Council Chambers at City Hall, 1101 Victoria Curve at 7:30 P.M..”

Commissioner McManus moved, seconded by Commissioner Viksnins to approve the minutes as corrected.

AYES 6
NAYES 0

Hearings

**PLANNING CASE #07-19
David Napier/Dodge Nature Center
555 Huber Drive
Conditional Use Permit & Variance**

Planner Steve Gritman reviewed a map showing the location of 555 Huber Drive, which is a portion of the Dodge Nature Center. The applicants are seeking a conditional use permit and variance to allow construction of a 14-ft by 20-ft detached screened structure on the property to complement other small structures that include a cabin and shed. This parcel is used for hosting guests.

The conditional use permits are based on the size requirements that limit accessory buildings in the R-1A zoning district (Residential). The parcel is just over 5 acres and the standards for the conditional use permit is 225 sq. ft. for building and 425 sq. ft. for total buildings. The applicant is proposing to construct a 280 sq. ft. building, which exceeds the permitted area of 225 sq. ft. The combined buildings will total to 691 sq. ft., which exceeds the permitted area of 425 sq. ft.

The variance is requested to allow the proposed structure to be located closer to the right of way/front property line.

Staff recommends approval of this conditional use permits and variance based on the fact that the proposed screened accessory building will not alter the essential character of the neighborhood, and has identified the hardship as being due to circumstances unique to the property and not created by the landowner and the application is consistent with the Comprehensive Plan.

Commissioner McManus asked if the property to the west of this parcel belongs to Dodge Nature Center. Mr. Grittmann said he believes so. Commissioner McManus said this is a very large woodland and it is hard to apply the residential rules in this case because it's such a large area.

Commissioner Viksnins asked why this property is zoned residential. Mr. Grittmann explained the rules of the ordinance for these types of uses.

Dave Napier, 365 W. Marie Ave., West St. Paul, is the representative from Dodge Nature Center. Mr. Napier said the total area of the "Lilly Property" is approximately 180 acres. The properties north and west of this parcel is also owned by Dodge Nature Center.

Mr. Viksnins asked what the lodge cabin was used for. Mr. Napier said currently it is used to bring potential donors (mostly larger groups) out to the nature center for a BBQ. Mr. Napier said the mosquitoes are very bad in that area thus needing the screened enclosure. The cabin has been rented out to staff members from time to time, and is currently being occupied by a teacher. In addition, the Dodge Nature Center currently owns two other homes on the property (Highway 110) that are rented to generate more funds for the nature center.

Commissioner McManus asked if any adjacent homes would be able to see the proposed structure, or the existing structures. Mr. Napier said they cannot.

Vice Chair Lally opened the public hearing. Seeing no one coming forward wishing to speak, Vice Chair Lally asked for a motion to close the public hearing.

Commissioner Viksnins moved, seconded by Commissioner Hennes, to close the public hearing.

AYES 6
NAYES 0

Commissioner Norton moved, seconded by Commissioner Hennes, to recommend approval of the conditional use permits and variance as presented based on the findings contained in the Staff Report.

AYES 6
NAYES 0

PLANNING CASE 07-20
Louis Closmore
684 Third Avenue

Side Yard Setback Variance

Mr. Gritman reviewed the map showing the location of 684 Third Avenue. This property is zoned R-1 Residential and contains a single family home. The applicant wishes to construct a sun porch addition on to the rear of the existing home. Mr. Gritman said the parcel is a corner lot at Third and Vandall. The driveway comes out near the corner, and the single car garage is right on, if not slightly over, the property line. This parcel is only 60-ft. in width. The proposal is to construct a porch on the rear of the home that would be basically along the same line as the existing home's building wall. The issue is that the wall is only 23-ft. from the property line, which has a setback requirement of 30-ft. The existing home is relatively small compared to the current standards, with a single car garage, also below the standard.

The applicants have indicated they have investigated moving the porch to another location, but it's not possible as it interferes with access to the existing structure and also causes difficulty with the internal circulation of the home. Staff recommends approval of this variance as the applicant has exhausted all other possibilities, and the hardship is due to circumstances unique to the property and not created by the homeowner, and the application is consistent with the Comprehensive Plan.

Commissioner Norton said this appears to be consistent with the rear yard setback. Mr. Gritman said this only applies to the side yard setback.

Commissioner McManus asked when the home was built and how this situation was created. Mr. Gritman said the home most likely was built before the zoning ordinances were created. Commissioner McManus said this is an older home, and the lot is kept well maintained; he finds it odd that the setback for the garage is very unusual for that neighborhood. Commissioner McManus said he sees no other alternative location for the screen porch.

Mr. Louis Closmore, 684 Third Avenue, said the home was built in 1952, and had no idea that there were issues with the garage. Mr. Closmore said he and his wife put up a portable screen tent every year, and now that his wife's health is declining, they want to put a permanent structure so they don't have to have the portable one anymore.

Vice Chair Lally opened the public hearing. Seeing no one coming forward wishing to speak, Vice Chair Lally asked for a motion to close the public hearing.

Commissioner Hennes moved, seconded by Commissioner Viksnins, to close the public hearing.

AYES 6
NAYES 0

Commissioner Hennes moved, seconded by Commissioner McManus to recommend approval of the side yard setback variance as presented.

AYES 6
NAYES 0

**PLANNING CASE 07-21
Robert McKinney/Mendakota Country Club
2075 Mendakota Drive
Wetlands Permit**

Mr. Grittmann reviewed the request for a proposed pond enlargement along the golf course's 13th hole. The pond would be expanded to the west by excavating existing soil and removing current vegetation. A Wetlands Permit is required whenever land alterations are proposed within 100 feet of the wetland area.

Mr. Grittmann said since the Staff Report was completed, he has received additional information and comment from the applicant and the City Engineer. It is understood that the applicants will not be affecting the existing wetland itself as the excavation will be done on the edge of the wetland. Staff believes that because of this fact, the enlargement of the pond and the treatment around the area will not have any negative impact and Staff recommends approval contingent upon other agency reviews.

Commissioner McManus asked if the pond connects with the lake adjacent to the south and does this change anything on the requirements of the county or the state? Public Works Director Sue McDermott said her staff checked in to whether this was considered a part of Rogers Lake by the DNR, and found it is not, and this is not DNR protected water. This wetland is governed by the City.

Commissioner Viksnins asked what other approvals are necessary. Ms. McDermott said there are requirements that need to be followed for the Wetlands Conservation Act which is governed by the State. A wetland delineation needs to be done so that Mendakota can show they are not disturbing the existing wetland and they will have to apply for a "No Net Loss" application which is approved by the City, and then sent to many agencies for their comments. These agencies will have 15 days to comment, and if no comments are received, the City can approve the alteration. These agencies include Dakota County Soil and Water, DNR Water and Soil Resources (state agency), the US Army Corps of Engineers.

Commissioner Viksnins said he noticed this golf course is also zoned residential, and asked if there is any other zoning designation a golf course can have. Mr. Grittmann said not at this time, but the City is working on resolving some zoning / land use issues as part of the Comprehensive Plan review.

Vice Chair Lally said in terms of the Wetlands Conservation Act, these requirements are usually applied to wetlands that are reduced, and not expanded. It would seem that an expansion would not have the same negative affect if reduced. Mr. Grittmann said this is just a process the applicant has to go through to verify that they are not negatively impacting the area.

Ms. McDermott said all these agencies will also be looking to see a buffer and that's why it has to go through the process.

Mr. Grittmann said the original recommendation had some conditions on landscaping the buffer, and that condition will apply to the new recommendation.

Mr. Bob McKinney, superintendent of the Mendakota Country Club, 2075 Mendakota Drive, said these permits can get very complex and frustrating, and it's taken the country club some time to figure out exactly what needs to be done. He has been working with the other agencies to get information on what is needed to do.

Mr. McKinney explained the process of what they are proposing to do. This work entails placing about 75 to 100 feet of rough bone grass between the fairway edge and the wetland, and hopes this will serve as a water runoff buffer/filtration system.

There will be about 3,800 cubic yards of soil coming out of this pond, giving an additional 20,000 sq. ft. of water. The elevation just off the 13th fairway will be elevated as it presently sits quite low, and some of this soil will be used to raise this area, as well as creating a new 16th green. This is only a part of the whole renovation that will be going to the membership of the country club for approval. Other renovations include tee boxes, bunkers, drainage, and club house enhancements.

Commissioner McManus asked how deep the pond will be. Mr. McKinney said it would be about 5½ feet. Commissioner McManus asked if there is a serious slope between the fairway and the new proposed boundary of the wetland. Mr. McKinney said as the architect has drawn it, there is no slope. Mr. McKinney said he will wait for suggestions from the City, State and County about what type of slope is desired going into the wetland. Commissioner McManus said erosion is a big concern, and asked if this area will be rip rapped. Mr. McKinney said they will leave that area natural, as rip rap serves a purpose but gives a harsh look.

Commissioner McManus asked about the willow trees in the area that will need to be cut down. Mr. McKinney explained that these are very old trees that are not doing well, and plans are to take down about 4 out of the 7 that are there. Storm damage has left these trees in bad shape. Commissioner McManus expressed his concern that these trees provide erosion control, and asked what can be done to ensure against this erosion. Mr. McKinney said there is mostly cattails next to this area, and will not be taken out and there are no steep slopes in that area to be concerned about. Mr. McKinney said this wetland is primarily supplied by the cloverleaf at Highways 110 and 35.

Commissioner McManus said the golf course is gorgeous and asked if any wetlands are within 100 feet of the clubhouse. Mr. McKinney said there were none.

Commissioner Povolny said he also toured the golf course and said those trees looked bad and believes they should be taken down. Overall, the project looks good.

Commissioner Hennes asked what the benefit is to the golf course by doing this project. Mr. McKinney reviewed the contour map and explained that when golf course features need correction, it's best to try to take soil from another area that would cause the least interference with the rest of the course.

Vice Chair Lally opened the public hearing. Seeing no one come forward to speak, Vice Chair Lally asked for a motion to close the public hearing.

Commissioner Hennes moved, seconded by Commissioner Povolny, to close the public hearing.

AYES 6
NAYES 0

Commissioner Viksnins moved, seconded by Commissioner McManus to recommend approval of the wetlands permit based on the finding that the use is consistent and that the approval be conditioned upon approval by other county and state agencies and that there be appropriate landscaping to provide a buffer to the wetland area.

AYES 6
NAYES 0

Mr. McKinney asked if all the delineation and approvals are to be met before the City Council meeting on July 3rd. Ms. McDermott said they do not have to be. Vice Chair Lally said the Council may have additional conditions and/or recommendations at the meeting.

PLANNING CASE 07-22

Brian Farley
771 Pondhaven Lane
Variance

Mr. Grittmann reviewed the map showing the location of 771 Pondhaven Lane, which is a single family parcel, zoned R-1, and occupied by a single family home. The applicant is seeking a variance to allow for a 6-ft. addition to the existing garage structure, on the east side of the garage that would encroach into the setback by about 2 to 3 feet, depending on the corner one is looking at.

The applicant is hoping to expand this garage to allow for additional storage, and this area will not be made into a parking stall. The applicant states that there is no other direction to put this addition because of topography and the nature of the patio and other construction to the rear of the home. Staff's concern is that a reasonable use of the property, as defined by the ordinance, is considered to have a single family home with a standard two-car garage. Mr. Grittmann said it was difficult for Staff to identify a hardship as it appears the applicant can build a very small addition for their storage area, and as a result, Staff recommends denial of the variance for lack of hardship.

Mr. Grittmann said Vice Chair Lally asked him before the meeting if the applicant could possibly build toward the front of the garage to gain adequate storage space. Mr. Grittmann said it does appear that the applicant would have room to add 6 to 7 feet of space on the front of the garage and still meet the front yard setback.

Commissioner Viksnins asked if there were any other viable options other than what was stated for this expansion. Mr. Grittman said it does appear the applicant could build on the back of the garage, but would incur greater expense as a lot of grading would need to be done. The applicant has indicated that this option would not be feasible for what they are trying to accomplish.

Commissioner Viksnins asked if any grading at the back would create an undue hardship given the grading and costs. Mr. Grittman said it would be a matter of what is reasonable use on the property. Commissioner Viksnins asked if lack of adequate space would constitute a hardship. Mr. Grittman said the ordinance does not define it that way. Mr. Grittman said it is up to the City to determine what a reasonable use is.

Commissioner Povolny said the garage factor comes up periodically, and the City has made conditions for people in the past. Commissioner Povolny said this house is considerably far away from the neighbor's house, and the reality of this is, that the applicant wants to put an addition on to the side of his house that would blend in with the rest of the neighborhood, and would rather see the applicant put the 6 feet on the side of the house than bring the garage out towards the street. Commissioner Povolny said the applicant could easily build a shed for storage, but then the neighbors will see it. With the garage addition as proposed, the neighbors would not see that addition. This house has a small two car garage, and a decent sized house. Once the applicant puts his lawn equipment, bicycles, etc., the cars will end up being parked in the driveway or put along side of the garage. The proposed addition would have no negative impact on the neighbor because of the distance between the houses. Commissioner Povolny said this project looks good and the applicant will be able to put all his things in the garage, the neighbors will not have to see it, and a couple of feet is not a big issue.

Vice Chair Lally said there have been a number of cases where homes had two car garages, and people were asking for a third stall that has been granted. In some of these cases, the Planning Commission originally recommended denial, and the City Council went ahead and granted it anyway. Ms. McDermott said there was one application on Deephaven Road which was similar to this case and was granted because there was ample space between the two homes. Vice Chair Lally said he believed the string rule was applied in this case, and the Planning Commission recommended denial, but the City Council approved.

Commissioner McManus asked if this will turn a two car garage into a three car garage. Mr. Grittman said it would not turn into a three car garage, and the applicant's intent is to expand in a way that is adequate to place bikes and the lawn mower in that area. This way, they will not be stored in the 2nd car stall, leaving room for a car to be parked inside.

Mr. Brian Farley, 771 Pondhaven Lane, said he has three children, and the fourth one on the way. Mr. Farley said he also has a swimming pool in the back yard. He wishes to have this storage area so he doesn't need to throw tarps over the equipment in the yard during the winter months. The extra 6 feet will allow him to fit all of this stuff inside, plus allowing him to keep his cars in the garage. Mr. Farley said there are several two-car garages in the neighborhood, but they are typically deeper and believes his proposal would fit the character of the neighborhood.

Commissioner Viksnins said the application states that this addition will allow for a second story addition above the garage. Mr. Farley said he currently has a three-bedroom home, and would like to add two more bedrooms above the garage. Commissioner Viksnins asked if this addition

could be done without the additional 6- ft storage area. Mr. Farley said it could, but the bedrooms would have to be very small (about 9½ x 10). Commissioner Viksnins asked about the alternative plan to extend the garage out the front. Mr. Farley said it would affect the character of the neighborhood and would affect the layout of the proposed bedrooms. Commissioner Viksnins said the neighbor most affected by this addition has signed his approval for this project.

Commissioner Norton asked when the addition above the garage will be done. Mr. Farley said as soon as possible. Commissioner Farley asked if the applicant would need to apply for another variance for the second story. Mr. Gritman said he would need to do so. Mr. Farley said this will be done the same time as the addition. Mr. Gritman said in that case, only the single variance would be necessary.

Assistant to the City Administrator Jake Sedlacek said this will be better clarified in the staff report to the City Council.

Commissioner McManus said he feels the intrusion into the setback is relatively minimal, and he shares the opinion that the nature of the neighborhood would not be hurt by this. Commissioner McManus said he is also not convinced that the applicant has tried all other options and believes he is required to ensure that the applicant has tried before he votes for this. Commissioner McManus asked if there is ample room behind the garage where the land is the same level as the garage. Mr. Farley said this land is not the same level based on the contractor's opinion, and they would have to do considerable grading (about 10 to 12 feet) for the foundation. Commissioner McManus said he is uncomfortable with this situation.

Vice Chair Lally said coming forward toward the street may work for the garage, but may not work for the second story addition. Mr. Farley said it would not allow him to configure those rooms the way he needs to.

Vice Chair Lally opened the public hearing. Seeing no one come forward to speak, Vice Chair Lally asked for a motion to close the public hearing.

Commissioner Viksnins moved, seconded by Commissioner Norton, to close the public hearing.

AYES 6
NAYES 0

Commissioner Hennes moved, seconded by Commissioner Viksnins to recommend approval of the variance request as presented.

Further Discussion

Commissioner Viksnins said he is seconding this motion as his own reasonable use would include storage space on this property, and if the storage space cannot be accommodated because of the size of the building, the nature of the lot, the grading and other features, it would seem that this may be an undue hardship.

Commissioner McManus said he is not convinced that this would amount to an undue hardship and he is not convinced of the fact that other alternatives have been thoroughly investigated.

Commissioner McManus said he does not think that if the applicant uses an alternative plan, it will hurt the character of the neighborhood. Commissioner McManus asked if the Planning Commission is bound by the city regulations or will they say “let’s just go with it”.

Commissioner Hennes said he does believe there is an undue hardship and while looking at this site, there is no way this home can be built to the back, and it would look odd to add to the front. There is no where else to go except to the east. Commissioner Hennes said this case must be looked at in a practical manner as 33 inches compared to the size of the lot is minimal and when looking at the distance between the two houses.

Vice Chair Lally said he is also considering the amount of open space in the area and there is no health/safety issue in terms of access.

AYES 5
NAYES 1 (Commissioner McManus)

PLANNING CASE 07-23

**Theodore Benz
1853 Victoria Road
Wetlands Permit**

Mr. Gritman reviewed the map showing the location of 1853 Victoria Road, a single family parcel zoned R-1 and is occupied by a single family home. The applicant is seeking a permit that will allow him to alter vegetation to the rear portion of the property.

The applicant indicates there is a significant amount of buckthorn and other weed growth toward the pond and the applicant is proposing to eliminate that existing vegetation to allow for about 30 feet before it drops into the pond. The applicant will be planting grass in this area. There is a ridge that provides a natural buffer setback from the pond that would be left untouched.

Staff believes this application is consistent with the ordinance and recommends approval of the wetlands permit.

Commissioner Hennes asked how big of an area is affected. Mr. Gritman said about 100 feet. Commissioner Hennes asked what the other properties in the area look like, and if they have a similar situation. Mr. Gritman said it more common in that area to have natural grasses.

Theodore Benz, 1853 Victoria Road, said the two adjoining neighbors currently mow their properties to a similar buffer. The properties further to the south have considerable amount of wetlands and cattails on their property, so they don’t mow that area.

Mr. Benz provided pictures of his property and his neighbor’s property. Mr. Benz said he has a lot of land to the rear of the home, and would like to be able to use as much of the property as he can.

Sedlacek to address issues that have been brought up by both the Planning Commission and the City Council. The message is that this property needs to be a mixed-use and there needs to be some consideration to a buffer to the Dodge Nature Center and some consideration on what will happen with the existing building. Pasteur Enterprises is now requesting a workshop with the City Council on a revised concept. Mr. Sedlacek said this workshop is open to the public. No date has been set, but it is anticipated to be held before the July 17th City Council meeting.

Commissioner Norton moved, seconded by Commissioner Viksnins, to adjourn the meeting at 8:45 pm

Respectfully submitted,

Rebecca Shaffer, Recording Secretary