



## DEEPHAVEN PLANNING COMMISSION MEETING MINUTES

**TUESDAY, DECEMBER 16, 2025**

**CALL TO ORDER:** Chair Mike Petersen called the meeting to order at 7:00 p.m.

**PRESENT:** Commissioners Kjell Nafstad, Preston Ahrens, Kendall Carlson, Patrick Donlin, Jerome D'Alessandro, and Chair Mike Petersen

**ABSENT:** Commissioner Dan Goodrich

**OTHERS PRESENT:** Planning Director Pat Smith and City Council Liaison Tom Erdmann

### **1. APPROVAL OF MINUTES Minutes of November 18, 2025**

Motion by Commissioner Carlson, seconded by Commissioner Petersen, to approve the minutes of November 18, 2025, as drafted. Motion carried 6/0.

### **2. PUBLIC HEARINGS**

#### **a) Side Yard Setback Variance for a Pool at 5120 Hooper Lake Road**

Smith presented the staff report. The applicant constructed a swimming pool that ended up being two feet into the side yard setback and is now requesting a variance.

Otto Simmering, 5120 Hooper Lake Road, addressed the Planning Commission. They changed the plans for the pool during construction, widening the pool decking from three feet to five feet. Chair Petersen stated he does not think the owner and contractor are trying to game the system. Patrick asked about visual barrier. Otto said there is a fence and is planning to plant more shrubs and trees. Don Kilty, Hartman Companies, addressed the Commission. Lilacs will be 8-10 feet tall. Fence is six feet tall.

Don Kilty said the decking is about five feet wide. There would be 25-30 inches remaining of concrete to walk on.

Chair Petersen opened the public hearing. No one spoke. Chair Petersen closed the public hearing.

Chair Petersen said this is an honest mistake, and does not see any benefit denying the variance request.



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Commissioner Carlson said the mistake was not intentional and appreciates that the neighbors are amenable to the variance request. Commission Nafstad said he understands the mistake and does not see a huge benefit denying the variance.

Patrick said he believes the mistake should be fixed. Jerome said if the sidewalk is cut, kids will run on the mulch, which is just as close to the neighbors. Preston agreed.

Motion by Commissioner Carlson, seconded by Commissioner Nafstad, to recommend the City Council approve the variance to encroach two feet into the side yard setback for a swimming pool at 5120 Hooper Lake Road based on the variance request is: 1) consistent with the Comprehensive Plan and zoning ordinance, 2) is reasonable, 3) does not alter the essential character of the neighborhood. Motion carried 5/1, with Commissioner Donlin voting nay.

b) Grading Limits and Building Height Definition

Smith presented the staff report.

Councilmember Erdmann asked about the fill that could be removed from excavating a basement. Commissioner Nafstad said it is hard to quantify the amount of fill that would be excavated for a large basement. Chair Petersen asked about other cities. Smith stated Minnetonka uses a sliding scale similar to staff's recommendation. Chair Petersen stated the top line on the graph should be the only applicable example of the grade change based on the amount of fill being brought onto a site.

Commissioner Nafstad asked about the building height. Smith stated that the proposed building height definition would measure the height of homes based on the lower of the existing grade or the finished grade. So, if the grade is raised a foot, the maximum height of the house is lowered a foot.

Smith stated that the City Council may be reviewing the maximum height of retaining walls, which would regulate significant increases in grade as well. The Planning Commission discussed previous projects that increase the grade to make lots more buildable. Smith state those projects would have needed a Conditional Use Permit under the proposed ordinance.

Commissioner Carlson appreciated adding a provision of having a lower maximum height for houses with flat roofs. Smith stated that he used the regulation from Excelsior. The maximum height at 24 feet, would not prevent anyone from having a two-story flat roof house. The intent is to



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prevent someone from building a three-story house with a flat roof under the maximum height limit that is intended for houses with gabled roofs.

Chair Petersen suggested raising the maximum height for the smaller lots from 24 feet to 25 feet. Commissioner Nafstad did not think 24 feet would prevent a two-story house with a flat roof, but may prevent taller than nine-foot ceilings.

Chair Petersen opened the public hearing. No one spoke. Chair Petersen closed the public hearing.

Motion by Chair Petersen, seconded by Commissioner Donlin, to recommend the City Council adopt the proposed zoning ordinance amendment requiring a CUP when fill is imported more than 300 CY/acre, regulating the maximum height of houses with flat roofs, increasing the proposed height from 24 feet to 25 feet, and changing the definition of building height. Motion carried 6/0.

### c) Variance Review Process

Smith presented the staff report. The City Attorney is recommending the City amend the variance section of the zoning ordinance to clarify that the City Council has the authority to grant variances for any regulation in the zoning ordinance.

Chair Petersen said the state has given communities the ability to grant variances over a broad range of items, but the City puts a limit on those items.

Chair Petersen opened the public hearing. No one spoke. Chair Petersen closed the public hearing.

Motion by Commissioner Petersen, seconded by Commissioner Donlin, to recommend the City Council adopt the proposed ordinance amending the variance section of the zoning ordinance. Motion carried 6/0.

### **3. DISCUSSION ITEMS**

None

### **4. LIAISON REPORT**



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Councilmember Erdmann presented the Liaison Report. City Council discussed the budget. Council discussed boat slips policies. City Council held a Truth in Taxation public hearing.

### **5. ADJOURNMENT**

Motion by Commissioner Nafstad to adjourn the meeting at 8:21 p.m. Motion seconded by Commissioner Ahrens. Motion carried 6/0.

Respectfully submitted,

Patrick Smith  
Planning Director