



AGENDA OF THE REGULAR MEETING OF
THE CITY COUNCIL
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
April 10, 2018
7:00 P.M.

NOTE: Due to Open Meeting Law restrictions, the City Council may be discussing agenda items for the first time. Your patience and understanding is appreciated during this process.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

APPROVE AGENDA

OPEN PUBLIC FORUM

ANNOUNCEMENTS

- A. Garbage rates are increasing – look for notice mailed from Tennis Sanitation
- B. Rain barrel & compost bin sale – recycleminnesota.org; promo code: ‘washington’
- C. Wash. Cty. shredding event – April 18 8am-4:30pm. Limit 6 boxes/30 lbs each.
- D. New Wildwood Library project – April 23 6:30-8pm at 1520 Maht. Ave Rm 103
- E. Prescription drug “take back” event – April 28 10am-1pm at 1520 Maht. Ave.
- F. Street snow removal feedback should be sent to info@cityofbirchwood.com.
- G. We are social, follow us on Facebook/Twitter and/or register for the email listserv.

PLANNING COMMISSION

- A. Variance Case No. 18-01-VB for 5 Oakridge Dr – Resolution No. 2018-11* (pp. 3-59)
 - a. Council Deliberation and Approval
 - b. Approve Resolution 2018-11

Time Budget: 30 Minutes

ADMINISTRATIVE PRESENTATION* (pp. 60-61)

- A. Sewer Improvement Project is Complete
- B. Manhole Repair Has Been Opened

CITY BUSINESS – CONSENT AGENDA

- A. Approval of Regular Meeting Minutes from March 13, 2018* (pp. 62-66)
- B. Approval of Treasurer’s Report* (pp. 67-79)

CITY BUSINESS – REGULAR AGENDA

- A. Docks Committee Update* (p. 80)

* Denotes items that have supporting documentation provided

- a. Council Deliberation and Appointment/Action
Time Budget: 20 Minutes
- B. Birchwood Dock Association
 - a. Accounting Discrepancy* (p. 81)
 - b. Extension Request* (p. 82)
Time Budget: 45 Minutes
- C. Special Event Permitting* (p. 83)
 - a. Council Deliberation and Approval
Time Budget: 5 Minutes
- D. Water Meter Service Contract & Upgrade* (pp. 84-93)
 - a. Council Deliberation and Approval/Direction
Time Budget: 5 Minutes
- E. Council Member Reports:
 - a. Mayor Wingfield
 - i. Pickleball
 - ii. Barn Quilts* (p. 94)
Time Budget: 10 Minutes
 - b. Councilmember White
 - i. Parks Update
Time Budget: 5 Minutes
- F. City Administrator's Report

ADJOURN

* Denotes items that have supporting documentation provided

MEMORANDUM

DATE: April 10, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Variance Case No. 18-01-VB



Dear Mayor & Council Members,

Enclosed is a variance application from Christopher & Mary Sorenson (Case No. 18-01-VB) for a variance to expand the non-conforming use both vertically and horizontally at 5 Oakridge Drive. The vertical expansion is for construction of a master suit above the garage that will correct a design flaw in the original roof and eyebrow over the garage. The horizontal expansion is for construction of a new eyebrow/eave over the north side of the home.

The existing foundation of the home is non-conforming because it extends at least three (3) feet into the side-yard setback; at seven (7) feet instead of the required ten (10). This non-conformance effects at least three (3) feet of the now completed 2nd story master suit above the garage and a now completed eyebrow/eave along the north side of the home. Accordingly, the following Birchwood Ordinances apply:

- Section 301.050 (see enclosed); and
- Section 302.020 (see enclosed)

Notices were mailed to each of the neighboring properties (1, 3 & 5 Oakhill Ct.; 1-5, 7 & 9 Oakridge Dr.; 4-6 Five Oaks Ln.; 176, 180, 182 & 184 Cedar St.) and the DNR at least ten (10) days prior to the Planning Commission's public hearing and review in accordance with Section 304.060 of Birchwood City Code.

One response was received from the notice by Trilby White and Lisa Rietveld (enclosed) and was considered during the hearing. Prior to the hearing, however, the applicants and the complainants reached an agreement on their differences (see enclosed email explanation from Trilby White). Trilby, as a Council Member, has recused herself from voting on this variance tonight (see enclosed email).

The Planning Commission held a public hearing and reviewed this variance request on March 29, 2018 and now recommends the variance to you for approval.

Variance Requirements

This variance comes before you at a peculiar time because staff recently learned that Birchwood's variance code is at least partially in conflict with amendments made to MN State variance requirements. The Planning Commission is currently reviewing Birchwood's variance code to recommend an appropriate amendment but until that happens, it is unclear which requirements must be used to review this variance.

With the City Attorney's assistance, the Planning Commission used the State's 5 part test in their review and approval of this variance – the minimum requirement standard. The applicants have responded to both Birchwood's and the State's separate requirements in their request (enclosed). Both sets of variance requirements have been enclosed for your use in this hearing.

Accordingly, the enclosed Resolution has been adjusted to include the 5 State requirements applied by the Planning Commission instead of the usual criteria listed in Section 304.040.2. Additionally, the conditions listed in the enclosed resolution are mere suggestions based on previously granted variances

of a similar nature and should be adjusted or removed as part of your deliberation tonight. The Planning Commission did not require any conditions.

Attorney Kantrud is present at tonight's meeting to assist you through this process. Thanks!

Request/Recommendation

Staff and the Planning Commission requests Council Members:

- 1) Review, discuss & approve enclosed Variance; and
- 2) Review, adjust, and approve enclosed Resolution 2018-11

Thanks!

Regards,
Tobin Lay



Planning Commission Variance Recommendation
BIRCHWOOD VILLAGE
Variance Hearing Worksheet

Variance Case No. 18-01-VB: 5 Oakridge Drive

Date: March 29, 2018

#1: Is the request in harmony with the general purposes and intent of the ordinance? YES

The specific Ordinance states: 301.050.1 - a non-conforming use shall not be ... extended (either horizontally or vertically) ... unless such changes bring the non-conforming use into conformity with the Zoning Code; 302.020.1 - all structures must [meet or exceed] min. setback requirements; exceptions: ... setback requirements shall not apply to ... eaves [and] gutters, provided they do not project more than two (2) feet into a required yard setback; 302.020.2 - Min. setback requirements [for] all other lot lines [for] all other structures [is] 10 ft., the purpose of which is to: no purpose is provided for these ordinances.

The proposed variance is for: expanding the non-conforming use both vertically and horizontally. The vertical expansion is for construction of a master suite above the garage that will correct a design flaw in the original roof and eyebrow over the garage. The horizontal expansion is for construction of a new eyebrow/eave over the north side of the home. The existing foundation of the home is non-conforming because it extends at least three (3) feet into the side-yard setback; at seven (7) feet instead of the required ten (10). This non-conformance effects at least three (3) feet of the now completed 2nd story master suite above the garage and a now completed eyebrow/eave along the north side of the home.

This variance is in harmony with the purpose and intent of the specific Ordinance because: Master Suite Addition: no purpose is provided for the ordinance and the master suite is a reasonable addition and use of the house; Eyebrow Addition: would not be in harmony due to increasing a non-conforming use but for the fact that it breaks up the two story solid wall and is an aesthetic improvement.

#2: Would granting the variance be consistent with the comprehensive plan? YES

The Comprehensive Plan contains the following policies and goals regarding this request: Main Goals: #1) maintain residential nature of the community; Land Use Goals: #5) maintain a high quality and affordable residential environment, #6) ensure that all new housing conforms to the accepted standards of planning, design and construction, including standards that respect natural hydrology and unique physical features.

Granting the variance is consistent with the comprehensive plan because: the goals stated in the Comp Plan do not directly apply to this variance request.

#3: Practical Difficulties Test - STEP 1: are there unique circumstances to the property not created by the landowner? YES

There are circumstances unique to the property that would prevent compliance with the specific Ordinance because: Master Suite Addition: the existing house was built in a non-conforming way with the setback requirements. Eyebrow Addition: also has unique circumstances for the same reason. This eyebrow does increase the non-conformity but it breaks up the two story solid wall and is an aesthetic improvement.

#4: Practical Difficulties Test - STEP 2: would granting the variance allow the *essential character* of the locality to stay the same? **YES**

Granting the variance **will not** alter the essential character of the locality **because: Master Suite Addition: it is not out of scale, out of place, or otherwise inconsistent with the surrounding area. Eyebrow Addition: also will not alter for the same reasons and in fact will improve the essential character as it will break up the solid wall on the north side of the house.**

#5: Practical Difficulties Test - STEP 3: does the property owner propose to use the property in a *reasonable manner not permitted by the ordinance*? **YES**

The property owner **does** propose to use the property in a reasonable manner not permitted by the ordinance, given the purpose of the protections **because: Master Suite Addition: the purpose is a reasonable use - expansion of a living space above the garage is a reasonable use. But for the existing home being built non-conforming to the setback requirements, this addition would be permitted by the ordinance. Eyebrow Addition: also does for the same reasons. The eyebrow is additionally reasonable because it adds an aesthetic break to the solid wall on the north side of the house.**

What is your decision (Remember - ALL statutory criteria MUST be satisfied to approve)? **APPROVED**

MOTION WAS MADE BY COMMISSIONER WINTERS AND SECONDED BY COMMISSIONER HEGEDUS TO APPROVE THE VARIANCE IN WHOLE. ALL AYES. MOTION PASSED. (COMMISSIONER FELT WAS ABSENT).

REQUEST FOR VARIANCE

1. Date of Application: March 24, 2018

(Requests for variances submitted prior to the 15th of the month will be considered by the Planning Commission at its next meeting on the first Tuesday of the month. Requests submitted after the 15th will be considered at the following meeting. All final decisions on variance applicants are made by the city council, which meets on the second Tuesday of every month.)

2. Name of Applicant(s) Christopher & Mary Sorenson

Address 5 Oakridge Drive

City Birchwood Village

^{Cell} Business Phone 320-420-2207 Home Phone 651-262-1919

3. Address of Property Involved if different from above

4. Name of Property Owner(s) if different from above and describe applicant's interest in the property.

5. Specific Code Provision from which Variance is Requested. 301.050 ~ 302.020

6. Describe in narrative form what the applicant is proposing to do that requires a variance.

correcting a design flaw (shallow pitched roof meeting eyebrow over garage); adding a master suit above garage. New roof design will correct flaw and be 12" above the old roof. (per request of Sept. 1, 2017)

SIGNATURE OF APPLICANT(S) _____

Mary Sorenson

7. Type of Project

- New Construction (empty lot) _____
- Addition _____
- Demolition _____
- Landscaping _____
- Repair or removal of nonconforming structure _____
- Other (describe) remodel X

8. Type of Structure Involved

- addition over garage + eyebrow on the N side of garage*
- Single Dwelling X _____
 - Garage _____
 - Tennis Court _____
 - Grading/Filling _____
 - Double Dwelling _____
 - Addition _____
 - Pool _____
 - Other Accessory (describe) _____

9. Using the criteria in the city code for a variance (set forth in the attached sheet), explain why a variance is justified in this situation and describe what hardship would result from denial of the variance.

see attachments

10. Describe any measures the applicant is proposing to undertake if the variance is granted, including measures to decrease the amount of water draining from the property.

from the property gutters placed/routed into
drain tile to improve perc
into the soil

11. Describe any alternatives the applicant considered (if any) that do not require a variance.

any vertical/horizontal
construction to this structure
requires a variance. (non-conforming)

12. Can an emergency vehicle (Fire Truck or Ambulance) access all structures on the property after the proposed change? Yes No
13. Does the proposed change bring any other nonconforming use into conformity with the city building code? Yes No

If yes, explain _____

14. Are there other governmental regulations that apply to the proposed action, including requirements of the Rice Creek Watershed District? Yes No
If yes, please identify the regulations.

15. Please provide the applicable information in the following Table

	Existing	Proposed	Change
1. Total Square Footage of Lot	14,916		
2. Maximum impervious surface (25% of item 1)	3729		
3. Roof Surface	1980		
4. Sidewalks	128		
5. Driveways	1000		
6. Other impervious surface	3377		
7. Total of items 3-6	22.6%		
8. Percent impervious surface			

No Change

16. Please attach the following:
- a. Legal description of property
 - b. Plot Plan drawn to scale showing existing and proposed structures on the lot. Also show structures on adjacent lots.

Request for Variance regarding Birchwood Village Code 301.050

Christopher and Mary Sorenson – March 24, 2018

Variance Application Item #9 – *(explanations addressing the eyebrow have already been submitted and are also attached to this application)*

Addressing Birchwood Village Codes for the Addition to the Structure at 5 Oakridge Drive

- a. **Special conditions or circumstances** - All parties believed the structure met the set back code and a building permit was granted. The special condition/circumstance, which applies in this case, is that the side set back is roughly 7 feet on the north side of the house, not the current code standard of 10 feet.
- b. **The current situation, which requires a variance**, was not created by the current owners.
- c. **This variance allows for corrections of a design flaw** in the roof line, allowing for proper maintenance and preservation of the building. The roof decking and northeast corner of the garage was rotted from water penetration. A new roof design was needed with increased height and pitch.
- d. **A variance will not result** in an increase of water draining from the property.
- e. **The addition allows** for an adequate supply of light and air to adjacent neighbors and does not diminish or impair established property values within the surrounding area, It does it affect the public health, safety or welfare of city residents.
- f. **Does not apply**
- g. **Financial gain or loss.** Left unchanged this design flaw would continue to erode the structure. According to the Minnesota Statute, "Economic considerations alone do not constitute practical difficulties." We are unsure how this applies to us.

Addressing Minnesota DNR criteria AND Minnesota Statute 462.357

1. Harmony with the general purpose and intent of the ordinance. The ordinance allows for modifications/alterations for non-conforming structures.
- 2 The request is consistent with the city's comprehensive plan. Only the first item relates to this request. That item states, "Maintain the residential nature of the community." The structure will remain a single family dwelling.
- 3 See letters (a) and (d) from the Birchwood Village list of variance criteria above. To summarize, the structure has a pre-existing side set back of roughly 7 feet versus the current code set back of 10 feet. The current owners did not create the current circumstance. The current structure does not change the essential character of the locality.
- 4 Economic considerations – addressed in (g) above
- 5 The practical difficulties in this case are as follows. The set back is less than the current code standard and any vertical or horizontal construction to this non-conforming structure requires a variance according to Birchwood building code.

REQUEST FOR VARIANCE

1. Date of Application: March 5, 2018

(Requests for variances submitted prior to the 15th of the month will be considered by the Planning Commission at its next meeting on the first Tuesday of the month. Requests submitted after the 15th will be considered at the following meeting. All final decisions on variance applicants are made by the city council, which meets on the second Tuesday of every month.)

Submit
\$300.
Planning Committee
meets 4th Thurs.

2. Name of Applicant(s) Christopher & Mary Sorenson

Address 5 Oakridge Drive

City Birchwood Village Birchwood Ridge 1st Add Lot 18

Business Phone Chris' Cell 320.420-2207 Mary's Cell Home Phone 320.420.2206

3. Address of Property Involved if different from above

4. Name of Property Owner(s) if different from above and describe applicant's interest in the property.
owner

5. Specific Code Provision from which Variance is Requested. 301.050.1 & 302.020.1

6. Describe in narrative form what the applicant is proposing to do that requires a variance.

overhang along north side of home for protected handicap access to home.

SIGNATURE OF APPLICANT(S) [Signature]
Mary Sorenson

7. Type of Project

- New Construction (empty lot) _____
- Addition _____
- Demolition _____
- Landscaping _____
- Repair or removal of nonconforming structure _____
- Other (describe) _____
- overhang _____

8. Type of Structure Involved

- | | | | |
|-----------------|---------------------|----------------------------|-------|
| Single Dwelling | _____ | Double Dwelling | _____ |
| Garage | <u>✓ North face</u> | Addition | _____ |
| Tennis Court | _____ | Pool | _____ |
| Grading/Filling | _____ | Other Accessory (describe) | _____ |

9. Using the criteria in the city code for a variance (set forth in the attached sheet), explain why a variance is justified in this situation and describe what hardship would result from denial of the variance.

please see attached

10. Describe any measures the applicant is proposing to undertake if the variance is granted, including measures to decrease the amount of water draining from the property.

The overhang will be drained to a
downspout into a perforated drain
tile which percolates into the soil

11. Describe any alternatives the applicant considered (if any) that do not require a variance.

please see attached

12. Can an emergency vehicle (Fire Truck or Ambulance) access all structures on the property after the proposed change? Yes No
13. Does the proposed change bring any other nonconforming use into conformity with the city building code? Yes No

If yes, explain _____

14. Are there other governmental regulations that apply to the proposed action, including requirements of the Rice Creek Watershed District? Yes No
If yes, please identify the regulations.

15. Please provide the applicable information in the following Table

	Existing	Proposed	Change
1. Total Square Footage of Lot	14,916		
2. Maximum impervious surface (25% of item 1)	3729		
3. Roof Surface	1980		
4. Sidewalks	128		
5. Driveways	1000		
6. Other impervious surface	269		
7. Total of items 3-6	3377		
8. Percent impervious surface	22.6%		

No Change

16. Please attach the following:
- a. Legal description of property
 - b. Plot Plan drawn to scale showing existing and proposed structures on the lot. Also show structures on adjacent lots.

Eyebrow p.1

Variance Application

Christopher and Mary Sorenson

5 Oakridge Drive

Birchwood Village

Item#9 - Using Birchwood, MN 304.040.2 Criteria a-g

- a. Special conditions or circumstances exist which are peculiar to the land, structure, or building involved.
- b. The condition which result in the need for the variance were not created by the applicant's action or design solution. The applicant shall have the burden on proof for showing that no other reasonable design solution exists.
- c. The variance is proved necessary in order to secure for the applicant the right or rights that are enjoyed by other owners in the same area of the district.
- d. The granting of a variance will result in no increase in the amount of water draining from the property.
- e. Granting the variance will not impair an adequate supply of light and air to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the City.
- f. No variance shall be granted simply because there are no objections or because those who do not object out number those who do.
- g. Financial gain or loss by the applicant shall not be considered if reasonable use for the property exists under terms of the Zoning Code.

Addressing Birchwood MN 304.040.2

- a. Copied from DNR Point #1 - The ordinance is designed to allow existing structures that predate current set back guides to be used as intended before the changes, and to allow regulated improvement of structures as needed, ie. adding a pitched roof to a flat-roofed structure requires a variance from 301.050.1 (remodeling a structure which is non-conforming). This is a safe, managed method of allowing existing structures to be modified, not condemned and torn down. The eyebrow is a sound design feature in any application. It simply is being added to an existing home that is non-conforming with current set back rules. The house was built with a 7 foot set back; the current set back is 10 feet. The house was also built without a service door on the front of the garage.
- b. Copied from DNR Item #11 - The alternative to this eyebrow is a covered ramp on to the front entry. The stoop on the front would need to be expanded and the ramp would need to be quite long, extending (and perhaps zig-zagging) into the yard. The problem with a set back would exist there as well, in addition to the aesthetic, snow and ice issues and security issues mentioned in point # 3 of item 9. The other way that we could bring mobility impaired individuals into our house is to pull a car out and bring them through the overhead door. This is how we will have to do it if the variance is denied. Our mobility impaired family and friends don't like that much

attention. They simply will avoid stopping by, which is what happened.

Copied from DNR Point 3 - This variance is requested to ensure a safe, accessible entry to the home for those visiting in wheelchairs and walkers. An eyebrow is needed to keep ice off of the walkway which is the access point for those with mobility impairment. A ramp in the front of a house is very difficult to design aesthetically and is unwelcome by the mobility impaired individuals I know. Several have said that it makes them feel like an easy mark for thieves. A ramped front entry would be impossible to keep clear of ice and snow unless it were covered. The side entrance and small ramp in the garage is essential to allow mobility impaired family and friends access to the home and the back yard gathering spaces. This home happens to have been built with a shorter set back (7 feet, not 10 feet) than is currently the standard. There was no service door (or usable place for a service door) on the front of the house. The foundation is not being moved closer to the neighbor.

- c. The variance provides for safe, mobility impaired access to the house; a basic human right and one which is available in some homes in the neighborhood.
- d. There will be NO increase in the amount of water draining from the property. There is a French drain in place for the down spout. Additionally the original print showed 43 feet of eyebrow along the face of the building, which has been deleted. This eyebrow is 26 feet.
- e. Adding the eyebrow does not impair the neighbor's supply of light or air, does not diminish the neighbor's property value or impair the health, safety or welfare of the City residents.
- f. Requires no response
- g. There is no financial gain or loss.

Variance Application regarding eyebrow on north side of home.
Christopher and Mary Sorenson
5 Oakridge Drive
Birchwood Village

Item#9-

Five criteria are recommended by the Minnesota DNR when considering variances to shore land and flood plain usage. Though not directly related to this property, Mr. Lay suggested them as a good framework for our variance request.

1. Harmony with the general purpose and intent of the ordinance
2. Consistent with the comprehensive plan
3. Unique circumstances to the property not created by the landowner
4. Allow the essential character to remain the same
5. Use the property in a reasonable manner not permitted by the ordinance

Point 1. The ordinance is designed to allow existing structures that predate current set back guides to be used as intended before the changes, and to allow regulated improvement of structures as needed, ie. adding a pitched roof to a flat-roofed structure requires a variance from 301.050. This is a safe, managed method of allowing existing structures to be modified, not condemned and torn down. The overhang is a sound design feature in any application. It simply is being added to an existing home that is non-conforming with current set back rules.

Point 2. The 2010 Birchwood Village Comprehensive plan has 10 points.

1. Maintain the residential nature of the community
2. preserve natural woodlands and wetlands characteristics
3. maintain and improve municipal services
4. maintain the autonomy of Birchwood Village as a governmental agency
5. preserve existing traditions such as July 4th parade . . .
6. reduce energy usage by 1% year
7. regularly track and maintain all city property, structures and assets
8. increase volunteerism
9. increase communication of community happenings/projects

10.prepare for emergencies

Only the first item of the comprehensive plan relates to this variance request. As we considered our home purchase we had to consider handicap accessibility. Many homes in our community are not handicap accessible. We specifically chose this home because its lot, house design and parking allowed for handicap accessibility. We turned down at least 6 other homes in the area which could not be altered to accommodate a walker and a wheelchair. Handicapped individuals need access to homes in the Village. This community needs homes which are accessible to the mobility impaired. This variance fits the residential nature of the community.

Point 3. This variance is requested to ensure a safe, accessible entry to the home for those visiting in wheelchairs and walkers. An overhang is needed to keep ice off of the walkway which is the access point for those with mobility impairment. A ramp in the front of a house is very difficult to design aesthetically and is unwelcome by the mobility impaired individuals I know. Several have said that it makes them feel like an easy mark for thieves. A ramped front entry would be impossible to keep clear of ice and snow unless it were covered. The side entrance and small ramp in the garage is essential to allow mobility impaired family and friends access to the home and the back yard gathering spaces. This home happens to have been built with a shorter set back than is currently the standard. The foundation is not being moved closer to the neighbor.

Point 4. The overhand preserves the essential character of this fine 1965 home.

Point 5. The overhang is a reasonable accommodation for handicap guests or residents to the home. The variance is reasonable.

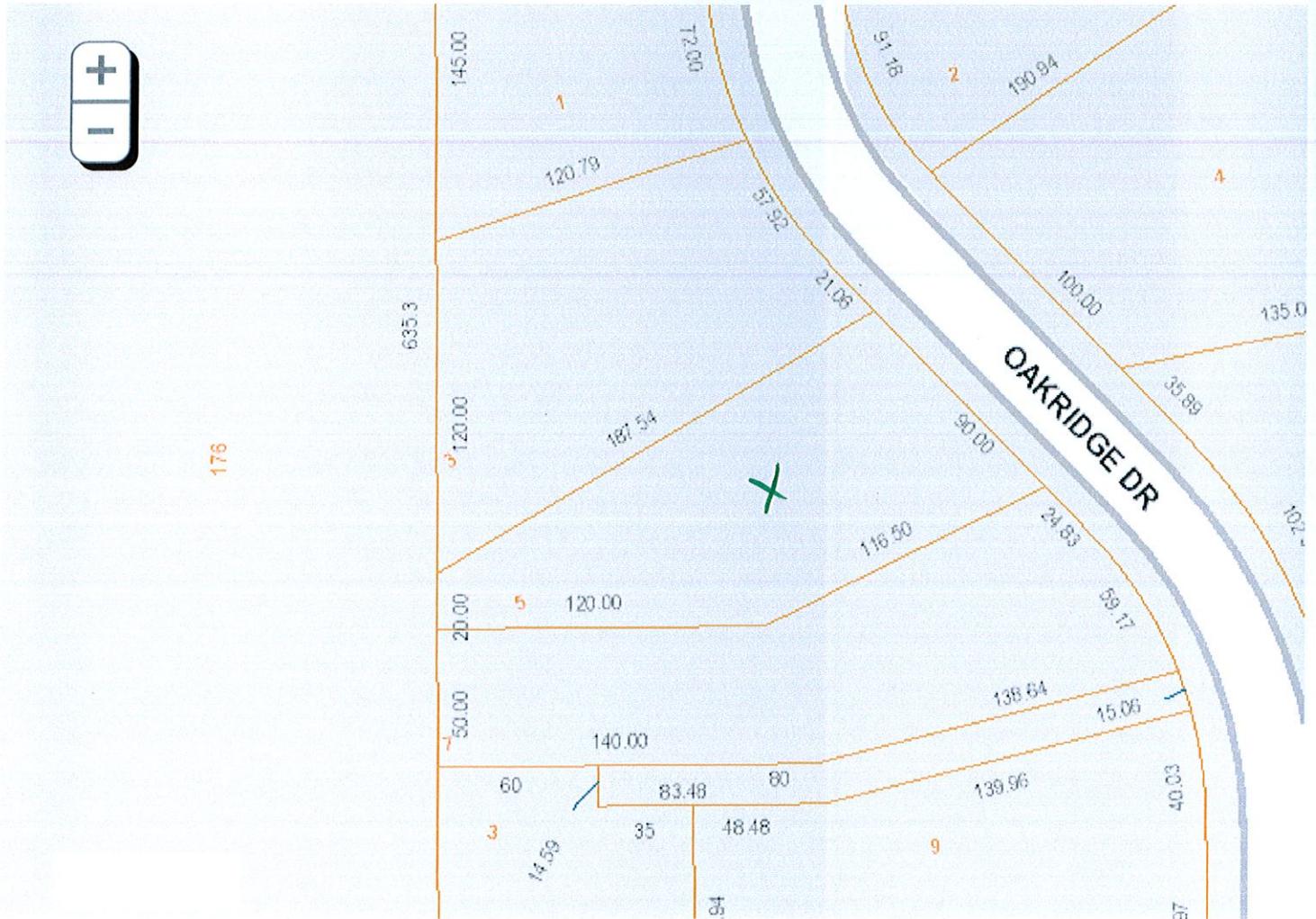
Item #11

The alternative to this overhang is a covered ramp on to the front entry. The stoop on the front would need to be expanded and the ramp would need to be quite long, extending into the yard. The problem with a set back would exist there as well, in addition to the aesthetic, snow and ice issues and security issues mentioned in point # 3 of item 9.

The other way that we could bring mobility impaired individuals into our house is to pull a car out and bring them through the overhead door. This is how we will have to do it if the variance is denied. Our mobility impaired family and friends don't like that much attention. They simply will avoid stopping by.



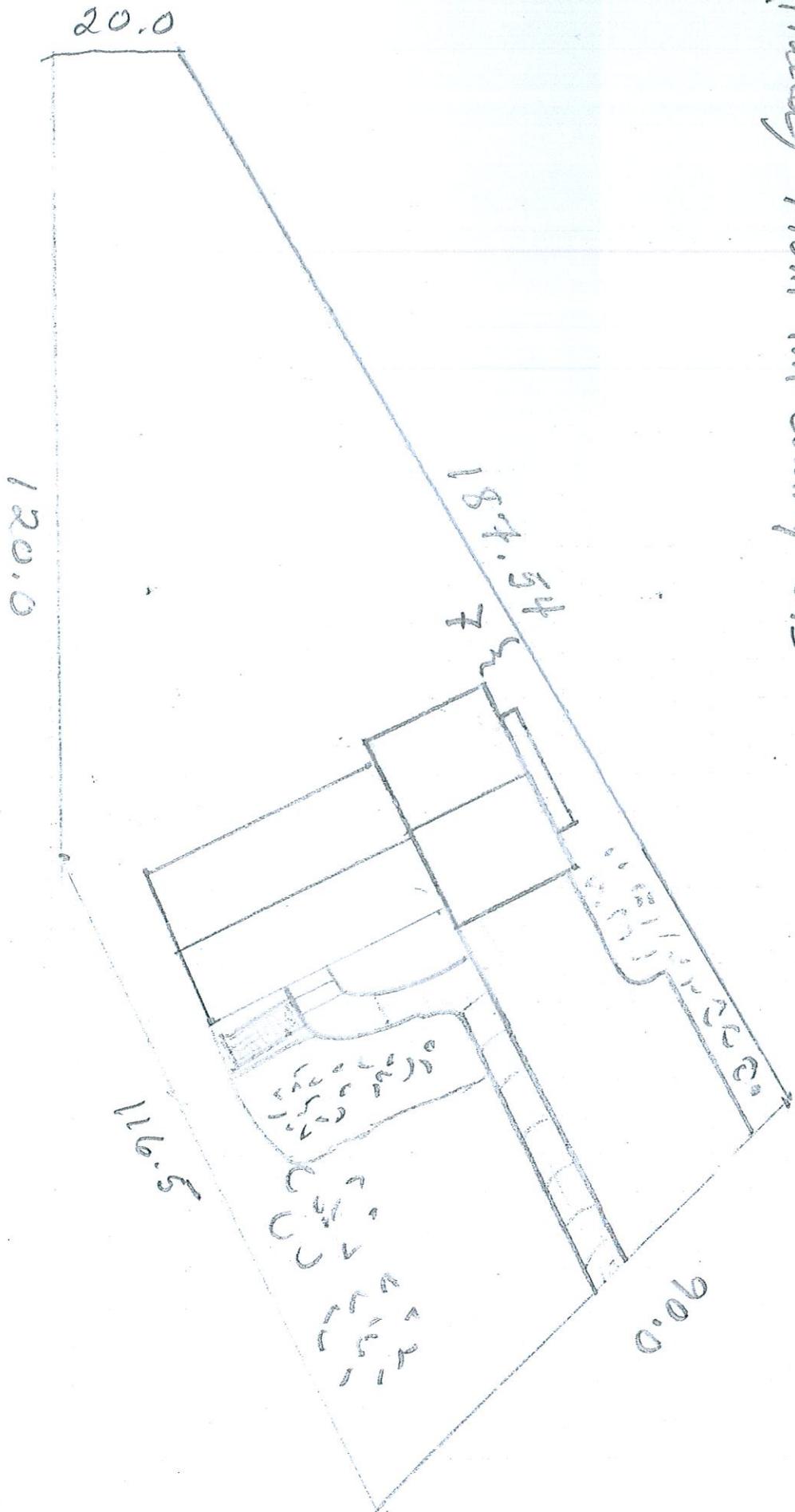
Property Viewer



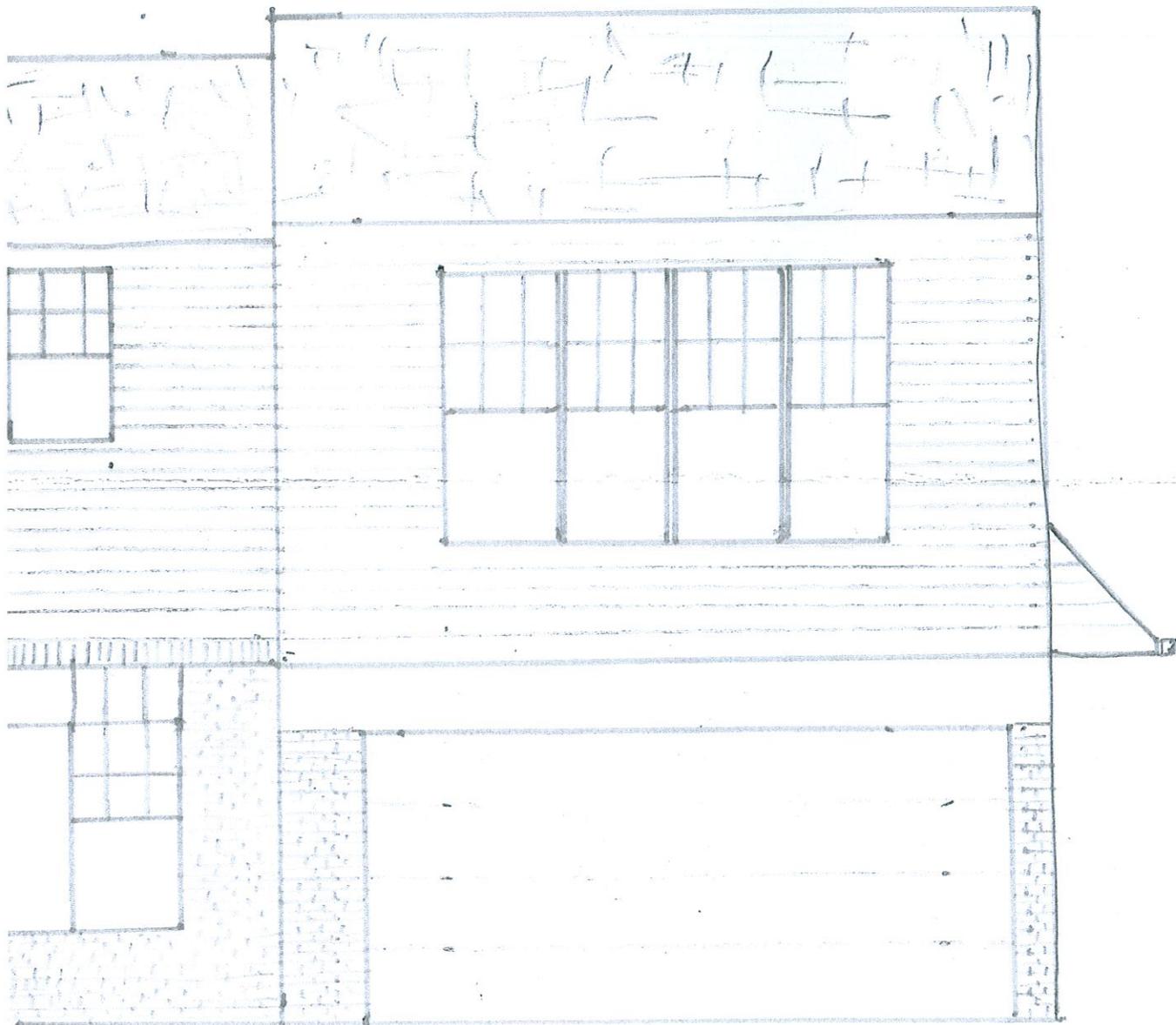
Legal Description: Birchwood Ridge 1st Add. Lot 18



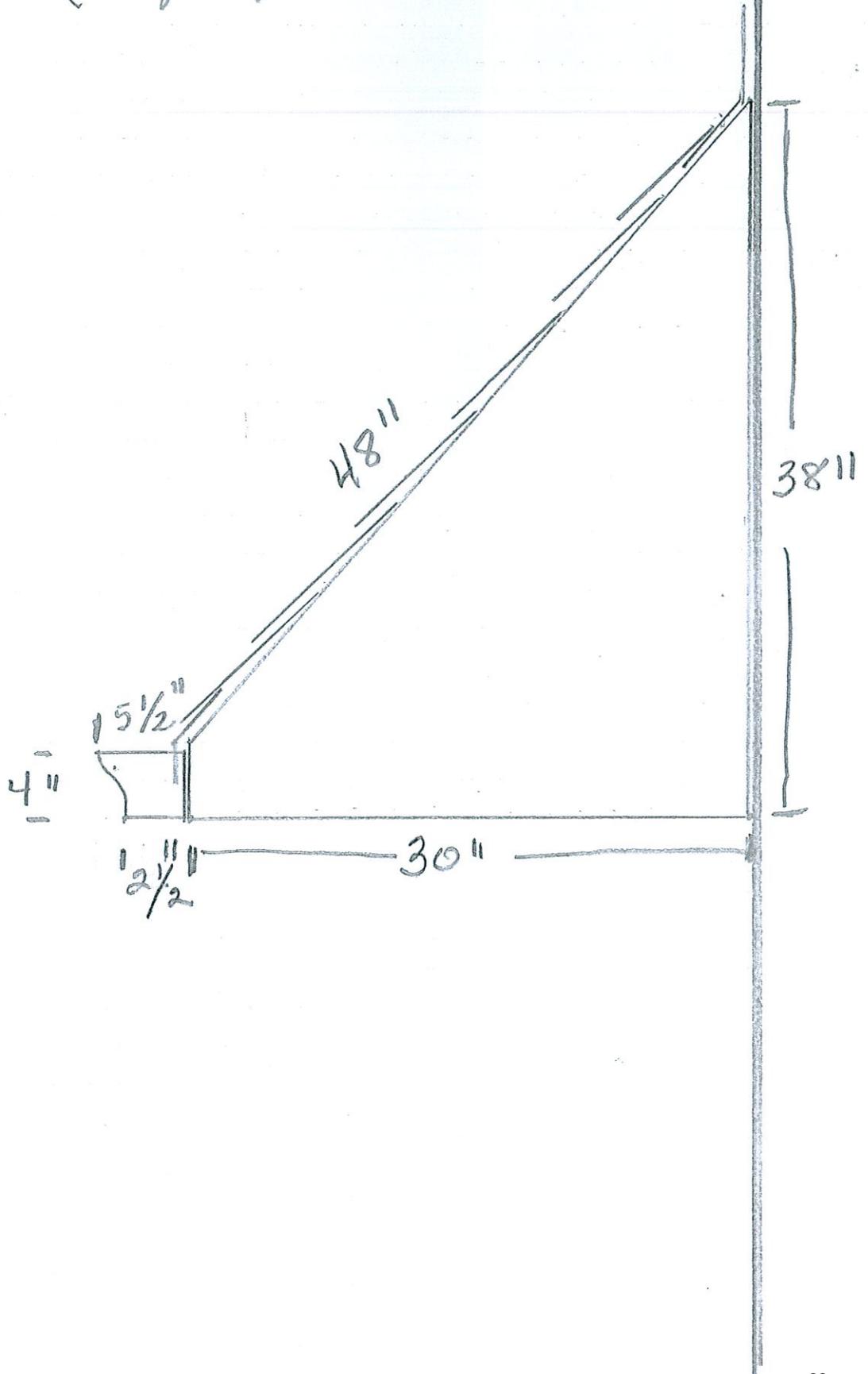
5 Oakridge Drive
Parcel ID # 30030230021
(Traced) From WA County GIS



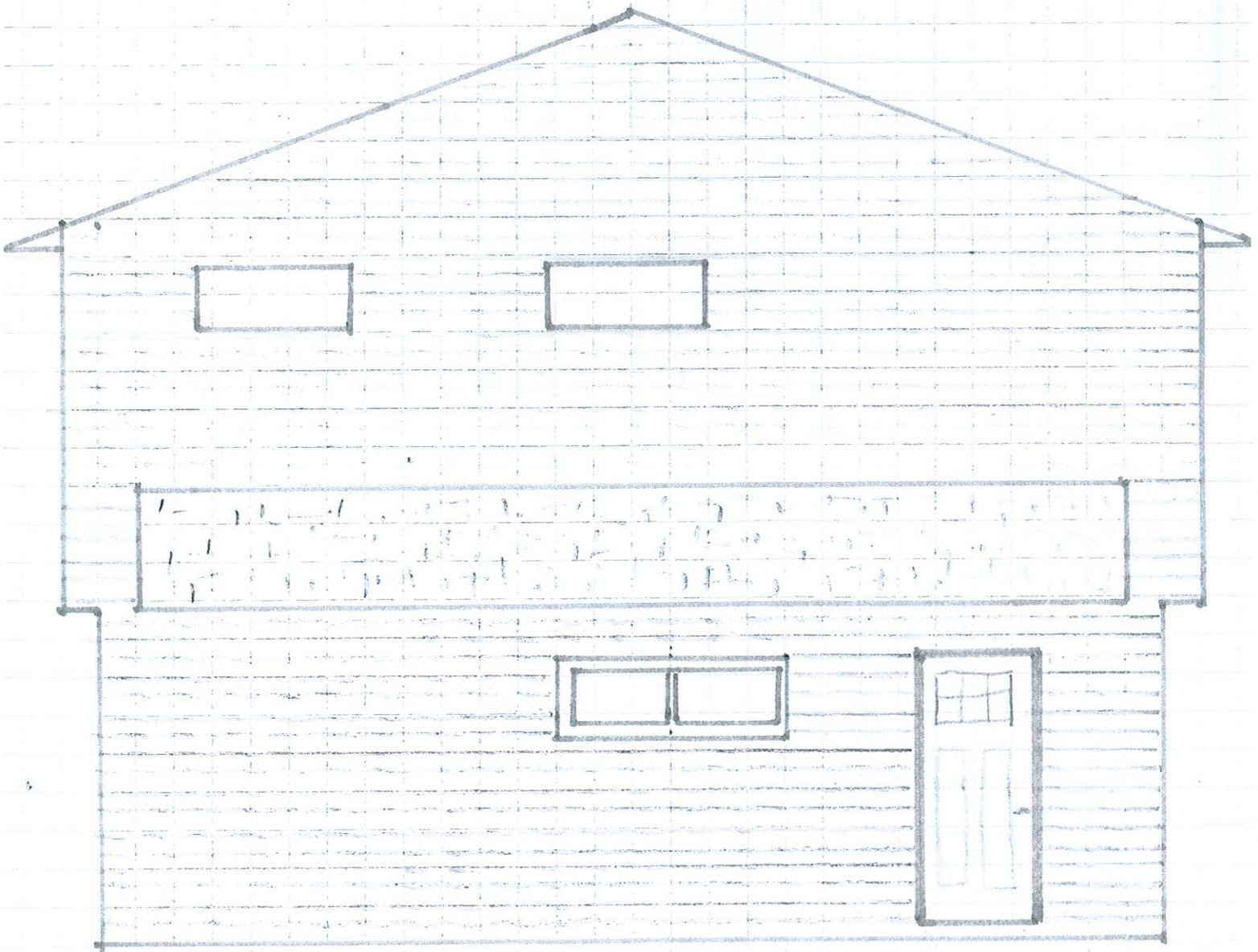
1 f+ = □



2" = □ (1 square)



1 foot = \square (1 square)



Tobin Lay

From: Trilby White [councilmembertrilby@gmail.com]
Sent: Thursday, March 22, 2018 12:37 AM
To: Tobin Lay
Cc: Douglas Danks
Subject: 5 Oakridge Variance Recusal

Dear Tobin and Doug,

Just want to let you know of my intention with respect to my official role in regard to this variance request.

Because the request before the Committee affects my property, and being a liaison to this committee and Councilperson. it is my intention to recuse myself from any deliberation/vote in consideration of the variance before the council.

Please note this does not exclude me from making a statement as to our personal interest/concerns as an affected adjacent property owner.

Tobin, please forward this to the interested parties.

Sincerely,

Trilby White
651-260-1917

Tobin Lay

From: Trilby White <councilmembertrilby@gmail.com>
Sent: Thursday, March 29, 2018 2:46 PM
To: Tobin Lay; Douglas Danks
Cc: Lisa@2grrrls.com; trilby.white@2grrrls.com; chrisleesorenson@gmail.com
Subject: Sorenson Variance Request Agreement
Attachments: Final Variance Response.docx

Hi Tobin,

The Sorensens and Lisa and I have agreed to the terms set out in the attached letter and will not object to their variance requests, providing the Building Commission can review and approve our upcoming request for a fence variance.

If I'm missing something, please let me know. Otherwise, please forward this to the concerned parties.
Thanks tons,

Trilby

Response to Variance Request at 5 Oakridge Dr

Lisa Rietveld & Trilby White, 3 Oakridge Dr.

Dear Commissioners,

Thank you for bringing this to our attention. We appreciate the opportunity to share our feedback. It is unfortunate that we are all in this position. Our concerns are in no way intended to offend or be taken personally. We've enjoyed a friendly relationship with Sorenson and their children and extended family for six years.

However, we are concerned that the plans for this extensive renovation DID NOT include a variance request for this structure at the time of initial review/approval, especially with the request stating they had planned for this type of access when they purchased this specific home.

We would like the commission consider how approving this variance impacts us and future property owners:

- 1 The immediate proximity of the overhang to our driveway encroaches on our privacy by creating an active pedestrian/utility area where adequate space is not provided and never intended
- 2 Runoff is increased where there is already inadequate drainage due to street elevation
- 4 Snow removal from the walkway onto our property compresses the natural snow cover in the swale between our homes that serves to drain spring melt and rain. The grade from our back yard to street has been reduced to a few degrees due to years of street overlay.
- 3 The variance does not realize any significant benefit over code. The distance required to travel "unsheltered" is essentially equal from a car in the driveway to either entrance
- 4 A variance should NOT be utilized to reduce the "aesthetic" impact on the applicants' property when it adversely affects the adjoining property.
- 5 A variance should NOT be granted for the occasional convenience of the applicant ("having to move a car"), when it impacts to adjacent property owners
- 6 This variance application does NOT having any detail of the intended access, leaving us with considerable concerns that this area. While that would not override our concerns, there's no indication of how it will be used and will they be building and/or storing a make shift ramp on the side of applicants garage to keep it out of their front yard
- 7 Approval will require us to erect fence at considerable cost to us, that will require a height and density variance to protect the functionality of the swale between our home due to snow removal and traffic as well to restore privacy to an active area of our property used daily by us and future homeowners.

Thank you for your consideration.
Trilby and Lisa





SECTION 301. ZONING CODE: GENERAL PROVISIONS

301.050. NON-CONFORMING USES. A non-conforming use may be continued so long as it remains otherwise lawful, subject to the provisions of paragraphs (1) through (7) below, in order to ensure that the non-conforming use will not be intensified and that, over time, the non-conforming use will, where possible, be brought into conformity with the Zoning Code.

1. A non-conforming use shall not be enlarged, modified, changed, extended (either horizontally or vertically) or structurally altered, unless such changes bring the non-conforming use into conformity with the Zoning Code. (Exception: A non-conforming use, lawfully located within 60% of all required setbacks, may be structurally altered if the alterations do not change the horizontal or vertical dimensions of the structure and otherwise conform to the Zoning Code.)

2. A non-conforming use shall not be moved to any other part of the parcel of land upon which the same was constructed unless the move would bring the structure and its use into conformity with the Zoning Code.

3. If a non-conforming use is damaged or destroyed to an extent of 50% or more of its replacement cost for any reason (including remodeling or rebuilding), according to the estimate of the building inspector as approved by the City Council, any reconstruction must conform to the provisions of the Zoning Code. (Exception: If the non-conforming use that is to be reconstructed came into being as the result of a previously granted variance, the Council, after review, may continue the variance if the owner demonstrates that the conditions under which that variance was granted continue to exist.)

4. Normal maintenance of a structure that represents a non-conforming use is permitted, including necessary non structural repairs and incidental alterations which do not physically extend or intensify the non-conforming use.

5. Notwithstanding paragraph (1) above, a structure representing a non-conforming use may be expanded, provided:

a. That such expansion does not increase the non-conformity in any dimension (vertical or horizontal), does not create a new non-conforming use, and in itself conforms with the Zoning Code; and

b. The sum of the setbacks on either side of the structure is not LESS than 20 feet.

6. When any non conforming use of land or of a building or structure shall be abandoned or discontinued for a period in excess of one year, such land, building, or structure shall thereafter be used only as allowed by this Code.

7. No provision of this section shall be interpreted as negating the provisions of 302.015 (Undersized Lots).

301.055. PROVISION FOR VARIANCES. Where enforcement of the strict provisions of the Zoning Code would cause undue hardship a variance may be granted to allow deviation from the requirements, in accordance with Minnesota Statutes, Chapter 462. (See Section 304. VARIANCES AND APPEALS.)

SECTION 302. ZONING CODE: REQUIREMENTS AND PERFORMANCE STANDARDS

302.020 STRUCTURE LOCATION REQUIREMENTS

1. GENERAL REQUIREMENTS. All structures must be located so that minimum setback requirements are met or exceeded. All measurements (in feet) as set forth below shall be determined by measuring from the foundation of the appropriate structure perpendicular to the appropriate lot line.

Exceptions: Front, back, side street and other lot line setback requirements shall not apply to chimneys, flues, belt courses, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like, provided they do not project more than two (2) feet into a required yard setback.

2. MINIMUM SETBACK REQUIREMENTS:

	<u>TYPE OF STRUCTURE</u>		
	<u>Fences</u>	<u>Driveways & Walkways</u>	<u>All Other Structures</u>
Lot line or Land Boundary			
Municipal Street Front, Back, and Side	20 ft.	0	40 ft.
County Road Front, Back, and Side	20 ft.	0	50 ft.
Ordinary High Water Level of Lost Lake	75 ft.	75 ft.	75 ft.
Ordinary High Water Level of White Bear Lake, Hall's Marsh, and other wetlands	50 ft.	50 ft.	50 ft.
All Other Lot Lines	0 ft.	1 ft.	10 ft.

A COMPREHENSIVE PLAN FOR BIRCHWOOD VILLAGE

I. INTRODUCTION

A. Location and Historical Setting

The City of Birchwood Village is a small community of single family homes situated on the south shore of White Bear Lake (Figure 1). It is approximately 214 acres in size and at the end of 2000 had an estimated population of 968.

By Municipal Code, there are no retail or commercial activities in the community. Convenient access to these activities is available in the neighboring communities of White Bear Lake, Mahtomedi, Willernie and White Bear Township.

First incorporated as a Village in the year 1921, a subsequent act of the State Legislature converted the "Village" to a "City of the Fourth Class." Residents felt, however, that the term "Village" was so much a part of the community that it was amended to "Birchwood Village, a City of the Fourth Class." In this comprehensive plan, the names Birchwood Village, Birchwood, and the Village all have the same meaning and are used interchangeably.

Birchwood first developed as a community of summer recreation cottages built by residents of the Saint Paul area in early 1900's. Initial subdivisions were along the lakeshore, and this area is now characterized by a potpourri of old homes that have been extensively remodeled, and new homes where the original structure has been demolished. The newer subdivisions away from the lake have larger lots and are more homogeneous in appearance but have retained the flavor of the Village by preserving the natural features of the area.

The community was at one time served by the Twin City Lines streetcar which passed through the Village on its way from Saint Paul to White Bear Lake and Mahtomedi. The significant difference in lot sizes between the older and newer areas of the community, reflect the influence of changes in transportation modes.

There are no historic resources and properties within the community of Birchwood. The City will create a policy of preservation should any resources or properties be named historic.

B. Governmental Structure

Birchwood Village is a City of the Fourth Class, with a City Council form of government. Elected at large, the City Council consists of the Mayor and four council members. Each has ongoing responsibilities between meetings.

The City has two part-time employees, the city clerk and a treasurer. The elected officials, appointed officials and other residents provide many volunteer hours to the City to perform needed services.

Some municipal services such as sewer maintenance, police and fire protection, and building inspections/planning are contracted primarily from the City of White Bear Lake.

A Planning Commission advises the City Council on land use matters, variances and changes in ordinances. Currently, residents seeking a variance present their application and plans to the White Bear Planning Department. Their review is forwarded to the Planning Commission for review and recommendation to the City Council. The Council often asks the Planning Commission to review proposed ordinances and make recommendations to the Council.

The following policy guidelines establish what the community desires to achieve.

Goals:

1. Maintain residential nature of the community.
2. Preserve natural woodlands and wetlands characteristics.
3. Maintain and improve municipal services to insure the health, safety and general well being of Birchwood residents.
4. Maintain the autonomy of Birchwood Village as governmental entity.

5. Preserve existing traditions such as the July 4th parade, plant exchange, and village-wide garage sale.
6. Reduce energy usage by 1% per year.
7. Regularly track and maintain all city property, structures and assets.
8. Increase voluntarism in Birchwood.
9. Increase communication of community happenings and projects.
10. Prepare for emergencies.

It is apparent from the goals that evolved for the last three Comp Plans and this plan that the residents like what they have and have little or no desire for a change. This comprehensive plan endeavors to preserve the governmental, and environmental, traditions and characteristics of the City of Birchwood Village.

C. Demographic Characteristics

The number of households in the City has increased only 10% in the past 28 years from 326 in 1980 to 357 in 2000. The new construction in the City has been teardown homes replaced by new construction. During this same period, the population has decreased 9% from 1059 in 1980 to 968 in 2000. The Metropolitan Council forecasts an increase of 13 households by the year 2020 to 370, but a continued decrease in population. The decrease in the population is based upon the assumption that, according to recent demographic trends, the average persons-per-household will gradually decrease in developed communities composed predominantly of single-family housing. Since Birchwood has few remaining vacant lots available for building purposes, the projected increase in households for the years 2010 and 2020 are probably inaccurate. The City anticipates no additional households through 2020.

The Metropolitan Council projects a slow decrease in the population of Birchwood to 950 in 2010 and stabilizing at 930 through 2030. The Metropolitan Council also sees the number of households stabilizing at 370 through 2030.

The City of Birchwood Village will face problems in the next decade adjusting to a slowly aging population. Some issues we face might include: an increased need for public services; residents leaving during the winter months which will leave vacant homes; fewer volunteers to help out; a decreased use of the parks because there will be fewer children; and a greater need to make facilities handicapped accessible. An additional issue might be the number of residents living on fixed incomes; this will cause problems (for residents) when the City needs to finance infrastructure repairs, upgrades or replacements.

Another demographic trend is the increased income disparity between members of Birchwood. As the homes on White Bear Lake become more and more expensive, only the wealthy will be able to afford to live on the lake. The increased value will squeeze out many of the traditional summer cottages and residents with lower incomes. Also, as (all) property becomes more and more valuable, and our residents age, their disposable income will stabilize or decrease, but their property taxes will increase. This will become one more factor which might squeeze our long-time older residents out of their homes.

D. Employment

The City prohibits commercial and industrial development. The City employs two part-time employees and several seasonal, part-time park and recreation employees. Residents may have a business in their home under certain restrictive conditions.

II. LAND USE PLAN

A. Policy Guidelines

The following policy guidelines establish what the community desires to achieve.

1. Maintain the existing character of the community through the orderly growth of remaining buildable land.
2. Prohibit the development of commercial, industrial and high density residential uses.

3. Prohibit development on wetlands and other natural features that perform important protective functions in their natural state.
4. Eliminate all evidences of environmental blight, including but not limited to blighted housing and water pollution through strict enforcement of the municipal code.
5. Maintain a high quality and affordable residential environment.
6. Ensure that all new housing conforms to the accepted standards of planning, design and construction, including standards that respect natural hydrology and unique physical features.
7. Require that the protection of wetlands and lakeshore be an integral part of land development.
8. Avoid the removal of healthy trees. Where removal is unavoidable, replanting shall be required one for one.
9. Prevent alteration which would inhibit the role of wetlands, lakeshore or open space in the hydrologic system or an ecological system.

The primary intent of the land use policy guidelines is to foster, improve and preserve the existing character of the community. The zoning ordinance encourages maintaining present use in developed areas. Since the community is situated on White Bear Lake, Halls Marsh and Lost Lake, the zoning ordinance includes the necessary regulation to manage shoreline and wetlands. New development or rehabilitation is encouraged to preserve as many natural features as possible.

B. Natural Resources

Birchwood is basically rolling and hilly. Slopes gradually increase in percent of grade as the land rises away from White Bear Lake. At the highest elevation the lake flows out at the north end toward Bald Eagle Lake. The terrain elevation rises to a height of over 1,010 feet at the west and south boundaries of Birchwood where it then levels out to a plateau. As the terrain rises there are slopes of 15% - 24%. Most areas have slopes that are no more than 12% - 15%. A 12% slope is considered erodible if the natural vegetation and ground cover is removed.

Tighe-Schmitz Park is an extremely low area. Before it was filled in, it was described as a bog, wetland and swamp. It was filled in during the 1950's. When there are large amounts of rain, this park serves as a holding area for excess water. Part of the park is being used as a permanent rain garden. This garden needs yearly nurturing.

The City has also constructed a rain garden on the Birch Easement. This rain garden compliments the natural outflow of water into the lake. This rain garden needs yearly nurturing.

The native soils are predominantly various types of sand. Close to the lake, the Kingsly fine sandy loam predominates. It is considered to have a slight degree of limitation for building. Some erosion hazard is evident on steeper slopes. The outcrop of rock that goes through here is called the Birchwood Outcrop.

The south-central portion of the City contains Pemroy loamy fine sand. This soil type presents a severe erosion hazard when found on slopes greater than 12%, which are found in that area. This soil also tends to be rather impermeable.

Detailed information on surface soil types is available from the Washington County Soil and Water Conservation District. Some ledge rock is encountered at scattered locations throughout the City of Birchwood Village.

Aquatic vegetation is found in the marsh areas. Land that was once open farmland in the southwest area now has a variety of trees as part of the landscaping.

Birchwood is extensively wooded and it appears most of the trees are of the Oak - Maple and Oak groups. Concern is expressed for the Oak - Elm groups of trees in that there appears to be no effective solution to Oak Wilt and Dutch Elm Disease which have infected area trees. Concern is also expressed for the loss of trees and tree limbs due to either inclement weather or aging of the city tree stock. Another major issue is the invasive species, buckthorn. Because this species is so invasive, the Washington County Sentence to Service crews spend several weekends every year cutting buckthorn. While Sentence to Service is free, the City must spend money disposing of the wood.

Another invasive species is purple loosestrife. This plant has replaced many native species (and animals) in Halls Marsh. There is no easy answer to eradicating this plant. The City is working with several volunteers and organizations to remove this plant.

White Bear Lake itself is probably the community's most valuable natural resource, providing recreational activities both summer and winter, and acting as an effective moderator of ambient temperatures. The sloping terrain toward the lake provides many homes with sweeping vistas of open space. The City and the citizens of Birchwood should be cognizant of this resource when applying chemicals.

C. Development Concept

The City of Birchwood is designated as a "developed community" geographic planning area in the *2030 Regional Development Framework*. The development concept of Birchwood Village is entirely residential. Relevant official controls for land planning are summarized in the Implementation Chapter. No retail or commercial business activities are permitted, save a few professionals who office out of their private homes in a manner that generates minimal vehicular traffic. Birchwood ordinances permit duplex dwellings. Several existing parcels contain more than one dwelling; these parcels do not conform to the zoning ordinance. Seven parcels have two dwelling units.

Figure II illustrates the extent to which Birchwood is currently developed. The city has 421 tax parcels. Remaining large parcels could be subdivided into about an additional 18 buildable parcels. In terms of land development potential, Birchwood is over 95% developed.

D. Housing Plan

The City is not part of the state's subsidized allocation plan. If we need help preserving the housing we have we would work with other government entities.

Housing Principles

The City of Birchwood Village supports:

1. A balanced housing supply, with housing available for people at all income levels.
2. The accommodation of all racial and ethnic groups in purchase, sale, rental, and location of housing within the community.
3. A variety of housing types for people in all stages of the life cycle.
4. A community of well-maintained housing and neighborhoods.

Housing Goals

General housing goals include the continued maintenance of all dwelling units in a habitable and presentable condition. This is currently achieved on an ongoing basis within the framework of the municipal code.

The City of Birchwood Village proposes to:

1. Maintain its current level of housing affordability - as best it can, given potential market forces on a completely developed city adjoining White Bear Lake.
2. Maintain its single family detached housing density.

There are few housing rehabilitation opportunities in the City, and subsidized rehabilitation activity is unlikely. A reason for this is the willingness of property owners to invest private money in making housing improvements.

Housing Supply - Current Housing Stock

The City of Birchwood Village is a small community located on the south shores of White Bear Lake within Washington County and has a population of 968 people. The City's housing consists mainly of single family homes,

with no vacant land remaining for further development. Any new housing construction will result through possible division of existing lots or through replacement of existing structures.

In general, the housing stock is good, but because most of the units are older, maintenance and rehabilitation is of great concern. Thirty-seven percent of Birchwood's housing was built before 1939, and 53% between 1940 and 1979. Of these, 82% of Birchwood's housing units are owner occupied and 18% are renter occupied, with a vacancy rate of 4%. Seventy percent of the housing units in Birchwood are valued between \$ 100,000 and \$250,000 not including the land.

In Birchwood, housing stock is affordable and meets the life cycle housing definition. These homes can be purchased and improved within a reasonable budget for moderate to upper income families. Most families residing within the City fall into the moderate income range.

Housing Implementation Program

To implement its housing goals, the City of Birchwood will investigate the following housing assistance, housing development, and housing rehabilitation/redevelopment programs.

Housing Assistance Programs

- *Metro HRA rental assistance program.
- *Mortgage assistance and below-market-rate home mortgage loans.
- *First-time home buyer programs.

Housing Maintenance, Rehabilitation and Redevelopment Programs

- *Home ownership rehabilitation, home improvement, and energy-efficient local programs.
- *Housing rehabilitation programs funded locally.
- *Twin Cities Habitat for Humanity
- *Section 202 (federal) for development of elderly housing.
- *Family Housing Fund
- *Community Clean-Up Days

Due to the physical limitations resulting from no remaining land available for residential development in the City, Birchwood could also consider a collaborative effort with surrounding communities for a "cluster" plan supported by the Livable Communities Act.

Local Official Controls and Approvals

The local zoning and subdivision ordinances in Birchwood do not presently conflict with the City's goals to provide affordable housing to low income families or the elderly. As conflicts become known through the approval process, local codes would be reviewed and revised as needed by the City Council at that point in time.

Tables 1-10 illustrate statistics relating to Birchwood's housing and residents.

E. Surface Water Management

The City is responsible for developing standards that prevent or mitigate pollutants as a result of development, new construction, remodeling or re-development. All new development, new construction, remodeling or re-development must conform to the National Urban Runoff Standards (NURP) standards, NPDES-SWPPP and the Minnesota Pollution Control Agency's best management practices for erosion and sedimentation control.

Subd. 6. Appeals and adjustments. Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the zoning ordinance. The board of appeals and adjustments has the following powers with respect to the zoning ordinance:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.

(2) To hear requests for variances from the requirements of the zoning ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section [216C.06, subdivision 14](#), when in harmony with the ordinance. The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

Subd. 6a. Normal residential surroundings for persons with disabilities. It is the policy of this state that persons with disabilities should not be excluded by municipal zoning ordinances or other land use regulations from the benefits of normal residential surroundings. For purposes of subdivisions 6a through 9, "person" has the meaning given in section [245A.02, subdivision 11](#).

Subd. 7. Permitted single family use. A state licensed residential facility or a housing with services establishment registered under chapter 144D serving six or fewer persons, a licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under Minnesota Rules, parts [9502.0315](#) to [9502.0445](#) to serve 14 or fewer children shall be considered a permitted single family residential use of property for the purposes of zoning, except that a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use.

Subd. 8. Permitted multifamily use. Except as otherwise provided in subdivision 7 or in any town, municipal or county zoning regulation as authorized by this subdivision, a state licensed residential facility serving from 7 through 16 persons or a licensed day care facility serving from 13 through 16 persons shall be considered a permitted multifamily residential use of property for purposes of zoning. A township, municipal or county zoning authority may require a conditional use or special use permit in order to assure proper maintenance and operation of a facility, provided that no conditions shall be imposed on the facility which are more restrictive than those imposed on other conditional uses or special uses of residential property in the same zones, unless the additional conditions are necessary to protect the health and safety of the residents of the residential facility. Nothing herein shall be construed to exclude or prohibit residential or day care facilities from single family zones if otherwise permitted by a local zoning regulation.

Subd. 9. Development goals and objectives. In adopting official controls after July 1, 2008, in a municipality outside the metropolitan area, as defined by section [473.121](#), subdivision 2, the municipality shall consider restricting new residential, commercial, and industrial development so that the new development takes place in areas subject to the following goals and objectives:

304. ZONING CODE: VARIANCES AND APPEALS

304.010. BOARD OF APPEALS. The Planning Commission is hereby established as the Board of Appeals (Board). When acting as the Board, the Planning Commission will have the power to hear and advise the Council on the following matters:

1. Requests for variances from the literal provisions of the Zoning Code; and
2. Appeals in which it is alleged that there is an error in any administrative order, requirement, decision or determination made in the interpretation or enforcement of the Zoning Code.

304.020. PETITIONS FOR VARIANCES. The owner or owners of land to which the variance relates may file a petition for a variance with the Clerk. The petition shall be made on forms provided by the City Clerk. The petition shall be accompanied by plans described below and by all required fees. The City may require the petitioner to submit a certificate by a registered professional land surveyor verifying the location of all buildings, setbacks and building coverage, and certifying other facts that in the opinion of the City are necessary for evaluation of the petition.

304.030. APPEALS OF ADMINISTRATIVE DECISIONS. A person who deems himself aggrieved by an alleged error in any order, requirement, decision or determination made in the interpretation and enforcement of this ordinance, may appeal to the Board by filing a written appeal with the City Clerk within 30 days after the date of such order, requirement, decision or determination. The appeal shall fully state the order to be appealed and the relevant facts of the matter.

304.040. VARIANCE REQUIREMENTS AND CRITERIA. Petitions for Variances must include all Required Information and demonstrate that Criteria for each Variance are met.

1. Required Information.

- a. Legal description and address of parcel. Name, address, and phone number of applicant (and of the owner if owner is not the applicant).
- b. Plot plan drawn to scale. Elevation contour lines may be required.
- c. Plan showing existing and proposed new and changed structures on the lot. Existing structures on adjacent lots must also be shown.
- d. Evidence demonstrating compliance with the Rice Creek Watershed District's and other Governmental Units' regulations may be required. (See Section 303.040.)

2. Criteria for Granting a Variance. Variances may only be granted in Minnesota Statutes, Chapter 462.

Variances to the strict application of the provisions of the Code may be granted, however, no variance may be granted that would allow any use that is prohibited within the City. Conditions and safeguards may be imposed on the variances so granted. A variance shall not be granted unless the following criteria are met:

- a. Special conditions or circumstances exist which are peculiar to the land, structure, or building involved.
- b. The condition which result in the need for the variance were not created by the applicant's action or design solution. The applicant shall have the burden of proof for showing that no other reasonable design solution exists.
- c. The variance is proved necessary in order to secure for the applicant the right or rights that are enjoyed by other owners in the same area of the district.
- d. The granting of a variance will result in no increase in the amount of water draining from the property.
- e. Granting the variance will not impair an adequate supply of light and air to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the City.
- f. No variance shall be granted simply because there are no objections or because those who do not object out number those who do.
- g. Financial gain or loss by the applicant shall not be considered if reasonable use for the property exists under terms of the Zoning Code.

"AMENDED BY ORDINANCE 2005-1; APRIL 12, 2005."

304.050. HEARING AND RECOMMENDATION BY THE BOARD.

1. Within 60 days after the City Clerk determines that a variance petition is complete, and all required fees and information, including plans, drawings and surveys, have been received, or within 60 days after the filing of an appeal of an administrative decision, the Board shall conduct a public hearing and after hearing the oral and written views of all interested persons, the Board shall make its recommendation by a majority vote at the same meeting or at a specified future meeting thereof.

304.060. NOTICE OF HEARINGS.

1. Notice of variance hearings shall be mailed not less than ten (10) days before the date of the hearing to the person who filed the petition for variance, to the Minnesota Department of Natural Resources, and to each owner of property situated wholly or partially within 200 feet of the property lines to which the variance relates.

2. A notice of hearing for appeals of administrative decisions shall be published in the official newspaper of the City not less than ten days before the hearing. A notice shall also be mailed to the appellant.

3. No new notice need be given for any hearing which is continued by the Board to a specified future date.

304.070. FINAL DECISION. The Council shall decide all petitions for variance and appeals. The decision shall be made not later than 30 days after the date of the hearing. .

304.080. FORM OF ACTION TAKEN AND RECORD THEREOF. The Council shall maintain a record of its proceedings relative to the petition for variance or appeal which shall include the minutes of its meetings and final order concerning the variance petition or appeal of administrative decision. When applicable, notice of the final order shall be sent to the Minnesota Department of Natural Resources within ten (10) days.

304.090. REVOCATION. A violation of any condition set forth or required in granting a variance shall be a violation of this Code and automatically terminates the variance. A variance shall become null and void one year after it was granted, unless made use of within the year or such longer period prescribed by the Council.

RELEVANT LINKS:

In re Livingood, 594 N.W.2d 889 (Minn. 1999).
CR Investments, Inc., v. Vill. of Shorewood, 304 N.W.2d 320 (Minn. 1981).

Minn. Stat. § 462.3595, subd. 4.

Northpointe Plaza v. City of Rochester, 465 N.W.2d 686 (Minn. 1991).
Snaza v. City of St Paul, 548 F 3d 1178 (8th Cir. 2008).
 Minn. Stat. § 462.3597.
 A.G. Op. 59-A-32 (February 27, 1990).

Upper Minnetonka Yacht Club v. City of Shorewood, 770 N.W. 2d 184 (Minn. Ct. App. 2009).

See LMC information memo, *Land Use Variances*.

Minn. Stat. § 462.354, subd. 6.
 See Section V-B-5 *Boards of Adjustment and Appeals*.

Krummenacher, v. City of Minnetonka, 783 N.W.2d 721 (Minn. 2010) (superseded by statute).
 Minn. Stat. § 462.357, subd. 6.
 See also LMC information memo, *Land Use Variances* for sample ordinance language.

Krummenacher, v. City of Minnetonka, 783 N.W.2d 721 (Minn. 2010) (superseded by statute).

When a local government denies a landowner a CUP without sufficient evidence to support its decision, a court can order the issuance of the permit subject to reasonable conditions.

Once a CUP is granted, a certified copy of the CUP (including a detailed list of all applicable conditions) must be recorded with the county recorder or the registrar of titles, and must include a legal description of the land.

CUPs are considered property interests that run with the land—that is, they pass from seller to buyer upon the sale or transfer of. For this reason, time restrictions on a CUP likely are invalid. In at least one instance, however, the courts has upheld the city’s decision to issue a time-limited CUP. If the city wishes to issue a time-limited CUP, the city should consult its city attorney.

Once issued, a CUP’s conditions cannot be unilaterally altered by the city, absent a violation of the CUP itself.

d. Requests for variances from the zoning ordinance

Variances serve as an exception to rules laid out in a zoning ordinance. They permit departures from strict enforcement of the ordinance as applied to a particular piece of property if strict enforcement would cause the owner “practical difficulties.” Variances generally allow deviations to physical standards (such as setbacks or height limits) and may not allow a use otherwise prohibited in the particular zoning district.

The law provides that the board of adjustment and appeals hear requests for variances. In many communities, the planning commission serves this function. Generally, an applicant may appeal the board’s decision to the city council. Under the statutory practical difficulties standard, a landowner is entitled to a variance if the facts satisfy the three-factor test of (1) reasonableness, (2) uniqueness, and (3) essential character.

The practical difficulties test resulted from a controversial divergence by the Minnesota Supreme Court, in 2010, from the traditional interpretation of this three-factor test (historically referred to as “undue hardship” test).

In *Krummenacher*, the Minnesota Supreme Court reviewed the statutory definition of “undue hardship” and held that the “reasonable use” prong of the “undue hardship” test was not whether the proposed use is reasonable, but rather whether there is a reasonable use of the property in the absence of the variance.

RELEVANT LINKS:

See LMC information memo,
[Land Use Variances](#).

Minn. Stat. § 462.354, subd.
6.

[Continental Prop. Group v.
City of Wayzata](#), A15-1550
(Minn. Ct. App. April 18,
2016) (unpublished
decision).

[City of Maplewood v.
Valiukas](#), CO-96-1468
(Minn. Ct. App. Feb 11,
1997) (unpublished opinion).

[Mohler v. City of St. Louis
Park](#), 643 N.W.2d 623
(Minn. Ct. App. 2002).
[Nolan v. City of Eden
Prairie](#), 610 N.W.2d 697
(Minn. Ct. App. 2000).

In response to the Krummenacher case, the legislature, in 2011, changed the law back to interpreting “reasonable use” test in the same manner in place prior to the Krummenacher ruling. The 2011 law renamed the municipal variance standard from “undue hardship” to “practical difficulties,” and reinstated the familiar three-factor test of (1) reasonableness, (2) uniqueness, and (3) essential character. State law now allows variances when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

The practical difficulties factors include:

- The property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a specific, reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance.
- The landowner’s situation arose out of circumstances unique to the property and not caused by the landowner. The uniqueness generally relates to the physical characteristics of the piece of property and economic considerations alone cannot create practical difficulties.
- The variance, if granted, will not alter the essential character of the locality. This factor generally contemplates whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area.

Cities should grant variances when strict enforcement of a zoning ordinance causes practical difficulties. A landowner who purchased land knowing a variance would be necessary in order to make the property buildable is not barred from requesting a variance on the grounds the hardship was self-imposed. State law also requires granting “[v]ariances ...only ... when they are in harmony with the general purposes and intent of the ordinance and when the terms of the variance are consistent with the comprehensive plan.”

In granting a variance, the city may attach conditions, but the conditions must directly relate to and bear a rough proportionality to the impact created by the variance. For example, if the variance reduces side yard setbacks, it may be reasonable for a city to impose a condition of additional screening or landscaping to camouflage the structure built within the normal setback.

Cities enjoy broad discretion in denying a request for a variance, but the city must cite legally sufficient reasons for the denial. The board’s findings should detail the reasons for the denial or approval and the specify the facts upon which it based the decision. The findings must adequately address the statutory requirements.

RELEVANT LINKS:

Graham v. Itasca County Planning Comm'n, 601 N.W.2d 461 (Minn. Ct. App. 1999).

Stotts v. Wright County, 478 N.W.2d 802 (Minn. Ct. App. 1992).

City of North Oaks v. Sarpal, 797 N.W.2d 18 (Minn. 2011).

Mohler v. City of St. Louis Park, 643 N.W.2d 623 (Minn. Ct. App. 2002).

Minn. Stat. § 462.357, subd. 6.

Kismet Investors v. County of Benton, 617 N.W.2d 85 (Minn. 2000).

Kismet Investors v. County of Benton, 617 N.W.2d 85 (Minn. 2000).

Minn. Stat. § 462.357, subd. 6(2).

Minn. Stat. § 462.357.
Minn. Stat. § 462.358, subd. 2a.
Minn. Stat. § 15.99.

Best practice suggests seeking specific legal advice from the city attorney before making decisions on requests for variances.

An applicant for a variance is not entitled to a variance merely because similar variances were granted in the past, although, in granting variances, the city ought to be cautious about establishing precedent.

Error by city staff in approving plans does not entitle a person to a variance. While the result might be harsh, a municipality cannot be estopped from correctly enforcing a zoning ordinance, even if the property owner relies, to his or her detriment, on prior city action.

As discussed above, the most common requests for variances relate to physical conditions on the property. For example, setbacks and height restrictions. On occasion a city may receive requests for variances related to uses. For example, a request to use the property for a landscaping business out of a home in a residential district. Cities commonly refer to this as a use variance.

A city may not grant a use variance if the use is prohibited in a zoning district. This may occur when the local zoning ordinance specifically lists prohibited uses (such as industrial uses in a residential zone) or when a zoning ordinance lists permitted uses and then prohibits all uses not specifically listed.

A city may grant a use variance when the ordinance does not explicitly prohibit the use in the zoning district (including when the zoning ordinance is silent on the issue or when the use is explicitly allowed but limited by another portion of the ordinance). The requirements of unusual hardship and other statutory requirements still apply to use variances.

Finally, state statute creates two use variances that a city may always choose (but is not required) to permit through a variance. State statute specifically empowers cities to grant use variances for solar energy systems, where a variance is needed to overcome inadequate access to direct sunlight, and for the temporary use of a single-family residence as a two-family residence.

e. Requests for rezoning or zoning ordinance amendments

Cities have the authority to rezone (such as changing a designation from residential to mixed commercial) or otherwise amend the zoning regulations governing types of property (such as adding a permitted or conditional use). Because rezoning serves as an amendment to the actual zoning ordinance, all the procedures for amendments to the zoning ordinance apply.



INFORMATION MEMO
Land Use Variances

Learn about variances as a way cities may allow an exception to part of their zoning ordinance. Review who may grant a variance and how to follow and document the required legal standard of "practical difficulties" (before 2011 called "undue hardship"). Links to a model ordinance and forms for use with this law.

RELEVANT LINKS:

Minn. Stat. § 462.357, subd. 6.

Minn. Stat. § 462.357, subd. 6.

Minn. Stat. § 462.357, subd. 6.

I. What is a variance

A variance is a way that a city may allow an exception to part of a zoning ordinance. It is a permitted departure from strict enforcement of the ordinance as applied to a particular piece of property. A variance is generally for a dimensional standard (such as setbacks or height limits). A variance allows the landowner to break a dimensional zoning rule that would otherwise apply.

Sometimes a landowner will seek a variance to allow a particular use of their property that would otherwise not be permissible under the zoning ordinance. Such variances are often termed "use variances" as opposed to "area variances" from dimensional standards. Use variances are not generally allowed in Minnesota—state law prohibits a city from permitting by variance any use that is not permitted under the ordinance for the zoning district where the property is located.

II. Granting a variance

Minnesota law provides that requests for variances are heard by a body called the board of adjustment and appeals; in many smaller communities, the planning commission or even the city council may serve that function. A variance decision is generally appealable to the city council.

A variance may be granted if enforcement of a zoning ordinance provision as applied to a particular piece of property would cause the landowner "practical difficulties." For the variance to be granted, the applicant must satisfy the statutory three-factor test for practical difficulties. If the applicant does not meet all three factors of the statutory test, then a variance should not be granted. Also, variances are only permitted when they are in harmony with the general purposes and intent of the ordinance, and when the terms of the variance are consistent with the comprehensive plan.

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

III. Legal standards

When considering a variance application, a city exercises so-called “quasi-judicial” authority. This means that the city’s role is limited to applying the legal standard of practical difficulties to the facts presented by the application. The city acts like a judge in evaluating the facts against the legal standard. If the applicant meets the standard, then the variance may be granted. In contrast, when the city writes the rules in zoning ordinance, the city is exercising “legislative” authority and has much broader discretion.

A. Practical difficulties

“Practical difficulties” is a legal standard set forth in law that cities must apply when considering applications for variances. It is a three-factor test and applies to all requests for variances. To constitute practical difficulties, all three factors of the test must be satisfied.

1. Reasonableness

The first factor is that the property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, if the variance application is for a building too close to a lot line or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable.

2. Uniqueness

The second factor is that the landowner’s problem is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees.

RELEVANT LINKS:

[2011 Minn. Laws, ch. 19, amending Minn. Stat. § 462.357, subd. 6.](#)

[Krummenacher v. City of Minnetonka](#), 783 N.W.2d 721 (Minn. June 24, 2010).

[Minn. Stat. § 462.357 subd. 6.](#)
[Minn. Stat. § 394.27, subd. 7.](#)

See Section I, *What is a variance.*

See Section IV-A, *Harmony with other land use controls.*

3. Essential character

The third factor is that the variance, if granted, will not alter the essential character of the locality. Under this factor, consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

B. Undue hardship

“Undue hardship” was the name of the three-factor test prior to a May 2011 change of law. After a long and contentious session working to restore city variance authority, the final version of HF 52 supported by the League and allies was passed unanimously by the Legislature. On May 5, Gov. Dayton signed the new law. It was effective on May 6, the day following the governor’s approval. Presumably it applies to pending applications, as the general rule is that cities are to apply the law at the time of the decision, rather than at the time of application.

The 2011 law restores municipal variance authority in response to a Minnesota Supreme Court case, *Krummenacher v. City of Minnetonka*. It also provides consistent statutory language between city land use planning statutes and county variance authority, and clarifies that conditions may be imposed on granting of variances if those conditions are directly related to, and bear a rough proportionality to, the impact created by the variance.

In *Krummenacher*, the Minnesota Supreme Court narrowly interpreted the statutory definition of “undue hardship” and held that the “reasonable use” prong of the “undue hardship” test is not whether the proposed use is reasonable, but rather whether there is a reasonable use in the absence of the variance. The new law changes that factor back to the “reasonable manner” understanding that had been used by some lower courts prior to the *Krummenacher* ruling.

The 2011 law renamed the municipal variance standard from “undue hardship” to “practical difficulties,” but otherwise retained the familiar three-factor test of (1) reasonableness, (2) uniqueness, and (3) essential character. Also included is a sentence new to city variance authority that was already in the county statutes.

RELEVANT LINKS:

[Issuance of Variances](#), LMC model ordinance.

[Variance Application](#), LMC model form.
[Adopting Findings of Fact](#), LMC model resolution.

[Minn. Stat. § 462.357, subd. 6.](#)

See LMC information memo, [Taking the Mystery out of Findings of Fact](#).

[Minn. Stat. § 462.357, subd. 6.](#)

C. City ordinances

Some cities may have ordinance provisions that codified the old statutory language, or that have their own set of standards. For those cities, the question may be whether you have to first amend your zoning code before processing variances under the new standard. A credible argument can be made that the statutory language pre-empts inconsistent local ordinance provisions. Under a pre-emption theory, cities could apply the new law immediately without necessarily amending their ordinance first. In any regard, it would be best practice for cities to revisit their ordinance provisions and consider adopting language that mirrors the new statute.

The models linked at the left reflect the 2011 variance legislation. While they may contain provisions that could serve as models in drafting your own documents, your city attorney would need to review prior to council action to tailor to your city's needs. Your city may have different ordinance requirements that need to be accommodated.

IV. Other considerations

A. Harmony with other land use controls

The 2011 law also provides that: “Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the terms of the variance are consistent with the comprehensive plan.” This is in addition to the three-factor practical difficulties test. So a city evaluating a variance application should make findings as to:

- Is the variance in *harmony with* the purposes and intent of the ordinance?
- Is the variance *consistent with the comprehensive plan*?
- Does the proposal put property to use in a *reasonable manner*?
- Are there *unique circumstances* to the property not created by the landowner?
- Will the variance, if granted, alter the *essential character* of the locality?

B. Economic factors

Sometimes landowners insist that they deserve a variance because they have already incurred substantial costs or argue they will not receive expected revenue without the variance. State statute specifically notes that economic considerations alone cannot create practical difficulties. Rather, practical difficulties exist only when the three statutory factors are met.

RELEVANT LINKS:

[Minn. Stat. § 462.357, subd. 6.](#)

C. Neighborhood opinion

Neighborhood opinion alone is not a valid basis for granting or denying a variance request. While city officials may feel their decision should reflect the overall will of the residents, the task in considering a variance request is limited to evaluating how the variance application meets the statutory practical difficulties factors. Residents can often provide important facts that may help the city in addressing these factors, but unsubstantiated opinions and reactions to a request do not form a legitimate basis for a variance decision. If neighborhood opinion is a significant basis for the variance decision, the decision could be overturned by a court.

D. Conditions

A city may impose a condition when it grants a variance so long as the condition is directly related and bears a rough proportionality to the impact created by the variance. For instance, if a variance is granted to exceed an otherwise applicable height limit, any conditions attached should presumably relate to mitigating the effect of excess height.

V. Variance procedural issues

A. Public hearings

Minnesota statute does not clearly require a public hearing before a variance is granted or denied, but many practitioners and attorneys agree that the best practice is to hold public hearings on all variance requests. A public hearing allows the city to establish a record and elicit facts to help determine if the application meets the practical difficulties factors.

B. Past practices

While past practice may be instructive, it cannot replace the need for analysis of all three of the practical difficulties factors for each and every variance request. In evaluating a variance request, cities are not generally bound by decisions made for prior variance requests. If a city finds that it is issuing many variances to a particular zoning standard, the city should consider the possibility of amending the ordinance to change the standard.

RELEVANT LINKS:

[Minn. Stat. § 15.99.](#)

[Minn. Stat. § 15.99, subd. 2.](#)

See LMC information memo,
*Taking the Mystery out of
Findings of Fact.*

[Minn. Stat. § 15.99, subd. 2.](#)

Jed Burkett
LMCIT Land Use Attorney
jburkett@lmc.org
651.281.1247

C. Time limit

A written request for a variance is subject to Minnesota's 60-day rule and must be approved or denied within 60 days of the time it is submitted to the city. A city may extend the time period for an additional 60 days, but only if it does so in writing before expiration of the initial 60-day period. Under the 60-day rule, failure to approve or deny a request within the statutory time period is deemed an approval.

D. Documentation

Whatever the decision, a city should create a record that will support it. In the case of a variance denial, the 60-day rule requires that the reasons for the denial be put in writing. Even when the variance is approved, the city should consider a written statement explaining the decision. The written statement should explain the variance decision, address each of the three practical difficulties factors and list the relevant facts and conclusions as to each factor.

If a variance is denied, the 60-day rule requires a written statement of the reasons for denial be provided to the applicant within the statutory time period. While meeting minutes may document the reasons for denial, usually a separate written statement will need to be provided to the applicant in order to meet the statutory deadline. A separate written statement is advisable even for a variance approval, although meeting minutes could serve as adequate documentation, provided they include detail about the decision factors and not just a record indicating an approval motion passed.

VI. Variances once granted

A variance once issued is a property right that "runs with the land" so it attaches to and benefits the land and is not limited to a particular landowner. A variance is typically filed with the county recorder. Even if the property is sold to another person, the variance applies.

VII. Further assistance

If you have questions about how your city should approach variances under this statute, you should discuss it with your city attorney. You may also contact League staff.

Tobin Lay

From: Petrik, Daniel (DNR) [daniel.petrik@state.mn.us]
Sent: Monday, March 19, 2018 9:08 AM
To: Tobin Lay
Cc: Sorensen, Jenifer (DNR); Bauman, Matthew (DNR)
Subject: FW: Variance Elements
Attachments: Section 304 ZONING CODE VARIANCES AND APPEALS.pdf

Hi Tobin,

Jen forwarded your questions on variances to me. I'm glad you were able to attend one of our recent workshops on variances. Here some additional information that will hopefully clarify these questions for you.

The Minnesota Legislature update the variance criteria in 2010 that applies to ALL (not just shoreland) variance applications considered by cities and counties. The criteria are the same for cities and counties. You can find the city criteria in [Minn. Statutes Chapter 462.357 Subd. 6](#). These criteria are the "minimum standards" to use when evaluating variances, however, local governments can apply more strict standards and additional standards if they choose. The [DNR also has information explaining the variance](#) criteria and will be good background for you in considering how to update your variance criteria.

The key set of criteria are known of as practical difficulties and deal with:

- Reasonable manner not permitted by the ordinance
- Unique circumstances not created by the owner
- Essential character of the locality

Additionally, "economic considerations" alone cannot constitute practical difficulties

Additionally, the statute states that:

- Variances must be in harmony with the general purposes and intent of the ordinance
- Variances be consistent with the comprehensive plan, and

In your ordinance Section 304.040 2.

- Item a. is similar to the unique circumstances criterion, except item a. doesn't mention that the unique situation or peculiarity wasn't created by the owner. However, item b goes on to state that the conditions causing the need for the variance are not created by the applicant's action or solution, which is very good, especially including the applicant's solution and requiring the applicant to demonstrate no other reasonable solution exists.
- Item c. is not similar to any of the statutory criteria and is problematic as it appears to be a potential weakening of the statutory criteria. Using the general concept of rights is vague and therefore problematic in this item. The Supreme Court has held repeatedly that there are no regulatory takings of property rights as long as a reasonable use remains. Property owners are not entitled to the same rights to build a walk out home (for example) just because the neighbor has a walk out home, if building that walk out were to be in violation of the zoning ordinance.
- Item d. deals specifically with water drainage and is not similar to how the statutory criteria are worded, however, the DNR believes that how water moves across or through a site is an "essential character of the

locality.” In any case this would be viewed as a higher standard and within the power of local governments to include in their list of criteria.

- Item e. dealing with light and air are issues that the statute also refers to and is a good addition.
- Item f. is also a good clarifying item.
- Item g. is a good interpretation and application of the “economic considerations” standard from statute.
- Your criteria seems to be missing the “reasonable manner” and “essential character” practical difficulties criteria as well as the two additional provisions dealing with the ordinance and comprehensive plan. I’d suggest you amend your criteria to include these and to strongly consider removing item c. Also, statute states that **all** the criteria must be met in order to approve a variance. Your criteria implies that all must be met, but further clarification wouldn’t hurt.

Dan Petrik

Land Use Specialist | Shoreland and River Related Programs

Minnesota Department of Natural Resources

500 Lafayette Road

St. Paul, MN, 55155-4032

Phone: 651-259-5697

Fax: 651-296-1811

Email: daniel.petrik@state.mn.us



From: Sorensen, Jenifer (DNR)

Sent: Friday, March 16, 2018 5:17 PM

To: Petrik, Daniel (DNR) <daniel.petrik@state.mn.us>; Bauman, Matthew (DNR) <matthew.bauman@state.mn.us>

Subject: FW: Variance Elements

Dan or Matt –

Can either of you help me answer Tobin’s question (below)?

Thanks for your help on this –

Jen

Jenifer Sorensen

East Metro Area Hydrologist (Ramsey and Washington Counties)

Division of Ecological and Water Resources

Minnesota Department of Natural Resources

1200 Warner Road

St Paul, MN 55106
Phone: 651-259-5754
Email: jenifer.sorensen@state.mn.us

From: Tobin Lay [<mailto:Tobin.Lay@cityofbirchwood.com>]
Sent: Friday, March 16, 2018 5:03 PM
To: Sorensen, Jenifer (DNR) <jenifer.sorensen@state.mn.us>
Subject: Variance Elements

Hello Jenifer,

I have questions about the elements for granting a variance. In the recent DNR training that I went to, I was taught that the variance elements have changed for areas within the shoreland overlay. The new elements differ from the original elements required under Birchwood's variance ordinance and since most of Birchwood falls within the shoreland overlay, I'm concerned that our variance requirements might need updating.

Attached is Birchwood's variance code. The elements of I'm talking about are listed in 304.040.2. Will you please explain the 5 new variance elements for shoreland overlay and advise if those would conflict or supersede Birchwood's elements within the shoreland overlay area. What is the area that falls under the shoreland overlay? Thanks!

Tobin Lay
City Administrator/Clerk
City of Birchwood Village, MN
office: (651) 426-3403
fax: (651) 426-7747
email: tobin.lay@cityofbirchwood.com
website: <http://www.cityofbirchwood.com/>



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Shoreland & Floodplain Variance Guidance Series

The Basics: What Communities Need to Know

This document provides an overview of the statewide regulations governing development and land use along lakes and rivers; the roles of local governments in enforcing these regulations; and what local governments need to know when considering variances to these regulations.

The Variance Guidance Series

Considering variances is an important but very challenging job. The DNR – in collaboration with the League of Minnesota Cities, Association of Minnesota Counties, and the Minnesota Council on Environmental Advocacy – has developed a series of resources to help local governments make informed decisions on variances affecting Minnesota’s shorelands, floodplains, and designated riverways. The purpose of the series is to:

- Ensure that Minnesota’s lakes and rivers are not compromised through the variance process,
- Guide communities in balancing legal protection of water resources with property use,
- Minimize legal challenges, and
- Empower communities to enforce their shoreland, floodplain, and riverway ordinances through better understanding of the variance process and state laws governing variances.

Why do we have Shoreland & Floodplain Regulations?

The health of Minnesota’s lakes and rivers are affected by our activities in the watershed. How we develop land and alter the landscape affects water quality and the health of fish and animal habitat associated with water bodies.

The DNR oversees five statewide programs that regulate the use of land abutting lakes and rivers: Shoreland Management, Floodplain Management, Wild and Scenic Rivers, Lower St. Croix National Scenic Riverway, and the Mississippi River Corridor Critical Area. While the specific purposes of each program vary, their common goal is to guide development in a manner that protects public waters for all Minnesotans.

Under each program, the DNR establishes, through rule, minimum land use standards that communities must adopt and enforce through local zoning ordinances. The responsibility for protecting our lakes and rivers lies largely with local governments and the decisions they make in administering and enforcing their ordinances. Local governments have some flexibility in adopting zoning regulations to address specific concerns within the context of local goals and policies, but they must look beyond local needs to protect public water resources for everyone.



What are Variances? Why are they Granted?

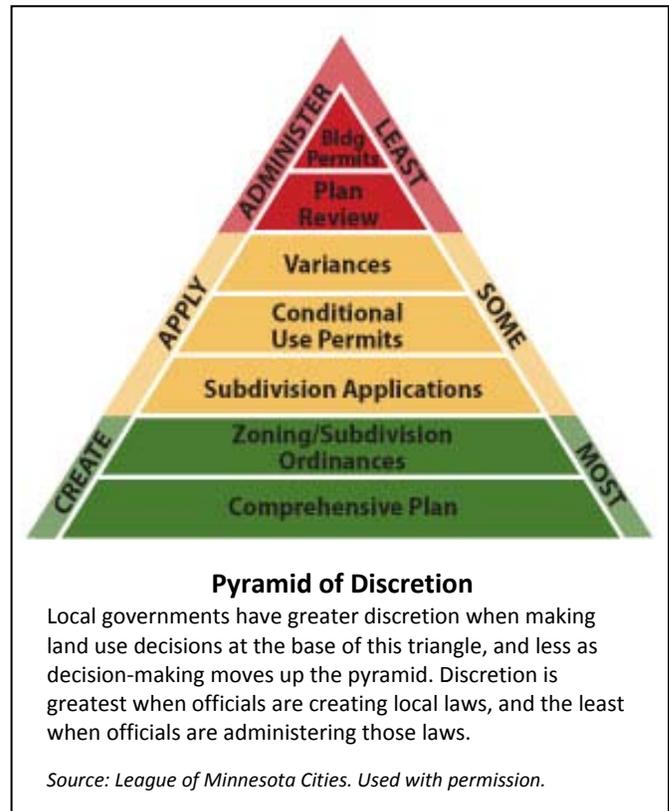
Variances are a means for departing from the strict enforcement of an ordinance as applied to a specific property. Variances may be approved for **area** or **dimensional standards** such as structure setbacks, limitations on impervious surface, bluff protection, lot size, grading and filling, and other similar provisions, but only if all criteria under state law are met. State law prohibits allowing, by variance, any **use** that is not allowed in a zoning district.

Variations allow the property owner to use his/her property in a manner that is not allowed by the ordinance, but is basically consistent with the established regulations with minor variations. Occasionally, a situation will arise where the regular application of ordinance requirements is inappropriate or unfair. In these situations, a variance may provide an equitable solution. Variations should be rare and for reasons of exceptional circumstance.

Local Authority and Discretion

Local governments have two types of authority in making decisions. When adopting or amending a zoning ordinance, a city council or county board is exercising so-called “legislative” authority. Here, the body is advancing health, safety, and welfare by making rules that apply throughout the entire community. When acting legislatively, the body has broad discretion and will be afforded considerable deference by any reviewing court.

In contrast, when administering an existing zoning ordinance and considering a variance, discretion is much more limited. When considering a variance application, the local unit of government is exercising “quasi-judicial” authority. Here, the local government is making a judge-like determination about whether an individual variance application meets all of the legal criteria. Decisions on variances are often made by a body called the board of adjustment and appeals; in some communities the planning commission serves this function. The board’s decision may be appealed, so it is important to make legally sound decisions.



State Criteria for Variances

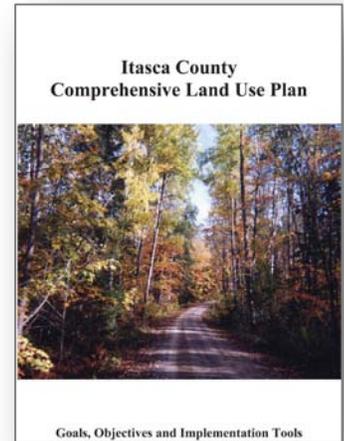
In 2011 the State Legislature revised the laws that govern the granting of variances (Minnesota Statutes, section 394.27, subd. 7 for counties, and section 462.357, subd. 6 for municipalities). Local governments may grant a variance if **all five** of the following criteria are satisfied:

- Would granting the variance be *consistent with the comprehensive plan*?
- Would granting the variance be *in harmony with the general purposes and intent of the ordinance*?
- Are there *unique circumstances to the property* not created by the landowner?
- Would granting the variance allow the *essential character* of the locality to stay the same?
- Does the property owner propose to use the property in a *reasonable manner not permitted by the ordinance*?

The last three criteria address whether **practical difficulties** exist in complying with the ordinance. Minnesota statutes state that economic considerations alone cannot create practical difficulties.

Evaluating Variances against the Statutory Criteria

Shorelands, floodplains, and riverways are sensitive areas that need special consideration because **public resources** are at stake. Local governments must consider each criterion on its own merit, and make findings and conclusions based on the following considerations:



1) The variance is consistent with the comprehensive plan.

The comprehensive plan serves as a citizen-derived policy foundation for the zoning ordinance. Comprehensive plans include goals and policies for protecting natural resources. They may also contain maps that identify areas of high risk or with high ecological value where development should be avoided or carefully planned. The variance request must consider these goals, policies, and maps.

Considerations: Which goals and policies apply? Is allowing deviation from the ordinance consistent with these goals and policies? Why/why not?

2) The variance is in harmony with the purposes and intent of the ordinance.

A variance decision is a balancing test that requires weighing the need of an individual property owner against the interests of other shoreland residents and all state residents. Ordinances will typically state the purpose for a particular set of standards or requirements. (Note: If the purposes for specific standards are not clearly articulated in the local ordinance, a resource for determining the purposes is the *Statement of Need and Reasonableness (SONAR)* that accompanied the statewide rules on which the ordinance standards are based.

Considerations: What are the purposes and intent of the Ordinance? What is the particular standard being deviated from intended to prevent or protect? Will deviating from the required standard on this property undermine the purposes and intent? Why/why not?

3) The problem is due to unique circumstances of the property not created by the landowner.

Unique circumstances relate to physical characteristics of the land such as lot shape and dimensions. Unique circumstances do **not** include personal matters unrelated to the property itself, such as health difficulties, a growing family, or design preferences, or changes made to the property by the property owner that prevent compliance with the ordinance.

Steep slopes, floodplains, riparian vegetation, and erodible soils are common, and not usually unique, in shoreland areas. Owning and developing land in these sensitive areas requires acknowledgment of these conditions and designing with them in mind; that is the point of shoreland and floodplain regulations.

Considerations: What distinguishes this property from other properties subject to the shoreland regulations to justify deviation from the requirements when others must comply? Has the applicant demonstrated that no feasible alternatives exist that would not require a variance? Is the application motivated by economic concerns or design preferences?

4) The variance, if granted, will not alter the essential character of the locality.

This criterion requires assessing whether the resulting structure or land disturbance will alter the hydrology, soil stability, vegetation, aesthetics, and landscape features on the site, or be out of place or scale, or otherwise inconsistent with the surrounding area.

Considerations: How does the size and character of the structure compare to other structures in the area or expectations as described in the comprehensive plan or other policy

documents? To what extent does the structure encroach into sensitive natural areas such as bluffs or shores? Is significant soil disturbance or vegetation removal required? What is the long-term risk from changing hydrology and increasing erosion and subsequent sediment in public waters? Do the structure and shoreline alterations affect the character of the area?

5) The proposal puts the property to use in a reasonable manner.

The standards in the local ordinance are established to protect public water resources and adjoining property. It may not be reasonable to deviate from them if doing so would undermine those protections. For example, a minor deviation on a setback may not reduce the protective function of the setback, but a major deviation would. Variance requests should only be considered reasonable when no other alternatives exist, particularly if the public water at stake is impaired or at risk of becoming impaired.

Considerations: *How substantial is the request in relation to the standard? What might be considered a reasonable deviation from the rules in a non-riparian area could have significant impacts in a riparian zone. How justifiable are the reasons for the variance request in the context of sensitive shoreland areas and the potential impacts on public waters?*



Owner's design preference for a walkout is not reasonable in a sensitive bluff area.

A Note on Floodplains...

FEMA requires that in floodplains, the requirements of 44 Code of Federal Regulations (CFR), Section 60.6 (variances and exceptions) be met. These requirements specify that variances: 1) can only be granted for lots of one-half acre or less; 2) cannot cause any flood stage increase or additional threats to public safety; 3) cannot cause extraordinary public expense; and 4) the variance is the minimum necessary to afford relief. Specific language that complies with FEMA's requirements is provided in the DNR's sample floodplain ordinances.

Minnesota Rules, part 6120.6100 also talk about allowing variances where there is "undue hardship" if consistent with state and national laws and programs. It also specifies that "although variances may be used to modify permissible methods of flood protection, no variance shall provide for a lesser degree of flood protection than stated in these standards." This has been interpreted to mean that a variance can be given to allow an alternate form of flood protection not allowed in the local government's floodplain ordinance (e.g., "wet" instead of "dry" floodproofing of principal non-residential structures), but the level of floodproofing must always be to the regulatory flood protection elevation.

The community granting the variance must always be mindful of FEMA's additional variance criteria noted above and that variances that modify the method of floodproofing will likely result in expensive flood insurance premiums.

Making a Decision

After evaluating the variance application against the criteria, several outcomes can occur:

- If the applicant fails to prove that **all** criteria are met, then the variance should be denied.
- If the applicant demonstrates that **all** criteria are met, then the variance may be granted.
- If findings support granting the variance, but the project will impact the public resource, then the variance may be granted but conditions should be imposed to mitigate the impacts.

Conditions of Approval

If findings support granting the variance, impacts to the lake or river and riparian areas should be considered in developing appropriate conditions to mitigate them. Minnesota law allows communities to impose conditions when granting a variance as long as the conditions are **directly related and roughly proportional to the impact created by the variance.**

When the variance involves nonconforming lots of record in shorelands, Minnesota law¹ states that communities **shall require** the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setbacks, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.



Vegetative restoration may be an appropriate condition to mitigate the impacts associated with a variance.

Variance conditions serve to ensure that the intent of the regulation is met or to mitigate the impact of the proposed activity. Through thoughtful conditions that can be enforced long-term, the intent of the regulation can often be achieved.

Best Practices in Considering Variances

In making a quasi-judicial decision that is likely to stand up in court, the decision-making body should apply the following best practices, some of which are required by law. Following these practices will also increase public acceptance of the decision, though not necessarily agreement with the decision.

Support the decision with “findings of fact”

The local government should make “findings of fact.” Findings of fact is a legal term for simply saying “the reasons used to support a decision.” Findings are very important. To be legally defensible, findings should not just state that legal criteria have been met, but explain *how* the criteria are met. The purpose for making findings is to bridge the gap between the facts and the ultimate decision. Variance findings should explain how the relevant facts support or do not support the legal criteria described above. The DNR’s “[Formula for Variance Findings](#)” will help guide the development of good findings. An “[example of Good Findings](#)” was developed with the formula to demonstrate what good findings might look like.

Discrimination and prejudice should not play a role in deciding on a variance request, nor should a poll of those attending a public meeting. General statements of support or opposition should not be used as a finding of fact. Statements made by the public that are concrete and factual relating to the criteria can be useful in developing findings. Findings should be more than a mere recitation of statutory criteria; they must provide the factual basis that leads to a rational conclusion.

¹ Minnesota Statute, section 462.357, subd. 1e, item (i)

Create a public record that supports the decision

Minnesota law requires that the reasons for a variance decision be articulated in the record. A written document (such as the DNR's "Formula for Variance Findings") clearly stating the findings and adopted by the community is recommended to supplement meeting minutes. The law also **requires written findings** whenever an application is denied. Findings should explain the decision by listing relevant facts, addressing each of the legal criteria, and explaining how each criterion is/is not satisfied as part of the conclusions.

Use an open and transparent process for making the decision

Facts or evidence used for making findings should be available for the public to observe and review. Typical sources for gathering relevant evidence include: the variance application documents, documents submitted by the public (paper or digital), public meetings and hearings. Holding a public hearing is an important component in developing the record and eliciting facts. State statute requires that counties hold a public hearing for variances.



Notices of public hearings should be sent to nearby property owners, the DNR, and other interested parties. The body making the decision should discuss the facts, deliberate on the decision and make the decision at a public meeting. Public officials should refrain from prejudging a situation or advocating for a decision before the facts are established. The burden of proof that a variance is warranted lies with the applicant, not the board, planning commission, or staff.

Under all statewide land use programs, local governments are required to provide the DNR with copies of notices for public hearings to consider variance requests, as well as the final decisions. Decisions should include the complete record for the decision, including findings of fact.

A variance application is subject to Minnesota's "60-day rule²." This means that a variance request must be approved or denied within 60 days from the date the application was submitted. The rule allows one 60-day extension, if done in writing and within the initial 60-day period. Failure to approve or deny a request within the statutory time period is deemed an approval.

Further Considerations

Be aware of the rules for Open Meetings, Conflicts of Interest, the 60-day Rule, and the constitutional limits on government regarding Takings, Due Process and Equal Protection.

Resources on Variances

Additional resources, including example variance requests, FAQs, sample variance forms and resolutions, sample mitigation scoring systems, review checklists, stormwater management best management practices, native plant listings, rare species information, training opportunities, and more, visit:

http://www.dnr.state.mn.us/waters/watermgmt_section/shoreland/variances.html

References

Statewide Wild & Scenic River and Lower St. Croix Rules – *Minnesota Rules, Chapter 6105*

Statewide Shoreland Management & Floodplain Management Rules- *Minnesota Rules, Chapter 6120*

Variance Criteria for Counties - *Minnesota Statutes, §394.27, subd. 7*

Variance Criteria for Municipalities - *Minnesota Statutes, §462.357, subd. 6*

² MS 15.99 Time Deadline for Agency Action

RESOLUTION NO. 2018-11

**RESOLUTION APPROVING A VARIANCE FROM
THE CITY OF BIRCHWOOD VILLAGE ZONING CODE
FOR 5 OAKRIDGE DRIVE**

WHEREAS, a proposal (18-01-VB) has been submitted by Christopher and Mary Sorenson to the City Council requesting a variance from the City of Birchwood Village at the following site:

ADDRESS: 5 Oakridge Drive

WHEREAS, THE APPLICANT SEEKS THE FOLLOWING: A variance from City Code 301.050 and 302.020 to expand the non-conforming use both vertically and horizontally at 5 Oakridge Drive; vertical expansion to construct a master suit above the garage that will correct a design flaw in the original roof and eyebrow over the garage and horizontal expansion to construct a new eyebrow/eave over the north side of the home; and

WHEREAS, the Planning Commission has held a public hearing as required by the City Zoning Code on March 29, 2018; and

WHEREAS, the request was determined to 1) be in harmony with the general purposes and intent of the ordinance, 2) be consistent with the comprehensive plan, 3) have unique circumstances to the property not created by the landowner, 4) not alter the essential character of the locality, and 5) use the property with a purpose in a reasonable manner not permitted by the ordinance; and

WHEREAS, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed variance upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Birchwood Village after reviewing the proposal, that the City Council accepts and adopts the findings of the Planning Commission as previously explained.

FURTHER, BE IT RESOLVED, that the City Council of the City of Birchwood Village hereby approves the requested variance subject to the following conditions:

1. All application materials, maps, drawings and descriptive information submitted with this application shall become part of this permit. All materials submitted with this approved variance shall constitute minimal compliance standards.
2. Per Section 304.090, the variance shall become null and void if the project has not been completed or utilized within one (1) year after the date it was granted, subject to petition for extension by the City Council.
3. The construction shall be subject to the building permit previously obtained and to the satisfaction and approval of the building official.

4. The applicant shall verify their property lines and have the property pins exposed at the time of inspection.
5. Land alteration may not cause adverse impact upon or result in additional drainage onto abutting property. The applicant shall install gutters or employ other solutions should drainage issues arise.
6. The eyebrow must not be extended beyond its current dimension from the foundation.
7. The project shall be built in conformance with the plans submitted and plans submitted shall be in conformance with all other City Codes.
8. Any changes with the dimensions of this project shall render this resolution voidable.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:

Nays:

Abstaining: Councilmember White

Mary Wingfield, Mayor

ATTEST:

Tobin Lay, City Administrator

Approval is contingent upon execution and return of this document to the City Administrator.
I have read and agree to the conditions of this resolution as outlined above.

Applicant's Signature

Date

MEMORANDUM

DATE: April 10, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Administrative Presentation



Birchwood Village

Dear Mayor & Council Members,

Sewer Improvement Project

Please be advised that Insituform has completed the sewer improvement project. All of the City's sanitary sewer lines should now be relined. Insituform is going to perform a video of the lined pipe and send to City Engineer Thatcher for review. Once reviewed by Thatcher, if any issues remain then I will update you accordingly.

Manhole Repair

Additionally, Thatcher was able to locate the sealed manhole with Insituform and confirmed that access had not been cutout after a previous relining project. Insituform was the previous contractor during that project and they corrected the problem. The manhole is now accessible once again (see enclosed email).



Thanks!

Regards,
Tobin Lay

Manhole Repair Email

From: Steven W. Thatcher
To: [Tobin Lay](#)
Subject: RE: Sewer issues
Date: Monday, April 2, 2018 6:54:13 PM

Tobin,

I will look for the video and try to email it to you. It is a large file.

Good news on the sanitary manhole issue (MH 84EE)! Insituform and I located the manhole, opened the cover, and observed that the lining went through the manhole and the top of the lining had not been removed. Insituform had not removed the top of the lining at the manhole during the previous project. Therefore, Insituform removed the top of the lining from the manhole.

I have not opened the manhole to observe it myself, but Insituform sent me a photo (attached).

Thanks,
Steve

Steven Thatcher, PE
Thatcher Engineering Inc.
6201 Creek Valley Road
Edina, MN 55439
Phone: 612-781-2188 Cell: 612-867-7234 Fax: 612-781-2188 Web: www.thatcher-eng.com

**CITY OF BIRCHWOOD VILLAGE
REGULAR CITY COUNCIL MEETING
MARCH 13, 2018**

MINUTES

Members Present: Mayor Mary Wingfield & Councilmembers Kevin Woolstencroft, Trilby White, Randy LaFoy and Megan Malvey.

Staff Present: City Administrator Tobin Lay and City Attorney Alan Kantrud.

Others Present: Dana Klimp, Jim Nelson, Steve Wolgamot, Mary Sue Simmons, Gene Ruehle, Jerry Hromatka, Judy Walker and Lynn Hansen.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

Mayor Wingfield: Called the regular meeting to order at 7:00 pm. The Pledge of Allegiance was recited.

APPROVE AGENDA

Mayor and Council Members: Agreed to add Dock Slip Permit Form and Wait List Application to the Agenda and tentatively add "Lake Links" after dock ordinance. Water Meter and Mailbox issues were added as administrative items.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER MALVEY TO APPROVE THE AGENDA AS AMENDED. ALL AYES. MOTION PASSED.

OPEN PUBLIC FORUM

ANNOUNCEMENTS

- A. PUBLIC SAFETY WARNING: Teach children not to talk to or accept rides from strangers.
- B. Street removal feedback should be sent to info@cityofbirchwood.com.
- C. The warming house is closed for the season. Thanks to all the volunteers that made it successful!
- D. We are social: Follow us on Facebook and Twitter and register for the email listserv.

Councilmember LaFoy: We are looking for pictures and videos of ice skaters at our warming house for the new web page. Please feel free to contact City Hall with regards.

ADMINISTRATIVE PRESENTATION

- A. Sheriff Report

CITY BUSINESS – CONSENT AGENDA

- A. Approval of BoldPlanning Cities Cooperative Agreement

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WHITE TO APPROVE THE BOLDPLANNING CITIES COOPERATIVE AGREEMENT. ALL AYES. MOTION PASSED.

- B. Approval of Regular Meeting Minutes from February 13, 2018

Mayor Wingfield: Addressed February's Meeting Minutes, Public Right-of-Way (pg. 6, section C). The sentence ending with "contained changes as the council was not aware " was amended to include "due to a third party draft submission."

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE THE FEBRUARY 2018 REGULAR CITY COUNCIL MEETING MINUTES AS AMENDED. ALL AYES. MOTION PASSED.

C. Approval of Treasurer's Report

Mayor Wingfield: Stated that due to issues stemming from a spring 2017 leaf clean up invoice, funds be added to and subtracted from the General Fund instead of "Reimburse Contracted Services".

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE THE FEBRUARY 2018 TREASURER'S REPORT AS AMENDED. ALL AYES. MOTION PASSED.

CITY BUSINESS – REGULAR AGENDA

A. NYFS Report – CEO Jerry Hromatka

CEO Jerry Hromatka: Summarized the organization and its status. Informed Council that the organization has adopted a new format for increasing fees and fees are not likely to increase more than 3% from year to year. An accounting of Birchwood's contribution was given. Council extended an offer to assist NYFS in distributing information online and/or by folding brochures or stuffing envelopes.

B. Parks Update

a. Survey Results

Judy Walker (Parks Committee): Thanked the residents for participation, volunteers for their time and Ms. Vang for her work online. Results were presented. Maintenance, walking trails and preservation top the list. (Time Stamp 26:47:00)

Mayor, Council Members and Judy Walker (Parks Committee): Determined a Parks Committee joint meeting and plan of action is necessary. Tentative dates were discussed and Council requested feedback from the Parks Committee at the April regular city council meeting.

b. Birch Rain Garden (Time Stamp: 40:23:00)

Councilmember Malvey: Stated Washington County Conservation District obtained a quote from Outdoor Lab on this project. **Cost share grant from RCWD** will cover 75% of the total cost. \$1,917 would be the cost to the City and amounts to 25% of the total project cost.

Mayor Wingfield: Requested approval to submit a grant application to the Mahtomedi Garden Club for additional cost sharing on this project.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER LAFOY TO AUTHORIZE ADMINISTRATOR LAY TO PROCEED WITH THE CONTRACT AS DIRECTED WITH AN APPLICATION TO THE MAHTOMEDI GARDEN CLUB GRANT.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER LAFOY TO AMEND THE AUTHORIZATION TO INCLUDE UP TO \$8,000 FOR THE BIRCHWOOD SWALE DESIGN – 2018 INSTALL (BIRCH RAIN GARDEN) PROJECT, PURSUANT THE COST MATCHING OFFER AS PROPOSED. ALL AYES. MOTION PASSED.

C. Second Reading of Ordinance 2018-02-01, Replacing Public Lake Tracts

a. Public Hearing

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WHITE TO CLOSE THE PUBLIC HEARING. ALL AYES. MOTION PASSED.

b. Council Deliberation and Approval

Mayor, Council Members, Administrator Lay, Attorney Kantrud, Dana Klimp (President, Birchwood Dock Association) and Lynn Hanson (Treasurer, Birchwood Dock Association): Discussed the ordinance and proposed changes discussed and made to 617 prior to approval. (Time Stamp 01:24:24)

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WHITE TO REPEAL SECTION 617 AND REPLACE WITH ORDINANCE 2018-02-01, REPLACING PUBLIC LAKE TRACTS AS AMENDED. ALL AYES. MOTION PASSED.

c. Approval of Resolution 2018-10, Summary Publication

MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY COUNCILMEMBER WHITE TO APPROVE RESOLUTION 2018-10, SUMMARY PUBLICATION. ALL AYES. MOTION PASSED.

D. Lake Links

Steve Wolgamot (Lake Links Trail Chair): Provided an update on the Lake Links Trail project.

E. First Reading of Ordinance 2018-02-02, Amending Fees

a. Public Hearing

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO CLOSE THE PUBLIC HEARING. ALL AYES. MOTION PASSED.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WHITE TO APPROVE ORDINANCE 2018-02-02, AMENDING FEES AS AMENDED. ALL AYES. MOTION PASSED.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER LAFOY TO WAIVE THE SECOND READING OF ORDINANCE 2018-02-02, AMENDING FEES AS AMENDED. ALL AYES. MOTION PASSED.

b. Council Deliberation and Approval

Mayor, Council Members and Attorney Kantrud: Discussed the matter at length.

MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY COUNCILMEMBER WHITE TO EXTEND THE TIME ALLOTMENT BY 15 MINUTES. COUNCILMEMBER LAFOY VOTES NAY. MAYOR WINGFIELD AND COUNCILMEMBERS MALVEY, WHITE AND WOOLSTENCROFT VOTE AYE. MOTION PASSED.

Mayor and Council Members: Continued discussion. Councilmember White discussed info from other jurisdictions regarding boat slip fees. (Time Stamp: 01:43:50).

MOTION WAS MADE BY COUNCILMEMBER WHITE TO INCREASE THE ANNUAL DOCK FEE TO \$1,000 PER YEAR NOT INCLUDING LIFT FEES. NO SECOND. MOTION FAILS.

Mayor and Council Members: Continued discussion.

MOTION WAS MADE BY COUNCILMEMBER WHITE AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO EXTEND THE TIME ALLOTMENT BY 10 MINUTES. COUNCILMEMBERS WHITE AND WOOLSTENCROFT VOTE AYE. MAYOR WINGFIELD AND COUNCILMEMBERS MALVEY AND LAFOY VOTE NAY. MOTION FAILED.

c. Approve Amended Fee Schedule

MOTION WAS MADE BY COUNCILMEMBER WOOLSTENCROFT AND SECONDED BY MAYOR WINGFIELD TO ADD A POST BOAT STORAGE BOATING SEASON VIOLATION FEE OF \$25 PER DAY AND INCREASE THE ANNUAL DOCK PERMIT FEE TO \$650 PER YEAR, PLUS \$100 PER YEAR IN LIFT STORAGE FEES, SCHEDULED TO COMMENCE APRIL 1, 2018. MAYOR WINGFIELD AND COUNCILMEMBERS WOOLSTENCROFT AND WHITE VOTES AYE. COUNCILMEMBERS LAFOY AND MALVEY VOTE NAY. MOTION PASSED.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE THE DOCK SLIP PERMIT FORM AND DOCK SLIP WAIT LIST FORM. ALL AYES. MOTION PASSED.

F. Second Reading of Ordinance 2018-01-02, Section 301 Amendments

Administrator Lay: Provided background on the item and referred Council to the paperwork provided in the Agenda.

- a. Public Hearing
- b. Council Deliberation and Approval

Mayor, Council Members and Attorney Kantrud: Discussed the ordinance. Mayor and Councilmembers determined to strike Exception 1 and the note at the end of Exception 1A, renaming the note at the bottom of page 65 "Exception 1" and renaming Section H "Beach Sand Replacement for Above the High Watermark".

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE THE SECOND READING OF ORDINANCE 2018-01-02, SECTION 301 AMENDMENTS AS AMENDED. ALL AYES. MOTION PASSED.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO ADD "BEACH SAND REPLACEMENT SHALL BE LIMITED TO 400 SQUARE FEET OR 50 CUBIC YARDS IN VOLUME ABOVE THE HIGH WATERMARK" TO ORDINANCE 2018-01-02, SECTION 301 AMENDMENTS. ALL AYES. MOTION PASSED.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO TABLE SUMMARY PUBLICATION OF ORDINANCE 2018-01-02, SECTION 301 AMENDMENTS TO APRIL'S REGULAR CITY COUNCIL MEETING CONSENT AGENDA. ALL AYES. MOTION PASSED.

G. City Office Computer Upgrade

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE THE UPGRADE OF THE CITY'S OFFICE COMPUTERS WITH A 10% ALLOWANCE FOR VARIABILITY IN COST. NOT TO EXCEED \$2700. ALL AYES. MOTION PASSED.

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE THE UPGRADE OF THE CITY'S MEDIA ROOM COMPUTER AND OFFICE SUITE SOFTWARE; TO BE PURCHASED BY THE CITY AND THEN REIMBURSED FROM THE CABLE COMMISSION EQUIPMENT FUND. ALL AYES. MOTION PASSED.

H. Liaison Guidelines Feedback

- a. Council Deliberation and Approval

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO APPROVE THE LIAISON GUIDELINES POLICY. ALL AYES. MOTION PASSED.

I. Resolution 2018-09, WBLCD Fund Balance Level Policy

- a. Council Deliberation and Approval

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER LAFOY TO APPROVE RESOLUTION 2018-09, LETTER OF SUPPORT FOR WBLCD FUND BALANCE LEVEL POLICY. ALL AYES. MOTION PASSED.

J. Request to have Roads Committee Review Snowplow Process

Mayor, Council Members and Administrator Lay: Discussed the request. Mayor and Council determined topics for discussion be sent to Administrator Lay for compilation in preparation for the next Roads Committee Meeting.

K. Council Member Reports:

- a. Mayor Wingfield
 - i. Update on Dock Ladder Donation

Mayor Wingfield: Stated the dock ladder has been purchased with further status updates to come.

- ii. Barn Quilts – tabled until April
- iii. Mahtomedi Garden Club Grant Request

Mayor Wingfield: Used Birchwood’s bell tower as an example of a possible Eagle Scout project as requested by Gene Ruehle (02:45:05). Requested a second grant with Mahtomedi Garden Club for \$1000. Council approved.

L. City Administrator’s Report (Time Stamp 02:45:45)

a. Comprehensive Plan Update

Administrator Lay: Stated work is underway and on schedule. A summary and timeline was provided in the Agenda. Administrator Lay requested Mayor and Council to set 2 to 3 priority items for each section of the SWOT analysis.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER LAFOY FOR EACH COUNCILMEMBER TO SUBMIT A COMP PLAN SWOT ANALYSIS WORKSHEET LISTING 3 ANSWERS TO EACH SWOT ANALYSIS SECTION TO ADMINISTRATOR LAY BY FRIDAY, MARCH 16th, 2018. ALL AYES. MOTION PASSED.

b. Old Camera Equipment Liquidation

Mayor and Council Members: Approved Administrator Lay to work with Attorney Kantrud to pursue donation of the old camera equipment.

c. Office blinds

Mayor and Council Members: Approved purchase of blinds for the City Office.

d. Mailbox Replacement

Mayor and Council Members: Approved purchase of mailbox as an administrative item.

e. Water Meter

Administrator Lay: Requested permission to share the cost of moving a water meter touch pad with a resident where touch pad is badly placed.

Mayor and Council Members: Approved Administrator Lay to proceed with touch pad relocation, not to exceed \$200.

ADJOURN

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER WOOLSTENCROFT TO ADJOURN THE MEETING. ALL AYES. MOTION PASSED. MEETING ADJOURNED AT 9:57 PM CST.

ATTEST:

Mary Wingfield
Mayor

Tobin Lay
City Administrator - Clerk

For the Period : 3/13/2018 To 4/5/2018

<u>Name of Fund</u>	<u>Beginning Balance</u>	<u>Total Receipts</u>	<u>Total Disbursed</u>	<u>Ending Balance</u>
General Fund	\$599,344.33	\$2,177.02	\$13,476.67	\$588,044.68
Road and Bridge	\$0.00	\$0.00	\$0.00	\$0.00
Comp Plan Grant	\$4,460.00	\$0.00	\$0.00	\$4,460.00
Tree Canopy Care	\$0.00	\$0.00	\$0.00	\$0.00
Special Rev Projects	\$3,544.59	\$0.00	\$200.00	\$3,344.59
Spec Rev - Warm House	\$40.00	\$0.00	\$0.00	\$40.00
REIMBURSED CONTRACTED SERVICES	(\$7,285.26)	\$0.00	\$0.00	(\$7,285.26)
Birchwood In Re-hab Bond	\$0.00	\$0.00	\$0.00	\$0.00
Sewer Re-hab 2008 Debt	\$13,220.20	\$0.00	\$0.00	\$13,220.20
CAPITAL PROJECT FUNDS (401 through 499)	\$0.00	\$0.00	\$0.00	\$0.00
Capital Improvement Projects	\$0.00	\$0.00	\$0.00	\$0.00
Capital Project PW	\$66,233.91	\$0.00	\$0.00	\$66,233.91
Water	\$39,181.22	\$0.00	\$10,516.34	\$28,664.88
Sewer	\$73,653.14	\$6,287.27	\$5,344.58	\$74,595.83
Transit System	\$0.00	\$0.00	\$0.00	\$0.00
Sewer Infrastructure	\$0.00	\$0.00	\$0.00	\$0.00
Engineering Services	\$0.00	\$0.00	\$0.00	\$0.00
Total	\$792,392.13	\$8,464.29	\$29,537.59	\$771,318.83

City of Birchwood Village

Receipts Register

4/5/2018

Fund Name: All Funds

Date Range: 03/13/2018 To 04/05/2018

<u>Date</u>	<u>Remitter</u>	<u>Receipt #</u>	<u>Description</u>	<u>Deposit ID</u>	<u>Void Account Name</u>	<u>F-A-P</u>	<u>Total</u>
03/13/2018	MN Management & Budget	171734317*	Court Fines	(03/13/2018) -	N Fines	100-35105-	\$ 117.00
							<u>\$ 117.00</u>
03/20/2018	Siebert, Maureen	171734290*	Sewer Lining Assessment - 2017	(03/20/2018) -	N SPECIAL ASSESSMENTS	605-36100-	\$ 628.30
							<u>\$ 628.58</u>
03/20/2018	Lindus Construction	171734291*	Building Permit	(03/20/2018) -	N Building Permits	100-32211-	\$ 258.75
							<u>\$ 258.75</u>
03/20/2018	Felt, J. & R.	171734292*	Canoe/Kayak Permit 2018 - x2	(03/20/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 20.00
							<u>\$ 20.00</u>
03/20/2018	Hegedus, Jozsef & Noel	171734293*	Canoe/Kayak Permit	(03/20/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 10.00
							<u>\$ 10.00</u>
03/20/2018	Loosbrock, Jeremy & Gina	171734294*	Canoe/Kayak Permit	(03/20/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 10.00
							<u>\$ 10.00</u>
03/20/2018	Olson, Jeffrey & Karen	171734295*	Canoe/Kayak Permit - x2 Animal License - x2	(03/20/2018) -	N Kayak/Canoe Permits Animal Licenses	100-32212- 100-32240-	\$ 20.00
							<u>\$ 40.00</u>
03/20/2018	Miller, Joseph & Yoshiko	171734296*	Canoe/Kayak Permit - x2	(03/20/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 20.00
							<u>\$ 20.00</u>
03/20/2018	Castillo, Joseph & Elizabeth	171734297*	Sewer Lining Assessment - 2017	(03/20/2018) -	N SPECIAL ASSESSMENTS	605-36100-	\$ 628.30
							<u>\$ 628.30</u>
03/20/2018	Cavanor, Katherine	171734298*	Canoe/Kayak Permit - x2	(03/20/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 20.00
							<u>\$ 20.00</u>

Fund Name: All Funds

Date Range: 03/13/2018 To 04/05/2018

<u>Date</u>	<u>Remitter</u>	<u>Receipt #</u>	<u>Description</u>	<u>Deposit ID</u>	<u>Void Account Name</u>	<u>F-A-P</u>	<u>Total</u>
03/20/2018	Klimp, Dana & Lori	171734299*	Canoe/Kayak Permit - x2	(03/20/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 20.00
							\$ 20.00
03/20/2018	Fireside Hearth & Home Retail Permi	171734300*	Building Permit - #3937923	(03/20/2018) -	N Building Permits	100-32211-	\$ 98.99
							\$ 98.99
03/20/2018	Press Publications	171734301*	Refund of Overpayment	(03/20/2018) -	N Refund-Reimbursemt-Dividend	100-36240-	\$ 1,070.53
							\$ 1,070.53
03/20/2018	Larson Plumbing, Inc.	171734302*	Building Permit	(03/20/2018) -	N Building Permits	100-32211-	\$ 25.50
							\$ 25.50
03/20/2018	Felt, J.	171734303*	Sewer Lining Assessment - 2017	(03/20/2018) -	N SPECIAL ASSESSMENTS	605-36100-	\$ 628.30
							\$ 628.30
03/20/2018	Sandstrom, Charles & Suzanne	171734304*	Sewer Lining Assessment - 2017	(03/20/2018) -	N SPECIAL ASSESSMENTS	605-36100-	\$ 628.30
							\$ 628.30
03/20/2018	Johnson, Tyler & Gretchen	171734305*	Sewer Lining Assessment - 2017	(03/20/2018) -	N SPECIAL ASSESSMENTS	605-36100-	\$ 628.30
							\$ 628.30
03/21/2018	White, Trilby & Rietveld, Lisa	171734306*	Canoe/kayak Permit - x2	(03/21/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 20.00
							\$ 20.00
03/21/2018	Simmons, Mary Sue	171734307*	Canoe/Kayak Permit	(03/21/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 10.00
							\$ 10.00
03/21/2018	Steinhauser, Paul & Meryl	171734308*	Canoe/kayak Permit - x2	(03/21/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 20.00
							\$ 20.00
03/21/2018	Heart, Tami	171734309*	Canoe/Kayak Permit	(03/21/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 10.00
							\$ 10.00

Fund Name: All Funds

Date Range: 03/13/2018 To 04/05/2018

Date	Remitter	Receipt #	Description	Deposit ID	Void Account Name	F-A-P	Total
03/21/2018	Wittenberg, Lisa	171734310*	Canoe/Kayak Permit - x2	(03/21/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 20.00
							\$ 20.00
03/21/2018	Aichele, Craig & Laura	171734311*	Canoe/Kayak Permit - x2	(03/21/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 20.00
							\$ 20.00
04/05/2018	Stangl, Thomas & Barbara	171734312*	Sewer Lining Assessment - 2017	(04/05/2018) -	N SPECIAL ASSESSMENTS	605-36100-	\$ 628.30
					SPECIAL ASSESSMENTS	605-36100-4	\$ 1.31
							\$ 629.61
04/05/2018	Aleckson, Jeffrey & Christine	171734318*	Sewer Lining Assessment - 2017	(04/05/2018) -	N SPECIAL ASSESSMENTS	605-36100-	\$ 628.30
					SPECIAL ASSESSMENTS	605-36100-4	\$ 0.28
							\$ 628.58
04/05/2018	Oakins, Gary & Judith	171734319*	Sewer Lining Assessment - 2017	(04/05/2018) -	N SPECIAL ASSESSMENTS	605-36100-	\$ 628.30
					SPECIAL ASSESSMENTS	605-36100-4	\$ 0.96
							\$ 629.26
04/05/2018	Manke, K.M. & R.L.	171734320*	Sewer Lining Assessment - 2017	(04/05/2018) -	N SPECIAL ASSESSMENTS	605-36100-	\$ 628.30
					SPECIAL ASSESSMENTS	605-36100-4	\$ 0.96
							\$ 629.26
04/05/2018	Dabruzzi, Anthony	171734321*	Canoe/Kayak Permit	(04/05/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 10.00
							\$ 10.00
04/05/2018	Tell, Jason & Jennifer M.	171734322*	Canoe/Kayak Permit - x2	(04/05/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 20.00
							\$ 20.00
04/05/2018	Vreeland, Amy	171734323*	Canoe/Kayak Permit - x2	(04/05/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 20.00
							\$ 20.00
04/05/2018	Clinch III, J H	171734324*	Canoe/Kayak Permit	(04/05/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 10.00
							\$ 10.00
04/05/2018	Danus, Claudio & Sandy	171734325*	Canoe/Kayak Permit - x2	(04/05/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 20.00
							\$ 20.00

<u>Date</u>	<u>Remitter</u>	<u>Receipt #</u>	<u>Description</u>	<u>Deposit ID</u>	<u>Void Account Name</u>	<u>F-A-P</u>	<u>Total</u>
04/05/2018	Sorenson, Andy	171734326*	Canoe/Kayak Permit - x2	(04/05/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 20.00
04/05/2018	Hunt, Thomas W. & Wynne, Lindsay M.	171734327*	Animal License + \$5 Late Fee	(04/05/2018) -	N Animal Licenses	100-32240-	\$ 20.00
					Animal Licenses	100-32240-4	\$ 5.00
							\$ 15.00
04/05/2018	Reitveld, Lisa	171734328*	Animal License	(04/05/2018) -	N Animal Licenses	100-32240-	\$ 10.00
04/05/2018	Anderson, Timothy W. & Susan L.	171734329*	Sewer Lining Assessment - 2017	(04/05/2018) -	N SPECIAL ASSESSMENTS	605-36100-	\$ 628.30
					SPECIAL ASSESSMENTS	605-36100-4	\$ 0.48
							\$ 628.78
04/05/2018	Lindus Construction	171734330*	Building Permit	(04/05/2018) -	N Building Permits	100-32211-	\$ 186.25
04/05/2018	Tobeck, David	171734331*	Canoe/Kayak Permit	(04/05/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 10.00
04/05/2018	Creagh, Ben & Chris	171734332*	Canoe/Kayak Permit	(04/05/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 10.00
04/05/2018	Nelson, Thomas & Carly	171734333*	Animal License + \$5 Late Fee & Canoe/Kayak Permit - x2	(04/05/2018) -	N Kayak/Canoe Permits	100-32212-	\$ 20.00
					Animal Licenses	100-32240-	\$ 10.00
					Animal Licenses	100-32240-4	\$ 5.00
							\$ 35.00
							\$ 8,464.29

Total for Selected Receipts

Fund Name: All Funds

Date Range: 03/13/2018 To 04/05/2018

<u>Date</u>	<u>Vendor</u>	<u>Check #</u>	<u>Description</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-O-P</u>	<u>Total</u>
03/13/2018	Manship Plumbing & Heating Inc	30017	Monthly Standby/Water Testing	N	Water Utility	601-43180-314-	\$ 670.00
		Total For Check 30017					\$ 670.00
03/13/2018	Birch	30018*	For Service Dates: 02/27,02/28,03/02,03/06 2018.	N	Ice and Snow Removal	100-43125-314-	\$ 1,117.50
		Total For Check 30018					\$ 1,997.50
03/13/2018	AirFresh Industries, Inc.	30019	Rental Monthly Unit (1) - Dec 2017	N	Parks	100-45207-314-	\$ 81.25
		Total For Check 30019					\$ 81.25
03/20/2018	PERA	EFT032018A*	Employee Retirement - Tobin	N	Clerk - Treasurer	100-41401-121-	\$ 350.00
		Total For Check EFT032018A					\$ 350.00
03/20/2018	PERA	EFT032018B*	Employee Retirement - Paul	N	Clerk - Treasurer	100-41401-121-	\$ 100.80
		Total For Check EFT032018B					\$ 100.80
03/21/2018	Payroll Period Ending 03/21/2018	30020	Ice Rink Attendant	N	Parks	100-45207-100-	\$ 10.00
		Total For Check 30020					\$ 10.00
03/21/2018	Payroll Period Ending 03/21/2018	30021	Ice Rink Attendant	N	Parks	100-45207-100-	\$ 10.00
		Total For Check 30021					\$ 10.00
03/21/2018	Payroll Period Ending 03/21/2018	30022	Ice Rink Attendant	N	Parks	100-45207-100-	\$ 12.00
		Total For Check 30022					\$ 12.00
03/21/2018	Payroll Period Ending 03/21/2018	30023	Ice Rink Attendant	N	Parks	100-45207-100-	\$ 8.00
		Total For Check 30023					\$ 8.00
03/21/2018	Payroll Period Ending 03/21/2018	30024	Ice Rink Attendant	N	Parks	100-45207-100-	\$ 12.46
		Total For Check 30024					\$ 12.46
03/21/2018	Payroll Period Ending 03/21/2018	30025	Ice Rink Attendant	N	Parks	100-45207-100-	\$ 11.00
		Total For Check 30025					\$ 11.00
03/29/2018	MN Department of Revenue	EFT032918*	Quarter 3 Filing 2016 Amendment	N	Clerk - Treasurer	100-41401-115-	\$ 93.80
		Total For Check EFT032918					\$ 93.80

Fund Name: All Funds

Date Range: 03/13/2018 To 04/05/2018

Date	Vendor	Check #	Description	Void	Account Name	F-A-O-P	Total
03/29/2018	IRS - US Treasury	EFTIRS0318*	Q3 2016 - Amendment Payment	N	Clerk - Treasurer	100-41401-100-	\$ 489.77
		EFTIRS0318					\$ 489.77
03/30/2018	Payroll Period Ending 03/30/2018	30026	Administrator	N	Clerk - Treasurer	100-41401-100-	\$ 1,817.66
		30026					\$ 1,817.66
04/03/2018	Payroll Period Ending 03/31/2018	30027	Treasurer/Deputy Clerk	N	Clerk - Treasurer	100-41401-100-	\$ 618.12
		30027					\$ 618.12
04/03/2018	Payroll Period Ending 03/31/2018	30028	Office Support	N	Clerk - Treasurer	100-41401-100-	\$ 120.05
		30028					\$ 120.05
04/03/2018	Wingfield, Mary	30029	Reimbursement for Supplies - Stamps - 03/13/2018.	N	Postage/Postal Permits	605-41430-200-	\$ 300.00
		30029					\$ 300.00
04/03/2018	Lay, Tobin	30030*	Reimbursement - Office Supplies	N	Office Operations Supplies	100-41911-230-	\$ 352.29
		30030					\$ 352.29
04/03/2018	PERA	EFT040318A*	Employee Retirement - Tobin	N	Clerk - Treasurer	100-41401-121-	\$ 350.00
		EFT040318A					\$ 350.00
04/03/2018	PERA	EFT040318B*	Employee Retirement - Paul	N	Clerk - Treasurer	100-41401-121-	\$ 100.80
		EFT040318B					\$ 100.80
04/04/2018	MENARD'S - MAPLEWOOD	30031*	WD-40 for the Mailbox	N	General Government Buildings and Plant	100-41940-220-	\$ 4.49
		30031					\$ 4.49
04/04/2018	League of MN Cities	30032*	LMC Workshop Conference 2018	N	City Training and Development	100-41914-433-	\$ 175.00
		30032					\$ 175.00
04/04/2018	Press Publications	30033*	Legal Notice Publications - March 2018	N	Ordinances and Proceedings	100-41130-351-	\$ 88.83
		30033					\$ 88.83
04/04/2018	City of White Bear Lake	30034*	Fire Services - April 2018	N	Fire	100-42201-314-	\$ 104.97
		30034					\$ 104.97
		30033					\$ 193.80
		30034					\$ 1,694.75

Fund Name: All Funds

Date Range: 03/13/2018 To 04/05/2018

Date Vendor Check #
04/04/2018 Washington County - Property & Tax 30035*

Total For Check 30035

04/04/2018 Washington County - Road & Bridge 30036*

Total For Check 30036

04/04/2018 AirFresh Industries, Inc. 30037*

Total For Check 30037

04/04/2018 Allstream 30038*

Total For Check 30038

04/04/2018 BIRCH, INC. 30039*

Total For Check 30039

04/04/2018 White Bear Lake Fireworks Fund 30040

Total For Check 30040

04/04/2018 Leeves, Robert 30041*

Total For Check 30041

04/04/2018 Metropolitan Area Management Associ 30042*

Total For Check 30042

04/04/2018 TSE, INC 30043*

Total For Check 30043

04/04/2018 City of Roseville 30044*

Total For Check 30044

04/04/2018 City of Roseville 30045*

Description	Void	Account Name	F-A-O-P	Total
AccuVote - Election Equipment Maintenance Fee	N	Elections	100-41410-220-	\$ 93.59
Snowplow Materials & Ice Control - 02/12/2018	N	Ice and Snow Removal	100-43125-210-	\$ 421.94
Rental Monthly Unit (1) - April 2018	N	Parks	100-45207-314-	\$ 81.25
Analog Phone Line - 03/23/18 to 04/22/18	N	General Government Buildings and Plant	100-41940-320-	\$ 45.98
Pre-Treat Roads 03/12/18 & Service Date 03/26/18.	N	Ice and Snow Removal	100-43125-314-	\$ 236.25
Annual Contribution - 2018	N	Recreation	210-45101-433-	\$ 135.00
Videographer - Regular CC Meeting 03/13/2018	N	Cable Eqpmt and Service	100-41950-314-	\$ 371.25
MAMA Membership - Monthly Meeting	N	City Training and Development	100-41914-433-	\$ 200.00
Janitorial Services - March 2018.	N	General Government Buildings and Plant	100-41940-314-	\$ 90.00
IT Services - March 2018	N	General Government Buildings and Plant	100-41940-314-	\$ 25.00
Phone Services - March 2018	N	General Government Buildings and Plant	100-41940-320-	\$ 25.00
				\$ 50.00
				\$ 366.00
				\$ 62.12

Fund Name: All Funds

Date Range: 03/13/2018 To 04/05/2018

<u>Date</u>	<u>Vendor</u>	<u>Check #</u>	<u>Description</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-O-P</u>	<u>Total</u>
		Total For Check					62.12
04/04/2018	MN Department of Labor and Industry	EFT040418A*	Building Permit Surcharge - March 2018	N	Building Inspections Administration	100-42401-437-	50.19
		Total For Check					50.19
04/04/2018	Xcel Energy	EFT040418B*	Street Lighting - 02/03/18 to 03/02/18	N	Street Lighting	100-43160-380-	1,238.26
		Total For Check					1,238.26
04/04/2018	Xcel Energy	EFT040418C*	Utility Billing - 02/17/18 to 03/20/18	N	General Government Buildings and Plant	100-41940-380-	217.58
		EFT040418C*			Parks	100-45207-380-	57.47
		EFT040418C*			Sewer Utility	605-43190-380-	26.62
		EFT040418C*				605-43190-380-	145.06
		Total For Check					433.08
		Total For Check					879.81
04/04/2018	Xcel Energy	EFT040418D*	Gas for Generator - 02/19/18 to 03/20/18	N	Sewer Utility	605-43190-383-	28.58
		Total For Check					28.58
04/05/2018	BIRCH, INC.	30046*	Service Date 03/31/18.	N	Ice and Snow Removal	100-43125-314-	585.00
		Total For Check					585.00
04/05/2018	Metropolitan Council - Env. Service	30047*	Wastewater Service - May 2018.	N	Sewer Utility	605-43190-217-	4,411.24
		Total For Check					4,411.24
04/05/2018	City of White Bear Lake	30048*	Water Service - 12/08/2017 to 03/01/2018.	N	Water Utility	601-43180-314-	9,296.34
		Total For Check					9,296.34
04/05/2018	Manship Plumbing & Heating Inc	30049	Monthly Standby/Water Testing	N	Water Utility	601-43180-314-	550.00
		Total For Check					550.00
		Total For Selected Checks					29,537.59

As on 4/5/2018

Special Rev Projects

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Dock/Lift Permit Fee	0.00	100.00	100.00
Total Acct 322	0.00	100.00	100.00
Total Revenues	0.00	100.00	100.00
Other Financing Sources:			
Total Other Financing Sources	0.00	0.00	0.00
Disbursements:			
Recreation			
Miscellaneous: Dues and Subscriptions	0.00	200.00	(200.00)
Total Acct 451	0.00	200.00	(200.00)
Parks			
Misc	0.00	220.00	(220.00)
Total Acct 452	0.00	220.00	(220.00)
Total Disbursements	0.00	420.00	(420.00)
Other Financing Uses:			
Total Other Financing Uses	0.00	0.00	0.00
Beginning Cash Balance		3,664.59	
Total Receipts and Other Financing Sources		100.00	
Total Disbursements and Other Financing Uses		420.00	
Cash Balance as of 04/05/2018		3,344.59	

As on 4/5/2018

Capital Project PW

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Total Revenues	0.00	0.00	0.00
Other Financing Sources:			
Total Other Financing Sources	0.00	0.00	0.00
Disbursements:			
Total Disbursements	0.00	0.00	0.00
Other Financing Uses:			
Total Other Financing Uses	0.00	0.00	0.00
Beginning Cash Balance		66,233.91	
Total Receipts and Other Financing Sources		0.00	
Total Disbursements and Other Financing Uses		0.00	
Cash Balance as of 04/05/2018		66,233.91	

As on 4/5/2018

Water	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Water Fee	0.00	14,220.19	14,220.19
Penalty - Late Water/Sewer	0.00	108.03	108.03
State and Misc fees	0.00	412.05	412.05
Total Acct 341	0.00	14,740.27	14,740.27
Water Main Break	0.00	2,639.25	2,639.25
Total Acct 349	0.00	2,639.25	2,639.25
Total Revenues	0.00	17,379.52	17,379.52
Other Financing Sources:			
Total Other Financing Sources	0.00	0.00	0.00
Disbursements:			
Financial Administration			
Contracted Services	0.00	3,752.10	(3,752.10)
Total Acct 415	0.00	3,752.10	(3,752.10)
Water Utility			
Repair and Maintenance Supplies (221 through 229)	0.00	176.36	(176.36)
Contracted Services	0.00	22,048.48	(22,048.48)
Fees	0.00	562.00	(562.00)
Wtr/Swr Emergency			
Repair and Maintenance Supplies (221 through 229)	0.00	400.00	(400.00)
Professional Services: Medical and Dental Fees	0.00	10,749.90	(10,749.90)
Total Acct 431	0.00	33,936.74	(33,936.74)
Total Disbursements	0.00	37,688.84	(37,688.84)
Other Financing Uses:			
Total Other Financing Uses	0.00	0.00	0.00
Beginning Cash Balance		48,974.20	
Total Receipts and Other Financing Sources		17,379.52	
Total Disbursements and Other Financing Uses		37,688.84	
Cash Balance as of 04/05/2018		28,664.88	

As on 4/5/2018

Sewer	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Penalty - Late Water/Sewer	0.00	128.91	128.91
Sewer Fee	0.00	21,102.15	21,102.15
Total Acct 341	0.00	21,231.06	21,231.06
SPECIAL ASSESSMENTS	0.00	16,340.07	16,340.07
Total Acct 361	0.00	16,340.07	16,340.07
Total Revenues	0.00	37,571.13	37,571.13
Other Financing Sources:			
Total Other Financing Sources	0.00	0.00	0.00
Disbursements:			
Postage/Postal Permits	0.00	773.60	(773.60)
OFFICE SUPPLIES (201 through 209)	0.00	773.60	(773.60)
Total Acct 414	0.00	773.60	(773.60)
Engineer Service	0.00	4,110.00	(4,110.00)
PROFESSIONAL SERVICES (301 through 319)	0.00	4,110.00	(4,110.00)
Total Acct 416	0.00	4,110.00	(4,110.00)
Utility Locates	0.00	55.40	(55.40)
Contracted Services	0.00	55.40	(55.40)
Total Acct 428	0.00	55.40	(55.40)
Sewer Utility	0.00	17,644.96	(17,644.96)
Sewer - Wastewater Charge	0.00	663.75	(663.75)
Contracted Services	0.00	4,610.99	(4,610.99)
Utility Services (381 through 389)	0.00	113.17	(113.17)
Utility Services: Gas Utilities	0.00	113.17	(113.17)
Total Acct 431	0.00	23,032.87	(23,032.87)
Total Disbursements	0.00	27,971.87	(27,971.87)
Other Financing Uses:			
Total Other Financing Uses	0.00	0.00	0.00
Beginning Cash Balance		64,996.57	
Total Receipts and Other Financing Sources		37,571.13	
Total Disbursements and Other Financing Uses		27,971.87	
Cash Balance as of 04/05/2018		74,595.83	

MEMORANDUM

DATE: April 10, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Docks Committee Update



Birchwood Village

Dear Mayor & Council Members,

Please be advised that both Mayor Mary Wingfield, the Council's representative to the Docks Committee, and Chris Churchill, Birchwood Dock Ass'n representative, have resigned from the Docks Committee. Only Houstoun Clinch, the Parks Committee's representative, remains.

It was the Council's intention that the Docks Committee remain functional to advise the Council on docks related matters.

Request/Recommendation

Accordingly, staff requests Council Members discuss reorganizing the Docks Committee. Thanks!

Regards,
Tobin Lay

MEMORANDUM



Birchwood Village

DATE: April 10, 2018

TO: Birchwood City Council

FROM: Mary Wingfield, Mayor

SUBJECT: Birchwood Dock Association Accounting

In reviewing the Birchwood Dock Association Annual Accounts since 2011, there appear to be some discrepancies between actual deposits and expected income. The discrepancies noted began four years ago and were derived from the information gathered from the BDA Treasurer’s reports from 2014-2017. The BDA Treasurer’s reports prior to 2014 reflect deposits that appear to be consistent with expected revenue.

The Birchwood Dock Association provided information to the City Dock Committee a couple of months ago regarding past boat slip permits issued. The Birchwood Dock Association listed the number of household memberships for the same periods (See annual BDA Dock Permit applications.) The following data were taken from those reports.

Expected Income:

2014- 18 slips x \$650/slip = \$11,700	87 Memberships x \$35= \$3045
2015- 18 slips \$11,700	73 Memberships \$2555
2016- 18 slips \$11,700	76 Memberships \$2660
2017- 21 slips \$13,650	73 Memberships \$2555

Total Expected Income:	Actual Deposits	Shortage
2014 \$14,745	\$13,115	\$1630
2015 \$14,255	\$10,885	\$3370
2016 \$14,360	\$11,755	\$2605
2017 \$16,205	\$13,799	\$2406

Total Discrepancy: \$10,011.00

Residents need to ensure the sums due are properly collected and credited to their accounts.

Proposed Motion: The city council requests the Birchwood Dock Association determine which users did not timely pay for the services provided or show why the deposits are short for the last four years, and to report back to the city administrator with the information correcting the accounts by June 1, 2018.

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MEMORANDUM



Birchwood Village

DATE: April 10, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: BDA Extension Request

Dear Mayor & Council Members,

Leadership from the Birchwood Dock Ass’n (BDA) have requested an extension of the April 1st deadline until May 1st for paying the 2018 dock permit fee as is required under City Code Section 617.360. Members of the BDA leadership are present at tonight’s meeting to discuss and answer questions.

The fee owed for the dock permit, as established in the 2018 Fee Schedule, is as follows:

Dock Permit Fee: \$750 (\$650 per boat slip user plus \$100 per stored boat lift) payable in full by April 1 of the boating season. In the event of low water, the fee shall be at least the fee amount multiplied by the number of boat slip users at the end of the previous boating season or the number of boat slip users for the following boating season, whichever is greater.

Relevant sections from City Code are as follows:

- 617.360 **Dock Permits.** The City may issue a Dock Permit to the Dock Association authorizing the Dock Association to install and operate a private dock(s) on the Public Lake Tracts subject to the following:
- (1) Compliance with all requirements set forth in this code and the WBLCD ordinances.
 - (2) No Dock Permit issued by the City is valid unless and until the WBLCD approves the associated permit.
 - (3) The Dock Association shall pay all dock permit fee(s) set forth in Chapter 701.
 - (4) Failure to pay by April 1 shall result in revocation or denial of such permit(s).
- 617.550 **Revocation of Dock Permit.** The City may deny or revoke a Dock Association Dock Permit if the City Council determines that the Dock Association:
- (1) Misrepresented information in its Dock Permit Application Package or its WBLCD dock license application; or
 - (2) Violates any provision set forth in this Chapter 617.

Request/Recommendation

Staff requests Council Members review & discuss BDA’s request and instruct staff accordingly. Thanks!

Regards,
Tobin Lay

MEMORANDUM

DATE: April 10, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: Special Event Permitting



Dear Mayor & Council Members,

Staff has been approached this year by local businesses wishing to host a community-wide event in Birchwood. Although the causes for the events seem potentially beneficial to the community, the City has no ordinance governing such events.

With large events comes an increased amount of liability to the City and a potential risk to the health, safety and welfare of the residents and visitors of the City. For this reason, many cities adopt an ordinance to permit and govern special events.

Staff has obtained sample special event ordinances from several Minnesota cities and requests Council approval to request a City committee, such as the Parks & Natural Resources Committee or the Planning Commission, to review and make a recommendation for adopting our own special event ordinance, under the guidance of the city attorney.

Request/Recommendation

Staff requests Council Members:

- 1) Request a City committee review and recommend a special event ordinance for Birchwood Village; and
- 2) Authorize the committee to work with Attorney Kantrud.

Thanks!

Regards,
Tobin Lay

MEMORANDUM

DATE: April 10, 2018

TO: Birchwood City Council
FROM: Tobin Lay, City Administrator
SUBJECT: SL-Serco Contract



Birchwood Village

Dear Mayor & Council Members,

As you may already be aware, water meter technology has made leaps since Birchwood water meters were last installed. The technology has left Birchwood and many small communities in the dust and wanting for service providers who will still work with the old tech.

Case-in-point: Birchwood's contract with SL-Serco has expired and SL-Serco has informed the City of its intention to no longer read or service our water meters (see enclosed email). After much convincing, SL-Serco agreed to the enclosed temporary contract to allow the City time to find a replacement service provider. Staff has had a difficult time finding a replacement service provider as the new technology is making water meter reading obsolete.

These changes are forcing cities to upgrade their water meters and to help curb the expense of upgrades, many cities have upgraded together. Mahtomedi has already upgraded their water meters but White Bear Lake has not and is our best opportunity to upgrade with a close neighbor. Unfortunately, White Bear Lake doesn't plan to upgrade for another few years. In the meantime, we still need someone to read our water meters.

The enclosed SL-Serco contract is very temporary and does represent an increase of \$174.50 per quarter for water meter reads and \$8/hr increase for repairs.

The upside to all of this is that new water meter technology, although expensive, does offer great future savings as it significantly reduces/eliminates labor expenses (see enclosed article).

Request/Recommendation

Staff requests Council Members:

- 1) Authorize City Administrator Lay to endorse the enclosed SL-Serco contract; and
- 2) Begin searching for and negotiating with other cities to upgrade water meters with.

Thanks!

Regards,
Tobin Lay

Tobin Lay

From: Jameson Allen [jameson.allen@sl-serco.com]
Sent: Monday, March 19, 2018 1:46 PM
To: Tobin Lay
Subject: 2018 Meter Reading Statement of Work
Attachments: SOW for City of Birchwood - 2018 Meter Reading.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Good Afternoon Tobin,

Apologies on the delay. Attached is our 2018 meter reading agreement. As discussed, we are struggling to justify our involvement with the City of Birchwood due to a change in the labor market's expectations, many clients switching to remote meter reading hurting our volume, and a subsequent shift in our organization's position. We have enjoyed serving your city, and would like to strengthen your journey into the future. Therefore, I would like to connect you with a firm who still offers this service in the area. I have asked around and, to my knowledge, they are the only firm left in the area.

Their name is RMR Services, and unfortunately I do not have a direct contact for you. Their website is <http://www.rmrservices.com/> and it looks like they can be contacted through the following:

Email: Office@RMRServices.com

Phone: 763-786-7323

Please let me know if you have any questions or concerns, and I would be more than glad to help! Thank you,

Jameson Allen
Utility Consultant



Mobile: (612) 201-7665

Jameson.Allen@SL-serco.com

Chatfield's New Water Meter Program Saves Money, Time



BY ANDREW TELLJOHN

Ryan Priebe and his colleagues with the City of Chatfield used to have to stop working on whatever project they were involved in to spend two days a month walking the city, house by house, reading water meters.

Then, if there were abnormally high readings, they'd have to block off more time to visit houses again to diagnose a problem, sometimes taking additional readings each day.

But a new meter reading system installed at the end of 2016 has greatly simplified the process. Staff now get readings electronically transmitted to City Hall a couple times per hour.

"Now I can look at it instantly," says Priebe, Chatfield's water superintendent.

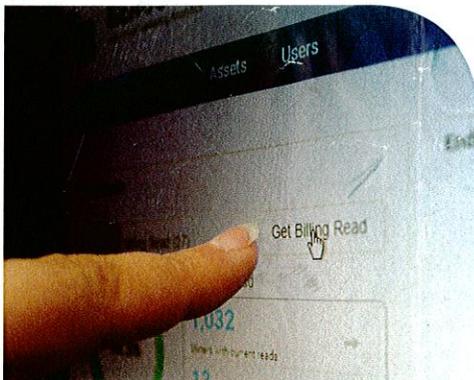
Chatfield city officials partnered with the Minnesota Rural Water Association (MRWA) to identify, purchase, and install an improved water reading system that more accurately represents the amount of water being used in the town, while also saving money and work hours associated with reading meters.

The new meters have been installed in nearly every house, park, and city building in Chatfield, reducing six days of labor per month to about 30 minutes. The project was the winner of a League of Minnesota Cities 2017 City of Excellence Award.

Surpassing expectations

The city spent just over \$450,000 on the project. The majority of the physical installation was completed in late December of 2016. The project was necessary because the existing meters were about 25 years old. Meters lose accuracy as they age.

PHOTO BY MICHAEL BRAUN



The billing read for water meters across the city is available with the click of a button.

"They're less sensitive in general," says City Clerk Joel Young. "In those latter years, you might not be picking up 5 to 10 percent of your water. That's what we're excited to learn. The thing that we've seen is that we've been able to account for more water."

When the last meter reading update took place in the early 1990s, Chatfield's process improved because instead of going into houses, staff could simply walk by the outside meter and point a gun at a plastic device on the meter to get the reading, Young says.

When they decided to do the upgrade this time, the city had hoped to improve its system by making it a driving rather than walking job. They envisioned doing readings via drive-by radio while staff slowly drive a city truck down the street.

The bids for that option came in lower than expected, allowing for an even greater efficiency improvement. Chatfield, instead, installed four fixed network

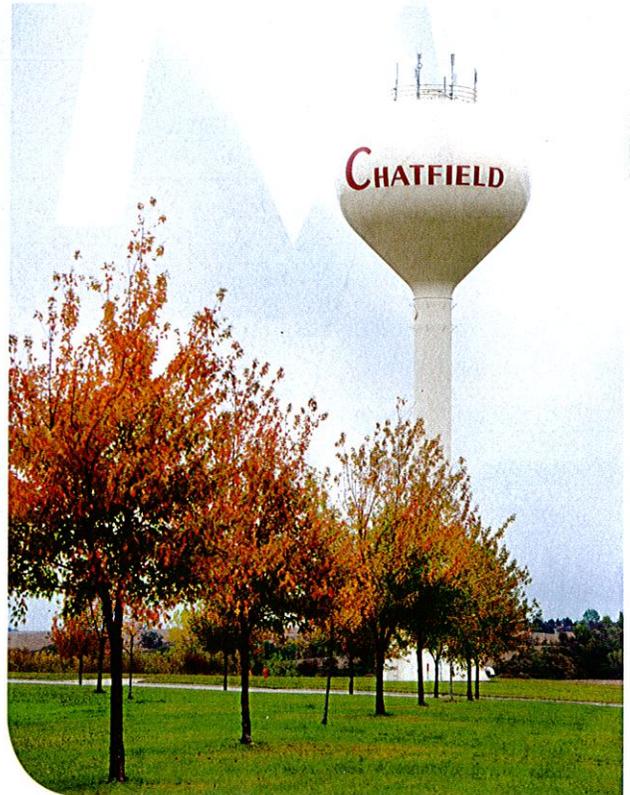


PHOTO BY MICHAEL BRAUN

collectors at high points throughout the city. They collect water meter information and beam the results to City Hall using no manpower.

"Information is coming into the office

a couple times per hour," Young says. "We always have up-to-date information."

Deputy Clerk Beth Carlson used to take the manual reads and download them to the computer.

"Now I click a button that says 'Get billing read,'" she says. "I can have the entire town read in a matter of minutes."

Improving efficiency

The process isn't 100 percent perfect. There are a handful of houses located in such a way that it's difficult for the collector to get a good read, so city employees have to read those manually.

"It might take a half-hour for them to get those scattered around the town that have to be read," Carlson says.

But efficiency is vastly improved, to the tune of saving nearly 500 labor hours annually. And the system offers several benefits beyond saved time, Young adds. For one, the system generates a daily leak

report that tells city staff if there is abnormal water use in a house or building for 24 hours.

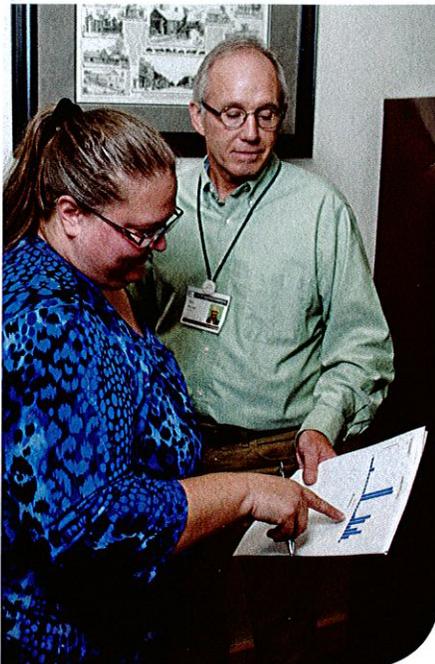
“That usually means there is a leak,” he says, which allows the city to contact citizens to let them know there may be a problem. “The reaction has been very positive. It’s an excuse for us to come into contact with our citizens in a positive way.”

The project also involved putting meters where they haven’t been in the past—city buildings, for example, like the wastewater plant and the municipal building, which use a substantial amount of water that was previously untracked. There are about 1,060 meters across the city.

The city is now monitoring “areas that we really need to pay attention to, but we weren’t set up to do that,” Young says. “When we do our annual water report to the [state Department of Natural Resources], there is always a large unaccounted for amount of water. Now, we’re finding that it was mostly public use.”

Adds Priebe: “We use a lot more water than we thought, but at least we are accounting for it now.”

The system has been up and running for about seven months, but it’s too early to provide specifics on financial savings. “We just don’t have enough information yet,” Young says.



Deputy Clerk Beth Carlson and City Clerk Joel Young look over a water meter report from the new system.

Partnering with Minnesota Rural Water Association

One of the keys to getting the project off the ground was Chatfield’s partnership with MRWA. Typically, in small cities, it would be common to engage the skills of a consultant to help ensure bid specifications were written in a way that would produce bids that allow the city to make an “apples-to-apples” comparison.

But Chatfield’s public works staff had come across the MRWA, which provides technical analysis on projects like this for municipalities across the state. The city worked with Jeff Dale, a technical advisor, to make sure those documents were in place. That partnership saved Chatfield \$30,000 to \$40,000.

“Had he not been involved, there was no way I would have attempted to put the specs together,” Young says. “Even with him involved, I was pretty apprehensive. We took it one step at a time and realized we can do this.”

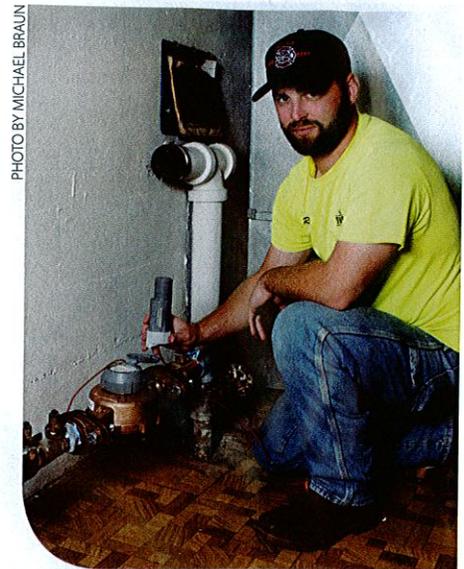
The association is funded by the U.S. Department of Agriculture’s Circuit Rider Program, which provides technical assistance for rural water systems that experience day-to-day operational, financial, or managerial issues. So, on a project like this, Dale would help city staff create a specifications guide, understand the options that are available, and walk them through how the installation process might work.

“The biggest part of my assistance helping a city like Chatfield is getting them down the right path and getting them to understand you don’t just call the vendor up and ask for water meters,” Dale says. “There’s a whole lot more to the big picture.”

Financing the project

Chatfield also financed the project through the MRWA’s Micro Loan Program, which is designed for projects just like this one. Going to the regular bond market, Young says, involves costly legal work and stacks of paperwork. The Micro Loan application was one page. (Learn more at www.mrwa.com/microloan.html.)

Financing programs like this are available to any local unit of government that has the authority to issue bonds, says Michael Bubany, a financial consultant with David Drown Associates, which runs the financing programs for MRWA.



Water Superintendent Ryan Priebe with one of the new water meters in a city building. He is holding the “end point,” which is placed near the ceiling and transmits water usage information to City Hall.

The loans can be for utilities, equipment, roads, or other legal purposes, Bubany says. The benefits are a simplified process, lower costs, and fast turnaround.

“We can turn them around and have them locked in a couple days,” he says.

“It’s the simplest application I’ve ever seen,” Young says. “Approval came through within a day. It was really slick. We avoided a lot of the professional fees that go along with selling bonds.”

Overcoming challenges

While it’s too early for concrete stats, the city is happy with the results of its upgraded water meter system so far. There have been a few minor challenges throughout the process. During installs, city officials did find that their machines struggled to get readings from around 90 units. So, they had to get access to return to the venue to move them.

But that was a minor inconvenience compared with the benefits. And now that staff members don’t have to go door-to-door collecting meter readings, they’re catching up on a backlog of other projects, Priebe says. “Now that it’s done, it’s great!”

Andrew Tellijohn is a freelance writer based in Richfield, Minnesota.



For more city news, visit www.lmc.org/citynews.



Statement of Work

Birchwood, MN 2018 Meter Reading

3/19/2018

Presented by:
Jameson Allen,
Mobile: 612-201-7665
jameson.allen@sl-serco.com

50 Years of Excellence

Executive Summary

Thank you for requesting our services. Clear procedures, shared timelines, and strong communication are highly valued by SL-serco, and essential to ensuring a successful project. This Statement of Work will define the project's scope and each party's responsibilities as they pertain to the services being provided.

Client Name	City of Birchwood
Client Contact	Tobin Lay
Project Name	2018 Meter Reading for the City of Birchwood
Engagement Duration	6 months
Begin Date	1/1/2018
End Date	5/31/2018

Work Requirements

SL-serco will dedicate resources for the proposed project upon mutual agreement of terms defined within this Statement of Work.

SL-serco Responsibilities

- Perform quarterly meter read through May 31, 2018
- Provide field support and meter repairs

City of Birchwood Responsibilities

- Tracking and payment of invoices within 45-day terms
- Provide feedback as needed throughout the project as well as at the end

Schedule of Rates

SL-serco will bill City of Birchwood quarterly.

Item Description	Rate
Quarterly Meter Read	\$500 (\$174.50 incr.)
Field Support	\$68/hour (\$8/hr incr.)

Change Management Process

In providing this Statement of Work, responsibilities have been assumed in regard to the scope and requirements of our proposed services; the above pricing is predicated on those assumptions. We do our best to anticipate all potential project requirements. Should any additions or changes be requested that are beyond the Scope and Requirements outlined above, they must be submitted in writing to Jameson Allen and a new Statement of Work must be drafted and approved by all parties.

Terms and Conditions

The services outlined above will be provided on a contractual basis for the stated price, following mutual agreement and signing of this Statement of Work. SL-serco will require payment of invoices within 30 day terms. Any services required beyond the scope of this Statement of Work must be negotiated through the Change Management Process.

Acceptance and Authorization

SL-serco is honored to provide you this project quote. Terms and prices are valid for 30 days from this Statement's date of issue. Your signature below will signify your acceptance of these terms and prices, and serve to authorize our engagement on this project.

IN WITNESS WHEREOF, the parties hereto each acting with proper authority have executed this Statement of Work.

_____	Laurie Allen
Full Name	Full Name
_____	CFO
Title	Title
_____	_____
Signature	Signature
_____	3/19/2018
Date	Date

SL-serco Incorporated
General Provisions of Professional Services Agreement

Article 1. General

These General Provisions supplement and become part of the Agreement between SL-serco Incorporated, a Minnesota Corporation, hereinafter referred to as SL-serco, and the other Party to the Agreement, hereinafter referred to as CLIENT, wherein the CLIENT engages SL-serco to provide certain Professional services. Either Party to this Agreement may be referred to as a "Party" or collectively as "Parties."

As used herein, the term "Agreement" refers to (1) SL-serco's original Engagement Letter or proposal (the "Engagement Letter") which forms that basis for the Agreement; (2) these General Provisions, and (3) any attached Exhibits, as if they were part of one and the same document. With respect to the order of precedence, any attached Exhibits shall govern over these General Provisions and the Engagement Letter shall govern over any attached Exhibits and these General Provisions.

Article 2. Period of Service

The term of this Agreement for the performance of services hereunder shall be as set forth in SL-serco's Engagement Letter. Any lump sum or estimated maximum payment amounts set forth in the Engagement Letter have been established in anticipation of the orderly and continuous progress of the project in accordance with the schedule set forth in the Engagement Letter or any Exhibits attached thereto.

Article 3. Period of Service

- A. Compensation to SL-serco for services shall be as designated in the Engagement Letter. The CLIENT shall make monthly payments to SL-serco within 30 days of date of invoice.
- B. The CLIENT will pay the balance stated on the invoice unless CLIENT notifies SL-serco in writing of the particular item that is alleged to be incorrect within 15 days from the date of invoice, in which case all undisputed items shall be paid and amounts in dispute shall become due upon an adjudicated resolution or upon agreement of the parties. All accounts unpaid after 30 days from the date of the original invoice shall be subject to a service charge of 1-1/2% per month, or the maximum amount authorized by law, whichever is less. SL-serco shall be entitled to recover all reasonable costs and disbursements, including reasonable attorneys' fees, incurred in connection with collecting amounts owed by CLIENT. In addition, SL-serco may, after giving seven days' written notice to the CLIENT, suspend services under this Agreement until SL-serco has been paid in full for all amounts then due for services, expenses and charges. CLIENT agrees that it shall waive any and all claims against SL-serco and that SL-serco shall not be responsible for any claims arising from suspension of services hereunder.

Article 4. Extra Work

If SL-serco is of the opinion that any work it has been directed to perform is beyond the Scope of this Agreement, or that the level of effort required exceeds that estimated due to changed conditions and thereby constitutes extra work, it shall notify the CLIENT of that fact. Upon written notification to CLIENT, SL-serco shall be entitled to additional compensation for same, and to an extension of time for completion absent timely written objection by CLIENT to additional services.

Article 5. Abandonment, Change of Plan and Termination

Either party has the right to terminate this Agreement upon seven days' written notice for convenience of either CLIENT or SL-serco. In addition, the CLIENT may at any time reduce the Scope of this Agreement. Such reduction in scope shall be set forth in a written notice from the client to SL-serco. In the event of unresolved dispute over change in scope or changed conditions, this Agreement may also be terminated upon seven days' written notice as provided above.

In the event of termination or reduction in scope of the project work, SL-serco shall be paid for the work performed and expenses incurred on the project work and for any completed and abandoned work for which payment has not been made, computed in accordance with the provisions of the Engagement Letter and payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with SL-serco's subconsultants, costs of producing copies of file materials and other related close-out costs.

Article 6. Disposition of Plans, Reports and Other Data

All documents, including reports, drawings, calculations, specifications, computer software or hardware or other work product prepared by SL-serco pursuant to this Agreement are SL-serco's Instruments of Service and SL-serco retains all ownership interests in said Instruments of Service, including copyrights. Any use or reuse of such Instruments of Service, except for the specific purpose intended, by the CLIENT or others without written consent, verification or adaptation by SL-serco will be at the CLIENT's risk and full legal responsibility. In this regard, the CLIENT will indemnify and hold harmless SL-serco from any and all suits or claims of third parties arising out of such use or reuse which is not specifically verified, adapted or authorized by SL-serco.

Files in electronic format furnished to the CLIENT are only for the convenience of the CLIENT. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is any discrepancy between the electronic files and the hard copies, the hard copies govern. In the event electronic copies of documents are made available to the CLIENT, the CLIENT acknowledges that the useful life of electronic media may be limited because of the deterioration of the media, obsolescence of the computer hardware and/or software systems or other cases outside of SL-serco's control. Therefore SL-serco makes no representation that such media will be fully usable beyond 30 days from the date of the delivery to CLIENT.

Article 7. Client's Acceptance by Purchase Order

In lieu of or in addition to execution of the Engagement Letter, the CLIENT may authorize SL-serco to commence services by issuing a purchase order by a duly authorized representative. Such authority to commence services or purchase order shall incorporate by reference the terms and conditions of this Agreement. In the event the terms and conditions of this Agreement conflict with those contained in the CLIENT's purchase order, the terms and conditions of this Agreement shall govern. Notwithstanding any purchase order provisions to the contrary, no warranties, express or implied, are made by SL-serco. In order to implement the intent of Parties to this Agreement, the Parties agree that the Engagement Letter, these General Provisions, and any Exhibits constitute the entire Agreement between them. The Parties further agree that the preprinted terms and conditions of any CLIENT-generated purchase order issued to request work pursuant to this Agreement will not apply to the work, regardless of whether SL-serco executes the purchase order in acceptance of the work.

Article 8. Non-compete

All parties agree that they shall not, nor shall they assist any other person or other entity whatsoever to, at any time during the term of this Agreement or for a minimum of two (2) years from the date of this Agreement, solicit or endeavor to entice away any employee of the other company. If any parties should violate this Article and an employee is hired away as a result, the aggrieved party would be entitled to payment fee equal to 20% of such employee's annual base salary or equivalence of placement agency fee.

Article 9. Liquidated Damages Exclusion

As the sub-contractor, SL-serco will be excluded from the liquidated damages as outlined in the utility's request for proposal.

