



AGENDA OF THE PLANNING
COMMISSION
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
August 27, 2020
7:00 P.M.

CALL TO ORDER

In light of the Governor's Executive Order regarding social-distancing and restrictions on gatherings, the Planning Commission of The City of Birchwood Village is conducting its meetings using interactive web-based technology. Pursuant to Minnesota Statutes, Chapter 13D. 021 Subdivision 1(1) the City of Birchwood is declaring that, "an in-person meeting or a meeting conducted under section 13D.02 is not practical or prudent because of a health pandemic..."

The meeting will be conducted using the *Zoom* meeting platform, which allows for video-conferencing or teleconferencing, and the details of that are directly below for participating. If you plan to attend it is suggested that you familiarize yourself with the technology in advance. If you plan to participate than you must either:

1. send your name, topic you plan to speak on, and the phone number you will be calling from to City Hall by noon the day before the meeting; or
2. join the meeting no later than 6:45pm to coordinate with the Moderator.

The Moderator of the meeting shall be City Administrator Tobin Lay and all participants, except Planning Commissioners, shall have their microphones muted unless recognized by the Commission Chair, whose microphone will remain active for the entire meeting. Public Hearings shall be honored using this technology.

The Birchwood Village Planning Commission is inviting you its August 27 Zoom meeting.

Time: Aug 27, 2020 7:00 PM Central Time (US and Canada)

Join Zoom Meeting:

<https://us02web.zoom.us/j/86265985189?pwd=N3hVcVpJekJyL1V4eGtTVW9oZHFFdz09>

Meeting ID: 862 6598 5189

Passcode: 384079

Phone: +1 312 626 6799 US (Chicago)

* Denotes items that have supporting documentation provided

APPROVE AGENDA

REGULAR AGENDA

- A. Review/Approve July 30, 2020 Meeting Minutes* (p. 3)
- B. Review Variance Case No. 20-02-VB for 415 Wildwood Avenue* (pp. 5-40 & 80-83)
 - 1. Public Hearing
 - 2. Discuss & Recommendation to City Council
- C. Review Variance Case No. 20-04-VB for 251 Wildwood Avenue* (pp. 41-79 & 84-87)
 - 1. Public Hearing
 - 2. Discuss & Recommendation to City Council

ADJOURN

CASE NO. 20-02-VB 415 WILDWOOD AVE

Application ----- pp. 7-30
Staff Memo ----- pp. 31-34
City Codes ----- pp. 35-36
Sample Maintenance Agreement ----- pp. 37-40
Variance Findings Form (blank) ----- pp. 80-83

CASE NO. 20-04-VB 251 WILDWOOD AVE

Application ----- pp. 43-72
Staff Memo ----- pp. 73-77
City Codes ----- pp. 78-79
Variance Findings Form (blank) ----- pp. 84-87

* Denotes items that have supporting documentation provided

CITY OF BIRCHWOOD VILLAGE
PLANNING COMMISSION MEETING
JULY 30, 2020 MINUTES

COMMISSIONERS PRESENT: Chair John Lund, Jozsef Hegedus, Andy Sorenson, Mark Foster, Michael Kraemer

OTHERS PRESENT: Cathy Wandmacher, Tobin Lay

Chair John Lund called meeting to order 7:05 PM

APPROVE AGENDA- Chair John Lund motioned to approve agenda, Michael Kraemer 2nd

REGULAR AGENDA

A. Review Variance Case No. 20-02-VB for 415 Wildwood Avenue* (pp.3-36)

1. Public Hearing - No public present. Letter from Jim Berg and Josephine Sims in support of patio was noted.

2. Discuss & Recommendation to City Council - Michael Kraemer motioned to stay approval until Next meeting. John Lund 2nd all ayes motion passed

1. Requested Cathy Wandmacher complete H-K under sec.302.050.1
2. Get actual measurement of impervious surface of lot and rain garden
3. Rain garden maintenance schedule (storm management plan) and terms for Maintenance agreement with city

B. Review / Approve June 30, 2020 Meeting Minutes* (pp. 37-38)

Commissioner Jozsef Hegedus motioned to approve, Andy Sorenson 2nd, all ayes motion passed.

Adjourn at 7:54 Motion was made by John Lund, 2nd by Andy Sorenson, all ayes motion passed

**VARIANCE CASE
NO. 20-02-VB**

415 WILDWOOD AVENUE



City of Birchwood Village
Petition for Variance Application

207 Birchwood Ave, Birchwood, MN 55110
Phone: 651-426-3403 Fax: 651-426-7747
Email: info@cityofbirchwood.com

FOR OFFICIAL USE ONLY

Application Received Date: _____ Amount Paid: \$ 300.00
 Payment Type (Circle One): Cash / Check / Money Order / Credit Card
 Check/Money Order # 10027
 Application Complete? Yes No If no, date application was deemed complete: _____
 Signature of City Planner: [Signature] Date: 7/28/20

Completed requests for variances submitted prior to the first Thursday of the month will be considered by the Planning Commission at its next meeting on the fourth Thursday of the month. Requests submitted after the first Thursday of the month will be considered at the following meeting. All final decisions on variance applications are made by the City Council, which meets on the second Tuesday every month.

1. Name of Applicant(s) Cathryn Wandmacher
 Address 415 Wildwood Ave
 City Birchwood State MN Zip Code 55110
 Business Phone _____ Home Phone [Redacted]

2. Address of Property Involved if different from above: _____

3. Name of Property Owner(s) if different from above and describe Applicant's interest in the property:

4. Specific Code Provision from which Variance is requested: 302.050

5. Describe in narrative form what the Applicant is proposing to do that requires a variance:
I have installed a stone patio with a boulder wall. I did not know I needed a permit to install

6. Type of Project:

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

7. Type of Structure Involved:

- Single Dwelling
- Garage
- Tennis Court
- Grading/Filling
- Other (describe) patio + boulder wall
- Double Dwelling
- Addition
- Pool

8. Using the criteria from the City Code for a variance (see last page), explain why a variance is justified in this situation and describe what "Practical Difficulties" exist:

City code 302.050 - impervious surface -
Patio is built on clean fill, class 5, sand
+ stone. There is space between each stone
for drainage. Before it was just a hill with
leaves + weeds, there was nothing to help
with the runoff.

9. 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:

I have consulted with a professional +
had plans drawn up for a rain garden that
will be bigger than the patio - I also have
put mulch on the slope.

10. Describe any alternatives the Applicant considered (if any) that do not require a variance:

11. Can an emergency vehicle (Fire Truck or Ambulance) access all structures on the property after the proposed change? Yes No

12. Does the proposed change bring any other nonconforming use into conformity with the City Building Code? Yes No

If yes, explain: _____

13. Are there other governmental regulations that apply to the proposed action, including requirements of the Rice Creek Watershed District? Yes No

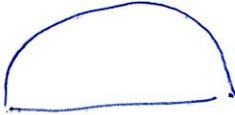
If yes, please identify the regulations AND attach evidence demonstrating compliance:

14. Please provide the applicable information in the following Table:

	EXISTING	PROPOSED	CHANGE
1. Total Square Footage of Lot	6,761		
2. Maximum Impervious Surface (25% of item 1)			
3. Roof Surface	1026		
4. Sidewalks	95		
5. Driveways	750		
6. Other Impervious Surface	240	patio + boulder wall	
7. Total of Items 3-6	1895		
8. Percent Impervious Surface			

15. Please attach the following:

- Legal description of property.
- Plot plan drawn to scale showing existing and proposed new and changed structures on the lot. Also show existing structures on adjacent lots.

patio + boulder wall  164 x 156
 walkway 117 x 56

Criteria for Granting a Variance. Pursuant to Minn. Stat. Sec. 462.357, subd. 6, as it may be amended from time to time, the Planning Commission may issue recommendations to the City Council for variances from the provisions of this zoning code. A variance is a modification or variation of the provisions of this zoning code as applied to a specific piece of property.

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:

SUBD. 1.

- A. Variances shall only be permitted
 - i. when they are in harmony with the general purposes and intent of the ordinance and
 - ii. when the variances are consistent with the comprehensive plan.
- B. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

SUBD. 2. "Practical difficulties," as used in connection with the granting of a variance, means that

- i. Special conditions or circumstances exist which are peculiar to the land, structure, or building involved.
- ii. 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.
- iii. The granting of a variance will result in no increase in the amount of water draining from the property.
- iv. 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.
- v. No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do.
- vi. Financial gain or loss by the applicant shall not be considered if reasonable use for the property exists under terms of the Zoning Code.

NOTICE:

***The City and its representatives accept no responsibility for errors and/or damages caused due to incomplete and/or inaccurate information herein. It is the responsibility of the applicant to ensure the accuracy and completeness of this information.**

***The City will hold applicant responsible for any damage to public streets & roadways in the course of construction, landscape, excavating, filing and grading operations.**

***Under penalty of perjury the applicant declares that the information provided in and enclosed herewith is complete and all documents represented are true and correct representations of the actual project/building that will be built in conformance with such representation if approved.**

Signature of Applicant: Callie A. W. Orbach Date: 6-10-20

415 Wildwood Ave, Saint Paul, MN 55110-1618, Washington County



MLS Beds 2	MLS Sq Ft 932	Lot Sq Ft 6,767	MLS Sale Price \$235,000
MLS Baths 1	Yr Built 1900	Type SFR	MLS Sale Date 09/26/2019

OWNER INFORMATION			
Owner Name	Wandmacher Cathryn A	Taxpayer ZIP+4	1618
Taxpayer Address	415 Wildwood Ave	Taxpayer Carrier Route	C024
Taxpayer City and State	White Bear Lake, MN	Owner Occupied	Yes
Taxpayer Zip	55110		

LOCATION INFORMATION			
Municipality	Birchwood	School District Name	White Bear Lake
Zip Code	55110	School District	0624
Carrier Route	C024	Section #	30
Census Tract	703.03	Township #	30
Subdivision	Lakewood Park 03	Range #	21
Lot	2	Quarter	NE
Block	6	Quarter-Quarter	SW

TAX INFORMATION			
PID#	3003021130082	Special Assessment	\$265
PID	3003021130082	Preliminary Tax Amount	\$2,256
% Improved	23%	Payable Tax Year	2020
Legal Description	SUBDIVISIONNAME LAKEWOOD P ARK 3RD DIVISION LOT 2 BLOCK 6 SUBDIVISIONCD 25442 PT BEIN G SLY 5FT SD LT 2 & N1/2 LT 3 EX C SLY 4FT THEREOF		

ASSESSMENT & TAX				
Assessment Year	2019 - Preliminary	2018	2017	2016
Estimated Mkt. Value - Total	\$215,500	\$169,900	\$152,500	\$150,200
Estimated Mkt. Value - Land	\$150,000	\$130,000	\$117,000	\$117,000
Estimated Mkt. Value - Building	\$65,500	\$39,900	\$35,500	\$33,200
Taxable Mkt. Value - Total	\$197,700	\$148,000	\$129,000	\$126,500
Taxable Mkt. Value - Land	\$137,600	\$113,200	\$99,000	\$98,500
Taxable Mkt. Value - Building	\$60,100	\$34,800	\$30,000	\$28,000
YOY Taxable Mkt. Value Chg (\$)	\$49,700	\$19,000	\$2,500	
YOY Taxable Mkt. Value Chg (%)	33.58%	14.73%	1.98%	
Payable Tax Year	Total Tax	Change (\$)	Change (%)	
2017	\$1,490			
2018	\$1,702	\$212	14.23%	
2019	\$1,656	-\$46	-2.7%	

CHARACTERISTICS			
Lot Acres	0.1554	Basement Type	Tax: Crawl MLS: Partial, Crawl Space, Drain Tiled, Drainage System
Lot Sq Ft	6,767	Garage Type	Detached Garage
Lot Frontage	23	Parking Type	Detached Frame Garage
Lot Depth	240	Garage Sq Ft	240
Land Use - County	Res 1 Unit	Garage Capacity	MLS: 1
Land Use - CoreLogic	SFR	No. Parking Spaces	MLS: 1
# of Buildings	1	Roof Shape	Gable/Hip
Stories	1	Roof Type	Gable
Levels	1	Roof Material	Asphalt Shingle

Nominal

Buyer Name	Swenson Eric L & Bauman Jaclyn	Owner Record	Owner Record
Buyer Name 2	Bauman Jaclyn		
Seller Name		Owner Record	Owner Record
Document Type	Deed (Reg)	Deed (Reg)	Deed (Reg)

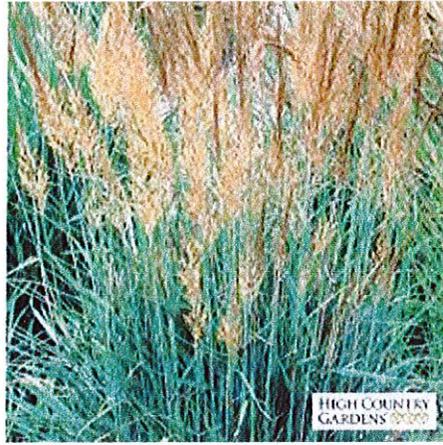
MORTGAGE HISTORY			
Mortgage Date	04/14/2020	11/19/2019	09/28/2018
Mortgage Amount	\$231,550	\$223,250	\$209,100
Mortgage Lender	Goldwater Bk Na	Goldwater Bk Na	Bell Bk
Borrower Name	Wandmacher Cathryan A	Wandmacher Cathryn A	Pehoski Anthony J
Borrower Name 2			Pehoski Julie A
Mortgage Type	Conventional	Conventional	Conventional

FORECLOSURE HISTORY	
Document Type	Lis Pendens
Foreclosure Filing Date	05/18/2017
Recording Date	05/18/2017
Original Doc Date	06/23/2015
Lien Type	Mtg
Buyer 1	Lutz Jeffrey A
Seller 1	Wells Fargo Bk Na
Title Company	Attorney Only



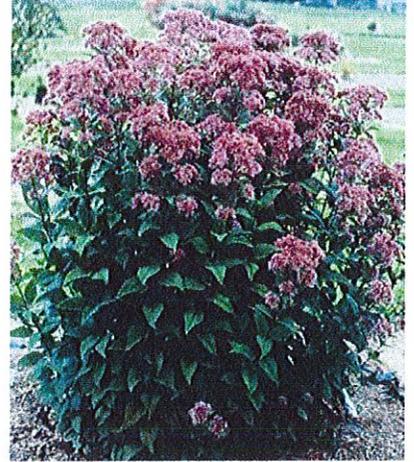
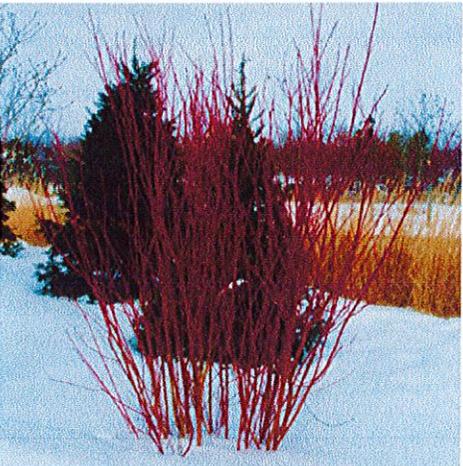
*Lot Dimensions are Estimated

Plants for Rain Garden



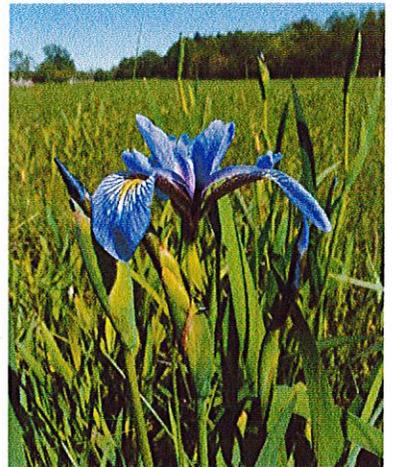
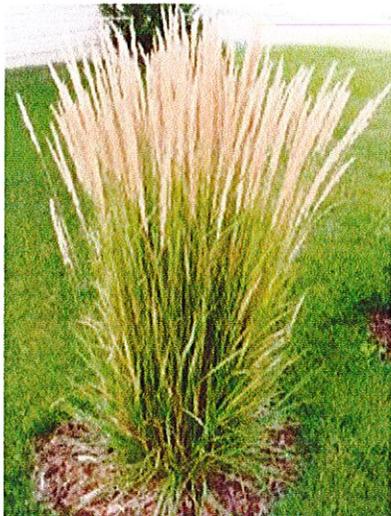
Indian Grass

Turtlehead



Yarrow Noblessa

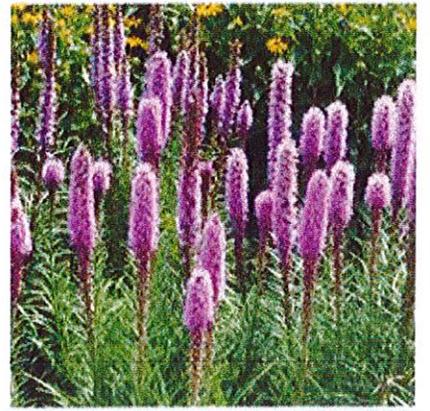
Eupatorium Little Joe



Cornus Allenman's Compact

Astilbe Delft Lace

Blue Flag Iris



Karl Foerster Grass

Baptisia

Liatris

August 17, 2020

PLANT LIST FOR
Cathy Wandmacher
415 Wildwood Ave,
Birchwood, MN 55110

Phone: 651 276-3726

DESIGN BY:

ROSALIE TALLEN

RESIDENTIAL GARDENS LLC

243 WILDWOOD AVE, ST PAUL, MN 55110

651 426-1500

rvtallen@comcast.net

www.residentialgardens.net

Plants

Quantity	Botanical Name	Common Name	Size	Price
7	<i>Achillea ptarmica</i> 'Noblessa'	YARROW NOBLESSA	CG#1	\$55.93
8	<i>Astilbe chinensis</i> 'Delft Lace'	ASTILBE DELFT LACE	CG#1	\$119.92
3	<i>Baptisia australis</i>	BAPTISIA AUSTRALIS	CG#1	\$23.97
6	<i>Calamagrostis acutiflora</i> 'Karl Foerster'	REED GRASS KARL FOESTER	CG#1	\$47.94
6	<i>Chelone lyonii</i> 'Hot Lips'	TURTLEHEAD HOT LIPS	CG#1	\$53.94
5	<i>Cornus sericea</i> 'Allenman's Compact'	DOGWOOD ALLENMAN'S COMPACT	CG#2	\$99.95
6	<i>Eupatorium dubium</i> 'Little Joe'	EUPATORIUM LITTLE JOE	CG#1	\$65.94
12	<i>Iris versicolor</i>	IRIS BLUE FLAG	CG#1	\$119.88
9	<i>Liatris spicata</i>	DENSE BLAZING STAR	CG#1	\$71.91
7	<i>Sorghastrum nutans</i>	INDIAN GRASS	CG#1	\$55.93

				Total:	\$715.31
--	--	--	--	---------------	-----------------

- a. The patio that I had built is approximately 225 sq feet. It is made from stones with spacing between each stone for drainage. Under the stone is sand, class five and clean fill. I have enclosed pictures to show the spacing between stones to help with the drainage.

















- b. My house is on a gradual slope. Along the east and west sides of the house there are gully's that have been made so the rain will run between the homes and to the front hill. On the north side I have mounds that help absorb the runoff and direct it away from the house then directs it to the east and west sides. I will be installing a rain barrel on the east side of the house attached to the down spout from the gutters I have ordered Silt Sock Sediment and Erosion Control Management for Storm-Water Management, Drainage Protection. I will be placing sections on the hill to absorb the rain water.





I have enclosed the plans for a rain garden on the west side of the hill and a low berm on the east side to direct water into the rain garden.

- c. I spoke with Bryan Pyann, a watershed restoration specialist with Washington Conservation District. He suggested a raingarden at a 6" ponding depth. large enough to capture 225 sq ft of impervious surface, ponding 3-6" deep. He suggested at a 6" deep raingarden that is 40sq ft. If you want to pond at 3" and your soils do not drain well, then I would do 70 sq ft.

To see if the soil is good enough, he had me dig a hole where the raingarden will be. I made a hole 12" around and 18" deep. I was trying to mimic how the soils would drain after back to back rainfalls and saturated soils.....So... I filled it with water, and once it drained completely I filled it again right away. I jammed a stick in the sidewall of the hole to mark how high the water was filled to. I came back every hour for the next few hours and measured how far down the water drains. If it drained faster than 0.5 inches per hour, and it did so the placement of the raingarden should be perfect.

- d. I am going to hire someone to install the raingarden, so it is installed with the correct slope etc.
- e. N/A
- f. In order to get the boulders for the wall up the hill, ground cover did get disrupted. It was just leaves and weeds before. I planted hostas, ferns and other grasses to help absorb the runoff. I also put mulch on the hill. I did remove a tree that was dead, but the stump and roots remain.
- g.
- h.
- i. I will be planting more grasses and will split hostas and in the fall and place where there are open spaces so eventually the whole hill will be filled with plants.
- j. As soon as I get approval, I plan to put the rain garden in.
- k. I will register the variance with the county when completed and approved by the commission and the city.

h. The stormwater management practices shall be designed in accord with the Minnesota Stormwater Manual, American Concrete Pavement Association design criteria, Center for Watershed Protection, *Stormwater BMP Design Supplement for Cold Climates*, or other design guidance provided by the City.

I have enclosed the plans for putting 2 rain gardens on the slope of my hill. 230 and 170 sq feet. One on each side of my house capturing the runoff.

I. The stormwater management plan shall include the applicant's description of how the practices shall be maintained to function as designed for the long-term. The City may inspect the installation of the stormwater management system at the site.

On each side of the house will direct the water flow into the gardens. I will dig the garden 6-9 in deep with gently sloping sides. Using the excavated soil to create a small berm on the downhill side. Below is the maintenance and upkeep of the gardens. If necessary I can I also purchase a rain barrel to attach to one of my downspouts.

j. The applicant shall include the maintenance plan and a maintenance schedule for the approved stormwater management practices with the required permit application.

Water weekly for 2 months until the plants are established. Keep up routine pruning, mulching and weeding. Inspect site following rainfall events. Add or replace vegetation in eroded areas. If certain plants are not doing well will research a replacement plant. Remove any accumulate sediment or debris.

Schedule:

Spring: New mulch, replace plants that may not have survived over winter

Summer: Weed, check after major rainfalls that water is being directed into the gardens and the debris is cleaned out to keep drainage appropriate.

Fall: Prune plants, mulch if needed, clean out and trim plants for winter

k. The variance shall not be valid unless the applicant properly records the variance at the property records at Washington County and a copy of the recording is properly returned to the City for verification. *Once the variance is approved will file for the proper permits.*

Measurements:

Lot size 6706.17

Roof surface 1172

Sidewalk 484.6

Driveway 857.14

Other impervious surface 305

Total line 3-6 (2818.74)

8/7/2020 10:29 AM

Cathy,

This is where my time cannot be used and I may have stretched it a bit in giving you some numbers initially. I am not allowed to provide design services for permit requirements. But I also do not want to leave you hanging for such a minor issue.

What I can say is this impervious area normally includes the rooftops, driveways, sidewalks, patios, and gravel surfaces. But some cities have different rules for what is considered impervious and what is not. I do not know the rules for your city, but these are the typical surfaces to include.

Your aerial photo that is available does not allow me to easily trace building footprints to get areas of each of these things (too many trees in the way). You will have to measure them manually, on the ground. I know your house is 912sq ft from the property records. Nothing else is measured.

FORMULA: Your total lot area is 6,768 sq ft (from the property records). Divide your impervious area by your total lot area. That will be your 'percent impervious' they are looking for. You will have to show the change from EXISTING to PROPOSED impervious (demonstrating what your new patio will add to the total)..... So add up all your EXISTING impervious areas (rooftops, driveways, sidewalks, patios, and gravel surfaces). Do not include your new patio in your EXISTING calculation. Once you have that number, the formula looks like this: Percent EXISTING Impervious Area = (EXISTING IMPERVIOUS AREA) / (TOTAL LOT AREA)

Percent PROPOSED Impervious Area = (PROPOSED IMPERVIOUS AREA) / (TOTAL LOT AREA)

Example (I am guessing at areas):

EXISTING IMPERVIOUS: House = 912sq ft, Garage = 400sq ft, Sidewalks and Driveway = 800sq ft ADD THEM UP = 2112

$2112/6768 = 31.2\%$ EXISTING Impervious area

Add in your proposed patio to the above numbers and divide that by 6768.

$2112+400 = 2512$

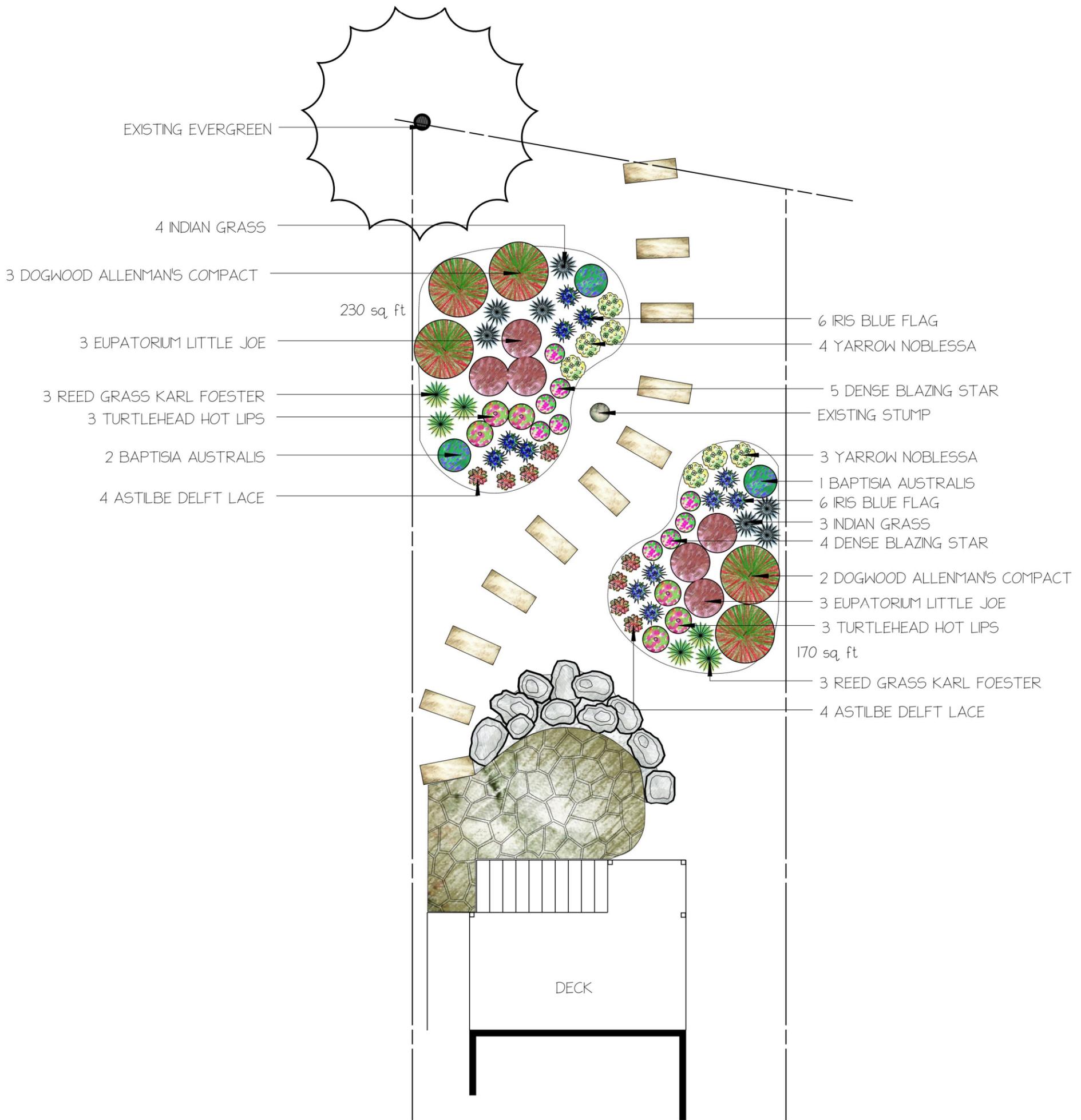
$2512/6768 = 37.1\%$ PROPOSED Impervious

I know it feels like a lot for them to request of you. But it is for protecting the lake water quality. And I know it is a little unfair to request you have an engineer do this simple calculation for you. So hopefully this gets you closer. Once they tell you how much area you have to capture in a raingarden, get back to me. I will run that number real fast and give you a screen shot of the spreadsheet I used.

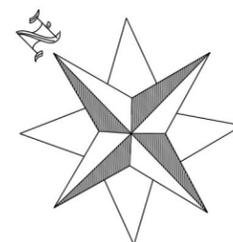
Sorry I can't help more. Good Luck.

Bryan Pynn
Watershed Restoration Specialist

Washington Conservation District Cell: 612.695.4187 Office: 651.330.8220 ext 36



WANDMACHER RESIDENCE		
415 WILDWOOD AVE BIRCHWOOD, MN 55110		
client:		
scale	date	revision
1" = 8'	6/8/20	
drawn by	checked by	drawing #
ROSALIE TALLEN	651 426-1500	



RESIDENTIAL GARDENS LLC
www.residentialgardens.net

**CITY OF BIRCHWOOD VILLAGE
MEMORANDUM**

TO: Birchwood Village Planning Commission

FROM: Thatcher Engineering, Inc.

DATE: July 28, 2020

APPLICANT: Cathryn Wandmacher, 415 Wildwood Avenue, Birchwood Village, MN

LOCATION: 415 Wildwood Avenue

REQUEST

Variance request #1: The Applicant is requesting a variance from City Code 302.050.

1. The applicant requests a variance from the requirement that states: "Impervious surface coverage of lots shall not exceed twenty-five (25) percent of the lot area unless the applicant satisfies the following conditions to obtain a variance:"
2. The request is because the applicant installed a stone patio with builder wall and did not know a permit from the City of Birchwood Village is required. The patio was built on clean sand, class 5, sand and stone. There is space between each stone for drainage.

Prior to the installation of the patio with builder wall, this property did not conform to City Code 302.050 because the impervious surface coverage of the lot was 26.9%. If approved, this project will change the impervious surface coverage of the lot to 30.3%. The applicant worked with the Washington Conservation District to determine how to have the rain garden mitigate the increase of impervious surface. The application and documents submitted with the application show that the proposed rain garden will fully mitigate the increase of impervious surface.

SITE CHARACTERISTICS

The subject lot is 6,970 square feet in size according to the Washington County web site. The lot is a narrow (about 28.0 feet wide) and contains a single-family residence with an unattached garage for one car. The lot has steep slopes.

PRACTICAL DIFFICULTY

- 1) The lot is extremely narrow and long, leaving little yard to work with.
- 2) The lot has steep slopes and topography challenges.
- 3) The lot is an undersized lot based on City Code.

STATUTORY REQUIREMENTS FOR PERMITTING VARIANCES

Minnesota State Statute 462.357 allows for a variance to be permitted only when:

- (1) The proposed use is in harmony with the general purposes and intent of the City's zoning ordinance;
- (2) The variance is consistent with the City's comprehensive plan; and,
- (3) The applicant establishes that there are practical difficulties in complying with the zoning ordinance.

Statutory criteria used to establish a practical difficulty include:

- (1) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- (2) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
- (3) The variance, if granted, will not alter the essential character of the locality.

CTY CODE REQUIREMENTS FOR PERMITTING VARIANCES

Sec 304.040 of the City Code states:

Variations 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:

SUBD. 1.

- A. Variations shall only be permitted
 - i. when they are in harmony with the general purposes and intent of the ordinance and
 - ii. when the variances are consistent with the comprehensive plan.
- B. Variations may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

SUBD. 2. "Practical difficulties," as used in connection with the granting of a variance, means that

- i.** Special conditions or circumstances exist which are peculiar to the land, structure, or building involved.
- ii.** 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.
- iii.** The granting of a variance will result in no increase in the amount of water draining from the property.

- iv. 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.
- v. No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do.
- vi. Financial gain or loss by the applicant shall not be considered if reasonable use for the property exists under terms of the Zoning Code.

ANALYSIS

The lot is an undersized lot with steep slopes and topography challenges. City Code 302.015 allows undersized lots to be utilized for single-family detached dwelling purposes provided the measurements of such area, width, or open space are at least 60% of that required.

REASONS FOR RECOMMENDING VARIANCE APPROVAL

Variance request #1:

1. The lot is an undersized lot with steep slopes and topography challenges.
2. This project would preserve the essential character of the locality.
3. The applicant will install a rain garden.

REASONS FOR RECOMMENDING VARIANCE DENIAL

Variance request #1:

1. A primary goal of the City of Birchwood Village's Zoning Ordinance is "to ensure that a non-conforming use is not intensified and that, over time, the non-conforming use will, where possible, be brought into conformity with the Zoning Code." The following could be argued:
 - a. That they are not in harmony with the general purposes and intent of the ordinance.
 - b. That the variances are not consistent with the comprehensive plan.
 - c. That the applicant for the variance has not established that there are practical difficulties in complying with the zoning ordinance.

CONDITIONS

If approved, a requested variance may be approved subject to the following conditions:

1. All application materials, maps, drawings and descriptive information submitted with this application shall become part of the building permit.

2. Per City Code 304.090, the variance shall become null and void if the project has not been completed or utilized within one year after the date it was granted, subject to petition for extension by the City Council.
3. Land alteration may not cause adverse impact upon abutting property.

302.050 IMPERVIOUS SURFACES.

1. Limitation. Impervious surface coverage of lots shall not exceed twenty-five (25) percent of the lot area unless the applicant satisfies the following conditions to obtain a variance:
 - a. The applicant shall submit a stormwater management plan for the site that analyzes the proposed development including the area(s) of impervious surfaces, direction of runoff, proposed best management practices to manage runoff, and stormwater retention that the best management practices will achieve.
 - b. The stormwater management plan shall include structures and/or best management practices for the mitigation of stormwater impacts on receiving waters in compliance with the City's Surface Water Management Plan, or as approved by the City Engineer, so that the site design includes stormwater management practices that control the stormwater runoff volumes, and the post-construction runoff volume shall be retained on site for 1.1 inches of runoff from impervious surfaces.
 - c. The applicant shall utilize the most recent version of the Minnesota MIDS (Minimum Impact Design Standards) Calculator (available on the Minnesota Pollution Control Agency's website), the U.S. Environmental Protection Agency's National Stormwater Calculator, or another similar stormwater design calculator approved by the city to complete the plan and show that the proposed stormwater management practices meet the required infiltration standard. The applicant shall submit the calculator results to the City with the stormwater management plan.
 - d. The applicant shall provide documentation that the proposed stormwater management methods meet the required standard, will be designed and installed consistent with the City's Surface Water Management Plan, NPDES stormwater standards, and the Minnesota Pollution Control Agency's Minnesota Stormwater Manual.
 - e. No pervious pavement system is permitted in the Shore Impact Zone. (The Shore Impact Zone is the land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the required structure setback. The required structure setback from the OHWL in the City of Birchwood Village is 50 feet, and the Shore Impact Zone is 25 feet.)
 - f. Site design shall comply with the City's zoning code 302.055, and shall minimize changes in ground cover, loss of natural vegetation, and grade change as much as possible.
 - g. The base of installed infiltration structures or practices must be a minimum of three (3) feet above the established ground water table or the Ordinary High Water Level of White Bear Lake, whichever is higher.

- h. The stormwater management practices shall be designed in accord with the Minnesota Stormwater Manual, American Concrete Pavement Association design criteria, Center for Watershed Protection, *Stormwater BMP Design Supplement for Cold Climates*, or other design guidance provided by the City.
- i. The stormwater management plan shall include the applicant's description of how the practices shall be maintained to function as designed for the long-term. The City may inspect the installation of the stormwater management system at the site.
- j. The applicant shall include the maintenance plan and a maintenance schedule for the approved stormwater management practices with the required permit application.
- k. The variance shall not be valid unless the applicant properly records the variance at the property records at Washington County and a copy of the recording is properly returned to the City for verification.

*****THIS IS A SAMPLE MAINTENANCE AGREEMENT THAT HAS BEEN USED BY THE CITY FOR PAVER SYSTEMS PREVIOUSLY. THIS IS NOT USABLE AS IS FOR AN AGREEMENT TO MAINTAIN A RAIN GARDEN. YOU MAY SELECT TERMS OF THIS AGREEMENT IN YOUR RECOMMENDATION TO THE CITY COUNCIL.*****

[Space Above this Line for Recording Office Use Only]

MAINTENANCE
AGREEMENT

This Permeable Pavement Maintenance Agreement, hereinafter referred to as the, "Agreement," dated this ____th day of _____, 2020, the, "effective date," by and between John and Danelle Hartman, Property Owners, hereinafter referred to as, "Grantors," and the City of Birchwood Village, hereinafter referred to as the, "City."

WITNESSETH

WHEREAS, the City is authorized and required to regulate and control the disposition of storm and surface waters within the City as set forth by City ordinances; and

WHEREAS, the Grantors are the owners of a certain tract or parcel of land more particularly described as: _____ (Parcel ID Number __ - __ - __ - __ - __), including all improvements thereon, as shown on documents duly recorded in the Washington County property records, commonly referred to as _____ Street, hereinafter referred to as the "Property."

WHEREAS, the Grantors wish to construct certain improvements on the Property which will alter existing storm and surface water flow conditions on the Property and adjacent lands; and

WHEREAS, in order to accommodate and regulate these anticipated changes in existing storm and surface water flow conditions, the Grantors have agreed to build and maintain at their expense a storm and surface water management facility and system more particularly described as a permeable interlocking concrete pavement system ("System"). This System is shown on the plans titled: _____. The plans were prepared by: _____ and dated _____ (enclosed); and

WHEREAS, the City has reviewed and approved these plans, subject to the execution of this Agreement.

NOW, THEREFORE, in consideration of the benefit received by the Grantors and as a result of the City approval of its plans, the Grantors hereby covenant with the City as follows:

1. Grantors shall construct and perpetually maintain, at their sole expense, the above referenced System in strict accordance with said-plan approved by the City.
2. Grantors shall conduct in-service inspections, maintain and repair the System in accordance with the most current edition of the Interlocking Concrete Pavement Institute (ICPI) manual titled, Permeable Interlocking Concrete Pavements (currently in its third edition) to ensure that the System is properly maintained and continues to operate as designed and approved.
3. Grantors shall, on _____, and every ___ year anniversary thereafter for so long as the System is in operation, submit a letter to the City stating whether or not the System continues to operate as designed and approved. If the System does not continue to operate as designed and approved, the Grantors shall repair or replace the System within ninety (90) days and re-certify the repaired or replacement System with the City to ensure that the renewed System operates as it was designed and approved.
4. The City, its agents, employees and contractors shall have the perpetual right of ingress and egress over the Property and the right to inspect the System, at reasonable times and in a reasonable manner with 72 hours written notice, in order to ensure that the System is being properly maintained and continues to perform as designed and approved by the City.
5. The City shall notify Grantors in writing of any defects in the System within 30 days of any inspection it conducts and Grantors agree to correct any defects in the System within ninety (90) days of receipt of any such written notice per Paragraph 3 herein.
6. Grantors agree that if they fail to correct any such defects within ninety (90) days of receipt of written notice, or fail to maintain the System in accordance with applicable laws and regulations, or in the event of an emergency as determined by the City in its sole discretion, the City is authorized to enter the Property to make all repairs or perform all maintenance, construction or reconstruction the City deems necessary. The City shall invoice the Grantors for the cost of the work, both direct and indirect, and applicable penalties. If not paid, the City is authorized to assess the Property and said assessment shall be a lien against the Property and assigned to the County Assessor to be assessed to the property tax due of said Property and collected as ordinary taxes by the County and paid to the City.
7. Grantors shall indemnify, hold harmless and defend the City from and against any and all claims, demands, lawsuits, losses, damages and payments, including attorney's fees claimed or made against the City that are alleged or proven to result or arise from actions or inactions of the Grantors.

8. The commitments and requirements contained herein shall be considered covenants that run with the land. The Grantors, their successors, heirs or assigns, further agree that whenever the Property shall be sold or conveyed, they shall be subject to the commitments, agreements and provisions of this Agreement.

9. Grantors agree not to transfer or assign responsibility for complying with this Agreement.

10. The provisions of this Agreement shall be severable; if any clause, sentence or provision, or their applicability to Grantors, is held to be invalid by a Court of competent jurisdiction, the remainder of the Agreement shall not be affected thereby.

11. This Agreement shall be recorded at the office of the Washington County Recorder, at the expense of Grantors.

12. In the event that the City shall determine, in its sole discretion, at any future time, that the System is no longer required, the City shall, at the request of Grantors, their heirs or assigns, execute a release of this Agreement, which the Grantors may record with Washington County, at their expense.

IN WITNESS WHEREOF, Grantors and the City have executed this Maintenance Agreement.

_____, Grantor

_____, Grantor

STATE OF MINNESOTA)
)SS.
COUNTY OF WASHINGTON)

Signed, sworn to, and acknowledged before me by _____, Grantors, this ____ day of _____, 20__.

Notary Public

CITY OF BIRCHWOOD VILLAGE

By: Mary Wingfield, Mayor

By: Tobin Lay, Administrator

Signed, sworn to, and acknowledged before me by Mary D. Wingfield, the Mayor, and Tobin Lay, the Administrator, of the City of Birchwood Village, this ____ day of _____, 20__.

Notary Public

This Agreement drafted by
and when recorded return to:

City of Birchwood Village
207 Birchwood Avenue
Birchwood Village, MN 55110
651.426.3403

**VARIANCE CASE
NO. 20-04-VB**

251 WILDWOOD AVENUE



City of Birchwood Village
Petition for Variance Application

207 Birchwood Ave, Birchwood, MN 55110
Phone: 651-426-3403 Fax: 651-426-7747
Email: info@cityofbirchwood.com

* PLEASE SEE WORD DOC
WITH ADDITIONAL DETAILS
AND SUPPORT. THANKS,
- Brock

FOR OFFICIAL USE ONLY

Application Received Date: 8/5/2020 Amount Paid: \$300.00

Payment Type (Circle One): Cash / Check / Money Order / Credit Card

Check/Money Order # _____

Application Complete? Yes No If no, date application was deemed complete: 8/22/20

Signature of City Planner: Steve W. Hatch Date: 8/22/20

Completed requests for variances submitted prior to the first Thursday of the month will be considered by the Planning Commission at its next meeting on the fourth Thursday of the month. Requests submitted after the first Thursday of the month will be considered at the following meeting. All final decisions on variance applications are made by the City Council, which meets on the second Tuesday every month.

- Name of Applicant(s) BROCK HARMON (SON OF TRUDE HARMON)
Address 251 WILLOWOOD AVENUE
City BIRCHWOOD State MIN Zip Code 55110
Business Phone _____ Home Phone [REDACTED]
- Address of Property Involved if different from above: SAME
- Name of Property Owner(s) if different from above and describe Applicant's interest in the property: 5 GENERATIONS OF FAMILY OWNERSHIP. GOAL TO PRESERVE LAKEFRONT THAT IS ERODING FROM HIGH WATER LEVELS. GOAL TO SAFELY USE 'HAW AREA' FOR DOCK MATERIALS, AS HIGH WATER LEVEL HAS IMPACTED USEABLE AREAS.
300.020.1, 302.020.1, 2, 4, C
- Specific Code Provision from which Variance is requested: 302.040.2, 302.080.2
- Describe in narrative form what the Applicant is proposing to do that requires a variance:
 - ACCESSORY STRUCTURE - THE PLAN INCLUDES WORK AND RETAINING WALLS WITHIN 50' OF THE OHWL OF WBL. THE SHED IS 234 SQFT, WHICH IS LARGER THAN THE 144 SQFT MAXIMUM FOR A STORAGE SHED.
 - RIP-RAP WITH STAIRS FOR SHOULDERLINE - STAIRS TO LAKE ARE 48" WIDE, WHICH IS LARGER THAN THE 44" WIDTH MAXIMUM FOR STAIRS. STAIRS TO BE INSTALLED ON 3/4" MINUS BASE, INSTEAD OF ANCHORED AND SUPPORTED BY PILING OR FOOTINGS.

6. Type of Project:

- New Construction (empty lot)
 - Addition - DETACHED ACCESSORY STRUCTURE
 - Demolition
 - Landscaping - 4' RETAINING WALLS
 - Repair or removal of nonconforming structure
 - Other (describe) REINFORCE ERODING SHORELINE W/ RIP-RAP + 2 SETS OF STEPS
- } IN COMBINATION

7. Type of Structure Involved:

- Single Dwelling
- Garage
- Tennis Court
- Grading/Filling - REMOVING WALLS
- Other (describe) RIP-RAP ALONG SHORELINE WITH STEPS
- Double Dwelling
- Addition - SHED + DECK
- Pool

8. Using the criteria from the City Code for a variance (see last page), explain why a variance is justified in this situation and describe what "Practical Difficulties" exist:

- SUBD- ① - SHED SIZE MINIMIZED BY BUILDING INTO HILL W/ RETAINING WALLS
- CREATE FLAT SPACE INTO HILL FOR SAFER STORAGE
 - STEPS CREATE SAFE PASSAGE THROUGH RIP-RAP
-
- SUBD- ② - RIP-RAP NEEDED (+ DNR APPROVED) TO STOP EROSION. STEPS NEEDED TO SAFELY WALK THROUGH RIP-RAP. STEP SIZE REMOVES NEED FOR FOOTING/PILING
- DOCK MATERIALS NEED TO BE WITHIN 50' SETBACK FOR USE, AND NEED TO BE STACKED ON FLAT SURFACE AND REASONABLE HEIGHT FOR SAFETY.
 - MINIMIZE LAND DISTURBANCE AND VISUAL IMPACT BY BUILDING INTO HILL AND FOLLOWING NATURAL TERRACING ON HILLSIDE.

9. 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:

- PERMEABLE PAVERS FOR WHISTLEHIGH FLOOR OF SHED (SHOULD ROOF BE REMOVED)
- PERMEABLE DESIGN FOR DECK
- SHED ROOF TO BE ANGLED DOWN TO REAR, SO THAT WATER FLOWS TO UPHILL SIDE OF SHED
- GUTTER ON REAR OF SHED, TO DIRECT ROOF WATER BEYOND BACK CORNERS OF SHED

10. Describe any alternatives the Applicant considered (if any) that do not require a variance:

NONE - DOCK MATERIALS NEED TO BE KEPT SAFELY WITHIN 50' SHORELINE SETBACK TO FACILITATE ANNUAL INSTALLATION/REMOVAL. RIP-RAP TO STOP EROSION
NEEDS SAFE STEPS FOR NAVIGATION

11. Can an emergency vehicle (Fire Truck or Ambulance) access all structures on the property after the proposed change? Yes No

12. Does the proposed change bring any other nonconforming use into conformity with the City Building Code? Yes No

If yes, explain: _____

13. 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 AND attach evidence demonstrating compliance:

RCWD, MN DNR, WBLCD (SEE SUPPORTING DOCUMENTATION)

14. Please provide the applicable information in the following Table:

	EXISTING	PROPOSED	CHANGE
1. Total Square Footage of Lot	13,294.3	13,294.3	0
2. Maximum Impervious Surface (25% of item 1)	3323.6	3323.6	0
3. Roof Surface	CARPORT 1017.7 GARAGE 329.9	CARPORT 1017.7 ACCESS. STAIRS 234.0 GAR. 329.9	234.0
4. Sidewalks	0	0	0
5. Driveways	0	0	0
6. Other Impervious Surface	0	0	0
7. Total of Items 3-6	1347.6	1581.6	234.0
8. Percent Impervious Surface	10.1%	11.9%	1.8%

15. Please attach the following:

- Legal description of property.
- Plot plan drawn to scale showing existing and proposed new and changed structures on the lot. Also show existing structures on adjacent lots.

SEE SUPPORTING DOCUMENTATION

Criteria for Granting a Variance. Pursuant to Minn. Stat. Sec. 462.357, subd. 6, as it may be amended from time to time, the Planning Commission may issue recommendations to the City Council for variances from the provisions of this zoning code. A variance is a modification or variation of the provisions of this zoning code as applied to a specific piece of property.

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:

SUBD. 1.

- A. Variances shall only be permitted
 - i. when they are in harmony with the general purposes and intent of the ordinance and
 - ii. when the variances are consistent with the comprehensive plan.
- B. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

SUBD. 2. "Practical difficulties," as used in connection with the granting of a variance, means that

- i. Special conditions or circumstances exist which are peculiar to the land, structure, or building involved.
- ii. 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.
- iii. The granting of a variance will result in no increase in the amount of water draining from the property.
- iv. 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.
- v. No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do.
- vi. Financial gain or loss by the applicant shall not be considered if reasonable use for the property exists under terms of the Zoning Code.

NOTICE:

***The City and its representatives accept no responsibility for errors and/or damages caused due to incomplete and/or inaccurate information herein. It is the responsibility of the applicant to ensure the accuracy and completeness of this information.**

***The City will hold applicant responsible for any damage to public property that occurs in the course of performing the activities of this permit.**

***Under penalty of perjury the applicant declares that the information provided in and enclosed herewith is complete and all documents represented are true and correct representations of the actual project/building that will be built in conformance with such representation if approved.**

Signature of Applicant: Brian J. Gann Date: AUGUST 5TH, 2020

A. VARIANCE REQUEST

1. APPLICANTS.....A-1

2. ADDRESS OF PROPERTY IF DIFFERENT FROM ABOVE.....A-1

3. APPLICANTS’ INTEREST IN THE PROPERTYA-1

4. SPECIFIC CODE PROVISIONS FROM WHICH VARIANCE IS REQUESTEDA-1

5. DESCRIPTION OF PROPOSAL THAT REQUIRES A VARIANCEA-3

6. TYPE OF PROJECTA-4

7. TYPE OF STRUCTURE INVOLVED.....A-4

8. USING THE CRITERIA FROM THE CITY CODE FOR A VARIANCE, EXPLAIN WHY A VARIANCE IS JUSTIFIED IN THIS SITUATION AND DESCRIBE WHAT “PRACTICAL DIFFICULTIES” EXISTA-4

9. 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 PROPERTYA-5

10. DESCRIBE ANY ALTERNATIVES THE APPLICANT CONSIDERED (IF ANY) THAT DO NOT REQUIRE A VARIANCEA-5

11. CAN AN EMERGENCY VEHICLE (FIRE TRUCK OR AMBULANCE) ACCESS ALL STRUCTURES ON THE PROPERTY AFTER THE PROSED CHANGE?A-5

12. DOES THE PROPOSED CHANGE BRING ANY OTHER NONCONFORMING USE INTO CONFORMITY WITH THEH CITY BUILDING CODE?A-5

13. ARE THERE OTHER GOVERNMENTAL REGULATIONS THAT APPLY TO THE PROPOSED ACTION, INCLUDING REQUIREMENTS OF THE RICE CREEK WATERSHED DISTRICT?A-5

14. PLEASE PROVIDE APPLICABLE INFORMATION IN THE FOLLOWING TABLEA-6

15. PLEASE ATTACH THE FOLLOWINGA-6

B. DIAGRAMS

1. SHOWING NEIGHBORING PROPERTIES.....B-1

2. SHOWING LOT SIAE CALCULATIONB-1

3. SHOWING CABIN SIZE CALCULATIONB-2

4. SHOWING GARAGE SIZE CALCULATION.....B-2

5. SHOWING LOCATION OF PROPOSED ACCESSORY STRUCTUREB-3

6. SHOWING 3D SKETCH OF PROPOSED ACCESSORY STRUCTUREB-3

7. SHOWING FLOOR PLAN OF PROPOSED ACCESSORY STRUCTURE.....B-4

8. SHOWING SHORELINE RIP-RAP WITH STEPS.....B-5

C. REFERENCE EMAILS / CONTENTS

1. FROM TOBIN LAY (CITY ADMINISTRATOR)C-1

2. FROM STEVEN THATCHER (CITY PLANNER)C-2

3. FROM RICE CREEK WATERSHED DISTRICT (RCWD).....C-5

4. FROM MINNESOTA DEPARTMENT OF NATURAL RESOURCES (MN DNR)C-7

5. FROM WHITE BEAR LAKE CONSERVATION DISTRICT (WBLCD).....C-12

A. VARIANCE REQUEST

1. APPLICANTS:

- 1) Name: Brock Harmon (Son of Trude Harmon)
- 2) Address: 251 Wildwood Avenue, City of Birchwood Village, MN 55110
- 3) Home Phone (Brock) – 651-483-5854

2. ADDRESS OF PROPERTY IF DIFFERENT FROM ABOVE

- 1) SAME

3. APPLICANTS' INTEREST IN THE PROPERTY

- 1) Continuation of five generations of family ownership and use, since early 1900s
- 2) Goal to preserve lakefront that is eroding from higher water levels
- 3) Goal to enable reasonable usage of 'hill area' for dock materials, as higher water levels have reduced or eliminated previously useable areas.
- 4) Goal to consolidate and improve functionality, safety and appearance of haphazard storage on hill that slopes down to WBL
- 5) Goal to enable full and reasonable enjoyment of lake property

4. SPECIFIC CODE PROVISIONS FROM WHICH VARIANCE IS REQUESTED:

1) ITEMS CAUSING VARIANCE REQUEST:

1. The Plan includes work and retaining walls within 50 feet of the Ordinary High Water Level of WBL
2. The Shed is 234 square feet, which is larger than the maximum square footage of a storage shed, which is 144 square feet.
3. The Stairs to Lake are 48" wide, which is larger than the maximum width of stairs to lake which is 44" wide.
4. The Stairs to Lake are to be installed on ¾" minus based rock (where possible) instead of anchored and supported through pilings or footings.

2) LIST OF CITY CODES CONTAINING SPECIFIC PROVISIONS RELATED TO THE VARIANCE REQUEST:

[See next section for details]

1. 300.020.1 – Accessory Structure / Dimensions
2. 302.020.1, 2, 4.c – Setback Requirements
3. 302.040.2 – Storage Shed Dimensions
4. 302.080.2 – Stairs to Lake

3) PROJECT RELATED CITY CODE DETAILS:

[Sections highlighted yellow are the Specific Code Provisions related to the Variance Request itself]

1. **Section 300.020 DEFINITIONS.** For the purpose of Chapters 300 through 399 certain terms and words are hereby defined as follows:
 - a. "1. Accessory Structure. A non-habitable one-story detached accessory structures (e.g., tool sheds, storage sheds) provided the floor area does not exceed 144 square feet and a maximum wall height of 12 feet measured from the ground to the top of the top plate."
 - b. "20. Garage. A building or portion of a building used by the tenants of the building on the premises which is designed primarily for the storage of motor vehicles. A detached garage is an accessory structure."

- c. "38. Ordinary High Water Level. An elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial."
 - d. "45. Setback. The minimum horizontal distance between a structure and an ordinary high water level, street, road or highway right-of-way or property line."
 - e. "53. Structure. Anything which is built, constructed or erected: an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner whether temporary or permanent in character including, but not limited to decks, buildings, cabins, manufactured homes, factories, sheds, screen porches, gazebos, platforms, shelters, pergolas, pools, whirlpools, detached garages, car ports, lean-tos, greenhouses, ice fishing houses, towers, and other similar items, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, poles and other supporting facilities."
 - f. "59. Wetland. An area where water stands near, at, or above the solid surface during a significant portion of most years, saturating the solid surface and supporting a predominantly aquatic form of vegetation. . . . White Bear Lake is not included as a "wetland" within this definition."
2. **Section 301.065 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.)"
 3. **Section 301.070 CONDITIONAL USES**. "Certain accessory uses permitted within the City have greater than usual chances to present safety hazards, impact on neighboring people and property, and nuisance situations. Because of these greater effects, the City requires these uses to be covered under Conditional Use Permits. Applications for Conditional Use Permits must comply with all provisions of Section 306. CONDITIONAL USE PERMITS. 1. A Conditional Use Permit shall be required for the following projects: a. Any land disturbance activity where the slope is toward a lake, pond, wetland, or watercourse leading to such waters, and the alteration is closer to such waters than the structure setback requirement. See Note at end of Section 301.070. Any land disturbance activity where such work involves an area greater than four hundred (400) square feet and/or more than fifty (50) cubic yards in volume. See Note at end of Section 301.070."
 - a. The note at end of Section 301.070 states: "NOTE: A separate Conditional Use Permit is not required for a land disturbance activity in conjunction with construction as part of a building permit as granted. However, as part of the Building Permit Application, the applicant shall provide information required pursuant to Section 306.030 and shall follow all provisions of Sections 302.050 IMPERVIOUS SURFACES and 302.055 LAND DISTURBANCE ACTIVITY STANDARDS."
 4. **Section 301.080 ZONING PERMIT**. "If a Building or Conditional Use Permit is applied for and issued, the applicant is not required to apply for a Zoning Permit."
 5. **Section 302.020. STRUCTURE LOCATION REQUIREMENTS**
 - a. **1. GENERAL REQUIREMENTS.**
 - i. All structures must be located so that minimum setback requirements are met or exceeded.
 - b. **2. MINIMUM SETBACK REQUIREMENTS:**
 - i. The minimum setback requirement from the Ordinary High Water Level of White Bear Lake (WBL) to Fences, Driveways, Walkways and All Other Structures is 50 feet.
 - c. **4. SETBACK REQUIREMENTS EXCEPTIONS.**
 - i. "c. Retaining Wall Setbacks: Front, back, side street and other lot line setback requirements shall not apply to retaining walls except that the ordinary high water level setback requirements shall apply to retaining walls."
 - d. **5. STRUCTURES IN WETLANDS.**

i. "No structures are allowed within any wetlands."

6. Section 302.030. HIGH WATER ELEVATIONS

a. All buildings shall be located such that the lowest floor surface is at a level at least three (3) feet in elevation above the highest known water level of any lake, pond, or wetland adjoining the lot.

7. Section 302.040. STRUCTURE REQUIREMENTS

a. "2. The maximum square footage of a storage shed is 144 square feet. No person shall place automobiles, vans, or trucks in a storage shed. "

8. Section 302.045. STRUCTURAL HEIGHT RESTRICTIONS

a. " 1. STRUCTURAL HEIGHT LIMITATION: The maximum height of a . . . Detached Storage Shed is 12 feet. "

9. Section 302.050. IMPERVIOUS SURFACES

a. "1. Limitation. Impervious surface coverage of lots shall not exceed twenty-five (25) percent of the lot area unless the applicant satisfies the following conditions to obtain a variance: "

10. Section 302.055. LAND DISTURBANCE ACTIVITY STANDARDS

a. " 6. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet. "

11. Section 302.070. CITY FENCE ORDINANCE

a. " 5. Retaining Walls. Solid walls in excess of four (4) feet high shall be prohibited unless they are part of a building. "

12. Section 302.080. STAIRS AND LIFTS TO LAKE OR WATER BODY - STANDARDS

a. "A stairway or lift to enable access from land properties to White Bear Lake or pond or recreational body of water shall be constructed and maintained in compliance with the standards and requirements of Section 302.080 parts 2 and 3."

b. "2. Standards and requirements for stairways are as follows:"

i. a. Stairways may not exceed 44 inches in width.

ii. b. Landings may be permitted at a minimum vertical interval of 20 feet.

iii. c. Landings may not exceed 32 square feet in area.

iv. d. Handrails are recommended, however they shall not unduly obstruct the view by neighboring properties.

v. e. Canopies or roofs are not permitted on stairways or landings.

vi. f. Stairways shall be anchored and supported with pilings or footings.

vii. g. The applicant must submit a plan for the stairway to the City of Birchwood Village showing all necessary construction data including location, design, dimensions and construction materials before construction may begin.

viii. h. Steps must comply with all setback requirements except the setback from the high water mark. "

5. DESCRIPTION OF PROPOSAL THAT REQUIRES A VARIANCE:

1) **Accessory Structure** (Shed and Deck) to store dock related materials.

a. Shed to be based upon two 4' high retaining walls that follow the natural terracing of the land that is within the 50' setback from White Bear Lake.

b. Shed and Retaining Walls are to be more than 10 feet from the OHWM.

c. Shed Walls (above Retaining Walls) to be of brown treated 2x6 construction

d. Retaining Walls function as support for all 4 walls of Shed

e. Shed overall square footage to be 234 sqft (13x18)

i. Majority of Shed 'floor' (9x16) to be at waist height due to natural terracing

- ii. Front of Shed floor (3x16) to be at deck/ground level
 - f. Shed wall & roof to be less than 12' max height for Accessory Structures
 - i. Expecting height to be ~11' at tallest point
 - ii. Shed to be set into hill to minimize visual impact)
 - iii. Rear of Shed (furthest away from WBL) to be ~1' above the height of the existing ground surface
 - g. Deck in front of Shed to be 10' x 24' and be at or near ground level.
 - h. Deck is to be 8 or more feet from OHWM.
 - i. Storage to include: Dock Sections (on deck); Dock Leg Frames, Boat Lift Pads, Floats (in Shed)
 - i. As storage is not to include motor vehicles (cars, etc), this is not to be considered a Garage
 - ii. The Shed is an Accessory Structure
 - j. Provides for open space on shore for Boat Lift off-season storage
 - k. Shed and Deck floors to be constructed of permeable materials and manner
 - l. The lowest floor surface of the Shed and deck are to be 3' above the OHWL.
 - m. No concrete footings
 - n. Designed to minimize runoff (see section 9)
 - o. Landscaping that slopes towards WBL
 - p. WBL is not considered a wetland
- 2) **Rip-Rap with Steps for Shoreline**
- a. Rip-Rap installation to include stabilizing fabric and 6-18" clean field stone along 50' shoreline
 - b. Two sets of steps (to obtain access to water on either side of family dock)
 - c. Install 2 sets of 3 – 6" tall risers of Willow Creek Step Units through the rock shoreline.
 - d. Units are preformed, 6" tall by 48" wide and 18" deep
 - e. Steps to be installed on ¾" minus based rock (where possible)

6. TYPE OF PROJECT:

- 1) Landscaping addition of 4' retaining walls
- 2) Addition of Detached Accessory Structure.
- 3) Reinforce eroding shoreline with Rip-Rap that includes two sets of steps

7. TYPE OF STRUCTURE INVOLVED:

- 1) Grading/Filling – Retaining Walls
- 2) Addition – Accessory Structure (Shed and Deck).
- 3) Rip-Rap along shoreline with steps

8. USING THE CRITERIA FROM THE CITY CODE FOR A VARIANCE, EXPLAIN WHY A VARIANCE IS JUSTIFIED IN THIS SITUATION AND DESCRIBE WHAT "PRACTICAL DIFFICULTIES" EXIST:

- 1) Variance Justification for this Situation
 - a. Project is in harmony with the intent of City Codes
 - b. Consistent with the Comprehensive Plan of the City of Birchwood to promote public health, safety and welfare
- 2) Practical Difficulties that exist
 - a. Special Conditions or Circumstances exist which are peculiar to the land, structure or building involved
 - i. With the installation of the rip-rap to preserve the eroding shoreline, it is necessary to include stairs to maintain safety of those walking into the water from shore. The steps come in a preformed 48" width and are designed to be installed without pilings or footings.

- ii. Close location of hill to shore causing hardship for managing dock materials.
- b. Condition which results in the Variance Request is not created by the applicant's action or design solution
 - i. Dock materials need to be relatively close to the water (within the 50' setback) and are unsafe when stacked very high and/or on sloped surfaces.
- c. No increase in the amount of water draining from the property
 - i. Water on the roof of the Shed to be directed 'up-hill' from where it would drain to today
- d. Project would not impair an adequate supply of light and air to adjacent property, nor unreasonably diminish or impair established property values within the surrounding area, nor impair the public health, safety or welfare of the residents of the city.
 - i. This project is set into the hillside as much as possible, to follow the natural terracing of the hill and minimize visual impact
 - ii. This change will increase safety and may raise property values through the reduction of haphazard open storage areas of dock materials on the hillside today

9. 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:

- 1) Permeable Pavers for the waist-high floor inside the Shed (should the roof be removed from the Shed).
- 2) Permeable design for the Deck, both inside and outside the Shed.
- 3) Shed roof to be angled to the uphill (back) side of the Shed.
- 4) Gutter to be on the back side of the Shed to direct roof water beyond the back corners of the Shed.

10. DESCRIBE ANY ALTERNATIVES THE APPLICANT CONSIDERED (IF ANY) THAT DO NOT REQUIRE A VARIANCE:

- 1) None – The Dock materials need to be kept within the 50' shoreline setback to facilitate annual installation and removal. As the (fortunate) water level of WBL has risen, there is less area available for Dock materials.

11. CAN AN EMERGENCY VEHICLE (FIRE TRUCK OR AMBULANCE) ACCESS ALL STRUCTURES ON THE PROPERTY AFTER THE PROSED CHANGE?:

- 1) YES.

12. DOES THE PROPOSED CHANGE BRING ANY OTHER NONCONFORMING USE INTO CONFORMITY WITH THE CITY BUILDING CODE? IF YES, EXPLAIN:

- 1) NO.

13. ARE THERE OTHER GOVERNMENTAL REGULATIONS THAT APPLY TO THE PROPOSED ACTION, INCLUDING REQUIREMENTS OF THE RICE CREEK WATERSHED DISTRICT?

- 1) YES

IF YES, PLEASE IDENTIFY THE REGULATIONS AND ATTACH EVIDENCE DEMONSTRATING COMPLIANCE:

- 1) Rice Creek Watershed District (RCWD):
 - a. Regulation/Response Summary:
 - i. "It appears that an area less than 10,000 ft² will be disturbed. Additionally, no wetland impacts or floodplain fill are proposed; therefore, a **RCWD permit is not required.**"
 - b. See Email chain for further detail if needed (below in Section C, Sub-Section 3)

- 2) Minnesota Department of Natural Resources (MN DNR):
 - a. Regulation/Response Summary:
 - i. “DNR regulates the lake, beginning at the Ordinary High Water level which for White Bear lake is 924.89 ft (datum MSL 1912.) So, any work at this elevation or below is subject to DNR regulation; above that elevation it is regulated by the City. (The watershed district rules may apply to areas both above and below the OHW). So **if the retaining wall is above the OHW, then no DNR permit is required.** The state rules regarding retaining walls make it difficult to get a DNR permit so I recommend it be placed above the OHW which sounds like the plan based on your description.”
 - ii. “If you are considering riprap, here is a link to DNR brochure that describes the state rules and criteria in which **no DNR permit is required.** The primary prerequisite is that the shoreline must be actively eroding. https://files.dnr.state.mn.us/publications/waters/shoreline_alterations_riprap.pdf”
 - b. See Email chain for further detail if needed (below in Section C, Sub-Section 4)

- 3) White Bear Lake Conservation District (WBLCD):
 - a. Regulation/Response Summary:
 - i. “**The WBLCD has no jurisdiction here.** We cover only what can go in the water, like docks and boats. If you have clearance from the DNR and RCWD, you are good to go to Birchwood for whatever they require.”
 - b. See Email chain for further detail if needed (below in Section C, Sub-Section 5)

14. PLEASE PROVIDE APPLICABLE INFORMATION IN THE FOLLOWING TABLE:

		EXISTING	PROPOSED	CHANGE
1)	Total Square Footage of the Lot	13,294.3	13,294.3	0
2)	Maximum Impervious Surface (25% of #1)	3,323.6	3,323.6	0
3)	Roof Surface (sq ft)	Cabin 1,017.7 Garage 329.9	Cabin 1,017.7 Garage 329.9 Shed 234.0	234.0
4)	Sidewalks	0	0	0
5)	Driveways	0	0	0
6)	Other Impervious Surface	0	0	0
7)	Total of Items #3 - #6	1,347.6	1,581.6	234.0
8)	Percent Impervious Surface	10.1%	11.9%	1.8%

[See Diagrams #2, #3, #4 for source of size calculations]

15. :PLEASE ATTACH THE FOLLOWING:

- 1) Legal Description of Property
 - a. Lot 10, Block 5, Lakewood Park First Division, Washington County, Minnesota
 - b. Parcel Number of Property: 30.030.21.21.0036
- 2) Plot Plan drawn to scale showing existing and proposed, new and changed structures on the lot
Also show existing structures on adjacent lots
 - a. See attached Diagrams #5, based on County GIS website

3. SHOWING CABIN SIZE CALCULATION:

The screenshot shows the 'Parcel Viewer - Quick Access' interface for Washington County, MN. A parcel is highlighted in blue, and a measurement window is open on the right. The measurement window displays '1,017.7 Sq Feet (US)'. The map shows several parcels with boundary lines and measurements: 239.9, 230.5, 221.1, 50, and 30. The interface includes a search bar, navigation tools, and a taskbar at the bottom with several document thumbnails.

Washington County Parcel Viewer - Quick Access Beta Washington County, MN

Search Address or Parcel ID

Measurement

Sq Feet (US)

Measurement Result

1,017.7 Sq Feet (US)

Clear

Press CTRL to enable snapping

20ft

-92.977 45.063 Degrees

Eri Community Maps Contributors, Metropolitan Council, MetroGIS, Washington County, MN, BuildingFo...

Section_307_ZO...docx Section_307_ZO...docx Whiting-06302020...JPG Whiting-06302020...JPG Whiting-06302020...JPG Show all

4. SHOWING GARAGE SIZE CALCULATION:

The screenshot shows the 'Parcel Viewer - Quick Access' interface for Washington County, MN. A parcel is highlighted in blue, and a measurement window is open on the right. The measurement window displays '329.9 Sq Feet (US)'. The map shows several parcels with boundary lines and measurements: 239.9, 230.5, 221.1, 50, and 30. The interface includes a search bar, navigation tools, and a taskbar at the bottom with several document thumbnails.

Washington County Parcel Viewer - Quick Access Beta Washington County, MN

Search Address or Parcel ID

Measurement

Sq Feet (US)

Measurement Result

329.9 Sq Feet (US)

Clear

Press CTRL to enable snapping

20ft

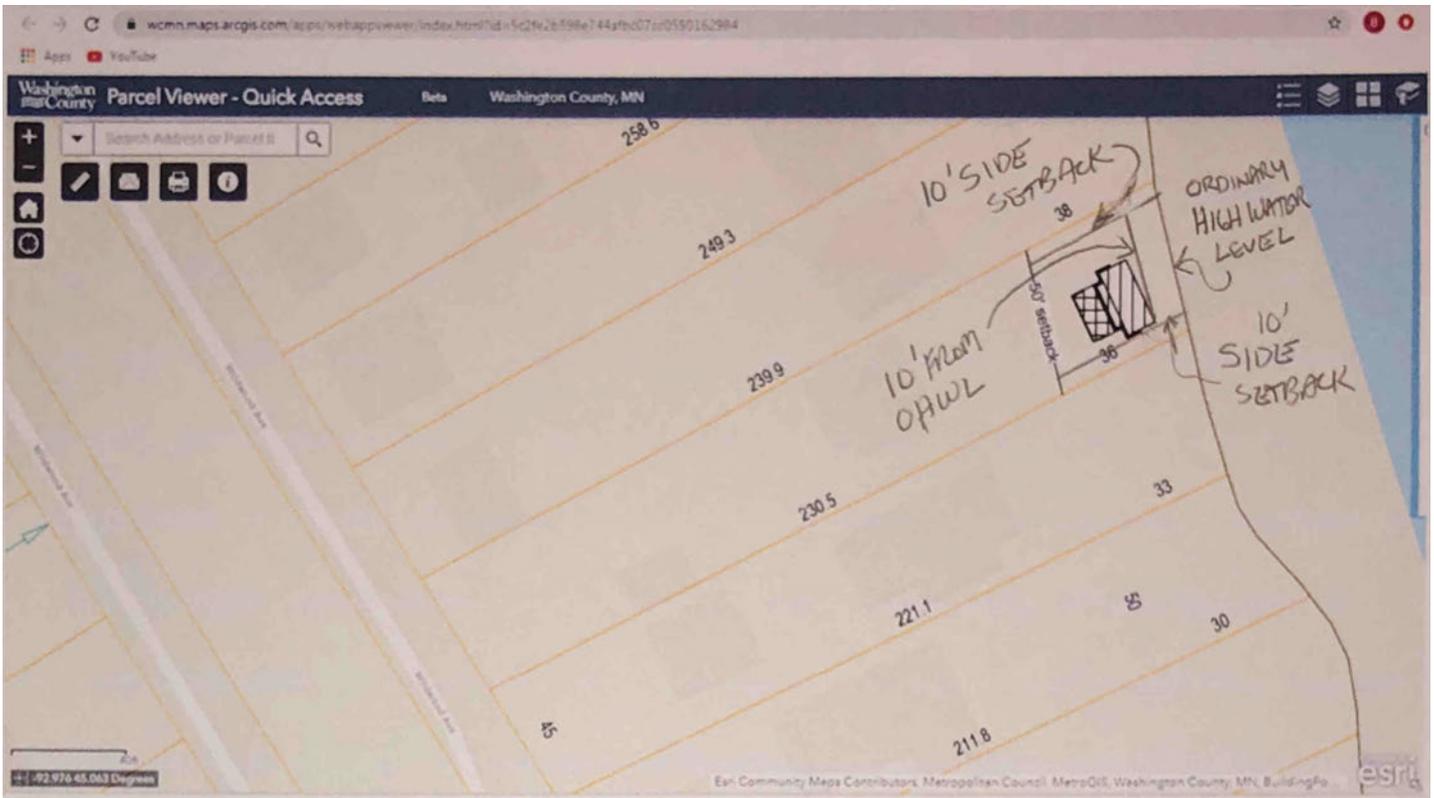
-92.977 45.062 Degrees

Eri Community Maps Contributors, Metropolitan Council, MetroGIS, Washington County, MN, BuildingFo...

Section_307_ZO...docx Section_307_ZO...docx Whiting-06302020...JPG Whiting-06302020...JPG Whiting-06302020...JPG Show all

5. SHOWING LOCATION OF PROPOSED ACCESSORY STRUCTURE:

- Shows existing and proposed and setback. Also shows existing structures on adjacent lots



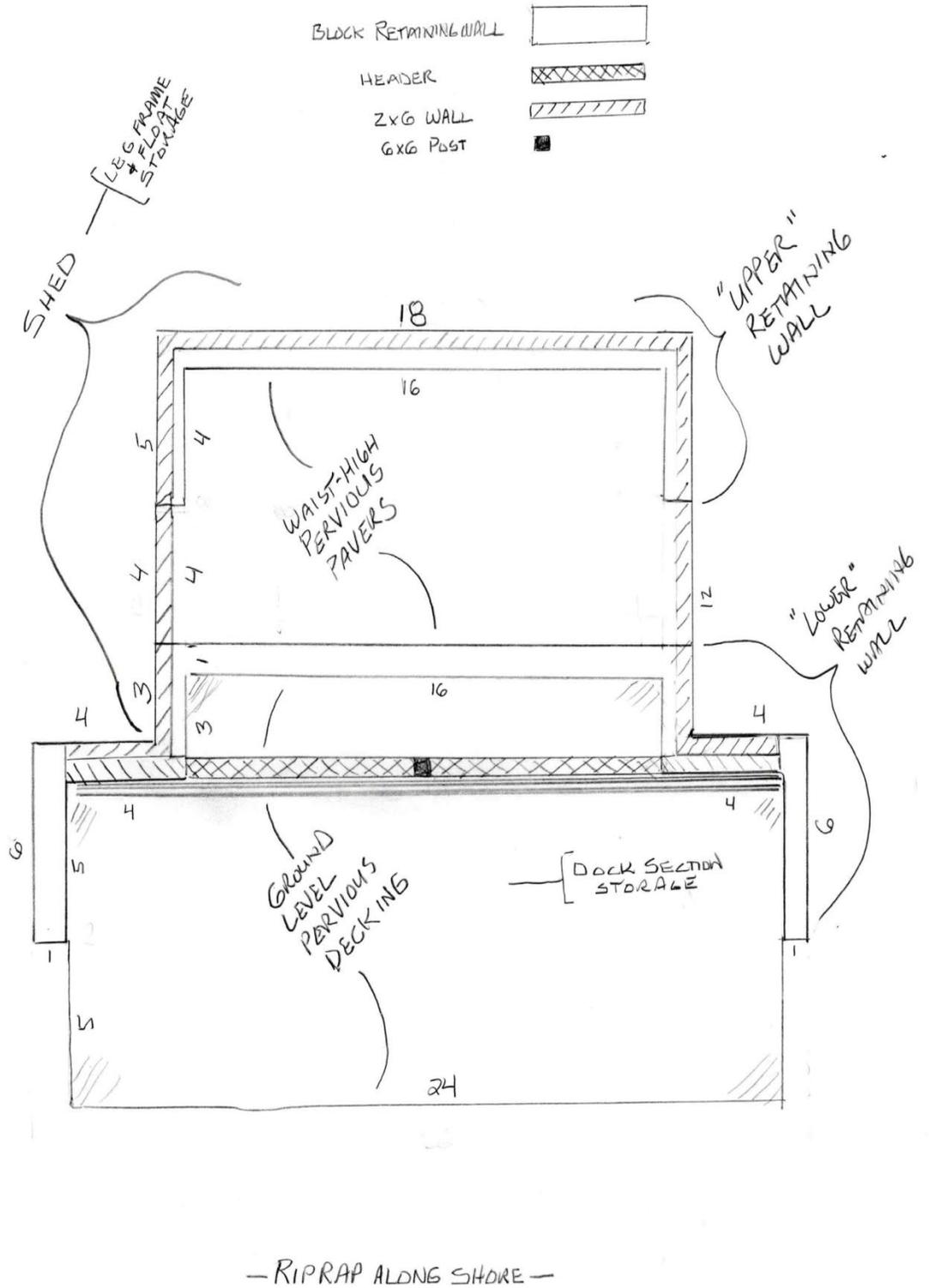
6. SHOWING 3D SKETCH OF PROPOSED ACCESSORY STRUCTURE:



Shoreline Landscaping	
PROJECT NO. 2515 100 001	ISSUE 02 12 2020
PROJECT Shoreline Landscaping Scale = 1/2" = 1'	RE-ISSUE 10/20/14
DRAWN BY Jen	DESCRIPTION Sheet Description
a	
02	
Harmon, Brock White Bear Lake, MN 55110 Chicago, IL 60613	
Shoreline Landscaping Chicago, IL 60613	

7. SHOWING FLOOR PLAN OF PROPOSED ACCESSORY STRUCTURE:

HARMON
 251 WILLOWOOD AVENUE
 BIRCHWOODS, MN
 (WHITE BEAR LAKE)



8. SHOWING SHORELINE RIP-RAP WITH STEPS:



NORTH LOT LINE

OHWL

10' SETBACK

WHITE BEAR LAKE

HARMON

251 WILLOWOODS AVE, BIRCHWOOD

SHORELINE (APPROXIMATION)

- RIP-RAP
- 3-STEP STAIRS (2 SETS)

14

RIP RAP

4

3-STEP STAIRS

3

4

FAMILY DOCK

8

RIP RAP

4

3-STEP STAIRS

10' SETBACK

13

RIP RAP

SOUTH LOT LINE

C. REFERENCE EMAILS / CONTENTS

1. FROM TOBIN LAY (CITY ADMINISTRATOR)

Contents of 7/30/2020 email from Tobin Lay (Birchwood City Administrator) to Brock Harmon:

Please see the response below from the City Planner. Accordingly, you will need to file (first) for a Variance Request (see attached form). The Codes you'd be seeking a variance from are at least the following:

- 300.020.1 – Accessory Structure dimensions
- 302.020.1, 2, 4.c – Setback requirements
- 302.020.5 – Structures in wetlands
- 302.030 – High water elevations
- 302.040.2 – Storage shed dimensions
- 302.045 – Structure height limitations

Additional Codes that you may need to request a variance – depending on your plan – could include the following:

- 302.050 – Impervious Surface (only if your lot will meet or exceed 25% impervious for the entire lot upon completion of your project)
- 302.055.2.d.2, 5, 7 (only if you need to clear cut trees or remove vegetation)
- 302.070.5 – Retaining Wall Height (only if any part of the retaining wall will exceed 4 ft tall)
- 302.080 – Stairs to the lake (only if you plan to put stairs in to the lake and your plan does not confirm with this Section). Be sure to review 302.080 to make sure your plan conforms with those requirements. Otherwise, you may want to include that in your variance request as well.

You could alter your plans to meet all of these Code requirements but you would still have to obtain a variance permit from the City Council in order to build the structure within the 50 ft Lake Setback.

Please complete and return to me the attached variance request form, \$300 check to the City (variance request fee – non-refundable), and supplemental documentation. Include:

- a site plan of your lot drawn to scale with existing and proposed structures on your lot, existing structures on your abutting neighbors' lots, along with setback measurements
- The legal description for your lot.
- Evidence that your plan is in compliance with RCWD, WBLCD, and DNR (include the email responses from them saying that they do not require a permit)

In order to be heard at the Aug 27th Planning Commission meeting, I'll need your completed packet no later than Aug 6th.

If the Planning Commission determines that your packet is complete, they will hear your request as planned – otherwise, they will specify what additional info they require and table the variance request until the additional info has been supplied.

After the Planning Commission reviews your request, it will be heard at the following City Council meeting. Those meetings are the 2nd Tue of each month.

If the City Council approves your request, then you would record the variance permit with the Washington County Recorder and return a copy of that recording to the City along with your Building Permit Application (attached). There will be no need for a Conditional Use Permit.

You can find all of the City Codes here: <https://www.cityofbirchwood.com/codes>

And all of the permit forms here: <https://www.cityofbirchwood.com/permits>

2. FROM STEVEN THATCHER (CITY PLANNER)

Contents of 7/30/2020 email from Steven Thatcher (City Planner) to Tobin Lay (Birchwood City Administrator) regarding review of Harmon proposed Shoreline Reinforcement and Accessory Structure:

Thatcher Engineering, Inc. (TEI) understands the applicant's current plan (Plan) includes the following:

1. Reinforcement of the shoreline to minimize further erosion due to the high water.
 - a. The applicant provided a photo that shows Rip Rap (large rocks) and concrete steps from the top of the Rip Rap down to and into White Bear Lake (WBL).
 - b. It's unclear whether or not construction of concrete steps from the top of the Rip Rap down to and into WBL is included in the Plan.
2. Construct a detached storage shed structure (Shed) and a couple of approximately 4 foot high retaining walls (Walls) to manage off season dock equipment storage on the hill that sits between the cabin and the water.
 - a. Shed:
 - i. Will be 234 square feet (13 feet x 18 feet) with no footings.
 - ii. The floor plan shows the following:
 1. A LEG frame and float storage shed (Shed)
 2. Waist high pervious pavers.
 3. Ground level pervious decking (Dock Section Storage) that will be 10 feet wide by 24 feet long.
 4. Upper block retaining wall.
 5. Lower block retaining wall.
 6. A legend that states: "2x6 wall"
 - a. It's unclear what type of material is proposed for the 2x6 wall.
 - iii. Will be within the City Code's 50 foot WBL setback.
 - iv. It's unclear whether or not the Shed will have a roof.
 - b. Walls:
 - i. It's unclear whether or not the Walls function as part of three (3) of the walls of the Shed.
 1. Typically the walls of a LEG frame and float storage shed cannot support the lateral forces of soil on it.
 - ii. It's unclear how high the wall of the Shed that is furthest away from WBL will be above the existing or proposed ground surface.
 - iii. No concrete footings.
3. Landscaping that slopes toward WBL.

The City Code states the following:

1. Section 300.020 DEFINITIONS. For the purpose of Chapters 300 through 399 certain terms and words are hereby defined as follows:
 - a. "1. Accessory Structure. A non-habitable one-story detached accessory structures (e.g., tool sheds, storage sheds) provided the floor area does not exceed 144 square feet and a maximum wall height of 12 feet measured from the ground to the top of the top plate."
 - b. "20. Garage. A building or portion of a building used by the tenants of the building on the premises which is designed primarily for the storage of motor vehicles. A detached garage is an accessory structure."
 - c. "53. Structure. Anything which is built, constructed or erected: an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner whether temporary or permanent in character including, but not limited to decks, buildings, cabins, manufactured homes, factories, sheds, screen porches, gazebos, platforms, shelters, pergolas, pools, whirlpools, detached garages, car ports, lean-tos, greenhouses, ice fishing houses, towers, and other similar items, except aerial

or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, poles and other supporting facilities.”

2. Section 301.065 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.)”
3. Section 301.070 CONDITIONAL USES. “Certain accessory uses permitted within the City have greater than usual chances to present safety hazards, impact on neighboring people and property, and nuisance situations. Because of these greater effects, the City requires these uses to be covered under Conditional Use Permits. Applications for Conditional Use Permits must comply with all provisions of Section 306. CONDITIONAL USE PERMITS. 1. A Conditional Use Permit shall be required for the following projects: a. Any land disturbance activity where the slope is toward a lake, pond, wetland, or watercourse leading to such waters, and the alteration is closer to such waters than the structure setback requirement. See Note at end of Section 301.070. Any land disturbance activity where such work involves an area greater than four hundred (400) square feet and/or more than fifty (50) cubic yards in volume. See Note at end of Section 301.070.”
 - a. The note at end of Section 301.070 states: “NOTE: A separate Conditional Use Permit is not required for a land disturbance activity in conjunction with construction as part of a building permit as granted. However, as part of the Building Permit Application, the applicant shall provide information required pursuant to Section 306.030 and shall follow all provisions of Sections 302.050 IMPERVIOUS SURFACES and 302.055 LAND DISTURBANCE ACTIVITY STANDARDS.”
4. Section 301.080 Zoning Permit. “If a Building or Conditional Use Permit is applied for and issued, the applicant is not required to apply for a Zoning Permit.
5. Section 302.020. STRUCTURE LOCATION REQUIREMENTS
 - a. 2. MINIMUM SETBACK REQUIREMENTS:
 - i. The minimum setback requirement from the Ordinary High Water Level of White Bear Lake (WBL) to Fences, Driveways, Walkways and All Other Structures is 50 feet.
 - b. 4. SETBACK REQUIREMENTS EXCEPTIONS.
 - ix. “Retaining Wall Setbacks: Front, back, side street and other lot line setback requirements shall not apply to retaining walls except that the ordinary high water level setback requirements shall apply to retaining walls.”
6. Section 302.040 STRUCTURE REQUIREMENTS.
 - a. “2. The maximum square footage of a storage shed is 144 square feet. No person shall place automobiles, vans, or trucks in a storage shed.”
7. Section 302.045 STRUCTURAL HEIGHT RESTRICTIONS.
 - a. Structure Height Limitation of a detached storage shed is 12 feet.
8. Section 302.050 IMPERVIOUS SURFACES.
 - a. “1. Limitation. Impervious surface coverage of lots shall not exceed twenty-five (25) percent of the lot area unless the applicant satisfies the following conditions to obtain a variance:”
9. Section 302.070 CITY FENCE ORDINANCE.
 - a. “5. Retaining Walls. Solid walls in excess of four (4) feet high shall be prohibited unless they are part of a building.”
10. Section 302.080 STAIRS AND LIFTS TO LAKE OR WATER BODY - STANDARDS.
 - a. “A stairway or lift to enable access from land properties to White Bear Lake or pond or recreational body of water shall be constructed and maintained in compliance with the standards and requirements of Section 302.080 parts 2 and 3.”

TEI's analysis is as follows:

1. The Shed is not classified as a Garage by City Code because the Shed is not designed primarily for the storage of motor vehicles. Therefore, the Shed is an Accessory Structure.
 2. A Variance application is required because of the following:
 - a. The Plan includes work and retaining walls within 50 feet of the Ordinary High Water Level of WBL.
 - b. The Shed is 234 square feet which is larger than the maximum square footage of a storage shed which is 144 square feet.
 - c. The Shed height may not be higher than the structure height limitation of a detached storage shed which is 12 feet.
 3. Additional information is needed from the applicant to determine whether or not:
 - a. The impervious surface coverage of the lot after construction meets City Code requirements which is that the impervious surface shall not exceed twenty-five (25) percent of the lot area.
 - b. The Plan meets City Code requirements including Section 302.055 LAND DISTURBANCE ACTIVITY STANDARDS. and Section 302.080 STAIRS AND LIFTS TO LAKE OR WATER BODY - STANDARDS.
-

3. FROM RICE CREEK WATERSHED DISTRICT (RCWD)

Contents of July 2020 email exchange between Rice Creek Watershed District (RCWD) and Brock Harmon:

Brock Harmon <brock.harmon7@gmail.com>

Fri, Jul 10, 1:37 PM

to Kelsey, Nicholas, stephan@shorelinelandscaping.net

Hi Kelsey --

Thanks for your call today regarding my plans for 251 Wildwood Avenue, City of Birchwood Village, MN (on the south shore of WBL).

Per your request, I have attached the following:

- > Photo of rip-rap concept for shoreline (50' shoreline)
- > 'Floorplan' of retaining walls / shed
- > 3D Site-Drawing with cut-aways

I estimate the total surface area of the land that is disturbed to be about 600 square feet.

Please let me know if you have other questions/comments. I look forward to your team's response to my plans.

Thank you.

-- Brock

Brock Harmon
email: brock.harmon7@gmail.com
BJHarmon, Inc.

3 Attachments



Kelsey White

Tue, Jul 14,
7:15 PM

to me, stephan@shorelinelandscaping.net

Hello Brock,

Thank you for providing the details for the proposed rip rap, retaining wall, and shed Based on your description of the project on your property at 251 Wildwood Avenue in Birchwood Village, MN.

It appears that an area less than 10,000 ft² will be disturbed. Additionally, no wetland impacts or floodplain fill are proposed; therefore, a RCWD permit is not required.

Please note that this decision does not indemnify you from enforcement action if the scope of the project changes, or a violation of District Rules or other laws is found to have occurred as a result of this project. Please take care to ensure that no sediments are deposited down gradient of the site, and that any soils disturbed during construction are stabilized within 14 days of project completion. Permits may be required from other agencies including, but not limited to, the City of Birchwood Village and the Minnesota Department of Natural Resources.

Thank you,

Kelsey White

Permit Review Technician
Rice Creek Watershed District
4325 Pheasant Ridge Dr. NE, #611
Blaine, MN 55449-4539
Ph: 763-398-3084
kwhite@ricecreek.org

[Please consider following the RCWD on Facebook.](#)



Brock Harmon <brock.harmon7@gmail.com>

Tue, Jul 14,
8:38 PM

to Nicholas, Tobin, Kelsey, stephan@shorelinelandscaping.net

Hi Kelsey --

Thank you for your project review and feedback

- 1) Yes, the plan is for less than 10,000 sq ft to be disturbed, and there are no wetland impacts or floodplain fill proposed. Thank you for identifying that an RCWD permit is therefore not required.
- 2) The scope of the project is not expected to change. I will keep you informed if the scope were to change. .
- 3) I am including my contractor and the City of Birchwood Village in this email chain for their awareness of your feedback.
- 4) The MN DNR is supportive of the proposed rip-rap without an individual DNR permit. The other portion of the project is outside of their area of concern.
- 5) I am also in contact with the WBLCD. Upon hearing back from that group, I will contact the City of Birchwood Village with a summary of these findings to determine next steps with the City.

Thank you for your support!

-- Brock

Brock Harmon
email: brock.harmon7@gmail.com
BJHarmon, Inc.

4. FROM MINNESOTA DEPARTMENT OF NATURAL RESOURCES (MN DNR)

Contents of July 2020 email exchange between Minnesota Department of Natural Resources (MN DNR) and Brock Harmon:

Inquiry re: preserving White Bear Lake shoreline and enhancing property

Inbo



Brock Harmon <brock.harmon7@gmail.com>

Thu, Jul 9, 2:41 PM

to MN-DNR

Hi --

My family has a cabin in the City of Birchwood Village on the south shore of WBL. With the rising water level (a good thing vs years past), my shoreline is eroding and I have less room for off-season dock equipment.

With a contractor, I have created a plan to reinforce the shoreline and to place a retaining wall / storage shed between the cabin and the shoreline. Tobin, the City Administrator for the City of Birchwood Village, instructed that I contact your group, the Rice Creek Watershed District, and the White Bear Lake Water Conservation District in advance of completing a permit request with Birchwood.

Please let me know my next steps for understanding your (MN-DNR) process to review my plan and determine actions to take.

You may reach me at:

Email: brock.harmon7@gmail.com

Phone: 651-483-5854 (I am presently working from home, so please leave a voicemail if you cannot get through to me.)

Thank you very much!

-- Brock

Brock Harmon
email: brock.harmon7@gmail.com

BJHarmon, Inc.



MN_Info (DNR)

Sun, Jul 12,
12:07 PM

to me

Good Afternoon Brock,

Thank you for contacting the Minnesota DNR.

Your e-mail has been forwarded to our Hydrologist in your area to respond. Our staff are often out of the office for extended periods of time while they are doing field work. They may not be available to answer your question right away. If you have not heard from them within 48 hours (excluding weekends & holidays), please contact us again either via email or by calling 888-646-6367 M – F 8:00 am – 6:00 pm and on Saturday 8:00 am – 4:30 pm.

Have a nice day!

Carly

Information Consultant | Office of Communication & Outreach

Minnesota Department of Natural Resources

500 Lafayette Rd

St. Paul, MN, 55155

Phone: 888-646-6367

Email: Info.dnr@state.mn.us

From: Brock Harmon [mailto:brock.harmon7@gmail.com]

Sent: Thursday, July 9, 2020 2:42 PM

To: MN_Info (DNR) <info.dnr@state.mn.us>

Subject: Inquiry re: preserving White Bear Lake shoreline and enhancing property

This message may be from an external email source.

Do not select links or open attachments unless verified. Report all suspicious emails to Minnesota IT Services Security Operations Center.



Brock Harmon <brock.harmon7@gmail.com>

Mon, Jul 13,
7:49 AM

to MN_Info

Good morning Carly --

Thank you for your note. I look forward to connecting with the appropriate member of your staff to review my concerns and plans.

Thanks!

-- Brock

Brock Harmon
email: brock.harmon7@gmail.com

BJHarmon, Inc.



Gleason, John (DNR) <john.gleason@state.mn.us>

Mon, Jul 13,
9:46 AM

to me, MN_Info

Mr. Harmon:

Thank you for your inquiry. DNR regulates the lake, beginning at the Ordinary High Water level which for White Bear lake is 924.89 ft (datum MSL 1912.) So, any work at this elevation or below is subject to DNR regulation; above that elevation it is regulated by the City. (The watershed district rules may apply to areas both above and below the OHW). So If the retaining wall is above the OHW, then no DNR permit is required. The state rules regarding retaining walls make it difficult to get a DNR permit so I recommend it be placed above the OHW which sounds like the plan based on your description. If you do want to place it at or below the OHW, let me know and I can provide more information on requirements.

If you are considering riprap, here is a link to DNR brochure that describes the state rules and criteria in which no DNR permit is required. The primary prerequisite is that the shoreline must be actively eroding. https://files.dnr.state.mn.us/publications/waters/shoreline_alterations_riprap.pdf

There is a real-time lake level gage on White Bear Lake here https://www.dnr.state.mn.us/waters/csg/site_report.html?mode=getsitereport&site=82016700. The most current water level recording is 925.14 ft which is 0.25 ft above the OHW. So you or your contractor may find the gage information helpful in determining if the project location relative the OHW.

Regards,

Jack

John (Jack) Gleason

Minnesota Department of Natural Resources

1200 Warner Rd

St. Paul, MN 55106

Phone: 651-259-5753

Email: john.gleason@state.mn.us

From: Brock Harmon <brock.harmon7@gmail.com>

Sent: Thursday, July 9, 2020 2:42 PM

To: MN_Info (DNR) <info.dnr@state.mn.us>

Subject: Inquiry re: preserving White Bear Lake shoreline and enhancing property

This message may be from an external email source.

Do not select links or open attachments unless verified. Report all suspicious emails to Minnesota IT Services Security Operations Center.

Hi --



Brock Harmon <brock.harmon7@gmail.com>

Mon, Jul 13,
10:43 AM

to Tobin, stephan@shorelinelandscaping.net, John, MN_Info

Hi John --

Thank you for your feedback.

1) The retaining wall is to be above the OHWL ==> therefore this is outside of DNR jurisdiction.

2) The shoreline is actively eroding. The plan is to use riprap (no retaining wall) to stabilize the shoreline.

> The documentation at the link you provided is helpful and is to be followed, so that no individual DNR permit is needed.

3) I am including my contractor and the City of Birchwood Village in this email chain for their awareness of your feedback.

Thank you!

-- Brock

Brock Harmon
email: brock.harmon7@gmail.com

BJHarmon, Inc.

5. FROM WHITE BEAR LAKE CONSERVATION DISTRICT (WBLCD)

Contents of July 2020 email exchange between White Bear Lake Conservation District (WBLCD) and Brock Harmon:

Brock Harmon <brock.harmon7@gmail.com>

Jul 15, 2020,
6:04 PM

to Scott, White

Hi Kim -- Thanks for the note to talk to Scott.

Hi Scott --

Regarding this project, I have contacted the DNR and also Rice Creek Watershed District. They have indicated that I do not need a permit from either of them.

- DNR
- 1) Along the shoreline will be rip-rap (no retaining wall on the shoreline), per the DNR direction for installing rip-rap without an individual permit
 - 2) The retaining wall / shed is up away from the water, so is not part of the DNR area of concern

- RCWD
- 1) Only a small amount of land (~600 sq ft) is expected to be disturbed for the retaining wall / shed, and there are no wetland impacts or floodplain fill proposed.
 - 2) Per the RCWD, a permit from them is therefore not required.

I am attaching three items that may help clarify my plan for your review:

- > Photo of rip-rap concept for shoreline (50' shoreline)
- > 'Floorplan' of retaining walls / shed
- > 3D Site-Drawing with cut-aways

I am attempting to work with the existing/natural rolling slope for locating the retaining walls and minimizing the amount of soil to move. The address = 251 Wildwood Ave in Birchwood.

Scott, please confirm your receipt of this email and let me know what further information you may need for the WBLCD review of this project plan.

Thank you!

-- Brock
email: brock.harmon7@gmail.com
phone: 651-483-5854 [land-line, has answering machine if I am unable to get to the phone, no texting (sorry)]

Brock Harmon
email: brock.harmon7@gmail.com
BJHarmon, Inc.

3 Attachments



Scott Costello

Jul 15, 2020,
6:32 PM

to me, White

Hi Brock,

The WBLCD has no jurisdiction here. We cover only what can go in the water, like docks and boats. If you have clearance from the DNR and RCWD, you are good to go to Birchwood for whatever they require.

I have a friend who is installing riprap in the Snyder Bay Area of the lake, and he told me he did get a DNR permit. But if you asked them and they said you don't need one, go with that.

Be glad you don't live in the City of White Bear Lake—they have gotten very fussy about shoreline and retaining walls near the lake.

Good luck with your project!

Sent from Scott Costello's iPhone

On Jul 15, 2020, at 6:05 PM, Brock Harmon <brock.harmon7@gmail.com> wrote:

<IMG_4640.jpeg>

<Harmon Floorplan 07102020.pdf>

<Harmon - Shed Design Pic 1_2.jpg>



Brock Harmon <brock.harmon7@gmail.com>

Jul 15, 2020,
9:12 PM

to Tobin, stephan@shorelinelandscaping.net, Scott, White

Hi Scott --

Thank you very much for your review of my project and confirmation that WBLCD does not have jurisdiction on this project.

I am cc'ing Tobin at the City of Birchwood Village, along with my contractor, so that they are in the loop with your feedback too.

Thanks for your support!

-- Brock

Brock Harmon
email: brock.harmon7@gmail.com
BJHarmon, Inc.

**CITY OF BIRCHWOOD VILLAGE
MEMORANDUM**

TO: Birchwood Village Planning Commission

FROM: Thatcher Engineering, Inc.

DATE: August 22, 2020

APPLICANT: Brock Harmon (Trude Harmon's son), 251 Wildwood Avenue, Birchwood Village

LOCATION: 251 Wildwood Avenue

REQUEST

Variance request #1: The Applicant is requesting a variance from City Code 300.020 Section 1.

1. The applicant requests a variance from the requirement that states: "Accessory Structure. A non-habitable one-story detached accessory structures (e.g., tool sheds, storage sheds) provided the floor area does not exceed 144 square feet and a maximum wall height of 12 feet measured from the ground to the top of the top plate."

Variance request #2: The Applicant is requesting a variance from City Code 302.020 Section 2.

1. The applicant requests a variance from the requirement that states that "All Other Structures" must be setback as follows:
 - a. 50 feet from the ordinary high water level of White Bear Lake.

Variance request #3: The Applicant is requesting a variance from City Code 302.020 Section 4c.

1. The applicant requests a variance from the requirement that states: "Retaining Wall Setbacks: Front, back, side street and other lot line setback requirements shall not apply to retaining walls except that the ordinary high water level setback requirements shall apply to retaining walls."

Variance request #4: The Applicant is requesting a variance from City Code 302.040 Section 2.

1. The applicant requests a variance from the requirement that states: "The maximum square footage of a storage shed is 144 square feet. No person shall place automobiles, vans, or trucks in a storage shed."

Variance request #5: The Applicant is requesting a variance from City Code 302.080 Section 2a

1. The applicant requests a variance from the requirement that states: "Stairways may not exceed 44 inches in width."

Variance request #6: The Applicant is requesting a variance from City Code 302.080 Section 2f.

1. The applicant requests a variance from the requirement that states: "Stairways shall be anchored and supported with pilings or footings."

The purpose of this Variance Application is to seek approval to build a storage shed within the White Bear Lake High Water Level setback (50 ft), near the water (approx. 10 ft). The proposed structure will be 234 square feet (13' x 18'); larger than the definition of Accessory Structure in City Code Section 300.020.1 (144 square feet) and the storage shed size limitations in Section 302.040.2 (144 square feet max.).

Another purpose of this Variance Application is to seek approval to construct 48 inch wide stairs to the lake (4 inches wider than allowed under Section 302.080.2). Also, to install the stairs on 3/4 inch minus base instead of being "anchored and supported with pilings or footings" as required under Section 302.080.2.f.

CITY MAY REQUIRE ADDITIONAL INFORMATION

The City may require additional information from the Applicant as follows:

1. 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 (City Code 304.030).
2. Elevation contour lines may be required on the plot plan that is drawn to scale (City Code 304.040 Section 1b).

SITE CHARACTERISTICS

The subject lot is 13,504 square feet in size according to the Washington County web site. The lot is approximately 235 feet deep and 45 feet wide and contains a single-family residence. The lot has access to White Bear Lake which has an ordinary high water level of 924.7 based on City Code.

PRACTICAL DIFFICULTY

- 1) Slope to the lake.
- 2) See application for additional information.

STATUTORY REQUIREMENTS FOR PERMITTING VARIANCES

Minnesota State Statute 462.357 allows for a variance to be permitted only when:

- (1) The proposed use is in harmony with the general purposes and intent of the City's zoning ordinance;
- (2) The variance is consistent with the City's comprehensive plan; and,
- (3) The applicant establishes that there are practical difficulties in complying with the zoning ordinance.

Statutory criteria used to establish a practical difficulty include:

- (1) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- (2) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
- (3) The variance, if granted, will not alter the essential character of the locality.

CTY CODE REQUIREMENTS FOR PERMITTING VARIANCES

Sec 304.040 of the City Code states:

Variations 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 variations so granted. A variance shall not be granted unless the following criteria are met:

SUBD. 1.

- A. Variations shall only be permitted
 - i. when they are in harmony with the general purposes and intent of the ordinance and
 - ii. when the variations are consistent with the comprehensive plan.
- B. Variations may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

SUBD. 2. "Practical difficulties," as used in connection with the granting of a variance, means that

- i. Special conditions or circumstances exist which are peculiar to the land, structure, or building involved.
- ii. 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.
- iii. The granting of a variance will result in no increase in the amount of water draining from the property.
- iv. 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.
- v. No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do.
- vi. Financial gain or loss by the applicant shall not be considered if reasonable use for the property exists under terms of the Zoning Code.

ANALYSIS

The lot has challenges because of the slope to the lake. It's unclear if the slope to the lake on this lot is steeper than the slope to the lake on other lots because a certificate by a registered professional land surveyor with elevation contour lines (the lines show slope to the lake) has not been provided by the Applicant.

Page 2 of the Variance Application states: "Permeable Pavers for waist-high floor of shed (should roof be removed)." No pervious pavement system is permitted within the White Bear Lake 25 foot Shore Impact Zone because of the following:

1. City Code 302.050 Section 1e states: "No pervious pavement system is permitted in the Shore Impact Zone. (The Shore Impact Zone is the land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the required structure setback. The required structure setback from the OHWL in the City of Birchwood Village is 50 feet, and the Shore Impact Zone is 25 feet.)"

Therefore, if the roof is removed, the permeable pavers must be more than 25 feet from the OHWL.

REASONS FOR RECOMMENDING VARIANCE APPROVAL

Variance requests #1 to #6:

1. The lot has challenges because of the slope to the lake.
2. This project would preserve the essential character of the locality.

REASONS FOR RECOMMENDING VARIANCE DENIAL

Variance requests #1 and #6:

1. A primary goal of the City of Birchwood Village's Zoning Ordinance is "to ensure that a non-conforming use is not intensified and that, over time, the non-conforming use will, where possible, be brought into conformity with the Zoning Code." The following could be argued:
 - a. That they are not in harmony with the general purposes and intent of the ordinance.
 - b. That the variances are not consistent with the comprehensive plan.
 - c. That the applicant for the variance has not established that there are practical difficulties in complying with the zoning ordinance.

CONDITIONS

If approved, a requested variance may be approved subject to the following conditions:

1. All application materials, maps, drawings and descriptive information submitted with this application shall become part of the building permit.

2. Per City Code 304.090, the variance shall become null and void if the project has not been completed or utilized within one year after the date it was granted, subject to petition for extension by the City Council.
3. Land alteration may not cause adverse impact upon abutting property.

300.020.1 Accessory Structure. A non-habitable one-story detached accessory structures (e.g., tool sheds, storage sheds) provided the floor area does not exceed 144 square feet and a maximum wall height of 12 feet measured from the ground to the top of the top plate and water quality management practices that are the most effective

302.040. STRUCTURE REQUIREMENTS.

1. Each dwelling unit must have a floor area of at least 900 square feet.
2. The maximum square footage of a storage shed is 144 square feet. No person shall place automobiles, vans, or trucks in a storage shed.

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>Lot line or Land Boundary</u>	<u>TYPE OF STRUCTURE</u>		
	<u>Fences</u>	<u>Driveways & Walkways</u>	<u>All Other Structures</u>
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.

The ordinary high water levels of three water bodies have been established to be the following:

ORDINARY HIGH WATER LEVELS (Feet Above Mean Sea Level)

DNR ID #82-167	White Bear Lake	924.7 (NGVD, 1929)
DNR ID #82-134	Lost Lake	925.6 (NGVD, 1929)
DNR ID #82-480W	Hall's Marsh	924.7 (NGVD, 1929)

4. SETBACK REQUIREMENTS EXCEPTIONS.

- c. Retaining Wall Setbacks: Front, back, side street and other lot line setback requirements shall not apply to retaining walls except that the ordinary high water level setback requirements shall apply to retaining walls.

302.080. STAIRS AND LIFTS TO LAKE OR WATER BODY - STANDARDS. A stairway or lift to enable access from land properties to White Bear Lake or pond or recreational body of water shall be constructed and maintained in compliance with the standards and requirements of Section 302.080 parts 2 and 3.

2. Standards and requirements for stairways are as follows:

- a. Stairways may not exceed 44 inches in width.
- b. Landings may be permitted at a minimum vertical interval of 20 feet.
- c. Landings may not exceed 32 square feet in area.
- d. Handrails are recommended, however they shall not unduly obstruct the view by neighboring properties.
- e. Canopies or roofs are not permitted on stairways or landings.
- f. Stairways shall be anchored and supported with pilings or footings.
- g. The applicant must submit a plan for the stairway to the City of Birchwood Village showing all necessary construction data including location, design, dimensions and construction materials before construction may begin.
- h. Steps must comply with all setback requirements except the setback from the high water mark.



BIRCHWOOD VILLAGE
Variance Findings Form
CASE NO. 20-02-VB 415 WILDWOOD AVE

EACH OF THE FOLLOWING CRITERIA MUST BE SATISFIED TO APPROVE

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

The specific Ordinance states _____
 (state ordinance requirement), the purpose of which is to _____
 _____ (explain what the ordinance requirement is intended to prevent or protect).

The proposed variance is for: _____
 _____ (explain proposal and potential effects).

This variance is/is not in harmony with the purpose and intent of the specific Ordinance because: _____

 _____ (explain how the proposal is in harmony with or undermines the purpose of the ordinance).

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

The Comprehensive Plan contains the following policies and goals regarding this request: _____

 _____ (list applicable policies, goals, and maps, including citations).

Granting the variance is/is not consistent with the comprehensive plan because: _____

 _____ (explain how; relate details of the request to specific policies, goals, and maps).

#3: Are there special conditions or circumstances that are peculiar to the land, structure, or building involved?

There are/are no circumstances unique to the property that would prevent compliance with the specific Ordinance because: _____

(describe any physical characteristics of the land that are unique to this property that prevent compliance with the ordinance requirement, and whether the applicant has demonstrated that no other reasonable alternative exists that would comply with the ordinance; explain what makes this property different from other properties to justify why this applicant should be able to deviate from the ordinance when others must comply).

#4: Were the special conditions or circumstances created by the applicant's action or design solution?

The conditions that resulted in the need for the variance **were/were not** created by the applicant **because**:

_____ (if there are special conditions or circumstances, describe whether they were created by some action of the applicant/property owner).

#5: Will granting a variance result in any increase in the amount of water draining from the property?

Granting the variance **will/will not** increase the amount of water that drains from the property **because**:

_____ (if granting the variance will increase the amount of water that drains from the property, explain how and how much it will increase).

#6: Will granting the variance 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?

Granting the variance **will/will not** impair light and air to adjacent property, or diminish or impair property values in the area, or impair the public health, safety, or welfare of Birchwood residents **because**:

_____ (if granting the variance could be detrimental to neighbors or other Birchwood residents, explain how).

#7: A variance must not be granted *simply because there are no objections or because those who do not object outnumber those who do?*

Has this variance been granted only because of the number of objections to the request: Yes No

Explain: _____

_____ (If you believe that the decision has been determined simply because of the number of supporters or objections, explain how).

#8: Does reasonable use for the property exist under terms of the Zoning Code?

Reasonable use for the property does/does not exist under terms of the Zoning Code because: _____

_____ (Describe how the Zoning Code does or does not allow for reasonable use of the property. If reasonable use of the property *does* exist under terms of the Zoning Code, the applicant's financial gain or loss shall not be considered in your decision).

What is your decision? (Approve or Deny)

Remember - ALL criteria MUST be satisfied to approve.

If approved, what conditions will you impose? (Findings must support the conditions; explain the impacts of the proposed development and the conditions that address those impacts. Remember that findings must be directly related and proportional to the impacts created by the variance. Set specific timeframes and deadlines, and consider requiring the following to help ensure compliance with the conditions:

- *financial sureties to ensure that the required activities are completed within specified deadlines,*
- *as-built drawings and/or photos as proof of completion within the terms of the conditions, and/or*
- *long-term maintenance and operation agreements for stormwater best management practices and vegetation that must be protected or restored as a condition of approval, along with notices of restrictions recorded against properties to ensure that future property owners are aware of their responsibilities and don't unknowingly "undo" any conditions.)*



BIRCHWOOD VILLAGE
Variance Findings Form
CASE NO. 20-04-VB 251 WILDWOOD AVE

EACH OF THE FOLLOWING CRITERIA MUST BE SATISFIED TO APPROVE

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

The specific Ordinance states _____
 (state ordinance requirement), the purpose of which is to _____
 _____ (explain what the ordinance requirement is intended to prevent or protect).

The proposed variance is for: _____
 _____ (explain proposal and potential effects).

This variance is/is not in harmony with the purpose and intent of the specific Ordinance because: _____

 _____ (explain how the proposal is in harmony with or undermines the purpose of the ordinance).

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

The Comprehensive Plan contains the following policies and goals regarding this request: _____

 _____ (list applicable policies, goals, and maps, including citations).

Granting the variance is/is not consistent with the comprehensive plan because: _____

 _____ (explain how; relate details of the request to specific policies, goals, and maps).

#3: Are there special conditions or circumstances that are peculiar to the land, structure, or building involved?

There are/are no circumstances unique to the property that would prevent compliance with the specific Ordinance because: _____

(describe any physical characteristics of the land that are unique to this property that prevent compliance with the ordinance requirement, and whether the applicant has demonstrated that no other reasonable alternative exists that would comply with the ordinance; explain what makes this property different from other properties to justify why this applicant should be able to deviate from the ordinance when others must comply).

#4: Were the special conditions or circumstances created by the applicant's action or design solution?

The conditions that resulted in the need for the variance **were/were not** created by the applicant **because:**

_____ (if there are special conditions or circumstances, describe whether they were created by some action of the applicant/property owner).

#5: Will granting a variance result in any increase in the amount of water draining from the property?

Granting the variance **will/will not** increase the amount of water that drains from the property **because:**

_____ (if granting the variance will increase the amount of water that drains from the property, explain how and how much it will increase).

#6: Will granting the variance 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?

Granting the variance **will/will not** impair light and air to adjacent property, or diminish or impair property values in the area, or impair the public health, safety, or welfare of Birchwood residents **because:**

_____ (if granting the variance could be detrimental to neighbors or other Birchwood residents, explain how).

#7: A variance must not be granted *simply because there are no objections or because those who do not object outnumber those who do?*

Has this variance been granted only because of the number of objections to the request: Yes No

Explain: _____

_____ (If you believe

that the decision has been determined simply because of the number of supporters or objections, explain how).

#8: Does reasonable use for the property exist under terms of the Zoning Code?

Reasonable use for the property does/does not exist under terms of the Zoning Code because: _____

_____ (Describe how

the Zoning Code does or does not allow for reasonable use of the property. If reasonable use of the property

does exist under terms of the Zoning Code, the applicant's financial gain or loss shall not be considered in your

decision).

What is your decision? (Approve or Deny)

Remember - ALL criteria MUST be satisfied to approve.

If approved, what conditions will you impose? (Findings must support the conditions; explain the impacts of the proposed development and the conditions that address those impacts. Remember that findings must be directly related and proportional to the impacts created by the variance. Set specific timeframes and deadlines, and consider requiring the following to help ensure compliance with the conditions:

- *financial sureties to ensure that the required activities are completed within specified deadlines,*
- *as-built drawings and/or photos as proof of completion within the terms of the conditions, and/or*
- *long-term maintenance and operation agreements for stormwater best management practices and vegetation that must be protected or restored as a condition of approval, along with notices of restrictions recorded against properties to ensure that future property owners are aware of their responsibilities and don't unknowingly "undo" any conditions.)*
