



AGENDA OF THE PLANNING
COMMISSION
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
January 23, 2020
7:00 P.M.

CALL TO ORDER

APPROVE AGENDA

REGULAR AGENDA

- A. Review Variance Case No. 20-01-VB for 15 Birchwood Lane* (pp. 3-38 & 55-58)
 - 1. Public Hearing
 - 2. Discuss & Recommendation to City Council
- B. Review/Approve October 24, 2019 Meeting Minutes* (p. 39)
- C. Discuss Nominal Structures (302.020.4.d)* (pp. 9-23 & 41-54)

ADJOURN

Variance Materials

Staff Memo – p. 3

Planner's Recommendation – p. 4

Sec 304 Variances – pp. 5-7

Sec 302 Zoning Code – pp. 9-23

Variance Application – pp. 25-31

House Plans – pp. 33-37

Survey – pp. 38

Variance Findings Form – pp. 55-58

* Denotes items that have supporting documentation provided

MEMORANDUM



Birchwood Village

TO: Birchwood Village Planning Commission
FROM: Tobin Lay, City Administrator
SUBJECT: Variance Case No. 20-01-VB
DATE: January 21, 2020

Dear Commissioners,

Enclosed is a Variance applications from Greg & Kathy Sherwood (Case No. 20-01-VB) for the following variances to allow demolition and rebuild of the principal structure at 15 Birchwood Lane that allows for two-stories on top of a walkout with proper roof slope, ceiling heights and rear deck access:

- A 42" variance from the 10-foot side yard setback requirement for a suspended deck walkway from the front yard to the back deck (attached to the principal structure), per 302.020; and
- A 26" variance from the 30-foot structure height limitation, per 302.045.

City Engineer Steve Thatcher (acting City Planner) has reviewed the application and found it acceptable to move forward for your review (see enclosed email).

Notices have been mailed to each of the neighboring properties within 200 ft. and to the DNR and RCWD, as required, notifying those of the public hearing to take place at the Commission's Thursday January 23, 2020 meeting, starting at 7:00pm. No response had been received at the time this packet was assembled on Tuesday January 21, 2020.

As the public hearing will take place at your meeting, please remember to open and close the public hearing prior to your discussion and recommendation.

In addition to the application materials, I've also enclosed City Engineer Thatcher's (acting Planner) email, Sections 302 & 304, and the Variance Findings Form to help guide you in your review. Variance requests may only be recommended if the Commission finds that the applicant has satisfied all of the criteria in Section 304.040.

Request/Recommendation

Staff requests Commissioners:

- 1) Review, discuss & approve or deny enclosed Variance No. 20-01-VB.

Thanks!

Regards,
Tobin Lay

AGENDA ITEM A: PLANNER'S RECOMMENDATION

Tobin Lay

From: Steven W. Thatcher <sthatcher@thatcher-eng.com>
Sent: Wednesday, January 15, 2020 2:47 PM
To: Tobin Lay
Subject: 15 Birchwood Lane - Application for Variance

Caution: This email originated outside our organization; please use caution.

Hi Tobin,

I reviewed the application for variance.

It is TEI's opinion that the application is acceptable. If the application is approved and they apply for a building permit, they will need to submit the following with the building permit application:

1. Details of the permeable pavers proposed including the proposed sand and aggregate below the proposed pavers.
 - a. An aggregate that is pervious (so that runoff will flow through it).
 - b. The aggregate must be washed aggregate.
 - c. A class five gravel (aggregate) base is not acceptable because class five is impervious.

Please let me know if you have any questions.

Thanks,
Steve

Steven Thatcher, PE
Thatcher Engineering Inc.

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

**AGENDA ITEM A:
SEC 304 VARIANCES**

304. ZONING CODE: VARIANCES AND APPEALS

304.010 BOARD OF APPEALS. The City Council is hereby established as the Board of Appeals (Board) and shall have the power to hear and decide appeals in which it is alleged that there is an error in any administrative order, requirement, decision or determination made in the interpretation or enforcement of the Zoning Code.

304.020 APPEALS OF ADMINISTRATIVE DECISIONS.

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

2. The Board shall conduct a public hearing within 60 days after the filing of a written appeal. The Board shall make its decision after considering the oral and written views of all interested persons expressed at the public hearing.

304.030 PETITIONS FOR VARIANCES. The Planning Commission is hereby established to hear and advise the Council on requests for variances from the literal provisions of the Zoning Code. The owner or owners of land to which the variance relates may file a petition for a variance with the Clerk. The petition shall be made on forms provided by the City Clerk. The petition shall be accompanied by plans described below and by all required fees. The City may require the petitioner to submit a certificate by a registered professional land surveyor verifying the location of all buildings, setbacks and building coverage, and certifying other facts that in the opinion of the City are necessary for evaluation of the petition.

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

1. Required Information.

a. Legal description and address of parcel. Name, address, and phone number of applicant (and of the owner if owner is not the applicant).

b. Plot plan drawn to scale. Elevation contour lines may be required.

c. Plan showing existing and proposed new and changed structures on the lot. Existing structures on adjacent lots must also be shown.

d. Evidence demonstrating compliance with the Rice Creek Watershed District's and other Governmental Units' regulations may be required. (See Section 303.040.)

2. Criteria for Granting a Variance. 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.

304.050

VARIANCE HEARING AND RECOMMENDATION BY THE PLANNING COMMISSION. Within 60 days after the City determines that a variance petition is complete, and all required fees and information, including plans, drawings and surveys, have been received, the Planning Commission shall conduct a public hearing and after hearing the oral and written views of all interested persons, the

Planning Commission shall make its recommendation to the City Council by a majority vote at the same meeting or at a specified future meeting thereof.

304.060 NOTICE OF HEARINGS.

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

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

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

304.070 FINAL DECISION. The Council shall decide all appeals of administrative decisions and petitions for variances. The decision shall be made not later than 30 days after the date of the hearing. Notice of the decision shall be mailed to the applicant with regard to any denial and explanation as to why.

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

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

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

"AMENDED BY ORDINANCE 2018-04-01; OCTOBER 9, 2018."

**AGENDA ITEM A & C:
SEC 302 ZONING CODE**

302. ZONING CODE: REQUIREMENTS AND PERFORMANCE STANDARDS

302.010. LOT REQUIREMENTS. All lots created after the date of enactment of this ordinance must conform to the following dimensions, utilizing only that land above the ordinary high water level of any lake, pond, or wetland.

1. Minimum lot size per dwelling unit:

Lots abutting lake or wetland: 15,000 sq. ft.

All other lots 12,000 sq. ft.

2. Minimum lot width at front building line and at the ordinary high water level of any lake or wetland:

Lots containing two dwelling units: 135 ft.

All other lots: 80 ft.

302.015. UNDERSIZED LOTS. Any lot of record as of January 1, 1975, which remains in its then-existing dimensions and which does not meet the requirements of this Code may nevertheless be utilized for single-family detached dwelling purposes provided the requirements of 302.010 are at least 60% of those as required.

“AMENDED BY ORDINANCE 2019-03-02; JUNE 11, 2019.”

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)

3. ACCESSORY STRUCTURES. No accessory building or structure, unless an integral part of the principal structure shall be erected, altered, or moved to, within five (5) feet of the principal structure except fences, driveways, walkways, and decks which may be as close as actually abutting the principal structure.

4. SETBACK REQUIREMENTS EXCEPTIONS.

a. Street and Highway Setbacks: If structures on adjacent lots, existing as on January 1, 1975, have lesser street or highway setbacks from those required, the minimum setback of a new structure may conform to the prevailing setback in the immediate vicinity. The City Council shall, upon recommendation of the Planning Commission, determine the necessary minimum front yard setback in such areas.

- b. Dock and Pier Setbacks: Setback requirements from the ordinary high water levels shall not apply to piers and docks. Locations of piers and docks shall be controlled by applicable state and local regulations.
- 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. Nominal Structures: Front, back, side street and other lot line setback requirements shall not apply to nominal structures such as small arbors, moveable yard furniture, moveable docks, storage boxes, dog houses, mail boxes, library small boxes, lock boxes, flagpoles, lawn ornaments and other similar items, which shall be exempt from setback regulations, but not including decks, platforms, or shelters such as pergolas.

“AMENDED BY ORDINANCE 2013-08-01; AUGUST 13, 2013.”

5. STRUCTURES IN WETLANDS. No structures are allowed within any wetlands.

“AMENDED BY ORDINANCE 1997-2; AUGUST 12, 1997.”

“AMENDED BY ORDINANCE 2003-1; FEBRUARY 12, 2003.”

302.030. HIGH WATER ELEVATIONS. 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. For three water bodies the high known water levels are:

HIGHEST KNOWN WATER LEVELS (Feet Above Mean Sea Level)

DNR ID #82-167	White Bear Lake	926.7 (NGVD, 1929)
DNR ID #82-134	Lost Lake	927.0 (NGVD, 1929)
DNR ID #82-480W	Hall's Marsh	926.7 (NGVD, 1929)

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.

302.045 STRUCTURAL HEIGHT RESTRICTIONS

1. STRUCTURAL HEIGHT LIMITATION: The maximum height of a structure as calculated by Method A or Method B (see below) is as follows:

<u>Structure type</u>	<u>Structure Height Limitation</u>
Principal Structure/attached garage	30 feet
Detached garage	18 feet
Detached storage shed	12 feet

“AMENDED JUNE 14, 2016”

“AMENDED DECEMBER 13, 2016”

METHOD A: (Most applicable to 3-dimensional structures, e.g. houses and garages.) The maximum height of a structure is the difference between the elevation of the highest point of the structure and the average elevation of the grade plane. The grade plane shall be calculated based on the method shown in Exhibit A below. Elevation points at the ground level shall be evenly distributed along each façade.

“AMENDED JUNE 14, 2016”

METHOD B: (Most applicable to structures which are mainly 1- or 2-dimensional, e.g. towers and walls.) The maximum height of a structure is the difference in elevation between any point on the structure and the ground directly below that point.

2. Grading/Fill Limitation

The existing grade of the property shall not be raised around a new building or foundation in order to comply with the height requirements of this code.

“AMENDED JUNE 14, 2016”

3. Tallest Point Limitation

Regardless of the structure height limitations for principal structures specified in section 302.045 subsection 1 above, the lowest point on the façade to the tallest point of a structure shall not exceed 35 feet. Also, the tallest point of an attached garage shall not exceed the height of the tallest point of the principal structure.

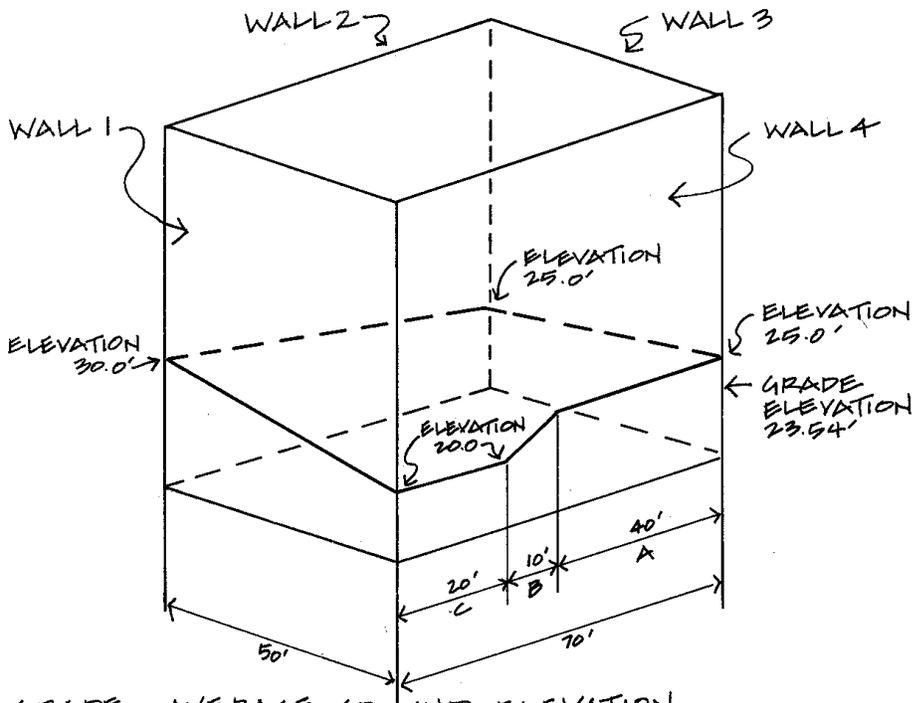
“AMENDED JUNE 14, 2016”

4. Exceptions.

The structure height and tallest point limitations established herein shall not apply to chimneys and flues provided the footprint or horizontal area of the chimney or flue does not exceed 16 square feet and the top of the chimney or flues and does not extend more than three feet above the tallest point of the structure.

Exhibit A:

ILLUSTRATION 10: GRADE, GRADE ELEVATION



GRADE = AVERAGE GROUND ELEVATION

$$\text{WALL 1} \quad \frac{20.0 + 30.0}{2} \times 50 = 1250$$

$$\text{WALL 2} \quad \frac{30.0 + 25.0}{2} \times 70 = 1925$$

$$\text{WALL 3} \quad \frac{25.0 + 25.0}{2} \times 50 = 1250$$

$$\text{WALL 4} \quad \text{A-} \quad 25.0 \times 40 = 1000$$

$$\text{B-} \quad \frac{25.0 + 20.0}{2} \times 10 = 225$$

$$\text{C-} \quad 20.0 \times \frac{20}{240} = \frac{400}{5650}$$

$$\text{GRADE} = \frac{5650}{240} = 23.54$$

“AMENDED BY ORDINANCE 2000-1; FEBRUARY 8, 2000”

“AMENDED BY ORDINANCE 2003-1; FEBRUARY 12, 2003”

“AMENDED BY ORDINANCE: JUNE 14, 2016.”

“AMENDED BY ORDINANCE: DECEMBER 13, 2016.”

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.

“AMENDED BY ORDINANCE 2017-01-01; DECEMBER 12, 2017”

302.055. LAND DISTURBANCE ACTIVITY STANDARDS.

See Sections 301.070 and 306.030 for Conditional Use Permits for Land Disturbance Activities.

- 1. The following are General Standards:
 - a. A combination of successive Best Management Practices may be used to achieve the standards and requirements of Section 302.055. Justification for the method(s) selected shall be provided by the applicant as part of the permit application.
 - b. When possible, existing natural drainage ways and vegetated soil surfaces must be used to convey, store, filter, and retain storm water runoff before discharge to public waters and wetlands.
 - c. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff, velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
 - d. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

- e. Grading and filing shall be such that the highest practical amount of runoff water is retained on the parcel of land that is altered both during and after such alteration.
 - f. Fill or excavated material must not be placed in a manner that creates an unstable slope.
2. The following are Specific Standards:
- a. Land Use Standards
 - 1. No construction or alteration of new or existing structures or land topography shall be done so as to increase the rate of storm water runoff from the parcel as compared to the runoff rate before such construction or alteration unless:
 - (i) The City has a storm water drainage system which will accommodate this additional water flow without increasing the overall rate at which water leaves the City or enters public waters; and/or
 - (ii) Adequate storm water runoff measures and facilities are constructed to retain storm water on the lot and reduce the runoff rate such that the total rate from the lot is not increased; and/or
 - (iii) The construction or alteration results in a substantial reduction in storm water caused soil erosion on the lot, and the quantity of silt and/or other water borne pollutants leaving the lot is reduced.
 - 2. Fill shall be stabilized to accepted engineering standards for erosion control in accordance with recommendations of the Washington County Soil and Water Conservation District.
 - 3. Fill shall not be placed on areas lower in elevation than the ordinary high water level of any adjacent lake, pond or wetland; nor shall the final elevation of any excavation or grading be lower than the ordinary high water level.
 - 4. No grading or filling shall be permitted within twenty (20) feet (measured horizontally) of the ordinary high water level of any lake, pond, or wetland.
 - 5. No filled or excavated slopes shall be greater than thirty (30) percent.
 - 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.

b. Storm Water Control Structure Standards

1. When constructed facilities are used for storm water management, they must be designed and installed consistent with the field office technical guide of the Washington County Soil and Water Conservation Districts, Rice Creek Watershed District, and the National Urban Runoff Program (NURP).
2. New constructed storm water outfalls to public waters or wetlands must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
3. Drain Leaders. All newly constructed and reconstructed buildings with gutters and downspouts must have drain leaders routed to pervious areas wherein the runoff water can be allowed to infiltrate. The flow rate of water exiting the leaders shall be controlled so that no soil erosion occurs.

c. Requirements and Standards During Construction

1. Best Management Practices to minimize and control stormwater runoff, prevent erosion, and trap sediment shall be employed during construction in accordance with the recommendations of Washington Conservation District and/or as specified by the Minnesota Pollution Control Agency (MPCA) in its publication "Protecting Water Quality in Urban Areas."

(i) Site Dewatering. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, swirl concentrators or other appropriate controls. Water may not be discharged in a manner that causes erosion or flooding of the site or receiving channels or a wetland.

(ii) Waste and material disposal. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials and hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel, wetland, public water, or storm sewer system.

(iii) Tracking. Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public road shall be removed by street cleaning (not by flushing) at the end of each work day.

(iv) Drain inlet protection. During construction until site erosion control measures are in place, all storm drain inlets shall be protected with straw bales, silt fences, or equivalent barriers.

(v) Channeled runoff water passing through the site from adjacent areas shall be diverted around disturbed areas if practical. Otherwise, the channel shall

be protected as described below. Sheetflow runoff from adjacent areas greater than ten thousand (10,000) square feet in area shall also be diverted around disturbed areas. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.

2. No more than one-third (1/3) of the surface area of a lot shall be devoid of vegetative ground cover at any time. All Activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.
3. Temporary ground cover, (mulch) shall be used within 2 weeks of finish and permanent vegetative cover, sod and plantings shall be provided as soon as possible but not exceeding 1 year after the completion of finish grading.
4. During and after grading, filling, and excavating, stormwater runoff and erosion from the entire disturbed area must be controlled. Silt fences, straw bales or equivalent control systems must be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, silt fences shall be placed along the channel edges to reduce the quantity of sediment reaching the channel.
5. Any soil or dirt storage piles of material shall not be located with a downslope drainage length of less than twenty-five (25) feet from the toe of the pile to any roadway or drainage channel, public water, wetland, or lake.

All soil or dirt storage piles remaining must be stabilized by mulching, vegetative cover, tarps, or other means within seven days. Erosion from piles which will be in existence for less than seven days shall be minimized by placing straw bales or silt fence barriers around the piles.

Any soil or dirt storage piles (including those for in-street utility repair) located within or closer than twenty-five (25) feet to a roadway or drainage channel must be covered with tarps or suitable alternative control to minimize erosion at all times when not in actual use.

All soil and dirt piles not to be used in the final landscape shall be removed from the lot within thirty (30) days of being excavated. Preferably such soil and dirt should be hauled off when excavated and not piled on the lot.

6. Maintenance and inspection. The use of stormwater runoff and erosion control measures shall include Best Management Practices maintenance. The City Building Official shall inspect for compliance with this ordinance in conjunction with each construction inspection and periodically as part of the scheduled Erosion Control Maintenance Program. The City Building Official shall keep a log of inspections, deficiencies and corrective actions and shall inform the applicant of deficiencies and corrective actions required.

d. VEGETATIVE ALTERATIONS

1. Generally. The purpose of this section is to preserve, protect and reduce the loss of trees and other vegetation. The removal of woody, non-noxious, vegetation in the City shall be carried out in accordance with the following criteria:
2. Clear cutting. Clear cutting of trees shall be prohibited except as necessary for placing public facilities and roads and private and public structures. Clear cutting of trees shall also be allowed on land within twenty (20) feet of buildings and five (5) feet of driveways.
3. Removal of Trees – Replacement Required. Whenever significant trees, are to be removed, the following requirements shall apply.
 - a. Significant trees that are removed shall be replaced at a rate of one (1) tree replaced for each one (1) significant tree lost. Replacement trees shall be no less than two and one half (2 1/2) inches in diameter for deciduous trees and six (6) feet tall for coniferous trees. Replacement shall be completed within one (1) year of the removal of tree(s) or one (1) year of the conclusion of development or construction activities. For activities requiring permits, the City may require the applicant to provide the City with a cash deposit, surety bond or letter of credit to secure the applicant’s obligation to replace lost trees in an amount necessary to cover the cost of replacement trees.
 - b. When Part 2 allows clear cutting that is within ten (10) feet of a side or rear property lot line, the property owner shall provide vegetative screening reasonably equivalent to the original vegetative screening within a reasonable time after completion of the clear cutting.
4. Removal of Trees – No Replacement. On any parcel the removal of trees, limbs or branches, and other plants that are dead, diseased or pose safety hazards, and of all cottonwood, poplar family, box elder, green ash, silver maple, elm (Siberian and American), and buckthorn trees of any size, is permitted without replacement.
5. Buffer Strips. Existing vegetative buffer strips along any property lot lines shall be maintained, or made more dense, to provide vegetative screening. Replacement of vegetation type(s) is permitted as long as the resultant screening is reasonably equivalent to that provided by the original vegetation.

6. Sound Practices. All cutting, pruning and trimming of trees must be based on sound forest management practices for individual tree species. Upon request, the City will provide assistance in determining what practices are sound.
7. Vegetation Alterations on Lots Abutting Water. Limited removal or alteration of vegetation on lots abutting lakes, ponds, or wetlands, is allowed subject to the following standards:
 - a. Clear cutting or intensive clearing of vegetation is not allowed.
 - b. Limited clearing of trees, subject to 302.055.2.d.3 and 4, and shrubs, and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of buildings, stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - (i) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.
 - (ii) Vegetation which is removed must be replaced with other vegetation which is equally effective in retarding water runoff and preventing erosion.
 - (iii) A protective buffer strip of vegetation at least 16.5 feet back from the ordinary high water mark shall be maintained abutting the shorelines of all lakes and wetlands.
 - (iv) All applicable requirements of the Minnesota Department of Natural Resources or other state agency are met.
8. Conduct of Activities. Land Disturbance Activities shall be conducted on no more than one-third (1/3) of the surface area of a lot at any time. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time. Mulch, fiber matting, or similar ground cover shall be applied during the conduct of the Land Disturbance Activities to control erosion. Permanent vegetative cover, sod, or plantings shall be provided as soon as possible but not exceeding six months after the completion of Land Disturbance Activities.

“AMENDED BY ORDINANCE 2016-11: MAY 10, 2016.”

3. Variance. Any person who seeks a variance from any requirement of section 302.055 shall comply with the requirements of Chapter 304 (ZONING CODE: VARIANCES AND APPEALS).

Any use which lacks reasonable screening of development on lots abutting lakes, ponds, or wetlands, or which does not provide for adequate erosion control on any property within the City, is a nonconformity. When a development or building permit is sought for property with nonconforming vegetative or erosion conditions, a recovery plan must be submitted by the permit applicant and approved prior to permit issuance. The recovery plan must provide for reasonable screening of shoreland development, protection of soil from erosion, surface water shading and a schedule for implementation to meet the purposes of 302.055.2.d.

“AMENDED BY ORDINANCE 2016-11: MAY 10, 2016.”

302.060. VEGETATIVE ALTERATIONS (REPEALED)

“REPEALED BY ORDINANCE 2016-11: MAY 10, 2016.”

302.070 CITY FENCE ORDINANCE.

1. Zoning Permit. A Zoning Permit (see Sections 301.080.1.b and 307) shall be obtained from the City before installing or constructing any fence for any purpose. A site drawing showing the location of the fence shall be submitted with the permit application.
2. Notice to Neighbors. Any applicant for a Zoning Permit to construct a fence shall notify all abutting property owners at least five (5) days prior to submitting the application for a Zoning Permit.
3. Location. All fences shall be located entirely upon the property of the fence owner.
4. Height. No fence shall exceed six feet six inches (78”) in height above grade at any point. Posts shall not exceed 12 inches above the adjacent fence.
5. Retaining Walls. Solid walls in excess of four (4) feet high shall be prohibited unless they are part of a building.
6. Materials. Fences in excess of four (4) feet in height shall be at least thirty percent (30%) open through the entire surface area of the fence. All fences shall be constructed and maintained in a substantial manner and of material reasonably suited for the purpose for which the fence is proposed to be used. That side of the fence considered to be the face (or most attractive side of the fence) shall face toward abutting properties.

“AMENDED BY ORDINANCE 1997-2; AUGUST 12, 1997.”

“AMENDED BY ORDINANCE: DECEMBER 13, 2016.”

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.

1. The applicant shall obtain a Zoning Permit before any construction takes place.
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.
3. Standards and requirements for lifts are as follows:
 - a. The primary function of a lift shall be for the transportation of persons up and down the slope.
 - b. No lift may be designed and used for the transport of boats or machinery on the hill face.
 - c. The applicant must provide the City of Birchwood Village with a plan showing all necessary construction data including location of the lift, design, size and dimensions before construction may begin.
 - d. The lift components shall be constructed and anchored in a manner that prevents it from shifting and from causing accelerated erosion.
 - e. The car of any lift may not exceed four feet by six feet.

f. The location of the transporting device and/or power source shall be screened.

“AMENDED BY ORDINANCE 2005-1; APRIL 12, 2005.”

302.090. TEMPORARY FAMILY HEALTH CARE DWELLINGS.

1. OPT-OUT OF MINNESOTA STATUTES, SECTION 462.3593. Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Birchwood opts-out of the requirements of Minnesota Statutes, Section 462.3593.

“AMENDED BY ORDINANCE 2016-08-16; AUGUST 17, 2016”

“AMENDED BY ORDINANCE 1997-2; AUGUST 12, 1997.”

“AMENDED BY ORDINANCE 2000-1; FEBRUARY 8, 2000”

“AMENDED BY ORDINANCE 2003-1; FEBRUARY 12, 2003”

“AMENDED BY ORDINANCE 2005-1; APRIL 12, 2005.”

“AMENDED BY ORDINANCE 2013-08-01; AUGUST 13, 2013.”

“AMENDED BY ORDINANCE 2016-11: MAY 10, 2016.”

“AMENDED BY ORDINANCE: JUNE 14, 2016.”

“AMENDED BY ORDINANCE 2016-08-16; AUGUST 17, 2016”

“AMENDED BY ORDINANCE: DECEMBER 13, 2016.”

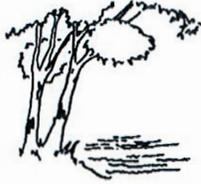
“AMENDED BY ORDINANCE 2017-01-01; DECEMBER 12, 2017”

“AMENDED BY ORDINANCE 2019-03-02; JUNE 11, 2019.”

**AGENDA ITEM A:
VARIANCE APPLICATION**

PAID

JAN 13 PAID



CITY OF BIRCHWOOD VILLAGE
207 Birchwood Avenue, Birchwood, MN 55110
Phone: 651-426-3403 / Fax: 651-426-7747

REQUEST FOR VARIANCE

FOR OFFICIAL USE ONLY

Application Received Date: 1/13/2020 Amount Paid: \$ 309.24

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

Check/Money Order # 2468 48148

Application Complete? Yes No If no, date application was deemed complete: _____

Signature of City Planner: _____ Date: _____

Completed requests for variances submitted prior to the first Friday 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 Friday 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) Greg & Kathy Sherwood
Address 15 Birchwood Lane
City Birchwood Village State MN Zip Code 55110
Business Phone 651-271-6112 Home Phone 651-270-9699

2. Address of Property Involved if different from above: n/a

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

4. Specific Code Provision from which Variance is requested: 302.020 & 302.045

5. Describe in narrative form what the Applicant is proposing to do that requires a variance:
The applicant is proposing to add a walkway/deck on the West side of the property. This would encroach into the side yard setback by 42". The client is proposing a design that is 26" over the maximum avg. height of 30' (32' 2" max.).

6. Type of Project:

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

7. Type of Structure Involved:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Single Dwelling | <input type="checkbox"/> Double Dwelling |
| <input type="checkbox"/> Garage | <input type="checkbox"/> Addition |
| <input type="checkbox"/> Tennis Court | <input type="checkbox"/> Pool |
| <input type="checkbox"/> Grading/Filling | |
| <input type="checkbox"/> Other (describe) _____ | |

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:
See the attached Appendix to this document.

The form for this variance application did not allow for all the text we needed
to provide an explanation, so we typed it up an an Appendix.

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:
Same as above (#8) - please see Appendix

10. Describe any alternatives the Applicant considered (if any) that do not require a variance:
Same as above (#8) - please see Appendix

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: The impervious surface coverage will go from 27.1% to 25%, as the applicant will add engineered pervious pavers, making sure these are approved by the city.

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	11,854	11,854	0
2. Maximum Impervious Surface (25% of item 1)	25%	25%	0
3. Roof Surface	1825	2733	908
4. Sidewalks		0	
5. Driveways	1385	0	-1385
6. Other Impervious Surface		230.5	230.5
7. Total of Items 3-6	3210	2953.5	-256.5
8. Percent Impervious Surface	27.1%	25%	-2.1%

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.

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.

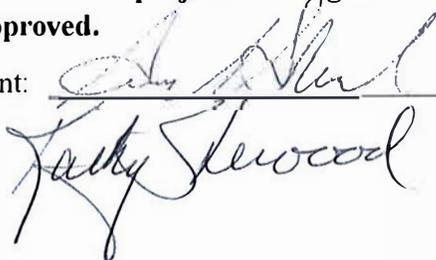
NOTICE:

***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.**

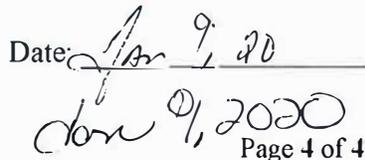
***The City will hold applicant responsible for any damage to public streets & roadways in the course of construction, landscape, excavating, filing and grading operations.**

***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: _____



Date: _____


Jan 9, 2020
Page 4 of 4

Appendix to City of Birchwood Village Request for Variance Form

Please note: We have answered 8, 9 & 10 from the Variance form in free text format because the PDF template on the City website did not allow us to add more lines, and shrank the text to a tiny font as we typed our responses. Thank you for your understanding.

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

First, we would like to commend the village for developing City Codes that clearly aim to protect the *'feel'* of the neighborhood, the views of neighboring properties, and the environmental responsibility for the lake. The existing home/cabin on this property is failing. There were multiple "significant" issues found on inspection including a failing foundation, inappropriately designed and ill-maintained concrete lot drainage mechanisms, floor joists on 24" or greater centers with significant cracks and settling, lake water / drainage backing up into the basement, and significant black mold. As such, the costs to repair and restore this home far exceed building from scratch.

We intend to make every effort to design our new home to fit in and blend seamlessly with the lovely neighborhood. As well, we will have the opportunity to significantly improve the health of the lake by removing old and dysfunctional impervious materials, replacing them with pervious materials, and addressing non-compliant run-off and drainage issues from the former structures. In the end, we have the goal of building a new cottage that will look like it's "always been there". This lot is small, steep and very narrow, so we are doing our best to design a new home to comply with the Village codes, however, we have two items that we need to request a variance for:

- a. The very narrow lawns on either side of the home that provide access from the front yard to the back are steep with heavy tree coverage . Given this topography, there is no way to get from the front yard to the back without either building landscaping stairs (which would also require a variance due to the extremely narrow width of the lot, or building a suspended narrow deck walkway from the front to the back deck. We feel the cantilevered deck walkway is more environmentally friendly solution in that water would drip from the deck board spaces to the lawn beneath vs. building a stair that would act as a high- volume water channel. The current home has a narrow (3'wide) pervious deck type walkway (main level – suspended over the West side lawn by 3') that

leads from the front porch to the back deck, with a small staircase from the deck to the back lawn. We would like to incorporate this feature into the new home.

- b. As you know, the Birchwood Village City Code maximum height restriction for a home is 30.' This narrow and steep lot naturally facilitates a walk-out basement on the lake side, where the front of the home is at ground level. Given the topography of this lot, it is impossible for us to design a home that has standard ceilings and still allow for adequate floor joists, HVAC runs, and roof structure. The architects have tried and tried to make it work, but the best we can do is 6' outer walls sloping up to 8' ceilings on the upper floor. Additionally, the roof slope when incorporating a 30' maximum height is so low that we have concerns about snow accumulation.

Several homes on Birchwood Lane have similar topographical challenges, and are clearly out of compliance with the 30' restriction (which was added to the codes after these homes were presumably built).

Of greatest importance when requesting a height variance is the impact on the neighbors. We fully understand and embrace the idea that you don't want people building structures that maximize, through height, lake views for one home while obstructing the views of surrounding homes further from the lake. In the case of this lot, which is directly on the lake, there are no homes across the street /behind us. There is a steep hill, with the old farmhouse on the corner of South Shore & Wildwood, which is set far back from Birchwood Lane, and is placed at an elevation significantly higher than our property. The addition of 26", which would allow us to build a narrow, low-profile two-story home with proper roof slope and ceiling heights, would in no way impinge on any neighboring views of the lake.

In summary, we need twenty-six inches to make it work given the topography of this lot.

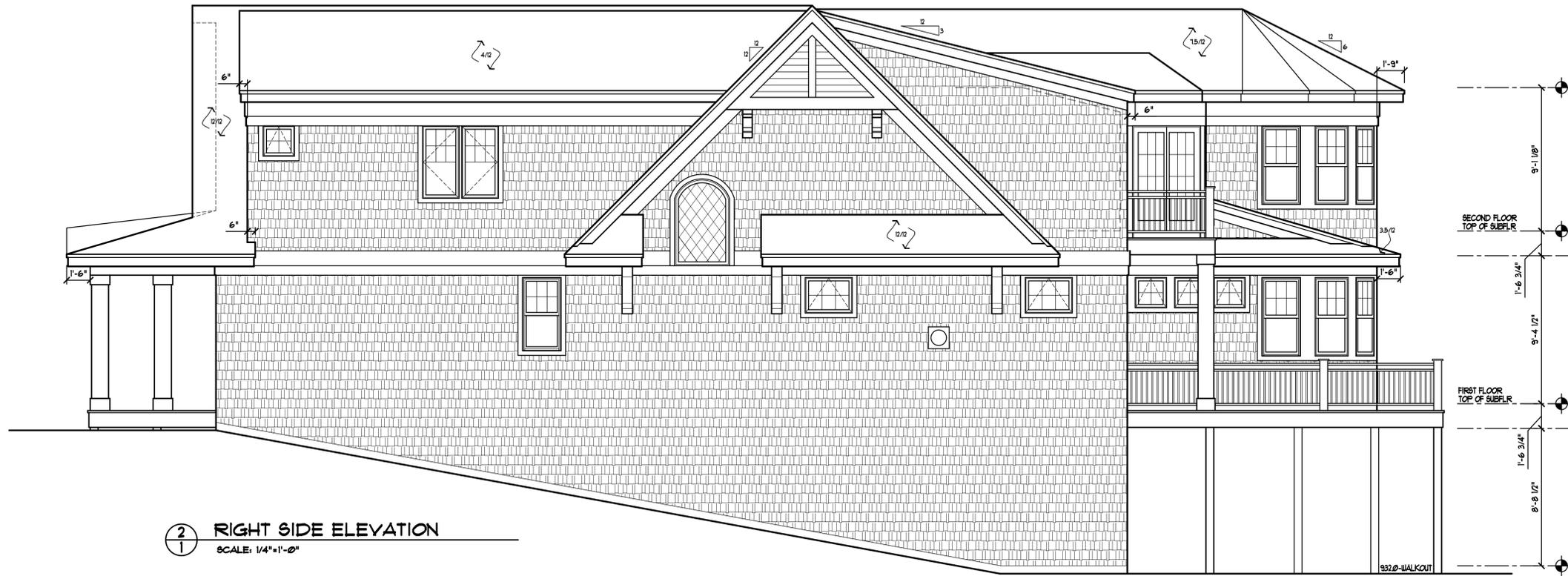
9. Describe any measure the Applicant is proposing to undertake if the variance is granted, including measure to decrease the amount of water draining from the property:

We are working with the natural topography of the lot and plan to make no changes to the current lawn slope. That said, we plan to convert all possible current impervious surfaces (driveways, patios, walkways and decking) to pervious materials that will better allow the water to seep into the ground vs. running directly into the lake. The existing home on the property has significant drainage issues, failing gutters and failing concrete run-off mechanisms that do not meet today's standards for environmental protection. These will all be address through the rebuild, and will be inspected as a matter of course through the building permit process.

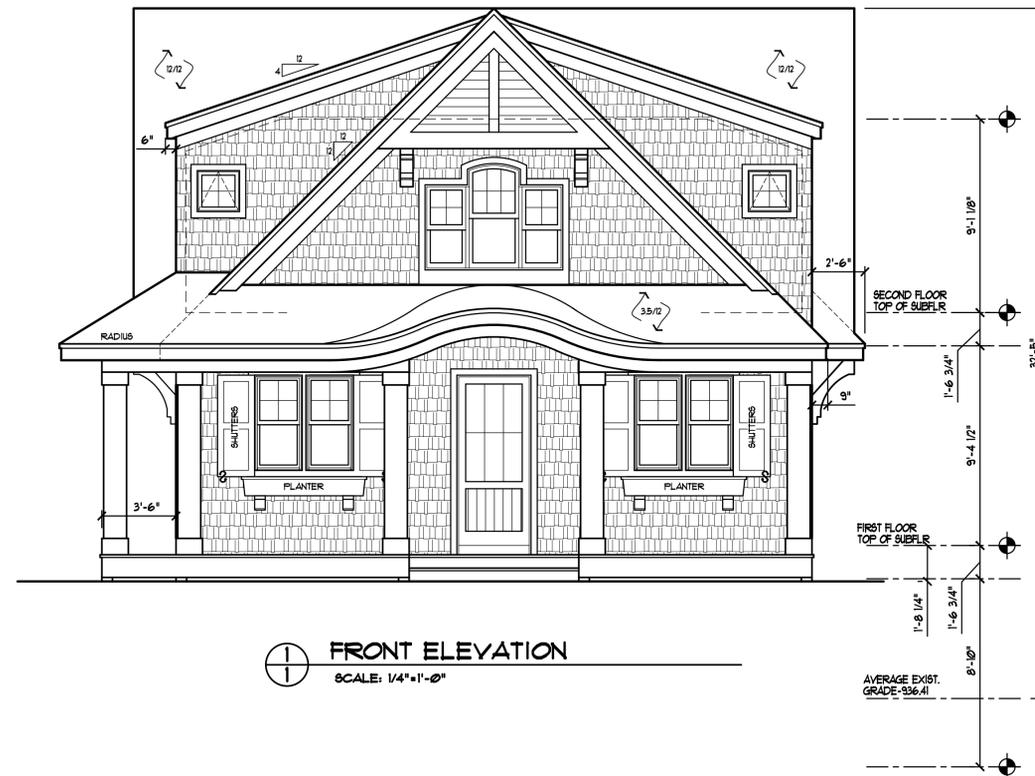
10. Describe any alternatives the Applicant considered (if any) that do not require a variance:

We spent months since purchasing the home, working with the architects to design a neighborhood appropriate cottage that complies with the 30' limitation. The resulting designs either forced a compromise on the ceiling height on all floors or required a nearly flat roof. The designs had no street appeal – rather they looked like a flat-roofed French pole barn... We tried lowering the ceiling heights on the second floor to add a slope to the roof, but were only able to get the external walls to 6 feet height, and the centerline (maximum peak) of the house to 8 feet.

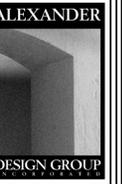
Regarding the West side deck/walkway, there is only one other solution that we have come up with. We would have to request a different variance to put landscaping stairs from the front yard to the back, but we felt this was not as environmentally friendly as a suspended deck walkway where the rain can fall through for moisture absorption in the soil.



2
1 RIGHT SIDE ELEVATION
SCALE: 1/4"=1'-0"



1
1 FRONT ELEVATION
SCALE: 1/4"=1'-0"



401 EAST LAKE STREET
WAYZATA, MN 55391
Phone: 952.473.8777
FAX: 952.473.8222

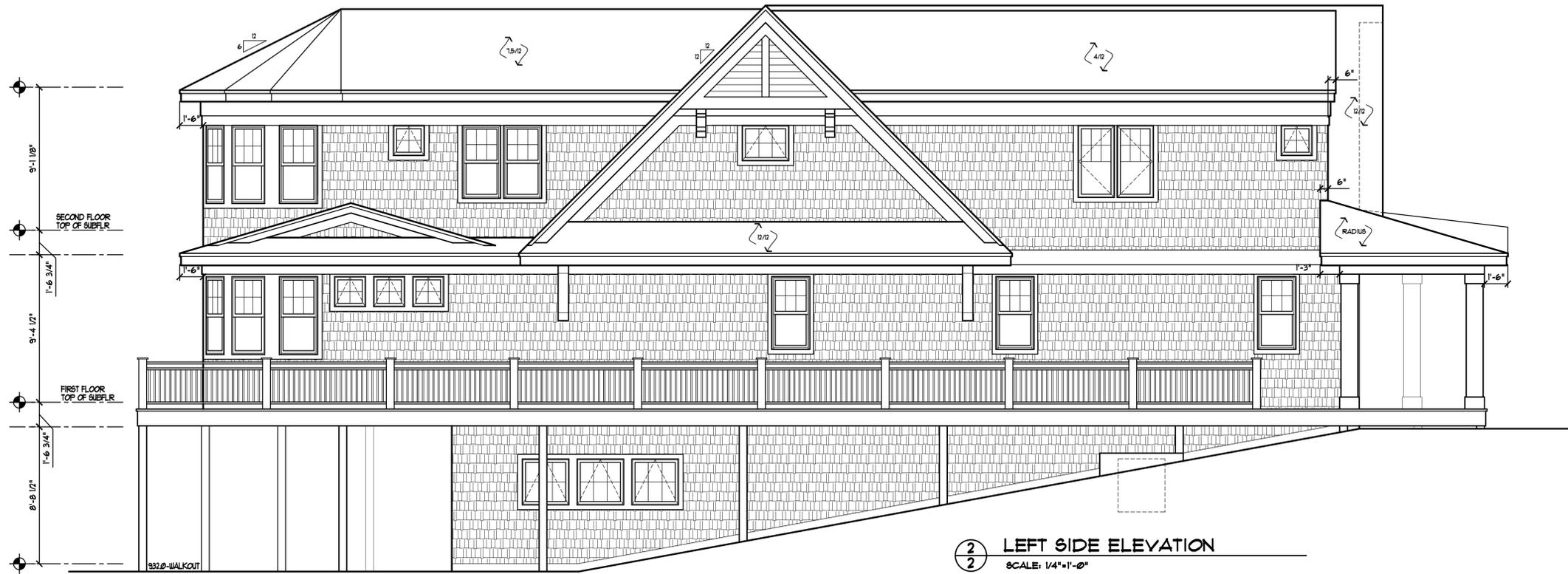
ISSUE DATE:
10 JANUARY 2020
PREVIOUS ISSUE DATE:

DRAWING DESCRIPTION:
ELEVATIONS

VARIANCE SET

SHERWOOD RESIDENCE
15 BIRCHWOOD LN
BIRCHWOOD, MN
MICHEL'S HOMES

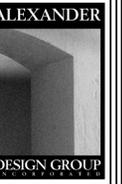
1
1 OF XX
AGENDA ITEM A:
HOUSE PLANS



2 LEFT SIDE ELEVATION
SCALE: 1/4"=1'-0"



1 REAR ELEVATION
SCALE: 1/4"=1'-0"



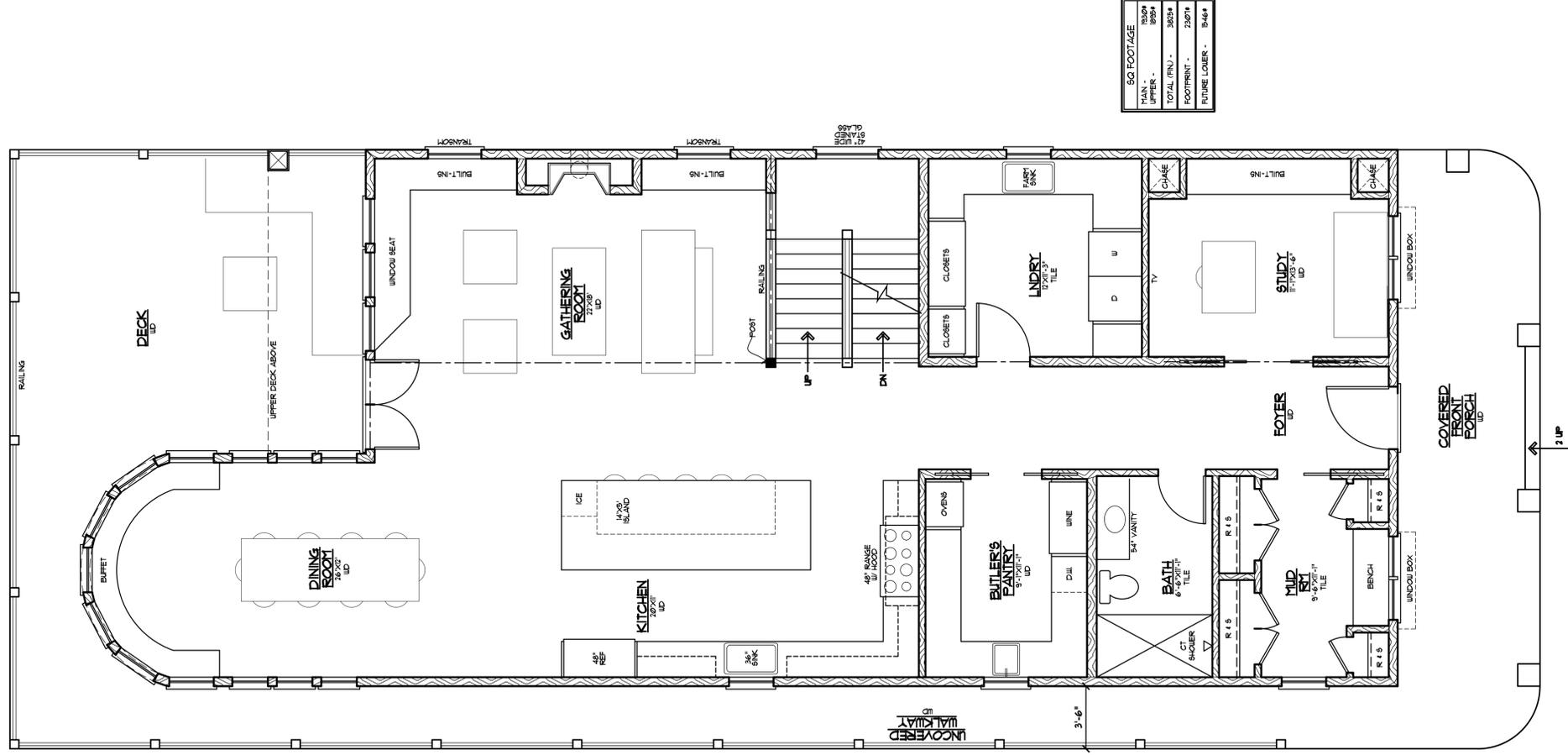
401 EAST LAKE STREET
WAYZATA, MN 55391
Phone: 952.473.8777
FAX: 952.473.8222

ISSUE DATE:
10 JANUARY 2020
PREVIOUS ISSUE DATES:

DRAWING DESCRIPTION:
ELEVATIONS

VARIANCE SET

SHERWOOD RESIDENCE
15 BIRCHWOOD LN
BIRCHWOOD, MN
MICHEL'S HOMES



SQ FOOTAGE	
MAIN - UPPER -	3929
TOTAL FINU -	3929
FOOTPRINT -	2307
FUTURE LOWER -	546

1 MAIN LEVEL FLOOR PLAN
SCALE: 1/4" = 1'-0"

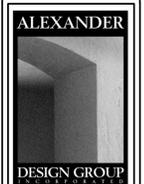
SHERWOOD RESIDENCE
15 BIRCHWOOD LN
BIRCHWOOD, MN
MICHEL'S HOMES

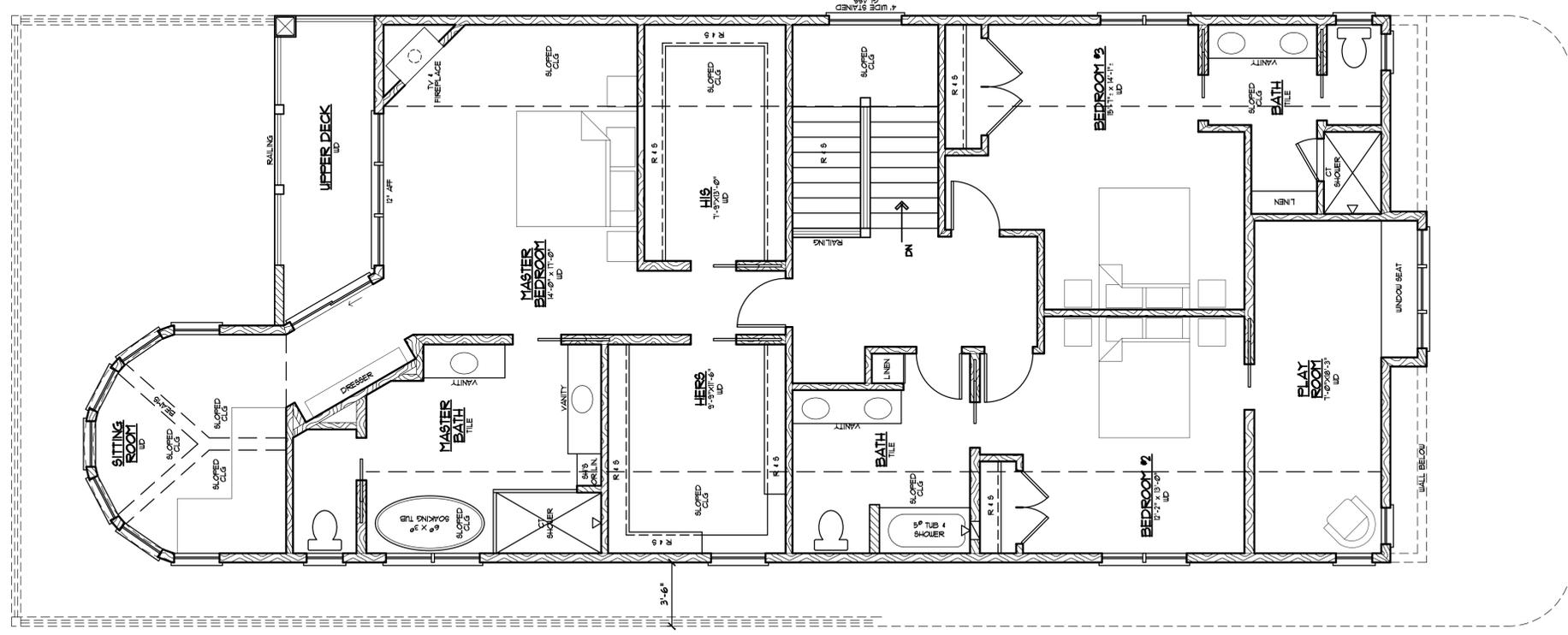
VARIANCE SET

DRAWING DESCRIPTION:
MAIN LEVEL FLOOR PLAN

ISSUE DATE:
10 JANUARY 2020
PREVIOUS ISSUE DATES:

401 EAST LAKE STREET
WAYZATA, MN 55391
Phone: 952.473.8777
FAX: 952.473.8222





SQ FOOTAGE	
MAIN -	1830*
UPPER -	1956*
TOTAL (FIN.) -	3826*
FOOTPRINT -	2871*
FUTURE LOBBY -	946*

1 5 UPPER LEVEL FLOOR PLAN
SCALE: 1/4"=1'-0"

SHERWOOD RESIDENCE
15 BIRCHWOOD LN
BIRCHWOOD, MN
MICHEL'S HOMES

VARIANCE SET

DRAWING DESCRIPTION:
UPPER LEVEL FLOOR PLAN

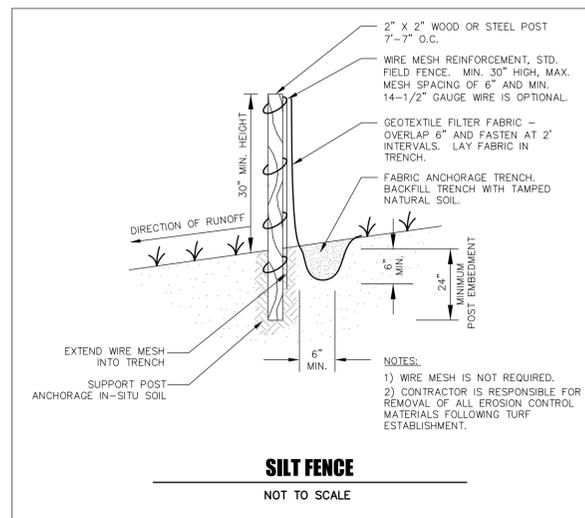
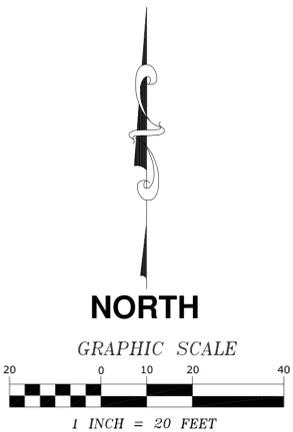
ISSUE DATE:
10 JANUARY 2020
PREVIOUS ISSUE DATES:



401 EAST LAKE STREET
WAYZATA, MN 55391
Phone: 952.473.8777
FAX: 952.473.8222

CERTIFICATE OF SURVEY

~for~ MICHELS CONSTRUCTION
 ~of~ 15 BIRCHWOOD LANE
 BIRCHWOOD, MN



- LEGEND**
- DENOTES IRON MONUMENT FOUND
 - DENOTES IRON MONUMENT SET
 - ▲ DENOTES FOUND PKNAIL
 - 1011.2 DENOTES EXISTING ELEVATION
 - DENOTES AIR CONDITIONING UNIT
 - DENOTES ELECTRICAL BOX
 - DENOTES GUY WIRE
 - DENOTES HYDRANT
 - DENOTES POWER POLE
 - DENOTES RETAINING WALL
 - DENOTES OVERHEAD WIRE
 - DENOTES SILT FENCE
 - DENOTES BITUMINOUS SURFACE
 - DENOTES PROPOSED PAVER SURFACE



AVERAGE GRADE AROUND HOUSE CALC.

	L.O.W.	A.W.E.	(L.O.W. X A.W.E.)
WALL 1	30.00	940.00	28200.00
WALL 2	58.00	937.61	54381.38
WALL 3	15.00	934.70	14020.50
WALL 4	16.00	933.00	14928.00
WALL 5	15.00	932.00	13980.00
WALL 6	+ 74.00	936.00	+ 69264.00
	208.00		194773.88

$194773.88 / 208 = 936.41$

BENCHMARK

TOP NUT OF HYDRANT AT EAST COUNTY LINE ROAD AND BIRCHWOOD LANE.
 ELEVATION = 948.45 (NGVD 29)

936.41 = AVERAGE PROPOSED GRADE AROUND HOUSE

L.O.W. = LENGTH OF WALL
 A.W.E. = AVERAGE WALL ELEVATION

NOTES

- Field survey was completed by E.G. Rud and Sons, Inc. on 09/06/19.
- Bearings shown are on Washington County datum.
- Parcel ID Number: 19-030-21-33-0019.
- Curb shots are taken at the top and back of curb.

(10 AND 9 FOOT POURED WALL WALKOUT)

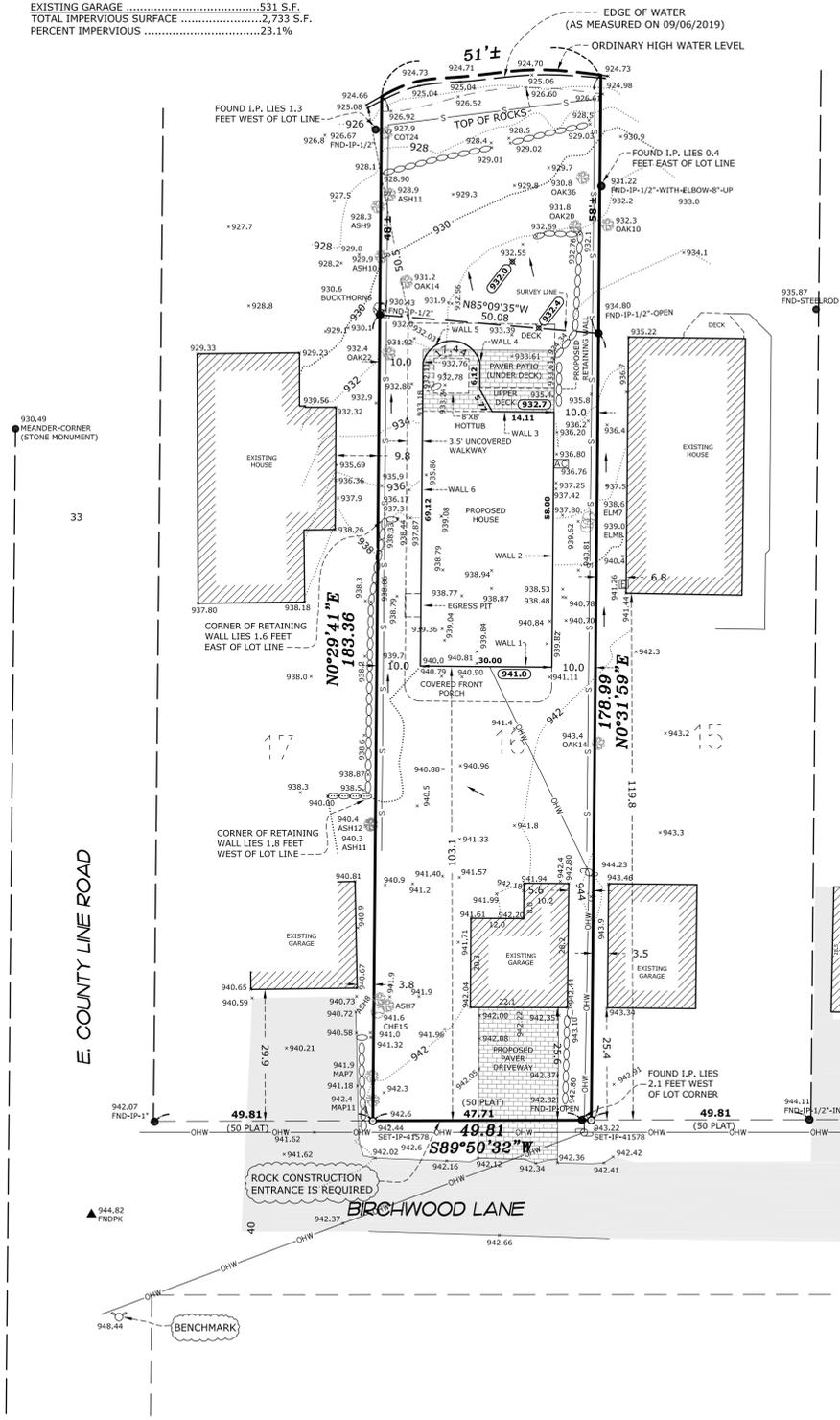
PROPOSED ELEVATIONS

MAIN FLOOR = 943.4
 TOP OF 10 FOOT WALL = 942.7
 LOWEST FLOOR = 933.2
 TOP OF FOOTING = 932.7

PROPOSED SITE PLAN

PROPOSED IMPERVIOUS SURFACE CALCULATIONS
 TOTAL LOT AREA (ABOVE OHWL)11,854 S.F.
 PROPOSED HOUSE + COVERED PORCH.....2,202 S.F.
 EXISTING GARAGE.....531 S.F.
 TOTAL IMPERVIOUS SURFACE.....2,733 S.F.
 PERCENT IMPERVIOUS.....23.1%

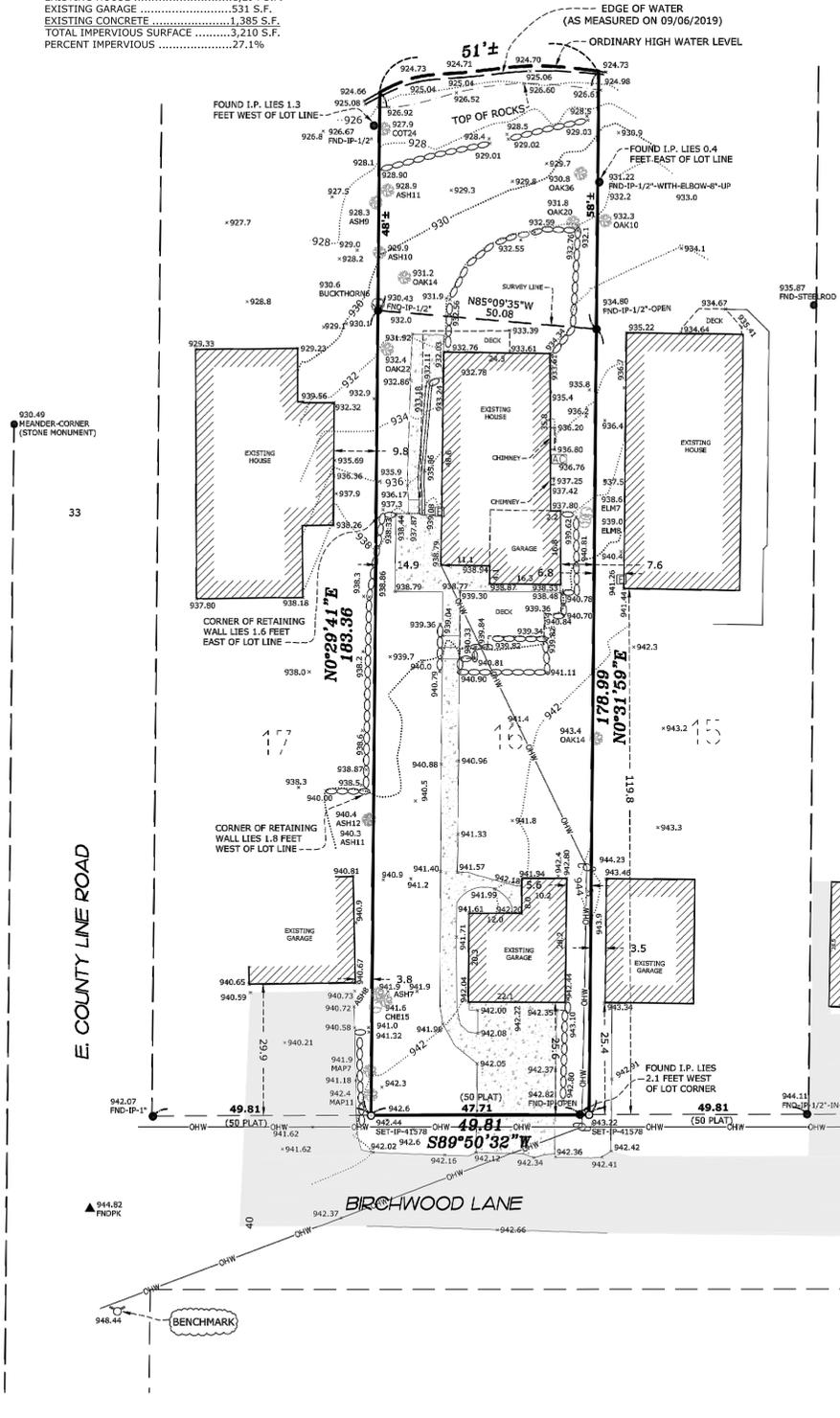
WHITE BEAR LAKE
 OHWL = 924.7
 (NGVD 29)



EXISTING CONDITIONS

EXISTING IMPERVIOUS SURFACE CALCULATIONS
 TOTAL LOT AREA (ABOVE OHWL)11,854 S.F.
 EXISTING HOUSE1,294 S.F.
 EXISTING GARAGE531 S.F.
 EXISTING CONCRETE.....1,385 S.F.
 TOTAL IMPERVIOUS SURFACE.....3,210 S.F.
 PERCENT IMPERVIOUS.....27.1%

WHITE BEAR LAKE
 OHWL = 924.7
 (NGVD 29)



E. G. RUD & SONS, INC.
 EST. 1977
 Professional Land Surveyors
 6776 Lake Drive NE, Suite 110
 Lino Lakes, MN 55014
 Tel. (651) 361-8200 Fax (651) 361-8701

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

Jason E. Rud
 Date: 01/10/2020 License No. 41578

DRAWN BY: BCD	JOB NO: 19696HS	DATE: 09/03/19
CHECK BY: JER	FIELD CREW: DT/CT	
1	01/10/20	ADDED PROPOSED HOUSE
2		
3		
NO.	DATE	DESCRIPTION

Lot 16, BIRCHWOOD, Washington County, Minnesota.

**AGENDA ITEM B:
OCT 24, 2019 MINUTES**

CITY OF BIRCHWOOD VILLAGE
PLANNING COMMISSION MEETING
OCTOBER 24, 2019
MINUTES

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

OTHERS PRESENT: None

Chair John Lund called the meeting to order at 7pm.

APPROVE AGENDA – Mike Kraemer motioned to approve the agenda. Jozsef Hegedus seconded. Motion passed.

REGULAR AGENDA

- A. Review/Approve July 25, 2019 Meeting Minutes. Michael Kraemer motioned to approve July 25, 2019 Meeting Minutes. Jozsef Hegedus seconded. All ayes – motion passed.
- B. Cancel or Reschedule November and December Meetings (Holidays). Jozsef Hegedus motioned to cancel November and December Meetings. Mark Foster seconded. All ayes-motion passed.
- C. Discussed Definition of Nominal Structure (302.020.4.d)* (pp. 5-13). John Lund suggested to table topic until January Meeting.
 - John Lund suggested Exhibit A, page 13, corrections be made. Attn: Tobin to math error grade total should be 6050 instead of 5650. John Lund motioned to have the error corrected. Mark Foster seconded. All ayes. Motion passed.

ADJOURN at 7:45pm. Motion was made by John Lund, seconded by Mark Foster. All ayes. Meeting adjourned.

AGENDA ITEM C: NOMINAL STRUCTURE MATERIALS

To: Birchwood Planning Commission
From: Michael Kraemer
Date: 1/9/2020
RE: Definition of Term - “Nominal Structure”

Intro

Per the discussion at our October Commission meeting I am offering this memo as follow up on the use of the term “Nominal Structure” in Birchwood City Code.

Background

As you will recall, the Birchwood Planning Commission Agenda dated June 27, 2019 included Item B. “Review Draft Ordinance 2019-04-01 Amending Permit Requirements (203.040) (pp. 5-12). This Planning Commission agenda item included a memo from City Administrator – Tobin Lay requesting “Consider adding “nominal structures” back to the exemption list under Ord. 2019-04-01 Sec. 203.040.2.A.12.”

In the interest of time, Chairman Lund wisely suggested and offered up a motion that the Commission approve the re-instatement of the “nominal structure” term at the meeting and suggested that (if further investigation warrants), the Commission could re-consider the issue of “nominal structure” definition at a future meeting.

We revisited the “nominal structure” term briefly during our October Commission’s meeting where I volunteered to (if warranted) bring findings and draft language back to the Commission for consideration. The purpose of this memo is to share that information.

Findings

1. The term “nominal structure” is not defined in existing Birchwood Village Code. Administrator Tobin Lay did a word search of the existing code and found that although a passing reference is made one time, no definition or specifics are provided.
2. At this time “nominal structure” up to 144 square feet are exempt” from any permit, review or over-sight.
3. It appears previous Birchwood Code developers suggested a 25 square foot threshold for smaller exempt “nominal structures”. At this time, Zoning Code 301.080.1.c reads: “A Zoning Permit **shall be required** for the following projects:..... c. One-story detached accessory structures used as tool and storage sheds, play houses, and similar uses, with a structure of one hundred forty-four (144) or less square feet and greater than twenty five (25) square feet. (Note: Larger structures require Building Permits)” “Amended by Ordinance 2018-01-02; May 8, 2018”
4. The terms “Structures” (larger than 144 square feet floor area) and “Accessory Structures” (less than 144 square feet floor area) and related protocol, permitting and documentation requirements appear to be well defined in Birchwood Code.

Suggestions

1. In the interest of clarity and avoiding confusion, and since it appears the Zoning Permit Section 301.080 and Section 203.040.2.A may be in conflict, it would be helpful if definition around the term “nominal structure” be provided.
2. Suggest following definition for Nominal Structure be adopted to differentiate it from larger Accessory Structure as defined in Zoning Code:
"203.040.2.A.1 - Nominal Structure is defined as a non-habitable one-story detached accessory structures (tool sheds, storage sheds, playhouses, dog house, etc.) provided the floor area does not exceed 25 square feet and a maximum wall height of 10 feet measured from the finished floor level to the top of the top plate." Nominal Structure shall be exempt from requiring a permit."
Add some limitation on the number of nominal structures in a given area (too avoid cluttered yards)?
3. Suggest the following Accessory Structure definition be expanded as follows to differentiate it from smaller Nominal Structures:
"203.040.2.A.2- Accessory Structure is defined as a non-habitable one-story detached accessory structures (tool sheds, storage sheds, etc.) provided the floor area does not exceed 144 square feet and a maximum wall height of 12 feet measured from the finished floor level to the top of the top plate." Zoning permit including scale drawing indicating location, indicated use, elevation drawing of finishes will be required. Per Code, no vehicle storage is allowed in accessory structure."
4. Suggest we discuss this at one of our next Planning Commission meetings to see if we agree the Commission should forward the suggested language to the Council for adoption.



9/24/19

Tobin Lay
City Administrator
City of Birchwood
Birchwood, MN

Dear Mr. Lay

Attached is a spreadsheet I prepared to aid in our potential Planning Commission discussion around Nominal Structures as defined in City Code. The intent is to have a discussion around some of the specifics related to what might warrant Administrative Review and potential permitting and what might not. For discussion purposes I included the policies of some adjacent communities for reference.

My intent it is to make sure the language in the code will assist residents to make good choices as to what should be taken into consideration when adding any structures or amenities to one's property.

It is not critical that this be addressed immediately so it can be added to any of the fall meeting agendas but does not warrant a separate meeting unless you and our Chairman Mr. Lund feel it should. Feel free to pass a copy on to Chairman Lund.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink that reads "Michael Kraemer". The signature is written in a cursive style with a large, sweeping initial "M".

Michael Kraemer

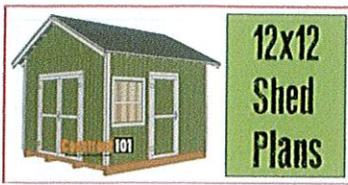
Planning Commission Member

471 Lake Ave

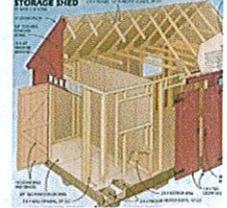
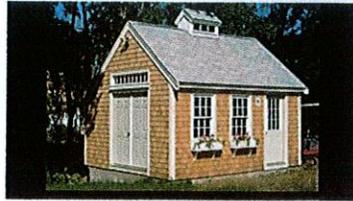
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Nominal Structures Comparison Table											
Birchwood Planning Commission											
Sep-19											
Gov. Unit	Name Used	Permit Required Y/N	Name of Permit	Approval Agent	Size Threshold (sf)	Other Limitations			Definition (Examples)	Permit Data Requirements	Justification
Birchwood Village	Nominal Structure (Current)	N	None	None	<144	No person shall place automobiles, vans, or trucks in storage shed			Nominal Structure (i.e. storage shed, shed, play house, dog house, lock box, moveable yard furniture, mail boxes, library boxes, lawn ornaments)		
Proposed	Nominal Structure	N	None	None	<25	12' max height. Must comply with requirements of Birchwood Building and Zoning Regulations including impervious surface coverage limits and set backs . No person shall place automobiles, vans, or trucks in nominal structure.			play house, dog house, lock box, moveable yard furniture, mail boxes, library boxes, lawn ornaments	None	Ensure compatability, prevent blight, enhance health/safety/welfare
Proposed	Accessory Structure (li	Y	Zoning Permit	City Adm.	>25 - 144	No more than 2 accessory structures per buildable lot. 12' max height. Must comply with requirements of Birchwood Building and Zoning Regulations including impervious surface coverage limits and set backs . No person shall place automobiles, vans, or trucks in storage shed			garage, storage shed,	*Site Plan, Zoning Permit, Detailed impervious surface calculations, Example of exterior treatment, Construction plans signed by registered Architect or Engineer, concrete foundation required as a minimum	Ensure compatability, prevent blight, enhance health/safety/welfare
White Bear Lake	Accessory Bldg. - (used as play structure)	N	none		<120*	*1 per residence, height restricted to 12', restricted to 10% of rear yard provided combined garage & accessory structure <1000 sf			garage, storage shed,	Details of anchorage of walls to ground	Ensure compatability, prevent blight, enhance health/safety/welfare
White Bear Lake	Accessory Bldg. - (used for tool or storage shed)	Y	Adm. Variance		<120*	*1 per residence, *height restricted to 12', *625 sf or 10% of rear yard provided combined garage & accessory structure <1000 sf			garage, storage shed,	*Site Plan, Adm. Permit	Ensure compatability, prevent blight, enhance health/safety/welfare
White Bear Lake	Accessory Bldg. - (used for tool or storage shed)	Y	Adm. Variance		>120*	*1 per residence, *height restricted to 12', *625 sf or 10% of rear yard provided combined garage & structure <1000 sf			garage, storage shed,	*Site Plan, Adm. Permit, Construction plans signed by registered Architect or Engineer, concrete foundation required as a minimum	Ensure compatability, prevent blight, enhance health/safety/welfare
North St Paul	Accessory Bldg. - (used for tool or storage shed)					*1 per residence in addition to attached garage, *height restricted to 12', *200 sf. The total square feet of an accessory building shall not exceed ten percent (10%) of the lot area, and in no case shall it exceed (1,000) square feet of gross floor area. The sum of all square footage for attached garages and detached garages shall not equal or exceed the finished livable floor area of the footprint (ground floor) of the principal structure to which it is an accessory			storage shed	In order to review proposals for compliance to this Chapter, the following plans must be submitted to the City: site plan, landscape plan, building plan and, for certain uses a site analysis plan.	
White Bear Twp	Accessory Bldg.	Y	Zoning Permit	Adm.	<120				Structures	*Boundary survey, *Site Plan, *Exterior elevation drwgs	Ensure compliance

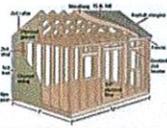
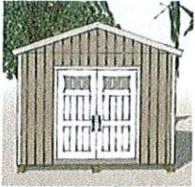
		Y	Building Permit	Adm.	>120			Structures	*Boundary survey, *Site Plan, *Exterior elevation drwgs, Const plans by Arch or Eng.	Ensure compliance
	<i>Accessory Bldg.</i>									
		Y	Zoning Permit	Adm.				Driveways, fences, pool	*Boundary survey, *Site Plan, *Exterior elevation drwgs	Ensure compliance
	<i>Accessory Use.</i>									



12x12 Shed Plans

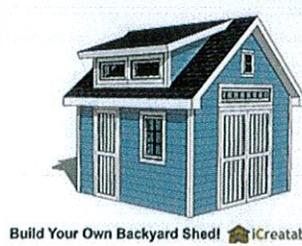
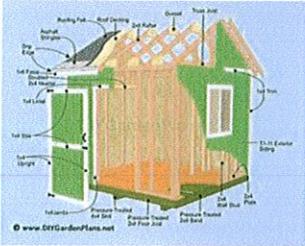
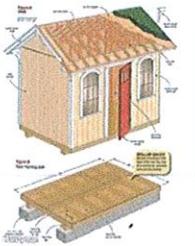
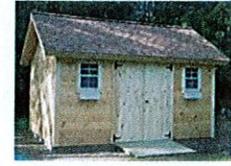


Build Your Own Backyard Shed! iCreatables.com

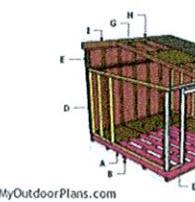
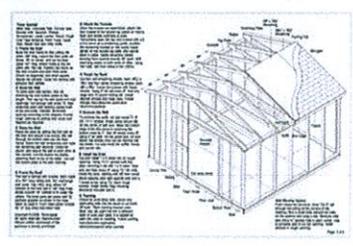


"Detailed 10x12 Shed Plans & Blueprints"

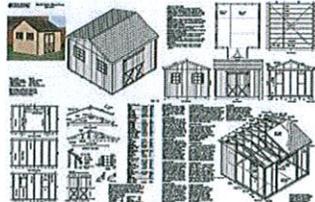
Click Here And Get The Plans



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Explore more searches like Free DIY Shed Plans 12X12



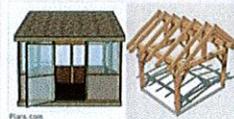
Storage Shed Plans 12X12



PDF Shed Plans 12X12



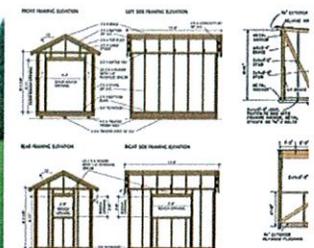
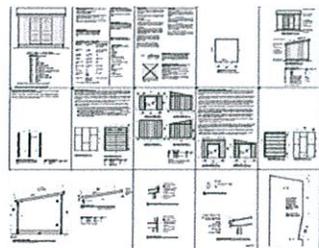
12x12 Shed Plans



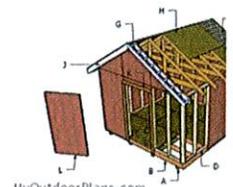
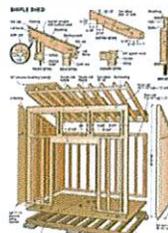
Gazebo Plans 12X12



Woodworking Shop Floor Plans



MyOutdoorPlans.com



MyOutdoorPlans.com

Feedback

300. LAND USE

300.010. INTRODUCTION. Chapters 300 through 399 regulate the use of land, the location, bulk, height and use of buildings, the arrangement of buildings on lots, and the subdivision of land in the City of Birchwood Village. These regulations, which may be referred to as "Land Use Regulations," are put forth in order to promote the public health, safety and welfare, and to implement the Comprehensive Plan for Birchwood Village, Minnesota.

A majority of the City falls within the State of Minnesota's definition of shoreland. Since uncontrolled use of shorelands adversely affects the public health, safety and welfare by contributing to the pollution of public waters and by impairing the local tax base, the City's Land Use regulations meet or exceed the requirements of the Minnesota Statewide Standards for "Management of Shoreland Areas", (effective date July 3, 1989). These Standards are administered by the Minnesota Department of Natural Resources.

This ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Regulations, Parts 6120.2500-6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.

300.015. NOTIFICATIONS TO THE DEPARTMENT OF NATURAL RESOURCES.

1. Copies of all notices of any public hearings to consider variances, amendments or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivision/plats must include copies of the subdivision/plat.
2. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten (10) days of final action.

300.020. DEFINITIONS. For the purpose of Chapters 300 through 399 certain terms and words are hereby defined as follows:

1. Accessory Use or Structure. A use or structure subordinate to the principal use or structure on the same lot and serving a purpose customarily incidental thereto.
2. Best Management Practices (BMPs). Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing the degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.

Examples of BMPs can be found in the current versions of:

a. The Minnesota Pollution Control Agency publications, “Protecting Water Quality in Urban Areas”, and “Storm-Water and Wetlands: Planning and Evaluation Guidelines for Addressing Potential Impacts of Urban Storm-Water and Snow-Melt Runoff on Wetlands”

b. The Metropolitan Council “Urban Small Sites BMP Manual” (available on disk or at: www.metrocouncil.org/environment/watershed/BMP/manual.htm (address current January 2005)),

c. The United States Environmental Protection Agency “Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices” (as a reference for BMPs)

d. The Minnesota Department of Transportation “Erosion Control Design Manual”.

3. Board. The Board of Appeals established in Section 304.010.

4. Boathouse. A structure designed and used solely for the storage of boats or boating equipment.

5. Basement. A story partly underground but having less than 1/2 of its clear height above finished grade.

6. Building. Any structure which is built for the support, shelter or enclosures of persons, animals, chattels or movable property of any kind, which is permanently affixed to the land.

7. Building Line. A line parallel to the front lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

8. Business. Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or which occupies time, attention, labor and materials or where services are offered for compensation.

9. Clearcutting. Complete removal of trees or shrubs or woody ground cover in a contiguous patch, strip, row, or block.

10. Conventional Energy System. Any energy system, including supply elements, furnaces, burners, tanks, boilers, related controls, and energy-distribution components, which uses any source(s) of energy other than solar energy. These sources include, but are not limited to gas, oil and electric heating but exclude windmills.

11. Deck. A horizontal, unenclosed platform with or without attached railings, seats, trellises or other features, either attached or functionally related to a principal use.

12. Dwelling. Any building or structure, or part thereof, which is used or intended to be used for living or sleeping.

13. Dwelling Unit. A room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping and cooking.

14. Driveway. See Parking Space.

15. Easement. An interest in land owned by another that permits the owner of such interest the right of limited use or enjoyment of the land in which the interest exists.

16. Easement, Lake. Any tract of land running to and abutting the shoreline of White Bear Lake which is owned by the City, subject to the right of City residents to use for access to White Bear Lake.

17. Family. A family is

- a. An individual or 2 or more persons related by blood, marriage or adoption, living together or
- b. A group of not more than 5 persons who need not be related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit.

18. Fence. A permanent partition, structure, wall or gate erected as a dividing marker or enclosure.

“AMENDED BY ORDINANCE 1997-3; August 12, 1997.”

19. Final Plat. The final map, drawing or chart on which the subdivider's plan or subdivision is presented to the City Council for approval, and which, if approved, will be submitted to the County Recorder or Registrar of Deeds for recording.

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.

“AMENDED BY ORDINANCE 2000-1; February 8, 2000”

21. Ground floor area. The ground floor area of any dwelling shall be the sum of the gross horizontal areas of the first floor of living area for each dwelling unit. However, the ground floor area shall not include the basement.

22. Home Occupation. A lawful occupation carried on solely or primarily within a dwelling unit. The occupation is clearly incidental and secondary to the use of the building for dwelling purposes, and does not change the character of the dwelling or accessory structure.

23. Impervious Surface. A ground surface covered or compacted with material so as to substantially retard the entry of water into the soil, and to cause water to remain on the surface or to run off the surface in greater quantities or at an increased rate of flow than would occur if there was a natural soil surface.

Impervious surfaces shall include improvements utilizing concrete, asphalt, gravel, or other non-porous materials. Examples of impervious surfaces include, but are not limited to, roads, driveways, parking areas, swimming pools, sidewalks, patios, rooftops, and covered decks. Examples of impervious surfaces resulting from compacting are unpaved or ungraveled driveways and parking areas.

EXCEPTIONS 1: Open decks and walkways with open joints at least ¼ inch wide per 8 inch wide board, and areas beneath overhangs less than 2 feet wide, if bare or vegetated soil is beneath the decks or walkways or overhangs, shall not be considered impervious surfaces.

EXCEPTION 2: Any surface approved by the City Engineer using applicable industry standards to be given credit as a “pervious surface” shall be given appropriate credit (as a %) therefore.

“AMENDED BY ORDINANCE 2018-08-01; OCTOBER 9, 2018.”

24. Land Disturbance Activity (LDA). Any land change that may result in soil erosion from water or wind and the movement of sediments including, but not limited to, grading, excavating, and filling of land, and removal of vegetation.

EXCEPTION: Gardening or the planting of trees or shrubs shall not be considered to be a land disturbance activity.

25. Lodging Room. A room rented as sleeping and living quarters without cooking facilities either with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one lodging room.

26. Lot. A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease or separation

27. Lot of Record. A parcel of land, whether subdivided or otherwise legally described, as of January 1, 1975, or approved by the City as a lot subsequent to such date and which is occupied by or intended for occupancy by one principal building or principal use, together with any accessory buildings and such open spaces as required by Chapters 301 through 399, and having its principal frontage upon a street or the lake.

28. Lot, Corner. A lot situated at the junction of and abutting on 2 or more intersecting streets.

29. Lot Line. A property boundary line of any lot.

30. Lot Line, Front. That lot boundary abutting a public street. The owner of a lot abutting two streets may select either street as the front lot line.

31. Lot Width. The shortest distance between lot lines measured at the midpoint of the building line

32. Master Plan. Is a comprehensive plan and includes all plans of the City for land use, transportation facilities and community.

33. Official Map. The map established by the City Council showing the streets, highways and parks theretofore laid out, adopted and established by law and any amendments thereto adopted by the City Council and the subsequent filing of such approved plats.

34. Non-Conforming Use. Non-Conforming Pre-Existing Structure or Use: Any building or structure which was legally existing on January 1, 1975, or authorized by variance thereafter, which would not conform to the applicable conditions if the building or structure were to be erected under this Code. **Non-Conforming Illegal Structure, Use, or Lot:** A lot, building, structure, premises, or use illegally established when it was initiated, created, or constructed, which did not conform with the applicable conditions or provisions of the City Code for the area in which the structure or use is located.

“AMENDED BY ORDINANCE 2018-05-02; OCTOBER 9, 2018.”

35. Open Space. Land with no structures upon it.

36. Open Space Site. Any park, beach, open area, special use area, lake easement or other area owned, improved, maintained, operated or otherwise controlled by the City of Birchwood Village for recreational and natural resource preservation purposes.

37. Owner. Any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity having a proprietary interest in land, including a sufficient proprietary interest in land sought to be subdivided and/or to commence and maintain proceedings to subdivide the same under this ordinance.

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.

39. Parking Space or Driveway. A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one standard automobile or which provides ingress or egress to the principal or accessory structure of a suitable width for an automobile.

40. Preliminary Plan. The preliminary map, drawing, or chart indicating the proposed layout of the subdivision to be submitted to the City Council for its consideration.

41. Public Utility Use. Transmission facilities of electric power, gas, water, telephone and cable TV.

42. Public Waters. "Public waters" means any waters as defined in Minnesota Statutes, section 105.37, subdivision 14 and 15. In Birchwood, these waters and their shoreland classifications are:

DNR ID #82-167, White Bear Lake, General Development
DNR ID #82-134, Lost Lake, Recreational Development
DNR ID #82-480W, Hall's Marsh, General Development

43. Roadway. The paved portion of the street.

44. Setback. The minimum horizontal distance between a structure and an ordinary high water level, street, road or highway right-of-way or property line.

45. Solar Energy. Radiant energy (direct, diffuse, or reflected) received from the sun.

46. Solar Energy System. A set of devices whose primary purpose is to collect solar energy and convert or store it for useful purposes including heating and cooling buildings or other energy-using processes, or to produce generated power by means of any combination of collecting, transferring, or converting solar-generated energy.

47. Shoreland. Land located within 1,000 feet of the ordinary high water level of a lake, pond, or wetland.

48. Storage Shed. A storage shed is a detached accessory structure used to shelter household items as well as tools and machinery used for yard maintenance. A trailer, truck box or other vehicle with or without its wheels or in operable or inoperable condition shall not be allowed as a storage shed.

“AMENDED BY ORDINANCE 2000-1; February 8, 2000”

49. Storm Water. Precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage.

50. Street. The land between the road right-of-way lines. "Street" is also a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated. The City Council shall determine when a given street is an "arterial street", "collector street", "cul-de-sac", "local

a. "Arterial Street" is a fast or heavy traffic street of considerable continuity and used primarily as a traffic artery for intercommunication among large areas.

- b. "Collector Street" is a street which carries traffic from minor streets to arterial streets, including the principal entrance streets of a residential development and streets for circulation within such a development.
- c. "Cul-de-sac" or "Dead-end street" is a minor street with only one outlet.
- d. "Local Street" is a street used primarily for access to abutting properties.
- e. "Private Street" is a street serving as vehicular access to two or more parcels of land which is not dedicated to the public but is owned by one or more private parties.
- f. "Width, Street" is the shortest distance between the lines delineating the right-of-way of a street.

51. 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.

“AMENDED BY ORDINANCE 2013-08-01; AUGUST 13, 2013.”

52. Structural Alteration. Any change in the supporting members of a building, such as bearing walls, columns, beams or foundation.

53. Subdivider. Is an individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity commencing proceedings under this Code to effect a subdivision of land hereunder for himself or for another.

54. Subdivision. Is the division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land; provided that a division of land which may be ordered or approved by a court or effected by testamentary or intestate provisions, or a division of land for agricultural purposes into lots or parcels of ten acres or more and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

55. Variance. The same as that term is defined or described in Minnesota Statutes, Chapter 462. (Procedures and criteria for obtaining variances are provided in The Zoning Code, Chapter 304.)

56. Walkway. An unenclosed area used primarily for foot traffic. A walkway may be paved or covered by a platform which is constructed at grade level and which is at no point more than 1 foot above grade or 4 feet wide.

57. 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. "Wetland" is further defined as a surface water feature which can be classified as a Type 2, 3, 4, 5, 6, 7, or 8 wetland per definitions in the United States Fish and Wildlife Service Circular No. 39 (1971 edition). White Bear Lake is not included as a "wetland" within this definition.

"AMENDED BY ORDINANCE 1995-2; MAY 9, 1995."

58. Yard, Front. That open space which extends along at right angles to the front line to a depth or width specified in the set-back regulations.

59. Yard, Rear. That open space on the same lot with the principal building located between the rear line of the building and the rear lot line or the ordinary high water level of a lake, pond or wetland, and extending for the full width of the lot.

60. Yard, Side. The open space extending along the side lot between front and rear yards.

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

61. Significant Tree. A healthy coniferous tree six (6) feet or more in height or a healthy deciduous tree eight (8) inches or more in diameter.



AGENDA ITEM A:
VARIANCE FINDINGS FORM

BIRCHWOOD VILLAGE
Variance Findings Form

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.)*
