



AGENDA OF THE PLANNING  
COMMISSION  
CITY OF BIRCHWOOD VILLAGE  
WASHINGTON COUNTY, MINNESOTA  
July 30, 2020  
7:00 P.M.

**CALL TO ORDER**

In light of the Governor's Executive Order regarding social-distancing and restrictions on gatherings, the Planning Commission of The City of Birchwood Village is conducting its July 30, 2020 meeting using interactive web-based technology. Pursuant to Minnesota Statutes, Chapter 13D. 021 Subdivision 1(1) the City of Birchwood is declaring that, "an in-person meeting or a meeting conducted under section [13D.02](#) is not practical or prudent because of a health pandemic..."

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

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

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

The Birchwood Village Planning Commission is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

<https://us02web.zoom.us/j/89583229533?pwd=ampFTetiS29ObUFxbnJXOWIzVDRZdz09>

Meeting ID: 895 8322 9533

Password: 384079

One tap mobile: +13126266799,,89583229533#,,,,0#,,384079# US (Chicago)

Dial by your location: +1 312 626 6799 US (Chicago)

Find your local number: <https://us02web.zoom.us/j/kcG7E4M2FY>

\* Denotes items that have supporting documentation provided

**APPROVE AGENDA**

**REGULAR AGENDA**

- A. Review Variance Case No. 20-02-VB for 415 Wildwood Avenue\* (pp. 3-36)
  - 1. Public Hearing
  - 2. Discuss & Recommendation to City Council
- B. Review/Approve June 30, 2020 Meeting Minutes\* (pp. 37-38)

**ADJOURN**

Variance Materials

Notice Letter – p. 3

City Planner Memo – pp. 5-7

Variance Application – pp. 9-29

Sec 302.050 Zoning Code – pp. 31-32

Variance Findings Form – pp. 33-36

\* Denotes items that have supporting documentation provided



207 Birchwood Avenue  
Birchwood Village, MN 55110  
651-426-3403 (tel) / 651-426-7747 (fax)  
Info@CityofBirchwood.com  
www.CityofBirchwood.com

Re: **CITY OF BIRCHWOOD VILLAGE PLANNING COMMISSION NOTICE OF  
PUBLIC HEARING ON REQUEST FOR A VARIANCE: 415 WILDWOOD  
AVENUE**

July 17, 2020

Dear Resident,

The City of Birchwood Village Planning Commission will hold a public hearing on **Thursday, July 30, 2020, beginning at 7:00pm** via ZOOM videoconferencing to hear and make a recommendation to the City Council on a request by Cathryn Wandmacher (Case No. 20-02-VB) for the following variance:

- A variance from the 25% impervious surface limitation for the lot per Sec. 302.050.

The purpose of this request is to seek approval to keep a paver patio that was previously installed without a permit. Although the patio is made of pavers on pervious sub-base, the lot has approx. 31.6% impervious surfaces and Sec. 302.050.1 requires any activity where the lot exceeds 25% impervious surface to satisfy conditions of 302.050.1.a-k to obtain a variance.

The applicant subsequently applied for a zoning permit, which was denied. She appealed the administrative decision with the City Council, who stayed the administrative order to remove the patio until the applicant could apply and seek for a variance.

The applicant seeks to show that she satisfies the conditions of 302.050.1.a-k to obtain a variance to keep the patio. Any permits or variances granted by the City will be subject to DNR and RCWD approval. Plans may be viewed at City Hall prior to the public hearing.

Unless continued by the Planning Commission, this case will be heard by the City Council on Tuesday, August 18, 2020 at 7:00pm.

Details about participating in the Planning Commission's Zoom meeting is enclosed. Comments concerning this application may be presented at the public hearing or filed with the City Clerk until 12:30pm on the day of the hearing. Email address is [Tobin.Lay@CityofBirchwood.com](mailto:Tobin.Lay@CityofBirchwood.com); written letters can be dropped off at City Hall. Each response will be considered before the Planning Commission makes a recommendation to the City Council. Any questions or concerns about this application should be directed to City Hall at 651-426-3403.



**CITY OF BIRCHWOOD VILLAGE  
MEMORANDUM**

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**TO:** Birchwood Village Planning Commission

**FROM:** Thatcher Engineering, Inc.

**DATE:** July 28, 2020

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

**LOCATION:** 415 Wildwood Avenue

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**REQUEST**

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

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

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

**SITE CHARACTERISTICS**

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

**PRACTICAL DIFFICULTY**

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

## **STATUTORY REQUIREMENTS FOR PERMITTING VARIANCES**

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

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

Statutory criteria used to establish a practical difficulty include:

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

## **CTY CODE REQUIREMENTS FOR PERMITTING VARIANCES**

Sec 304.040 of the City Code states:

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

### **SUBD. 1.**

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

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

- i.** Special conditions or circumstances exist which are peculiar to the land, structure, or building involved.
- ii.** The condition which result in the need for the variance were not created by the applicant's action or design solution. The applicant shall have the burden of proof for showing that no other reasonable design solution exists.
- iii.** The granting of a variance will result in no increase in the amount of water draining from the property.

- iv. Granting the variance will not impair an adequate supply of light and air to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the City.
- v. No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do.
- vi. Financial gain or loss by the applicant shall not be considered if reasonable use for the property exists under terms of the Zoning Code.

## **ANALYSIS**

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

## **REASONS FOR RECOMMENDING VARIANCE APPROVAL**

### **Variance request #1:**

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

## **REASONS FOR RECOMMENDING VARIANCE DENIAL**

### **Variance request #1:**

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

## **CONDITIONS**

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

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

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

**REGULAR A  
VARIANCE APPLICATION**



**City of Birchwood Village**  
Petition for Variance Application

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

**FOR OFFICIAL USE ONLY**

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

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

- Name of Applicant(s) Cathryn Wandmacher  
Address 415 Wildwood Ave  
City Birchwood State MN Zip Code 55110  
Business Phone \_\_\_\_\_ Home Phone 651-276-3726
- Address of Property Involved if different from above: \_\_\_\_\_  
\_\_\_\_\_
- Name of Property Owner(s) if different from above and describe Applicant's interest in the property:  
\_\_\_\_\_  
\_\_\_\_\_
- Specific Code Provision from which Variance is requested: 302.050
- Describe in narrative form what the Applicant is proposing to do that requires a variance:  
I have installed a stone patio with a border wall. I did not know I needed a permit to install.

6. Type of Project:

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

7. Type of Structure Involved:

- |  |  |
|--|--|
| <input 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 checked="" type="checkbox"/> Other (describe) <u>patio + boulder wall</u> |  |

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

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

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

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

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

If yes, explain: \_\_\_\_\_  
 \_\_\_\_\_

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

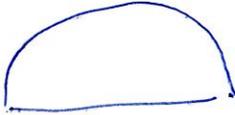
If yes, please identify the regulations AND attach evidence demonstrating compliance:  
 \_\_\_\_\_

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

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

15. Please attach the following:

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

patio + boulder wall  164 x 156  
 walkway 117 x 56

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

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

**SUBD. 1.**

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

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

- i. Special conditions or circumstances exist which are peculiar to the land, structure, or building involved.
- ii. The condition which result in the need for the variance were not created by the applicant's action or design solution. The applicant shall have the burden of proof for showing that no other reasonable design solution exists.
- iii. The granting of a variance will result in no increase in the amount of water draining from the property.
- iv. Granting the variance will not impair an adequate supply of light and air to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the City.
- v. No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do.
- vi. Financial gain or loss by the applicant shall not be considered if reasonable use for the property exists under terms of the Zoning Code.

**NOTICE:**

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

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

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

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

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



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

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

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

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

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

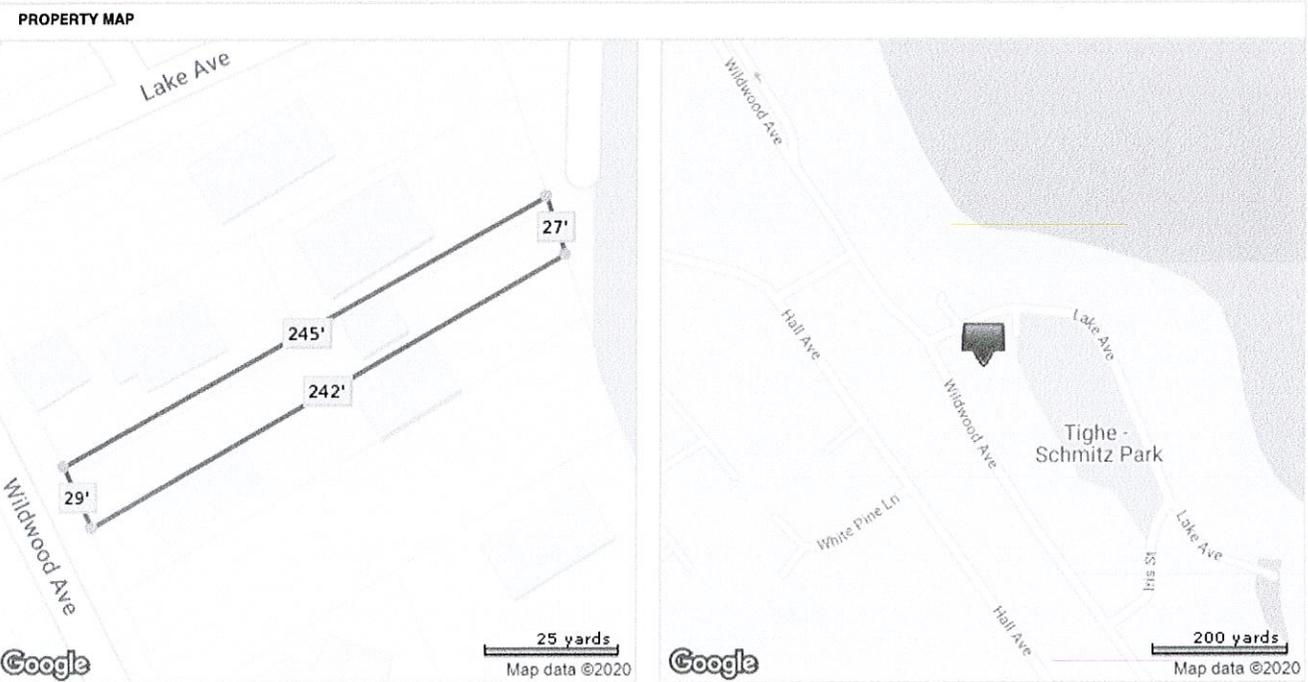
CHARACTERISTICS			
Lot Acres	<b>0.1554</b>	Basement Type	<b>Tax: Crawl MLS: Partial, Crawl Space, Drain Tiled, Drainage System</b>
Lot Sq Ft	<b>6,767</b>	Garage Type	<b>Detached Garage</b>
Lot Frontage	<b>23</b>	Parking Type	<b>Detached Frame Garage</b>
Lot Depth	<b>240</b>	Garage Sq Ft	<b>240</b>
Land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

Nominal

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

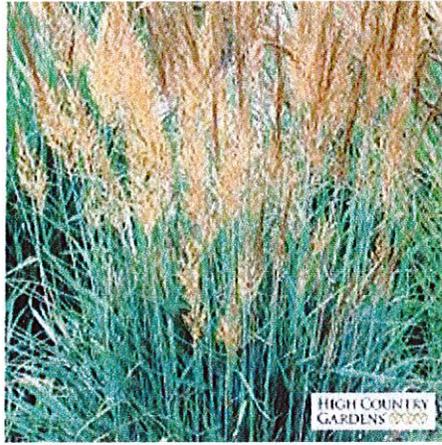
MORTGAGE HISTORY			
Mortgage Date	04/14/2020	11/19/2019	09/28/2018
Mortgage Amount	\$231,550	\$223,250	\$209,100
Mortgage Lender	Goldwater Bk Na	Goldwater Bk Na	Bell Bk
Borrower Name	Wandmacher Cathryan A	Wandmacher Cathryn A	Pehoski Anthony J
Borrower Name 2			Pehoski Julie A
Mortgage Type	Conventional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

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

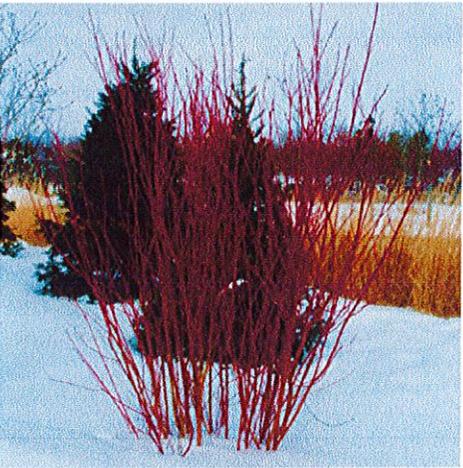


\*Lot Dimensions are Estimated

Plants for Rain Garden



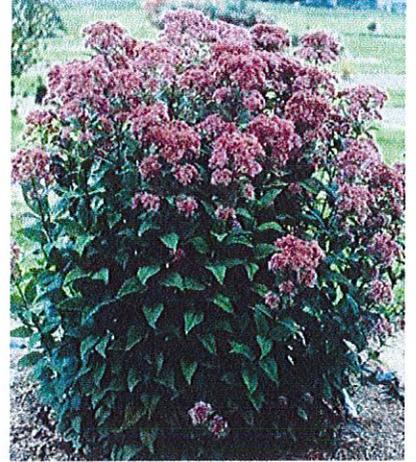
Turtlehead



Cornus Allenman's Compact



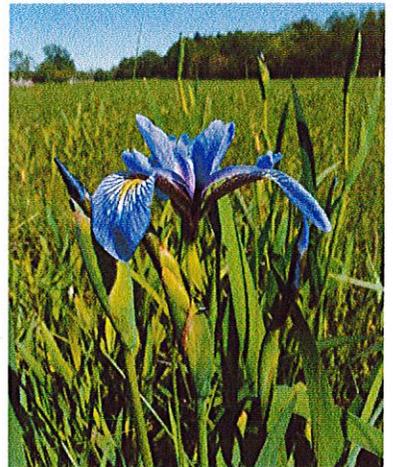
Yarrow Noblessa



Eupatorium Little Joe



Astilbe Delft Lace



Blue Flag Iris



Karl Foerster Grass



Baptisia



Liatris

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

















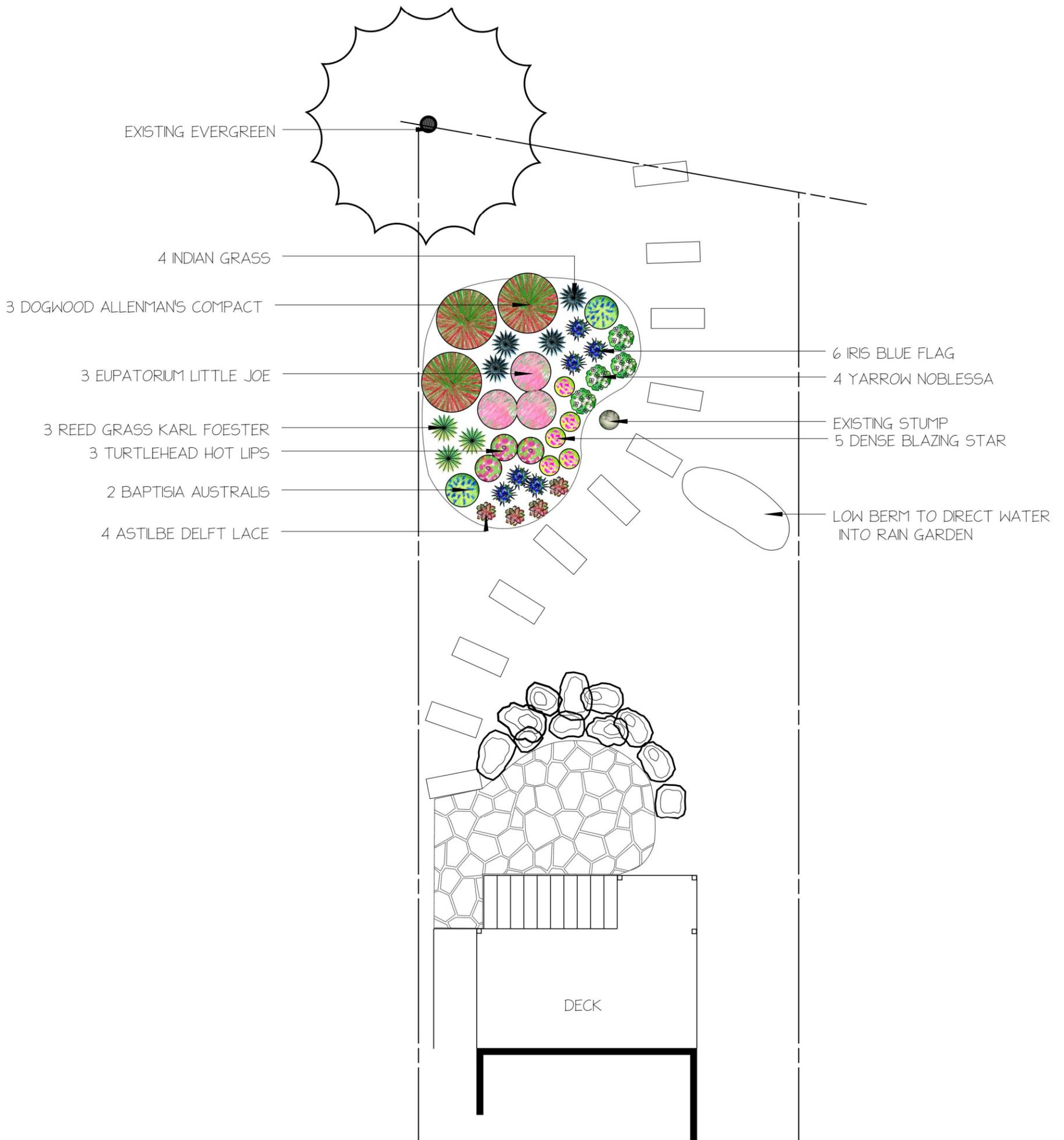
- b. My house is on a gradual slope. Along the east and west sides of the house there are gully's that have been made so the rain will run between the homes and to the front hill. On the north side I have mounds that help absorb the runoff and direct it away from the house then directs it to the east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



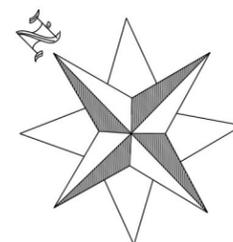


I have enclosed the plans for a rain garden on the west side of the hill and a low berm on the east side to direct water into the rain garden.

- c. I spoke with Bryan Pyann, a watershed restoration specialist with Washington Conservation District. He suggested a raingarden at a 6" ponding depth. large enough to capture 225 sq ft of impervious surface, ponding 3-6" deep. He suggested at a 6" deep raingarden that is 40sq ft. If you want to pond at 3" and your soils do not drain well, then I would do 70 sq ft.  
To see if the soil is good enough, he had me dig a hole where the raingarden will be. I made a hole 12" around and 18" deep. I was trying to mimic how the soils would drain after back to back rainfalls and saturated soils.....So... I filled it with water, and once it drained completely I filled it again right away. I jammed a stick in the sidewall of the hole to mark how high the water was filled to. I came back every hour for the next few hours and measured how far down the water drains. If it drained faster than 0.5 inches per hour, and it did so the placement of the raingarden should be perfect.
- d. I am going to hire someone to install the raingarden, so it is installed with the correct slope etc.
- e. N/A
- f. In order to get the boulders for the wall up the hill, ground cover did get disrupted. It was just leaves and weeds before. I planted hostas, ferns and other grasses to help absorb the runoff. I also put mulch on the hill. I did remove a tree that was dead, but the stump and roots remain.
- g.
- h.
- i. I will be planting more grasses and will split hostas and in the fall and place where there are open spaces so eventually the whole hill will be filled with plants.
- j. As soon as I get approval, I plan to put the rain garden in.
- k. I will register the variance with the county when completed and approved by the commission and the city.



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



RESIDENTIAL GARDENS LLC  
www.residentialgardens.net



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.



**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:**

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\_\_\_\_\_ (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:**

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\_\_\_\_\_ (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:**

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\_\_\_\_\_ (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.)*

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**CITY OF BIRCHWOOD VILLAGE  
SPECIAL JOINT CITY COUNCIL / PLANNING COMMISSION MEETING  
June 30, 2020**

**MINUTES**

**COUNCIL MEMBERS PRESENT:** Mayor Mary Wingfield; Council Members: Jonathan Fleck, Randy LaFoy and Jessi Aakre. Absent: Councilmember Kevin Woolstencroft.

**PLANNING COMMISSIONERS PRESENT:** Chair John Lund, Jozsef Hegedus, Michael Kraemer, Andy Sorenson. Absent: Commissioner Mark Foster.

**STAFF PRESENT:** City Administrator Tobin Lay, City Attorney Alan Kantrud, City Engineer/Planner Steve Thatcher.

**OTHERS PRESENT:** John Hartman, Danelle Hartman, Debbie Harrod, Matthew Duffy, Judy Duffy, Justin McCarthy, Michael McKenzie, Rick Boschee.

**Mayor Wingfield** called the special joint council / planning commission meeting to order at 7:04 p.m. and explained the reason for the meeting being conducted virtually via the Zoom platform as is permitted by Minnesota State Statute.

**AGENDA APPROVAL:**

MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER AAKRE TO APPROVE THE AGENDA. ROLL CALL VOTE: LAFOY; AYE, AAKRE; AYE, FLECK; ABSTAIN, WINGFIELD; AYE. MOTION PASSED.

**COMMISSION REGULAR AGENDA:**

**A. Review/Approve February 20, 2020 Planning Commission Meeting Minutes.**

MOTION WAS MADE BY COMMISSIONER HEGEDUS AND SECONDED BY COMMISSIONER KRAEMER TO APPROVE MINUTES. ROLL CALL VOTE: HEGEDUS; AYE, KRAEMER; AYE, SORENSON; AYE, LUND; AYE. MOTION PASSED.

**JOINT COUNCIL/COMMISSION REGULAR AGENDA:**

**A. Variance Request Procedure.**

**Mayor Wingfield:** She explained the purpose for the joint meeting. She said that it would be helpful to the Council if when considering variance requests, Commissioners would concentrate on the practical difficulties elements of the variance requirements. She also explained that the information provided by the City Planner is meant to guide them in considering both sides of the decision, not as a recommendation for a decision; it is then the Commission's job to decide upon a recommendation.

**Commissioner Kraemer:** He asked what criteria Commissioners should use to determine if a variance request is "in harmony."

**City Attorney Kantrud:** He explained that changes in the law have made variances harder to obtain and that they should only be approved as a remedy for extraordinary circumstances.

**Council Members & Commissioners:** They discussed variance procedure and the importance of

sticking with the standards set in City Code except when no other alternatives are available. When Commissioners see a pattern developing then they should consider recommending changes to the Code.

**COUNCIL REGULAR AGENDA:**

**A. 234 Cedar Street Paver Maintenance Agreement.**

**Mayor Wingfield:** She introduced the agenda item and explained that the City Engineer recommended the City enter an agreement with the Hartmans requiring them to maintain a paver system installed there.

**City Engineer Thatcher:** He answered questions about the paver system and the agreement.

**Council Members & City Staff:** They discussed the terms of the agreement.

MOTION WAS MADE BY MAYOR WINGFIELD AND SECONDED BY COUNCILMEMBER LAFOY TO AUTHORIZE THE MAYOR AND CITY CLERK TO SIGN THE MAINTENANCE AGREEMENT ON BEHALF OF THE CITY ONCE THE CITY ATTORNEY PROVIDES THE PROPER WORDING THAT COVERS REMEDIES IN CASE THE GRANTORS FAIL TO COMPLY WITH THE OBLIGATIONS OF THE AGREEMENT. ROLL CALL VOTE: LAFOY; AYE, AAKRE; AYE, FLECK; AYE, WINGFIELD; AYE. MOTION PASSED.

**B. Kay Beach Boundaries.**

**Mayor Wingfield:** She explained that there has been heavy use of Kay Beach and asked to have the picnic table cemented into place as close as is reasonable to the southern property line in an unobtrusive manner to convey to the public that they have more space there than people realize. She said it was in the interest of providing more space for social distancing that this be done now instead of waiting for the survey to be completed. She also explained that the social distancing sign keeps disappearing and the picnic table moved.

**Councilmember Aakre:** She asked Lay to remind people not to vandalize the signs and that although the City is happy to provide outdoor spaces for their enjoyment, that can only continue if people are respectful of City property and social distancing. Lay will send an email and Mayor Wingfield will put something in the White Bear Press.

**Councilmember Fleck:** He asked if there was maintenance needed to correct flooding on Kay Beach. Lay explained that he was working with City staff to determine the cause of the flooding. He will provide information on this at the July Council meeting.

**Matthew Duffy:** He asked that the City respect the Duffy's legal right to ingress/egress and enjoyment of their private easement on Kay Beach.

**Mayor Wingfield:** She explained that the picnic table is not going into the easement area, just to the northern border of that area. She also explained that the public has a legal right to the easement area at Kay Beach that must also be respected.

**ADJOURN**

**MOTION WAS MADE BY COUNCILMEMBER LAFOY AND SECONDED BY COUNCILMEMBER AAKRE TO ADJOURN THE MEETING. ROLL CALL VOTE: LAFOY; AYE, AAKRE; AYE, FLECK; AYE, WINGFIELD; AYE. MOTION PASSED. MEETING ADJOURNED AT 7:58 P.M.**

\_\_\_\_\_  
Mary Wingfield, Mayor

ATTEST:

\_\_\_\_\_  
Tobin Lay, City Administrator-Clerk