



AGENDA OF THE PLANNING
COMMISSION
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
March 28, 2019
7:00 P.M.

CALL TO ORDER

APPROVE AGENDA

REGULAR AGENDA

- A. Review/Approve March 7, 2019 Meeting Minutes* (p. 3)
- B. Discuss Amending Permit Requirements (203.040)* (pp. 5-9)
- C. Discuss 302.015 Undersized Lot* (pp. 11-13)

ADJOURN

* Denotes items that have supporting documentation provided

CITY OF BIRCHWOOD VILLAGE
PLANNING COMMISSION MEETING
March 7, 2019
MINUTES

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

Vice Chair John Lund called the meeting to order at 7:01 pm

APPROVE AGENDA – John Lund motioned to approve the agenda. Jozef Hegedus seconded. Motion passed.

REGULAR AGENDA

- A. Review/approve January 24, 2019 meeting minutes. Commissioner Hegedus motioned to approve. Mark Foster seconded. Motion passed.
- B. Review 2040 Comprehensive Plan
Plans not available at meeting; Tobin will delivery to Commissioners later. Commissioners to review and provide Tobin with feedback.
- C. Discuss amending permit requirements (203.040)
Decision was made to leave all existing changes made last meeting, except p. 6 line 7 - Leaving as shown in Mn Stat. 1300.0120.
Hegedus motioned to approve. Foster seconded. Motion passed.
- D. Review road escrow/bond
Hegedus motioned to accept as written. Foster seconded. Motion passed.
- E. Review initiative proposal template
Commission accepts proposed template.

ADJOURN at 7:38pm. Motion was made by Mark Foster, seconded by Jozsef Hegedus. All ayes. Meeting adjourned.

MEMORANDUM



Birchwood Village

TO: Birchwood Planning Commission
FROM: Tobin Lay, City Administrator
SUBJECT: Amending Permit Requirements

Dear Commissioners,

Last month the Commission completed work on amending Section 203.040 – borrowing language from MN STAT 1300.0120. Although the Commission made a formal recommendation to the Council, staff has the following clarifying questions for Commissioners to consider and advise:

- 1) Please confirm that Commissioners wish to keep language from Subp. 2 Annual permit, previously marked for deletion from Mn Stat 1300.0120 language? Meeting minutes indicated “p. 6 line 7.”
- 2) Please advise how your recommendation effects existing language in Birchwood 203.040. Should all the existing language be rescinded or are there portions of the existing code that Commissioners plan to remain inforce? If the later, **please advise where that language should fit in** with last month’s recommendation.
- 3) Please clarify that you want the language included in the “Electrical Permit” section. Currently, the City does not issue electrical permits – the State handles all such permits. **Staff recommends** limiting this section to a reference that electrical permits are to be obtained from the Mn Dept. of Labor and Industry (MnDLI). Please see the following MnDLI website for more info: <https://www.dli.mn.gov/workers/homeowners/electrical-permits-homeowners>

Thanks!

Regards,
Tobin Lay

1300.0120 PERMITS.

Subpart 1. **Required.** An owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert, or replace any gas, mechanical, electrical, plumbing system, or other equipment, the installation of which is regulated by the code; or cause any such work to be done, shall first make application to the building official and obtain the required permit.

~~Subp. 2. **Annual permit.** In lieu of an individual permit for each alteration to an already approved electrical, gas, mechanical, or plumbing installation, the building official may issue an annual permit upon application for the permit to any person, firm, or corporation regularly employing one or more qualified trade persons in the building, structure, or on the premises owned or operated by the applicant for the permit.~~

KEEP?

~~Subp. 3. **Annual permit records.** The person to whom an annual permit is issued shall keep a detailed record of alterations made under the annual permit. The building official shall have access to the records at all times or the records shall be filed with the building official as designated.~~

Subp. 4. **Work exempt from permit.** Exemptions from permit requirements of the code do not authorize work to be done in any manner in violation of the code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

A. Building:

(1) one-story detached accessory structures, used as tool and storage sheds, playhouses, and similar uses, provided the floor area does not exceed ~~200~~ square feet (60,960 mm²);
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(2) fences ~~not over seven feet (2,134 mm) high;~~ (ZONING PERMIT IS REQUIRED)

~~(3) oil derricks;~~

(4) retaining walls that are not over four feet (1,219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II, or III-A liquids;

(5) water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18,927 L) and the ratio of height to diameter or width does not exceed 2 to 1;

(6) sidewalks and driveways ~~that are not part of an accessible route;~~ (ZONING PERMIT IS REQUIRED)

~~(7) decks and platforms not more than 30 inches (762 mm) above adjacent grade and not attached to a structure with frost footings and which is not part of an accessible route;~~

FLOORING FINISHES (NON-STRUCTURAL)

(8) painting, papering, ~~tiling, carpeting,~~ cabinets, countertops, and similar finish work;

(9) temporary motion picture, television, and theater stage sets and scenery;

(10) prefabricated swimming pools installed entirely above ground accessory to dwelling units constructed to the provisions of the International Residential Code or R-3 occupancies constructed to the provisions of the International Building Code, which do not exceed both 5,000 gallons in capacity (18,925 L) and a 24-inch (610 mm) depth;

(11) window awnings supported by an exterior wall that do not project more than 54 inches (1,372 mm) from the exterior wall and do not require additional support, when constructed under the International Residential Code or Group R-3 and Group U occupancies constructed to the provisions of the International Building Code;

(12) movable cases, counters, and partitions not over five feet, nine inches (1,753 mm) in height; and

(13) swings and other playground equipment.

(14) NON-STRUCTURAL

Unless otherwise exempted, plumbing, electrical, and mechanical permits are required for subitems (1) to (13).

B. Gas:

(1) portable heating, cooking, or clothes drying appliances;

(2) replacement of any minor part that does not alter approval of equipment or make the equipment unsafe; and

(3) portable fuel cell appliances that are not connected to a fixed piping system and are interconnected to a power grid.

C. Mechanical:

(1) portable heating appliances;

(2) portable ventilation appliances and equipment;

(3) portable cooling units;

(4) steam, hot, or chilled water piping within any heating or cooling equipment regulated by this code;

(5) replacement of any part that does not alter approval of equipment or make the equipment unsafe;

(6) portable evaporative coolers;

~~(7) self-contained refrigeration systems containing ten pounds (4.5 kg) or less of refrigerant or that are actuated by motors of one horsepower (0.75 kW) or less; and~~

~~(8) portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.~~

D. **Electrical:** a municipality must not require an electrical permit if the work falls under the jurisdiction of the commissioner or if the work is exempt from inspection under Minnesota Statutes, section 326B.36, subdivision 7. This exemption does not exempt the work from other State Building Code requirements relating to electrical equipment.

Subp. 5. **Emergency repairs.** If equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted to the building official within the next working business day.

Subp. 6. **Repairs.** Application or notice to the building official is not required for ordinary repairs to structures. The repairs shall not include the opening or removal of any wall, partition, or portion of a wall or partition, the removal or cutting of any structural beam or load bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement, or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring, or mechanical or other work affecting public health or general safety.

Subp. 7. **Application for permit.** To obtain a permit, the applicant shall file an application in writing on a form furnished by the Department of Building Safety for that purpose. The application shall:

A. identify and describe the work to be covered by the permit for which application is made;

B. describe the land on which the proposed work is to be done by legal description, street address, or similar description that will readily identify and definitely locate the proposed building or work;

C. indicate the use and occupancy for which the proposed work is intended;

D. indicate the type of construction;

E. be accompanied by construction documents and other information as required by the code;

F. state the valuation of the proposed work;

G. be signed by the applicant, or the applicant's authorized agent; and

H. give other data and information required by the building official.

Subp. 8. **Action on application.** The building official shall examine or cause to be examined applications for permits and amendments within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the building official shall reject the application and notify the applicant of the reasons. The building official shall document the reasons for rejecting the application. The applicant may request written documentation of the rejection and the reasons for the rejection. When the building official is satisfied that the proposed work conforms to the requirements of the code and applicable laws and ordinances, the building official shall issue a permit.

Subp. 9. **Time limitation of application.** An application for a permit for any proposed work shall be considered abandoned 180 days after the date of filing, unless the application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

Subp. 10. **Validity of permit.** The issuance or granting of a permit or approval of plans, specifications, and computations, shall not be construed to be a permit for any violation of the code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of the code or other ordinances of the jurisdiction are not valid. Any permit issued becomes invalid if the work authorized by the permit is suspended or abandoned for more than 180 days. The 180 days commences the first day the work was suspended or abandoned.

Subp. 11. **Expiration.** Every permit issued expires unless the work authorized by the permit is commenced within 180 days after its issuance. The building official shall grant, in writing, extensions of time, for periods not more than 180 days each if the applicant demonstrates justifiable cause for the extension to the building official.

Subp. 12. **Suspension or revocation.** The building official may suspend or revoke a permit issued under the code if the permit is issued in error; on the basis of incorrect, inaccurate, or incomplete information; or in violation of any ordinance or regulation or the code.

Subp. 13. **Information and placement of permit.** The building permit or a copy shall be kept on the site of the work until the completion of the project. Pursuant to Minnesota Statutes, section 15.41, the permit shall specify the name and address of the applicant, and the general contractor, if one exists. All construction permits shall be posted in a conspicuous and accessible place at the premises or site of construction.

Subp. 14. **Responsibility.** Every person who performs work for the installation or repair of building, structure, electrical, gas, mechanical, or plumbing systems, for which the code is applicable, shall comply with the code. The person, firm, or organization securing the permit is responsible for code compliance for the work being performed.

MEMORANDUM



Birchwood Village

TO: Birchwood Planning Commission
FROM: Tobin Lay, City Administrator
SUBJECT: Undersized Lots (302.015)

Dear Commissioners,

It has been brought to my attention that Section 302.015 of Birchwood City Code is not clear as it relates to the 60% rule. According to this Section, the 60% rule applies to any “area, width, or open space.” The City Attorney recently opined that based on this language, the rule does not apply to setbacks. Although the City Attorney’s interpretation is in harmony with the spirit of the zoning codes, Section 302.015 is not clear on its face.

Enclosed is Section 300, which has defined “width” and “open space” but not “area.”

Request/Recommendation

Staff requests Commissioners recommend language for Section 302.015 that clarifies what the 60% rule does and does not apply to. Thanks!

Thanks!

Regards,
Tobin Lay

UNDERSIZED LOTS

Birchwood City Code

- 302.015. UNDERSIZED LOTS. Any lot which was held in a single ownership of record as of January 1, 1975, and which does not meet the requirements of this Code as to area, width, or other open space may nevertheless 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.
- 300.020. DEFINITIONS. For the purpose of Chapters 300 through 399 certain terms and words are hereby defined as follows:
31. Lot Width. The shortest distance between lot lines measured at the midpoint of the building line
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.
35. Open Space. Land with no structures upon it.
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.

Birchwood Village – Initiative Proposal Template

Name of Initiative	Amend Section 302.015, Undersized Lots
Committee	Planning Commission
What problem will this initiative solve or what value will this create in our community?	Clarify what is meant by “area, width, or open space” and what should and should not be included when applying the 60% rule for undersized lots.
Proposed Solution or Initiative Description	Amend language in Section 302.015
How will we measure success of this initiative? <i>What would success look like and how will we know if we are successful?</i>	Amendment will provide clarification to this rule and guide users in how to apply the 60% rule.
Estimated Cost of Initiative	N/A
Assumptions or Dependencies <i>What has to be true for the benefit and costs to be accurate? Examples: labor cost assumptions, number of residents using solution, etc.</i>	Assumes that work will be contained to the Planning Commission and the City Council.
Alternative Solutions Considered <i>What are the alternatives that could be considered to solve the problem?</i>	Unknown.
Timing Considerations <i>Are there any firm deadlines or an ideal timeframe for this initiative? What is driving the deadline?</i>	No deadline.