



AGENDA OF THE PLANNING
COMMISSION
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
October 25, 2018
7:00 P.M.

CALL TO ORDER

APPROVE AGENDA

REGULAR AGENDA

- A. Review/Approve September 27, 2018 Meeting Minutes* (p. 2)
- B. Review/Approve October 4, 2018 Meeting Minutes* (pp. 3-7)
- C. Reschedule or Cancel Nov & Dec Commission Meetings* (p. 8)
- D. Discuss Amending Permit Requirements (203.040)* (pp. 9-10)

ADJOURN

* Denotes items that have supporting documentation provided

**CITY OF BIRCHWOOD VILLAGE
PLANNING COMMISSION MEETING
September 27, 2018**

MINUTES

COMMISSIONERS PRESENT: Chair Doug Danks, Vice Chair John Lund, John Winters, Randy Felt, Jozsef Hegedus.

OTHERS PRESENT: Andy Sorenson.

Chair Doug Danks called the meeting to order at 7:02 p.m.

APPROVE AGENDA: John Lund motioned to approve the agenda. Randy Felt seconded. Motion passed.

REGULAR AGENDA

A. Review/Approve June 28, 2018 Meeting Minutes

John Lund motioned to approve. Jozsef Hegedus seconded. Motion passed.

B. Review/Approve July 26, 2018 Meeting Minutes

Randy Felt motioned to approve with revision to agenda item F, striking after the word “time” in the first paragraph. John Winters seconded. Motion passed.

C. Review/Approve August 23, 2018 Meeting Minutes

Jozsef Hegedus motioned to approve. John Lund seconded. Motion passed.

*Note to Tobin: Commissioners asked for some type of underline or quotations to indicate what the text changes are.

D. Discuss Amending Permit Requirements (203.040)

Doug Danks motioned to table until October meeting. John Winters seconded. Motion passed.

E. Consider Building Permit Escrow Fees / Ordinance Amendments for Damages to Public Property

Doug Danks motioned to adopt the language presented in City Attorney Kantrud’s email September 23, 2018 with the following revised first sentence of paragraph-when a resident-strike “adjacent to public tract” and add after-maintenance of “or improvements to” their property. Further, the planning commission does not recommend charging an additional fee for this limited license at this time. John Lund seconded. Motion passed.

John Winters motioned to make a friendly amendment to the previous motion, to include that Commissioners recommend against the adoption of the proposed easement access agreement language until a formal approved version has been prepared by the City Council and reviewed under a public meeting. John Lund seconded, motion passed.

ADJOURN

MOTION WAS MADE BY CHAIR DANKS AND SECONDED BY COMMISSIONER WINTERS TO ADJOURN THE MEETING. ALL AYES. MOTION PASSED. MEETING ADJOURNED AT 7:46 P.M.

**CITY OF BIRCHWOOD VILLAGE
PLANNING COMMISSION MEETING
October 4, 2018**

MINUTES

COMMISSIONERS PRESENT: Chair Doug Danks, Vice Chair John Lund, John Winters, Randy Felt, Jozsef Hegedus.

OTHERS PRESENT: City Administrator Tobin Lay, Andy Sorenson, Terence and Mary Kay O'Loughlin, Shannon O'Loughlin Gaylord, Joe Gaylord, Greg and Ni Liengswangwong.

Chair Doug Danks called the meeting to order at 7:03 p.m.

APPROVE AGENDA: Randy Felt motioned to approve the agenda. John Lund seconded. Motion passed.

REGULAR AGENDA

A. Review Variance Case No. 18-03-VB for 27 Birchwood Lane

Commissioners discussed Resolution 2013-13 and made changes as enclosed (see enclosed Resolution 2018-18).

Doug Danks motioned to approve the conditional use permit and variance application as identified in the amended resolution with edits to the amended Resolution herein and including the additional conditions as discussed with the further revision to strike items 3 & 4 on Page 3 of the resolutions.

John Lund seconded. Motion passed.

B. Discussion of when do we need building permit. No action made.

ADJOURN

MOTION WAS MADE BY COMMISSIONER WINTERS AND SECONDED BY COMMISSIONER FELT TO ADJOURN THE MEETING. ALL AYES. MOTION PASSED. MEETING ADJOURNED AT 8:50 P.M.

RESOLUTION 2018-18

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT
AND
VARIANCES
FOR
27 BIRCHWOOD LANE
WITHIN THE CITY OF BIRCHWOOD VILLAGE, MINNESOTA**

WHEREAS, a proposal dated September 28, 2018 has been submitted by Terence and Mary Kay O’Loughlin requesting a conditional use permit and variances from the City of Birchwood Village Zoning Code:

1. A Conditional Use Permit for land disturbance activity where the slope of the land is toward a lake and the alteration is closer to the lake than the structure setback requirement, per Code Section 3001.070.1.a;
2. A 50-foot variance from the 50-foot setback requirement for retaining walls, per Code Section 302.020.4.c, in order to locate one retaining wall at the Ordinary High Water Level (OHWL) and ~~a second wall back from that~~ two additional walls per Northland exhibit C2.0;
3. A 20-foot variance to grade within 20 feet of the OHWL, per Code section 302.020.4.c;
4. A ~~9-foot variance from the 104-foot~~ side yard setback in order to construct the new stairs ~~(1-foot from north property line)~~ per Code Section 302.020.2;
- ~~5. A 0.8 foot variance from the 4 foot height limit, per 302.070.5, in order to construct one retaining wall 4.8 feet tall (less tall if Rip Rap is approved and installed);~~
- ~~5. A 4.4% variance from the 24.25% impervious area limit not to exceed the existing 30.2% to allow 34.6% lot cover – the site being grandfathered-in at 30.2% (this was in City Resolution 2013-13 regarding this property) – achieved with offsetting storm water management mitigation BMP as approved by the City Engineer; and~~
- ~~6. A variance for a 48” wide stair from the 44-inch maximum width for stairways, per 302.080.2 (a variance request was in City Resolution 2013-13 regarding this property).~~
- ~~7. —~~
- ~~8. **WHEREAS**, the following was not included in the proposal dated September 28, 2018~~
- ~~9. —~~
- ~~10. A variance from the 44-inch maximum width for stairways, per 302.080.2 (a variance request was in City Resolution 2013-13 regarding this property).~~
- ~~1. —~~
- ~~A variance from the 32 square foot maximum size for a landing, per 302.080.5.c (a variance request was in City Resolution 2013-13 regarding this property).~~

WHEREAS, the Planning Commission has reviewed the request and made its recommendation held a public hearing as required by the City Zoning Code on October 4, 2018; and

WHEREAS, a public hearing has been held as required by the City Zoning Code on October 9, 2018 by

the City Council; and

WHEREAS, the proposed wall(s) will stabilize the soil while attempting to maintain the natural slope of the land as much as safely possible; and

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

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Birchwood Village, that the City accepts and adopts the following findings of the Planning Commission:

For the Conditional Use Permit:

1. The proposal is consistent with the City's Comprehensive Plan.
2. The proposal is consistent with existing and future land uses in the area.
3. The proposal conforms to the Zoning Code requirements.
4. That the special conditions attached in the form of a conditional use permit are hereby approved.
5. That the proposed action will not:
 - a. Impair an adequate supply of light and air to adjacent property,
 - b. Unreasonably diminish or impair established property values within the surrounding area,
 - c. In any other respect impair the public health, safety or welfare or the residents of the City.
 - d. Depreciate values in the area.
 - e. Over-burden neither the existing public services nor the capacity of the City to serve the area.
 - f. Alter traffic generation beyond the capabilities of the streets serving the site.

For the Variances:

1. That the proposed actions will not:
 - a. Impair an adequate supply of light and air to adjacent property,
 - b. Unreasonably diminish or impair established property values within the surrounding area,
 - c. In any other respect impair the public health, safety or welfare or the residents of the City.
2. That the variances are proved necessary in order to secure for the applicant the right or rights enjoyed by others in the same area of the district.
3. That the variances are not being granted simply because there are no objections or because those who do not object outnumber those who do.
4. That a financial gain or loss by the applicant is not a consideration.
5. Special conditions or circumstances exist which are peculiar to the land involved.

FURTHER, BE IT RESOLVED, that the City Council of the City of Birchwood Village hereby approves the requested conditional use permit and variances subject to the following conditions:

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

2. Per section 306.090, if within one (1) year after granting the conditional use permit and variances, the use has not been completed or utilized, the permit shall become null and void unless a petition for extension of time in which to complete or utilize the use has been granted by the City Council.
3. Any violation of any condition set forth by this resolution shall be a violation of the City code and of the Conditional Use Permit and the City Council, after notification and procedures per Section 306.090, may terminate the Conditional Use Permit.
4. The applicant shall verify their property lines and have the property pins exposed throughout construction, including at the time of inspection, to insure that all work is contained within the limits of the property.
5. The proposed contours shall tie into the existing contours along the side lot lines so that the project does not affect adjacent properties.
6. The design depicted in sheet C2.0 indicating two additional retaining walls above the existing shoreline wall.
7. Revised site plan sheet C2.0 be submitted showing the corrected location setback and dimensions for a wood framed or composite deck stair construction.
8. Submit impervious surface calculations with additional impervious surface areas created by the new retaining walls construction and the percentage of impervious surface and area of impervious surface added by the riprap areas above the OHWL.
- 5.9. Drawings and description of the BMP proposed to offset the increase in impervious surface area maintaining the current 30.2% site impervious surface area.

Prior to the City signing this resolution, the applicant shall:

1. Obtain all necessary approvals from the Department of Natural Resources, the Rice Creek Watershed District, the White Bear Lake Conservation District, and any Agency, Department or Government entity which has jurisdiction over the project.
2. Submit a copy of all approvals to the City.
3. ~~Notify the City whether or not two (2) walls or one (1) wall will be installed.~~
4. ~~Notify the City whether or not Rip Rap will be installed.~~
- 5.3. The applicant must submit a plan for the stairway signed by a professional engineer licensed in Minnesota to the City of Birchwood Village showing all necessary construction data including location, design, dimensions and construction materials before construction may begin. The plan shall meet the requirements of City Code Section 302.080.2. The plan in application shows a stairway, but not the details needed to determine whether or not the stairway construction will meet Code requirements including stairways shall be anchored and supported with pilings or footings.
- 6.4. Provide plans to the City signed by a professional engineer licensed in Minnesota that show the proposed construction work that:

MEMORANDUM



Birchwood Village

TO: Birchwood Planning Commission
FROM: Tobin Lay, City Administrator
SUBJECT: Nov & Dec Commission Meeting Schedule

Dear Commissioners,

The fourth Thursday in November is Thanksgiving Day and the fourth Thursday in December is two days after Christmas Day. Accordingly, Commissioners will need to either reschedule or cancel the Commission meeting in November and may want to consider doing the same for December to avoid conflicts with Thanksgiving and Christmas holidays.

Also, as a reminder, both John Winters and Randy Felt will be retiring from the Planning Commission at the end of this year. Accordingly, if Commissioners cancel both Nov & Dec meetings then this will be John and Randy's final Commission meeting.

Request/Recommendation

Staff requests Commissioners reschedule or cancel the Nov meeting and recommends doing the same for the Dec meeting. Thanks!

Regards,
Tobin Lay

MEMORANDUM



Birchwood Village

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

Dear Commissioners,

It has been brought to my attention that the language of 203.040 is overbroad for what it requires a permit. As written, almost any work would require a permit, even painting. The State building code is not nearly so broad and there are no inspection guidelines for many of the jobs that would fall under the current reading of Birchwood's code.

Councilmember LaFoy requested and City Council Members agreed to have the Commission review 203.040 (enclosed) and make recommendations for appropriate amendments. These amendments should narrow what jobs require a permit while making sure appropriate jobs are covered.

Request/Recommendation

City Council requests Commissioners:

- 1) Review and make recommendations for amendments to Section 203.040 Permit Requirements.

Thanks!

Regards,
Tobin Lay

203.040. PERMITS REQUIRED.

1. No person, firm or corporation shall erect, construct, enlarge, alter, repair, move, improve, convert, or demolish any building or structure in the City or cause the same to be done, without first obtaining from the city a separate building permit for each such building or structure.

2. It shall be unlawful for any person, partnership, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, convert, demolish, equip, use, occupy or maintain any building or structure in the City of Birchwood Village or cause the same to be done contrary to, or in violation of any of the provisions of this Code. Any person, partnership, firm or corporation violating any of the provisions of this Code shall be guilty of a misdemeanor, and shall be guilty of a separate offense for each and every day, or portion thereof, during which any violation of the provisions of this Code is committed, continued or permitted.