

MEETING MINUTES (Draft)

Birchwood Planning Commission Regular Meeting

City Hall - 7:00 PM Regular Meeting 4/27/2023

Submitted by Michael Kraemer – secretary

COMMISSIONERS PRESENT: — Andy Sorenson - Chairman, Joe Evans, Michelle Maiers-Atakpu, Michael Kraemer

COMMISSIONERS ABSENT: Michael McKenzie

OTHERS PRESENT: Council Member - Justin McCarthy, City Engineer – Steve Thatcher, Susan Wells, David Buerke, Sandra Kriz Herbert Buerke

TO ORDER Meeting called to order by Chairman Andy Sorenson at 7:00 PM.

1. PUBLIC FORUM – No one present
2. APPROVE AGENDA
 - a. Maiers-Atakpu moved, 2nd by Evans, to approve the agenda as presented.
Vote: Yes – 4, No – 0. Motion to approve agenda passed.
3. REGULAR AGENDA
 - a. Item A – Review/Approve March 26, 2023, Meeting Minutes
 - i. Motion by Evans, 2nd by Sorenson to approve the minutes. Vote: Yes – 4, No – 0, Motion to approve the minutes passed.
 - b. Item B – 2023-03-VB (529 Lake Ave) Variance.
 - i. Public Forum – no one present to speak to topic.
 - ii. Review Variance Application
 1. Susan Wells, David Buerke, Sandra Kriz Herbert Buerke present to speak to the variance application.
 2. Susan Wells indicated discussions with City had indicated a variance to City Code 302.055.2.a.4 – Grading and filling within 20 feet of White Bear Lake OHW, would be required. The variance submitted indicated slope stabilization, retaining wall development, and shoreline rip rapping within the Shoreland District.
 - iii. Review City Engineer Memo
 1. Steve Thatcher – City Engineer discussed his review memo indicating reasons that could be used to deny or approve the variance request.
 - a. Engineer Thatcher’s memo indicated that the variance application submitted was deficient lacking recognition that variance requests from City Code 302.020 – STRUCTURE LOCATION REQUIREMENTS (prohibiting

retaining walls within 50' of White Bear Lake OHW and variance from City Code 302.050 IMPERVIOUS SURFACES (additional impervious generated by retaining wall) must be submitted and taken into account in addition to the shoreline grading/rip rap variance application.

iv. **Commission Finding of Fact.**

1. The shoreline slope at 529 Lake Ave is deteriorating, constitutes a practical difficulty unique to the lot, and warrants stabilization.
2. Rip rapping of the shoreline per DNR guidelines, stabilizing the slope using terracing, intermittent retaining walls, and erosion control and screening perennial plantings appears to be a practical solution to stabilizing the deteriorating slope.
3. It is the opinion of the Planning Commission that the stabilization of the slope as proposed including the walls and plantings are consistent with the intent of, and in harmony with, the City's comprehensive plan to control and protect shoreline and water bodies. Advisory Vote: Yes – 4, No – 0.
4. The Planning Commission supports combining all three required variances into one application consideration (when provided) and supports the granting the variance(s) provided the "Conditions of Support" listed herein are met and meet the approval of the City Planner and City Engineer. Advisory Vote: Yes – 4, No -0.
5. It is the opinion of the Planning Commission that if the "Conditions of Support" outlined below are completed to the satisfaction of the City Planner and City Engineer, that the variance applications do not need to come back to the Commission. Advisory Vote: Yes – 4, No – 0.

6. Conditions of Support/Commission Action:

- a. The initial submittal is deficient and needs to be expanded and resubmitted (before Council consideration) to include variance application from City Codes 302.020 – STRUCTURE LOCATION REQUIREMENTS (prohibiting retaining walls within 50' of White Bear Lake OHW and variance from City Code 302.050 IMPERVIOUS SURFACES. Advisory Vote: Yes – 4, No – 0.
- b. The initial variance submittal is deficient in construction and material details making it difficult for Commission to complete their review. As a condition of Planning Commission support, and before the variance is submitted for Council consideration, the deficient construction info shall be submitted to the City Planner and City Engineer

for review and approval: (Advisory Vote: Yes – 4, No – 0)
Examples of deficient anticipated construction details and material info includes the following:

i. Retaining Wall & Stairway Info

1. Designers name and qualifications
2. Design details such as wall and stairway foundation details, depth of bury, calculations of over-turn, connection details, seepage and drainage materials and details, dead-man and earth anchor locations and layouts, stairway layout and details. The Planning Commission would support the use of native boulder materials as and alternative retaining wall material.
3. Material specifications (I.e. stairways, wall timbers, connectors, dead-man, earth anchors, geotextile, erosion control fabric.)
4. Erosion control measures proposed during construction.

ii. Plantings Info

1. Proposed layouts and positioning plan of perennial plantings for erosion, slope stabilization, and screening.
2. Materials listing and specifications (species, sizes, quantities, bedding, ground cover, mulch, etc.)

c. Item C – New Variance Application Form Review

i. Discussion:

1. The Commission reviewed a sample revised Variance Application form submitted by Council Member Hankins. We applaud Councilor Hankins effort to make city forms as simple and useful as possible.

ii. Commission Input:

1. Commission would support the use of the revised form as presented with following suggested edits.
2. Item L – Replace “If so” with “Shall”. Commission would recommend this impervious calculation be preformed for any variance application whether or not the property is over or under the 25% threshold.
3. Section – Planning Commission Finding of Fact (table)

- a. Item 1 – Add: **Other** _____ at bottom of list incase there are others not on the list.
 - b. Item 6 – Review Questions 1 – 4 to make sure they are pertinent. Commission not sure of intent. Add: **Explain** _____ line to questions 1 – 4 for further refinement of Commissions intent.
 - c. Item 7- 9 – Add: **Explain** _____ line for further refinement of Yes or No answer.
- d. Item D – Impervious Surface Code Revisions
 - i. Item D1 – Discuss Proposed ORDINANCE REPEAILING AND REPLACING 302.050 IMPERVIOUS SURFACES IN THE CITY CODE.
 - 1. Discussion
 - a. DNR would like to see a restoration of shoreland to promote habitat and water quality as a condition of allowing properties to create more than 25% Impervious surface.
 - b. Some Commissioners feel the proposed 8% buffer creation for each 1% of impervious allowed over 25% is excessive and should be in the range of 2 to 1 more like wetland mitigation.
 - c. Stormwater Management Plan Compliance Testing Thresholds
 - i. Stormwater Management Plan compliance testing method and measurement threshold are not presented in detailed in the proposed ordinance is negotiated at the time of each variance application.
 - 1. Since storm water management systems operations tend to vary based on weather patterns and sequencing of maintenance some commission members would encourage some flexibility be given to enforcement action thresholds. (I.e. action threshold set at 70% of design parameters)
 - d. Stormwater Management Maintenance Review Fee
 - i. The 5-year Stormwater Management Maintenance Review Fee was suggested to be lowered to \$100
 - 2. **Commission Action:**
 - a. Correction: Item -2. Definitions – c, Retention Volume. Correct the example formula to reflect its intent of showing a 30% factor. Correct the 35% factor to 30%.

b. Advisory Motion by Sorenson, 2nd by Maiers-Atakpu to support the Ordinance as written with the edits identified herein. Vote: Yes – 4, No – 0. Motion passed.

ii. Item D2 – Discuss ORDINACE AMENDING 302.020 LAND USE DEFINITIONS in City Code.

1. Discussion to review the proposed removal of 302.050 Impervious Surfaces and Lot Coverage. 2. Definitions. 23. - Impervious Surfaces and put it in Section 302.050.

2. **Commission Action:**

a. Advisory motion by Sorenson, 2nd by Evans to support the proposed change. Vote: Yes – 4, No – 0. Motion passed.

iii. Item D3 - Discuss Proposed Ordinance regarging Stormwater Management Maintenance Review fee schedule.

1. **Commission Action:**

a. Advisory motion by Sorenson, 2nd by Maiers-Atakpu, to change the amount of the (once every 5 years) Stormwater Management Maintenance Review fee to \$100. Vote: Yes – 4, No – 0.

e. Item E – Variance Findings Form Review

i. **Commission Action:**

1. It was determined that the Variance Findings Form included in the packet was the existing form and had already be discussed during the review of the proposed upgraded/revised form submitted by Councilor Hankins in Agenda Item C and that no action was necessary.

ii.

4. ADJOURN 9:24 PM

a. Motion by Maiers-Atakpu, 2nd by Evans to adjourn meeting. Vote: Yes – 4, No – 0. Motion passed.