



AGENDA OF THE PLANNING  
COMMISSION  
CITY OF BIRCHWOOD VILLAGE  
WASHINGTON COUNTY, MINNESOTA  
August 24th, 2023  
7:00 P.M.

**CALL TO ORDER**

**PUBLIC FORUM**

**APPROVE AGENDA**

**REGULAR AGENDA**

- A. Approve May 25, 2023, PC Meeting Minutes\* (pp. 2-6)
- B. Approve June 22, 2023, PC Meeting Minutes\* (pp.7-8)
- C. Fence Ordinance Update Review\* (pp. 9-12)

**ADJOURN**

MEETING MINUTES (Draft)

Birchwood Planning Commission Regular Meeting

City Hall - 7:00 PM Regular Meeting 5/25/2023

Submitted by Michael Kraemer – secretary

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

COMMISSIONERS ABSENT

OTHERS PRESENT: Council Member – Justin McCarthy, Council Member – Ryan Hankins, Sue Reiss, Al Reiss, Ellen Maas, Kenneth Mass, Jamie Heisdorffer, Kevin Heisdorffer, John Berg, Ben Wikstrom – New City Consulting Planner, Rebecca Kellen – City Administrator, Ann Tessler, Swan Mercer, Lucy Voltz, Jim Berg, Judy Berg, John Berg

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, 2<sup>nd</sup> by McKenzie, to approve the agenda as presented.  
Vote: Yes – 5, No – 0. Motion to approve agenda passed.
3. REGULAR AGENDA
  - a. Item A – Review/Approve April 27, 2023, Meeting Minutes
    - i. Motion by McKenzie, 2<sup>nd</sup> by Evans to approve the minutes. Vote: Yes – 5, No – 0, Motion to approve the minutes passed.
  - b. Item B - Introduction of Ben Wikstrom – Newly hired consulting City Planner
  - c. Item C – 2023-02-VB (127 Wildwood Ave) Variance.
    - i. Public Forum –
      1. Sue Riess presented a handout to the Commission that included:
        - a. Photo of existing deck at lake shore proposed to be removed.
        - b. Enlarged plat showing location of existing house, existing deck at the lake, and site of proposed deck to be added on house.
        - c. “Areas Planned for Change or Redevelopment” segment from City 2040 Comprehensive Plan
        - d. DNR – Healthy Shorelines paper from MNDNR discussing what a Shore Impact Zone.
      2. Sue Riess discussed following:
        - a. Existing deck is too close to OHW. (8 feet away from OHW)
        - b. Existing deck abuts and sits on the common north property line.

- c. Proposed new deck attached to remodeled house would be 35 feet from OHW (City code requires 50')
  - 3. Sue Riess offered following comments on why City Engineer – Steve Thatcher’s review memo comments were incorrect.
    - a. Engineer’s comments that the relocated deck was not in harmony with City ordinance and not consistent with the comprehensive plan was incorrect in that the relocated deck would solve some of the property line setback requirements and eliminate the existing structure within the OHW.
    - b. She stated that since the existing remodeled house was non-conforming (I.e. within 50’ of OHW) the only way for any deck on the lake side of the house could be conforming was by variance.
  - 4. Lucy Voltz spoke in opposition to the granting of the variance. She indicated the following points:
    - a. The structure at 127 Wildwood Ave. has always been close to the bluff line.
    - b. She felt the addition of the deck on the lake side of the structure would impact the sight lines from their property which is the lot to the north of 127 Wildwood Ave since their house honors the 50 foot set back from the OHW.
  - 5. Ellen Maas spoke in opposition to the granting of the variance and asked why the deck location and setbacks were not taken into consideration when the existing structure reconstruct occurred over the past year. She stated the lower deck on the water is not a visual impact because of the elevation of the slope, but the addition of the deck on the house would be.
  - 6. Ken Maas spoke in opposition to the granting of the variance indicating the addition of a 26’ x 9.5’ deck on the lake side of the house is not a small deck especially given the bluff line is 6’ to 11’ away.
  - 7. Closed Public Hearing at 7:37.
- ii. Review Variance Application
  - 1. Commission Finding of Fact
    - a. The existing deck and the proposed deck relocation to the lakeside of the house are both in violation of City Code 302.020 Structure Location Requirements.
    - b. The existing deck falls within the DNR and the City’s Shore Impact Zone and the Bluff Impact Zones.

- c. The existing deck could qualify to be grandfathered in for potential rehabilitation and repair.
    - d. The Planning Commission agrees with the property owner that the removal of the deck down at the waterfront would be a benefit to the aesthetics of the White Bear Lake lakeshore.
  - iii. Discussion and Recommendations to City Council
    - 1. Commission Recommendation's.
      - a. The granting of the variance is in harmony with the city ordinance. Advisory Vote: Is Not – 4, Is – 1.
      - b. The granting of the variance is consistent with the Comprehensive Plan. Advisory Vote: Is Not – 4, Is – 1
      - c. Are the circumstances unique to the property? Advisory Vote: Is unique – 2, Is not unique – 3
      - d. Where the circumstances created by the applicant's actions? Advisory Vote: Yes – 5. No – 0
      - e. Does reasonable use exist under the code? Advisory Vote: Yes – 5, No – 0
      - f. **PLANNING COMMISSION ACTION. The Commission recommends deny the variance because of none compliance with City code and availability of reasonable uses under city code. Advisory Vote: Yes – 5, No -0**
- d. Item D – 2023-04-VB (423 Wildwood Ave) Variance.
  - i. Public Forum
    - 1. John Berg – 429 Wildwood Ave spoke in favor of the development and granting of the variance.
    - 2. Jim Berg – 419A Wildwood Ave spoke and indicate he was generally in favor of the granting of the variance provided the contours and access to his property remained in place and as is.
    - 3. Jonathan Fleck – 400 Wildwood submitted a letter in opposition to the granting of the on the basis of safety concerns non-code shorter driveway lengths.
  - ii. Review Variance Application
    - 1. Property owners Kevin and Jamie Heisdorffer presented their application.
    - 2. The Heisdorffer's indicated they attempted to match the nature of the neighborhood wherein due to aggressive slopes the houses sit below the garages on the lot.
    - 3. The aggressive lot slope created challenges to meet the City building height restriction code which they achieved

4. The Heisdorffer's had worked with Steve Thatcher to work up options for creation of a pervious paver system. No details were provided with the application and must be checked to see if compliance with the City's Impervious Surface code needs a separate variance application.
  5. Kevin Heisdorffer submitted an email dated 2:26 PM, May 23, 2023 rescinding the request for variance on the north property line setback. They indicated they will comply with the code required 10' setback.
- iii. Comments by City Planner
1. City Planner - Ben Wickstrom that he had review the proposed plan indicating the following:
    - a. Proposed detached 3-car garage and loft style house was a reasonable use for a difficult site.
    - b. He felt it was the best option for the site and did not change the character of the neighborhood.
    - c. The need to work with the 35' change in elevation of the site created unique challenges to the site.
    - d. "Set-back averaging" proposed of the site was commonly done.
- iv. Discussion and Recommendations to City Council
1. Commission Finding of Fact
    - a. The granting of the variance is in harmony with the city ordinance. Advisory Vote: Is Not – 4, Is – 1.
    - b. The granting of the variance is consistent with the Comprehensive Plan. Advisory Vote: Is Not – 4, Is – 1
    - c. Are the special circumstances unique to the property? Advisory Vote: Is unique – 5, Is not unique – 0
    - d. Where the circumstances created by the applicants' actions? Advisory Vote: Yes – 5. No – 0
    - e. Does reasonable use exist under the code? Advisory Vote: Yes – 5, No – 0
    - f. **PLANNING COMMISSION ACTION. Motion by Sorenson and 2<sup>nd</sup> by Maiers-Atakpu, to recommend approval of the Variance with conditions. Advisory Vote: Yes – 5, No -0**
  2. **Conditions of Support**
    - a. Modify the variance to require a 30' structure setback from the street ROW
    - b. The pervious paver system design and construction and perpetual maintenance agreement (which is to be registered with the property) shall be reviewed by and get

the approval of the City Planner and City Engineer before the variance application goes before the City Council for consideration.

c. Advisory Vote: Yes – 5, No – 0.

e. Item E – Solar Panel Proposed Ordinance Review

i. Review and Discussion

1. The Commission reviewed the sample revised Solar Ordinance submitted by Council Member Hankins. We applaud Councilor Hankins effort to make city code as thorough as possible

ii. Discussion and Make Recommendation to City Council

1. **PLANNING COMMISSION ACTION:** The Commission recommends adoption of the Solar Ordinance with Commission edits by the City Council. Advisory Vote: Yes – 5, No -0.

f. Item F – New Variance Application Form Review

i. Review and 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.

2. **PLANNING COMMISSION ACTION:** It was suggested the proposed Variance Application form be submitted to the new City Planner for review and input and then brought back to the Planning Commission for review.

4. ADJOURN 9:27 PM

a. Motion by Evans, 2<sup>nd</sup> by McKenzie to adjourn meeting. Vote: Yes – 5, No – 0.  
Motion passed.

MEETING MINUTES (Draft)

Birchwood Planning Commission Regular Meeting

City Hall - 7:00 PM Regular Meeting 6/22/2023

Submitted by Michael Kraemer – secretary

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

COMMISSIONERS ABSENT

OTHERS PRESENT: Council Member – Justin McCarthy, Council Member

TO ORDER: Meeting called to order by Chairman Andy Sorenson at 7:01 PM.

1. PUBLIC FORUM – No one present
2. APPROVE AGENDA
  - a. Maiers-Atakpu, moved, 2<sup>nd</sup> by Evans, to add an Item C – Request a Council/Planning Commission/Staff work session/discussion meeting in the near future to discuss City internal communications and coordination processes. Vote: Yes – 5, No – 0. Motion to approve amended agenda passed.
3. REGULAR AGENDA
  - a. Item A – Review/Approve May 25, 2023, Meeting Minutes
    - i. Maiers-Atakpu, moved, 2<sup>nd</sup> by Evans, to approve the minutes. Vote: Yes – 5, No – 0, Motion to approve the minutes passed.
  - b. Item B – Review Draft Setback Amendment
    - i. Council Member Justin McCarthy was present to lead discussion on potential changes to City Code Section – 302.020 STRUCTURE LOCATION REQUIREMENTS – 2. MINIMUM SETBACK REQUIREMENTS. Items discussed include:
      1. Structure Setback from municipal and county roads. Consider change from 40’ to 30’.
      2. Fence Setback from municipal and county roads. Consider change from 20’ to 10’.
      3. Retaining Wall Setback from OHW. Consider change from 50’ to 10’
    - ii. Planning Commission offered discussion points pro/cons for consideration and took no formal action requested nor taken.
  - c. Item C - Council/Planning Commission/Staff work session – Topic: City communication and coordination.
    - i. **PLANNING COMMISSION ACTION:** Motion by Maiers-Atakpu, 2<sup>nd</sup> by Evans, requesting the Council authorize a joint Council/Planning

Commission/Staff work session to review internal communications processes. Advisory Vote: Yes – 5, No - 0

**4. ADJOURN 9:27 PM**

- a.** Motion by Evans, 2<sup>nd</sup> by McKenzie to adjourn meeting. Vote: Yes – 5, No – 0.  
Motion passed.



## 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.~~ An application for a fence permit shall be accompanied by a current certificate of survey providing exact lot dimensions; the location of existing buildings, structures, and easements on the lot; and the location of the proposed fence or retaining wall. At the discretion of the City, a final plat detail or aerial map of the lot with the required information shown may suffice if no certificate of survey is available. Applicant shall be required to physically identify the property corners for City inspection.

1. 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.

2. Location. All fences shall be located entirely upon the property of the fence owner.

3. 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.

4. Retaining Walls. Solid walls in excess of four (4) feet high shall be prohibited unless they are part of a building.

5. 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. Electrified and Barb Wire fences are not allowed.

7. Traffic Visibility. Fences may not adversely affect traffic visibility.

8. Drainage. No fence shall obstruct drainage.

9. Fences or retaining walls may, by permit, be located within public easements if the following conditions are met:

a. The fence or retaining wall shall not be located within the 100-year high water level of a waterbody or watercourse, and

c. The fence or retaining wall shall not interfere in any way with any existing underground or over ground utility.

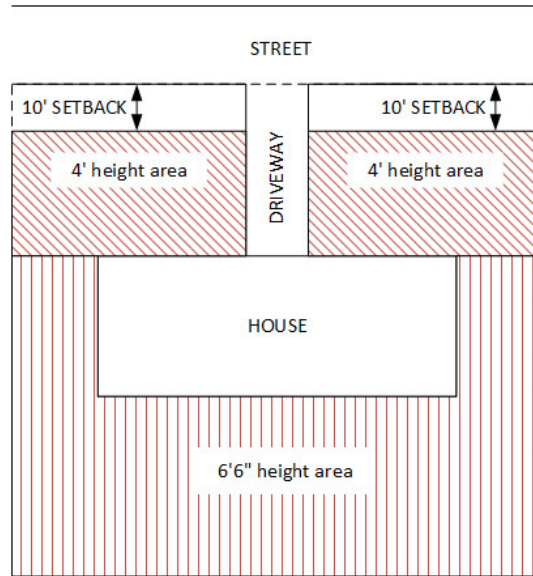
d. The City or any utility company having authority to use such public easements, shall not be liable for repair or replacement of such fence, retaining wall or appurtenance in the event they are moved, damaged, or destroyed by virtue of the lawful use of said easement.

10. Maintenance. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such fence or retaining wall which is or has become dangerous to the public safety, health, or welfare is a public nuisance, and the City shall commence proper proceedings for the abatement thereof.

11. Fence Height:

a. Fences of a maximum height above grade of six feet six inches (78") are allowed behind the front wall of the principal building. Fences in front of the front wall of the principal building are limited to 4 feet in height above grade. See the diagram below:

b.  
Should  
the rear  
lot line  
of a lot  
be



common with the side lot line of an abutting lot, that portion of  
the rear and/or side lot equal to the required front lot line  
structure setback of the abutting lot shall not be fenced or  
walled to a height of more than four (4) feet. See the diagram  
below:

