



AGENDA OF THE PLANNING
COMMISSION
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
October 26th, 2023
7:00 P.M.

CALL TO ORDER

PUBLIC FORUM

APPROVE AGENDA

REGULAR AGENDA

- A. Approve September Meeting Minutes* (pp. 2-4)
- B. Discuss new dates for the November and December meetings.
- C. Section 302 ZONING CODE REQUIREMENTS AND PERFORMANCE STANDARDS v2023.09.12* (pp. 4-12)
 1. Review and Discuss
 2. Make Recommendations

ADJOURN

* Denotes items that have supporting documentation

MEETING MINUTES (Draft)

Birchwood Planning Commission Regular Meeting

City Hall - 7:00 PM Regular Meeting 9/28/2023

Submitted by Michael Kraemer – secretary

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

COMMISSIONERS ABSENT

OTHERS PRESENT: Lucy Voltz – on behalf of Ellen J Maas Estate property at 127 Wildwood Ave.

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

1. PUBLIC FORUM

- a. Lucy Voltz presented a letter addressed to the Mayor and Council dated 8/28/2023 – RE: Response to 127 Wildwood Ave Conditional Use Permit (CUP) Application. Ms Voltz addressed concerns the Ellen J. Maas Estate custodians have with a number of the current actions and conditions created and proposed by the construction on the property at 127 Wildwood Ave. These included but are not limited to actions such as construction crews trespassing on adjacent properties, erosion and sediment being caused to their property and lack of communication and notification of proposed construction activities.

2. APPROVE AGENDA

- a. Michael McKenzie requested an Item D be added to the agenda to discuss and request a joint meeting/work session with the Council, City Planner, City Engineer, and City Clerk in the near future to discuss internal communications and coordination processes, City policy and protocols, and code enforcement jurisdictions.
 - i. Motion by Evans and 2nd by Sorenson to add Item D to the Agenda.
Vote: Yes – 5, No – 0. Motion passed.
- b. Motion by Evans and 2nd by Maiers-Atakpu, to approve agenda as amended.
Vote: Yes – 5, No – 0. Motion to approve amended agenda passed.

3. REGULAR AGENDA

- a. Item A – Review/Approve June 22, 2023, Meeting Minutes
 - i. Maiers-Atakpu, moved, 2nd by Sorenson, to approve the minutes. Vote: Yes – 5, No – 0, Motion to approve the minutes passed.
- b. Item B – Discuss Planning Commission Meeting Dates for November and December of 2023

- i. Discussion: In an effort to avoid holiday conflicts and allow City staff adequate time for packet preparation it was proposed to move the November and December planning commission meeting dates.
 - ii. Motion by Evans and 2nd by McKenzie to move the November Planning Commission meeting date to November 16, 2023, at 7:00 PM. Vote: Yes – 5, No – 0. Motion passed to move the meeting date.
 - iii. Motion by Maiers-Atakpu and 2nd by Sorenson to move the December 2023 Planning Commission meeting date to December 21, 2023 at 7:00. Vote: Yes – 5, No – 0. Motion passed to move the meeting date.
- c. Item C – Fence Ordinance Update Review
 - i. Discussion: The Commission members had some items for consideration related to the fence ordinance as proposed.
 - ii. ACTION TAKEN: In light of a proposed joint Council, Commission, City Engineer, City Planner, and City Administrator meeting/work session where protocols and processes for code language edits will be discussed, it was decided to table any action on the proposed Fence Ordinance until after the meeting/work session. ITEM C WAS TABLED.
- d. Item D - Council/Planning Commission/Staff joint meeting/work session – Topic: City communication and coordination.
 - i. **PLANNING COMMISSION ACTION:**
 1. The Planning Commission thought it would be helpful if all the city staff were also present at the joint meeting/work session so all could hear the discussion and recommendations at the same time.
 2. The following are some Planning Commission suggestions for the joint meeting/work session discussion:
 - a. Review the job description, role, duties, authority, and responsibility of City staff (including the City Planner, City Clerk, City Engineer, City Building Official) and the role of the Planning Commission and City Council as it relates to the following:
 - i. Administration of permit applications for completeness and time lines. (Are our current checklists adequate to eliminate false starts and re-dos. Who determines if variances or CUP are required?)
 - ii. Administration of construction and permit follow up, enforcement, and closeout. (Are we monitoring in-field compliance with plans and specifications? Are we monitoring construction activities like erosion control?)

- iii. Administration of our variance and CUP application processes. (Are they as thorough as they need to be as it relates to application completeness, timeline monitoring, compliance review, follow up during construction, enforcement and closeout. Is it as streamlined as it could be? Who is monitoring timelines? Who is monitoring in-field compliance?)
- iv. Periodic City Code review? (Do we have a policy for periodic code review and upgrades? Who can propose suggested edits, additions, deletions? What is the venue and protocol for such suggestions?)
- v. City policy and enforcement protocol (timeliness, completeness) related to meeting agendas, public notifications, supporting document submittal, etc. (Do we enforce packet submittal deadlines? Should we?)

4. ADJOURN 8:18 PM

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

To: Birchwood Planning Commission
From: Ryan Hankins
Re: Conditional use permits for side setbacks.

The following ordinance proposal allows some reductions to side setback restrictions with a conditional use permit. While the planning commission will get to (or have to) evaluate conditional use permits, they allow us to define clear conditions and allow applicants some additional assurance that they can build *something* on a narrow lot.

This is based on the old setback code which was recently amended; it will have to be updated when the new code is published.

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 302.020 OF ORDINANCE 302 ADOPTED ON OCTOBER 13, 2023, AND TITLED: “ZONING CODE: REQUIREMENTS AND PERFORMANCE STANDARDS.”

Findings and Purpose:

Bitchwood currently requires 10-foot setbacks on lot lines not along shoreline or a street or road. While this works well for properties on wide lots, many lots are narrower, and we have granted many variances to reduce the required setbacks.

While it would be ideal to develop code that prescribes comprehensive setback reductions for narrower properties, leaving the planning commission and city council the flexibility to add conditions to setback reductions and proposing a “default” reduction of up to six feet is more desirable. A conditional use permit allows the city to evaluate how structures might fit onto a narrow property and assign conditions, and to apply its own conditions to construction, rather than the standard of practical difficulty.

The City Council of The City of Birchwood Village, Minnesota ordains:

Section 302.020 of ordinance 302. . ZONING CODE: REQUIREMENTS AND PERFORMANCE STANDARDS is hereby amended to read:

302.020. STRUCTURE LOCATION REQUIREMENTS

1. GENERAL REQUIREMENTS. All structures must be located so that minimum setback requirements are met or exceeded. All measurements (in feet) as set forth below shall be determined by measuring from the foundation of the appropriate structure perpendicular to the appropriate lot line.

Exceptions: Front, back, side street and other lot line setback requirements shall not apply to chimneys, flues, belt courses, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like, provided they do not project more than two (2) feet into a required yard setback.

2. MINIMUM SETBACK REQUIREMENTS:

TYPE OF STRUCTURE

<u>Lot line or Land Boundary</u>	<u>Fences</u>	<u>Driveways & Walkways</u>	<u>All Other Structures</u>
--------------------------------------	---------------	-------------------------------------	---------------------------------

Municipal Street Front, Back, and Side	20 ft.	0	40 ft.
County Road Front, Back, and Side	20 ft.	0	50 ft.
Ordinary High Water Level of Lost Lake	75 ft.	75 ft.	75 ft.
Ordinary High Water Level of White Bear Lake, Hall's Marsh, and other wetlands	50 ft.	50 ft.	50 ft.
All Other Lot Lines	0 ft.	1 ft.	10 ft.

The ordinary high water levels of three water bodies have been established to be the following:

ORDINARY HIGH WATER LEVELS (Feet Above Mean Sea Level)

DNR ID #82-167	White Bear Lake	924.7 (NGVD, 1929)
DNR ID #82-134	Lost Lake	925.6 (NGVD, 1929)
DNR ID #82-480W	Hall's Marsh	924.7 (NGVD, 1929)

3. ACCESSORY STRUCTURES. No accessory building or structure, unless an integral part of the principal structure shall be erected, altered, or moved to, within five (5) feet of the principal structure except fences, driveways, walkways, and decks which may be as close as actually abutting the principal structure.

4. SETBACK REQUIREMENTS EXCEPTIONS.

- a. Dock and Pier Setbacks: Setback requirements from the ordinary high water levels shall not apply to piers and docks. Locations of piers and docks shall be controlled by applicable state and local regulations.
- b. Retaining Wall Setbacks: Front, back, side street and other lot line setback requirements shall not apply to retaining walls except that the ordinary high water level setback requirements shall apply to retaining walls.
- c. Nominal Structures: Front, back, side street and other lot line setback requirements shall not apply to nominal structures such as small arbors, moveable yard furniture, moveable docks, storage boxes, dog houses, mail boxes, library small boxes, lock boxes, flagpoles,

lawn ornaments and other similar items, which shall be exempt from setback regulations, but not including decks, platforms, or shelters such as pergolas.

- d. Minimum Dwelling Size: Notwithstanding § 302.015, for any lot of record as of January 1, 1975, which remains in its then-existing dimensions, and for which the Minimum Setback Requirements preclude construction or reconstruction of a single dwelling 24 feet wide and 32 feet long, a conditional use permit may be granted to reduce up to two setbacks from All Other Lot Lines a combined total of up to four feet to permit a dwelling up to 24 feet wide. Conditions shall apply to:
- a. minimize extension into prevailing street, road and shoreline setbacks. The prevailing setback is to a line extending between the nearest point to the street, road or shoreline of the dwellings and/or garages of the nearest two contiguous lots in each direction along the same street, road or shoreline; and
 - b. maintain distances between structures and ensure reasonable vehicle and pedestrian access and use of abutting lots; and
 - c. provide sufficient space for a garage and off-street parking; and
 - d. maintain sightlines from adjacent lots to shoreline.
- e. Minimum Garage Size: Notwithstanding § 302.015, for any lot of record as of January 1, 1975, which remains in its then-existing dimensions, does not contain an attached or detached garage, or contains one such garage which will be replaced, and for which the Minimum Setback Requirements preclude a detached garage 24 feet wide and twenty feet deep and set back thirty feet from a street or road, a conditional use permit may be granted to reduce up to two setbacks from All Other Lot Lines a combined total of up to four feet to permit a detached garage up to 24 feet wide. Conditions shall apply to:
- a. minimize extension into prevailing street, road and shoreline setbacks. The prevailing setback is to a line extending between the nearest point to the street, road or shoreline of the dwellings and/or garages of the nearest two contiguous lots in each direction along the same street, road or shoreline; and
 - b. maintain distances between structures and ensure reasonable vehicle and pedestrian access and use of abutting lots; and
 - c. maintain sufficient space for off-street parking; and
 - d. limit the number and size of accessory structures on the property; and
- maintain sightlines from adjacent lots to shoreline.

“AMENDED BY ORDINANCE 2013-08-01; AUGUST 13, 2013.”

“AMENDED BY ORDINANCE 2021-01-01; FEBRUARY 9, 2021”

5. STRUCTURES IN WETLANDS. No structures are allowed within any wetlands.

“AMENDED BY ORDINANCE 1997-2; AUGUST 12, 1997.”

“AMENDED BY ORDINANCE 2003-1; FEBRUARY 12, 2003.”

302.030. HIGH WATER ELEVATIONS. All buildings shall be located such that the lowest floor surface is at a level at least three (3) feet in elevation above the highest known water level of any lake, pond, or wetland adjoining the lot. For three water bodies the high known water levels are:

HIGHEST KNOWN WATER LEVELS (Feet Above Mean Sea Level)

DNR ID #82-167	White Bear Lake	926.7 (NGVD, 1929)
DNR ID #82-134	Lost Lake	927.0 (NGVD, 1929)
DNR ID #82-480W	Hall's Marsh	926.7 (NGVD, 1929)

302.040. STRUCTURE REQUIREMENTS.

1. Each dwelling unit must have a floor area of at least 900 square feet.
2. The maximum square footage of a storage shed is 144 square feet. No person shall place automobiles, vans, or trucks in a storage shed.

302.045 STRUCTURAL HEIGHT RESTRICTIONS

1. STRUCTURAL HEIGHT LIMITATION: The maximum height of a structure as calculated by Method A or Method B (see below) is as follows:

<u>Structure type</u>	<u>Structure Height Limitation</u>
Principal Structure/attached garage	30 feet
Detached garage	18 feet
Detached storage shed	12 feet

“AMENDED JUNE 14, 2016”

“AMENDED DECEMBER 13, 2016”

METHOD A: (Most applicable to 3-dimensional structures, e.g. houses and garages.) The maximum height of a structure is the difference between the elevation of the highest point of the structure and the average elevation of the grade plane. The grade plane shall be calculated based on the method shown in Exhibit A below. Elevation points at the ground level shall be evenly distributed along each façade.

“AMENDED JUNE 14, 2016”

METHOD B: (Most applicable to structures which are mainly 1- or 2-dimensional, e.g. towers and walls.) The maximum height of a structure is the difference in elevation between any point on the structure and the ground directly below that point.

2. Grading/Fill Limitation

The existing grade of the property shall not be raised around a new building or foundation in order to comply with the height requirements of this code.

“AMENDED JUNE 14, 2016”

3. Tallest Point Limitation

Regardless of the structure height limitations for principal structures specified in section 302.045 subsection 1 above, the lowest point on the façade to the tallest point of a structure shall not exceed 35 feet. Also, the tallest point of an attached garage shall not exceed the height of the tallest point of the principal structure.

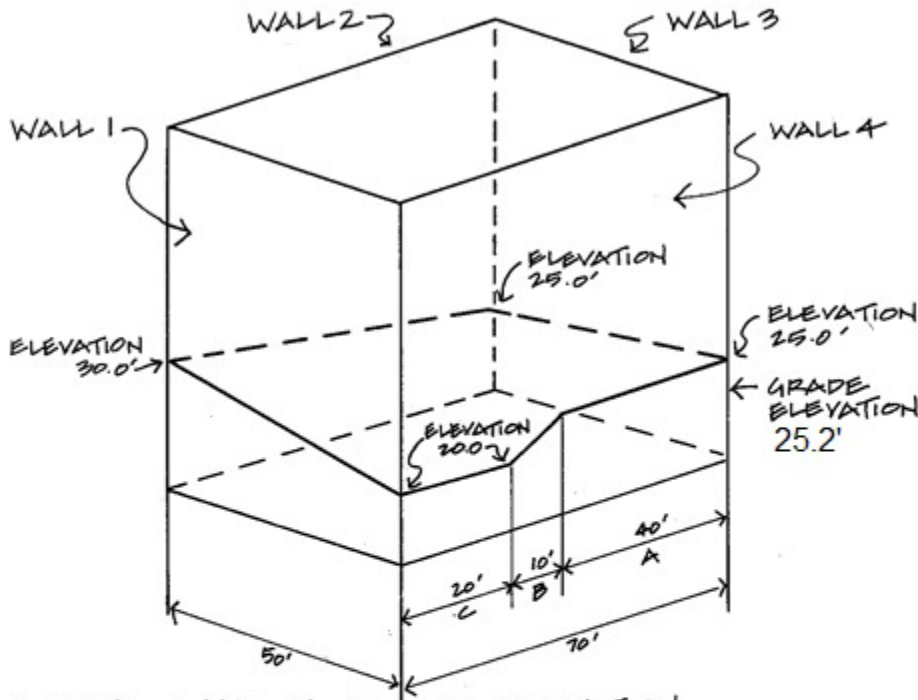
“AMENDED JUNE 14, 2016”

4. Exceptions.

The structure height and tallest point limitations established herein shall not apply to chimneys and flues provided the footprint or horizontal area of the chimney or flue does not exceed 16 square feet and the top of the chimney or flues and does not extend more than three feet above the tallest point of the structure.

Exhibit A:

ILLUSTRATION 16: GRADE, GRADE ELEVATION



GRADE = AVERAGE GROUND ELEVATION

WALL 1 $\frac{20.0 + 30.0}{2} \times 50 = 1250$

WALL 2 $\frac{30.0 + 25.0}{2} \times 70 = 1925$

WALL 3 $\frac{25.0 + 25.0}{2} \times 50 = 1250$

WALL 4 A- $25.0 \times 40 = 1000$

B- $\frac{25.0 + 20.0}{2} \times 10 = 225$

C- $20.0 \times \frac{20}{2} = \frac{400}{240}$

$\frac{6050}{240}$

GRADE = $\frac{6050}{240} = 25.2$

This ordinance becomes effective from and after its passage and publication. Passed by the City Council of The City of Birchwood Village, Minnesota this _____ day of Month, Year.

Mayor

Attested: _____

City Clerk

