

**CITY OF BIRCHWOOD VILLAGE
207 BIRCHWOOD AVENUE
BIRCHWOOD, MINNESOTA**

**MINUTES OF THE CITY COUNCIL MEETING
July 9, 2024, 6:45 P.M.**

MEMBERS:

Margaret Ford	Mayor
Mark Foster	Councilmember
Ryan Hankins	Councilmember
Justin McCarthy	Councilmember
Kathy Weier	Councilmember

STAFF:

Rebecca Kellen	City Administrator
Alan Kantrud	City Attorney

Minutes prepared by Rebecca Kellen from a video recording.

1. CALL TO ORDER (0:16:13)

A. Mayor Ford called the meeting to order at 6:46PM.

2. APPROVE AGENDA

On a motion made by Councilmember Weier, seconded by Councilmember McCarthy, it was resolved to approve the agenda as amended. All in favor; motion carried.

A. The following changes were made to the agenda:

- a. Mayor Ford added Discussion of Excess Gravel.
- b. Councilmember McCarthy added Halls Marsh Update.

3. PUBLIC FORUM (0:17:34)

John Winters, 429 Lake Ave expressed gratitude for the 4th of July Parade and thanked the council for their service.

Barton Winters, 1 Five Oaks Lane said that he is concerned with Tighe-Schmidt Park and in particular the area behind the hockey rink that needs to be drained. He also said he thinks extra stop signs and other speed deterrents in Birchwood are not necessary and that people may avoid driving through Birchwood if they are implemented.

Rachel Drew, 180 Cedar St discussed engineering hours mentioned at the last meeting saying they were excessive according to her ask, with respect to 160 Cedar. She apologized for where she may have confused issues and requested the “bad neighbor” rhetoric be stopped as this is about the permitting process and drainage at 160 Cedar. She talked about her experience with the engineer and said she still has concerns about the drainage.

4. ANNOUNCEMENTS (0:24:03)

- A. The August city council meeting will take place on August 6th instead of August 13th due to elections. That meeting will not be live streamed but will be recorded and posted to U-tube.

5. CONSENT AGENDA (0:24:33)

On a motion made by Councilmember Hankins, seconded by Councilmember Weier, it was resolved to approve the Consent Agenda items B and C. All in favor. Motion carried.

A. Item A – Treasurer’s Report

- a. Councilmember McCarthy said that the donation received from Brian Lind deposited on 6/25/24 (receipt 171736129*), donation to the community club need to be removed, and Mayor Ford directed Administrator Kellen to have the Treasurer remove the charge.
- b. Councilmember Hankins questioned claim 7044*, the disbursement of \$54 on June 30th to Hunt Electric, saying that the electrician did not get a permit for the work initially and he does not think it is reasonable to pay him for a permit he did not get before the work began. He requested the claim be disallowed. Mayor Margaret suggested that it be looked into further and revisited next month to which Council member Hankins agreed.

On a motion made by Councilmember Hankins, seconded by Mayor Ford, it was resolved to approve consent agenda item A, Treasurer’s Report, except for receipt 171736129* and claim 7044*, as indicated above. All in favor. Motion carried.

6. CITY BUSINESS (0:28:12)

A. 24-01-VB (425 Lake) Variance

- a. **Carson Schifsky, Representing Robert Davidson, 425 Lake**, said that this is a stabilization project creating a retaining wall and the variance is for the setback to the WBL OHWL. He said they initially started with a concrete retaining wall, and after a couple of visits with the planning commission it was changed to a boulder outcropping because that was more natural looking, and they made other changes to better suit the look and appeal of the lakeshore. He said the goal

is to stabilize the hillside which is eroding with a retaining wall. There is an existing deck as well that would be rebuilt at the same time in a similar location. The deck is a landing with a stairway down to the lake creating access down the hill to the lake.

- b. Mayor Ford asked if there would be plantings as part of the project to which Mr. Schifsky replied that there would be. He said there is rip rap near the shoreline that is going to stay. The retaining wall will be set back behind it. The section in between will get plantings with grass up on top of the retaining wall.
- c. Councilmember Hankins said that originally this was a variance where the setback from the lake was 15 ft., and the required setback is 50'. That was the only variance that was requested and that was the only publication that was made in the paper. At the second planning commission meeting the variance was revised to go from a 4' wall to a wall that was almost 8' that required an additional variance. As a result of the additional variance, we are holding a second public hearing here so that we can hear neighborhood input.
- d. **Mayor Ford Opened the Public Hearing.**
- e. **Robert Davidson, 425 Lake**, said that when they did the extension to the house in 2009, the builders overlooked the planning and the consequence of that is that they have massive erosion on the left-hand side of the garden, so the primary issue is to stop the erosion. And the second objective is to do landscaping along with the project.
- f. **Kathy Madore, 413 Lake**, said that the pictures she saw were of the concrete wall and she was concerned about that look and now she understands it's going to be stone. She also wanted to know how far away it is going to be from her lot line. She requested plants be planted there. She agrees they need to fix the erosion but wanted to get more details on the direction of the wall, height and how far it will go out. She also wanted verification that there is not going to be any runoff on her property because now there is a downspout that runs onto her property. She also wanted to make sure that when the work commences, they are on his side doing the work because she has irrigation systems there. Her side is not very wide, and she has a retaining wall there and is concerned about damage to that wall. She said she prefers the stones to the concrete and requested perennials be planted.
- g. Mr. Schifsky responded that the wall will be 3'-5' off the property line and there will be planting on the lower side facing the lake as well as the side and that was part of the changes that they made after the planning commission meeting. He stated they added rain gardens on the top and there is also going to be down spouts going in the drain

tile and drain boxes going over to the rain gardens so it's going to eliminate all the gutter run off that is going towards her property. The council asked whether the distance was 3' or 5'. The council discussed the scale of the drawings to which Mr. Schifsky replied that the survey is to scale and that the distance from her property line is 5'.

- h. The survey was put up for viewing and Mr. Schifsky showed where the elevation would be the full 7' height and then as the hill steps back the elevation will be less because the wall will die off into the hillside. He showed where the rainwater that is coming off the downspouts of the house is going to be captured. He showed a drawing of how the wall dies back into the hillside and said that there will be about 1' exposed at the point of entry into the hillside. He showed where the side and bottom of the retaining wall would get planted. He reviewed the drainage plan.
- i. Robert Davidson, 425 Lake, said that his gardening purpose is to make sure they do not see the wall and that shrubberies will be put in and, in a year or two the growth will cover the side and also commented about making sure it is 5' from Ms. Madore's property.
- j. **John Winters, 429 Lake**, said he is the neighbor on the other side, and they have no objections at all, and they love the project.

On a motion made by Councilmember Foster, seconded by Councilmember McCarthy, it was resolved to close the public hearing. All in favor. Motion carried.

- k. Councilmember Hankins asked about the scale of the survey to which Mr. Schifsky said the depth may not be to scale but the location is accurate. He also explained that it is 5' from the property line however using boulders leaves some room for variation, unlike concrete. Mr. Schifsky said he will keep them at 5' from the property line. He was asked about the distance away from the OHWL to which he responded 15' is the majority of the wall and there is a section that is 10'. Councilmember Hankins then said that the minimum setback from the lake then is 10', not 15' and clarified he is asking for a variance from 50' to 10' to which he said correct.
- l. Councilmember Hankins asked about the deck and stairs. Mr. Schifsky said the dimensions of the deck are 4'X8' and the current one is an irregular trapezoidal shape probably a little larger than the proposed. He said that the deck is being shifted and a portion of the new deck will be in a place where there currently is no deck. He asked

about the setback of the lower stairway of the deck from the East property line to which Mr. Schifsky responded about 20 feet.

- m. **Barb Winters, 429 Lake**, said she has a wall that they have had there since they purchased the property, and the proposed wall is trying to meet up with that wall and not go any further toward the lake.
- n. Councilmember Hankins asked about the existing impervious surface of the property being at 30.69% and the project adding 268 square feet, and the application states they will be going to 40.2% to which Mr. Schifsky said that that is because of some of the pavers that are considered pervious. Councilmember Hankins said that an increase of 268 square feet is a 2.1% increase which would mean impervious surface increases from 30.7% to roughly 32.8%.
- o. Councilmember Hankins stated that the second variance is the variance to build a wall in excess of 4' which is prohibited unless part of a building (302.0705, solid walls). He said the variance is for building a wall 7' high. He went on to say that they were not applying for any variance for the impervious surface already over 25% and being increased to which Mr. Schifsky said then yes if it's needed, they would apply for that.
- p. Councilmember Hankins asked about moving the dirt on the property referencing city code 302.055.2.a.4 – no grading or filling shall be permitted within 20 feet of the OHWL of the lake and Councilmember Hankins asked Mr. Schifsky about requesting a variance to that code. Mr. Schifsky said he is looking to build a retaining wall to stop the erosion and will need to get as many variances needed to do so. He thought it would be one variance to build a retaining wall outside of code to which the Councilmember McCarthy said that is not how it works. Councilmember McCarthy said that this protects the city and the applicant.
- q. Attorney Kantrud said that each variance must be heard as such and go through the same process, and they cannot be generated on the spot. He said that an amended application would be required, and each variance would need to be heard by the planning commission and have a public hearing.
- r. Councilmember Hankins expressed concerns with the planning commission having to review more variances. Mr. Schifsky said that there were changes in the application after the conversations with the planning commission to try to address some of the concerns but was under the impression that those additions could be addressed at this meeting and was not asked to submit another application. Councilmember Hankins said there were two more variances he thought were needed.

- s. Attorney Kantrud recommended the council act on the variances that were presented and said Mr. Schifsky should request additional variances with an amended application.
- t. Councilmember Hankins said he thought there were 6 total variances needed and that the application was for 2. He listed out the following variance needed:
 - 1. 302.020, structural location requirements.
 - 2. 302.050, Impervious Surfaces and Lot Coverage.
 - 3. 302.055.2.a.4, land disturbance activity standards - no grading of filling shall be permitted within 20 feet of the OHWL of the lake.
 - 4. 302.055.2d7b3, requires protective buffer stripe of vegetation at least 16.5' back from the OWHM.
 - 5. 302.070.5, retaining walls.
 - 6. 302.080, stairs of lifts to lake or water body - landings may be permitted at a minimum interval of 20'
- u. Councilmember McCarthy said that the reason this is begin scrutinized is because it is by the lake so there is run off and habitat concerns for animals on the lake. He explained that a rewrite of the code was completed and needed DNR approval, so habitat is a consideration. He asked about rain gardens and if there were design specs for those and requested those be submitted. He had concerns with impervious surface. He asked about the infiltration rate. He said the base amount of impervious surface is 25% and if one exceeds that there is a required infiltration rate and asked if Mr. Schifsky had that information to which he replied he did not. He asked about using rain gardens and native plants without the retaining wall so there is not that run off from erosion to which Mr. Schifsky said that he believed the retaining wall was the best solution.
- v. Councilmember Weier asked questions about the stairs and location of the deck and the drainage plans. She asked about the part above the retaining wall if it was flat to which Mr. Schifsky responded it would be sloped, but less than it is now. She asked about the soil being moved below. Mr. Schifsky said the existing rip rap will stay and in between that and the retaining wall it will be planted. She thought the boulder wall is more appealing and confirmed that workers will stay on the property while working.
- w. Councilmember Hankins asked about what alternatives were considered to resolve the problem other than a retaining wall. He referred to a DNR pamphlet regarding alternatives to retaining walls and asked if these were considered. Mr. Schifsky said he thought that leveling the slope more would be their best preventative measure against erosion.

- x. Mayor Ford said that the planning commission recommended approval of the variance requests.
- y. Councilmember McCarthy said that he has concerns they are treating a symptom and not the problem, the impervious surface, and the runoff. He said he would like to see the drainage plans to the rain gardens. He is unsure whether they would need a retaining wall or not if they treated the runoff problem which is due to impervious surface.
- z. Councilmember Weier said she is also interested in seeing the plans for the rain garden but otherwise likes the plan.
- aa. Councilmember Hankins said he thinks this wall will stick out being so close to the lake and he does not agree that it meets the character of the locality. He also said he thinks the increase in impervious surface requires compensation and there is no shoreline planning in the current plan. He expressed his concerns about the variances being discussed and was not convinced they fit in with the intent of the ordinance.
- bb. The council discussed which variances were being discussed and Administrator Kellen said a new letter was sent out to surrounding residents informing them of a second variance request, the increase in the retaining wall height. Mayor Ford said that the 2 variances in question for that meeting were the OHWM setback and the height of the wall.

On a motion made by Councilmember Weier, seconded by Mayor Ford, it was resolved to approve the variance request for a retaining wall partially 10' and partially 15' from the OHWM of WBL. Mayor Ford and Councilmembers Weier and Foster in favor. Councilmembers McCarthy and Hankins opposed. Motion carried.

- cc. Mayor Ford listed the following the reasons:
 1. There is a practical difficulty due to the extensive slope in front of the property towards the lake.
 2. The condition which results in the need for a variance was not created by the applicants actions or design solutions. The applicant shall have the burden of proof showing that no other reasonable design solution exists.
 3. Granting of the variance will result in no increase in the amount of water draining from the property.
 4. It will not impair the supply of light and air to adjacent property or unreasonably diminish property values within the surrounding area.

5. It will not impact health, welfare, or safety of the residents of the city.

On a motion made by Councilmember Weier, seconded by Councilmember Foster, it was resolved to adopt as findings the reason for the variance listed above and also that it is a reasonable use of the property. Mayor Ford and Councilmembers Weier and Foster in favor. Councilmembers McCarthy and Hankins opposed. Motion carried.

- dd. The council went on to discuss lot merge requirements and councilmember Hankins said that the lots need to be merged. Mayor Ford asked Robert Davidson if he was aware of this requirement, and he said he was not. The decision was made to have him register the 2 parcels as one PID according to state statues which would be a condition of the variance. Mr. Davidson was told how to complete the lot merge process.

On a motion made by Mayor Ford, seconded by councilmember Weier, it was resolved to approve the second variance request for the height of the retaining wall to a maximum of 7' above grade with the conditions listed below, as well as the requirement to merge the 2 lots into one PID. Mayor Ford and Councilmembers Weier and Foster in favor. Councilmembers McCarthy and Hankins opposed. Motion carried.

1. The applicant receives approval of all necessary jurisdictional permits.
2. Applicant secure all applicable construction permits for the wall and stairway.
3. The applicant receives approval of the design parameter, calculations, and plans by the City engineer, City planner, and City building official as applicable.
4. Stairway and landing reconstruction shall meet all code requirements.
5. No increase in runoff onto adjacent properties.

ee. John Winters, 429 Lake Ave, said the lot lines have been messed up for years.

ff. Councilmember McCarthy asked that an agenda item be added for August to discuss with the Planner, Ben Wickstrom, what happened with this variance. (1:52:32)

B. White Bear Lake Conservation District Board Applicants (1:54:41)

- a. Mayor Ford explained that there are 2 spots to fill.

- b. **Susie Mahoney, 479 Lake Ave**, said that she is currently on the WBLCD said that she would like to continue in her role.
- c. **Shari-Salzman Hankins, 183 Wildwood**, said she wants to serve Birchwood and would like to help conserve the lake.

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to reappoint Susie Mahoney to the WBLCD Board for another 3-year term. All in favor. Motion carried.

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to appoint Shari-Salzman Hankins to the WBLCD Board for a 3-year term, replacing Darin DeYoung. All in favor. Motion carried.

C. Second Reading Ordinance 2024-06-01 (621) Personal Property on City Property (1:59:01)

- a. Councilmember McCarthy said that it was difficult to put in the ordinance how to make an exception for sharing toys at the beach that could not be exploited so to resolve this he built in administrative discretion.
- b. Mayor Ford opened the public hearing.

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to close the public hearing. All in favor. Motion carried.

On a motion made by Councilmember McCarthy, seconded by Councilmember Foster, it was resolved to approve Ordinance 2024-06-01. All in favor. Motion carried.

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to approve Resolution 2024-30. All in favor. Motion carried.

D. Second Reading 2024-06-02 (622) Solicitors (2:02:16)

- a. Councilmember McCarthy explained that solicitors have been more prevalent in Birchwood recently and he does not think people should not have to not answer their doors. He included a registration form with the materials. He said that enforcement can be easy because the homeowner can ask to see the license of the solicitor.

On a motion made by Councilmember McCarthy, seconded by Councilmember Hankins, it was resolved to close the public hearing. All in favor. Motion carried.

- b. Councilmember Weier said that she believes this will be hard to enforce and if someone is pestering you in your yard you can call the sheriff to which councilmember Foster agreed and he added his concerns around the administrative burden and the consequences outweighing the benefits. He had concerns with us becoming the nuisance police.
- c. Councilmember Hankins said overall he is supportive, and it is done in other cities.

On a motion made by Councilmember McCarthy, seconded by Councilmember Hankins, it was resolved to approve Ordinance 2024-06-02. Councilmembers McCarthy, Hankins, and Mayor Ford in favor. Councilmembers Foster and Weier opposed. Motion carried.

On a motion made by Councilmember McCarthy, seconded by Councilmember Hankin, it was resolved to approve Resolution 2024-31. All in favor. Motion carried.

E. First Reading Ordinance 2024-07-02, Solicitors on Fee Schedule – (2:10:33)

- a. Mayor Ford explained that this this the fee being added to the fee schedule for solicitors and the council clarified that amount of the fee and ultimately decided on \$100.

On a motion made by Councilmember McCarthy, seconded by Councilmember Weier, it was resolved to order a second hearing of Ordinance 2024-07-02, setting the solicitor registration fee at \$100. All in favor. Motion carried.

F. First Reading Ordinance 2024-07-01, Water and Sewer Permit on Fee Schedule (2:12:54)

- a. Mayor Ford explained that this was a catch, that we did not have this on the fee schedule.

On a motion made by Councilmember Weier, seconded by Councilmember Hankins, it was resolved to order a second hearing of Ordinance 2024-07-01. All in favor. Motion carried.

- b. Councilmember Hankins commented on a few corrections he had for the ordinance write up.

G. Lawn Mowing Quotes – (2:16:34)

- a. Councilmember McCarthy talked about the problems with mowing and the council discussed the quotes.

On a motion made by Mayor Ford, seconded by Councilmember McCarthy, it was resolved to approve the bid from Top Green for weekly mowing. All in favor. Motion carried.

H. Ash Path Fence Quotes – (1:20:25)

- a. Councilmember McCarthy said that the council would like fencing to delineate the path and city owned property. The path of the trail would need to be moved a bit. He said the money from this would come from the special revenue fund/dock association money.
- b. Mayor Ford said that our maintenance staff could do a split rail because the companies we contacted do not offer that and she thought that was more appropriate in that area anyway.
- c. Councilmember Weier suggested they start with the cheapest option available.
- d. The council asked that administration find out how much it would cost to do a split rail fence on Ash Path.

I. Trail from White Pine to Birchwood Avenue (2:33:52)

- a. Councilmember McCarthy discussed establishing a trail that starts at White Pine and goes through a little section of Mahtomedi and ends up on Birchwood Ave. He said Mahtomedi has given up permission to move forward and the trail provides more space for people to walk that is not on Hall Ave. He asked that we get a legal description of the property. He wanted to know if the council was interested in moving forward.
- b. Attorney Kantrud said that it is already surveyed and that an agreement with Mahtomedi would be necessary.
- c. Councilmember McCarthy said he would assign contacting Mahtomedi to the Parks Committee.

On a motion made by Councilmember McCarthy, seconded by Mayor Ford, it was resolved to pursue establishing a trail from White Pine to Birchwood Ave. All in favor. Motion carried.

J. 131 Wildwood – Approve RESOLUTION 2024-32 (2:42:12)

- a. Councilmember Hankins explained that vacant properties result in a lot of complaints and our fee was recently dropped and is very reasonable. He said they were given another month and still have not registered so it is time to site them. He had concerns about them not registering.
- b. Administrator Kellen said that they contracted for the demolition of the property and that Scott Berg and Len Pratt have been in contact with her.

On a motion made by Councilmember Hankins, seconded by Councilmember McCarthy, it was resolved to approve Resolution 2024-32, excluding the section where the city attorney is supposed to cite them. All in favor. Motion carried.

K. 310/312 Wildwood – Approve RESOLUTION 2024-33 (2:46:42)

- a. Attorney Kantrud said that he is in contact with law enforcement about the properties regarding the citations referenced in the previous resolution.

On a motion made by Councilmember McCarthy, seconded by Councilmember Hankins, it was resolved to approve Resolution 2024-33. All in favor. Motion carried.

L. Temporary No Parking Signs on south side of Wildwood Ave (Ash Path - Highway 120) (2:51:22)

- a. Councilmember Hankins explained that there has been a lot of construction in that area and so no parking signs were purchased and added on one side of the road to minimize traffic issues.

M. Excess Gravel from Roadwork (2:53:37)

- a. The council discussed where excess gravel could be piled up. They discussed Polly's Park as an option and decided to ask Engineer Marcus Johnson to see if Polly's Park would work. Mayor Ford said she would discuss it with Engineer Johnson.

N. Halls Marsh Update (2:56:00)

- a. Councilmember McCarthy said he heard from a member of the Parks Committee that there is a crack in the Priebe outfall pipe that goes under Tighe-Schmidt, which is one of the reasons it is wet. Rice Creek is now saying Birchwood Village owns that pipe and must pay for repairs. The estimate is \$10,000. He offered 2 possible responses. First Rice Creek does not have an easement for their water running into Hall's Marsh and the only thing they have is our permission. We can tell them that they no longer have permission to deposit their stormwater into Hall's Marsh. Secondly, MN 103b.245.1.b Special Tax District - we can create a special tax district within the Watershed to tax the WBL residents that send their storm water to Priebe Lake.

O. MS4: Storm Water Pollution Prevention Program Review (1:50:20)

- a. Mayor Ford explained that this is needed annually, and the plan is included in the packet.

Councilmember McCarthy moved to open the public hearing, seconded by councilmember Weier. There was no one present for the public hearing. Mayor Ford closed the public hearing.

P. Administrator Updates (3:05:15)

- a. Administrator Kellen said there is nothing new on the lift station and we are still waiting for the cultural review to finalize. She said that she has been working with Techie Dudes and Metro-Inet and the IT conversion is in process, and that we have until the end the year to complete the conversion. She said that she looked into the Legislative-Citizen Commission on Minnesota Resources and that the RFP process for 2025 was past and she will be looking for additional opportunities.
- b. Councilmember Hankins said to ask about the phones if they are included in the Techie Dudes contract and Councilmember McCarthy said to put a resolution in the consent agenda to purchase Adobe.

7. MEETING CLOSE (2:26:40)

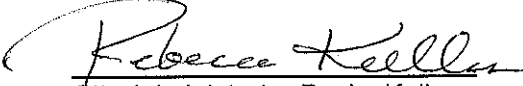
On a motion duly made by Councilmember McCarthy, seconded by Mayor Ford, it was agreed that there was no further business of the Council to transact in an open session; the meeting was closed to the public at 9:44 p.m.

DISCLAIMER

The above minutes should be used as a summary of the motions passed and issues discussed at the meeting. This document shall not be considered a verbatim copy of every word spoken at the meeting.



Mayor Margaret Ford



City Administrator Becky Kellen

8-6-24
Date

8-6-24
Date

VARIANCE for 425 Lake Ave retaining wall

Madore, Kathy <KathyMadore@edinarealty.com>

Sun 7/7/2024 8:36 PM

To: Rebecca Kellen <Rebecca.Kellen@cityofbirchwood.com>

Cc: hakantrud@protonmail.com <hakantrud@protonmail.com>; Ben Wikstrom <benwikstrom@gmail.com>; Madore, Kathy <KathyMadore@edinarealty.com>; Madore, Lisa <LisaMadore@edinarealty.com>; Justin McCarthy <justin.mccarthy@cityofbirchwood.com>; Mark Foster <mark.foster@cityofbirchwood.com>; Kathy Weier <Kathy.Weier@cityofbirchwood.com>; Ryan Hankins <Ryan.Hankins@cityofbirchwood.com>; Margaret Ford <Margaret.Ford@cityofbirchwood.com>; patrickhughes@ricecreek.org <patrickhughes@ricecreek.org>; AGrace@ricecreek.org <AGrace@ricecreek.org>

📎 1 attachments (416 KB)

EXHIBIT C SURVEY 413 Lake Ave.pdf;

To Rebecca Kellen and City Council members:

I was out of the country during the time all of this was being discussed and therefore missed the opportunity to speak at the meetings. Thus, I am writing to all for consideration on parts of this approval for a concrete retaining wall. I just received all the information on the variance request as of June 29, 2024. Now that I am aware of this variance request and reviewed all the documents furnished, I respectfully request the City of Birchwood as well as any other governmental agencies that make a decision on this variance request, to consider my requests before approving all parts of this variance.

First, I am certainly not in opposition to Mr. and Mrs. Davidson controlling the erosion they are experiencing on their bank. I am, however, in opposition to their use of a "Concrete Wall" which I would be facing constantly on the east side of my property. The Davidson's would not be looking at it based on the angle their home faces.

It would have been neighborly if the Davidson's had talked to me about their plans so we could discuss this versus my having to now put in writing my concerns to the City and the other governmental agencies.

In reading through the staff comments and recommendations, I note Number 4 which states: "Neighborhood property values will not be diminished with approval of the variance and construction of the "WALL".

If I am reading the redlining as to the location of the "WALL", it is on my east side as well as facing the lake and it would be 4 feet high.

I do not believe the staff recommendations of Numbers 3 and 4 are accurate. Number 3 maintains ("the character of the neighborhood would not be altered with approval of the variance"). The character is altered! Property values would be diminished!

In going through the other staff recommendations, i.e. Number 2 that "a retaining wall is a reasonable request to mitigate the problem." It does not appear that staff inquired if Mr. or Mrs. Davidson had any other landscape companies furnish any other designs that were not so harsh as a concrete wall even if it is facing the lake.

My property WILL BE IMPACTED on the east if a concrete wall is placed there, it certainly will decrease my value looking at that which I do not look at now!

Has there been any discussion of perennial plantings on the Davidson's west side for a softer versus the harsh hard look? There are many good landscape companies that could design a more esthetically pleasing concept for a lakeshore property of their caliber to protect their investment as well as mine.

I respectfully request the City approve and if approval is needed by other agencies, the following:

1. As a part of the retaining wall approval, that Davidson's have perennials planted that will conceal the wall so my view is not looking at concrete. I am attaching photos of a steep slope in Birchwood where the homeowner had plantings done to prevent erosion to keep the impervious surface calculation within range that is esthetically pleasing for the neighborhood. (Exhibit A 407 Lake Ave retaining wall and plantings photos).

2. Clarification of how long the wall will be on my east side as there are no calculations noted on the survey.

Also clarification if it will commence at the west corner of their home as noted on the survey?

3. How far will the wall be from my property line as that is also not noted on the survey?

4. I also want to verify that no water runoff will be directed toward my property.

5. I also want to verify when the work commences, access will be on the Davidson's east side not my side. On my east side, I have some perennials planted, an irrigation system, healthy mature trees and a very expensive stone retaining wall (photo which I am submitting as Exhibit B-retaining wall and Exhibit B Trees on East property line) that will not be able to withstand work being done on the east side of my house.

6. I have attached a survey of my property at 413 Lake Avenue, Birchwood to insure there are no lines of discrepancy on the east/west sides (Exhibit C). I believe this should be verified for accuracy before any work commences.

Thank you again for your consideration of my requests and taking the time to read though my comments. Please feel free to email me with any questions or observations that you may have. It's my hope to get this all worked out in everyone's best interests.

Sincerely,

Kathy Madore
Homeowner
413 Lake Avenue
Birchwood, Minnesota 55110
651-592-4444



Exhibit A 407 Lake Ave
landscaping on hillside



Exhibit A 407 Lake Ave
retaining walls and
plantings





Exhibit B trees on 413 Lake Ave east property line

KATHY MADORE

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- 📍 2137 4th St, White Bear Lake, MN
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EDINA REALTY

LISA MADORE

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- 📍 2137 4th St, White Bear Lake, MN
- 🌐 www.themadores.edinarealty.com

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CERTIFICATE OF SURVEY

FOR: Kathy Madore

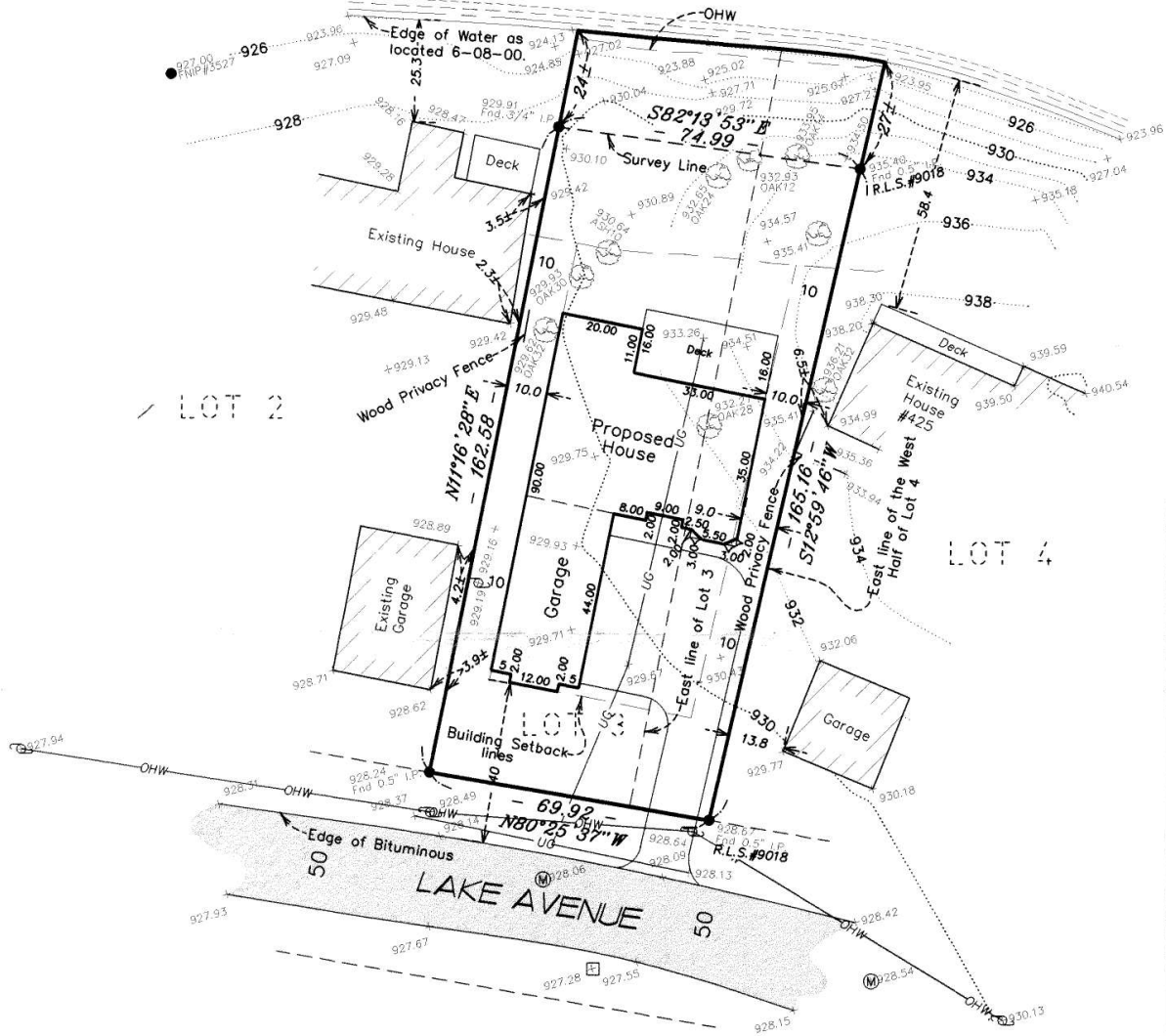
NORTH



1 INCH = 30 FEET

HIGHEST KNOWN WATER ELEV-926.7 (NGVD 1929)
 LOWEST FLOOR - 929.7
 DNR ID. # - 82-167
 OHWL-924.7 (PER DNR)

WHITE BEAR LAKE
 (WATER ELEV-924.0± AS LOCATED 06-08-00)



PROPERTY DESCRIPTION

Lot 3 and the West Half of Lot 4, Block 1, LAKEWOOD PARK THIRD ADDITION, Washington County, Minnesota.

LEGEND

- Denotes Iron Monument Found
- 892.3○ Denotes Proposed Elevation.
- x1011.2 Denotes Existing Elevation.
- ↘ Denotes Direction of Drainage.
- ⊠ Denotes Wood Hub at 11 foot offset.
- ⊙ Denotes Existing Tree
- Denotes Catch Basin
- Ⓜ Denotes Manhole
- ⋯ Denotes Existing Contour
- OHW— Denotes Overhead Wire

PROPOSED ELEVATIONS:

GARAGE FLOOR =
 TOP OF BLOCK =
 LOWEST FLOOR =
 TOP OF FOOTING =

NOTES:

- 2 foot Contour Interval
- N.G.V.D. Vertical Datum
- BENCHMARK: Top Nut Hydrant, 350' East of Ash on Birchwood. Elev. = 997.64
- Bearing's shown are on assumed datum.

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

DANIEL W. OBERMILLER

Date: 26 June 00 Reg. No. 25341



E.G. RUD & SONS, INC.
 LAND SURVEYORS
 9100 LEXINGTON AVE. NE 22
 CIRCLE PINES, MN 55014
 TEL. (763) 786-5556 FAX. (763) 786-6007

JOB# 00311HS

Fwd: July Meeting Invitation

Toni Berg <tonibergrealtor@gmail.com>

Thu 7/4/2024 12:58 PM

To: Rebecca Kellen <Rebecca.Kellen@cityofbirchwood.com>; Ryan Hankins <Ryan.Hankins@cityofbirchwood.com>

Hi Rebecca,

Below is the email that I sent to Ryan Hankins today 7/4/24 regarding 131 Wildwood Ave White Bear Lake. He replied that there will be another meeting on 7/9/24 that we could attend. We are living in Florida so that is not possible. We plan to tear down the property with the help of Len Pratt who is a realtor/builder and neighbor in Birchwood also. Len Pratt has the property listed for sale for us. We had Xcel out to remove the electric meter yesterday and we are just waiting for the gas meter to be removed and then they can move along with tearing down the house. Could you please relay this information for us.

Thanks
Toni Berg

----- Forwarded message -----

From: **Toni Berg** <tonibergrealtor@gmail.com>
Date: Thu, Jul 4, 2024 at 10:25 AM
Subject: Re: July Meeting Invitation
To: Ryan Hankins <Ryan.Hankins@cityofbirchwood.com>

Hi Ryan,

My husband Scott called you twice on July 1, 2024 and left you a message to call him back. He has not heard from you as of 7/4/24.

The first time we have received anything from the City of Birchwood on this matter was by email 6/3/24.

Scott has spoken to Rebecca from Birchwood, and he spoke with you as well shortly after the first email was sent.

We are in the process of having the house taken down and Xcel has taken the electric meter out as of 7/3/24 and we are waiting to hear when they can take the gas meter out. We are working with Len Pratt, the listing agent, and Mattco Excavating to remove the house.

Please give us some time to get the house taken down?

You can reach us by phone as well to discuss. I know Scott gave you his cell but just so you have it again, he can be reached at 651-208-2579.

Toni Berg

On Mon, Jul 1, 2024 at 4:55 PM Ryan Hankins <Ryan.Hankins@cityofbirchwood.com> wrote:

Hi Scott and Toni,

Please attend our council meeting on Tuesday, July 9, 2024 at 6:45 pm at the Birchwood Village Hall for our discussion of the following resolution: **A Resolution Directing the City Attorney to Cite the Owners of 131 Wildwood Ave for Failing to Register the Property as Vacant**

Thanks,
-Ryan

Resolution No. 2024-XX

A Resolution Directing the City Attorney to Cite the Owners of 131 Wildwood Ave for Failing to Register the Property as Vacant

WHEREAS, it has been brought to the attention of the City Administration that the property located at 131 Wildwood Ave has been vacant for a period of two years; and

WHEREAS, Building Inspector Jack Kraemer has confirmed through an inspection that the property is indeed vacant; and

WHEREAS, the rodent activity originating from the improperly rodent-proofed dwelling on the property is a public nuisance; and

WHEREAS, the City has ordinances requiring properties to be registered within 30 days of becoming vacant to ensure proper maintenance and safety standards are met; and

WHEREAS, the owners of 131 Wildwood Ave., Scott and Toni Berg, have failed to comply with the City's vacant property registration requirements, despite contacting the city but not completing the registration or paying the fee; and

WHEREAS, the owners of 131 Wildwood Ave. have not updated the address of 131 Wildwood Ave. to their current mailing address in the Washington County property records; and

WHEREAS, the property is classified by the county as non-homestead, indicating that the owners do not occupy it; and

WHEREAS, the City previously sent a letter to the property owners at the address listed in the property records and an address in Mahtomedi, and the property should have been registered by May 23, 2024; and

WHEREAS, Toni and Scott Berg, who are owners of the property, were invited to the June Council meeting by the email address listed on Toni Berg's realtor website on June 2, 2024.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF The City of Birchwood, Minnesota:

Directive to City Attorney:

1. No later than July 23, 2024, cite Scott and Toni Berg for failing to register a vacant dwelling.
2. Every two weeks after the initial citation.

Directive to City Administrator:

The City Administrator is hereby directed to:

3. Schedule a time for Building Inspector Jack Kraemer to inspect the property for code compliance and rodent infestation. This inspection will be coordinated with the property owners via email or telephone.
4. Assess the \$480 vacant building registration fee to the property taxes of 131 Wildwood Ave., as a special assessment.

Adopted this 9th day of July, 2024.

Mayor

Fw: July 9th 2024 City Council Meeting Agenda Packet

Rebecca Kellen <Rebecca.Kellen@cityofbirchwood.com>

Mon 7/8/2024 1:28 PM

To: Rebecca Kellen <Rebecca.Kellen@cityofbirchwood.com>

Bcc: margaret ford <margaret.ford@cityofbirchwood.com>; Ryan Hankins <ryan.hankins@cityofbirchwood.com>; kathy weier <kathy.weier@cityofbirchwood.com>; Mark Foster <mark.foster@cityofbirchwood.com>; Justin McCarthy <justin.mccarthy@cityofbirchwood.com>

Please see the update below from Ryan Heiserman regarding 310/312 Wildwood.



Rebecca Kellen, MBA

City Administrator

City of Birchwood Village, MN

office: (651) 426-3403

fax: (651) 426-7747

email: rebecca.kellen@cityofbirchwood.com

website: <http://www.cityofbirchwood.com/>



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From: Ryan Heiserman <ryan@heisermanhomes.com>

Sent: Monday, July 8, 2024 1:02 PM

To: Rebecca Kellen <Rebecca.Kellen@cityofbirchwood.com>

Cc: City of Birchwood Village <info@cityofbirchwood.com>; Cris Stoltzman <cstol0501@gmail.com>; Alan Kantrud <hakantrud@protonmail.com>; Ben Wikstrom <benwikstrom@gmail.com>; Carson Schifsky <carson@schifskycompanies.com>; Shari Salzman-Hankins <shari.salzman@gmail.com>; Trevor Morehead <more0195@gmail.com>; tonibergrealtor@gmail.com <tonibergrealtor@gmail.com>

Subject: Re: July 9th 2024 City Council Meeting Agenda Packet

Hi Rebecca,

We have no plans for the home other than to sell the property and allow the next owner to do whatever they want within the confines of what the city will allow.

I hope that's helpful

Sent from my iPhone

On Jul 3, 2024, at 11:42 AM, Rebecca Kellen <Rebecca.Kellen@cityofbirchwood.com> wrote:

Attached you will find the July 9th Agenda packet and it can be found online here:
[July_9_2024_City_Council_Packet_FINAL.pdf \(cityofbirchwood.com\)](http://www.cityofbirchwood.com/July_9_2024_City_Council_Packet_FINAL.pdf)

<Outlook-bliut5i2.png>

Rebecca Kellen, MBA

City Administrator
City of Birchwood Village, MN
office: (651) 426-3403
fax: (651) 426-7747
email: rebecca.kellen@cityofbirchwood.com
website: <http://www.cityofbirchwood.com/>



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<July 9 2024 City Council Packet FINAL.pdf>

I am bidding the other properties at also 5 hours of time.

Mow & Trim 5 hours x 165.00 = \$825.00 dollars.

Leaf pickup & dumping 7 hours x 165.00= \$1155.00 dollars.

Quality is A+ rated with Minnesota Better Business Bureau. All I need is the day you want us to start mowing and I will email you our lawn service agreement for your signature.

David J Miller

Quality Snow Plowing & Lawn Service, Inc.

Roseville, Minnesota 55113

612.366.2590 or docmbroker@aol.com

Fw: 131 Wildwood Update

Therese Bellinger <Therese.Bellinger@cityofbirchwood.com>

Mon 7/8/2024 2:57 PM

To: Rebecca Kellen <Rebecca.Kellen@cityofbirchwood.com>

Hi Len,

Thank you.

I have forwarded your email to our City Administrator, Rebecca Kellen.

Regards,

Therese

Therese Bellinger

Deputy Clerk

207 Birchwood Ave

Birchwood Village, MN 55110

Office: (651) 426-3403

Fax: (651) 426-7747

Email: therese.bellinger@cityofbirchwood.com

Website: <http://www.cityofbirchwood.com>

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From: Len Pratt <lepratt@pratthomes.com>

Sent: Monday, July 8, 2024 2:47 PM

To: Therese Bellinger <Therese.Bellinger@cityofbirchwood.com>

Cc: Ben Wikstrom <benwikstrom@gmail.com>; Toni Berg <tonibergrealtor@gmail.com>; Scott Berg <stberg5396@gmail.com>

Subject: 131 Wildwood Update

Therese..let this email serve as notice to the City of Birchwood the the owners Scott and Toni Berg have contracted with Mattco Excavation to tear 131 down and remove it from the site. This should suffice the request of the City to have them appear before the City Council to explain their plan for the existing structure. Thank you, Len Pratt (on behalf of Scott and Toni Berg)

Sent from my iPhone

2024 Road Project Question

Marcus Johnson <Marcus.Johnson@bolton-menk.com>

Mon 7/8/2024 3:33 PM

To: Rebecca Kellen <Rebecca.Kellen@cityofbirchwood.com>

Rebecca,

I have been meaning to ask the council this question. With the Reclaiming, there will be excess gravel on the roadway. My thought initially was to have Bituminous roadways collect and move the excess reclaim somewhere in the city and we can use it for the future trail projects we have been discussing....

If not we will either plan to try and use as much of it as possible (without causing drainage issues) and have them haul away the excess we can not use.

If you can pass this question onto council, I would appreciate it.

Thanks!

Marcus Johnson, PE
Project Engineer | Associate
Bolton & Menk, Inc.
Mobile: (507) 440-0537