



AGENDA OF THE PLANNING
COMMISSION
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
October 24th, 2024
7:00 P.M.

CALL TO ORDER

PUBLIC FORUM

APPROVE AGENDA

REGULAR AGENDA

- A. Approve August 22, 2024, PC Meeting Minutes* (pp. 2-9)
- B. 4 Five Oaks Lane Concept Plan Review* (pp. 10-22)
- C. Ordinance 2024-11-01 (302.055) Run Off Changes* (pp. 23-24)
 - 1. Review Ordinance 2024-11-01
 - 2. Planning Commission Recommendation to the City Council

ADJOURN

MEETING MINUTES (Draft)

Birchwood Planning Commission Regular Meeting

City Hall - 7:00 PM Regular Meeting 8/22/2024

Submitted by Michael Kraemer – secretary

COMMISSIONERS PRESENT: – Andy Sorenson - Chairperson, Michael Kraemer, Casey Muhm, Michael McKenzie

COMMISSIONERS ABSENT: Michelle Maiers-Atakpu

OTHERS PRESENT: Council Member Ryan Hankins, Bill Hullsiek, Avery Morse, Sara Patoua, Jennifer Arsenault, Arthur Arsenault, Kevin Heisdorffer, Ryan Eisele, Shari Salzman, Jack Kramer, Marcus Johnson, Ben Wikstrom – City Planner

1. TO ORDER: Sorenson called meeting to order at 7:01 PM.
2. PUBLIC FORUM
 - a. none
3. APPROVE AGENDA
 - a. Suggestion by Sorenson to switch order of Items B and C. Motion by McKenzie, 2nd by Muhm, 2nd to approve agenda as altered. Vote: Yes -4, No – 0. Motion passed.
4. REGULAR AGENDA
 - a. Item A – Review/Approve July 25, 2024 Planning Commission Meeting Minutes.
 - i. Motion by Muhm, 2nd by McKenzie to approve the minutes. Vote: Yes – 4, No – 0, Motion passed.
 - b. Item C – Appeal Regarding Approval of the Building Permit at 160 Cedar.
 - i. Planning Commission took statements on the review of the July 15, 2024 Appeal letter for 160 Cedar from Jack Kramer – Building Official, Ben Wikstrom – City Planner. Marcus Johnson - consulting City engineer and Avery Morse, Sara Patoua owners of 160 Cedar.
 - ii. **Issue #1** – *“Birchwood Code 301.055 (7) Stormwater and erosion control plans. For a building permit the applicant must submit stormwater and erosion control plans prepared and signed by a licensed professional engineer. This was not done.”*
 1. **Findings/Recommended Action:** The Planning Commission recommended that the site plan which indicated existing and proposed grading and contours as well as details on silt fence and erosion control locations and details as prepared by registered land surveyor E. G. Rude and Sons met the intent of the code. The resultant opinion of the Planning Commission on motion by Casey, 2nd by Sorenson was that the City did not make a mistake

in the approval of the building permit. Advisory Vote: Did not make a mistake – 4, Did make a mistake – 0.

- iii. **Issue #2** – *“a. Birchwood Code 302.050 states “to reduce the unwanted harmful effects of stormwater, it is policy of the City of Birchwood Village that each property within the City manage its own stormwater to limit runoff into streets, waterways, and neighboring properties.”....”b. Birchwood Code 302.055 (2))a) (1) No construction or alteration of new or existing structures or land topography shall be done to increase the rate of storm water runoff from the parcels as compared to the runoff rate before such construction or alteration unless...”*

1. **Findings/Recommended Action:** The property owners reiterated that the spoil pile from basement excavation will be not remain in the low area and the contours and dimensions of the pre-existing low area will not be altered and will remain to accept storm water runoff as indicated on the approved site plans. The City Engineer determined that the runoff from the impervious surface created by the new home, and the impact on the capacity and operation of the storm water collection low area is comparable to pre-development conditions. A resultant motion by McKenzie and 2nd by Sorenson - it is the Planning Commission opinion the City did not error on approving the construction permit. Advisory Vote: Did not error – 4. Did error – 0.

Item B – Set dates for November and December, 2024 Planning Commission meetings since the 4th Thursday of each of these month’s conflicts with Thanksgiving and Christmas holidays.

- iv. **Action Taken:** Suggest the City Administrator review the calendar and determine which dates the City Hall is available for the Planning Commission meeting while avoiding the holiday dates as much as possible.

ADJOURN 8:29 PM

- c. Motion by Motion by McKenzie, 2nd by Muhm to adjourn meeting. Vote: Yes - 4, No – 0. Motion passed.

Re: August 22, 2024 Planning Commission Agenda Packet

Rachael Drew <rdrew5954@gmail.com>

Fri 8/16/2024 1:21 PM

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

Cc: Andy Sorenson <asconstruction@me.com>; Michelle Maiers-Atakpu <pmatakpu@comcast.net>; Mike Kraemer <mrkraemer50@gmail.com>; MICHAEL McKenzie <mgmcke31@comcast.net>; Casey Muhm <casey.muhm@gmail.com>; Alan Kantrud <hakantrud@protonmail.com>; Marcus Johnson <Marcus.Johnson@bolton-menk.com>; Ben Wikstrom <benwikstrom@gmail.com>; Jack Kramer <inspjack@msn.com>

 1 attachments (20 MB)

August 22 2024 PC Meeting Packet.pdf;

To the Birchwood Planning Commission:

After reviewing Marcus's responses to the appeal letter we would like to clarify a few things and ask a few questions.

We are thankful you are reviewing the drainage/ water issues along our property. We are not really clear what your role is in the appeal process. If that could be explained we would appreciate it. But we are really thankful to have your interest.

In the appeal letter #1, we are wondering what constitutes a "complex structure"? The example sites a > 4' retaining wall but a 3500 sq ft impervious surface 15 ' from a property line does not? Since this is the reason cited for waiving some of the codes, we were wondering if this is defined by Birchwood. Also in #1, regarding erosion control the survey was used to satisfy the permit without a specific plan but a site visit would show that this is not happening. The silt skirt has been breached multiple times requiring it to be propped up and dirt is level with the skirt in several places allowing water to flow over the skirt. Is there follow up once a permit is in place?

In the appeal letter #2 regarding drainage arrows. This document is not accurate. Water is pouring off the front of the house. See picture below. The engineer hasn't accounted for this in the diagram. But following the survey and seeing firsthand you can see that water is moving down the east side and settling in the lowest point on our property- survey level 1001.2. I sent pics of the 8/9 rain storm but I have others. See one below dated 7/13 that shows the water pouring off the front. I have more. This is not an isolated storm situation.

Marcus states that the previous property was approximately 5300 sq ft of impervious surface with most of it sitting on 160 Cedar, according to a calculation off of a Google maps pic. Elmer's home per Washington Co was 1,872 sq ft of living space with a single car garage and single lane driveway. We question the impervious surface calculation of 5300. In addition, only a fraction of the single car garage was on the 160 lot. Below are pictures from the Washington Co Property Maps site showing the placement of the structures in relation to the new lots. We don't think that using those impervious surface calculations is relevant to any calculations for the current house.

Lastly regarding the "ponding" on our property. Prior to the permit approval we sent a letter to all the professionals involved in the permit process. We expressed our concerns with water drainage and that during rainy, winter thawing periods we had had water on the back southwest corner of our lot. This occurred two winter / spring periods while the ground was frozen and couldn't contain the flow of water. With the development of these three lots we were concerned this would become a regular occurrence. This is an occurrence and concern shared by others in the neighborhood. That is why when Husnik's bought the land concerns were addressed and the decision to limit the property to 3 lots was made. The concern has not gone away it is just limited to a few. This is a major development because of the terrain and narrowness of

the lots. It deserves close scrutiny, reliable calculations, adherence to the codes and a good drainage plan for all.

Rachael and Dave Drew

image1.jpeg

image2.jpeg

image3.jpeg

image4.jpeg

Sent from my iPhone

On Aug 15, 2024, at 12:06 PM, Rebecca Kellen <Rebecca.Kellen@cityofbirchwood.com> wrote:

Attached is the agenda packet for the August 22, 2024 Planning Commission meeting. It can also be found on the website here: cityofbirchwood.com/wp-content/uploads/2024/08/August-22-2024-PC-Meeting-Packet.pdf

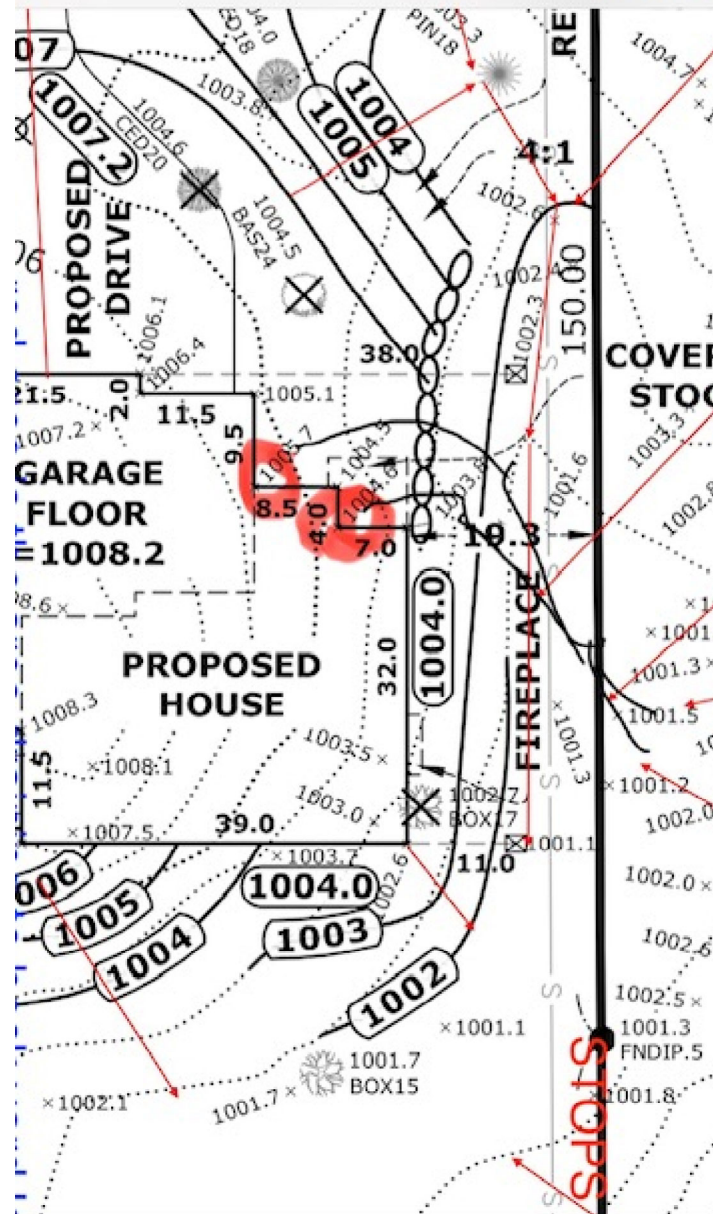
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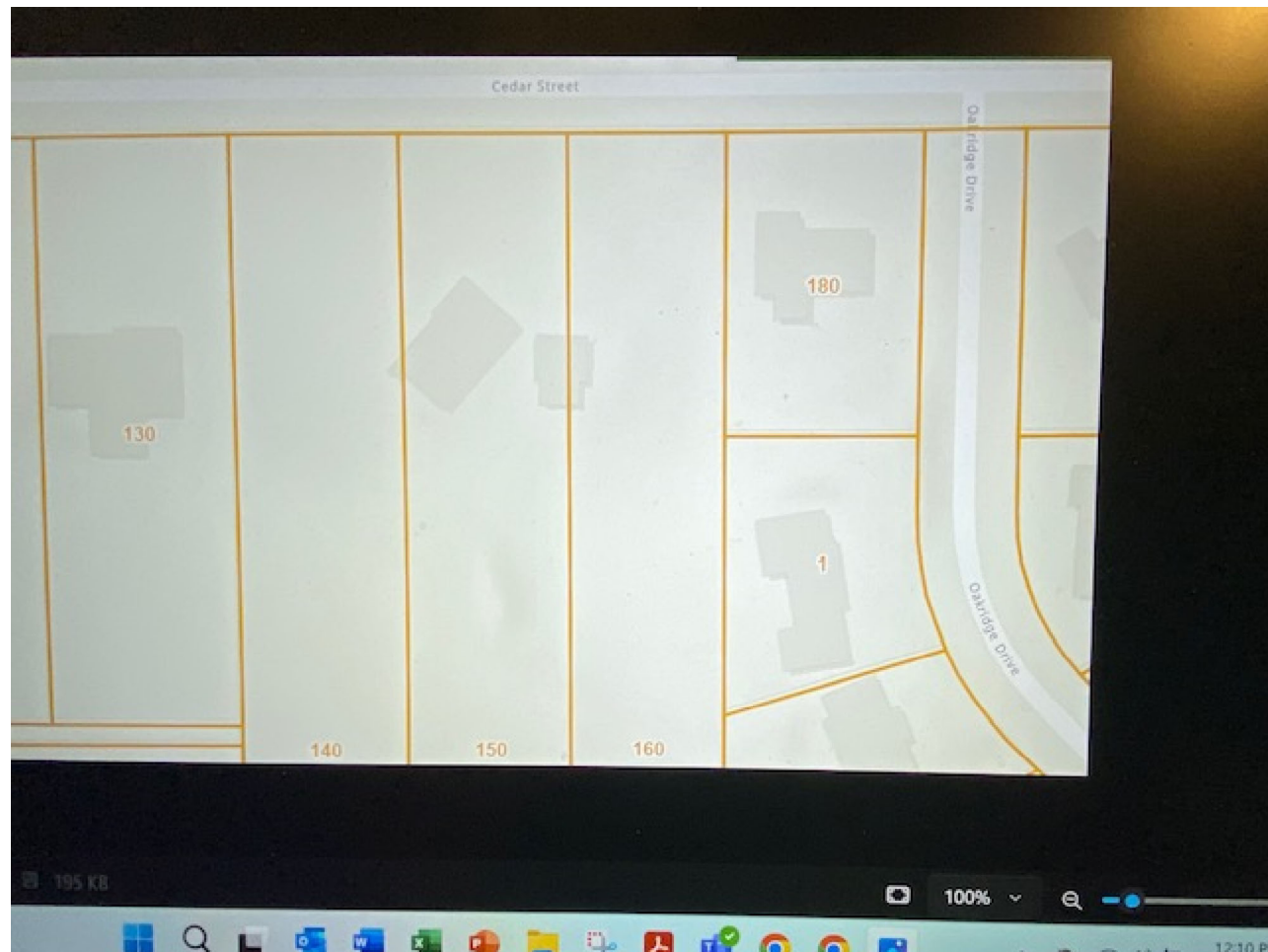
Rebecca Kellen, MBA
City Administrator
City of Birchwood Village, MN
office: (651) 426-3403
fax: (651) 426-7747
email: rebecca.kellen@cityofbirchwood.com
website: <http://www.cityofbirchwood.com/>

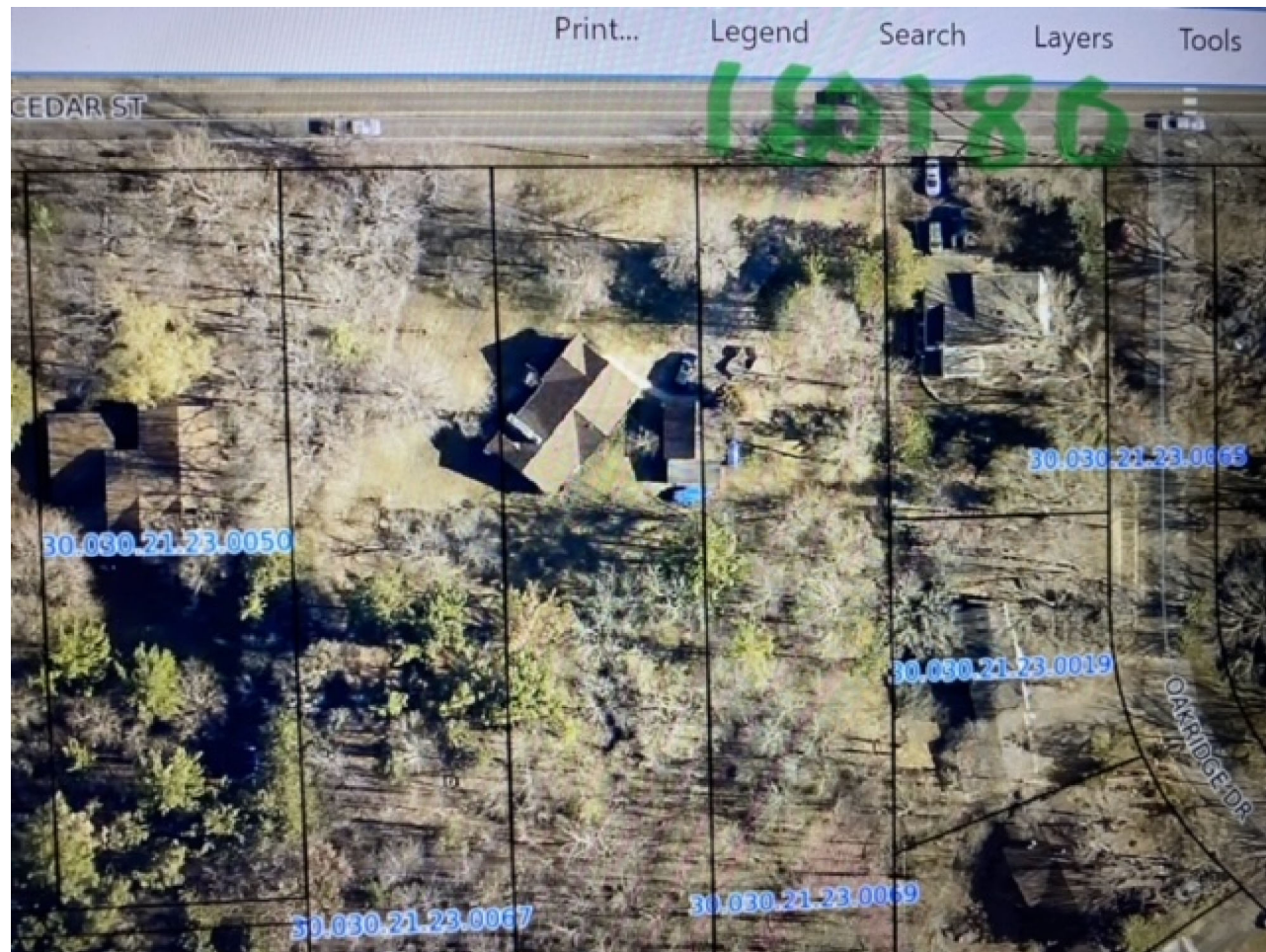


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<August 22 2024 PC Meeting Packet.pdf>









Addition Varance

From Trevor Morehead <more0195@gmail.com>

Date Fri 9/6/2024 8:44 AM

To City of Birchwood Village <info@cityofbirchwood.com>

Hello,

We are in the process of designing an addition/garage to our home. We are working with an architect to design the addition. We had a meeting with him yesterday and he brought up the fact that we may need to apply for a variance because of the setback from the road/ property line. How do we go about getting a variance? We are in the early stages of planing so we do not have a plan set yet based the approval or denial of the variance. The variance will decide how we can build or if we will even move forward with the project.

Our current driveway is 62 feet long. Our property line is 11 feet from the roadway. We are looking to build a 30 foot addition on the front of the house. Based on this plan we will be 21 feet from the property line and 32 feet from the roadway.

We would be able to provide a plot plan for this if needed.

Thanks for your time

Trevor Morehead
4 Five Oaks Ln
Birchwood, MN 55110
more0195@gmail.com
612-363-2845

Re: Addition Varance

From Ben Wikstrom <benwikstrom@gmail.com>

Date Wed 9/18/2024 2:55 PM

To Trevor Morehead <more0195@gmail.com>

Cc Rebecca Kellen <Rebecca.Kellen@cityofbirchwood.com>; City of Birchwood Village <info@cityofbirchwood.com>

Trevor,

I think this would be best handled as a concept review before the formal application is considered, as suggested by council members when I brought up to them that some applicants would like feedback before spending considerable amounts of money on plans. For the formal application and hearing process, the submittal requirements are substantial (I have pasted them below). I would anticipate that the Planning Commission - and ultimately the City Council - would want to see not only a survey, but also building elevations before making a recommendation (PC) and decision (CC) on the variance. With a concept review, you could show what you have sent here, along with a sketch of what the addition would look like on your home (elevation drawings), and get the PC's initial feedback before deciding whether to move forward with the formal request. All this is similar to what we discussed on the phone last week. I understand your hesitancy to spend too much on plans prior without knowing whether you can proceed with the project, but what you have here along with elevations would at least give you some idea of whether the Planning Commission is receptive to the idea when they review your idea informally.

If you choose to pursue the concept review, please let us know and we will hold the application (rather than deeming it incomplete, based on the submittal requirements) and have the concept review at the October meeting. I would prepare a memo with information relevant to the variance and the neighborhood impact, but would not prepare an in-depth report until the formal application and all documentation is received. If you want to move forward with the variance application at this time, we will need more definitive plans, details, and calculations. We can discuss this over the phone or I can list out what is needed in order for us to process the application as a complete submittal.

Please advise us as to your intentions. Thank you for the email and the conceptual site plan.

304.020 Variance Application Requirements. Before consideration of a variance, an application for variance shall be made on forms provided by the City Clerk. The application shall be accompanied by the required information described below and by all required fees. Each application must include at a minimum:

- a) The legal description and address of parcel.*
- b) Name, address, and phone number of applicant (and of the owner if owner is not the applicant).*
- c) Plot plan drawn to scale. Elevation contour lines are required.*
- d) Plan showing existing and proposed new and changed structures on the lot.*
- e) Existing structures on adjacent lots.*

- f) A certificate by a registered professional land surveyor verifying the location of all buildings, setbacks, and building coverage.
- g) A certificate by a registered professional land surveyor certifying other facts that in the opinion of the City are necessary for evaluation of the application.
- h) A separate enumeration of each section of the code to which a variance is requested along with a demonstration that the criteria set forth in section 304.040 are met for each enumerated section.
- i) Evidence demonstrating compliance with regulations of other governmental units when required by provisions of this code, State Law, or regulations of other governmental units. Non-limiting examples of government units which may have applicable regulations include the State of Minnesota, Rice Creek Watershed District, Minnesota Department of Natural Resources, White Bear Lake Conservation District, and the Minnesota Pollution Control Agency.
- j) Other documentation as applicable and as required by the City Code for the type of variance sought (see for example the impervious surface requirements of 302.050)

Ben Wikstrom
Planning Consultant
City of Birchwood Village

On Tue, Sep 17, 2024 at 8:33 PM Trevor Morehead <more0195@gmail.com> wrote:
Please see attached plans and application. Thanks

On Mon, Sep 9, 2024 at 9:18 AM Rebecca Kellen <Rebecca.Kellen@cityofbirchwood.com> wrote:
Hi Trevor,
Information about the variance process can be found in the city code here: [Section-304-ZONING-CODE-VARIANCES.pdf \(cityofbirchwood.com\)](#). The requirements for submitting a variance can be found in section 304.020. A variance application, which I have attached to this email, must be submitted and our planner will check it for completeness. After the application is deemed complete then the application is reviewed by our planning commission who makes a recommendation to our city council who will make a final decision. Because of the notification requirements, the application must be received about 4 weeks prior to a given planning commission meeting to be able to present it in that meeting. The planning commission typically meets the 4th Thursday of each month. And the city council the second Tuesday of each month.

It is necessary to have all the tentative plans drawn up/completed to be able to show the proposed work in order to submit a complete variance application.

For the more technical questions I am going to refer you to our city planner, Ben Wickstrom. I have copied him on this email and he can be reached at 612-801-7992.

Please let me know if you have any additional questions. Thanks.



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/>

Memo for PC meeting - 4 Five Oaks Lane

From Ben Wikstrom <benwikstrom@gmail.com>

Date Wed 10/16/2024 7:10 AM

To Rebecca Kellen <Rebecca.Kellen@cityofbirchwood.com>; Trevor Morehead <more0195@gmail.com>

 1 attachments (2 MB)

Memo - 4 Five Oaks Lane concept (variance).docx;

Rebecca,

My memo is attached. It is a general overview of the existing conditions, and what the PC should be looking at in order to give some feedback to Trevor. The meeting should be a discussion between Trevor and the commission; no staff recommendation is appropriate for a concept review.

Please let me know if you need anything else. Thanks!

Ben

memo

To: Birchwood Village Planning Commission
Rebecca Kellen, City Administrator

From: Ben Wikstrom, Planning Consultant

CC:

Date: October 25 Meeting

Re: 4 Five Oaks Lane Concept Plan (future variance discussion)

Background Information and Lot Requirements

Trevor Morehead is considering applying for a variance from the required front yard setback to allow construction of a home addition. The addition would be placed over the existing driveway extending outward from the garage; the existing garage is approximately 51' from the right-of-way, and the addition is proposed to be 30' in length, which would leave a 21-foot setback from the right-of-way. The ordinance requires a 30-foot setback from the front right-of-way.

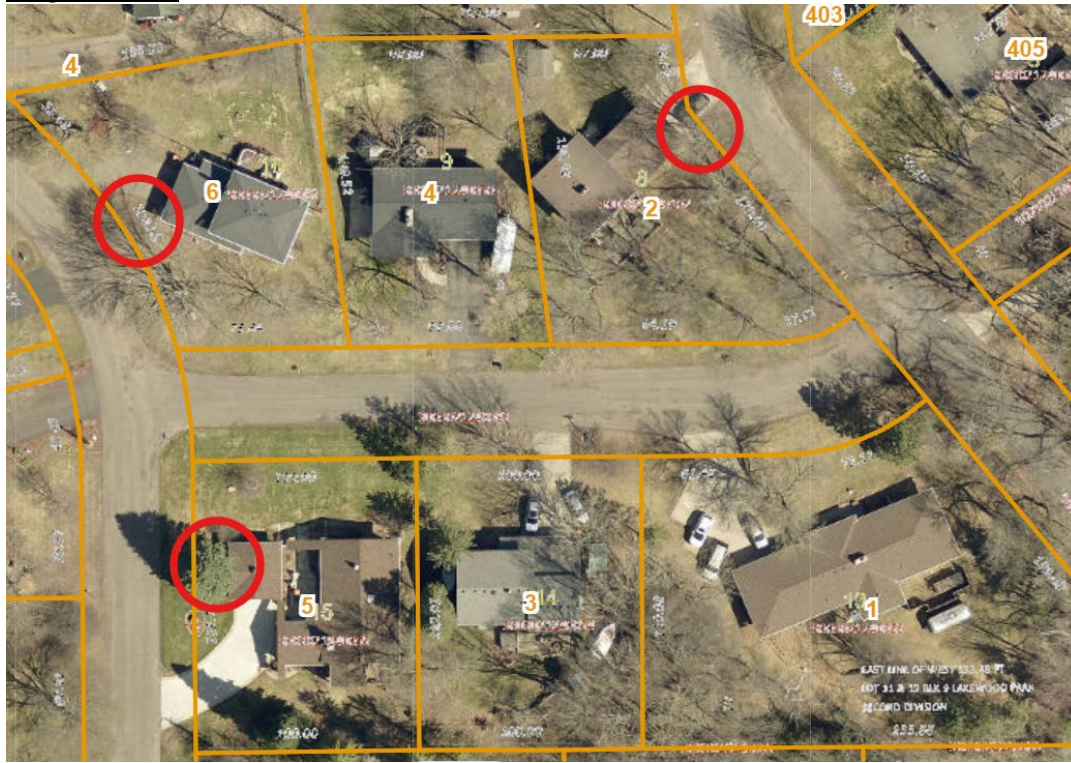
The property is 12,356 s.f. in size, according to Washington County property records, and is 90' in width, both of which are conforming to the zoning ordinance.

Aerial Image



NOTE: house to east has non-conforming setback

Neighborhood



6 Five Oaks Lane (west of subject property): approximate setback from ROW is 18'
2 Five Oaks Lane (east of subject property): approximate setback from ROW is 10'
5 Five Oaks Lane (southwest of subject property): approximate setback from ROW is 16'
Other two properties on same block appear to be conforming

Process

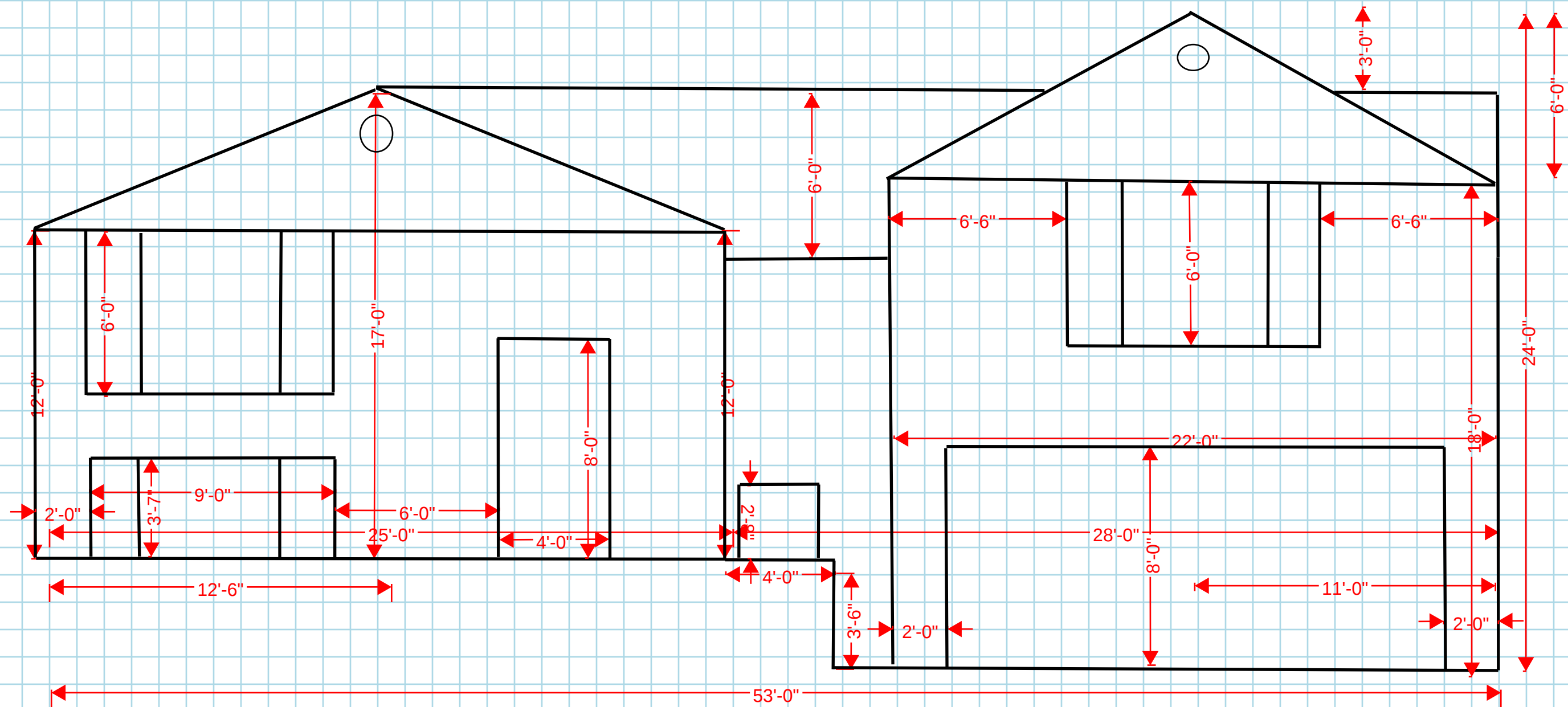
The purpose of a concept plan review is for the applicant to get feedback from the Planning Commission regarding a potential project. No opinions offered by commissioners are to be taken as definitive intentions regarding a future vote on any application.

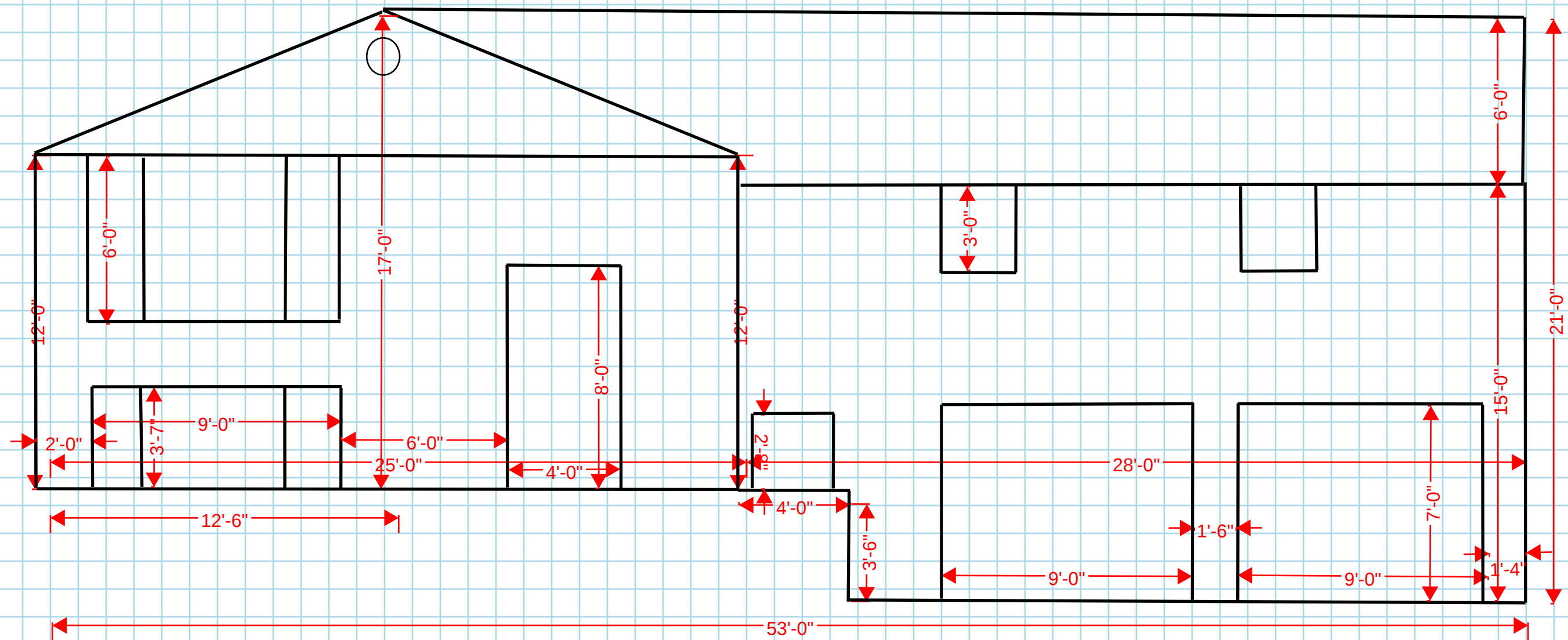
Recommendation

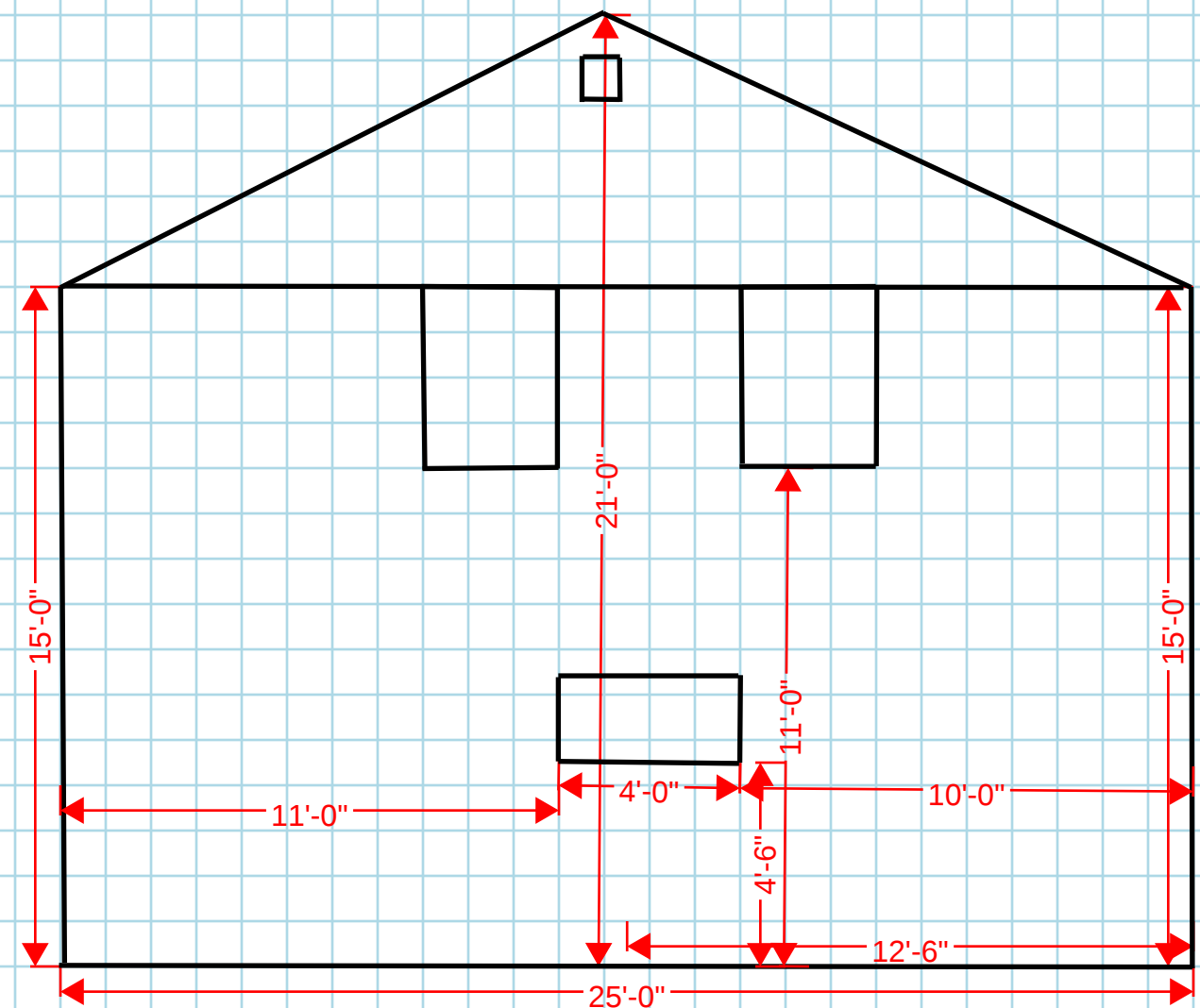
Staff has no recommendation for a concept review. The commission should review the sketches with the applicant to offer feedback on the project, and give initial opinions on the validity of the proposal. Because this would be a variance application, the ultimate (assuming the applicant formally applies for a variance) recommendation to the City Council by the Planning Commission should be mindful of some general criteria for the granting of a variance:

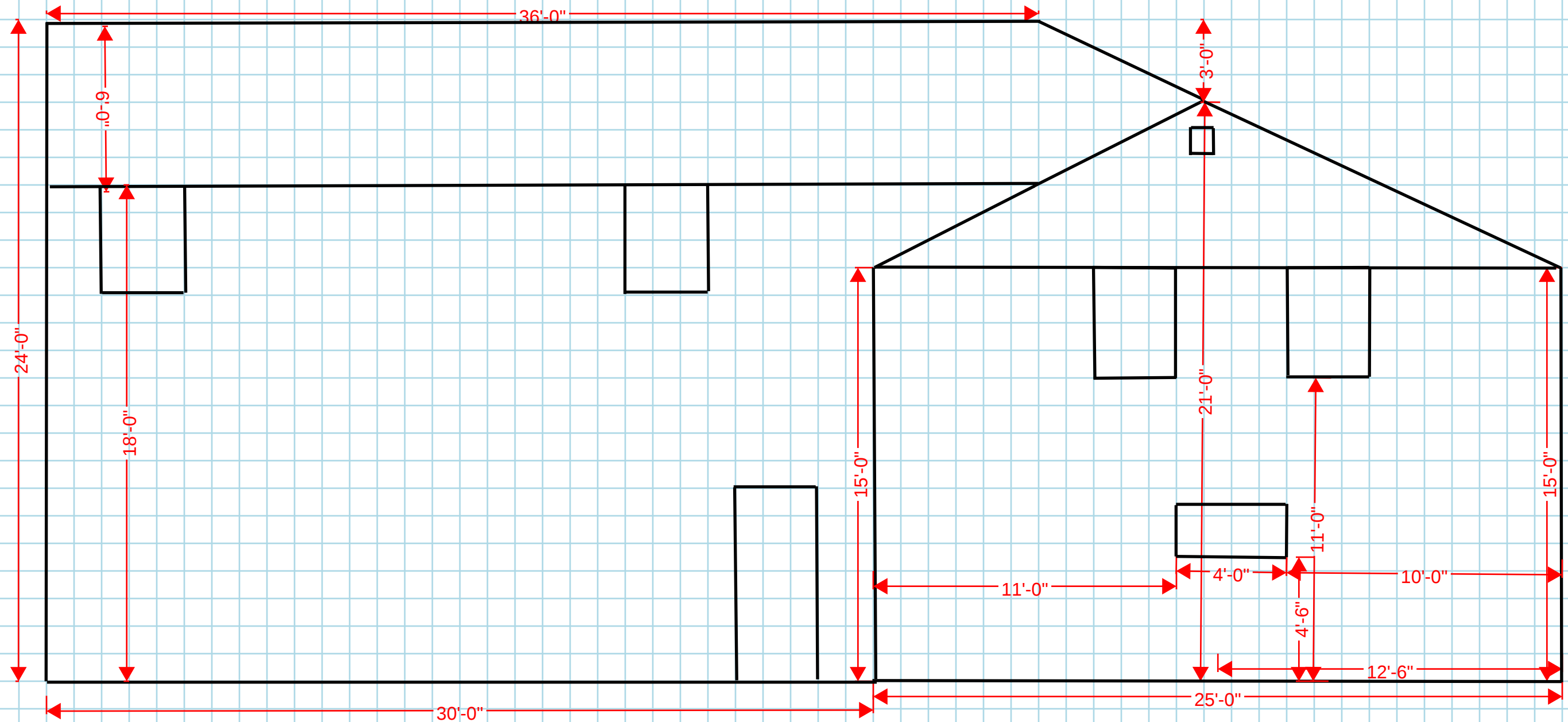
- Is there a practical difficulty in complying with the ordinance?
- Was the need for the variance created by the applicant (meaning, is there something unique about this property, house location, etc. that is in place to contribute to a practical difficulty that wasn't the result of an action taken by the current owner)?
- Is this a reasonable request?
- Would the variance, if granted, alter the character of the neighborhood?

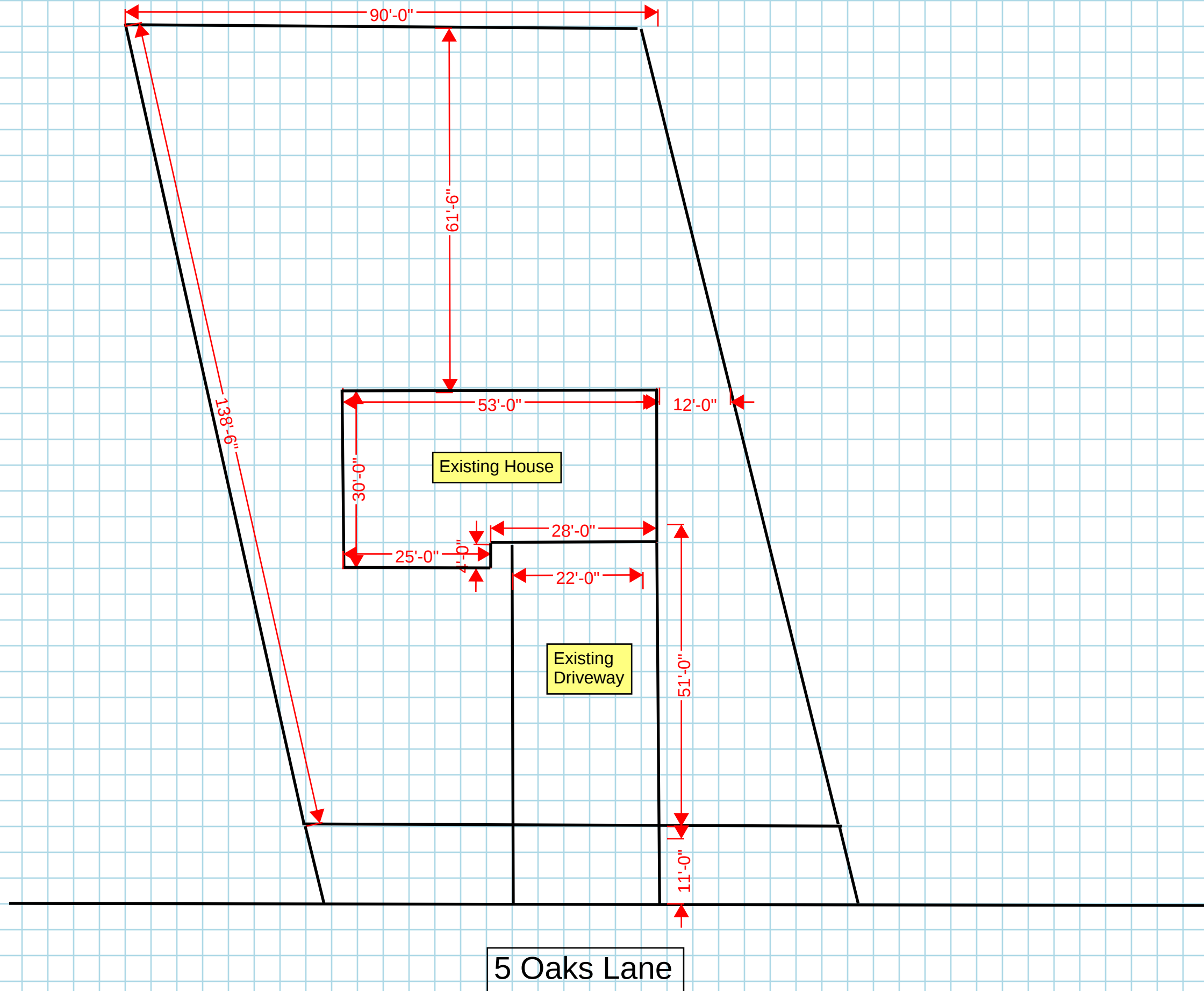
If the applicant decides to move forward, a survey will be required to ensure the correct measurements and exact proposed setbacks, no increase in impervious surface, etc. The commission may wish to require architecturally-rendered plans showing the house addition, and other information they deem necessary in order to make a decision/recommendation on a variance application.

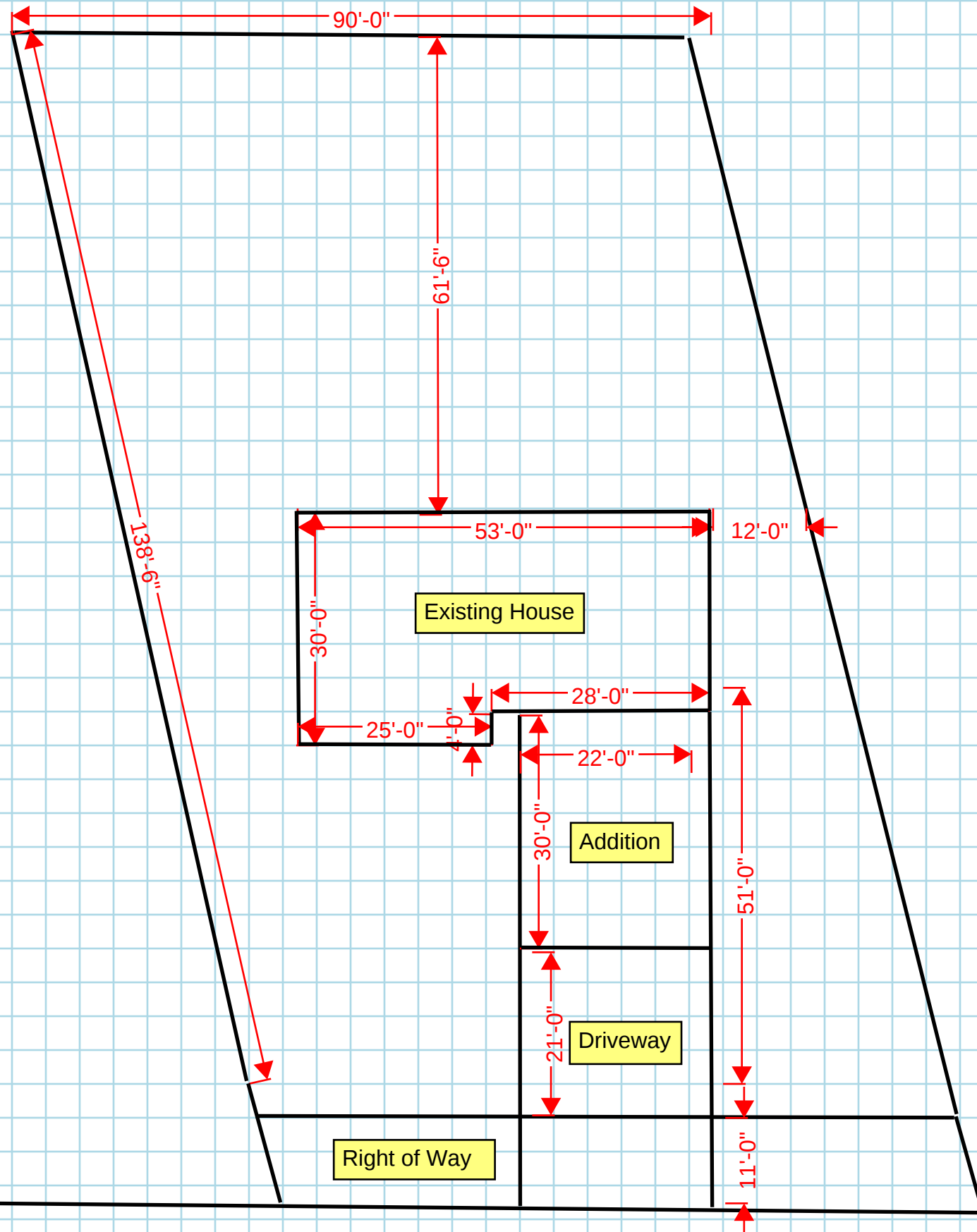












5 Oaks Lane

To: Planning Commission
From: Justin McCarthy, Council
Re: Amending City Code 302.055

Dear Planning Commissioners,

An appeal recently came up in which City Code section 302.055 was cited against a recent home building project. The City Engineer noted that a literal interpretation of the ordinance would prevent construction of any houses (as the houses are typically built higher than the road so that runoff drains to the road) in Birchwood as well as making almost all existing houses in Birchwood non-conforming.

While the City Engineer interpreted the ordinance in that case in a manner he deemed reasonable (with both the planning commission and City Council agreeing with him), I am writing to seek your opinion on language amending the ordinance to reflect this reading to provide more clarity to homeowners.

Thanks
Justin McCarthy

ORDINANCE 2024 – 11-01

CITY OF BIRCHWOOD VILLAGE WASHINGTON COUNTY, MINNESOTA

AN ORDINANCE AMENDING SECTION 302.055 “Land Disturbance Activity Standards”

The City Council of the City of Birchwood Village hereby ordains that section 302.055 “Land Disturbance Activity Standards” is hereby amended in the Municipal Code of the City of Birchwood Village as follows:

302.055 Land Disturbance Activity Standards

...

2. The following are Specific Standards:

a. Land Use Standards

~~1. No construction or alteration of new or existing structures or land topography shall be done so as to increase the rate of storm water runoff from the parcel as compared to the runoff rate before such construction or alteration unless:~~

~~(i) The City has a storm water drainage system which will accommodate this additional water flow without increasing the overall rate at which water leaves the City or enters public waters; and/or~~

~~(ii) Adequate storm water runoff measures and facilities are constructed to retain storm water on the lot and reduce the runoff rate such that the total rate from the lot is not increased; and/or~~

~~(iii) The construction or alteration results in a substantial reduction in storm water caused soil erosion on the lot, and the quantity of silt and/or other water borne pollutants leaving the lot is reduced.~~

New construction or significant modifications shall be designed and constructed such that, in the opinion of the City Engineer, the construction or modifications do not cause significant adverse effects on adjacent properties (including City property) due to stormwater runoff, including but not limited to erosion, flooding, or damage to structures or landscaping. Calculations for this section shall be based on a 24-hour, 10-year storm event as defined by local meteorological data.