



MEETING OF THE PLANNING COMMITTEE

CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
August 27th, @ 7 pm

MEMBERS

Andy Sorenson, Chair
Ben Wikstrom, City Planner
Casey Muhm, Member
Michael McKenzie, Member
Michelle Maiers, Member
Mike Kraemer, Secretary
Jennifer Arsenault, Planning Liaison

CALL TO ORDER

ROLL CALL

APPROVE PRIOR MEETING MINUTES (pgs. 1, 2)

OPEN PUBLIC FORUM

AGENDA

1. Review and Consider Variance Applications

A. 135 Wildwood Ave (Hapka-Garage Setback Variance) (pgs. 3-17)

B. 315 Wildwood Ave (Holka-New Home Height Variance) (pgs. 18-32)

2. Review and Consider Revisions to Codes 300.020, 301.070, 301.080, 302.055, 306.030 (Zoning) (pgs. 33-37)

3. Review and Consider Additional Height Clarification for Code 302.045 (Zoning) (pgs. 38, 39)

ADJOURN

* Denotes items that have supporting documentation provided

MEETING MINUTES (Draft)

Birchwood Planning Commission Regular Meeting

City Hall - 7:00 PM Regular Meeting 6/3/2026

Submitted by Michael Kraemer – secretary

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

COMMISSIONERS ABSENT: Michelle Maiers-Atakpu

OTHERS PRESENT: City Mayor – Jennifer Arsenant, Ben Wikstrom – City Planner, Marcus Johnson – City Engineer, Jeff Welle – Divine Custom Homes, Joe Holka (319 Wildwood Ave), Darren DeYoung (309 Wildwood Ave),

1. CALL TO ORDER: Chairman - Sorenson called meeting to order at 7:00 PM.
2. PUBLIC FORUM
 - a. None
3. REGULAR AGENDA
 - a. Item 1 – CUP 309 Wildwood Ave.
 - i. Introduction of CUP Permit application by City Planner
 - ii. Discuss project and options
 1. City Engineer Johnson indicated that the site layout he had requested was submitted and reviewed.
 - iii. At 7:09 PM Chairman Sorenson opened the meeting to public hearing on the proposed CUP application and invited anyone present who wanted to speak to the topic. With no requests to speak the public hearing on the application was closed at 7:11 PM.
 - iv. Recommend Approval with Findings and Conditions or Denial with findings.
 1. Advisory Motion by Kraemer, 2nd by Muhm: The City Council consider granting the CUP **with conditions as identified in the City Planners report.** Advisory vote: Yes – 4, No – 0.
 - i. **Conditions:** Planning Commission recommendation of approval of the variance is contingent on compliance with the conditions as presented in City Planner’s report.
 - b. Item 2 – 315 Wildwood Ave Concept Plan Review
 - i. City Planner Wikstrom introduced the proposed concept building and site plans as presented by the applicant.
 - ii. Discussion

1. The Planning Commission discussion acknowledged City Planner's recommendation for compliance with all City Codes including but not limited to setbacks, retaining wall design, site grading, "Legacy" tree replacement, impervious surface thresholds, etc.
2. The primary point of consideration and discussion was the viability of the structure's concept design meeting the City Code 35' maximum building height threshold.
 - a. On this point Planning Commission discussion acknowledged the following:
 - i.* The pre-existing Lot is long and narrow with challenging topography changes across the site.
 - ii.* This lot's topography creates unique site development challenges. (I.e. The lot has a high elevation in the center one-third of the lot and then severely drops in elevation in both the front (street side) and back (lake side) yards.)
 - iii.* Despite design efforts identified in the concept plans using flatter roof slopes, minimal ceiling heights on each floor, minimal truss depths, and cascading roof lines to mimic the site topography, the severe elevation changes in the lot tends to expose the front (38') and back (39) ends of the house structure, exceeding the City Code max height (35).
 - iv.* The "average" exposed structure height is anticipated to be within the City Code height threshold of 30'.

ADJOURN 8:46 PM

- c. Motion by Muhm, 2nd by Mc Kenzie to adjourn meeting. Vote: Yes - 5, No – 0.
Motion passed.

memo

To: Birchwood Village Planning Commission
Alan Kantrud, City Administrator

From: Ben Wikstrom, Planning Consultant

CC:

Date: August 27, 2026 Meeting

Re: 135 Wildwood Avenue Structure Setback Variances (impervious percentage pending)

Background and Proposal

Mary and Brad Hapka, residents at 135 Wildwood Avenue, are requesting approval of setback variances to allow construction of a detached garage along Wildwood Avenue. The proposed setbacks are 0' from the right-of-way (30' required), and 1.4' from the side property line (10' required). These setbacks are the same as the existing garage – shown below in pictures and on the attached survey), but they are seeking to replace that garage and increase the width and depth. The existing garage is 22' by 22', while the proposed garage is 30' X 26'.

The applicants, depending on the outcome of the setback variances, may be required to apply for an impervious surface variance because of the increase, although they are intending to renovate structures and landscaping on the lake side of the property (which will require a CUP for land disturbance activity, at a minimum), and the overall calculations and effects on stormwater management are not known at this point. There will be impervious surface removed if the garage expansion is allowed, and there are ways to mitigate the increase depending on what is allowed. The City Engineer and Planner have met with the applicants on site to discuss the project(s), but the logical first step is for the garage replacement and proposal to be reviewed and decided upon prior to a complete design of the entire yard renovation and possible impervious surface and stormwater management designs. Should they not be allowed to expand the garage based on variance standards applicable to the setbacks (neighborhood character and reasonableness), there is no point in requiring a complete design of impervious management and mitigation.

This is to be considered a new structure for the purposes of hearing these variance applications, rather than an expansion of the existing structure. Based on the non-conforming location, an expansion would not be possible by ordinance and state statute.

Ordinances

<u>Lot line or Land Boundary</u>	<u>Fences and Landscaping Barriers</u>	<u>Driveways & Walkways</u>	<u>All Other Structures</u>
Municipal Street and County Road Front, Back, and Side Lot Line	10 ft.	0	30 ft.
Municipal street or County Road Front, Back, And Side Lot Line for Non address side of Corner lot	10 ft.	0	25 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.
<u>302.045 4.</u>			

Other pertinent ordinance language and supplementary information can be found below.

304.040 Standards for Variances.

Variances may be granted when the applicant for the variance establishes:

- 1. That there are practical difficulties in complying with the zoning ordinance;*
- 2. That the proposed structure or use is in harmony with the general purposes and intent of the ordinance; and*
- 3. That the proposed structure or use is consistent with the City's comprehensive plan.*

"Practical difficulties", as used in connection with the granting of a variance, means that

- i.) the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance,*
- ii.) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and*
- iii.) the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.*

Perhaps a clearer understanding of how "practical difficulties" are determined is found by a League of Minnesota Cities summary of their relation to State Statute:

A. Practical difficulties

“Practical difficulties” is a legal standard set forth in law that cities must apply when considering applications for variances. It is a three-factor test and applies to all requests for variances. To constitute practical difficulties, all three factors of the test must be satisfied.

1. Reasonableness

The first factor is that the property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, if the variance application is for a building too close to a lot line or that does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable.

2. Uniqueness

The second factor is that the landowner’s problem is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees.

3. Essential character

The third factor is that the variance, if granted, will not alter the essential character of the locality. Under this factor, consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

Submittal and Plans

The Hapkas have submitted elevations for garage, as well as a survey showing existing and proposed conditions (see below and attached).

Discussion and Staff Comment

As with the other application on the Planning Commission’s agenda, this is a simple request, as the proposed garage can be seen as meeting the general intent of the ordinance (accessory structure on a lot with a single-family home) and generally in harmony with the comprehensive plan (accessory use to the single-family home).

This application comes down to the Planning Commission’s, and ultimately the City Council’s, interpretation of practical difficulty, insofar as it relates to the reasonableness of the proposal and the character of the neighborhood. The uniqueness of the property is considered the narrow lot, not subdivided by the applicant, with a home that has long existed in its current location (limiting the buildable area options), not chosen by the applicant.

A Google street view of the property (note distance to actual street), and a picture taken on site (note scale with person):



Some examples of garages in the neighborhood not meeting setbacks (Google street views):

145 Wildwood



150s-160s Wildwood

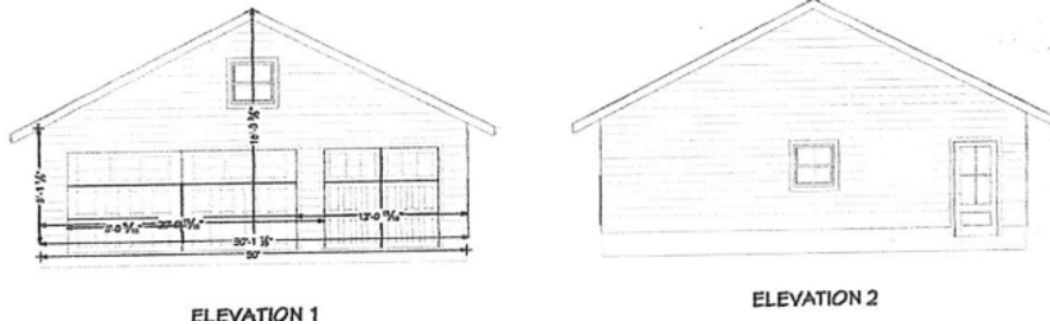


127-129 Wildwood (note applicant's garage in background; picture predates construction of 131 Wildwood)



The garage at 131 Wildwood, on the neighboring property, certainly is of a scale and mass that is larger than the proposed garage on 135 Wildwood. That garage was granted variance for setbacks as an attached structure, and was moved back from the right-of-way as far as possible (old garage was in line with the 135 Wildwood existing garage). However, that structure, especially being adjacent to the subject property, should be considered as part of the character of the neighborhood.

The proposed garage at 135 Wildwood:



As mentioned in the opening paragraphs, this is not to be considered an expansion of the structure, but rather a new build with setback variances. Keep in mind that the applicants, should they be denied, may still rebuild the existing garage in the same location with the same footprint. I believe it has been decided that the height could not be increased, as that is considered to be an expansion in state law, even if the structure height is below ordinance requirements (NOTE: I am unaware of what the ordinance amendment is that is being heard at this meeting and whether that will affect or negate the following point). However, that doesn't mean that, based on the ordinance definition of height, a different design with a different "massing" as viewed from the road is not possible. A mansard roof to, in this case, match the house design, *could* allow the same measured height, as could flat, butterfly, gambrel, jerkinhead, skillion, saltbox, and other designs. (One of the reasons stated by the applicant for a larger footprint is to allow a larger face area of the street-facing wall to allow somewhat standard, 8-foot high garage doors – see pictures of existing above.) Staff does not anticipate such a change in design, but it is worth keeping in mind that different designs with the same height, that greatly change the structure's appearance, are possible. I have heard discussion and opinions from land use attorneys related to this statute, but because they don't work for Birchwood and it was decided that any research done with outside attorneys – even without presentation as a written opinion rendered - may put the City in grave legal peril, I cannot share those discussions.

Recommendation

As with the concurrent variance application, staff does not have a recommendation, due to the subjectivity allowable when applying the ordinance and statutory standards for variances (reasonableness and neighborhood character). If the commission and council believe that the applicant should simply not be allowed a larger garage than existing – that a 30-foot by 26-foot garage is not reasonable - or that they should change the location of an expanded garage to meet the ordinance (likely not possible, as any placement on the street side will be somewhere within the setbacks), or that the character of the neighborhood will be greatly affected with approval, then recommend and vote accordingly. If the commission and council believe there is merit to the practical difficulties, by the definitions above, faced by the applicant and the design and location proposed, then recommend and vote according to those beliefs.

CERTIFICATE OF SURVEY

~for~ **BRAD AND MARY HAPKA**
~of~ **135 WILDWOOD AVENUE**
BIRCHWOOD, MN 55110

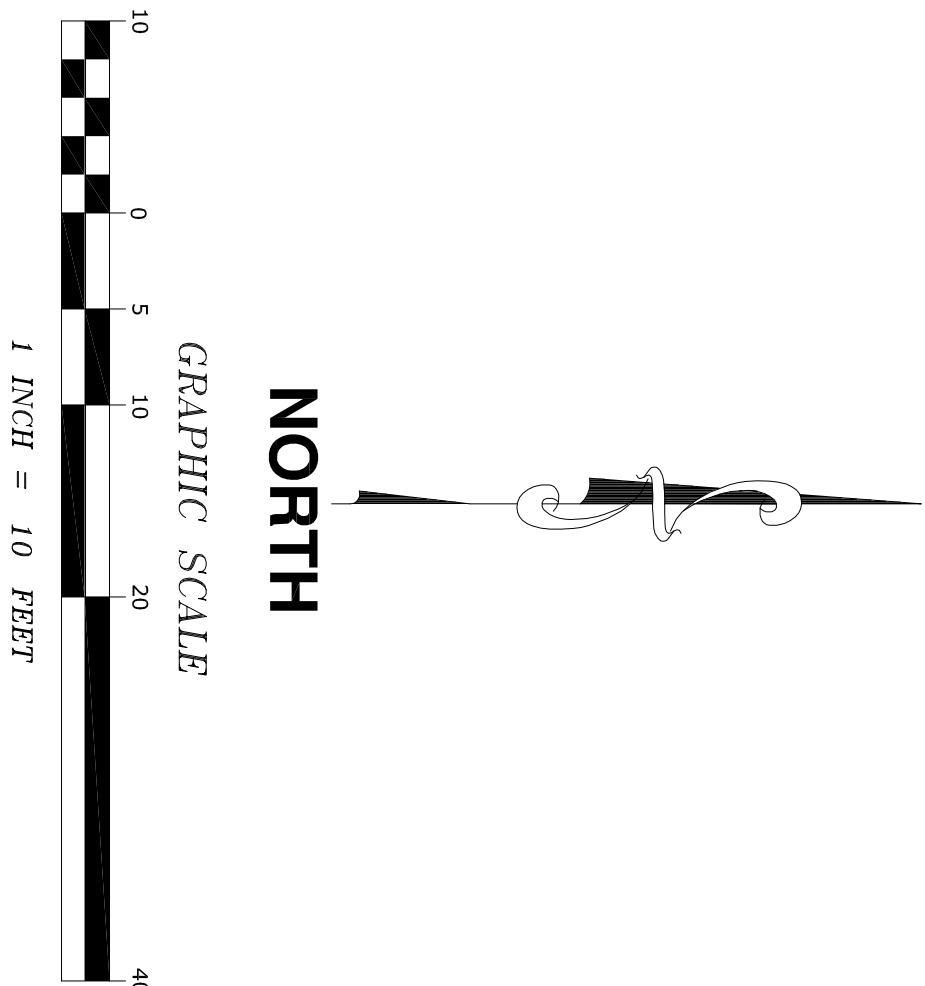
EXISTING LEGAL DESCRIPTION

(Per Document No. 4416166)

Lot "B" in Block 3 of LAKEWOOD PARK 1ST DIVISION, and all that part of Lot 1, and of Wildwood Avenue (now vacated) in BIRCHWOOD ADDITION, which lies between the East and West lines of said Lot "B", extended in straight lines in a northeasterly direction to the shore of White Bear Lake, according to the plat thereon on file and of record in the office of the Register of Deeds, Washington County, Minnesota.

NOTES

- Field survey was completed by E.G. Rud and Sons, Inc. on 06/03/26.
- Bearings shown are on Washington County datum.
- Parcel ID Number: 30-030-21-22-0069.
- Curb shots are taken at the top and back of curb.
- This survey was prepared without the benefit of title work. Additional easements, restrictions and/or encumbrances may exist other than those shown hereon. Survey subject to revision upon receipt of a current title commitment or an attorney's title opinion.



E.G. RUD & SONS, INC.
EST. 1977
Professional Land Surveyors
6776 Lake Drive NE, Suite 110
Lino Lakes, MN 55014
Tel (651) 361-8200 Fax (651) 361-8701
www.egrud.com



BENCHMARK

DNR PAINT MARK ON SLAB OF PUMPHOUSE AT MATOSKA PARK
ELEVATION: 928.74 (MSL 1912)

EXISTING

IMPERVIOUS COVERAGE

TOTAL BOUNDARY AREA (TO OHW) :	7,761 sq. ft.
EXISTING BITUMINOUS:	194 sq. ft.
EXISTING CONCRETE:	299 sq. ft.
EXISTING PAVERS:	293 sq. ft.
EXISTING BUILDINGS:	1,680 sq. ft.
TOTAL IMPERVIOUS SURFACE:	2,466 sq. ft.
PERCENT IMPERVIOUS:	31.78%
EXISTING BITUMINOUS:	133 sq. ft.
EXISTING CONCRETE:	189 sq. ft.
EXISTING PAVERS:	233 sq. ft.
EXISTING HOUSE:	1,199 sq. ft.
PROPOSED GARAGE:	780 sq. ft.

TOTAL IMPERVIOUS SURFACE: 2,594 sq. ft.
PERCENT IMPERVIOUS: 33.42%

LEGEND

- DENOTES IRON MONUMENT FOUND AS LABELED
- DENOTES IRON MONUMENT SET, MARKED RLS# 41578
- DENOTES EXISTING SPOT ELEVATION
- DENOTES GUY WIRE
- DENOTES POWER POLE
- DENOTES FENCE
- DENOTES RETAINING WALL
- DENOTES EXISTING CONTOURS
- DENOTES OVERHEAD UTILITY
- DENOTES BITUMINOUS SURFACE
- DENOTES PAVER SURFACE
- DENOTES ROCKS

TREE DETAIL

- DENOTES ELEVATION
- DENOTES TREE QUANTITY
- DENOTES TREE SIZE IN INCHES
- DENOTES TREE TYPE

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.

JASON E. RUD
Date: 7/27/2026 License No. 41578

DRAWN BY: CHB	JOB NO: 2604968T	DATE: 06/10/26
CHECK BY: JER	FIELD CREW: DT/CT	CMB
1	6-22-26	ADD SET MONUMENTS
2	7-27-26	PROPOSED GARAGE
3	DATE	DESCRIPTION
NO.	DATE	DESCRIPTION
BY		

135 Wildwood Ave
"Hapka"



**CITY OF BIRCHWOOD VILLAGE
VARIANCE APPLICATION**

207 Birchwood Ave., Birchwood, MN 55110
651-426-3403 • info@cityofbirchwood.com

FOR OFFICIAL USE ONLY
(per Minn. Stat. 15.99)

Application Received Date: 7/14/26

Amount Paid: \$ 1,000 App, \$4,000 Escrow

Date of Payment: 7/14/26

Payment Type:

- Cash
- Check (Number: 289,200)
- Credit Card

Application Complete:

☒ Yes

☐ No - Other

Deficiency: _____

Date of Determination: _____

Date Notice of Deficiency Sent: _____

☐ Application Withdrawn by Applicant
Date: _____

- ☐ Variance Deadline Extended, because:
- ☐ Applicant requested extension.
- ☐ City staff require additional time to evaluate the application.
- ☐ The state or another agency must review the application.
- ☐ The application was received too late for city staff to process and place on the agenda of the next Planning Commission meeting.

Date Variance Extension Letter Sent: _____

Length of Extension: _____ days

Completed applications for variances submitted on or before the **first of each month** will generally be considered by the Planning Commission at its next meeting on the fourth Thursday of that month. Applications submitted after the first of the month will generally be considered the following month.

Planning Commission and City Council
City of Birchwood Village

Re: Variance Application – 135 Wildwood Avenue

Dear Commissioners and Council Members,

Brad and I respectfully submit the enclosed application requesting approval of front yard setback, side yard setback, and impervious surface variances associated with replacing our detached garage.

Our existing garage has occupied this location for many years and has become functionally obsolete for today's residential needs. Rather than relocating the garage or changing the established character of our property, we propose to construct a new garage in substantially the same location while modestly increasing its size from approximately 22 feet by 22 feet to 30 feet by 26 feet.

This project represents an investment in the long-term improvement of our home. It replaces an aging structure with one that is safer, more durable, and more compatible with modern residential use while maintaining the established relationship of the garage to the home and surrounding neighborhood.

We understand that the project requires variances because Minnesota law does not permit expansion of a legally nonconforming structure. As discussed with the City's Planning Consultant, our request is therefore processed as a replacement structure requiring location variances. We also understand that stormwater management will be reviewed by the City Engineer, and we are committed to implementing any required drainage improvements.

We respectfully believe this application satisfies each of the City's variance criteria. The request is reasonable, is based on practical difficulties unique to our property, preserves the residential character of the neighborhood, and represents the minimum relief necessary to accomplish the project.

Thank you for your time and consideration. We appreciate the opportunity to improve our property while respecting the character of Birchwood Village and look forward to working with the Planning Commission and City Council throughout the review process.

Respectfully submitted,

Brad Hapka

Mary Hapka

Upon recommendation of the Planning Commission, the City Council will consider and decide the variance application.

A. Applicant's Name:

Brad and Mary Hapka

Telephone:

Home:

Work/Cell:

651-270-7606

Mary Hapka

B. Address (Street, City, State, ZIP):

135 Wildwood Ave. Birchwood Village, MN 55110

C. Property Owner's Name (If different from above):

Telephone

Home:

Work/Cell: 651-270-7606 Mary Hapka

D. Location of Project:

135 Wildwood Ave. Birchwood Village, MN 55110

E. Legal Description:

F. Description of Proposed Project:

We would like to make much needed improvements for garage, to replace it and modestly increase size.

G. Specify each section of the City Code for which a variance is sought. (Variances are not to be granted for the provisions of 301.050 but instead may be granted for other sections of chapters 200 or 300 that cause the existing or proposed structure or use to be non-conforming).

H. Explain how you wish to vary from the applicable provisions of the ordinance:

We are requesting approval of front yard setback, side yard setback and impervious surface variances associated with replacing our detached garage.

I. Please attach a site plan or accurate survey as may be required by ordinance, a Plot plan drawn to scale showing existing and proposed new and changed structures on the lot, and existing structures on adjacent lots. See attached.

J. Please answer the following questions as they relate to your specific variance request:

1. In your opinion, is the variance in harmony with the purposes and intent of the ordinance?

☒ Yes

☐ No

Why or why not?

The garage plan remains very consistent with other garages in our neighborhood.

2. In your opinion, is the variance consistent with the comprehensive plan?

☒ Yes

☐ No

Why or why not?

It is a garage in a residential area which is consistent with this neighborhood.

3. In your opinion, does the proposal put property to use in a reasonable manner? (See attached)

Yes, we would like to replace our aging garage in essentially the same area but increasing size modestly from 22 x 22 to 25 x 26'. Which we need for vehicles and storage needs.

☒ Yes ☐ No

Why or why not?

Consistent with other garages in neighborhood.

4. In your opinion, are there circumstances unique to the property?

☒ Yes ☐ No

Why or why not?

Our lot is 50' we would like to update and modernize our garage.

5. In your opinion, will the variance maintain the essential character of the locality?

☒ Yes ☐ No

Why or why not?

Our garage plan keeps to the current character of our property and surrounding neighbors garages.

- K. Are other governmental permits required for the project, including requirements of the Rice Creek Watershed District? Please attach copies of permits, or evidence they are unnecessary.

☐ Yes ☒ No

Which permits are required?

- L. After the proposed project, will the impervious surface of the lot exceed 25 percent?

☒ Yes ☐ No

See attached survey and garage plan.

Please include the information in the following table.

	EXISTING	PROPOSED	CHANGE
1. Total Square Footage of Lot	7761	7761	0
2. Maximum Impervious Surface	31.78	35.6	3.82
3. Roof Surface	1080	1976	296
4. Sidewalks	592 294 293	0	
5. Driveways	194	0	
6. Other Impervious Surface	—	—	
7. Total of Items 3-6	2466	2762	296
8. Impervious Surface Infiltrated	0	0	0
9. Item 8 subtracted from Item 7			
10. Percent Impervious Surface	31.78	35.6	3.82

The Planning Commission and City Council must make affirmative findings on each of the five criteria in question J in order to grant a variance. The applicant for a variance has the burden of proof to show that all of the criteria have been satisfied.

The City and its representatives accept no responsibility for errors and/or damages caused due to incomplete and/or inaccurate information herein. It is the responsibility of the applicant to ensure the accuracy and completeness of this information.

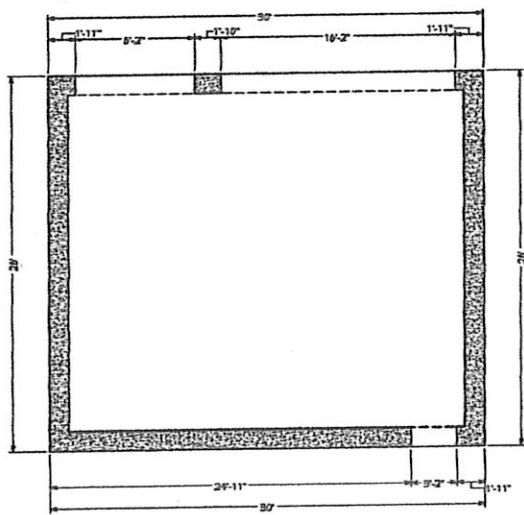
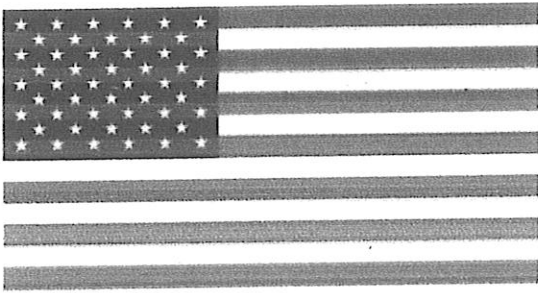
The applicant declares that they are familiar with application fees and other associated costs and with the procedural requirements of the City Code and other applicable ordinances, and that, with the exception of the City Code listed in question G, the proposed project conforms to the City Code, that the information provided in and enclosed herewith is complete and that all documents represented are true and correct representations of the actual project/building that will be built in conformance with such representation if approved.

Applicant's Signature: Mary 2. Hapka

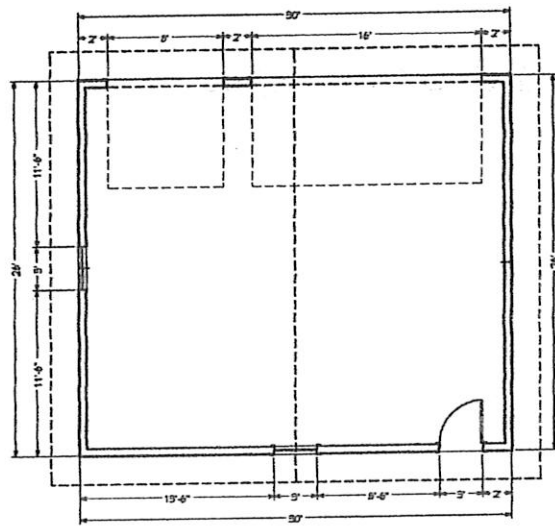
Date: 7/14/2026

Fee Owner's Signature: Mary 2. Hapka

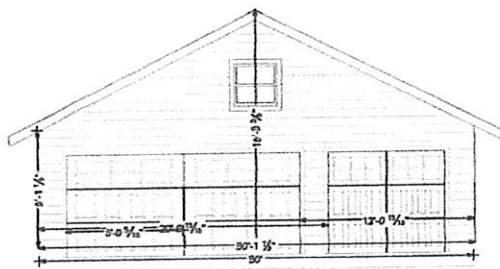
Date: 7/14/2026



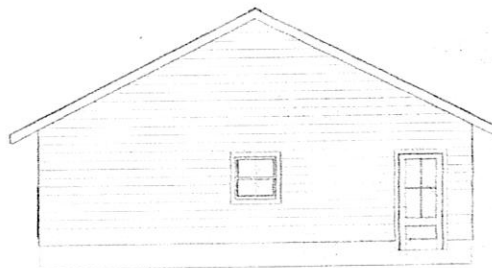
FOUNDATION



1ST FLOOR



ELEVATION 1



ELEVATION 2

SHEET TITLE:		Garage Plan
PROJECT DESCRIPTION:		Hapka Residence
DRAWING PROVIDED BY:		Nelson's General Solutions
DATE:		7/17/2020
SCALE:		1/8"=1'
SHEET:		A-1

EXISTING
IMPERVIOUS COVERAGE

TOTAL BOUNDARY AREA (TO OHW): 7,761 sq. ft.

EXISTING BITUMINOUS: 194 sq. ft.
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LANDSCAPE
PLAN L1

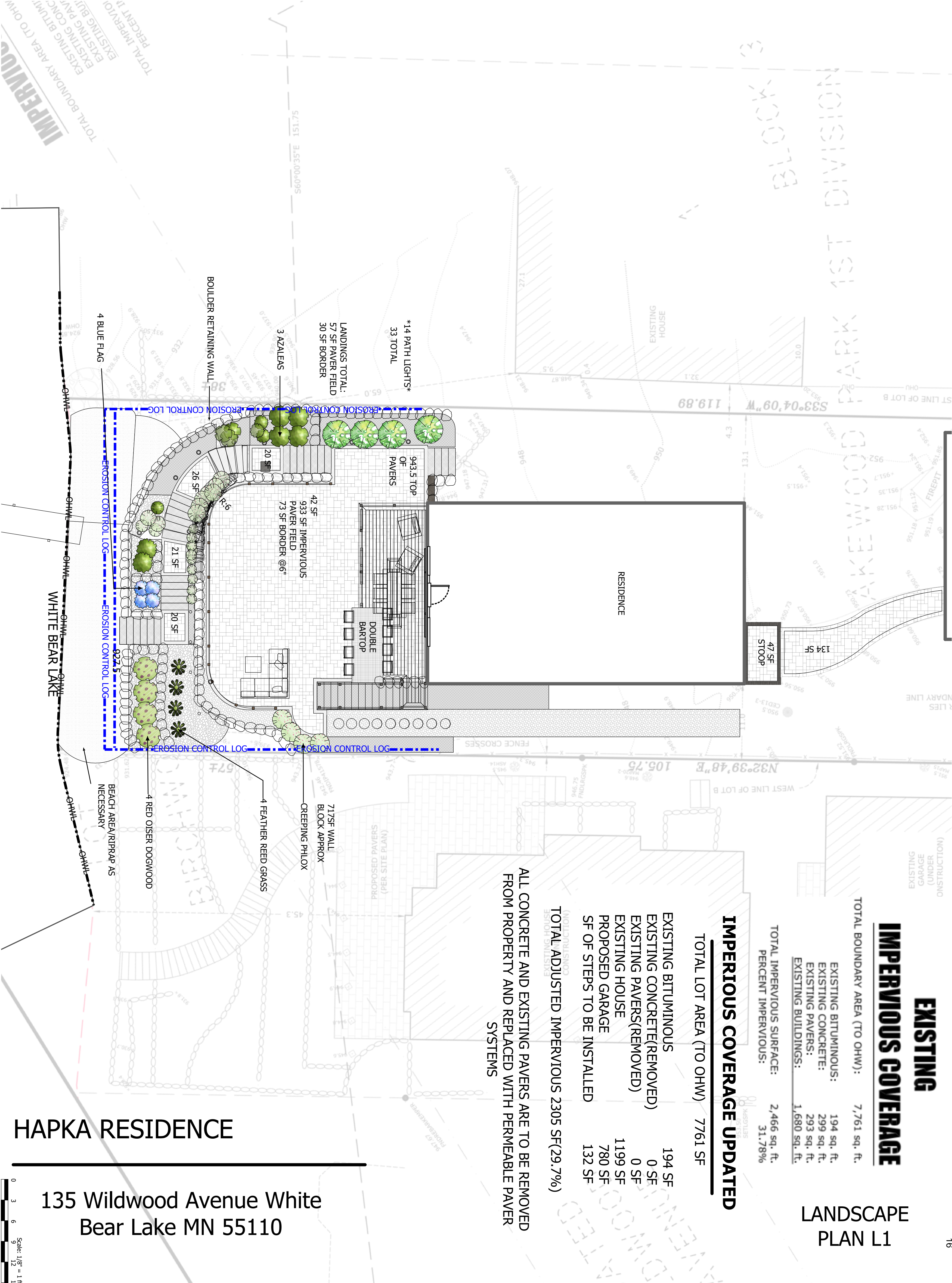
IMPERIOUS COVERAGE UPDATED

TOTAL LOT AREA (TO OHW) 7761 SF

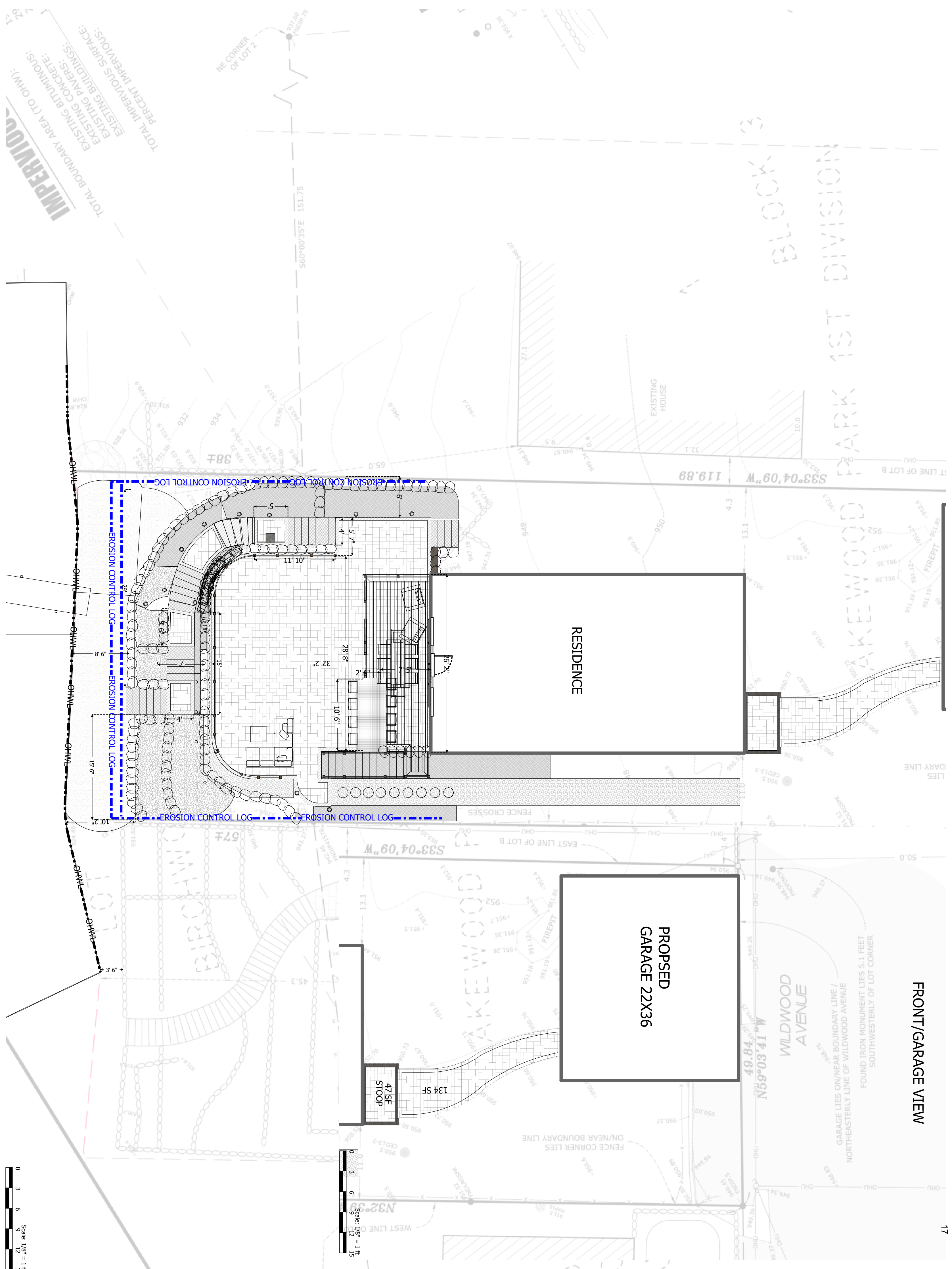
EXISTING BITUMINOUS 194 SF
EXISTING CONCRETE(REMOVED) 0 SF
EXISTING PAVERS(REMOVED) 0 SF
EXISTING HOUSE 1199 SF
PROPOSED GARAGE 780 SF
SF OF STEPS TO BE INSTALLED 132 SF

TOTAL ADJUSTED IMPERVIOUS 2305 SF(29.7%)

ALL CONCRETE AND EXISTING PAVERS ARE TO BE REMOVED
FROM PROPERTY AND REPLACED WITH PERMEABLE PAVER
SYSTEMS



FRONT/GARAGE VIEW



Scale: 1/8" = 1 ft
0 3 6 9 12 15

memo

To: Birchwood Village Planning Commission
Alan Kantrud, City Administrator

From: Ben Wikstrom, Planning Consultant

CC:

Date: August 27, 2026 Meeting

Re: 315 Wildwood Avenue Building Height Variance

Background and Proposal

Jeff Welle of Divine Custom Homes, on behalf of property owners Joe and Andrea Holka, is requesting a variance from the maximum height of a structure to allow construction of a single-family home at 315 Wildwood Avenue. The proposed house has a “tallest point” of 39’ from the lowest grade.

The ordinance allows a maximum height of 35’ from the lowest grade to the highest point of the structure, as excerpted here:

Ordinances

302.045 4. Tallest Point Limitation

Regardless of the structure height limitations for principal structures specified in section 302.045 subsection 2 above, the vertical distance from the lowest level of where grade meets a structure to tallest point of that structure shall not exceed 35 feet.

Other pertinent ordinance language and supplementary information can be found below.

304.040 Standards for Variances.

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- 2. That the proposed structure or use is in harmony with the general purposes and intent of the ordinance; and*
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1. Reasonableness

The first factor is that the property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, if the variance application is for a building too close to a lot line or that does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable.

2. Uniqueness

The second factor is that the landowner’s problem is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees.

3. Essential character

The third factor is that the variance, if granted, will not alter the essential character of the locality. Under this factor, consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

Submittal and Plans

Mr. Welle has submitted elevations for the house, as well as a survey showing existing and proposed conditions (see attached). As noted during the concept review of this project, the main points of discussion, or things to keep in mind, are the following:

- The maximum height of the structure is 39.0’. The highest roof is set back 6’ further from the lake than the forward-most portion of the house, which appears to be near the 35-foot maximum.
- The proposed house is significantly behind the required setback from the Ordinary High Water Line; the closest point of the house is 93.9’ from the OHWL, while a proposed deck is 83.4’ from the line. The ordinance requires a 50-foot setback from the OHWL.

- The proposed house is roughly in line with the setbacks of the adjacent homes (see survey); the existing home at 309 Wildwood Avenue is closer to the lake, while 321 Wildwood Avenue is further from the lake than this proposed house; a line between those two immediate neighbors would be the approximate building line of the house at 315 Wildwood Avenue.
- The existing grades/contours are shown on the survey, and are the basis for the practical difficulty on the property.
- Mr. Welle will describe the type of construction, the ceiling heights, joist design, etc. at the meeting.
- Other items that will be considered from the survey and proposed construction are as follows:
 - The proposed impervious surface on the property is below 30% but above 25%, which will require mitigation by means approved by the City Engineer.
 - The proposed retaining walls on the site include walls higher than 4' leading to the garage; retaining walls that are "part of a building" may be higher than 4' (would still require engineering) without the need for a variance. Staff will work with the applicant to determine the design and the appropriate entitlements.
 - The proposed deck must maintain the required side-yard setback of 10'; the conceptual design shows the corner of the house to be 10.0' and the deck to be slightly closer to the angled lot line.
 - The survey will be studied in further detail when the house design is finalized.

Discussion and Staff Comment

This is a simple request, as the proposed house can be seen as meeting the general intent of the ordinance (average height is well below the maximum allowed, and tallest point is a minimal part of the structure as viewed from the lake side), and generally in harmony with the comprehensive plan (single-family home which happens to be proposed on a narrow, sloped, buildable lake lot).

This application comes down to the Planning Commission's and City Council's interpretation of practical difficulty, insofar as it relates to the reasonableness of the proposal and the character of the neighborhood. The uniqueness of the property can leave room for interpretation as well, but in general, the narrow lot (30+ narrower than is allowed by ordinance) with significant slope will lend to a design of a very long and narrow house, especially when the setbacks are adhered to, with low elevations/heights when viewed from the street, and high elevations/heights when viewed from the lake.

A similar design, recently built in Wisconsin, shows the type of roof proposed on this site (NOTE: this house appears to be lower than the proposed structure; shown only for a design example in reality rather than just elevation drawings):



As mentioned earlier, the average height of the structure will be well below that allowed by ordinance (30'), but the peak height is 4' taller than the maximum allowed. The way the ordinance is written and structure heights are measured, other than flat-roof homes (which are allowed to be 32'), it is unlikely that Birchwood Village will ever have a house – at least on properties with anything more than minimal grade changes - that approaches the allowable average height yet stays within the maximum height limitations. Perhaps that was the goal when the ordinance was written.

Staff does not have access to the building plans of nearby homes to know whether there are any that are taller than the 35' maximum currently allowed, which would speak to the neighborhood character. The fact that this house is well behind the setback from the ordinary high water line (50' required, 93.9' proposed) and in line with the adjacent homes, means that the house will not appear to be towering over the lake. Whether that, along with the other factors mentioned above, is enough to maintain the character of the neighborhood, is for the commission and council to decide.

Recommendation

Staff does not have a recommendation, due to the subjectivity allowable when applying the ordinance and statutory standards for variances (reasonableness and neighborhood character). If the commission and council believe that the applicant should simply change the design of the house to meet the ordinance, then recommend and vote accordingly. If the commission and council believe there is merit to the practical difficulties, by the definitions above, faced by the applicant and the design solutions proposed, then recommend and vote that way.

Contact: Contractor
Jeff Welle
952-449-1177



CITY OF BIRCHWOOD VILLAGE
VARIANCE APPLICATION

207 Birchwood Ave., Birchwood, MN 55110
651-426-3403 • info@cityofbirchwood.com

315 Wildwood²²
Ave
RE: HOLKA

NO CHECKS WRITTEN
DUE TO POSSIBLE FEE
CHANGES PER PHONE CALL
FROM CITY OFFICE

FOR OFFICIAL USE ONLY
(per Minn. Stat. 15.99)

Application Received Date: _____ Amount Paid: \$ _____

Date of Payment: _____

Payment Type:

- Cash
- Check (Number: _____)
- Credit Card

Application Complete:

Yes

No - Other

Deficiency: _____

Date of Determination: _____

Date Notice of Deficiency Sent: _____

☐ Application Withdrawn by Applicant
Date: _____

- ☐ Variance Deadline Extended, because:
- ☐ Applicant requested extension.
- ☐ City staff require additional time to evaluate the application.
- ☐ The state or another agency must review the application.
- ☐ The application was received too late for city staff to process and place on the agenda of the next Planning Commission meeting.

Date Variance Extension Letter Sent: _____

Length of Extension: _____ days

Completed applications for variances submitted on or before the first of each month will generally be considered by the Planning Commission at its next meeting on the fourth Thursday of that month. Applications submitted after the first of the month will generally be considered the following month.

☒ Yes ☐ No

Why or why not?

THE HOME IS DESIGNED TO FIT
THE PROPERTY

4. In your opinion, are there circumstances unique to the property?

☒ Yes ☐ No

Why or why not?

DEALING WITH ELEVATION CHANGE
ON BOTH STREET AND LAKE SIDE

5. In your opinion, will the variance maintain the essential character of the locality?

☒ Yes ☐ No

Why or why not?

THE HOME IS LINED UP BETWEEN
THE NEIGHBORING HOUSES

K. Are other governmental permits required for the project, including requirements of the Rice Creek Watershed District? Please attach copies of permits, or evidence they are unnecessary.

☒ Yes ☐ No

Which permits are required?

IN PROCESS WITH RICE CREEK

- L. After the proposed project, will the impervious surface of the lot exceed 25 percent?

☒ Yes ☐ No

Please include the information in the following table.

	EXISTING	PROPOSED	CHANGE
1. Total Square Footage of Lot	15,497		
2. Maximum Impervious Surface			
3. Roof Surface			
4. Sidewalks			
5. Driveways			
6. Other Impervious Surface			
7. Total of Items 3-6			
8. Impervious Surface Infiltrated			
9. Item 8 subtracted from Item 7			
10. Percent Impervious Surface	29.97		

The Planning Commission and City Council must make affirmative findings on each of the five criteria in question J in order to grant a variance. The applicant for a variance has the burden of proof to show that all of the criteria have been satisfied.

The City and its representatives accept no responsibility for errors and/or damages caused due to incomplete and/or inaccurate information herein. It is the responsibility of the applicant to ensure the accuracy and completeness of this information.

Upon recommendation of the Planning Commission, the City Council will consider and decide the variance application.

A. Applicant's Name:

JOE & ANDREA HOLKA

Telephone:

402-568-6023

Home:

~~612-568-6023~~

Work/Cell:

OWNER REP: JEFF WELLE 952-449-1177 Jeff.Welle@DivinCustomHome.com

B. Address (Street, City, State, ZIP):

1000 1st AVE N - UNIT W1107, ST PETERSBURG, FL 33705

C. Property Owner's Name (If different from above):

Telephone

SAME AS ABOVE

Home:

Work/Cell:

D. Location of Project: 315 WILDWOOD AVE

E. Legal Description: P.I.D. 30-030-21-21-0042

F. Description of Proposed Project: NEW CONSTRUCTION SINGLE FAMILY HOME

G. Specify each section of the City Code for which a variance is sought. (Variances are not to be granted for the provisions of 301.050 but instead may be granted for other sections of chapters 200 or 300 that cause the existing or proposed structure or use to be non-conforming). 302

H. Explain how you wish to vary from the applicable provisions of the ordinance:

MAX HEIGHT INCREASED TO 39'-0"

✓ I. Please attach a site plan or accurate survey as may be required by ordinance, a Plot plan drawn to scale showing existing and proposed new and changed structures on the lot, and existing structures on adjacent lots.

J. Please answer the following questions as they relate to your specific variance request:

1. In your opinion, is the variance in harmony with the purposes and intent of the ordinance?

☒ Yes

☐ No

Why or why not?

THE STREET SIDE VIEW IS BELOW 35 FT

2. In your opinion, is the variance consistent with the comprehensive plan?

☒ Yes

☐ No

Why or why not?

3. In your opinion, does the proposal put property to use in a reasonable manner?

The applicant declares that they are familiar with application fees and other associated costs and with the procedural requirements of the City Code and other applicable ordinances, and that, with the exception of the City Code listed in question G, the proposed project conforms to the City Code, that the information provided in and enclosed herewith is complete and that all documents represented are true and correct representations of the actual project/building that will be built in conformance with such representation if approved.

Applicant's Signature: 

Date: 7-7-26

Fee Owner's Signature: 

Date: 7-7-26

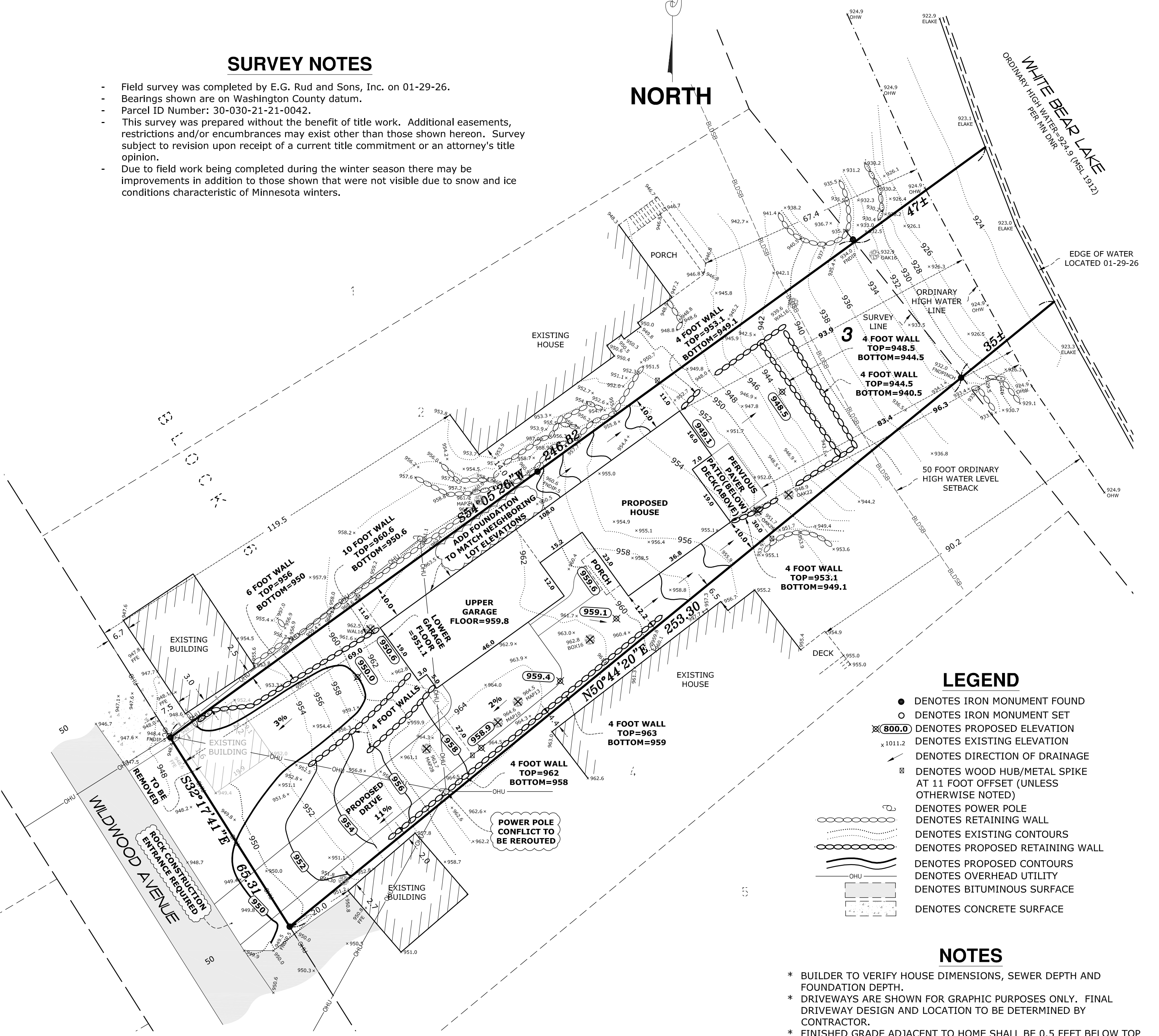
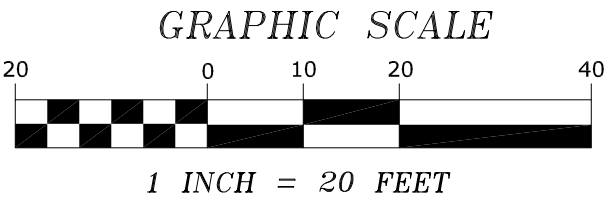
CERTIFICATE OF SURVEY

~for~ **DIVINE CUSTOM HOMES**
~of~ **315 WILDWOOD AVE**
BIRCHWOOD, MN

SURVEY NOTES

- Field survey was completed by E.G. Rud and Sons, Inc. on 01-29-26.
- Bearings shown are on Washington County datum.
- Parcel ID Number: 30-030-21-21-0042.
- This survey was prepared without the benefit of title work. Additional easements, restrictions and/or encumbrances may exist other than those shown hereon. Survey subject to revision upon receipt of a current title commitment or an attorney's title opinion.
- Due to field work being completed during the winter season there may be improvements in addition to those shown that were not visible due to snow and ice conditions characteristic of Minnesota winters.

NORTH



LEGEND

- DENOTES IRON MONUMENT FOUND
- DENOTES IRON MONUMENT SET
- ⊗(800.0) DENOTES PROPOSED ELEVATION
- ⊗1011.2 DENOTES EXISTING ELEVATION
- ↘ DENOTES DIRECTION OF DRAINAGE
- ⊗ DENOTES WOOD HUB/METAL SPIKE AT 11 FOOT OFFSET (UNLESS OTHERWISE NOTED)
- ⊗ DENOTES POWER POLE
- ⊗ DENOTES RETAINING WALL
- ⊗ DENOTES EXISTING CONTOURS
- ⊗ DENOTES PROPOSED RETAINING WALL
- ⊗ DENOTES PROPOSED CONTOURS
- ⊗ DENOTES OVERHEAD UTILITY
- ⊗ DENOTES BITUMINOUS SURFACE
- ⊗ DENOTES CONCRETE SURFACE

NOTES

- * BUILDER TO VERIFY HOUSE DIMENSIONS, SEWER DEPTH AND FOUNDATION DEPTH.
- * DRIVEWAYS ARE SHOWN FOR GRAPHIC PURPOSES ONLY. FINAL DRIVEWAY DESIGN AND LOCATION TO BE DETERMINED BY CONTRACTOR.
- * FINISHED GRADE ADJACENT TO HOME SHALL BE 0.5 FEET BELOW TOP OF BLOCK EXCEPT AT DRIVEWAY AND PATIO.

Lot 3, Block 6, LAKEWOOD PARK FIRST DIVISION,
Washington County, Minnesota.

DIAG: 57.00 X 108.00 = 122.12
(11 FOOT POURED WALL WALKOUT)

PROPOSED ELEVATIONS

TOP OF WALL = 960.1
UPPER GARAGE FLOOR = 959.8
LOWER GARAGE FLOOR = 951.1
LOWEST FLOOR = 949.6
TOP OF LOWER FOOTING = 949.1

TREE DETAIL

- ⊗ DENOTES ELEVATION
- ⊗ DENOTES TREE QUANTITY
- ⊗ DENOTES TREE SIZE IN INCHES
- ⊗ DENOTES TREE TYPE
- ⊗ DENOTES TREE TO BE REMOVED

PROPOSED IMPERVIOUS SURFACE CALCULATIONS

TOTAL LOT AREA (ABOVE OHW)	15,497 SF (0.36 Acres)
EXISTING GARAGE (TO BE REMOVED)	380 SF
PROPOSED HOUSE, GARAGE, PORCH	2,807 SF
PROPOSED DRIVEWAY	1,720 SF
PROPOSED WALK	119 SF
TOTAL IMPERVIOUS SURFACE	4,646 SF
PERCENT IMPERVIOUS	29.97%

(PERVIOUS PAVEMENT PATIO NOT INCLUDED IN CALCS.)



E.G. RUD & SONS, INC.
Professional Land Surveyors
6776 Lake Drive NE, Suite 110
Lino Lakes, MN 55014
Tel. (651) 361-8200 Fax (651) 361-8701

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.

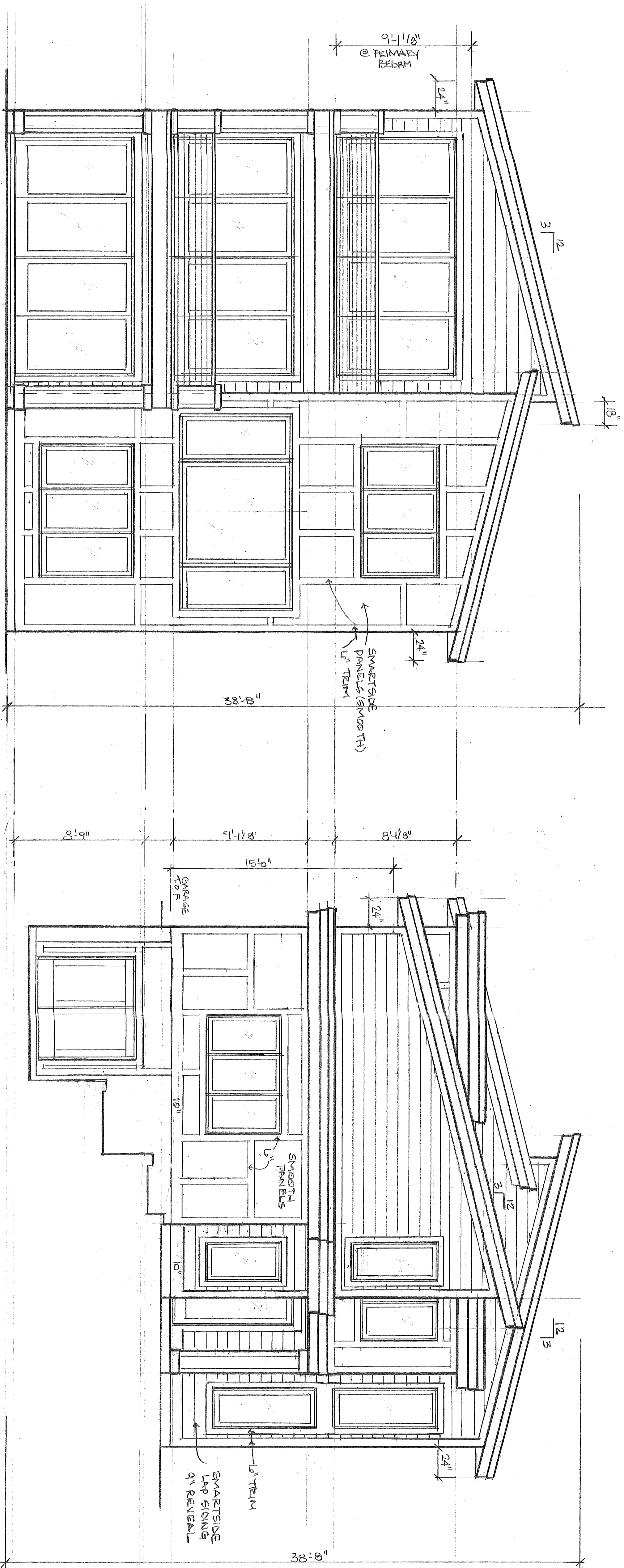
JASON E. RUD
Date: 5/5/2026 License No. 41578

DRAWN BY:	RAF	JOB NO:	260059HS	DATE:	02-12-26
CHECK BY:	JER	FIELD CREW:	DT/CT		
1	04-21-26	NEW HOUSE PLAN		RAF	
2	05-05-26	UPDATE IMPERVIOUS CALCS.		RAF	
3					
NO.	DATE	DESCRIPTION		BY	

REVISIONS	BY

JOE & ANDREA HOLKA
315 WILDWOOD AVE., BIRCHWOOD MN.

Date	5-14-26
Scale	1/4"=1'-0"
Drawn	TS
Job	
Sheet	
Of 1 Sheets	1/



REAR ELEVATION

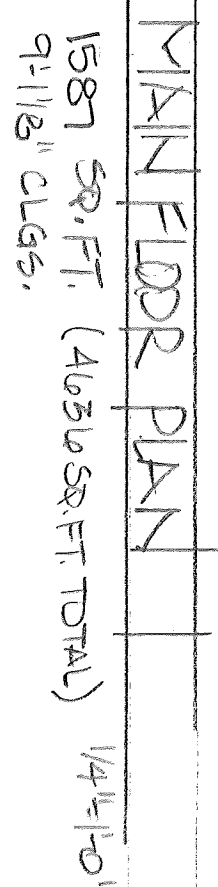
1/4"=1'-0"

FRONT ELEVATION

1/4"=1'-0"

1/4"=1'-0"

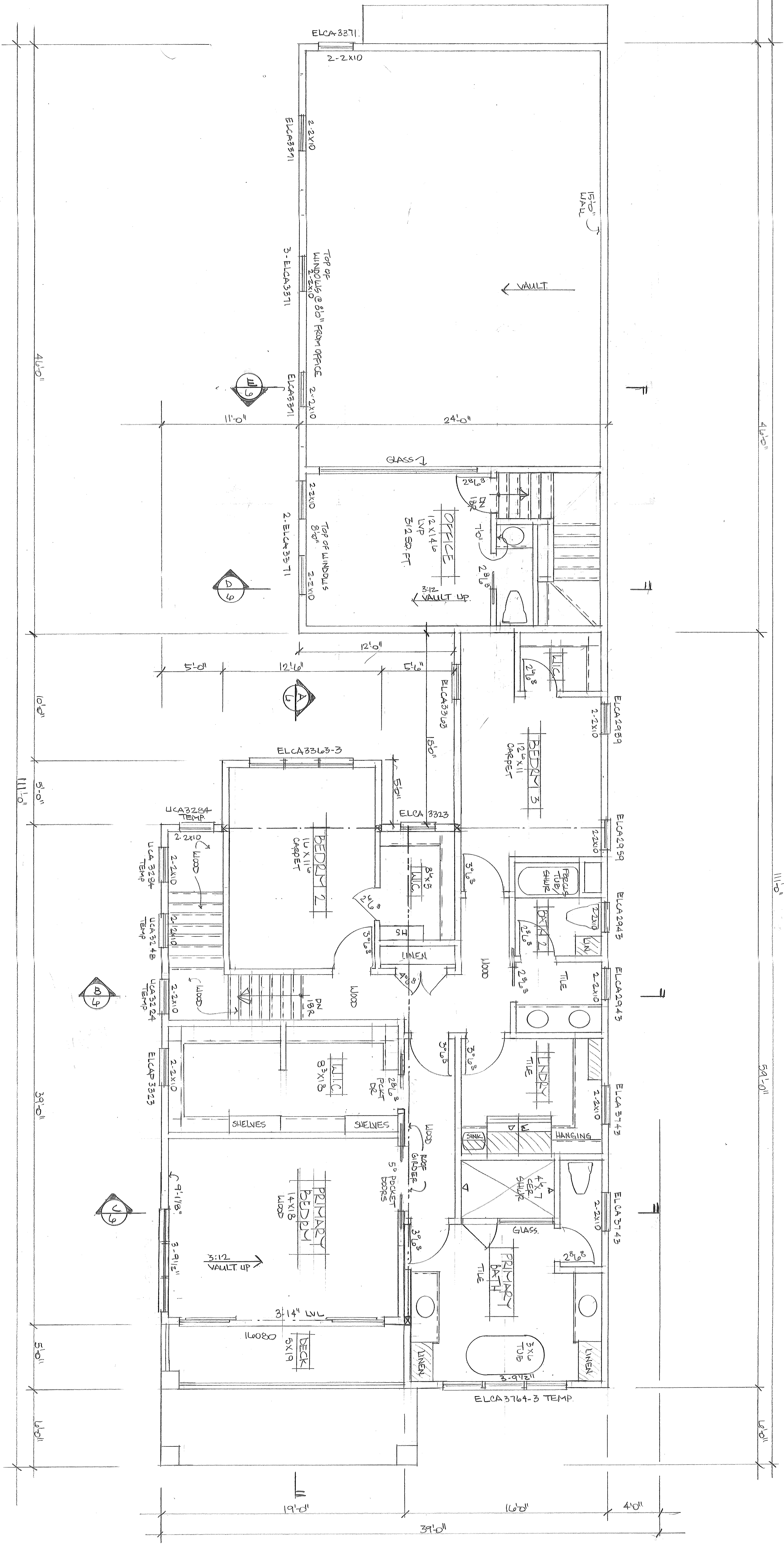
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REVISIONS	BY

JOE * ANDREA HOLKA
315 WILDWOOD AVE., BIRCHWOOD MN.

Date	5-14-21
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Job	
Sheet	
of 5	Sheets

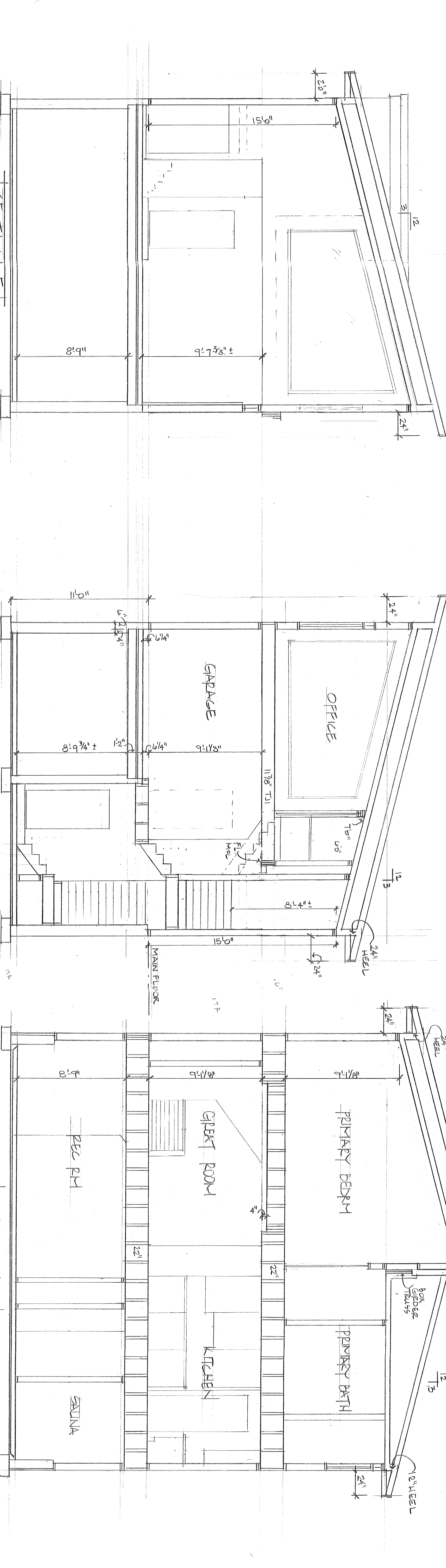
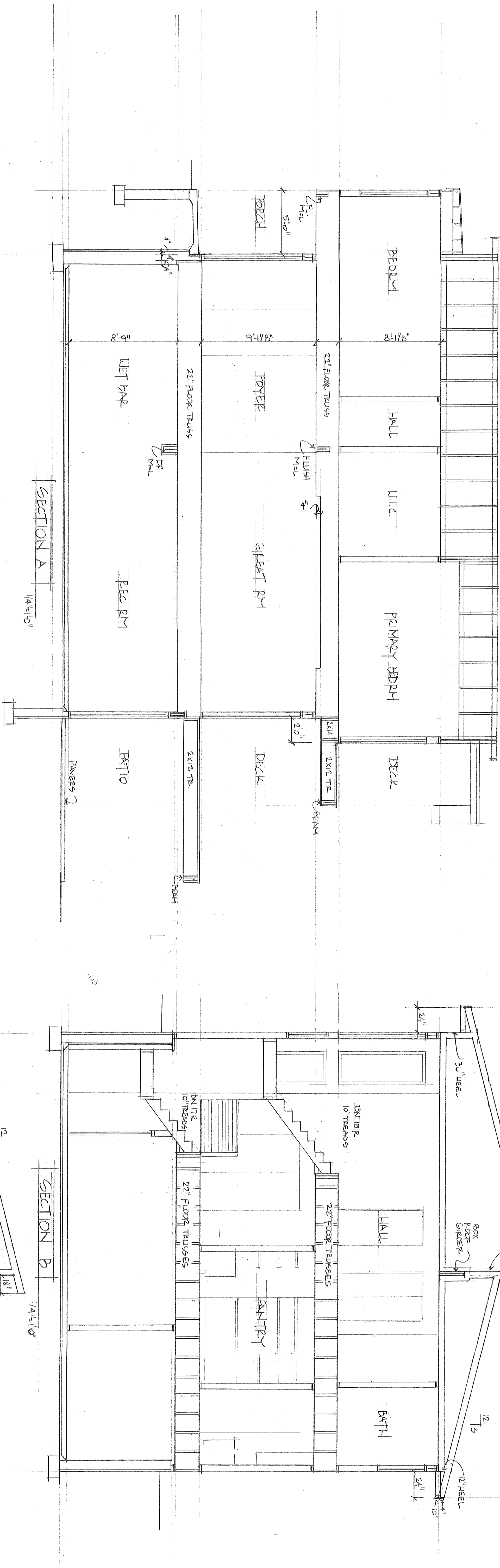


UPPER LEVEL FLOOR PLAN
1/4"=1'-0"
8'-11/8" CLGS.
7'-0" TOP OF WINDOWS

REVISIONS	BY

JOE & ANDREA HOLKA
315 WILDLWOOD AVE., BIRCHWOOD MN.

Date	5-14-26
Scale	1/4"=1'-0"
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Job	
Sheet	
Of 6	Sheets 10



To: Planning Commission
From: Ryan Hankins

Please consider the following series of amendments to the planning code. They serve three purposes:

1. Bring the code into consistency with the DNR Model Shoreland Ordinance.
2. Add several definitions.
3. Add an as-build survey requirement. Both our planner and engineer recommend such a requirement.
4. Reduce the requirement for conditional use permits for landscaping work.
5. Bring zoning permit requirements in particular into line with the DNR Model Shoreland Ordinance.

CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS 300.020, 301.070, 301.080, 302.055, AND 306.030 OF THE BIRCHWOOD VILLAGE CITY CODE TO ALIGN LAND DISTURBANCE AND SHORELAND REGULATIONS WITH MINNESOTA DEPARTMENT OF NATURAL RESOURCES STANDARDS

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

Section 1. Amendment. Section 300.020 (DEFINITIONS) of the Birchwood Village City Code is hereby amended to add the following definitions in their appropriate alphabetical order. The City Administrator-Clerk is authorized to renumber the existing subdivisions of this section accordingly to accommodate these additions.

Bluff. A topographic feature such as a hill, cliff, or embankment having all of the following characteristics:

- a. **Part or all of the feature is located in a shoreland area;**
- b. **The slope rises at least 25 feet above the ordinary high water level of the waterbody;**
- c. **The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and**
- d. **The slope must drain toward the waterbody.**

An area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff.

Bluff Impact Zone. A bluff and land located within 20 feet from the top of a bluff.

Retaining Wall. A structure constructed of rock, wood, block, concrete, or other materials, designed to resist the lateral pressure of soil and to retain or prevent the

sliding, shifting, or erosion of earth, rock, or other materials. For the purposes of this code, any structural slope or shoreline stabilization measure that exceeds the definition, size, or slope limitations of natural riprap shall be considered a retaining wall.

Shore Impact Zone. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the required structure setback.

Steep Slope. Land where development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having average slopes over twelve (12) percent, as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.

Toe of the Bluff. The lower point of a 50-foot segment with an average slope exceeding 18 percent.

Top of the Bluff. The higher point of a 50-foot segment with an average slope exceeding 18 percent.

Section 2. Amendment. Section 301.070, Subdivision 1 of the Birchwood Village City Code is hereby amended to read as follows:

301.070. CONDITIONAL USES.

1. A Conditional Use Permit shall be required for the following projects:
 - a. Any land disturbance activity ~~where the slope is toward a lake, pond, wetland, or watercourse leading to such waters, and the alteration is closer to such waters than the structure setback requirement.~~ that involves the movement of more than ten (10) cubic yards of material on steep slopes or within the shore impact zone.
 - b. Any land disturbance activity where such work involves an area greater than four hundred (400) square feet and/or more than fifty (50) cubic yards in volume.

Section 3. Amendment. Section 301.080, Subdivision 1 of the Birchwood Village City Code is hereby amended to read as follows:

301.080. ZONING PERMIT.

1. A Zoning Permit shall be required for the following projects:
 - [...]
 - f. Land Disturbance Activities ~~greater than one hundred (100) square feet or~~ greater than ten (10) cubic yards.

Section 4. Amendment. Section 302.055, Subdivision 2(c) of the Birchwood Village City Code is hereby amended to read as follows:

302.055. LAND DISTURBANCE ACTIVITY STANDARDS.

2. The following are Specific Standards:

c. Requirements and Standards During Construction

[...]

3. ~~Temporary ground cover, (mulch) shall be used within 2 weeks of finish and permanent vegetative cover, sod and plantings shall be provided as soon as possible but not exceeding 1 year after the completion of finish grading.~~ Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible. Temporary ground cover (such as mulch) shall be applied within seven (7) days of any significant pause in grading. Permanent vegetative cover, sod, and plantings shall be established as soon as possible, but in no case later than fourteen (14) days after the completion of finish grading.

Section 5. Amendment. Section 306.030, Subdivision 3(a) of the Birchwood Village City Code is hereby amended to read as follows:

306.030. CONDITIONAL USE PERMIT FOR LAND DISTURBANCE ACTIVITY.

3. Required Information in Application for Land Disturbance Activity

a. Plans: Existing, Construction, and Final Site Plans must include detail on how the applicant intends to control and minimize erosion and storm water runoff and to follow Section 302.050 IMPERVIOUS SURFACES and Section 302.055 LAND DISTURBANCE ACTIVITY STANDARDS.

Existing Site Plan: A map of existing site conditions showing the site and immediately adjacent areas, including:

[...]

3. Existing topography with a contour interval appropriate to the topography of the land, but in no case having a contour interval greater than two (2) feet. Include designation of areas that have the potential for serious erosion problems, e.g. slope of greater than twelve (12) percent and the exact boundaries of any steep slopes, bluffs, bluff impact zones, and the shore impact zone.

Section 8. Amendment. Chapter 300 of the Birchwood Village City Code is hereby amended by adding Section 311 to read as follows:

311. AS-BUILT SURVEY REQUIREMENTS

311.100 DEFINITIONS. For the purposes of this section, the following terms shall have the meanings ascribed to them:

- **As-Built Survey:** A survey prepared and certified by a state-licensed professional land surveyor conducted after construction is complete. The survey shall show the actual,

final horizontal and vertical locations, dimensions, and elevations of all newly constructed or altered improvements for which a building permit was issued. This includes, but is not limited to, building footprints, decks, patios, driveways, retaining walls, and accessory structures.

- **Certificate of Occupancy (CO):** The official city document that certifies a building's compliance with applicable codes and indicates it is in a condition suitable for occupancy.
- **City Engineer / Zoning Administrator:** The City official, or their designee, responsible for reviewing permit applications and enforcing the City's zoning and building codes.
- **Impervious Surface:** Any material or structure on a lot that prevents the infiltration of water into the ground. Impervious surfaces include, but are not limited to, roofs, patios, driveways, sidewalks, and parking areas, regardless of material.
- **Setback:** The minimum required distance that a structure or improvement must be located from a property line, public right-of-way, or other designated line.

311.110 CRITERIA FOR REQUIRING AN AS-BUILT SURVEY.

An As-Built Survey shall not be required for the issuance of a Certificate of Occupancy or final project approval *unless* one or more of the following conditions exist.

1. **Proximity to Setbacks:** When any portion of a new permanent structure or horizontal addition is constructed within **two feet (2')** of a required minimum property line setback.
2. **Impervious Surface Limits:** When the approved project plans indicate that the total impervious surface coverage on the lot will be within **five percent (5%)** of the maximum coverage allowed by the zoning district. For example, if the maximum allowed coverage is 30%, a survey may be required if the project brings the total coverage to between 25% and 30%.
3. **Complex Site Conditions:** For projects on lots with characteristics that increase the risk of encroachment or non-compliance, including:
 - Lots with irregular or unusual shapes.
 - Significant changes in topography or the construction of substantial retaining walls near a property line.
 - The location of new structures in or adjacent to a public utility easement, drainage easement, or environmentally sensitive area (e.g., wetland buffer).
4. **Observed Field Discrepancies:** When a visual inspection by City staff during or after construction reveals a potential or apparent deviation from the approved site plan that could result in a zoning violation.
5. **Projects with Variances or Special Conditions:** When a project was approved through a variance, conditional use permit, or other special approval.
6. **History of Property Line Disputes:** When there is a known or documented history of a property line dispute or uncertainty concerning the property lines of the subject parcel or an adjacent parcel.

311.120 SUBMISSION AND REVIEW.

If an As-Built Survey is required under the criteria in Section 2, it must be submitted to the City for review and approval prior to the final inspection and issuance of a Certificate of Occupancy or the refund of any deposit. The City shall withhold the Certificate of Occupancy until a compliant survey is submitted and approved.

311.130 SEVERABILITY.

If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

311.140 EFFECTIVE DATE.

This Ordinance shall be in full force and effect from and after its passage, approval, and publication as required by law.

Section 7. Summary Publication.

Pursuant to Minnesota Statutes Section 412.191, Subdivision 4, the City Council determines that publication of the title and summary of this Ordinance will clearly inform the public of the intent and effect of this Ordinance. The City Administrator-Clerk is directed to publish a summary of this Ordinance in the city's official newspaper.

Section 8. Effective Date.

This Ordinance becomes effective immediately upon its passage and publication according to law.

Passed by the City Council of the City of Birchwood Village, Minnesota this ____ day of _____, 2026.

Mayor

Attested:

City Administrator-Clerk

CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA

ORDINANCE NO. ____

**AN ORDINANCE AMENDING SECTION 302.045 OF THE ZONING CODE RELATING TO
 GRADE PLANE CALCULATIONS AND BUILDING HEIGHT MEASUREMENT**

The City Council of the City of Birchwood Village ordains:

Section 1. Findings and Purpose. The City Council finds that:

1. The current Zoning Code language in Section 302.045(2), Methods A and B, dictates that "elevation points at the ground level shall be evenly distributed along each façade" for the purpose of calculating the grade plane and determining structure height.
2. The phrase "evenly distributed" without a specified maximum distance creates ambiguity, allowing for inconsistent methodologies where an inadequate number of elevation points could be used to calculate the average grade.
3. Given the varied topography, natural slopes, and hilly parcels within the municipal boundaries, imprecise grade plane calculations can allow structures to effectively exceed intended zoning height maximums, negatively impacting neighborhood character and sightlines.
4. Adopting an objective, high-resolution measurement standard—specifically requiring elevation points at all building corners and at maximum 5-foot intervals along the foundation—eliminates measurement loopholes and ensures the calculation reflects the true topography of the parcel.
5. The purpose of this amendment is to provide clear, enforceable, and objective standards for city staff, developers, and residents, ensuring equitable application of building height restrictions.

Section 2. Amendment. Section 302.045, Subsection 2 of the City Code is hereby amended to read as follows:

METHOD A: (Applicable to principal structures and attached garages.) For flat and shed roofs, the height of a structure is the vertical distance measured between the average elevation of the grade plane and the highest point of the roof surface. For mansard roofs, the height of a structure is the vertical distance between the average elevation of the grade plane and the break line. For gable, gambrel and hip roofs, the height of a structure is the vertical distance between the eaves and the average elevation of the grade plane, plus 70% of the vertical distance between the eaves and the structure's highest roof ridge. For gable, gambrel and hip roofs with uneven eaves, the average of the heights of that roof's eaves is used to determine vertical distance. The grade plane shall be calculated based on the method shown in Exhibit A

below. The height for gable, gambrel and hip roofs shall be calculated as shown in Exhibit B below. Elevation points at the ground level shall be taken at all exterior building corners and shall be evenly distributed along each façade at intervals not to exceed five (5) feet. ~~Elevation points at the ground level shall be evenly distributed along each façade.~~

METHOD B: (Applicable to detached 3-dimensional structures, e.g. detached garages and storage sheds): The 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 taken at all exterior building corners and shall be evenly distributed along each façade at intervals not to exceed five (5) feet. ~~Elevation points at the ground level shall be evenly distributed along each façade.~~

Section 3. Effective Date. This ordinance becomes effective upon its passage and publication.

PASSED AND ADOPTED by the City Council of the City of Birchwood Village, Minnesota, this ____ day of _____, 2026.

Mayor ATTEST: _____

City Clerk