



MEETING OF THE PLANNING COMMITTEE

CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
September 24th, 2026 @ 7 pm

MEMBERS

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

Planning Consultant: Scott Saeher of Saeher Consulting

CALL TO ORDER

ROLL CALL

Approve prior meeting minutes from 8/27/26* (pgs 2-5)

OPEN PUBLIC FORUM

AGENDA

1. Introduction of Scott Saeher of Saeher Consulting
(Birchwood's New City Planning Consultant effective 9/1/2026)
2. Review and Consider Revisions for Zoning Codes*
300.020, 301.070, 301.080, 302.055, 306.030 (pgs. 6-10)
3. Review and Consider Additional Height Clarification for Height Code*
302.045 (pgs. 11-12)

ADJOURN

* Denotes items that have supporting documentation provided

MEETING MINUTES (Draft)

Birchwood Planning Commission Regular Meeting

City Hall - 7:00 PM Regular Meeting 8/27/2026

Submitted by Michael Kraemer – secretary

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

COMMISSIONERS ABSENT:

OTHERS PRESENT: City Mayor – Jennifer Arsenant, Ryan Hankins – Council Member, Mary and Brad Hapka (135 Wildwood), Amy and Darren DeYoung (309 Wildwood), Paul Edwards (neighbor to 321 Wildwood)

1. CALL TO ORDER: Chairman - Sorenson call meeting to order at 7:01 PM.
2. PUBLIC FORUM
 - a. None
3. Approve Minutes from 6/3/2026 Planning Commission meeting.
 - a. Motion by Muhm to approve minutes with typo correction, McKenzie 2nd. Yes – 5, No – 0. Motion to approve passed.
4. REGULAR AGENDA
 - a. Item 1.A – 135 Wildwood Ave. (Hapka – Garage Setback Variance)
 - i. Introduction of application was presented by property owners Brad and Mary Hapka.
 - ii. Staff memo from City Planner Ben Wikstrom was included in packets. The application narrative identified variance requests for street and side yard setback for new larger garage and preliminary discussion of future impervious surface variance consideration once the garage variance requests were resolved. Planning staff report did not include recommendations only pro and con talking points on the setback variances. **Based on City Planner Wikstrom’s indication that the impervious surface variance request had not been fully vetted by the applicant and staff, the Planning Commission focused on just the street and side yard setback variances.**
 - iii. At 7:09 PM Chairman Sorenson opened the meeting to public hearing on the proposed street and side yard setback variance 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. Commission talking points included the following:

1. The existing garage is in need of replacement and could be replaced in-kind in the current location without the need for variance.
 2. City code suggests 30' foot setback from street right-of-way and 10' from side yard property line.
 3. Current garage locations is 10'-12' from street right-of-way and approximately 2' from south property line.
 4. Grade difference between lots along south property line may require the south wall of the garage to serve as a retaining wall.
 5. Current garage is approximately 29' – 30' from street side of house and could afford movement of garage toward the house to achieve a 20' street ROW setback for vehicle parking.
 6. Moving the proposed garage toward the house would shrink the current yard space.
 7. Achieving a 20' setback from the face of the garage to the street right-of-way by a new or replacement garage may be a reasonable compromise. It would accommodate the object of the code for off street parking and vehicle movement safety while preserving as much yard as practical.
 8. Future Actions: A thorough "impervious surface" analysis and discussion was not addressed by the Planning Commission. Expanding the garage size and additional site changes may trigger need for additional analysis and may even require a variance.
- v. Recommend Approval with Findings and Conditions or Denial with findings.

1. Advisory Motion by Sorenson, 2nd by Maiers-Atakpu : The City Council consider denying the "street setback variance". Advisory vote: Yes – 4, No – 1.
2. Advisory Motion by Kraemer, 2nd by Muhm: The City Council consider approving the "sideyard setback variance" to provide options for garage upgrade and addressing the current grade differential with the lot to the south. Advisory vote: Yes – 5, No – 0. Motion passed

b. Item 1.B – 315 Wildwood Ave (Holka – New Home Height Variance)

- i. City Planner Wikstrom provided a memo in the Planning Commission's packets addressing the proposed concept building plans and issues surrounding the Height Variance issue.
 1. City Planner Wikstom's memo included the following discussion points:
 - a. *"...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).

ii. Planning Commission Discussion

1. Planning Commission discussion acknowledged the following:

- a. The pre-existing lot is long and narrow with challenging topography changes across the site.
- b. This lot's topography creates unique site development challenges contributing to the practical difficulty of the site. (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.)
- c. 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).
- d. The Planning Commission discussion acknowledged City Planner's previous recommendation for need of compliance with all City Codes including but not limited to:
 - i.* Retaining walls design
 - ii.* Bulk stormwater management and impervious surface thresholds.

iii. Recommend Approval with Findings and Conditions or Denial with findings.

- 1. Advisory Motion by Kraemer, 2nd by Muhm: The City Council consider approving the variance to the "height limitation" of 35' specific this lot and the proposed structure design as a reasonable solution to the practical difficulty of this site. Advisory vote: Yes – 5, No – 0. Motion passed.

c. Item 2 - Review and Consider Revisions to Code 300.020, 301.070, 301.080, 302.055, 306.030 (Zoning)

- i.* Action taken: Withdrawn and tabled until the next meeting, to allow Commission time to review.

d. Item 3 - Review and Consider Additional Height Clarification for Code 302.045

- i.* Action taken: Withdrawn and tabled until the next meeting, to allow Commission time to review.

ADJOURN 8:37 PM

- e. Motion by Maier-Atakpu, 2nd by Sorenson to adjourn meeting. Vote: Yes - 5, No – 0. Motion passed.

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-built 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