

## A G E N D A

### CALL TO ORDER

### ROLL CALL / (LIAISON) SCHEDULE

MADDY ( ) \_\_\_\_\_  
EGGENBERGER ( ) \_\_\_\_\_  
GAULT ( ) \_\_\_\_\_  
RIEDEL (AUG) \_\_\_\_\_  
HUSKINS (JUL) \_\_\_\_\_  
COUNCIL LIAISON JOHNSON (JUL-DEC.) \_\_\_\_\_

#### 1. APPROVAL OF AGENDA

#### 2. APPROVAL OF MINUTES

- ♦ June 1, 2021

#### 3. MATTERS FROM THE FLOOR

(This portion of the meeting allows members of the public the opportunity to bring up items that are not on the agenda. Each speaker has a maximum of three minutes to present their topic. Multiple speakers may not bring up the same points. No decisions would be made on the topic at the meeting except that the item may be referred to staff for more information or the City Council.)

#### 4. PUBLIC HEARINGS

##### A) CUP for a fence

Applicant: Jacob Gustafson and Allison Spies  
Location: 4865 Ferncroft Drive

#### 5. NEW BUSINESS

##### A) Minor Subdivision

Applicant: Todd Cebulla  
Location: 19210 Waterford Place & 5520 Vine Hill Road

##### B) Variance to side yard setback

Applicant: Kimberly Poe  
Location: 23320 Park Street

#### 6. OTHER BUSINESS

##### A) Sign Ordinance Amendments *Continued from June 1, 2021*

Applicant: City of Shorewood  
Location: Citywide

#### 7. REPORTS

- A) Council Meeting Report
- B) Draft Next Meeting Agenda

#### 8. ADJOURNMENT

**MINUTES**

**CALL TO ORDER**

Chair Maddy called the meeting to order at 7:04 P.M.

**ROLL CALL**

Present: Chair Maddy; Commissioners Eggenberger, Huskins, and Gault; Planning Director Darling; Planning Technician Notermann; and, Council Liaison Callies

Absent: Commissioner Riedel

**1. APPROVAL OF AGENDA**

Huskins moved, Eggenberger seconded, approving the agenda for June 1, 2021, as presented. Roll Call Vote: Aye – all Motion passed 4/0.

**2. APPROVAL OF MINUTES**

- May 4, 2021

Huskins moved, Eggenberger seconded, approving the Planning Commission Meeting Minutes of May 4, 2021, as presented. Roll Call Vote – ayes all. Motion passed 4/0.

**3. MATTERS FROM THE FLOOR - NONE**

**4. PUBLIC HEARINGS**

Chair Maddy explained the Planning Commission is comprised of residents of the City of Shorewood who are serving as volunteers on the Commission. The Commissioners are appointed by the City Council. The Commission's role is to help the City Council in determining zoning and planning issues. One of the Commission's responsibilities is to hold public hearings and to help develop the factual record for an application and to make a non-binding recommendation to the City Council. The recommendation is advisory only.

**A. PUBLIC HEARING – CUP for fill in excess of 100 cubic yards and variances to impervious surface coverage and building height**

**Applicant: Tod and Bonnie Carpenter**

**Location: 26050 Birch Bluff Road**

Planning Director Darling explained that the applicant would like to remove the existing home and construct a new home at 26050 Birch Bluff Road and are requesting a CUP to import 500 cubic yards of fill; a variance to allow the house to be 40.6 feet in height; and a variance to allow 25.74 percent impervious surface coverage. The existing home was constructed in 1973 as part of the Birch Bluff Upper Minnetonka subdivision that was recorded in 1881. The adjacent properties are all developed with single family homes and are zoned R-1C. This property has floodplain, tree preservation and is included in the Shoreland District. She noted that she had included all the pertinent Zoning Ordinance sections in the packet as well as the applicant's narrative and their



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plans. She explained that the applicants have proposed a design which includes a main floor master suite, which widened their design and increased the impervious surface coverage on the property. There have been some changes to the design this they initially submitted their application and have reduced the amount of proposed impervious surface to 25.74, which is still a bit over the allowed amount. She reviewed details of the requests and the criteria that the Planning Commission should use in considering the requests. Staff recommends approval subject to the conditions included in the staff report. The City received four letters regarding this application which are now part of the public record, one was included with the staff report, and the others were distributed today. The letters are from the following:

Michael and Susan Newberg, 26045 Birch Bluff Road  
Veronica and Michael Grover, 26020 Birch Bluff Road  
Bonnie McFee and Jim Prokopanko, 25990 Birch Bluff Road  
Bonnie and Gianfranco Cuneo, potential owners of 26050 Birch Bluff Road

Commissioner Gault asked about the lower-level floor plan that says the typical ceiling height is 9 feet 4.5 inches and asked if that included the sport court.

Planning Director Darling stated that she believes the sport court has closer to a 12-foot ceiling, but noted that the applicant can clarify that point.

Commissioner Gault noted that he had driven by this property earlier today and the existing driveway looks as though it is providing natural drainage from the south across Birch Bluff Road which was a concern raised in one of the letters. He asked how confident the City was that the holding tank would replace that natural drainage.

Planning Director Darling stated that there will also be some drain tile that runs underneath Birch Bluff Road from the property to the south extending north to the Lake between the subject property and the property to the west. The neighbor has attested that the pipes are older and with the City's reconstruction of Birch Bluff Road, the drain tile would be replaced.

Chair Maddy asked if it was City owned or privately owned drain tile.

Planning Director Darling noted that they believe this one is for City maintenance and public drain tile.

Commissioner Eggenberger asked about the fill being brought in and whether it will affect the height of the home.

Planning Director Darling stated that without the fill, they would not be able to do the sport court underneath the garage.

Commissioner Gault asked about the sunlight analysis and noted that it appears that a significant increase in height of the home is simply a steeper pitch on the roof. He stated that he understands the aesthetics, but does not feel that is a reason to create a variance if it is only for that reason.

Planning Director Darling stated that the question could be deferred to the applicant. She stated that her understanding that the graphics submitted were for illustration purposes only. She stated that the architect is also present on the meeting and can explain the designs in greater detail.

Commissioner Huskins stated that the staff report that the plans were that at least 13 trees on the property would be removed and asked if there is a more specific number that could be provided.

Planning Director Darling stated that number was the best she could decipher based on the survey and noted that they have not yet identified the trees that will be removed in the tree inventory.

Commissioner Huskins stated that he would like this specific information from the applicant.

Tod Carpenter introduced his wife, Bonnie, their architect Peter Eskuche, their contractor, Kyle Hunt, and their project manager Brent Stevens. Mr. Carpenter stated that they moved to Minnesota in 1996 and all of their children have graduated from Minnesota schools. He stated that they have lived in Eden Prairie for 25 years and as they look forward to retirement years, this area of Shorewood really appealed to them. He stated that they would like to have a larger home on the lake in order to host their grandchildren and other family gatherings.

Peter Eskuche referenced the memo in the packet that describes the previous building height definition versus the new definition.

Commissioner Gault asked about the height of the home from the street side.

Mr. Eskuche stated that the height from the driveway to the peak of the garage is 29 feet and to the ridge of the home from the driveway is 36.5 feet.

Chair Maddy clarified that this is a property where the back side of the property drops off which makes the home have to be taller, but it appears that it would actually be well under 35 feet from the street level.

Mr. Eskuche stated that this was correct and referenced a house nearby that they designed in 2006 that is within 2 feet of this proposed home, however the grade drop from east to west between the two properties is over 30 feet. He stated that the grade at the front door has the measurement at 36 feet 2 inches. When the code changed, the wording changed from 'average' to 'lowest' and explained that before that language change, the house would have been conforming.

Planning Director Darling stated that there was no change to the way the City measured height based on the change to the definitions.

Chair Maddy stated that he can remember years ago there was a clarification of what height was referenced by but nothing has been done in the last few years.

Planning Director Darling stated that what was done in January was clean up the language so it no longer referenced average land grade since that was previously defined as the lowest land grade. She clarified that all that was changed with the last code amendment was to make the definition include exactly what the two definitions were trying to say.

Commissioner Gault asked if she was saying that it has always been measured from the lowest point within 5 feet and not from any kind of average.

Planning Director Darling agreed that this was correct.

Mr. Eskuche stated that he and Kyle Hunt have both had other projects that have been approved using the average land grade.

Commissioner Eggenberger stated that the average land grade was the lowest point of elevation.

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Kyle Hunt stated that redefining average to mean lowest is part of the new language.

Planning Director Darling stated that as far back as she has worked in the City, the two definitions for building height referred to the average land grade, which was defined as the lowest point of elevation.

Commissioner Gault stated that the reason for the code change was to eliminate this type of misunderstanding as to what the average land grade actually meant and was never applied as the average and the measurement was always applied from the lowest point.

Chair Maddy asked if there has been a push in the marketplace to increase the ceiling heights from 8 or 9 feet up to 10 or 11 feet.

Planning Director Darling stated that she has seen that.

Commissioner Gault stated that 9-foot ceiling on the lower and upper level and 10 feet on the main floor. He stated that he can remember one of the developers from the Country Club project told them that 10 feet ceilings in that price range is a more typical, desired height now.

Chair Maddy stated that that may be something the Commission wants to pay attention to when there are parcels that drop off in the back on whether or not the code is working in the best interest of those owners.

Commissioner Gault stated that he thinks the City's concern should be what the neighborhood looks like from the street, as opposed to what it looks like from the water. He stated that he would like to see some modification done to the roof pitches to address some of the height issue.

Mr. Eskuche stated that the sport court is the same as the rest of the lower level and will have the same ceiling height.

Chair Maddy opened the Public Hearing at 7:49 P.M. noting the procedures used in a Public Hearing.

Jim Prokopanko, 25990 Birch Bluff Road, stated that he and his wife, Bonnie, McFee, live two doors to the east and built their home in about 2006. He stated that they built their home without requiring any exceptions to the building code which required making a lot of compromises. He stated that this property is not naturally conducive to a walk-out. He explained that their main concern is that this variance would be at risk of setting a precedent for other people asking for exceptions. This request is unnatural and the applicants are asking to raise the property and the roof line so they can accommodate a walk-out and a sport court. He stated that the other issue is the hardcover issue and when they built, they also stayed within their hardcover requirements which required compromises.

Mr. Carpenter stated that they are sorry and Jim and Bonnie have those concerns and explained that the current home that they plan to tear down is actually a walk-out with two levels above it. He explained that one of the reasons for their proposed ceiling height is that he is 6' 7" tall and they are a tall family. He stated that the new owners of the home to the west of Jim and Bonnie just submitted a letter in support of their design plans. He stated that he feels what they are asking for is very reasonable for his family and is not extreme. He stated that there are a few variances, but they are all very minimal and would ask for the support of the Planning Commission in order to move forward.

Mr. Prokopanko, suspects that if the new owners of the home to his west are supporting these variance requests, they will probably also ask for variances when they construct their home. He stated that he would like to know that building codes will not be willy-nilly and have variances for reasons that can be avoided.

Chair Maddy noted that what the new neighbors 'might' do is not in the scope of tonight's conversation and asked that the discussion remain around the topic at hand.

Kyle Hunt, 18324 Minnetonka Boulevard, Deephaven, stated that they are the general contractor for the project. He stated that he would like to point out that they have built a number of homes in the City, for example 5580 Woodside Lane, that would not meet the current interpretation of building height that was modified in January. He stated that they also built a home at 28050 Woodside Road and 28180 Woodside Road all within the last 10 years and how the building height was being interpreted is not the same as what was being interpreted in January of 2021. He stated that he is not trying to say anything against Planning Director Darling, but those projects do not and would not meet the criteria that is being imposed on them as of January 2021. He stated that if that was how it was determined, Joe Pazandak would never have given them a building permit. He stated that there are probably other examples of homes that they have built in the City. He stated that the interpretation is different now than what it was and questioned whether Mr. Prokopanko's home could have been constructed today without variances. He stated that they are not trying to bend the rules or get away with something. He stated the way this is now being interpreted will essentially cut off about half of the architectural styles that are available. He stated that he has begun a conversation with Councilmember Johnson because he thinks something has gone astray and this issue needs to be picked back up because the math doesn't work.

Commissioner Gault stated that they can start with the math and noted that per the architect the roof peak is over 36 feet from the driveway which means at its highest ground level elevation, this home exceeds the building code. He stated that he thinks even if they used the average calculation it would still be over the building code height limit of 35 feet.

Mr. Eskuche stated that was incorrect and Commissioner Gault had asked him the measurement to the top of the roof which is not how the building height code is used, and is instead to the midpoint.

Chair Maddy asked if Planning Director Darling had run these calculations already.

Planning Director Darling stated that she had not run them from every different side of the home, but the building height has always been the average between peak and eve on the highest roof plain and then down to the lowest point of grade within 5 feet. She stated that what the applicant is arguing about is not the average between the peak and eve on roof portion because that is something that was clearly written in the past ordinance. Their concern is that the rules were measured from the average grade around the base of the structure rather than the lowest grade which is the way the code read.

There being no additional comments, Chair Maddy closed the Public Testimony portion of the Public Hearing at 8:03 P.M.

Commissioner Eggenberger stated that even if the old definition is used, it is moot because that is not what the building height measurement is today. This variance request is coming to the Commission today, not 6 months ago and codes do change from time to time and the City

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proceeds with the new code. He stated that it does not matter what the code was 6 months ago. He stated that this is new construction and there can be some design changes made in order to make it fit code.

Chair Maddy stated that he would echo that point and noted that, in his opinion, the fact that they are asking for 25.74% impervious is incompetence on the part of the architect and feels they should just follow the code. He stated that he does think there is an interesting argument for the variance request because of the way it is laid out on the lot.

Commissioner Gault stated that he wasn't too concerned about the impervious surface because he thinks all that will entail is removing a few of the pavers that are leading to the walkway. He stated that after driving by the lot he is concerned that this lot on the lake is being significantly elevated from where it stands today. He asked if the brown house in the east side of the property was the existing structure.

Planning Director Darling stated that is the existing structure and it has not been demolished yet.

Commissioner Gault stated that he agrees with Commissioner Eggenberger, even though he understands the floor heights and does not have an issue with that. He stated that he is concerned that the design has not been analyzed enough to come up with an aesthetically pleasing design that meets the needs of the property owners and also falls within the code.

Commissioner Huskins asked what is necessitating the vault for water collection and would also like to know about the trees that will be coming down. He stated that the staff report describes it as 'at least 13', he doesn't know if that means 25 or 30 trees and would like more specific information from their tree preservation plan and the need for a vault.

Planning Director Darling stated that per the tree preservation policy, they do have to replant on the site and there is a formula for a certain number of trees per tree inches up to 8 per acre and this is a .5-acre property, which is 4 trees. She stated that they are welcome to plant more trees than are required. She explained that the vault is required because when you increase impervious surface 5,000 square feet or more, the City requires that they provide some means of providing rate control. In asking for a variance, the code, similar to commercial properties, then they need to start providing volume control and also treatment. She explained that the vault is an excellent means of providing both rate and volume control and the infiltration helps the treatment aspect of it. They could also provide a rain garden, which would require a maintenance agreement to provide the rate and volume control or the vault and reiterated that the vaults work really well, especially when there is quite a bit of impervious surface coverage.

Commissioner Huskins asked if this was all predicated on water that would originate from the property.

Planning Director Darling confirmed that this was correct.

Commissioner Huskins stated that it is not taking into account any other water that may be from other properties.

Planning Director Darling stated that it would not but noted that it is allowed to pass through the property without any kind of treatment.

Chair Maddy asked the applicants to comment on how many trees they believe will need to be taken down.

Mr. Carpenter stated that they will be taking down 10-15 trees and are happy to put back more than the 4 that are required.

Commissioner Huskins asked about the plan for bringing dirt onto the property. He stated that the note from the applicant stated that street maintenance or cleaning would be done daily, if needed. He stated that he believes the staff report indicated that it will be done daily, which is easier to interpret and understand and has no ambiguity. He asked what the applicant intended with the language 'if needed'.

Planning Director Darling explained that it would be each day, during the grading and filling operation, when the streets are likely to be the dirtiest. She stated that after the ground and the majority of the grading is finished and they are working on other aspects of construction, they would not have to sweep the streets as often.

Commissioner Huskins stated that he thinks that language should be tightened up.

Commissioner Gault asked how the fill will be brought in.

Chair Maddy noted that 500 cubic yards would be the equivalent of about 40 truckloads and they will be utilizing Eureka Road.

Planning Director Darling stated that it may not be 40 truckloads because it will depend on the size of the truck.

Chair Maddy stated that he is not concerned about hauling the fill. He reminded the Commission that staff is recommending approval with the 7 conditions listed in the staff report.

**Maddy moved, to recommend approval of the CUP request for fill in excess of 100 cubic yards and variances to impervious surface coverage and building height for Tod and Bonnie Carpenter for property located at 26050 Birch Bluff Road, subject to the 7 conditions noted in the staff report.**

**Motion died for lack of a second.**

Commissioner Gault stated that he has concerns about the design and is bothered by the fact that this was basically designed with the intent of getting a variance. He stated that he would prefer to see the house designed and kept within code requirements. He stated that he doesn't have an issue with the fill other than the potential for a drainage issue. He also doesn't care about the increase in impervious surface variance request.

**Eggenberger moved, Gault seconded, to recommend approval of the CUP request for fill in excess of 100 cubic yards and variance to impervious surface coverage, but deny the variance request for building height for Tod and Bonnie Carpenter for property located at 26050 Birch Bluff Road, subject to the 7 conditions noted in the staff report. Roll Call Vote – ayes – all. Motion passed 4/0.**

Planning Director Darling stated that this item will come before the City Council on June 28, 2021.

**B. PUBLIC HEARING – Sign Ordinance Amendments**

**Applicant: City of Shorewood**

**Location: Citywide**



Planning Director Darling stated that this is a request for text amendments related to political signage. She stated that the Commission had discussed this at their April meeting and gave specific directions on changes that are reflected in the draft ordinance being presented. She gave a brief overview of the recommended amendments.

Commissioner Eggenberger stated that the letter from Pam McDonald talks about many places in the City that have a drop-off or ditch close to the road that would prohibit placing any campaign sign at least 10 feet away from the road. He stated that he knows that is tough for some people, but thinks a 10 foot distance is fine and doesn't know how the city would make an exception for a ditch or a drop-off.

Commissioner Huskins asked if there was a height limitation to the sign and asked if the sign were placed in a drop-off, could they just use a taller stake so the sign would still be visible.

Commissioner Eggenberger questioned how the City could actually define 'drop-off'.

Planning Director Darling explained that there are height restrictions outside of the election period but not during the election period.

The Commission discussed various remedies to the problem of having a ditch and still being able to display signs.

Chair Maddy opened the Public Hearing at 8:27 P.M. noting the procedures used in a Public Hearing.

There being no public comment, Chair Maddy closed the Public Testimony portion of the Public Hearing at 8:27 P.M.

The Commission discussed some language tweaks to make things more clear and eliminate loopholes and make it clear that it is election related signage.

**Huskins moved, recommending approval of the Sign Ordinance Amendments, as amended by staff so it is all election related.**

Planning Director Darling asked if he meant to exclude non-commercial signage.

Commissioner Gault suggested that the Commission defer making a recommendation on these amendments until the next meeting because he doesn't want to recommend approval of something that he has not seen and would like to see the final wording.

***There was consensus among the Commission to wait to make a recommendation until they see the final draft.***

**Commissioner Huskins withdrew his motion.**

**Gault moved, Huskins seconded, tabling approval of the Sign Ordinance Amendments until the next Commission meeting. Roll Call Vote – ayes – all. Motion carried 4/0.**

**5. NEW BUSINESS**

**A. Variance to Front Yard Setback**

Applicants: Justin Robinette  
Location: 4530 Enchanted Point

Planning Technician Notermann explained that this request is for a variance request to construct an enclosed entryway and porch that would be 22.5 feet from the property line that abuts the public right of way and the required setback is 35 feet. She stated that based on the definition makes Enchanted Lane the front yard even though it is an unimproved right-of-way. The existing home was constructed in 1980 and is 29.1 feet from the front yard line making it a legally non-conforming structure. Staff reviewed the request according to the criteria and recommend approval.

Chair Maddy asked if the front of the parcel is against Enchanted Lane or Enchanted Point.

Planning Technician Notermann stated that the front yard line is against Enchanted Lane on the west side and Enchanted Point runs along the south side.

Chair Maddy stated that he thought the driveway entrance to the lot dictated what was considered the front of the parcel.

Planning Technician Notermann reviewed the definition for lot line-front according to the code that states, "The front of a lot shall be, for purpose of complying with this chapter, the boundary having the least width abutting a public right-of-way or private street.

Chair Maddy gave the opportunity for public input.

Justin Robinette, 4530 Enchanted Point, explained that their primary purpose for this addition is to add a foyer to improve the access and safety of the entrance point. He stated that they feel it is consistent with the neighborhood and add curb appeal. He stated that they also plan to redo a high standing deck that will also make the entry point safer.

Commissioner Eggenberger asked about the staircase coming down from the door and whether it meets code.

Mr. Robinette's builder confirmed that the staircase will meet code requirements.

**Gault moved, Huskins seconded, to recommend approval of the Variance to Front Yard Setback for property located at 4530 Enchanted Point, with the condition as presented in the staff report. Roll Call Vote: Ayes – all. Motion carried 4/0.**

**B. Variance for Detached Garage Height**

Applicant: Kuhl Design Build  
Location: 28110 Woodside Road

Planning Technician Notermann explained that the variance request for a detached garage height would have the structure at 20.7 feet and be considered a two-story structure because the zoning regulations limit detached accessory structures for 15 feet. She explained that the second story is accessible with a pull-down ladder, but staff views it as a second floor because the ceiling height

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is 9.9 feet. She noted that the existing home was constructed in 1910 and the proposed design and slope is consistent with the general character of the house. The applicant also has stated that the topography of the area will obscure the height of the structure. Staff has reviewed the criteria and recommends denial of the variance request.

Chair Maddy gave the opportunity for public input.

Dan Murphy with Kuhl Design Build, 1515 5<sup>th</sup> Street S, Hopkins, stated that they are basically replacing the existing garage with a larger garage and matching the pitch of the home. He stated that they are not making a second story out of it because there are no windows or accessibility to it other than a pull-down ladder. He stated that something that he neglected to include in the practical difficulties was that there is no basement under the house other than a 10 x 10 mechanical room. He stated that by having the pull-down ladder it creates the ability for storage in the garage. He stated that if this were attached to the structure which would take away the charm of the lot, they would not need a variance, but he thinks that would diminish the appearance in the neighborhood and for the house.

Mike Giebenhain, the property owner, stated that one other point is that by attaching the structure, it would increase the hardscape of the property which would be unnecessary and would also require taking down more trees.

Mr. Murphy noted that nothing will be affected by the height of the structure. No site lines to the lake or neighbors will be blocked because the structure sits in a bit of a valley. He agreed that the goal is to not alter the landscape or the tree cover but keep as much as possible.

Commissioner Gault asked if the new garage was to be built on the same footprint as the existing garage.

Mr. Murphy stated that there is some additional footprint, but it has been designed so it will cut into the driveway space and is still well below the requirements.

Chair Maddy gave the opportunity for public input. There was no input.

Commissioner Huskins asked about the distance between the house and the garage.

Mr. Giebenhain stated that he thinks it is around 40-50 feet.

Commissioner Huskins questioned whether the pitch of the roof matching the home would to the casual observer if the building is separated by a great distance.

Mr. Murphy stated that it is a historic house, so, in his opinion, the pitch matching does matter. This is a very unique structure to the area as well as historically. He stated that there are accoutrements that go along with it, such as cantilevers and the detailing above the doors that would not work if the roof pitch was lower.

There was discussion about the various roof line, slope options, storage space height, possible building design options that would not need a variance.

Chair Maddy stated that he is wondering if the City needs to look at the 15-foot height requirement for this type of structure. He stated that this request does not seem unreasonable especially because if it were attached to the home a variance would not be needed.

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Commissioner Gault stated that he likes this design, but is hesitant about voting in approval of it just because of his stance on the earlier request for a height variation on Birch Bluff.

Mr. Murphy stated that one of the bigger differences between this project and the one on Birch Bluff is the fact that this project does not bring in any fill to change the landscape to make the height an issue or doing anything to manipulate the property to cause the structure to do higher. He stated that if this whole space was trusses and had no storage space, a variance would still be needed because of the design. He stated that in his opinion the fact that there is storage space is a moot point.

**Eggenberger moved, Gault seconded, to recommend approval of the Variance for Detached Garage Height for property located at 28110 Woodside Road, with the conditions as presented in the staff report. Roll Call Vote: Ayes – all. Motion carried 4/0.**

Commissioner Eggenberger asked if the Commission should take a look at the rules for detached structures.

Chair Maddy asked for Planning Director Darling's opinion on the height restrictions for detached accessory structures.

Planning Director Darling stated that the City has about the same restrictions as other cities.

Commissioner Gault asked if it changed things if there were living quarters located above the garage.

Planning Director Darling explained that it would be a non-conforming use because the City doesn't allow living quarters above a detached garage.

Commissioner Gault asked if the City allows for secondary residences on a property.

Planning Director Darling stated that they do allow an accessory dwelling unit, but it has to be attached to the main home.

Commissioner Gault stated that he thinks this issue deserves some further discussion.

Commissioner Huskins stated that he struggled with his vote on this issue because of conflating the need for storage with the need for preserving a unique architectural design. He stated that preserving the design, in his opinion, is a much stronger argument than the need for the storage space.

## **6. OTHER BUSINESS**

### **7. REPORTS**

- **Council Meeting**

Council Liaison Callies reported on matters considered and actions taken during the recent Council meeting (as detailed in the minutes for that meeting). She noted that the Council Liaison for the remainder of the year will be Councilmember Gorham.

- **Draft Next Meeting Agenda**

Planning Director Darling stated for the next meeting, the Commission will look at the Sign Ordinance related to political signage, a lot line adjustment, a variance request for a side yard setback, and a CUP for fence.

Commissioner Gault asked what was in the existing regulations related to cannabis dispensaries. He asked if it would fall under tobacco shops or have its own designation.

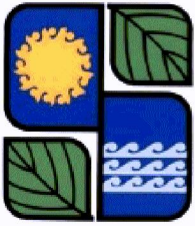
Council Liaison Callies stated that it has not been discussed since she has been on the Council but knows that other cities have expressed concern about manufacturing operations.

Commissioner Gault suggested that the City take some time to put some thought into this issue so they are ahead of it rather than behind it.

Planning Director Darling stated that currently the City prohibits cannabis dispensaries, but depending on State regulations, that may change. She also noted that the State has also been looking at changing PUDs so you cannot take aesthetics into consideration.

#### **8. ADJOURNMENT**

**Gault moved, Huskins seconded, adjourning the Planning Commission Meeting of June 1, 2021, at 9:29 P.M. Roll Call Vote: Ayes – all. Motion passed 4/0.**



CITY OF  
**SHOREWOOD**

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## MEMORANDUM

**TO:** Planning Commission, Mayor and City Council

**FROM:** Emma Notermann, Planning Technician

**MEETING DATE:** July 6, 2020

**REQUEST:** Conditional Use Permit (CUP)- Fence

**APPLICANT:** Jacob Gustafson and Allison Spies

**LOCATION:** 4865 Ferncroft Drive

**REVIEW DEADLINE:** September 22, 2021

**LAND USE CLASSIFICATION:** Low to Medium  
Density Residential

**ZONING:** R-1D/S

**FILE NUMBER:** 21.14



### REQUEST:

Jacob Gustafson and Allison Spies have requested a CUP to construct a five-foot fence on their property for the purpose of enclosing a portion of their rear yard. The request requires a CUP because the proposed fence is taller than the required height established for shoreline fences in city code.

Notice of this application and the public meeting was mailed to all property owners within 500 feet of the property at least 10 days prior to the meeting.

### BACKGROUND

The property is zoned R-1D, Single Family Residential, and it is located in the Shoreland District, with the west end of the property abutting Lake William. It contains approximately 22,171 square feet of area. The property was part of a minor subdivision approved in 2019 and the existing home was completed in 2020.

#### Applicable Code Sections:

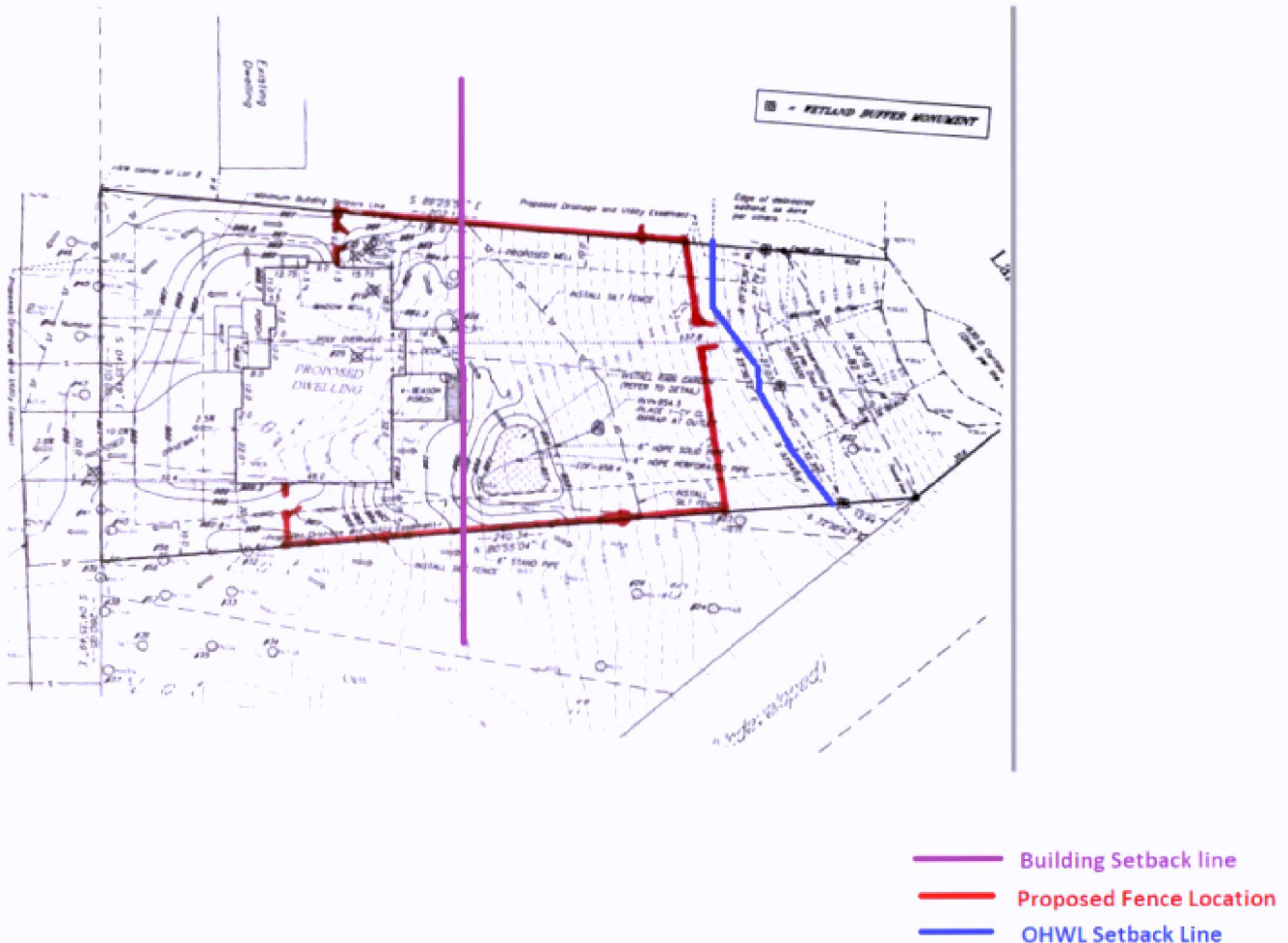
**City Code Section 1201.03, Subd. 2.f.11.** provides for a CUP to be obtained for any fence when the construction, height or length vary from the fence regulations.

**City Code Section 1201.03, Subd. 2.f.8.** regulates the setback and height for a fence in the shoreline setback area.



## ANALYSIS

The proposed fence will be located as shown on the attached plans, extending from the back of the home towards Lake William to enclose a portion of the rear yard of the property. The proposed fence will be a 5-foot-tall black vinyl, chainlink fence. The fence will meet the 50-foot setback from the Ordinary High Water Level (OHWL) of Lake William. However, City Code Section 1201.03, Subd. 2.f.8. states that no fence in the Shoreland District may be taller than four feet when extending from the required setback line to the average building construction setback line. The image below shows the OHWL setback line and the average building setback line, as well as the proposed fence location. Any portion of the fence that extends towards the lake from the building setback line is subject to the four-foot height restriction.



Since the proposed fence varies from the regulations of City Code Section 1201.03, Subd. 2.f.8- Shoreline fences in height, a CUP may be issued as provided by City Code Section 1201.03, Subd. 2.f.11.

Additionally, staff would note that the plans submitted for the fence show a boulder wall that extends through the ten-foot drainage and utility easement and across the south side property line. This boulder wall was not approved as part of the original building permit and the location within the easement and crossing the property line would not be a permitted improvement to the property.

## **FINDINGS/RECOMMENDATION**

Staff finds this fence CUP request does not cause any adverse effects on the general welfare, public health, and safety due to the following reasons.

The proposed use, and its related construction, would be consistent with the policies and provisions of the Comprehensive Plan. Although the proposed fence varies slightly from the provisions of the City Code, it is not inconsistent with a reasonable use of the property, considering that a four (4) foot fence is allowed.

The proposed fence would be compatible with present and future residential land uses in the area and would not tend to or actually depreciate the area in which it is proposed. The proposed chainlink fence would allow the homeowners to enclose their backyard, without causing a great disruption of view from Lake William.

The proposed fence would be accommodated with existing public services including public streets, as it is proposed to be located entirely on the applicant's property and setback adequately from the OHWL of Lake William.

The establishment of the proposed fence would promote and enhance the general public welfare by providing additional security for the property owners and their dogs. The fence would not be detrimental to or endanger the public health and safety of any adjacent property owners.

By obtaining a conditional use permit, the proposed fence would conform to the applicable regulations of city code that allow for a fence that varies by construction, height or length.

Therefore, staff would recommend approval of the CUP for the fence height to be five feet where four feet is required by city code. These criteria are open to interpretation and consequently, the Planning Commission could reasonably find otherwise. Should the Planning Commission recommend approval of the fence CUP, staff recommends that the following conditions be included:

- 1) The applicant be required to acquire all necessary permits prior to constructing the fence.
- 2) Plans to remove or relocate the existing boulder wall that crosses through the drainage and utility easement to the adjoining property on the south side of the property be submitted and approved by staff.

## **ATTACHMENTS**

Location map

Applicants' narrative and plans

City Code Section 1201.03, Subd. 2.f- Fences



## 4865 Ferncroft Drive Location Map



Jacob Gustafson and Allison Spies  
4865 Ferncroft Drive  
Shorewood MN 55331

City of Shorewood  
25 May 2021 (updated 27 June 2021)

### **Fence Height Increase Requiring Conditional Use Permit**

We have recently completed a new home build adjacent to Lake William and look forward to joining the Shorewood community. We are respectfully requesting permission to increase the height of our backyard fence from four foot to five foot to allow us to safely contain our two dogs, Samson and Matilda. Samson and Matilda are very good-natured eight and six year old Tibetan Mastiffs whose heights require a five-foot fence for containment. Both dogs have completed the extensive training required to be recognized as American Kennel Club Canine Good Citizens. The dogs attend nursing homes in a therapy capacity and we want them to be able to enjoy time in the backyard without needing to be leashed.

We are keenly aware of our responsibility to preserve an open, accessible and attractive lakefront. The proposed fence meets all other fencing requirements mandated by the city, to include lake setback and openness. It is a style that will be easily concealed by vegetation and placement. In reference to the performance standards referenced in the Zoning Regulations:

1. The Shorewood 2040 Comprehensive Plan notes that Shorewood is committed to keeping the shore land areas as natural as possible (pg. 97). In the spirit of the comprehensive plan we have selected a black chain-link and cedar alternating board fence that will blend seamlessly into the vegetation.
2. The proposed extra 12 inches of fence is compatible with present and future land uses in the area and would not tend to or actually depreciate the lakeshore of Lake William. The proposed fence remains close to the house, within setback guidelines and will be professionally landscaped to additionally conceal its position from neighbors and anyone enjoying activities on Lake William.
3. The proposed fence would provide no additional burden on the city's service capability and would be accommodated with existing public services, including public streets.
4. The establishment, maintenance and operation of the fence would promote and enhance the general public welfare and would not be detrimental to or endanger public safety. The increase of the fence's height does not obstruct any sightlines and allows for Samson and Matilda to be safely contained. The dogs' ability to jump over a 4ft fence and their lack of road sense means their own welfare is compromised without the fence height increase requested.
5. The proposed use of the conditional use permit, to safely contain our domestic dogs, conforms to the applicable regulations of the district and the city code.

On the following page we have included pictures of the fence styles we believe will blend seamlessly into the garden area with their additional twelve inches in height. We have also included photos of our dogs for reference.

## Proposed Fence Styles



A 5ft cedar alternating board fence is proposed for the street facing and near side of house



A 5ft black vinyl chain-link fence is proposed in the backyard between the house and Lake William

## Samson and Matilda

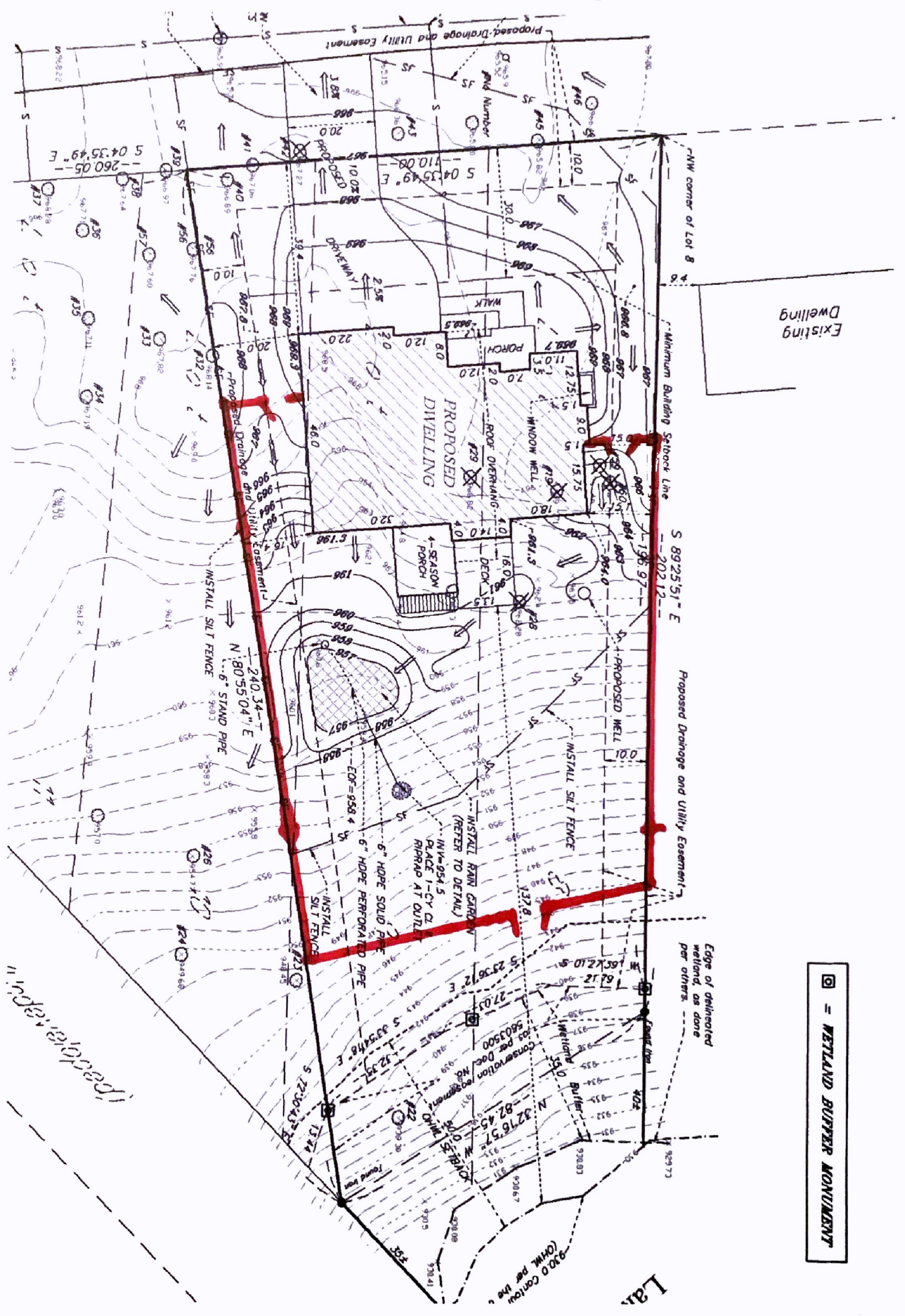




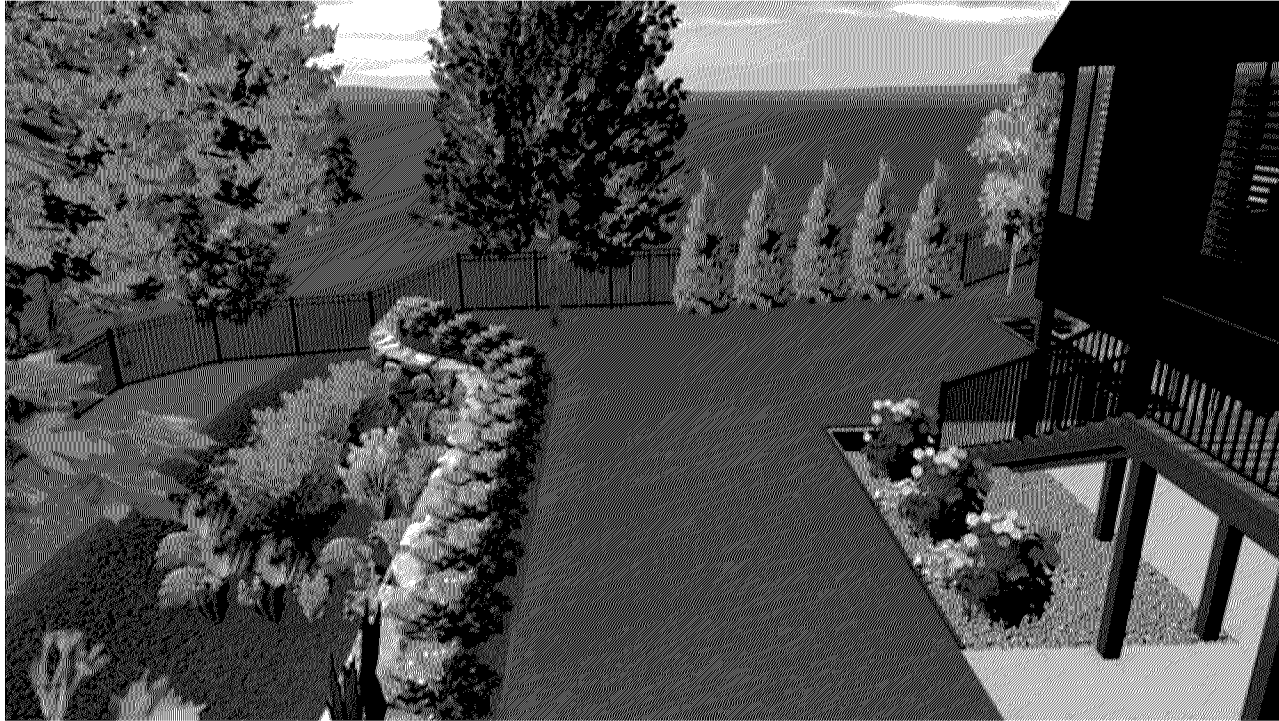
☐ = WETLAND BUFFER MONUMENT

Edge of delineated wetland, as done per others.

Existing Dwelling







# Sterling Fence Inc.

13480 Pioneer Trail  
Eden Prairie, MN 55347  
Fax: (952) 868-3316

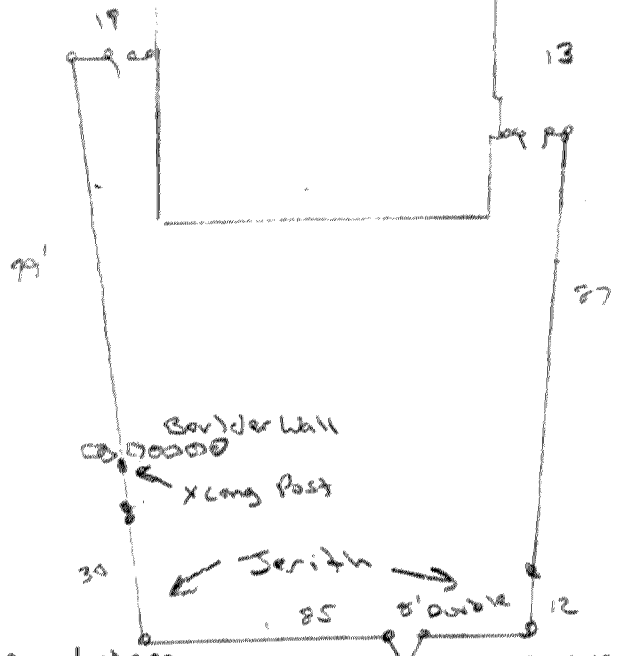
## OFFICE USE ONLY

Date Started \_\_\_\_\_

Date Completed \_\_\_\_\_

CUSTOMER Allison Spies + Jacob Gustafson  
ADDRESS 4865 Finncroft Drive  
Shorewood ZIP 55331 JOB NO. 136298  
PHONE (Hm) 205 705 8488 (Wk) \_\_\_\_\_ SALESMAN Caci

## FENCING DIAGRAM

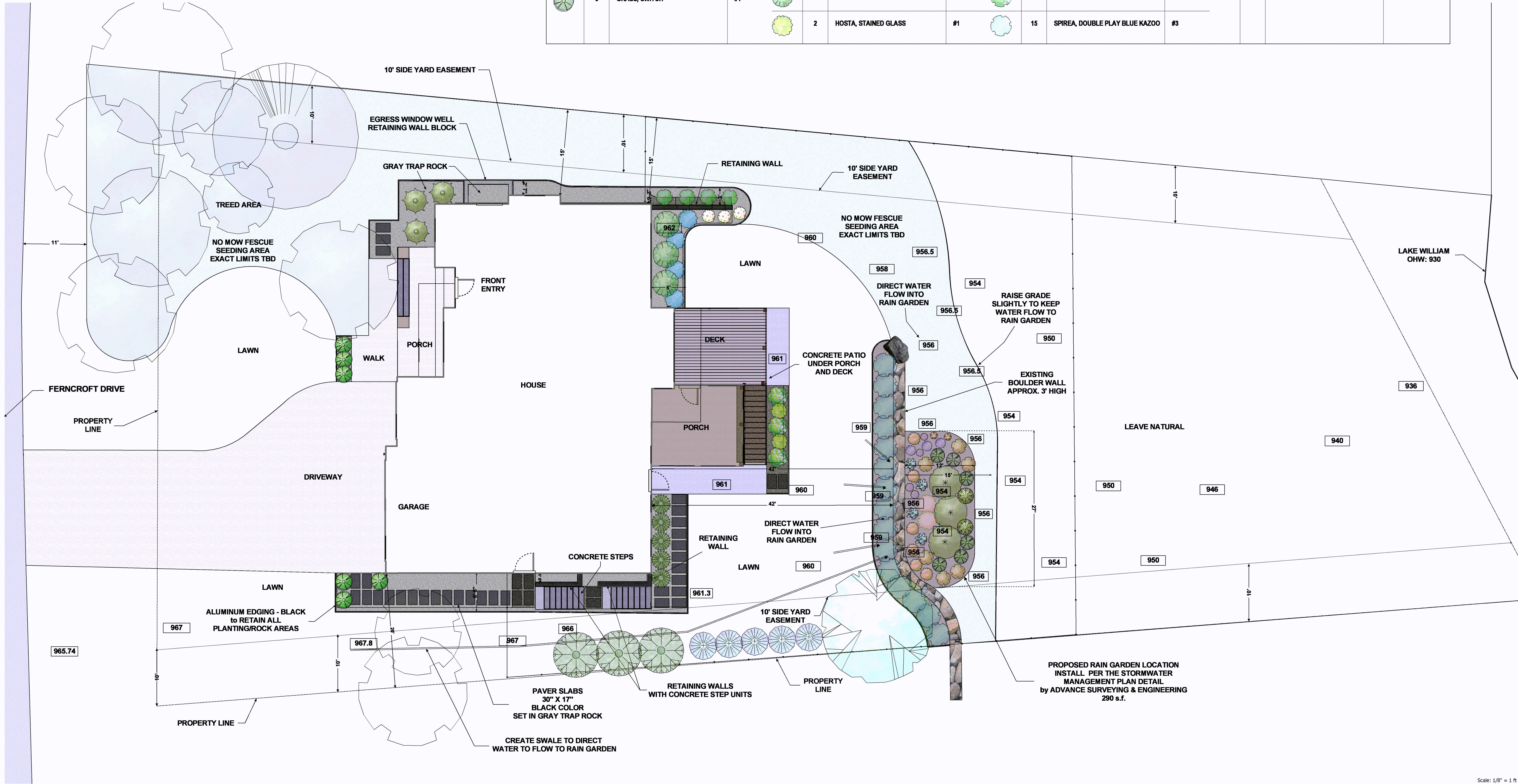






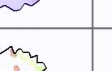





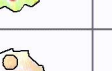


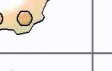



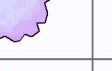


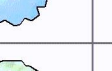



Style 6' Alt + Beam # 202  
Height 6' 60"  
Color Cedar Bronze  
Post Cap \_\_\_\_\_  
Removal (see back) ☒ Yes ☐ No Wood \_\_\_\_\_ ft  
Haul ☒ Yes ☐ No Chain Link \_\_\_\_\_ ft

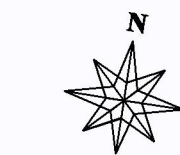
Obstructions: i.e. Brush, Bushes, Terrain / Special Instructions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





PLANT LIST - GUSTAFSON-SPIES															
Symbol	Qty	Common Name	Container	Herbaceous/Perennials											
Groundcovers Evergreen					3	ASTER, NEW ENGLAND	#1		2	JOE PYE WEED, BABY JOE	#1		4	STEPHANANDRA, CRISPA CUTLEAF	#2
	3	YEW, TAUNTON	#3		3	ASTILBE, FANAL	#1		2	MILKWEED, SWAMP	#1	Shrubs Evergreen			
Groundcovers Ornamental Grass					3				6	RUDBECKIA, BLACK EYED SUSAN	#1		5	ARBORVITAE, NORTH POLE	#20
											Trees Deciduous				
	5	GRASS, KARL FOERSTER	#1		2	BUTTERFLY FLOWER	#1	Shrubs Deciduous					3	BIRCH, DAKOTA PINNACLE	#20
	4	GRASS, LITTLE BLUESTEM	#1		4	CONEFLOWER, PURPLE	#1		3	DOGWOOD, ISANTI	#2		1	MAPLE, AUTUMN BLAZE	2" BB
	6	GRASS, OVERDAM	#1		4	HOSTA, BLUEBERRY MUFFIN	#1		6	DWARF BUSH HONEYSUCKLE	#2				
	6	GRASS, SWITCH	#1		3	HOSTA, EARTH ANGEL	#1		3	HYDRANGEA, BOBO	#3				
					2	HOSTA, STAINED GLASS	#1		15	SPIREA, DOUBLE PLAY BLUE KAZOO	#3				





f. *Fences - general requirements.*

(1) *Permit required.* No person, firm or corporation shall construct or erect any fence without first securing a building permit.

(2) *Locations.* All fences shall be located entirely upon the property of the fence owner unless the owner of the adjoining property agrees, in writing, that the fence may be erected on the property line of the respective properties. No boundary line fence shall be erected closer than three feet to an existing parallel boundary line fence.

(3) *Surveys.* The Building Official may require an applicant for a fence permit to establish his or her true boundary line by a survey thereof to be made by a registered land surveyor.

(4) *Construction and maintenance.* Every fence shall be constructed in a substantial, workmanlike manner and of material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in the condition as to not become a hazard, eyesore or public or private nuisance. All fences shall be so constructed that the finished side faces away from the fence owner's lot. Any fence which endangers the public safety, health or welfare shall be considered a public nuisance and abatement proceedings may be instituted by the proper city official if within 15 days after notification the owner of the fence has not undertaken the necessary repairs himself or herself to abate the nuisance. Link fences, where permitted, shall be constructed in a manner that no barbed ends shall be at the top.

(5) *Nonconforming fences.* All fences existing on the date of the adoption of this chapter, but not conforming herewith, except as to height restrictions, shall conform and be subject to the terms of this chapter. If at any time a nonconforming fence shall be damaged to the extent of more than 25% in any plane, then without further action by the Council, the fence shall, from and after the date of the damage, be subject to all the regulations specified by these zoning regulations. Any fence which is damaged to an extent of less than 25% may be restored to its former extent. It is the intent of this section that all nonconforming fences shall be eventually brought into conformity.

(6) *Prohibited fences.* Electric fences shall not be permitted except in conjunction with the issuance of a horse permit pursuant to Chapter 702 of this code and shall be removed upon expiration or revocation of a horse permit. Barbed wire fences shall not be permitted except as hereinafter provided. Fences of the picket, rail or slat types shall be so constructed that the spaces between the pickets, rails or slats shall be greater than 12 inches or less than six inches. Wire fences which are not readily visible shall be prohibited except where attached to a wooden or other fence of opaque material which is itself plainly visible.

(7) *Required fences, swimming pools.* Outdoor swimming pools with a capacity of 1,500 gallons or with a depth of three feet or more of water shall be adequately fenced to prevent uncontrolled access from the street or adjoining property. The pools shall be completely enclosed by a nonclimbable fence at least four feet in height.

(8) *Shoreline fences.* No fence shall be allowed within the shoreline setback area as specified in § 1201.26 Subd. 5a(3) of this chapter. In addition, fences on or adjacent to the shoreline of any navigable lake, channel or stream or on or along that portion of a lot line extending from a navigable lake, channel or stream to the near side of the average building construction line, shall not exceed four feet in height.

(9) *Residential District fences.*

(a) *Boundary line fences.* In all parts of Shorewood which are zoned residential, no boundary line fences shall exceed four feet in height, except that:

(i) Fences on all corner lots erected within 30 feet of the intersecting property line shall be subject to subdivision 2h of this section;

(ii) Fences along any rear property line which is also the rear property line of an abutting lot shall not exceed six feet in height;

(iii) Fences along a rear property line, which line constitutes the side lot line of an abutting lot shall not exceed six feet in height for a distance as calculated in (iv) below and shall not exceed four feet in height when abutting a front yard line;

(iv) Subject to other restrictions within this section, fences may be constructed to a height of six feet on or along the side yard property line from the rear lot line to the required front yard setback line;

(v) In those instances where a fence exists as an enclosure which restricts access from the front to the rear yard, a gate, identifiable collapsible section or other means of recognizable ingress shall be provided for emergency vehicles. The ingress shall be unobstructed and a minimum of ten feet in width. The location of the ingress points shall be positioned at any point paralleling the front lot line, between the side lot property line and the principal structure;

(vi) All boundary line fences in residential districts shall be constructed in a manner that at least 25% of the plane between the ground and the top of the fence constructed is open;

(vii) Fences in yards abutting an intermediate arterial or minor arterial street, as designated in the Shorewood Comprehensive Plan, may be constructed to a height of six feet in a front or side yard abutting the arterial street, by conditional use permit as provided for in § 1201.04. In addition the following conditions shall apply:

A. The fence shall be located no closer than eight feet to the property line;

B. A landscape plan for the above-referenced eight foot setback area must be submitted in compliance with § 1201.03 subd. 2.g. of this chapter;

C. The fence shall not obstruct traffic visibility.



(b) *Interior yard fences.*

(i) Any fence erected within any portion of the required front yard shall not exceed four feet in height and shall be at least 25% open.

(ii) Within a rear yard, at a point eight feet beyond any property line, a solid fence up to six feet in height may be erected as a total enclosure. The enclosure shall not exceed 25% of the required rear yard area and shall have adequate means of emergency access.

(iii) Chain link or woven wire fences (without slat screens, canvas or other screening material opaque in nature) used for the enclosure of tennis courts or other recreational purposes shall not exceed ten feet in height.

(10) *Commercial District fences.* Fences in all Commercial Districts shall not exceed eight feet in height, except that:

(a) Boundary line fences abutting R Districts shall conform to those regulations applicable to the R District;

(b) *Security fences:*

(i) Fences which are erected primarily to secure a particular area may have “arms” not to exceed 36 inches in length, located a minimum of six feet and a maximum of eight feet above ground level, on which arms barbed wire may be strung;

(ii) A survey establishing the true boundary line must be made by a registered land surveyor and submitted to the city;

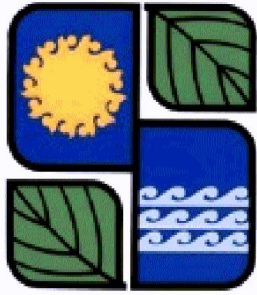
(iii) Fence arm extensions may not extend across an abutting property line or over any public right-of-way;

(c) Fences erected within the required front yard area shall not exceed six feet in height and shall be of a chain link or woven wire construction which affords maximum visibility.

(11) *Special purpose fences.* Fences for special purposes and fences differing in construction, height or length may be permitted in any district in the city by issuance of a conditional use permit.

(12) *Fence height.* The height of fences prescribed herein shall be considered to be the maximum height allowed. Fence posts may extend above the specified height by no more than eight inches.





# CITY OF SHOREWOOD

5755 Country Club Road • Shorewood, Minnesota 55331 • 952-960-7900  
www.ci.shorewood.mn.us • cityhall@ci.shorewood.mn.us

## MEMORANDUM

**TO:** Planning Commission, Mayor and City Council

**FROM:** Emma Notermann, Planning Technician

**MEETING DATE:** July 6, 2021

**RE:** Lot Line Adjustment

**LOCATION:** 19210 Waterford Place and  
5520 Vine Hill Road

**APPLICANTS:** Todd Cebulla

**REVIEW DEADLINE:** August 31, 2021

**ZONING:** PUD

**COMPREHENSIVE PLAN:** Low Density Residential

**FILE NO.:** 21.12



## REQUEST

The property owner is requesting a lot line adjustment between two lots that he owns. The result will still be two separate parcels, but with land subtracted from the northerly parcel and added to the southerly parcel.

## BACKGROUND

Context: The subject properties are currently developed with a single-family home on each lot. Under the plan, the existing homes would remain. The existing home at 19210 Waterford Place was constructed in 2015. The existing home at 5520 Vine Hill Road was constructed in 1970. Both lots were created as part of Registered Land Survey No. 0847 in 1959 and subsequently rezoned to be part of the Waterford PUD.

The properties contain mature trees, but no development is proposed at this time. No portion of the property is within a 100-year floodplain or shoreland overlay district.

The adjacent properties are all developed with single family homes.

## ANALYSIS

The application that was received on May 5, 2021 indicated a lot line adjustment that would redistribute land between 19210 Waterford Place and 5520 Vine Hill Road as follows:

ADDRESS	EXISTING		PROPOSED		REQUIRED IN the PUD	
	Lot Area (sq. ft.)	Lot Width* (lineal ft.)	Lot Area (sq. ft.)	Lot Width* (lineal ft.)	Lot Area (sq. ft.)	Lot Width* (lineal ft.)
19210 Waterford Place	29, 338	±109	41, 073	No change	20,000	100 feet
5520 Vine Hill Road	29, 317	±109	17,581**	No change		

\*As measured at the front setback

\*\*See related Lot Area information below

Lot area: After review of the application, staff determined that the new parcel size for 5520 Vine Hill Road did not meet the minimum standard for the zoning district. Staff worked with the applicant, and he has agreed to submit revised plans with the new parcel for 5520 Vine Hill Road being at least 20,000 square feet. At the time of packet publication, staff did not yet have these revised plans due to the availability of the applicant's surveyor and the July 4<sup>th</sup> holiday. The applicant would have to submit the revised survey prior to the City Council meeting on this item.

Since there is enough square footage between both parcels to redistribute the land and meet the minimum requirement of 20,000 square feet; and because the applicant is aware and willing to make the adjustment, staff would recommend including a condition that the applicant meet the minimum lot area for 5520 Vine Hill Road.

Easements: Section 1202.05 Subd. 6 requires 10-foot drainage and utility easements around the periphery of each lot. As a condition of approval, staff recommends the applicants be required to provide easements consistent with city code requirements. The applicant has submitted legal descriptions for the easements that would need to be updated with the new property boundaries.

## RECOMMENDATION

Staff recommends approval of the lot line adjustment affecting the properties addressed as 19210 Waterford Place and 5520 Vine Hill Road, subject to the following conditions:

1. The applicant submit an updated survey and legal descriptions that show the new parcel for 5520 Vine Hill Road being at least 20,000 square feet and the parcel for 19210 Waterford Place being no more than 38, 655 square feet.
2. The applicant submit updated 10-foot drainage and utility easements for both parcels for staff to approve the language of.
3. The applicant submit executed 10-foot drainage and utility easements for both parcels.

## ATTACHMENTS

Location Map

Applicants' narrative  
Survey of properties





## Emma Notermann

---

**From:** Todd Cebulla <toddcebulla@hotmail.com>  
**Sent:** Wednesday, May 5, 2021 4:15 PM  
**To:** Emma Notermann  
**Subject:** Written narrative for minor subdivision  
**Attachments:** 2021004 5-5-2021.pdf

Good afternoon, Emma

Thank you again for your help this afternoon. I discovered an error on the survey involving the hardcover calculations. I have attached the surveyor's updated and correct survey. If you would like me to print an 11x17 copy and drop it off, please let me know. Also the written narrative can be found below.

Thanks

Todd Cebulla

To whom it may concern:

I am requesting a minor subdivision involving two lots which my wife and I currently own (Parcel A--PID [36-117-23-11-0003](#) and Parcel B--36-23-117-11-0004) . Both lots currently have and will continue to have existing single family dwellings on them. Two lots conforming to the minimum lot size set out for this zone which is a Planned Unit Development (PUD) will be maintained with Parcel B absorbing 11,735 square feet of the west end of Parcel A. No physical changes are being made to either property; therefore, this minor subdivision will be completed upon approval from the city and the required recording at the county.

Thank you

Todd Cebulla



EXISTING LEGAL DESCRIPTIONS:

36-117-23-11-0003: TRACT A, REGISTERED LAND SURVEY NO. 847, EXCEPT VINE HILL ROAD RIGHT-OF-WAY, HENNEPIN COUNTY, MINNESOTA

36-117-23-11-0004: TRACT B, REGISTERED LAND SURVEY NO. 847, EXCEPT VINE HILL ROAD RIGHT-OF-WAY, HENNEPIN COUNTY, MINNESOTA

CERTIFICATE OF SURVEY

PROPOSED LEGAL DESCRIPTIONS:

PARCEL A: THAT PART OF TRACT A, REGISTERED LAND SURVEY NO. 847, HENNEPIN COUNTY, MINNESOTA LYING WEST OF THE WEST RIGHT-OF-WAY OF VINE HILL ROAD AND EAST OF A LINE DESCRIBED AS COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT A; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ON AN ASSUMED BEARING ALONG THE SOUTH LINE OF SAID TRACT A A DISTANCE OF 130.00 FEET; THENCE NORTH 28 DEGREES 31 MINUTES 28 SECONDS WEST A DISTANCE OF 125.06 FEET, MORE OF LESS, TO THE NORTH LINE OF SAID TRACT A AND SAID LINE THERE TERMINATING.

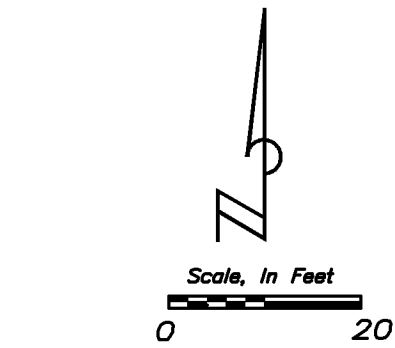
THE ABOVE DESCRIBED PARCEL A IS SUBJECT TO A PRIVATE EASEMENT FOR PUBLIC UTILITIES, SAID EASEMENT BEING STRIP OF LAND 10.00 FEET TO THE LEFT OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT THE NORTHEAST CORNER OF SAID TRACT A; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ON AN ASSUMED BEARING ALONG THE NORTH LINE OF SAID TRACT A, A DISTANCE OF 190.00 FEET; THENCE SOUTH 28 DEGREES 31 MINUTES 28 SECONDS EAST, A DISTANCE OF 125.06 FEET; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 130.00 FEET; THENCE NORTH 00 DEGREES 08 MINUTES 41 SECONDS EAST, A DISTANCE OF 109.88 FEET TO THE POINT OF BEGINNING.

PARCEL B: TRACT B, REGISTERED LAND SURVEY NO. 847, EXCEPT VINE HILL ROAD RIGHT-OF-WAY, HENNEPIN COUNTY, MINNESOTA

AND THAT PART OF TRACT A, REGISTERED LAND SURVEY NO. 847, HENNEPIN COUNTY, MINNESOTA LYING WEST OF A LINE DESCRIBED AS COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT A; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ON AN ASSUMED BEARING ALONG THE SOUTH LINE OF SAID TRACT A A DISTANCE OF 130.00 FEET; THENCE NORTH 28 DEGREES 31 MINUTES 28 SECONDS WEST A DISTANCE OF 125.06 FEET, MORE OF LESS, TO THE NORTH LINE OF SAID TRACT A AND SAID LINE THERE TERMINATING.

THE ABOVE DESCRIBED PARCEL B IS SUBJECT TO A PRIVATE EASEMENT FOR PUBLIC UTILITIES, SAID EASEMENT BEING STRIP OF LAND 10.00 FEET TO THE LEFT OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT THE NORTHEAST CORNER OF SAID TRACT B; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ON AN ASSUMED BEARING ALONG THE NORTH LINE OF SAID TRACT B, A DISTANCE OF 130.00 FEET; THENCE NORTH 28 DEGREES 1 MINUTES 28 SECONDS WEST, A DISTANCE OF 125.06 FEET; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 76.76 FEET; THENCE SOUTH 00 DEGREES 11 MINUTES 32 SECONDS WEST, A DISTANCE OF 219.82 FEET; THENCE ORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 266.85 FEET; THENCE NORTH 00 DEGREES 11 MINUTES 32 SECONDS EAST, A DISTANCE OF 109.94 FEET TO THE POINT OF BEGINNING.

PREPARED FOR:  
TODD CEBULLA  
5520 VINE HILL RD  
SHOREWOOD MN 55331



LEGEND:

- FOUND IRON PIPE (AS NOTED)
- SET 1/2" REBAR W/CAP #44109
- POWER POLE (WITH GUY ANCHOR)
- FIRE HYDRANT
- GATE VALVE
- COMMUNICATIONS PEDESTAL
- CATCH BASIN
- SANITARY SEWER MANHOLE
- DECIDUOUS TREE (SIZE IN INCHES)
- CONIFEROUS TREE (SIZE IN INCHES)
- OVERHEAD UTILITY LINE

NOTES:

- THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE INSURANCE COMMITMENT.
- ADDRESSES OF THE SUBJECT PROPERTIES:  
P.I.D. 36-117-23-11-0003: 5520 VINE HILL ROAD, SHOREWOOD, MN 55331  
P.I.D. 36-117-23-11-0004: 19210 WATERFORD PLACE, SHOREWOOD, MN 55331
- PARCEL AREAS:  
36-117-23-11-0003: 29,317 SQ. FT. (0.673 ACRES)  
36-117-23-11-0004: 29,338 SQ. FT. (0.674 ACRES)  
PROPOSED PARCEL A: 17,581 SQ. FT (0.404 ACRES)  
PROPOSED PARCEL B: 41,073 SQ. FT, (0.943 ACRES)
- BEARING BASIS IS ASSUMED.
- DATE OF FIELDWORK: APRIL 2021

HARDCOVER CALCULATIONS:

5520 VINE HILL ROAD:

CONCRETE: 125 SQ. FT.  
HOUSE: 932 SQ. FT.  
GARAGE (INCLUDING ELEVATED PORTION): 884 SQ. FT.  
SHED: 100 SQ. FT.  
BITUMINOUS: 1,522 SQ. FT.

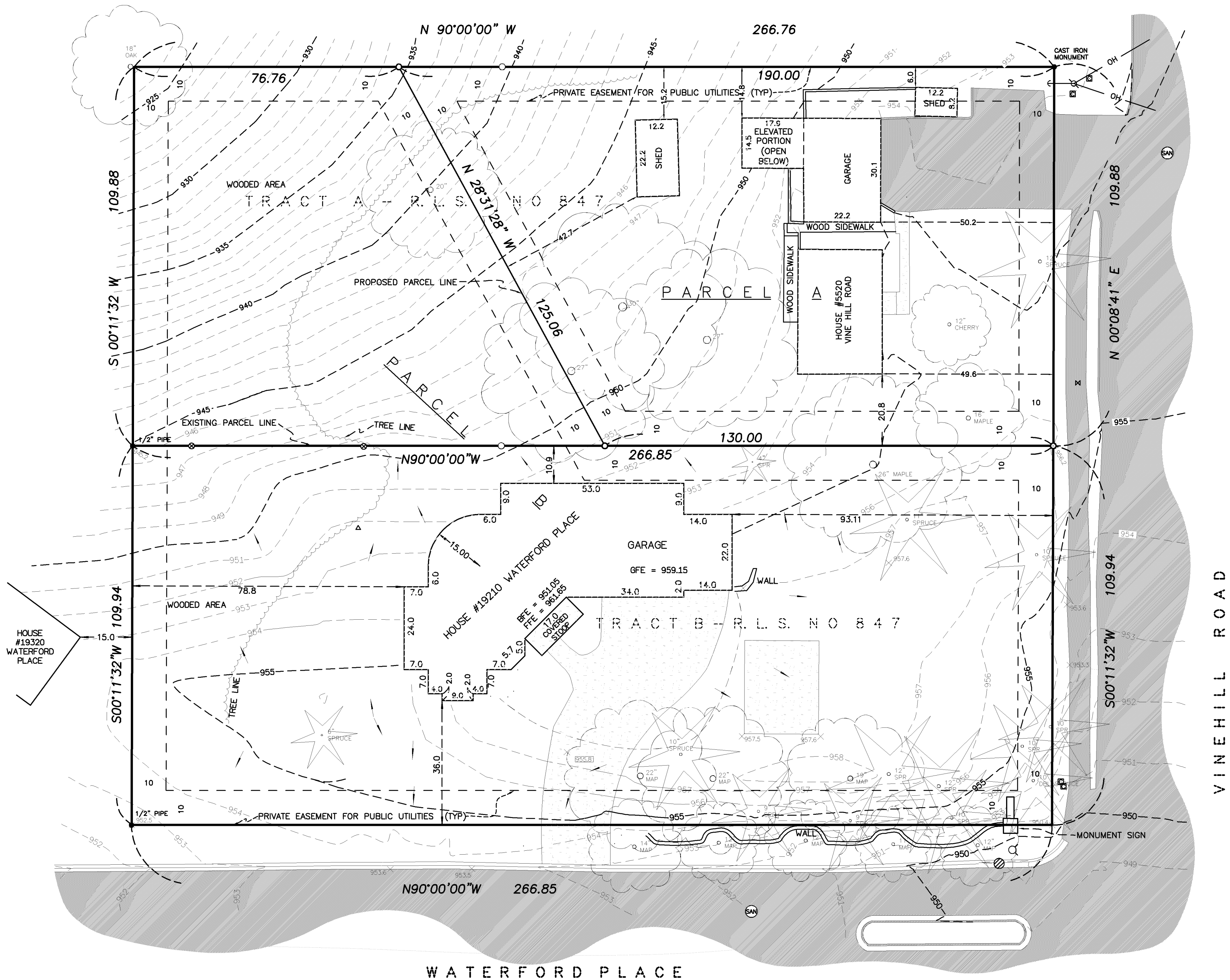
TOTAL: 3,563 SQ. FT. (12.1% OF EXISTING PARCEL OR 20.2% OF PROPOSED PARCEL A)

19210 WATERFORD PLACE:

CONCRETE PAD: 582 SQ. FT.  
HOUSE: 3,470 SQ. FT.  
CONCRETE STOOP AND DRIVEWAY: 2,136 SQ. FT.  
MONUMENT SIGN: 21 SQ. FT.

TOTAL: 6,209 SQ. FT. (21.1% OF EXISTING PARCEL OR 15.1% OF PROPOSED PARCEL B)

- CONCRETE SURFACE
- BITUMINOUS SURFACE



CERTIFICATION :

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

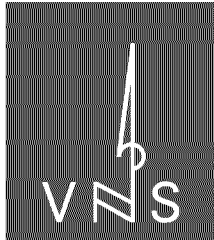
SIGNED : Travis W. Van Neste

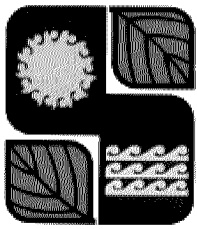
Travis W. Van Neste, Minnesota Professional Surveyor #44109  
Michigan Professional Surveyor #46895

JOB # 2021004	ISSUED: 4-28-2021	
DRAWN BY: TWVN	REV: 6-9-2021	
SCALE: 1"=20 FEET		

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PROFESSIONAL SURVEYING SERVICES

4400 WEST ARM RD, UNIT 120, SPRING PARK, MN 55384  
(952) 686-3055 VANNESTESURVEYING.COM





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MEMORANDUM

TO: Planning Commission, Mayor and City Council

FROM: Emma Notermann, Planning Technician

MEETING DATE: July 6, 2021

REQUEST: Variance to side yard setback

APPLICANT: Kimberly Poe

LOCATION: 23320 Park Street

REVIEW DEADLINE: September 17, 2021

LAND USE CLASSIFICATION: Low to Medium  
Density Residential

ZONING: R-1D

FILE NUMBER: 21.13



REQUEST:

The applicant requests a variance to the setback from the side yard line to construct an addition their existing non-conforming house. The proposed addition would be located 7.2 feet from the side property line where 10 feet is required.

Notice of this application and the public meeting was mailed to all property owners within 500 feet of the property at least 10 days prior to the meeting.

BACKGROUND

Context: The existing home was constructed in 1924 and is located as close as six feet from the west side property line. The lot was created in 1887 as part of the Ball's Addition to Excelsior plat. The R-1D zoning district requires a side yard setback of 10 feet, so the house is considered a legally non-conforming structure.

Most of the adjacent properties are all developed with single-family homes and zoned R-1D or R-1C. Across Park Street, to the south of the subject property, is Our Saviors Lutheran Church.

Applicable Code Sections:

Section 1201.13 subd. 5. d. of the zoning regulations requires a setback of 10 feet from the side yard line.

Section 1201.03 subd. 1(i) of the zoning regulations allows the expansion of non-conforming single-family residential units.

Section 1201.03 subd. 1(i) of the zoning regulations allows the expansion of non-conforming single-family residential units provided-

1. *That the expansion does not increase the nonconformity and complies with height and setback requirements of the district in which it is located;*

The proposed addition does not comply with the setback requirement and consequently a variance is required for this expansion.

*\*There are additional criteria in this section, but since the proposed development does not meet the first regulation, a variance is required.*

ANALYSIS

The applicant's narrative is attached and indicates that she proposes to add a new porch and bathroom addition on the west side of her existing home. The proposed addition would be set farther from the side lot line than the existing home currently sits. The proposed addition would encroach on the side yard setback by 2.8 feet, where the existing home already encroaches on the same side yard setback by 4 feet.

Variance Criteria:

Section 1201.05 subd.3.a. of the zoning regulations sets forth criteria for the consideration of variance requests. These criteria are open to interpretation. Staff reviewed the request according to these criteria as follows:

1. *Intent of comprehensive plan and zoning ordinance:* The property owner would continue to use the property for residential purposes. They propose no uses on the site that would be inconsistent with either the intent of the residential land use classification or the district's allowed uses.
2. *Practical difficulties:* Practical difficulties include three factors, all three of which must be met. Staff finds that the practical difficulties for the property are related to the non-conforming location of the existing home.
  - a. *Reasonable:* The applicant has proposed a reasonable residential use on the property.
  - b. *Unique Situation vs. Self-Created:* The situation is unique as the home was constructed prior to the application of modern zoning regulations that have made the home a legally non-conforming structure under today's standards.



- c. *Essential Character*: The proposed addition would not be out of character for the neighborhood. It would not encroach farther towards the property than the house already does, so the character of the lot will remain unchanged.
3. *Economic Considerations*: The applicant has not proposed the variance solely based on economic considerations, but to enhance the livability of the home.
4. *Impact on Area*: The property owner is not proposing anything that would impair an adequate supply of light and air to an adjacent property, increase the risk of fire, or increase the impact on adjacent streets. The adjacent home to the west, at 23340 Park Street, is about 20 feet away from the existing home. However, as previously mentioned, the new addition will not be closer to the neighboring property than the existing home already is.
5. *Impact to Public Welfare, Other Lands or Improvements*: Staff finds the proposed addition would not be detrimental to the public welfare as it would be a typical addition for an older home.
6. *Minimum to Alleviate Practical Difficulty*: Staff finds the variance request is the minimum necessary to alleviate the practical difficulties on the property.

#### FINDINGS/RECOMMENDATION

Staff finds the variance proposal meets the criteria above and recommends approval of the variance while acknowledging that the variance criteria are open to interpretation. Consequently, the Planning Commission could reasonably find otherwise.

Should the Planning Commission recommend approval of the variance, staff recommends that the applicant be required to acquire all necessary permits prior to construction.

#### ATTACHMENTS

Location map

Applicants' narrative and plans

Correspondence Received

# 23320 Park Street Location Map



## Side Yard Set-Back Variance Application Request for Non-Conforming Residence

23320 Park Street

Kimberley Poe, Owner

1. A variance for this project would not at all change the general purpose of the property and it's design and construction would fit in harmony with the zoning regulations.
2. a) Property use will not change; variance is required because existing property is non-conforming.  
  
b) In the 1950's, the subdivision was created, and lot line was established less than 10' from house long after house was built (around 1900) making in non-conforming.  
  
c) This small addition is designed to look as if it were always there and in keeping with the character of the area.
3. Main level is just 675 sq ft and the location chosen is the only feasible one with regard to the exterior look, interior function and preservation of trees.
4. Variance would not adversely impact the adjacent property's light or air as the two houses do not line up next to each other and barely overlap. My property sits well back from the others on the block even with this addition. There will be no impact traffic or public safety.
5. The variance is for such a relatively small addition that it would have no detrimental impact on the neighborhood
6. Variance is minimum necessary as the addition is set in 1 foot further from the side yard than the non-conforming main house.

Side Yard Set-Back Variance Application Request for Non-Conforming Residence

23320 Park Street

Kimberley Poe, Owner

My house was built around 1900 and sits 7 feet from the West side lot line, and the eaves extend 12" to 6 feet from the lot line. The house is a small Dutch Colonial (appx 675 foundation size) plus porches on the North (175 sq ft screen porch) and South (112 sq ft 3.5 season). Both porches are set-in 14" from the outside dimensions of the main house and each has a roof separate from the main house. Each porch is attached to the main house just under the eaves. The house sits up on the peak of hill with drainage running North and South.

This house I have restored and loved since 1995, still does not have a main floor bathroom and given its size/layout, there is not space to add one in the existing house. Having just received two knee replacements, this has become an important consideration to remain in my home long term.

I am requesting a side yard set-back variance to create a 15'x10' addition to include a bathroom, laundry and mudroom/entrance, and 16'x7' open porch to tie into the look of the existing house. In any project I have worked on with the house, the most important factor is that it looks historically correct for its style and era. The finest complement is when someone tells me "it looks like it's always been there". I believe this design achieves this without encroaching any closer to the lot line. The design has the addition set in 14" from the outside dimensions of the main house, just like the existing North porch and the East side of the existing smaller South porch. This puts the exterior wall of the addition appx 8'3" from the lot line and the new eave appx 7'3" from the lot line.

Drainage will remain the same with gutters and downspouts discharging into the yard and garden to East and South.

The only neighbor impacted is immediately to the West. They have reviewed my plans and do not have objections. In fact, they will benefit as my addition will create better separation and privacy in the backyard for them. My house sits way back on the lot; about 30+ feet further than the others on the street. When completed, the addition will still set back 20 ft + further than the adjacent properties. There is no feasible location on the East side of the house for this addition. The design from all sides will maintain the historical integrity of this special old house.

Thank you for your consideration.

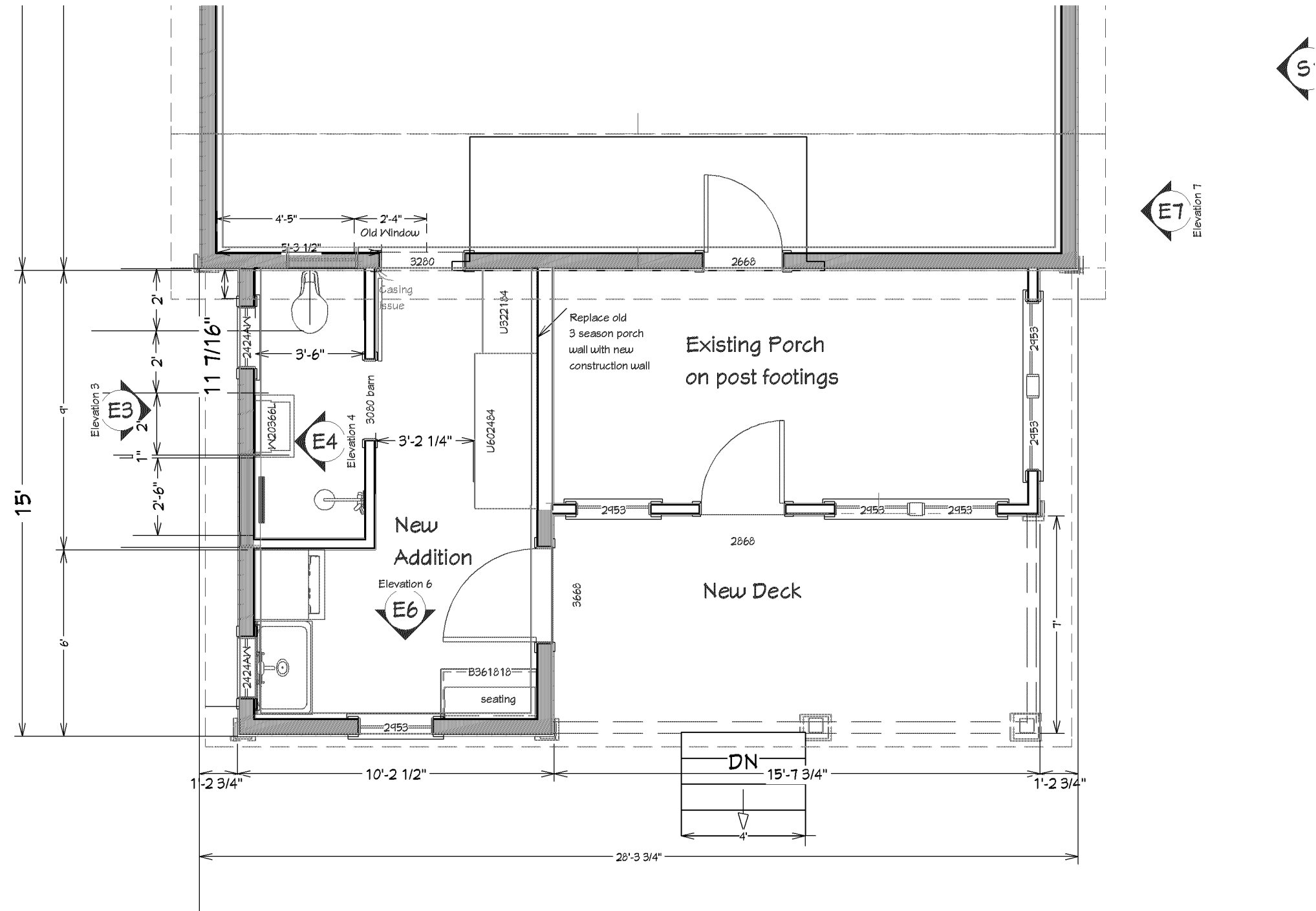


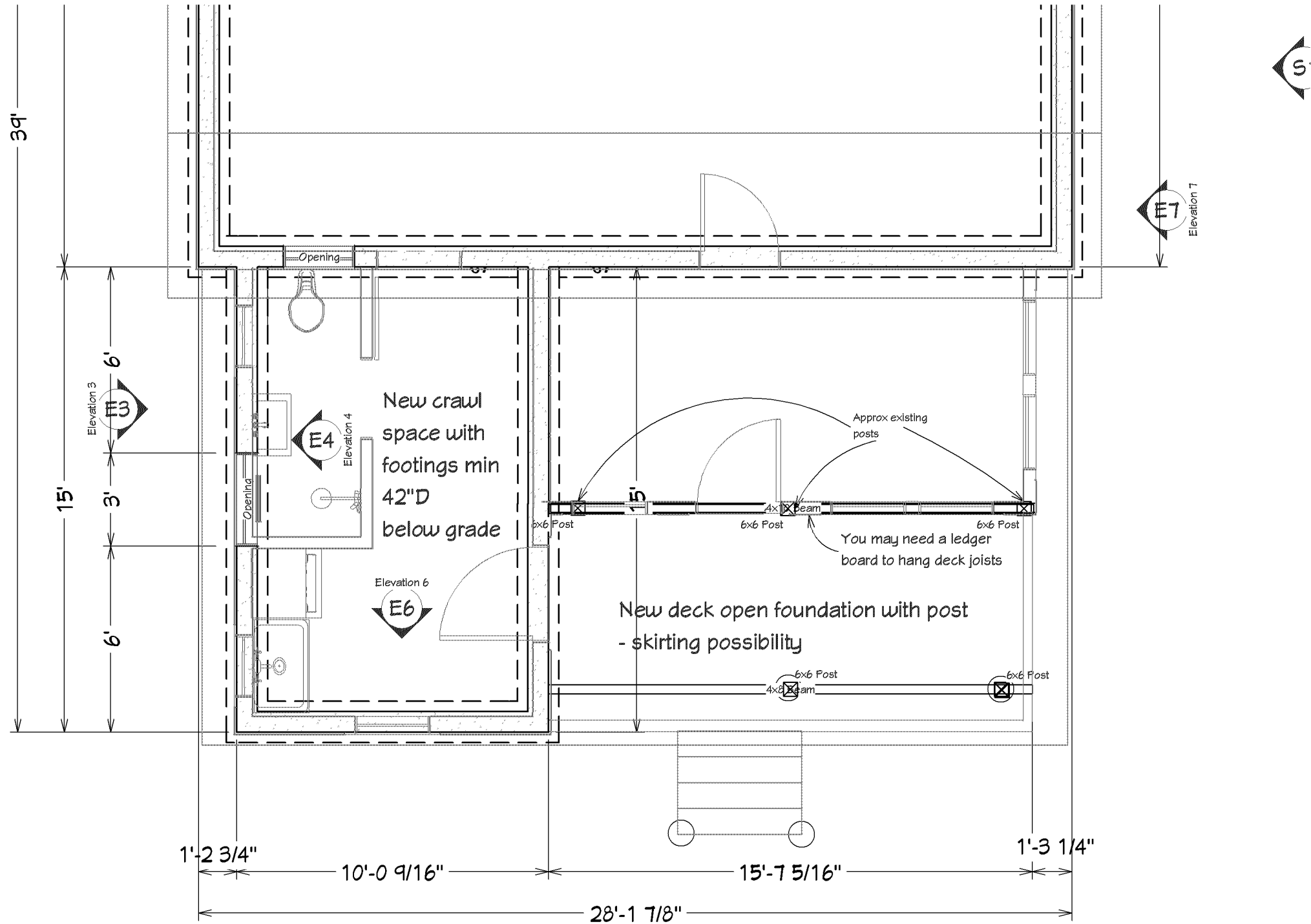
Kimberley Poe

Owner

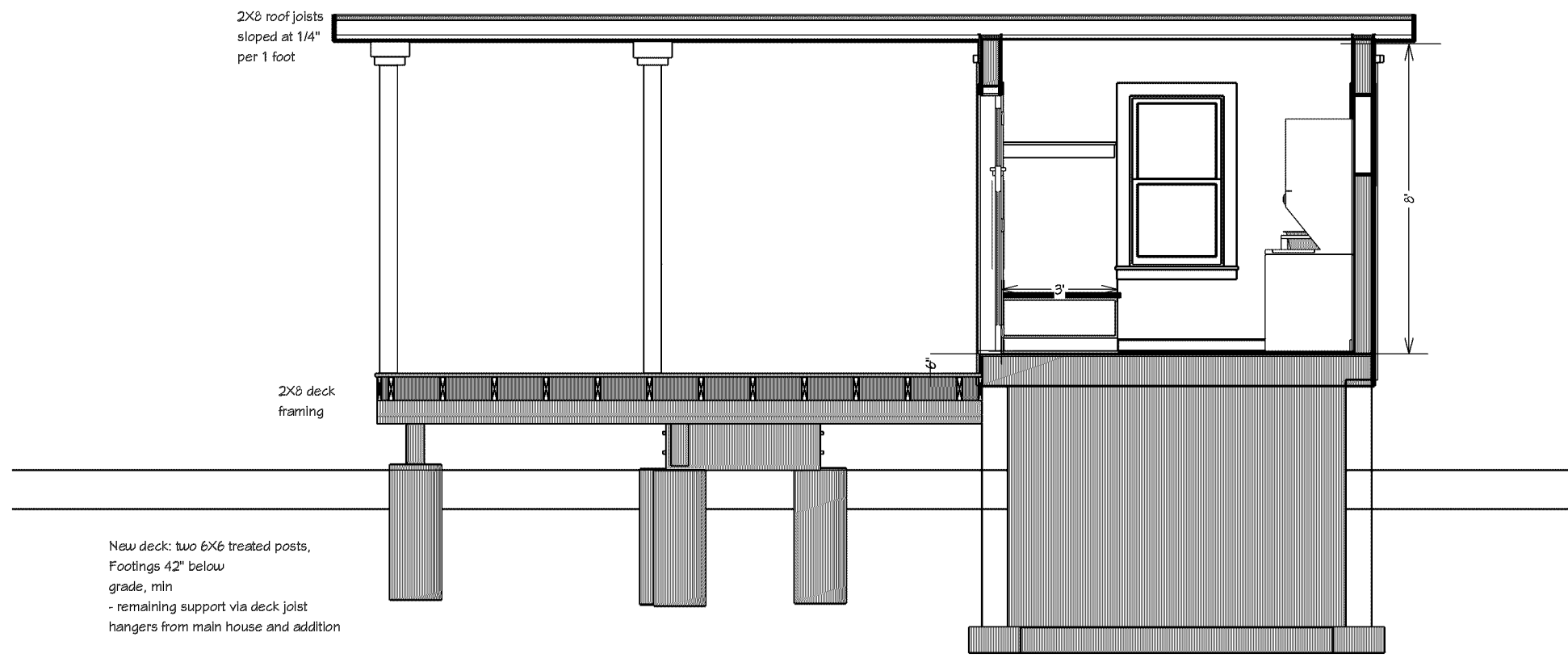






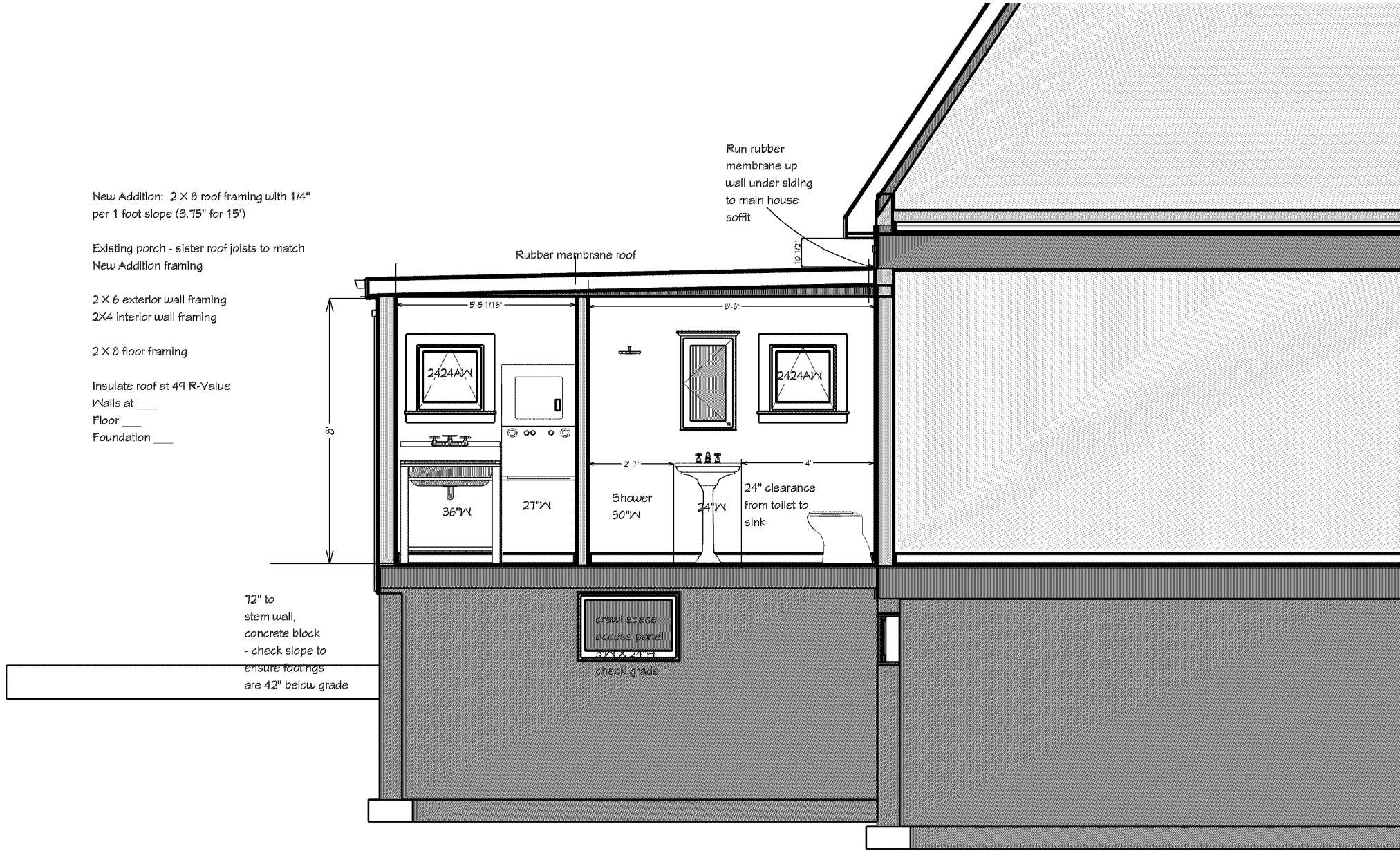


Foundation



Elevation 6

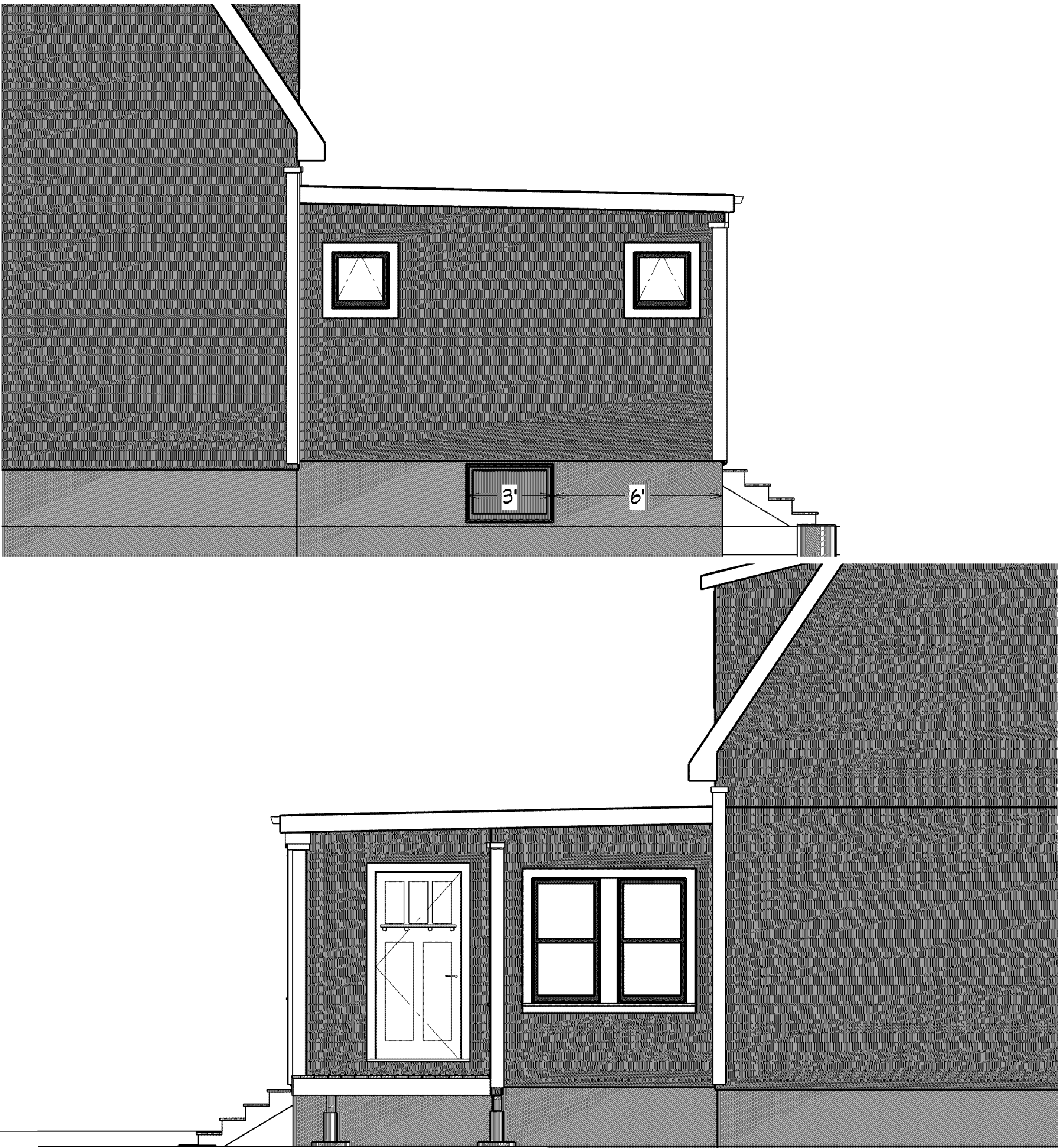


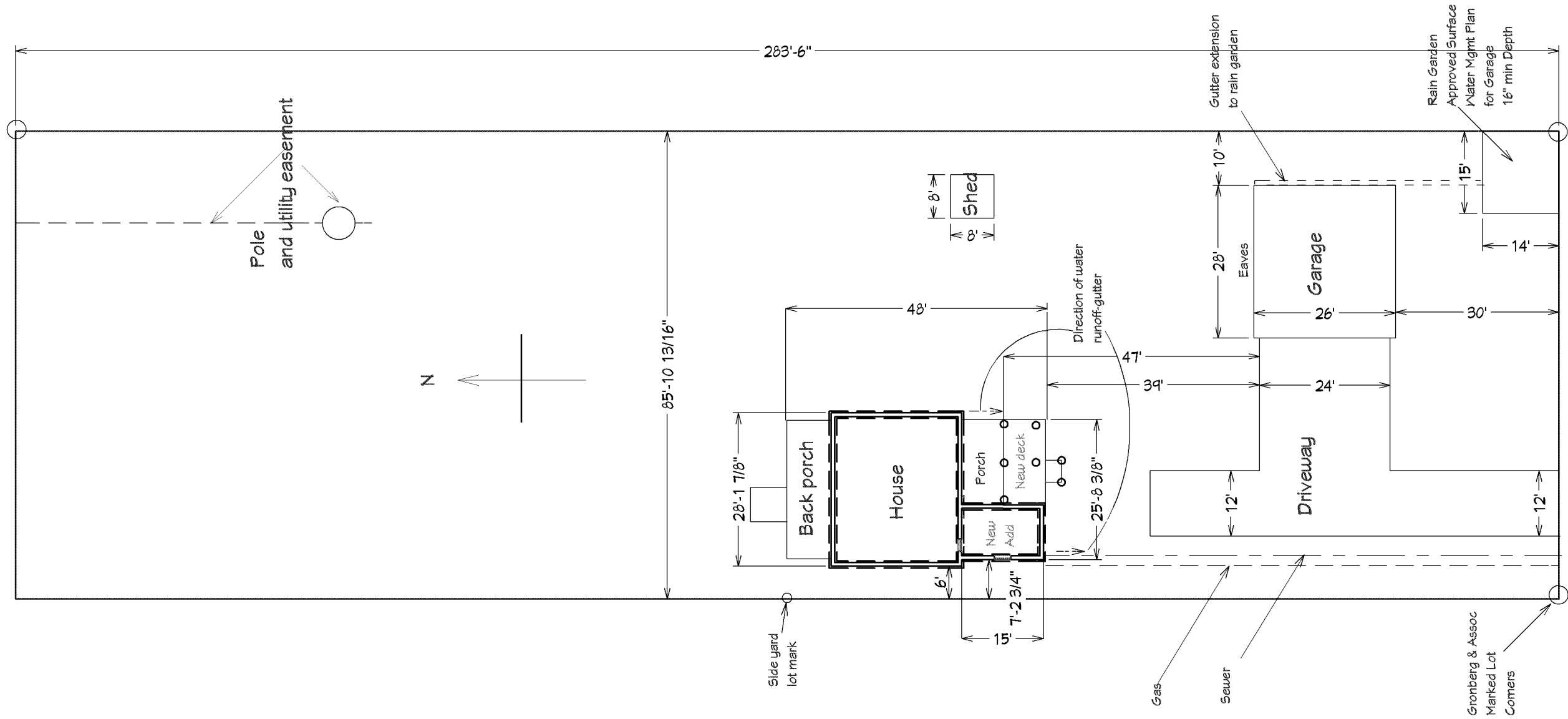


Elevation 4



Elevation 5





## Plot Plan View

Scale: 1/22" = 1 foot

Blue Sky Design  
Poe Addition  
23320 Park St, Shorewood

Scale: 1/4" = 1 foot  
unless otherwise noted

Constuction  
Plan 5.20.21

## Emma Notermann

---

**From:** Claire Commers <ccommers@mediacombb.net>  
**Sent:** Monday, June 28, 2021 2:18 PM  
**To:** Planning  
**Subject:** Addition to existing home - Kimberly Poe - 23320 Park Street

Hello Shorewood Planning Dept.,

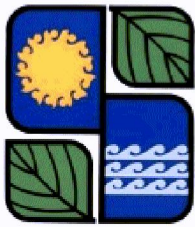
I received your letter about my neighbors request for a variance. I live next door at 23290 Park Street. I do have a concern if the variance is between her home and mine. My home sits below hers. There is a steep embankment between our homes. With construction I worry that the hill would erode even more. I believe Kim would need to secure the hill somehow be it a Boulder wall or another system to hold the earth in place. If it would help I can send you photos.

Sincerely,

Claire Commers

Sent from my iPhone





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## **MEMORANDUM**

**TO:** Planning Commission

**FROM:** Marie Darling, Planning Director

**MEETING DATE:** July 6, 2021 (Continued from the June 1, 2021 Meeting)

**RE:** **Text Amendments for Political Signage**

### **Background**

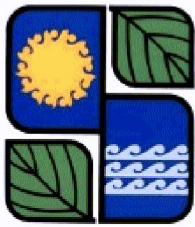
At the June 1, 2021 Planning Commission meeting, the Commissioners gave direction on specific changes that are reflected in the attached draft ordinance. Specifically,

- The commission recommended simplifying the way the elections were referred to for greater clarify.
- The commission recommended that only signs in the right-of-way should be considered abandoned and removed without notice if placed in violation of code.

Please review the attached ordinance amendments to determine if the ordinance is adequate to correct the issues.

### **ATTACHMENTS:**

Correspondence Received  
Planning Commission Memorandum June 1, 2021  
Minutes from Planning Commission Meeting June 1, 2021  
Planning Commission Memorandum April 6, 2021  
Minutes from Planning Commission Meeting April 6, 2021  
Article from the League of Minnesota Cities  
Draft Ordinance



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## MEMORANDUM

**TO:** Planning Commission

**FROM:** Marie Darling, Planning Director

**MEETING DATE:** June 1, 2021 (Continued from the May 4, 2021 Meeting)

**RE:** **Text Amendments for Political Signage**

### **Background**

At the April Planning Commission meeting, the Commissioners gave direction on specific changes that are reflected in the attached draft ordinance. Specifically,

- The commission did not recommend increasing the distance from streets or prohibiting campaign/noncommercial speech signs from the right-of-way during the allowed election times.
- The commission recommended that the City have the same timeframe for campaign/noncommercial speech signs for those elections not included in the state primary/general election statutes.
- A commissioner asked if signs could be posted during political rallies in the park. Chapter 902.02 specifically prohibits pasting, affixing or inscribing any handbill, poster or sign within the parks, unless authorized by permit from the City Council. The chapter does not prohibit people from holding or carrying signs during an event.

Staff left in all the sign related definitions for your use while reviewing the changes. Only the definitions that will be changing will be left in the final draft of the ordinance forwarded to the Council for adoption.

Please review the attached ordinance amendments to determine if the ordinance is adequate to correct the issues with duplication and lack of clarity in the existing ordinance and if the substitution clause is adequate.

### **ATTACHMENTS:**

Correspondence Received  
Planning Commission Memorandum April 6, 2021  
Minutes from Planning Commission Meeting April 6, 2021  
Article from the League of Minnesota Cities  
Draft Ordinance

## Marie Darling

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**From:** McDonald <p.m.mcdonald@usfamily.net>  
**Sent:** Sunday, May 2, 2021 2:40 PM  
**To:** Marie Darling  
**Subject:** RE: Amendments to the Sign Regulations

Thank you for sending this information. I was unable to open the Staff Report document as it appeared to be damaged, however the minutes were readable. Just a comment regarding the setback of ten feet. Many places in the city have a drop-off or ditch close to the road that would prohibit placing any campaign signs with that amount of setback.

I have a proposal for signs that I would like the City to consider.

Since we don't have sidewalks, and we love to walk, it is important for people to be aware of traffic on the road when they are walking. Many people walk with their backs to traffic and with some kind of headphones on. If pedestrians walk facing traffic, on the left side of the road, that would enable awareness of oncoming cars. During my lifetime I've heard of people being injured, even death, because of a lack of awareness of traffic. A sign that says "Pedestrians Keep Left" would encourage awareness of safer ways to use the roadways.

Of course what I'm proposing is a traffic sign (like a No Parking sign). I hope that this is something the City of Shorewood could do to help people protect themselves.

Best Regards,  
Pam McDonald

**From:** Marie Darling [mailto:MDarling@ci.shorewood.mn.us]  
**Sent:** Thursday, April 29, 2021 4:24 PM  
**To:** Marie Darling <MDarling@ci.shorewood.mn.us>  
**Cc:** Emma Notermann <ENotermann@ci.shorewood.mn.us>  
**Subject:** Amendments to the Sign Regulations

I was very excited to hear that you are interested in the proposed ordinance amendments. However, I wanted to let you know that I will be requesting a continuance of the review of the sign amendments to the June 1 Planning Commission meeting. The Planning Commission won't have a draft to review but they will be opening and continuing the public hearing. If you want to come and request the opportunity to speak on this topic, you can do so. You are also welcome to come to the meeting on June 1<sup>st</sup>.

The links to the May meeting will be available on the city's website late Tuesday afternoon, typically before 6:00 p.m.

Because you requested for information on what has been discussed so far, I have attached a copy of the original staff report and the minutes from the April planning commission where the amendments were discussed generally.

Please let me know if you have any questions.

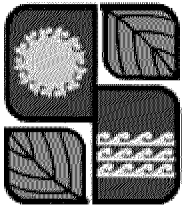
*Marie Darling*  
Planning Director

952-960-7912  
[mdarling@ci.shorewood.mn.us](mailto:mdarling@ci.shorewood.mn.us)

City of Shorewood  
5755 Country Club Road

*Shorewood, MN 55331*

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**B. PUBLIC HEARING – Sign Ordinance Amendments**

**Applicant: City of Shorewood**

**Location: Citywide**

Planning Director Darling stated that this is a request for text amendments related to political signage. She stated that the Commission had discussed this at their April meeting and gave specific directions on changes that are reflected in the draft ordinance being presented. She gave a brief overview of the recommended amendments.

Commissioner Eggenberger stated that the letter from Pam McDonald talks about many places in the City that have a drop-off or ditch close to the road that would prohibit placing any campaign sign at least 10 feet away from the road. He stated that he knows that is tough for some people, but thinks a 10 feet distance is fine and doesn't know how the city would make an exception for a ditch or a drop-off.

Commissioner Huskins asked if there was a height limitation to the sign and asked if the sign were placed in a drop-off, could they just use a taller stake so the sign would still be visible.

Commissioner Eggenberger questioned how the City could actually define 'drop-off'.

Planning Director Darling explained that there are height restrictions outside of the election period but not during the election period.

The Commission discussed various remedies to the problem of having a ditch and still being able to display signs.

Chair Maddy opened the Public Hearing at 8:27 P.M. noting the procedures used in a Public Hearing.

There being no public comment, Chair Maddy closed the Public Testimony portion of the Public Hearing at 8:27 P.M.

The Commission discussed some language tweaks to make things more clear and eliminate loopholes and make it clear that it is election related signage.

**Huskins moved, recommending approval of the Sign Ordinance Amendments, as amended by staff so it is all election related.**

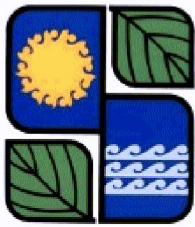
Planning Director Darling asked if he meant to exclude non-commercial signage.

Commissioner Gault suggested that the Commission defer making a recommendation on these amendments until the next meeting because he doesn't want to recommend approval of something that he has not seen and would like to see the final wording.

***There was consensus among the Commission to wait to make a recommendation until they see the final draft.***

**Commissioner Huskins withdrew his motion.**

**Gault moved, Huskins seconded, tabling approval of the Sign Ordinance Amendments until the next Commission meeting. Roll Call Vote – ayes – all. Motion carried 4/0.**



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## MEMORANDUM

**TO:** Planning Commission

**FROM:** Marie Darling, Planning Director

**MEETING DATE:** April 6, 2021

**RE:** **Text Amendments for Political Signage**

One of the priorities set by the City Council for 2021, was the review and amendment of the political sign regulations. Of concern were the number and proximity of the signs to the street throughout the city.

### **Background**

Minnesota State Statute 211B.045 has specific language regarding noncommercial speech signs during state election years.

#### **211B.045 NONCOMMERCIAL SIGNS EXEMPTION.**

All noncommercial signs of any size may be posted in any number beginning 46 days before the state primary in a state general election year until ten days following the state general election. Municipal ordinances may regulate the size and number of noncommercial signs at other times.

During the defined time-period above, no City may limit the number or size of campaign signs.

Shorewood's sign regulations include the following regulations for political and noncommercial signs signs: (Section 1201.03 Subd. 11. b. (1) (d))

- (d) Every campaign sign must contain the name and address of persons responsible for the sign, and that person shall be responsible for its removal. Signs shall be permitted on each lot for a period of 100 days prior to and ten days after an election. All campaign signs or other noncommercial speech signs may be posted from 46 days before the state primary in a state general election year until ten days following the state general election, pursuant to M.S. § 211B.045. Signs posted both during and after this time period are subject to all other applicable requirements in this subdivision. At any time, the city shall have the right to remove signs that are prohibited under this subdivision, and assess a fee as provided from time to time by ordinance. Campaign signs or other noncommercial speech signs shall not be located closer than ten feet from any street surface, and shall not be placed in front of any property without the consent of the property owner;

This paragraph includes two standards for election signs: the required language that mirrors state statute and another standard that appears to apply to all elections, including state primaries. The City can allow a



greater period than the state required standard (but not lesser) and can have different standards that apply to school, county and municipal elections. However, having two different standards that apply to the same elections is confusing.

Also, there is no definition of noncommercial speech signs or noncommercial speech in the zoning regulations. Finally, there is no fee identified in Chapter 1300 (Municipal Fees) or the Master Fee Schedule regarding removal of signs.

Another section of the sign regulations (Section 1201.03 Subd. 11. B. (3) states:

- (3) No portion of any sign shall be located within five feet of any property line. No signs other than governmental signs and political campaign signs as provided in b.(1)(d) of this subdivision shall be erected or temporarily placed within any street right-of-way or upon public lands or easements or rights-of-way. Any unauthorized signs located in public right-of-way or on public property shall be considered abandoned and are subject to immediate removal and disposal without notice.

There is no definition of governmental signs and the term political campaign sign seems to refer to campaign signs, but with no additional definition.

### **Proposed Ordinance Amendments**

Definitions: Staff propose to add additional definitions for noncommercial speech signs and abandoned signs. Staff also propose to change the reference of “governmental signs” to “public signs” and amend the reference of “political campaign signs” to solely “campaign signs”. Instead of campaign signs, the Planning Commission could recommend the term “noncommercial speech sign”, which is more content neutral and matches the language in state statute.

Elections: Staff propose to amend the language for elections so that the wording continues to mirror the state statute for elections with primaries, but amend the other standard so that it applies to all other elections. The length of time would be the same as indicated in the ordinance now, but where the rules apply would be clearer.

Increase the Distance from Streets: In order to increase the distance between the public street and the campaign signs, staff propose to prohibit all signs other than governmental signs from the right-of-way or 15 feet from the curb or edge of pavement, whichever is greater. Staff proposed the second setback as some streets have a very small right-of-way or the right-of-way applies to the traveled surface. There are a few streets that have extra width in the right-of-way over the standard width and this proposal would require the signs to be placed farther back. Staff also recommend that any signs placed in the right-of-way or within the allowed 15-foot setback from a roadway would be considered abandoned and the appropriate jurisdiction could remove them.

Public Lands and Public Parks: The current ordinance prohibits placing signs in public rights-of-way or on land without the permission of the adjacent property owner. As the City cannot give permission to one candidate or side of an issue without giving permission to all candidates or sides, staff recommends prohibiting noncommercial signs in parks and public lands. Further, that any signs installed on public lands or parks would be considered abandoned and the City could remove them without notice.

Responsibility for Signs: The signs are currently the responsibility of the persons that place them. That type of language was partially struck down by the MN Court of Appeals in 2006. Staff are not aware that anyone ever puts that language on a campaign sign or other noncommercial speech signs. Staff would propose that the property owner be responsible for the placement of a sign on their property.

Noncommercial Speech Signs: Under the current regulations, the signs are treated differently based on when the signs are installed, as follows:

- During an election period, the signs are treated the same as any political signs
- Outside of the election period, the signs are limited by 1) the same requirements in each district as any other signs; 2) may not be placed in the public right of way; and 3) must be installed at least five feet from all property lines

Staff propose to continue to treat noncommercial signs the same as above.

However, staff notes that there is one other issue related to noncommercial speech on signs that should be addressed. This is not related specifically to political or campaign signs. Shorewood is required to allow the substitution of any noncommercial speech for any other speech on any sign that is allowed in any zoning district. For example, a homeowner is allowed one nameplate sign. Because they are allowed a nameplate sign, they may substitute other noncommercial speech on a sign of the same size allowed for a nameplate sign, like “Black Lives Matter” or “Blue Lives Matter” or “Thank You Essential Workers.” Similarly, in a commercial district, a property owner may substitute noncommercial speech for advertising on any business sign, like replacing their business name with “Happy Easter” or “Heroes Work Here” and the city cannot prohibit or regulate the content. Because this is established law and the City would be amending the sign regulations, staff recommend including a statement to that effect in the general provisions.

How do other cities regulate signage?

Attached is a summary table of other cities’ ordinances related to political signs and campaign signs. Much of the regulations are very similar to state statute and have similar limitations. The majority of cities prohibit signs in the right-of-way.

**ATTACHMENTS:** Summary of other cities’ ordinances



City	Reference	Code
Shorewood	ROW	Section 1201.03 Subd. 11. B. (3) states that no signs other than governmental signs and political signs shall be erected or temporarily placed within any street right-of-way or upon public lands or easements or rights-of-way. There is no definition of governmental signs.
	Political Campaign Signs	Signs must contain the name and address of the persons responsible for the sign and its removal.
	Political Campaign Signs	Signs shall be permitted on each lot for a period of 100 days prior to and 10 days after an election.
	Political Campaign Signs	All campaign signs or other noncommercial speech signs may be posted from 46 days before the state primary in a state general election year until 10 days after the state general election.
	Political Campaign Signs	At any time, the city shall have the right to remove signs that are prohibited under this subdivision and assess a fee.
Mound	Political Campaign Signs	Campaign signs or other noncommercial speech signs shall not be located closer than 10 feet from any street surface and shall not be placed in front of any property without the consent of the property owner.
	Political Campaign Signs	(d) Exemptions. No permit shall be required for the following signs; provided, however, that all signs herein exempted from the permit requirements shall conform with all other requirements of this chapter:
	ROW	Campaign sign means a temporary sign posted by a bona fide candidate for political office or by a person or group promoting a political issue for a candidate.
	Political Campaign Signs	(a) No sign other than governmental unit signs shall be erected or placed upon any public way or upon public easements with the exception of garage sale and real estate directional signage as provided for in subsection (i) of this section, pertaining to temporary signs.
	ROW	(r) Campaign signs may be placed in any district, subject to the following restrictions: (1) Pursuant to Minn. Stats. § 211B.045, all noncommercial signs of any size may be posted in any number from 46 days before the state primary in a state general election year until ten days following the state election.
Excelsior	Political Campaign Signs	(2) Campaign signs shall be exempt from fees.
	ROW	(3) All campaign signs shall have the name and telephone number of the person responsible for posting the sign clearly marked either on the face or reverse side.
	ROW	(4) Campaign signs shall be removed and/or replaced if they become torn, faded, or otherwise damaged.
	ROW	No sign shall be placed within any drainage or utility easement or within the public right-of-way except by the issuance of a license agreement in accordance with article 25 of this Appendix E.
	ROW	No sign or sign structure shall be placed on or protrude over the public right-of-way except wall (maximum protrusion 18 inches), canopy, awning, marquee, and nonilluminated sandwich board signs not to exceed eight square feet per side. All signs located over public right-of-way or over any public or private access route (sidewalk, etc.) shall be located a minimum of eight feet above surface grade.
Deephaven	ROW	Except for traffic control, all signs are prohibited within the public right-of-way or easements except that the zoning administrator may grant an administrative permit to locate signs, banners and decorations on or within the right-of-way, as allowed in subsections 24-3(h) and 24-3(k).
	Political Campaign Signs	All noncommercial speech signs of any size posted in any number from 46 days before the state primary in a state general election year until ten days following general election, and 13 weeks prior to any special election until ten days following the special election. Sign installation shall comply with the Fair Campaign Practices Act contained in Minn. Stats., chapter 211B.
	Political Campaign Signs	Subd. 27. "Non-commercial Speech" Dissemination of messages not classified as Commercial Speech, which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.
	Political Campaign Signs	Subd. 32. "Political Sign" Any sign which includes the name or picture of an individual seeking election or appointment to public office, or pertaining to a forthcoming public election or referendum, or pertaining to or advocating political views or policies, which is erected on private property by a bona fide candidate for political office or by a person or group supporting such a candidate and which contains the name of the person or group responsible for the erection and removal of the sign.
	Political Campaign Signs	1115.05 Exemptions. The following signs shall not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this ordinance or any other law or ordinance regulating the same.
Victoria	Political Campaign Signs	c. Political Signs. Freestanding political signs, not exceeding a sign surface area of 12 square feet each, displayed for a period of not more than eight weeks prior to the pertinent election date and not more than one week after that election date.
	ROW	1115.06 Prohibited Signs. Unless a sign is specifically permitted under this Section, or a temporary sign permit has been issued for the sign under this Section, or a special use permit has been issued for the sign under the City's Zoning Ordinance, the sign is prohibited. By way of example and not by way of limitation, the following signs are specifically prohibited: (h) Signs within the public right-of-way, public property or public easement.
	Political Campaign Signs	Signs containing noncommercial speech are permitted without a permit anywhere that signs containing commercial speech are permitted without a permit, subject to the same regulations regarding size and setback applicable to such signs.
	ROW	No sign other than public signs (governmental signs) shall be erected or placed upon any public street, right-of-way, public easement, public land or project over public property.
	Political Campaign Signs	The following signs are allowed without a permit: A. Political campaign signs. Political campaign signs not exceeding eight square feet. The sign must contain the name and address of the person responsible for such sign, and that person shall be responsible for its removal. The city shall have the right to remove and destroy signs not conforming to this section.
Minnetrista	Political Campaign Signs	State Law reference— Noncommercial signs permitted during certain times, Minn. Stats. § 211B.045.
	ROW	The following signs are prohibited in all districts: Signs on or over the public rights-of-way, unless the city council grants permission for a temporary sign on or over the public rights-of-way for a period of time not to exceed ten days, except in section 21-21(E,4) sandwich board signs in the central business district.
	ROW	Uncontrolled and unlimited signs, particularly temporary signs, which are commonly located within or adjacent to public right-of-way, or are located at driveway or street intersections, result in roadside clutter and obstruction of views of oncoming traffic. This creates a hazard to drivers and pedestrians.
	Political Campaign Signs	The following types of Signs are prohibited within the city: (a) Signs within public right-of-way or easements, except Government Signs.
	ROW	The following types of Signs are allowed without a permit in all zoning districts: (e) Signs permitted by Minnesota Statutes Section 211B.045.
		(h) No Signs erected on private property shall project over public property.

	ROW	Findings. The city finds it is necessary for the promotion and preservation of the public health, safety, welfare and aesthetics of the community that the construction, location, size and maintenance of signs be controlled. Further the city finds:
	ROW	Uncontrolled and unlimited signs, particularly temporary signs, which are commonly located within or adjacent to public right-of-way, or are located at driveway/street intersections, result in roadside clutter and obstruction of views of oncoming traffic. This creates a hazard to drivers and pedestrians and also adversely impacts a logical flow of information.
Chanhasen		Signs allowed without permit. Political campaign signs. Temporary political campaign signs are permitted according to the following: The sign must contain the name of the person responsible for such sign, and that person shall be responsible for its removal.
		Signs are not permitted in the public right-of-way, or within the sight triangle.
		Shall comply with the Fair Campaign Practices Act contained in M.S. § 211B.045.
		The city shall have the right to remove and destroy signs not conforming to this subsection.
		Permitted from 46 days before the state primary in a state general election year until ten days following the state general election and 13 weeks prior to any special election until ten days following the special election.
	Political Campaign Signs	No such sign shall be located within 100 feet of any polling site.
		Sign shall be located on private property with permission of the property owner.
	ROW	No sign, other than governmental signs, shall be erected or placed upon any public street, right-of-way, or project over public property unless approved by the city and contingent upon an approved encroachment agreement. Temporary signs may not be erected or placed in a public easement unless approved by the city. No sign shall be placed within any drainage or utility easement without an approved encroachment agreement.
	ROW	uncontrolled and unlimited signs, particularly temporary signs which are commonly located within or adjacent to public right-of-way or are located at driveway/street intersections, result in roadside clutter and obstruction of views of oncoming traffic. This creates a hazard to drivers and pedestrians and also adversely impacts a logical flow of information;
	Political Campaign Signs	the right to express noncommercial opinions in any zoning district must be protected, subject to reasonable restrictions on size, height, location and number.
	Political Campaign Signs	17."Non-commercial sign" - any sign that is not a commercial sign, including but not limited to signs that convey messages concerning political, religious, social, ideological, public service and informational topics.
Minnetonka	Political Campaign Signs	The following signs do not require a permit but must meet the regulations in this section: a) Signs required or allowed by section 325.05, subd. 3.
	Political Campaign Signs	f) In all districts, any sign authorized in this chapter is allowed to contain noncommercial copy in lieu of any other copy. For new signs posted with a noncommercial message, the sign fee is waived until such time as the sign is converted to contain a commercial message.
		a) Signs may not be located on property without the permission of the property owner. For signs located in public right-of-way as allowed under subdivision 3(e) of this section 325.05, the permission of the immediately adjacent property owner must be obtained.
	ROW	b) Unless specifically noted otherwise, all signs must maintain a 10-foot setback from all lot lines. The city may require a greater or lesser setback because of public safety reasons which may include the following conditions: vehicle sight distance, distance from intersection, designation of adjacent right-of-way.
	ROW	e) Signs may not be located within public right-of-way except for official traffic control devices and those allowed by section 3(e) of this section 325.05.
	ROW	<i>Streets and Easements.</i> No sign other than public signs shall be erected or placed upon any public street, right-of-way, public easement, or public land, or project over public property or public easements, except as allowed in the I-394 Mixed Use Zoning District.
	ROW	No garage sale signs shall be Located on any governmental property, including the street right-of-way.
Golden Valley	Political Campaign Signs	All signs containing non-commercial speech of any size may be posted in any number from 46 days before the State primary in a State general election year until 10 days following the State general election subject to the applicable provisions of Minn. Stats. § 211B.045.
	Political Campaign Signs	All signs containing non-commercial speech of any size may be posted in any number from 90 days before a special or municipal election until 10 days following the special or municipal election.
	Political Campaign Signs	All such signs shall conform with the location, setback, and placement provisions of this chapter.

**6. NEW BUSINESS**

**A. Sign Ordinance Update – Discussion on Political Signs**

Planning Director Darling explained that this item is also a staff-initiated item regarding text amendments for political signage. She stated that one of the priorities that the Council set for themselves and the Planning Commission this year was to review and consider amendments of the political sign regulations and noted that of concern specifically were the number and proximity of campaign signs to the streets. She stated that it is a complicated issue and there are a number of State statutes that give the City some requirements for what is allowed. She read aloud the State statute and the City's sign regulation language. She stated that the language is similar but has two separate standards that apply to all elections which causes confusion about when the City can apply their standards and when they cannot. Staff is proposing that the code be changed to be more clear when the non-commercial signs can be put up before all elections. She reviewed the recommendations from staff that they would like the Planning Commission to consider.

Commissioner Eggenberger asked about regulation of non-commercial signage and whether the City can regulate where they are placed.

Planning Director Darling stated that the City can impose location requirements.

Councilmember Callies stated that she thinks it is a good idea to have the language be consistent with the State law but thinks that 15 feet from the edge of the pavement is not practical for most areas of the City and would basically prohibit any campaign signs being visible.

Commissioner Huskins stated that he would agree that a 15-foot setback seems a bit excessive, but his concern was that it may have the unintended consequence of having people place larger signs in order for them to be visible. He stated that he would prefer smaller signs in the neighborhoods. He asked if a campaign would be allowed to have signage for an event if they got a permit to hold a rally on public lands.

Planning Director Darling stated that she would have to review that information and noted that there are very few signs that organizations can put up during events.

Commissioner Huskins stated that the proposed language states that the City would have the right to remove the signs that are in violation.

Planning Director Darling clarified that this is would either be in the right-of-way or on public land. She stated that if there were violations on private property, the City would notify the property owner.

Commissioner Gault commented that he was not sure if residents understood the regulations surrounding nameplate signs and substitution of non-commercial signs.

Planning Director Darling stated that nameplate signs seem to be going away and very few homeowners even have them anymore.

Commissioner Riedel asked if Commissioner Gault was asking if someone, under this ordinance, would be permitted to put up a non-conforming sign simply because it contains non-commercial speech. He stated that he does not think that is the case and people cannot put up a fully non-conforming sign.

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Commissioner Gault stated that he agreed, but feels this language says they can substitute their nameplate sign with a non-commercial speech sign but cannot have both.

Commissioner Riedel stated that he would agree and feels that this is a 1<sup>st</sup> Amendment issue that if you are allowed to write something, then you are allowed to write anything.

Chair Maddy stated he has the same concern because you can have a sign that says, "Vote for Joey", but cannot have a sign that says, "Eat at Joey Nova's". He stated that he would like to stay as far away from this as possible.

Commissioner Riedel stated that he would not want to go further than the City has to with this issue and would like to do the minimum to avoid 1<sup>st</sup> Amendment issues.

Chair Maddy stated that State law dictates what the City has to do and asked why the City would not just match their language and not touch any restrictions. He stated that he did not think the City has had a problem with excessive signage.

Planning Director Darling stated that the City can match the State law exactly, except State law does not apply to things like school board elections or municipal elections that would happen in non-State general election year. She stated that she thinks that there should be rules for those instances as well.

Chair Maddy suggested having the school board and other elections match the framework of the State election language and just leave it at that.

Planning Director Darling stated that would be fine.

Commissioner Gault suggested that it just refer to 'public elections'.

Planning Director Darling clarified that there have been complaints about the number of signs and how close they were which is why the Planning Commission was directed to take a look at this issue.

Commissioner Gault stated that he would go to the free speech issue that if he can say one thing, he should be able to say it 100 times or be able to say 100 different things.

Commissioner Huskins stated that the State language does not appear to say anything about setbacks. He stated that if the City simply takes the State's language, he does not think that would be sufficient.

Chair Maddy asked if the setback issue was because of traffic and visibility concerns.

Planning Director Darling stated that there could be visibility issues which is why she thinks there has been a setback included. She stated that she thinks it was that there were so many, so close to the street, that there was a concern that it would be a distraction.

Commissioner Riedel stated that he thinks a setback is helpful and becomes an issue when there are complaints if there is a specific hard number to point to, then it becomes less of a subjective issue. Just stating that signage is not allowed to interfere with visibility opens it up for discussion and interpretation. He stated that he thinks a 15-foot setback is excessive and would suggest something like 5-10 feet.



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Chair Maddy stated that he does not want to dictate how many feet back a sign can be. He stated that it is not blocking the view of traffic, he would prefer the City just stay out of it.

Commissioner Gault stated that it has to be on private property so whatever number that would be forces there to be a setback. He stated that then this raises the question of whether the City allows it at the property line.

Planning Director Darling asked what would be done when the property line is in the middle of the street.

Commissioner Gault stated that some common sense needs to be used and people cannot put any sign where it will obstruct traffic either for pedestrians or vehicles. He stated that the speech he wants to promote on his private property is whatever he wants it to be and the City has no constitutional ability to stop that unless he would advocate for violence or something. He stated that he does not have a concern with the number of signs, but does have a concern with someone putting up a 10 x 12 sign at an intersection where it will obstruct visibility.

Commissioner Eggenberger stated that the trouble with that, without using a setback, is people just saying, 'oh, well that doesn't obstruct traffic' and it is just an opposing discussion without a tangible solution. He stated that if there is a setback then it is clear when things need to be moved and when they do not.

Commissioner Riedel stated that the more he thinks about this, the more he agrees with Chair Maddy. A setback onto private property could actually be challenged. He stated that a public right-of-way is one thing, but an individuals property is their property and a setback in this situation would be somewhat arbitrary.

Commissioner Eggenberger stated that all of the City codes could be considered somewhat arbitrary and listed a few examples.

Chair Maddy stated that to paraphrase, it appears that what the Commission wants to do is not push any values and let people speak. He stated that the setback issue is interesting because there are good arguments on both sides.

Commissioner Huskins stated that he would agree with Commissioner Gault and thinks that a setback will help clarify and reduce some of the subjectivity that would otherwise occur. He stated that he believes a ten-foot setback is reasonable.

Commissioner Eggenberger stated that he would agree with Commissioner Huskins.

Planning Director Darling asked if they meant ten feet from the edge of the road or ten feet from the front property line.

**There was a consensus that the measurement would be from the edge of the road. There was consensus to follow the State guidelines for all public elections for signs to be posted 46 days before the election.**

Commissioner Huskins stated that he prefers the terminology 'non-commercial speech' versus 'campaign signs'.

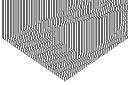
Commissioner Riedel asked what type of sign is permitted year round with or without a permit.

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Planning Director Darling stated that most small signs, such as nameplates and the small signs that stick in the ground do not require a permit. Nameplate signs are allowed in any residential district, so there can also be a non-commercial speech sign of the same size, subject to the same setback requirements at any time in the year. She clarified that people get to have one sign and can choose to use it for their name or some other non-commercial speech message. She thanked the Commission for their input and stated that she will bring this back to the Commission at a future date.



# Can Cities Prohibit Campaign Signs and Flags?

## City Regulations



**Do cities have the authority to prohibit campaign signs and flags?**



We have been getting this question a lot lately because there is some confusion about a state law that preempts local sign ordinances during election season. In short, city regulations must comply with both state law and the First Amendment to the U.S.

Constitution. State law (Minnesota Statutes, section 211B.045) provides a limited preemption of cities' authority to regulate campaign signs during the election season (defined as 46 days before the state general primary until 10 days after the state general election). State law requires cities to allow the posting of noncommercial signs of any size or number during this time. However, during the rest of the year, state law permits cities to regulate the size and number of noncommercial signs.

In addition, courts have ruled that the First Amendment prohibits cities from regulating signs based on their content. Best practice suggests avoiding total bans on noncommercial lawn signs in residential areas and using caution in adopting provisions that may favor some messages over others. City ordinances can regulate the size and number of signs, but not their content.

Courts have also recognized that the display of flags can constitute expressive conduct protected under the First Amendment. If regulating flags, cities should use caution to avoid favoring some types of flags (particularly, the U.S. flag) over other flags. If one type of noncommercial flag is acceptable, any noncommercial flag should be allowed. Learn more from the LMC information memo at [www.lmc.org/signs](http://www.lmc.org/signs).

Answered by Research Attorney Jacob Glass: [jglass@lmc.org](mailto:jglass@lmc.org)

## Employment Law



**It's been a while since we've checked to make sure our city has all the correct employment law posters. How can we check on this?**



It's important to make sure you update required workplace posters as new laws are passed. For example, during 2020, COVID-related leave laws required special postings and notices to employees. Fortunately, there are free websites offering required federal and state employment

posters. The U.S. Department of Labor offers a site that helps determine which posters you need at <https://webapps.dol.gov/elaws/posters.htm>. And the Minnesota Department of Labor and Industry will even notify you via email when updates have been made to required posters. You can sign up for these updates at [www.dli.mn.gov/about-department/workplace-posters](http://www.dli.mn.gov/about-department/workplace-posters).

Generally, the law requiring the labor law poster will indicate for whom it must be displayed. Some posters must be displayed in places available to job applicants as well as employees. Some cities, for example, post a notice on their website stating, "Applicants have rights under federal and state employment laws," and link to various employment posters. It's a good idea to do that in addition to placing posters in the workplace and on the city's employee intranet.

Answered by Human Resources Director Laura Kushner: [lkushner@lmc.org](mailto:lkushner@lmc.org)

## Construction Risk



**Our city is about to build a new community center. How can we protect the building in case it is damaged during construction?**



The city should make sure the new building under construction is covered by builder's risk insurance. This is a specialized type of property insurance that protects buildings under construction from loss. Coverage is usually written on an all-risk basis and covers loss from many types of causes, including fire, storm damage, theft, and vandalism. Materials, supplies, scaffolding, and equipment are usually covered as well. Builder's risk insurance is a no-fault coverage that protects the city, contractor, and subcontractors. The city should specify in the construction contract who is responsible for buying the builder's risk insurance.

The League of Minnesota Cities Insurance Trust's (LMCIT) property coverage provides automatic builder's risk coverage for buildings under construction, alteration, repair, or expansion, if the estimated total project cost is less than \$3 million. Construction projects under this threshold do not have to be reported and scheduled for the builder's risk coverage to apply. However, the building must be included in the schedule of property at the member's subsequent renewal. Payment of a claim is subject to a member's deductible. LMCIT can sometimes provide higher limits for an additional premium depending on the scope and cost of the project. If the member does not provide the builder's risk coverage, it should require the coverage to be purchased by the contractor. Learn more from the LMC information memo at [www.lmc.org/prop-guide](http://www.lmc.org/prop-guide).

Answered by Risk Management Attorney Chris Smith: [csmith@lmc.org](mailto:csmith@lmc.org)



ORDINANCE xxx

CITY OF SHOREWOOD  
COUNTY OF HENNEPIN  
STATE OF MINNESOTA

AN ORDINANCE APPROVING AN AMENDMENT TO  
SHOREWOOD CITY CODE CHAPTER 1201 (ZONING REGULATIONS)  
RELATED TO SIGNS

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**Section 1:** City Code Section 1201.01 (Definitions) is hereby amended to add or alter the following definitions:

Language ~~stricken~~ is proposed to be removed, language underlined is proposed for insertion.

**1201.02 DEFINITIONS.**

***SIGN.*** The use of any words, numerals, figures, devices or trademarks by which anything is made known such as are used to show an individual, firm, profession or business and are visible to the general public.

***SIGN - ADDRESS.*** A sign communicating street address only, whether script or in numerical form. In R Districts an address sign may include the name of the resident.

***SIGN - ADVERTISING.*** A billboard, poster panel, painted bulletin board or other communication device which is used to advertise products, goods or services which are not exclusively related to the premises on which the sign is located.

***SIGN AREA.*** The total area of a sign measured at the perimeter of the surface on which the sign is inscribed. For signs consisting of letters, figures, or symbols applied directly onto a building or structure, the sign area shall be that area enclosed within the smallest rectangle that can be made to circumscribe the sign.

***SIGN - AREA IDENTIFICATION.*** A freestanding sign which identifies the name of a residential housing development, an office or business structure containing two or more independent concerns; a single business consisting of three or more separate structures existing on individual platted lots or as a planned unit development; or any integrated combination of the above. The sign is limited only to the identification of an area or complex and does not contain the name of individual owners or tenants nor contain advertising.

***SIGN, BENCH.*** A sign which is affixed to a bench such as at a bus stop.

***SIGN - BUSINESS.*** Any sign which identifies a business or group of businesses, either retail or wholesale, or any sign which identifies a profession or is used in the identification or promotion of any principal commodity or service, including

entertainment, offered or sold upon the premises where the sign is located.

***SIGN - CAMPAIGN.*** A temporary sign promoting the candidacy of a person running for a governmental office or promoting an issue to be voted on at a governmental election.

***SIGN - CANOPY.*** Any message or identification which is affixed to a projection or extension of a building or structure erected in a manner as to provide a shelter or cover over the approach to any entrance of a store, building or place of assembly.

***SIGN - CONSTRUCTION.*** A sign placed at a construction site identifying the project or the name of the architect, engineer, contractor, financier or other involved parties.

***SIGN - DIRECTIONAL.*** A sign erected on public or private property which bears the address or name or both of a business, institution, church or other use or activity plus directional arrows or information on location.

***SIGN - DIRECTORY.*** An exterior informational wall sign which identifies the names of businesses served by a common public entrance in a shopping center.

***SIGN - DYNAMIC DISPLAY.*** A sign or characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink" or any other method or technology that allows the sign face to present a series of images or displays.

***SIGN - FREESTANDING.*** Any stationary or portable, self-supported sign not affixed to any other structure.

***SIGN - HOLIDAY.*** Decorations or messages which recognize an official national, state or local holiday.

***SIGN - ILLUMINATED.*** Any sign which is lighted by an artificial light source either directed upon it or illuminated from an interior source.

***SIGN - INFORMATIONAL.*** Any sign giving information to employees, visitors or delivery vehicles, but containing no advertising or identification.

***SIGN - INSTITUTIONAL.*** A sign which identifies the name and other characteristics of a public or semi-public institution on the site where the sign is located.



***SIGN - INTEGRAL.*** A sign carrying the name of a building, its date of erection, monumental citations, commemorative tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type of construction and made an integral part of the structure.

***SIGN - MAXIMUM HEIGHT OF.*** The vertical distance measured from the grade to the top of a sign.

***SIGN - MENU BOARD.*** Any sign that has a message related to the site's food service and the copy is manually or electronically changed and the lettering of which is two inches or less in height so as to not be readable from the adjoining street right-of-way or adjoining property.

***SIGN - MINIMUM HEIGHT OF.*** The vertical distance measured from the nearest finished grade to the lower limit of the sign.

***SIGN - MONUMENT.*** A sign whose base and structure is positioned primarily on the ground and is typically solid from grade to the top of the structure.

***SIGN – NON-COMMERCIAL SPEECH.*** A sign that disseminates messages not consistent with the definition of a Business Sign, which includes, but is not limited to, messages concerning political, religious, social, ideological, public service and information topics.

***SIGN - NONCONFORMING.***

- a. ***LEGAL.*** A sign which lawfully existed at the time of the passage of this chapter or amendments thereto, but which does not conform with the regulations of this chapter.
- b. ***ILLEGAL.*** A sign which was constructed after the passage of this chapter or amendments thereto and does not conform with the regulations of this chapter.

***SIGN - PORTABLE.*** A sign so designed as to be movable from one location to another and which is not permanently attached to the ground or structure.

***SIGN - PROJECTING.*** A sign, other than a wall sign, which is affixed to a building and which extends perpendicular from the building wall.

***SIGN - PUBLIC.*** Any sign erected by municipal, county, state or other governmental agencies, including, but not limited to street signs, traffic-control signs and parking-control signs.



**SIGN - REAL ESTATE.** A business sign placed upon a property advertising that particular property for sale, for rent or for lease.

**SIGN - ROOF.** Any sign which is erected, constructed or attached wholly or in part upon or over the roof of a building.

**SIGN, ROTATING.** A sign which revolves or rotates on its axis.

**SIGN - STRUCTURE.** The supports, uprights, bracing and framework for a sign, including the sign area.

**SIGN - TEMPORARY.** Any sign which is erected or displayed for a specific period of time.

**SIGN - WALL.** A sign which is affixed to the exterior wall of a building and which is parallel to the building wall. A wall sign does not project more than 12 inches from the surface to which it is attached, nor extend beyond the top of the parapet wall.

**SIGN - WALL GRAPHIC.** A sign which is painted directly on an exterior wall surface.

**SIGN - WINDOW.** A sign affixed to or inside of a window in view of the general public. This does not include merchandise on display.

**Section 2:** City Code Section 1201.03 (General Building and Performance Standards) Subd. 11. (Signs) b. (Permitted and Prohibited Signs) (1) (Permitted Signs) is hereby amended as follows:

#### Section 1201.03 General Building and Performance Standards

Subd. 11. *Signs.*

b. *Permitted and prohibited signs.*

(1) *Permitted signs.* The following signs are allowed without a permit, but shall comply with all other applicable provisions of this chapter:

- (a) Public signs;
- (b) Address signs;
- (c) Integral signs;
- (d) ~~Every campaign sign must contain the name and address of persons responsible for the sign, and that person shall be responsible for its removal. Signs shall be permitted on each lot for a period of 100 days prior to and ten days after an election. All campaign signs or other noncommercial speech signs may be posted from 46 days before the state primary in a state general election year until ten days following the state general election, pursuant to M.S.~~

~~§ 211B.045. Signs posted both during and after this time period are subject to all other applicable requirements in this subdivision. At any time, the city shall have the right to remove signs that are prohibited under this subdivision, and assess a fee as provided from time to time by ordinance. Campaign signs or other noncommercial speech signs shall not be located closer than ten feet from any street surface, and shall not be placed in front of any property without the consent of the property owner;~~

- ~~(d)~~ Campaign and noncommercial speech signs, subject to the following:
  - ~~(i)~~ All campaign signs or other noncommercial speech signs may be posted in any number during the following times:
    - ~~A.~~ State general election years: 46 days before a state primary until ten days following the state general election pursuant to MS. § 211B.045.
    - ~~B.~~ For all other public elections: 46 days prior to the election until ten days following<sup>[EN1]</sup> the election.
  - ~~(ii)~~ Campaign or other noncommercial speech signs shall not be located closer than ten feet from the curb or for those streets without curbs, the paved street surface, or in violation of Chapter 1201.03 Subd. 2, h. (Traffic Visibility) of City Code.
  - ~~(iii)~~ No campaign sign or other noncommercial speech sign shall be placed on any property without the consent of the property owner. For any campaign sign or noncommercial speech sign placed in the right-of-way, the sign shall not be placed in front of any property without the consent of the abutting property owner.
  - ~~(iv)~~ Any campaign or other noncommercial speech sign placed in the right-of-way in violation of 1201.03 Subd. 11 (d) (ii) or (iii) shall be considered abandoned and subject to removal and disposal without notice.
  - ~~(v)~~ The property owner shall be responsible for any sign placed on his/her property or within the right-of-way abutting his/her property.
  - ~~(vi)~~ No lights may be affixed to or installed in any manner to illuminate a campaign or other noncommercial speech sign allowed by 1201.03 Subd. 11 (d).
- ~~(e)~~ Holiday signs, displayed for a period not to exceed 30 days and no larger than 32 square feet in area;
- ~~(d)~~(f) Construction signs. The signs shall be confined to the site of the construction, alteration or repair and shall be removed within two years of the date of issuance of the first building permit or when the particular project is completed, whichever is sooner as determined by the City Building Official or his or her agent. One sign shall be permitted for each major street the project abuts. No sign may exceed 50 square feet;
- (g) Real estate sale or rental signs. Signs must be removed within 14 days after sale or rental of property. Signs may not measure more than six square feet in Residential Districts, nor more than 20 square feet in all other districts. There shall be only one sign per premises. Corner properties, however, may contain two signs, one per frontage. Lakeshore lots may contain two signs, one in the front and one facing the lake;



- (h) Informational/directional signs shall not be larger than three square feet and shall conform to the location provisions of the specific district;
- (i) Owner-occupant signs. One residential name sign, not to exceed two square feet in area, identifying only the name of the owner or occupant of a residential building.

**Section 3:** City Code Section 1201.03 (General Building and Performance Standards) Subd. 11. (Signs) c. (General Provisions) is hereby amended as follows:

c. *General provisions.*

- (1) All signs shall comply with the Minnesota State Building Code as may be amended.
- (2) When electrical signs are installed, the installation shall be subject to the State Building Code as may be amended.
- (3) No portion of any sign shall be located within five feet of any property line. No signs other than governmental-public signs and political-campaign or other noncommercial speech signs, as provided in b.(1)(d) of this subdivision, shall be erected or temporarily placed within any street right-of-way, ~~or~~ upon public lands, ~~or~~ easements, or rights-of-way. Any unauthorized signs located in public right-of-way or on public property shall be considered abandoned and are subject to immediate removal and disposal without notice.
- (4) Temporary signs.
  - (a) The temporary use of signs, searchlights, banners, pennants and similar devices shall require a permit. The permit shall be valid for ten consecutive days. The permit shall be prominently displayed during the period of validity. Only two temporary permits may be granted for any property within any 12-month period. Temporary signs shall not exceed 32 square feet in area. Any new business that has applied for its permanent business sign may, at the same time, apply for a temporary business sign to be displayed for no longer than 30 days, or until the permanent sign has been erected, whichever comes first. The temporary business sign shall be professionally prepared and shall be no larger than the approved permanent sign.
  - (b) A conditional use permit may be granted to nonprofit athletic associations, contracted with the city pursuant to Section 902.06 of this code, for the display of temporary business sponsorship signs to be placed on certain ball field fences on public property, provided that:
    - (i) A nonprofit athletic association under contract with the City may display signs only on facilities that have been reserved for its use;

- (ii) Signs may be displayed only in a community park, as defined in the Shorewood Comprehensive Plan;
  - (iii) Signs may be displayed only on outfield fences, facing into the ball field, and situated so as to minimize view of the signs from adjacent residential properties;
  - (iv) All signs must be professionally made, using durable weather resistant material, painted or colored dark green on the back side of the sign;
  - (v) Signs are limited in size to no larger than 42 inches in height and seven feet in length;
  - (vi) There shall be a minimum spacing between signs of seven feet;
  - (vii) The maximum number of signs per ball field is 15;
  - (viii) The nonprofit athletic association is responsible for maintaining the signs in good repair. If a sign become detached, torn, or vandalized, the association must repair or replace them immediately or the sign will be summarily removed by the city;
  - (ix) The nonprofit athletic association is responsible for any damage to the fence on which it is displayed that is caused by installation or display of the sign;
  - (x) The conditional use permit is subject to review and recommendation by the Shorewood Park Commission;
  - (xi) The nonprofit athletic association must obtain an annual license from the city and enter into a license agreement setting forth the conditions of approval and the duration of the approval. The association shall pay an annual license fee as established by the City Council from time to time. The association shall have no vested right in obtaining licenses from season to season; and
  - (xii) It shall be the responsibility of the nonprofit athletic association to obtain a temporary sign permit for each sign to be displayed on ball field fences, prior to erecting the sign.
- (5) No sign or sign structure shall protrude over a public right-of-way.
- (6) All signs which require a permit shall display, in a conspicuous manner, the owner's name, permit number and date the sign was erected.



- (7) All height restrictions on signs shall include height of sign structure and be measured from lot grade.
- (8) In the case of a two-faced, freestanding sign, where the two faces of the sign are parallel and face in opposite directions, only one face shall be used in computing the allowable area of the sign.
- (9) Any sign now or hereafter existing which no longer advertises or identifies a business conducted, service rendered or product sold on the premises shall be removed by the owner, agent or person having the beneficial use or control of the building or structure upon which the sign may be found within 60 days from the date of vacancy.
- ~~(10)~~ The regulations contained herein shall not apply to traffic signs or the flag, separate emblem, or insignia of a nation, political unit, school or religious group, or integral signs. There shall be no more than four one United States flag and no more than three other non-commercial flags on a property. Nor shall these regulations pertain to a sign inside a building, provided the sign is at least three feet in back of the inside of the exterior wall and is readable from the inside of the building.
- ~~(10)~~
- ~~(11)~~ All signs requiring a permit from the city shall be subject to review and approval by the Zoning Administrator.
- ~~(11)(12)~~ The owner of any sign which is otherwise allowed by this subdivision may substitute noncommercial speech in lieu of any other commercial speech or noncommercial speech. This substitution of copy may be made without any additional approval or permitting so long as the substitution changes the message of the sign only. The purpose of this provision is to prevent any inadvertent favoring of messages on business signs over messages on noncommercial speech signs, or favoring of any particular noncommercial speech over any other non-commercial speech. This exemption to separate approvals or permits shall not be construed as relieving the sign owner from responsibility for its erection and maintenance or its compliance with the provisions of this subdivision or any other law or ordinance regulating the same.

**NOW THEREFORE** the City Council of the City of Shorewood, Minnesota, ordains:

**Section 4.** That Ordinance xxx Amending Shorewood City Code, Chapter 1201 (ZONING REGULATIONS) RELATED TO SIGNS has been hereby approved and adopted.

**Section 5.** This Ordinance xxx shall take effect upon publication in the City's official newspaper.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF SHOREWOOD, MINNESOTA** this xx<sup>th</sup>  
day of x, 2021.

\_\_\_\_\_  
**JENNIFER LABADIE, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**SANDIE THONE, CITY CLERK**