

## A G E N D A

### CALL TO ORDER

### ROLL CALL / (LIAISON) SCHEDULE

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

#### 1. APPROVAL OF AGENDA

#### 2. APPROVAL OF MINUTES

- ♦ August 3, 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) Urban Farm Animal Ordinance Amendments

B) CUP for a fence

Applicant: Alec Walsh

Location: 5660 Minnetonka Drive

#### 5. NEW BUSINESS

A) Variance to side and rear yard setback

Applicant: Wayne Hartmann

Location: 27460 Maple Ridge Lane

#### 6. OTHER BUSINESS

#### 7. REPORTS

A) Council Meeting Report

B) Draft Next Meeting Agenda

#### 8. ADJOURNMENT

CITY OF SHOREWOOD  
PLANNING COMMISSION MEETING  
TUESDAY, AUGUST 3, 2021

COUNCIL CHAMBERS  
5755 COUNTRY CLUB ROAD  
7:00 P.M.

## MINUTES

### CALL TO ORDER

Chair Maddy called the meeting to order at 7:01 P.M.

### **ROLL CALL**

Present: Chair Maddy; Commissioners Eggenberger, Gault (arrived at 7:05 p.m.) and Huskins; Planning Director Darling; Planning Technician Notermann and, Council Liaison Johnson

Absent: Commissioner Riedel

### **1. APPROVAL OF AGENDA**

Commissioner Huskins noted that the Council Liaison needs to be changed from Councilmember Callies to Councilmember Johnson.

**Huskins moved, Eggenberger seconded, approving the agenda for August 3, 2021, as amended. Motion passed 3/0.**

### **2. APPROVAL OF MINUTES**

- July 6, 2020

**Huskins moved, Eggenberger seconded, approving the Planning Commission Meeting Minutes of July 6, 2021, as presented. Motion passed 3/0.**

Commissioner Gault arrived at the meeting.

### **3. MATTERS FROM THE FLOOR**

Alan Yelsey, 26335 Peach Circle, stated that he has lived in Shorewood for 40 years and would like to take this opportunity share twelve brief issues that a group of citizens have come up with that they feel have gotten out of hand in the City.

Commissioner Eggenberger asked if the group of citizens he mentioned was a formal group of citizens.

Mr. Yelsey stated that it is a formal group that is in the process of forming and is called By the People and noted that there are around 1,200 members from the City.

Commissioner Eggenberger asked if there was a way to see who the members of the group are or see a list of officers.

Mr. Yelsey stated that they did not yet have a way to see a list of the members or the officers and noted that at this time, it will be kept private. He stated that they will be totally open with that information once they complete the formation process.

Commissioner Eggenberger explained that the reason he was asking was that he would like to know where the comments are coming from.

Mr. Yelsey stated that the Commission can just think of the comments coming from him right now. He stated that his background is as a planner for the Metropolitan Council and as a Corporate Human Resource Planner for Honeywell. He stated that as the Planning Commission makes plans for the City, he would ask that they:

1. Make sure they are getting resident input throughout the entire process. He stated that the City has never reached out to him in his 40 years as a resident to ask him what he needed or wanted in any reasonable, comprehensive way.
2. Offer accessibility for people with disabilities and two-way Zoom capabilities to make it easier for them to participate in meetings without having to come to City Hall.
3. Budget - There is currently no clear, transparent way that he, as a citizen, can find out how the City is doing with money and see what the intake outflow, and bonding.
4. Communication with residents of a clear picture of important things in the community.
5. Pesticides – Water quality is an issue in the City and the City is the biggest polluter and the largest source of contamination of water because they are putting pesticides in large quantities into Freeman Park and the fields.
6. Smithtown Ponds – Directly related to the Strawberry Lane project and noted that he loves the idea of trying to think through the entire western Shorewood water issues, but there is a high-water table which is a big challenge. He explained that he does not think there has been a good, coherent justification for the project, nor has there been a demonstration that two ponds of this kind will actually work.
7. Sign Ordinance – He feels that it is an awful non-democratic document. Signs are one of the inherent rights of residents of this country and is protected by the Constitution. He stated that citizens should have a right to any non-commercial sign they wish to place on their lawn as long as it won't cause a problem or block a view.

Commissioner Eggenberger stated that he voted in support of a ten-foot setback in the sign ordinance because of the children who live in his neighborhood and play near the street.

Chair Maddy stated that the Commission will not reargue the details of the sign ordinance, but if it comes back to the Commission, he invited Mr. Yelsey to come back and join the discussion. He stated that he would not like to spend time defending past decisions.

Mr. Yelsey stated that the reason Chair Maddy does not want to defend past decisions is because he cannot.

Commissioner Gault stated that Mr. Yelsey made a few points about lack of participation and noted that all of these items were open for public discussion at the time they were being considered by the Commission, via Zoom as well as in person. The Commission had nobody who came forward, including Mr. Yelsey, to express concerns. He stated that everyone in the City has access to the agenda for the Commission and Council meetings. He stated that the Commission has not cut anybody off, but what has happened is that people have chosen not to participate.

Mr. Yelsey stated that he felt it was the responsibility of the City to be pro-active. If he is sitting in his living room, on his computer, looking at the City website, he cannot easily find the agenda and noted that the City documents are often 200+ pages long. He stated that he was not notified of the changes for the sign ordinance until about 10 days before hand and noted that the language was changed before it went to the Council.

Commissioner Huskins stated that Mr. Yelsey claimed that non-commercial signage is restricted to the period of time just prior to the election and just after. He stated that is not his understanding of the Code.

Mr. Yelsey stated that what was presented to the Council was different than what the Planning Commission saw and what was proposed in their meeting changed between that time and the Council meeting.

Chair Maddy thanked Mr. Yelsey for his time and stated that the Commission will look into the items that he raised.

**4. PUBLIC HEARINGS – NONE**

**5. NEW BUSINESS**

**A. Variance**

**Applicant: Revision LLC**

**Location: 28115 Boulder Bridge Drive**

Planning Director Darling gave an overview of the request by Revision LLC for a variance to the rear yard setback at 28115 Boulder Bridge Drive to allow an addition to be constructed about 37 feet from the rear property line where 50 feet is required. The existing home was constructed in 1983 and was constructed about 30 feet from the rear property line. The applicants are proposing to add a sport court addition to the home. Staff is recommending approval subject to acquiring all necessary permits prior to construction.

John Daley, Revision, LLC, explained that they have been working on the plans for about 6 months. He noted that their initial understanding was that there was a 30-foot setback but when they got further into the process found that Boulder Bridge had a separate PUD with a setback of 50 feet. He stated that the house is unique because it is legal non-conforming today and was also legal non-conforming back when it was constructed. He stated that all records have shown, thus far, that there was not a variance issued for the home.

Planning Director Darling stated that she has not been able to find a variance for the home, but was able to find one for the screened porch.

Mr. Daley explained that they were trying to expand behind the rear of the garage so it does not have any exposure to the front street and does not go as close to the property line as the house does today. He stated that the homeowners have worked closely with the neighborhood association who are also in favor of the request.

Chair Maddy stated that the City received a letter from the Lindsey's, but they did not reference the association. He asked if there was any correspondence from the Boulder Bridge homeowner's association.

Planning Director Darling stated that typically the City does not receive that type of correspondence.

Mr. Daley stated that there is a letter, but he does not have a copy of it with him.

Chair Maddy suggested that a copy of the letter be sent via e-mail to Planning Director Darling.



**Eggenberger moved, Gault seconded, to recommend approval of the Variance Request for 28115 Boulder Bridge Drive, subject to the applicant obtaining all necessary permits prior to construction. Motion passed 4/0.**

**B. Urban Farm Animal Ordinance Amendment Discussion**

**Applicant: City of Shorewood**

**Location: City-Wide**

Planning Director Darling gave an overview of past request from a resident at a June 2021 City Council meeting requesting the City amend the regulations removing the required consent of a portion of the neighbors in order to have chickens or to consider adding a variance process. Council asked staff to provide a review of the City regulations and background information on what other cities allow. She stated that after this information was presented, the Council asked staff to draft ordinance amendments which were reviewed on July 26, 2021. She explained that the Minnesota Supreme Court recently made a decision on an unrelated case that requires cities to follow the same process for ordinance amendments on codes that are related or dependent on zoning regulations as actual zoning amendments. So, the Council has referred this matter to the Planning Commission for review and approval. She reviewed the proposed amendments and noted that a public hearing will be held at the next Commission meeting.

Commissioner Eggenberger confirmed with Planning Director Darling that the cost for the permit would be \$50 and after a five-year period would be another \$50 to have the permit renewed.

Commissioner Huskins asked for more detail on the stipulation of being 25 feet from the property line and asked if it would supersede the setback.

Planning Director Darling stated that the way the current ordinance reads is that it has to be kept in the buildable yard area, which would be 10 feet from the side property lines, then it will have to be screened to the satisfaction of the neighbors. She stated that staff is proposing a change to add a few more criteria related to location. She stated that the required setbacks as listed in the Zoning Ordinance would still need to be met, but you also have to keep the shelter closer to the permit holders house than any of the adjacent residences and if it is closer than 25 feet to a property line, there would also have to be screening for the shelter and any enclosure area they may have.

Chair Maddy suggested reviewing the proposed amendments section by section. He stated that his first question was why someone renting a property could not raise urban farm animals.

Planning Director Darling clarified that this is saying that the owner of the urban farm animals must live in the dwelling on the property, not that they must own the dwelling.

Chair Maddy asked if the word 'enclosure' could be added to 705.09 b, to help clarify things.

Commissioner Gault stated that 'confinement area' was taken out of the next section and he would like to see that left in.

Commissioner Eggenberger asked about the statement that says the fencing shall be a solid privacy fence.

Planning Director Darling stated that if there is a board-on-board fence, the birds may be able to get through the gap.

**CITY OF SHOREWOOD PLANNING COMMISSION MEETING**

**AUGUST 3, 2021**

**Page 5 of 9**

Commissioner Eggenberger asked if people could put up chicken wire fencing.

Planning Director Darling stated that that people could use chicken wire fencing for the enclosure, but the solid privacy fencing would be for screening, not the enclosure.

The Commission discussed screening requirements and where solid fencing is allowed in the City.

Planning Director Darling explained that she was attempting to find a measurable standard rather than a subjective standard.

Chair Maddy stated that people see their neighbor's dogs running around the yard and asked why watching chickens or other urban farm animals would be any different.

Commissioner Eggenberger suggested that the requirement for solid privacy fencing be removed.

Chair Maddy stated that he wonders if the City is holding onto the 1950s version of the suburbs where everything looks the same with the thought that you do not want to look at your neighbor's chicken coop and noted that he wasn't sure how applicable it is right now.

Commissioner Huskins stated that for the neighbor who doesn't want to look it at, it would impose a burden on them and they didn't bring the situation on themselves.

Chair Maddy stated that if someone puts on an ugly addition, ugly furniture on their deck, or has an ugly dog running around the yard, there are not repercussions. He stated that he doesn't understand why chickens would be treated so much differently. He asked if there was consensus that the current language was too restrictive.

Commissioner Gault suggested that the language say that any urban farm animal enclosure must meet all zoning setback requirements.

Commissioner Eggenberger stated that it seems like the Commission is trying to make this the same as putting up a storage shed and suggested that there be a different set of rules.

Commissioner Gault stated that this becomes more of an issue in parts of the City that have smaller lot sizes.

Planning Director Darling reminded the Commission that this item is just for discussion tonight and the public hearing will be held at the next Commission meeting.

Commissioner Huskins stated that he doesn't think that six animals will be a big deal, but questions what will happen when someone wants to have 7, 8, or 9.

Chair Maddy stated that is a good point because if it is limited to 6, he doesn't think too much damage can be done and suggested that perhaps the screening requirements be pulled out of the ordinance.

Commissioners Gault and Eggenberger stated that they would support that change.

Chair Maddy stated that there appears to be consensus on removing the screening requirement and should just say that it is to be located a minimum of 25 feet from adjacent properties.

Planning Director Darling explained that the 25 feet was included so that they could either have it farther from the property lines without screening or screen it if it was to be right up to the property lines. She stated that if the screening requirement is removed, they can take out the 25-foot setback as well and just leave it as the buildable area.

Commissioner Gault asked for a definition of buildable area.

Planning Director Darling stated that buildable area means that it meets all the setbacks.

Chair Maddy suggested language that says 'located within the buildable area or adequately screened', and then keep the same screening requirement that was proposed.

Commissioner Gault suggested adding shelter or enclosure to be located within the buildable area of the rear yard which means the screening requirement can go away. He stated that he would also leave the requirement that it be closer to the property owners dwelling than it is to the neighbors dwelling.

Councilmember Johnson asked what would happen on a corner lot.

Planning Director Darling stated that they would still have to keep it in the rear yard as defined by the zoning code.

Chair Maddy confirmed that the consensus is for Subd. 2. b. it will add shelter and enclosure, kept in a buildable area, and C.2. remove the whole paragraph.

Commissioner Gault asked about the amendments made to H because that is a significant reduction.

Planning Director Darling stated that the City has already been enforcing it as a combination of a maximum of six and this is just clarifying that the maximum number of urban farm animals is six

Commissioner Eggenberger asked if there were any additional urban farm animals other than the six that are listed and gave the example of peacocks.

Planning Director Darling stated that as it is written the only allowed urban farm animals are the ones listed, so peacocks would not be allowed.

Commissioner Gault noted that there is not where that urban farm animal is defined.

Chair Maddy explained that it is defined but was not included in the packet.

Planning Director Darling read aloud the definition for urban farm animals.

Chair Maddy stated that he has an argument for including goats as an urban farm animal.

Planning Director Darling stated that they have not discussed moving goats from rural into the urban farm animals category.

Chair Maddy stated that he knows St. Paul allows goats as an urban farm animal. He stated that they can leave this language as is and see if a resident brings it up for a possible change. He asked if the Commission would like to change the allowed number to be more than six because, to him, that number seems low, especially for chickens.

The Commission supported leaving the allowed number not to exceed a combined total of six.

Commissioner Huskins stated that Planning Director Darling had stated that people are allowed to sell their eggs, but item f. makes it appear as though that is not allowed.

Planning Director Darling stated that the State law supersedes this document, so she can take that out because she does not think the City can do anything about selling eggs on your property.

Commissioner Huskins suggested that it be removed because it can be confusing and may give the neighbors something to complain about even though it is actually allowed.

There was consensus to remove item f.

Planning Director Darling stated that before she removes that item, she wants to do a bit more research to ensure she has understood the State law accurately.

Commissioner Huskins asked if item (1) (c) under fees could be removed since the Commission has recommended doing away with the screening.

Commissioner Gault asked if a building permit was required for the shelter.

Planning Director Darling stated that a building permit is almost never required for this kind of shelter. She noted that she will also change the fee requirement to reflect the Council's suggestion for a \$50 fee upon renewal.

The Commission suggested striking 1) under (3) (a) and just state that the permit expires five years from the date the permit is issued.

Commissioner Gault stated that he thinks something should be included that states the urban farm animal owner will be responsible for the death or injury of neighboring domestic animals in the event that carnivores are attracted.

Planning Director Darling stated that the next steps in the process are to notify the current permit holders that there are changes being discussed and publish it for a public hearing in September.

## **6. OTHER BUSINESS**

### **A. Comprehensive Plan 2040 Updates**

**Applicant: City of Shorewood**

**Location: City-Wide**

Planning Director Darling stated that staff would like the Commission to begin reviewing the changes that staff has incorporated as directed by the Metropolitan Council. She stated that one of the impactful comments was that the City needs to allow for 155 new households between 2018 and 2040 by increasing opportunities to develop properties at 5 units per acre or greater. She stated that the City also needed to allocate properties with densities greater than 8 units per acre in order to produce 48 affordable housing units. She stated that the key word here is that the City must have the 'opportunity' available. She explained that the consultants have recommended using a mixed use classification which would allow for both commercial use and residential uses near Cub foods and the attached shopping center as well as Holiday Gas to the New Horizon Day Care area. She stated that they have also recommended including the following

properties as high density: 23400 Smithtown Road; 23425 County Road 19; and 23445 County Road 19. She reviewed the other small changes that have been recommended.

Commissioner Gault stated that, in his opinion, some of these changes being made to change properties to high density are just on paper, but will never actually happen.

Chair Maddy stated that he thinks that is why Planning Director Darling explained that the important word is 'opportunity' which means it doesn't have to be built, but the possibility exists.

Commissioner Gault stated that he was under the impression that the Met Council expected the City to construct these.

Chair Maddy stated that he does not think that is correct and thinks it just that the City has to give the opportunity for them and cannot force the market.

Planning Director Darling stated that the next steps in this process is to speak to the property owners and let them know the City is proposing a change with a public hearing to take place on October 5, 2021. She stated that she is sure the City can set the parameters for the property owners can continue using the property with their current structures as legally non-conforming. She stated that staff would just like the Commission to familiarize themselves with the proposed changes and let staff know if they have strong feelings about any of the them.

Chair Maddy asked what kind of 'teeth' the Met Council had for a community that is mostly built out, such as Shorewood, that is rather restricted on transportation. He stated that it doesn't make a lot of sense to put a lot more people in this community without some sort of non-auto-oriented travel options.

Planning Director Darling reiterated that the City just needs to make the opportunity within the land use plan and does need to change the Comprehensive Plan.

## **B. Commission Liaisons for Upcoming Council Meetings**

Chair Maddy noted that Commissioner Riedel will be unable to attend the August 23, 2021 Council meeting.

August – Commissioner Gault

September – Chair Maddy

October – Commissioner Huskins

November – Commissioner Riedel

December - Commissioner Eggenberger

## **A. MATTERS FROM THE FLOOR**

### **B. REPORTS**

- **Council Meeting Report**

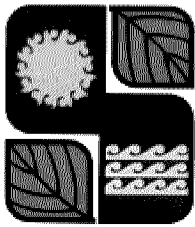
Council Liaison Johnson reported on matters considered and actions taken during Council's July 26, 2021, meeting (as detailed in the minutes for that meeting).

- **Draft Next Meeting Agenda**

Planning Technician Notermann stated that at the next meeting, there will be a CUP request for a fence along Smithtown Road, a variance for a shed, a variance/Preliminary Plat/special home occupation application for some properties on Radisson Road, and the urban farm animals issue.

**C. ADJOURNMENT**

**Huskins moved, Gault seconded, adjourning the Planning Commission Meeting of August 3, 2021, at 8:53 P.M. Motion passed 4/0.**



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## MEMORANDUM

**TO:** Planning Commission

**FROM:** Marie Darling, Planning Director

**MEETING DATE:** September 7, 2021

**RE:** Text Amendments for Urban Farm Animals

Attached are several amendments to the current ordinance related to keeping urban farm animals.

Notice of these amendments were published in the official newspaper at least 10 in advance of the public hearing. Mailed notice of the amendments to the regulations were sent to all permit holders and those who have indicated interest in the regulations at least 10 days in advance of the public hearing.

### **Background**

In June, a resident came to Matters from the Floor at the City Council and asked that the City review and amend the City's regulations regarding the required consent of a portion of the neighbors in order to have chickens or to add a variance process.

The Council asked staff to provide a review the city's regulations and background on what other cities allow.

When the information was presented, Council asked staff to draft ordinance amendments for their review. They reviewed the proposed amendments at a meeting on July 26, 2021.

The Minnesota Supreme Court recently made a decision on an unrelated case that appears to require cities to follow the same process for ordinance amendments on codes that are related or dependent on zoning regulations as actual zoning amendments. As a result, the City Council forwarded the potential amendments to the Planning Commission to ask for their review and to hold a public hearing.

At their August 3, 2021 meeting, the Planning Commission reviewed the draft ordinance referred to them by the City Council and made the following suggestions:

- to remove the screening that staff had previously proposed and
- to review statutory language for farm animals regarding keeping them for commercial purposes

### **Proposed Ordinance Amendments**

The proposed ordinance amendments:

1. Remove the requirement that 75 percent of neighbors within 150 feet must consent to the request and remove the requirement requiring screening to the neighbors' satisfaction.
2. Add a requirement that the animal shelter must be located closer to the animal owner's home than to a home on an abutting property.
3. Limit the ownership of urban farm animals to properties with single-family dwellings.
4. Require a renewal of the permit after five years.
5. Prohibit culling (slaughtering), except for the owner's own use (as allowed by Minnesota Statute 28A.15).
6. Remove regulations that prohibit keeping urban farm animals for commercial purposes. Any urban farm animal owner may sell the eggs or live animals, as permitted by the Minnesota Constitution.

Staff also propose several housekeeping issues to correct code references, clarify regulations, improve grammar, and the like.

#### **Timeframe for permit renewal:**

Staff recommends five years for the renewal period for a few reasons:

1. Five years allows the animals to mature and for most fowl to stop laying eggs.
2. The cost of an urban farm animal permit is \$50 and dog licenses are \$10 for each dog, with multiple animal licenses at \$25 initially and \$10 for renewals plus individual dog licenses. Dog tags and multiple dog licenses must be renewed every year, but no inspections are required.
3. The five-year timeframe would not be a burden on either staff or the permit holder.

#### **ATTACHMENTS:**

Council memos for June 28 and July 26, 2021

PC Memo for August 3, 2021

Current Section 705 of City Code (Farm and Other Animals)

Proposed Ordinance





## City of Shorewood Council Meeting Item

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**Title/Subject:** Farm Animal Regulations (Chickens)

**Applicant:** City of Shorewood

**Meeting Date:** June 28, 2021

**Prepared By:** Marie Darling, Planning Director

**Attachments:** Chapter 705 of City Code (Farm And other Animals)

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**Background:** The City Council directed staff to explore the following options and to provide information on how other cities regulate farm animals:

1. Do other cities require neighbors to approve requests for chickens and other farm animals?
2. Do other cities allow variances within their animal ordinances for the keeping of animals?

Staff and the city attorney recommend against inserting a variance process within the animal section of the code because 1) the process is costly and time-consuming for both the applicant and the city and 2) variances should be used for a dimensional relief. Other cities' farm animal regulations only include the variance process if they are included in the zoning regulations.

Staff researched the ordinances of several other cities, including Bloomington, Chanhassen, Chaska, Deephaven, Eden Prairie, Excelsior, Minneapolis, Minnetonka, Minnetrista, Mound, Plymouth, Shakopee, St. Paul and Tonka Bay.

The following cities do not allow chickens: Excelsior, Mound, and Tonka Bay. For purposes of comparing ordinances, Deephaven and Minnetrista only allow chickens on 10 acre parcels or within the agricultural district. As a result, their regulations are not compatible.

The following cities require neighbor approval: St. Paul (7-15 chickens), Shorewood

The following cities require neighbor notice: Chanhassen, St. Paul (1-6 chickens)

The following cities do not notice or approval: Bloomington, Chaska, Eden Prairie, Minneapolis, Minnetonka, Plymouth, Shakopee

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**Mission Statement:** *The City of Shorewood is committed to providing residents quality public services, a healthy environment, a variety of attractive amenities, a sustainable tax base, and sound financial management through effective, efficient, and visionary leadership.*

Staff and the city attorney recommend removing the neighbor approval requirement from the City Code because the basis for the neighbor approval could be subjective and capricious. Objective standards are more appropriate when reviewing permits.

Staff requests Council direction on whether notification of neighbors should be required.

The City Council may want to consider when and where is it appropriate for chickens to be allowed. Should they only be allowed on properties over a certain size? Should there be a distance requirement between the coop/hive/hutch and adjacent dwellings?

Staff also recommends the Council direct a code amendment that requires farm animal shelters be situated closer to the animal owner's dwelling than to any of the neighboring dwellings, similar to standard found in Bloomington's Code.

**Financial or Budget Considerations:** Outside of publication and staff time to draft the ordinance amendment, there is no additional impact to the budget related to this ordinance amendment.



## City of Shorewood Council Meeting Item

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**Title/Subject:** Discussion Regarding Amendments for Urban Farm Animals

**Applicant:** City of Shorewood

**Meeting Date:** July 26, 2021

**Prepared By:** Marie Darling, Planning Director

**Attachments:** Potential Ordinance Amendments for Urban Farm Animals  
Chapter 705.09 (Farm Animals) of City Code

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**Background:** On June 28, 2021, the City Council reviewed general information on how other cities and Shorewood regulate farm animals and directed staff to draft amendments to the ordinance to allow the following changes to the regulations:

1. Remove the requirement that a 75 percent of neighbors within 150 feet must consent to the request.
2. Add a regulation that the animal shelter must be located closer to the animal owner's home than to a home on an abutting property.
3. Limit the ownership of urban farm animals to properties with single-family dwellings.
4. Require a renewal of the permit, but not require a fee.
5. Prohibit slaughtering.

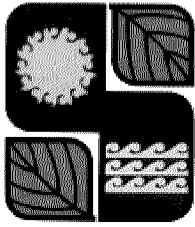
The attached ordinance amendment reflects all the above items. Staff also added a requirement for screening because the neighbors will no longer be consulted on the appropriate fencing. Staff proposed requiring screening when the enclosure is located within 25 feet of a property line.

**Financial or Budget Considerations:** Without a renewal fee, the City would be subsidizing the cost of processing the renewals and conducting the inspections for animal owners.

**Next Steps:** At the June 28, 2021 meeting, staff mentioned that due to a recent Supreme Court Decision, the adoption of an ordinance amendment that relies on zoning ordinance regulations may also have to follow the same process as zoning amendments. Because the case was only recently decided, the League has not yet had time to put together guidance on this topic. To avoid any legal ambiguity with this ordinance amendment, staff recommends that the City follow the same public hearing process for this amendment as a zoning ordinance amendment. The next available meeting to hold a public hearing on this topic would be September 7, 2021.

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**Mission Statement:** *The City of Shorewood is committed to providing residents quality public services, a healthy environment, a variety of attractive amenities, a sustainable tax base, and sound financial management through effective, efficient, and visionary leadership.*



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## **MEMORANDUM**

**TO:** Planning Commission

**FROM:** Marie Darling, Planning Director

**MEETING DATE:** August 3, 2021

**RE:** **Discussion of Text Amendments for Urban Farm Animals**

### **Background**

In June, a resident came to Matters from the Floor and asked that the City review and amend the City's regulations regarding the required consent of a portion of the neighbors in order to have chickens or to add a variance process.

The Council asked staff to provide a review the city's regulations and background on what other cities allow.

When the information was presented, Council asked staff to draft ordinance amendments for their review. They reviewed the proposed amendments at a meeting on July 26, 2021.

The Minnesota Supreme Court recently made a decision on an unrelated case that appears to require cities to follow the same process for ordinance amendments on codes that are related or dependent on zoning regulations as actual zoning amendments. As a result, the City Council forwarded the potential amendments to the Planning Commission to ask for their review and to hold a public hearing.

In advance of the public hearing, staff included the amendments on this agenda for discussion purposes.

### **Proposed Ordinance Amendments**

1. Remove the requirement that 75 percent of neighbors within 150 feet must consent to the request.
2. Add a regulation that the animal shelter must be located closer to the animal owner's home than to a home on an abutting property.
3. Limit the ownership of urban farm animals to properties with single-family dwellings.
4. Require a renewal of the permit after five years.
5. Prohibit slaughtering.

The attached ordinance amendment reflects all the above items. Staff also added a requirement for screening because the neighbors will no longer be consulted on the appropriate fencing. Staff proposed requiring screening when the enclosure is located within 25 feet of a property line. Staff recommended privacy fencing, but the Planning Commission may recommend otherwise.

Staff also propose several housekeeping issues to correct code references, incomplete regulations and similar.

Timeframe for permit renewal:

Staff recommends five years for the renewal period for a few reasons:

1. Five years allows the animals to mature and for most fowl to stop laying eggs.
2. The cost of an urban farm animal permit is \$50 and dog licenses are \$10 for each dog, with multiple animal licenses at \$25 initially and \$10 for renewals plus individual dog licenses. Dog tags and multiple dog licenses must be renewed every year, but no inspections are required.

**ATTACHMENTS:**

Council memos for June 28 and July 26, 2021

Current Section 705 of City Code (Farm and Other Animals)

Proposed Ordinance

## **705.09 FARM ANIMALS.**

Subd. 1. *Rural farm animals.* Unless otherwise provided for, a person shall not keep, own, harbor or otherwise possess a rural farm animal within the city.

Subd. 2. *Urban farm animals.* A person may own, keep, harbor or otherwise possess urban farm animals within the city in accordance with the provisions of this section.

- a. An urban farm animal may only be kept in the buildable area of the rear yard of the property, as defined by the Zoning Code.
- b. An urban farm animal that is kept outside must be provided a shelter structure of appropriate size, that is accessible to the animal at all times as provided in § 704.06, Subd. 1. of this chapter. The shelter structure and confinement areas shall be adequately screened to the satisfaction of neighboring property owners, as provided in § 705.09, Subd. 2.j.(2). Screening may be achieved by fencing or landscaping, or a combination of both.
- c. The urban farm animal must be contained on the property by the use of a fence or other appropriate containment device or structure.
- d. Roosters are not allowed.
- e. An urban farm animal must not be kept on residentially-zoned property if it is being used as part of a commercial purpose, whether or not the commercial use occurs on the residentially-zoned property.
- f. The ground or floor of the area where an urban farm animal is kept must be covered with vegetation, concrete or other surface approved by the Planning Department, so that it can be, and is, sufficiently maintained to adequately dissipate offensive odors, in compliance with § 704.06, Subd. 2.a. and c. of this chapter.
- g. The number of chickens, ducks, geese, turkeys, guinea hens, or rabbits shall not exceed six.
- h. The number of bee hives shall not exceed four.
- i. Any person having more than the allowable number of animals set forth in paragraphs g. and h. above, at the time of the adoption of this chapter, shall not replace animals in excess of those limitations.
- j. *Permit issuance; fees.*

- (1) No urban farm animal may be kept in the city until a permit to do so has been approved by the Zoning Administrator and issued by the office of the Building

Official. No permit shall be granted until the necessary fee has been paid, and until the Building Official or staff representative has made an inspection of the property, and has ascertained that the premises comply with all requirements of this chapter. Detailed plans and specifications, accurate and drawn to scale, must be submitted with the application, including, but not limited to, the following:

- (a) Site plan showing the location and setbacks of existing and proposed buildings, fences and structures on the subject property.
  - (b) Architectural plans showing floor plans, building elevations and dimensions.
  - (c) Landscaping plan showing how the shelter structure and confinement areas will be screened from adjoining properties.
- (2) The applicant for any permit required under the provisions of this chapter shall provide with the application, the written consent of 75% of the owners or occupants of privately or publicly owned real estate within 150 feet of the outer boundaries of the premises for which the permit is being requested, or, in the alternative, proof that the applicant's property lines are 150 feet or more from any structure. Where a street separates the premises for which the permit is being requested from other neighboring property, no consent is required from the owners or occupants of property located on the opposite side of the street. Where a property within 150 feet consists of a multiple dwelling, the applicant need only obtain the written consent of the owner or manager, or other person in charge of the building.
- (3) *Fees.*
- (a) The permit fee and other fees and charges set forth in this chapter shall be collected by the city before the issuance of any permits, and the Building Official, or other persons duly authorized to issue the permit for which the payment of a fee is required under the provisions of this chapter, may not issue a permit until the fees shall have been paid.
  - (b) The City Council shall, from time to time, establish a fee schedule by ordinance.

(Ord. 493, passed 3-12-2012) Penalty, see § 104.01

ORDINANCE xxx

CITY OF SHOREWOOD  
COUNTY OF HENNEPIN  
STATE OF MINNESOTA

AN ORDINANCE APPROVING AN AMENDMENT TO SHOREWOOD CITY CODE  
CHAPTER 705 (FARM AND OTHER ANIMALS)

---

**Section 1:** City Code Chapter 705.09 (Farm Animals) Subd. 2 is hereby amended as follows: Language underlined is proposed for insertion and ~~language stricken is proposed for deletion~~

**705.09 FARM ANIMALS Subd. 2 (Urban Farm Animals):.**

Subd. 2. *Urban farm animals.* A person may own, keep, harbor or otherwise possess urban farm animals within the city in accordance with the provisions of this section.

- a. An urban farm animal may only be kept on properties zoned and used for single-family homes. The owner of the urban farm animals shall live in the dwelling on the property.
- b. An urban farm animal ~~including any enclosure and shelter~~ may only be kept in the buildable area of the rear yard of the property, as defined by the Zoning Code.
- c. An urban farm animal that is kept outside must be provided a shelter structure of appropriate size, that is accessible to the animal at all times as provided in § 7045.06, Subd. 1. of this chapter. In addition to being located in the buildable area of the lot as required by paragraph b above, the shelter and any enclosure must be situated closer to the animal owner's home than to any dwelling on an adjacent property.
  - a. ~~(The shelter structure and confinement areas shall be adequately screened to the satisfaction of neighboring property owners, as provided in § 705.09, Subd. 2.j.(2). Screening may be achieved by fencing or landscaping, or a combination of both.~~
- d. e. ~~—~~ The urban farm animal must be contained on the property by the use of a fence or other appropriate containment device or structure.
- f. e. Roosters are not allowed.
- g. f. ~~An urban farm animal must not be kept on residentially-zoned property if it is being used as part of a commercial purpose, whether or not the commercial use occurs on the residentially-zoned property. Culling urban farm animals for commercial purposes is prohibited.~~



~~h.g.~~ The ground or floor of the area where an urban farm animal is kept must be covered with vegetation, concrete or other surface approved by the Planning Department, so that it can be, and is, sufficiently maintained to adequately dissipate offensive odors, in compliance with § 70~~45~~.06, Subd. 2.a. and c. of this chapter.

~~i.h.~~ The combined number of chickens, ducks, geese, turkeys, guinea hens, or rabbits shall not exceed six.

~~j.i.~~ The number of bee hives shall not exceed four.

j. Any person having more than the allowable number of animals set forth in paragraphs ~~gh.~~ and ~~hi.~~ above, at the time of the adoption of this chapter, shall not replace animals in excess of those limitations.

k. *Permit issuance; ~~fees; expiration.~~*

(1) No urban farm animal may be kept in the city until a permit to do so has been approved by the Zoning Administrator and issued by the office of the Building Official and the . No permit shall be granted until the necessary fee has been paid, and until the Building Official or staff representative has made an inspection of the property, and property -to has ascertained that the premises comply with all requirements of this chapter. Detailed plans and specifications, accurate and drawn to scale, must be submitted with the application, including, but not limited to, the following:

(a) Site plan showing the location and setbacks of existing and proposed buildings, fences and structures on the subject property, with dimensions to the property lines.

(b) Architectural plans showing floor plans, building elevations and dimensions.

~~(c) Landscaping plan showing how the shelter structure and confinement areas will be screened from adjoining properties.~~

~~(2) The applicant for any permit required under the provisions of this chapter shall provide with the application, the written consent of 75% of the owners or occupants of privately or publicly owned real estate within 150 feet of the outer boundaries of the premises for which the permit is being requested, or, in the alternative, proof that the applicant's property lines are 150 feet or more from any structure. Where a street separates the premises for which the permit is being requested from other neighboring property, no consent is required from the owners or occupants of property located on the opposite side of the street. Where a property within 150 feet consists of a multiple dwelling, the applicant need only obtain the~~

~~written consent of the owner or manager, or other person in charge of the building.~~

~~(3)~~(2) *Fees.*

- (a) The permit fee and other fees and charges set forth in this chapter shall be collected by the city before the issuance of any permits, and the Building Official, or other persons duly authorized to issue the permit for which the payment of a fee is required under the provisions of this chapter, may not issue a permit until the fees shall have been paid.

- (b) The City Council shall, from time to time, establish a master fee schedule ~~by ordinance~~.

(3) Expiration of Permits.

- (a) The permit shall expire five years from the date the permit is issued.
- (b) A permit may be renewed according to the application process identified in subsection (1) above.

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

**Section 2.** That Ordinance xxx Amending Shorewood City Code, Chapter 705, Farm and Other Animals has been hereby approved and adopted.

**Section 3.** This Ordinance xxx adopting the Amendment to City Code, Chapter 705, Farm and Other Animals shall take effect upon publication in the City's official newspaper.





CITY OF  
**SHOREWOOD**

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## MEMORANDUM

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

**FROM:** Emma Notermann, Planning Technician

**MEETING DATE:** September 7, 2021

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

**APPLICANT:** Alec Walsh

**LOCATION:** 5660 Minnetonka Drive

**REVIEW DEADLINE:** December 16, 2021

**LAND USE CLASSIFICATION:** Low Density Residential

**ZONING:** R-2A

**FILE NUMBER:** 21.19



### REQUEST:

The applicant has requested a CUP to construct a six-foot fence in his front yard, abutting County Road 19/Smithtown Road. A six-foot fence in a front yard abutting an arterial road is an allowed use with the approval of a CUP. This portion of County Road 19 is defined as an arterial road in the Comprehensive Plan.

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-2A, Single and Two Family Residential. It contains approximately 23,896 square feet of area. All surrounding properties are residential. Properties along County Road 19/Smithtown Road are zoned R-2A and properties that are not directly abutting County Road 19/Smithtown Road are zoned R-1C.

#### Applicable Code Sections:

##### **City Code Section 1201.03, Subd. 2.f.9(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.

## **ANALYSIS**

The proposed fence will be located as shown on the attached plans, extending from the front of the home towards County Road 19 to enclose a portion of the front yard of the property. The portion of the proposed fence that abuts County Road 19 will be 6-foot-tall wood, board on board fence that is setback 8 feet from the property line.

The applicant has submitted a landscape plan that shows a row of arborvitae in the 8-foot setback area that will serve as a buffer between the fence and the road. Staff finds this landscape plan to be in compliance with § 1201.03 subd. 2.g, as noted in the conditions for approval of the CUP.

The proposed fence will not obstruct traffic visibility. No fence or any landscaping will be placed in the 30-foot triangular area extending from the intersection of property lines at the corner of County Road 19 and Minnetonka Drive.

## **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. The proposed fence it is not inconsistent with a reasonable use of the property, considering that all the specific criteria for the CUP defined in City Code Section 1201.03, Subd. 2.f.9(vii) have been satisfied.

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 fence would allow the homeowners to enclose a portion of their yard for privacy from the busy street. Many other properties along County Road 19 in the area have similar fencing in their front yards abutting the road. Additionally, the proposed landscaping meets the requirements of City Code Section 1201.03, Subd. 2.f.9(vii) and will provide for screening of the proposed fence from County Road 19.

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 the required 8 feet from the property line that abuts County Road 19 to allow the required plantings to mature.

The establishment of the proposed fence would promote and enhance the general public welfare by providing additional security and privacy for the property. The fence would not be detrimental to or endanger the public health and safety of any adjacent property owners. Additionally, the proposed fence meets the requirements of City Code Section 1201.03, Subd. 2.f.9(vii) regarding traffic visibility to ensure safety at the intersection of County Road 19 and Minnetonka Drive.

By obtaining a conditional use permit, the proposed fence would conform to the applicable regulations of city code that allow for a six-foot fence in the front yard abutting an arterial road.

Therefore, staff would recommend approval of the CUP for the fence in a front yard, abutting an arterial road. 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.

#### **ATTACHMENTS**

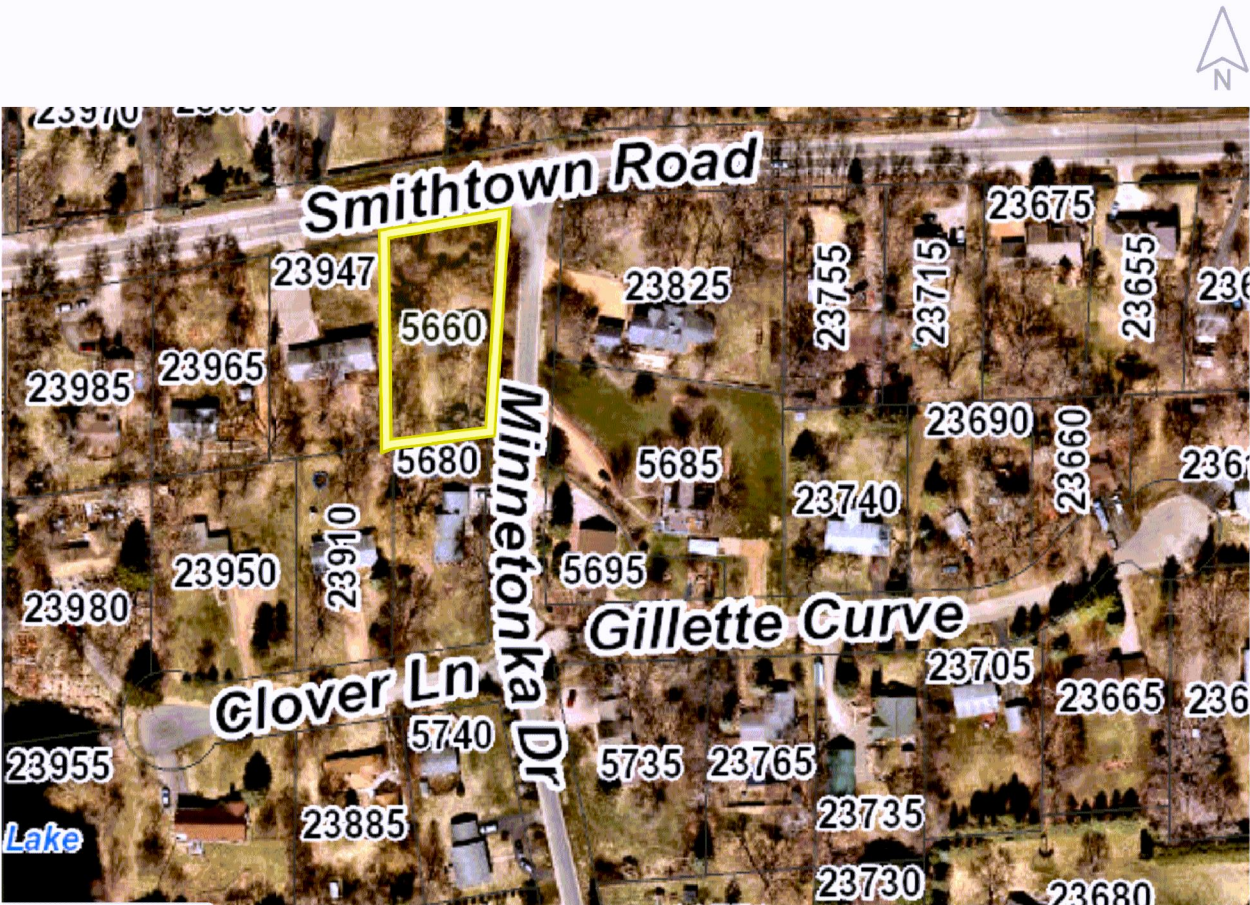
Location map

Applicants' narrative and plans

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



# 5660 Minnetonka Drive Location Map



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CITY OF SHOREWOOD

Co. of Co.  
Rd. NO. 19

CO. RD. NO. 19

120.82 meas  
121.17 plot

Edge of Rd.

20' 60

MINNETONKA DRIVE

4' Gate  
30' Gate  
6' Gate

211.40 meas.  
211.70 plot

PROPOSED ADDITION

26.85

ONE STORY  
FRAME HOUSE

29.5 25.5 14.9 12 11.9 14.8

59.0 12.2 14.25 12.2 14.25

8' Gate  
- 12 4' 6" survey points

29.0

24.4 20.3 24.4 5.0

105.48 plot  
105.15 meas.

- Denotes Iron Monument
- Denotes Wood Stake
- X000.0 Denotes Existing Elevation
- (000.0) Denotes Proposed Elevation
- ← Denotes Direction of Surface Drainage

Proposed Top of Foundation Elevation =  
Proposed Garage Floor Elevation =  
Proposed Lowest Floor Elevation =

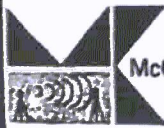
I hereby certify that this is a true and correct representation of a survey of the boundaries of:

Lot 1, Block 2, MINNETONKA HILLS FIRST ADDITION  
Hennepin County, Minnesota

And of the location of all buildings, if any, thereon, and all visible encroachments, if any, from or on said land. It also shows the location of the stakes as set for a proposed building. As surveyed by me this 19th day of October 1977.

Thomas S. Bergquist

Thomas S. Bergquist  
Land Surveyor, Minn. Reg. No. 7725



McCOMBS-KNUTSON ASSOCIATES, INC.  
CONSULTING ENGINEERS & LAND SURVEYORS & SITE PLANNERS  
MINNEAPOLIS, HUTCHINSON and MARSHALL, MINNESOTA

SCALE  
1" = 40'  
BOOK PAGE  
100 61  
FILE NO.  
3824

CERTIFICATE OF SURVEY  
for  
SCHLEGEL CONSTR



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## **Wood Fence Details for 5660 Minnetonka Drive, Shorewood MN**

- Pressure treated Cedar-tone "Shadowbox Style" fence
  - Max horizontal height of 71" above ground level
  - Posts 8' on center to rise maximum of 4" above top of fence panel with cap
  - latch will be operable from both sides of fence at all times
- \*\*additional details of fence construction and placement in supplemental drawings**

### **Reason for request conditional use permit for a 6' tall fence along 8 foot setback from north property line:**

We removed 25' depth of majority buckthorn and weeds with some small trees along the north and northwest side of property. This was a visual blinder from Smithtown road and the house on property. We have a 10 year old, 1 year old, and dog we would like to protect in our property from Smithtown. Visually if we put a 4' tall fence it would do almost nothing for privacy from traffic on Smithtown. Part of this is due to our property surface level being much lower than the crown of the road itself.

In requesting the Conditional Use Permit for a 6 foot tall fence (8' setback from north property line along Smithtown) this would allow for a functional privacy fence to block majority of vehicle driving by from looking down into property. The ability for our children to play in the backyard and not be seen 24/7 by anyone driving by would give us peace of mind we can let our daughters enjoy our backyard. The 6 foot tall fence not only provides a visual break for our children in the backyard but also is not easily jumped over should someone see the children in the backyard. This safety measure would give us peace of mind to help keep our daughters safe.

1. The fence to 6' tall along Smithtown is consistent with the policies and the provisions of the Comprehensive Plan in Shorewood. Both properties to the north and along Smithtown have 6' tall fences eight feet of property line (direct neighbors to north). We would be doing nothing different than they already have existing.
2. The proposed 6' tall fence along Smithtown would be compatible with present and future land uses nor would it depreciate the area in which it is proposed. This does not affect land use at all.
3. The proposed 6' tall fence along Smithwon would not overburden the city's service capacities and allows for existing public services. Bus stop is @ turn lane near NE corner of property and would not affect public usage.
4. The proposed conditional use permit promotes the safety and general public welfare. We removed excessively overgrown brush and buckthorn that greatly impeded the view and ability for pedestrians to safely travel along north property line (abutting Smithtown Road). I assisted in a bicycle vs. car accident at intersection of Smithtown/Minnetonka Drive with the car driver's explanation being they couldn't see the biker along the overgrown side of road (my north property edge). The 6' tall fence is over 20' from (parallel to) turn lane from Smithtown Road and will have zero visibility impact from vehicle or pedestrian



traffic. We have already had numerous neighbors and pedestrians thank us for removing the overgrown vegetation and increase in visibility/safety at the intersection of Smithtown Road and Minnetonka Drive.

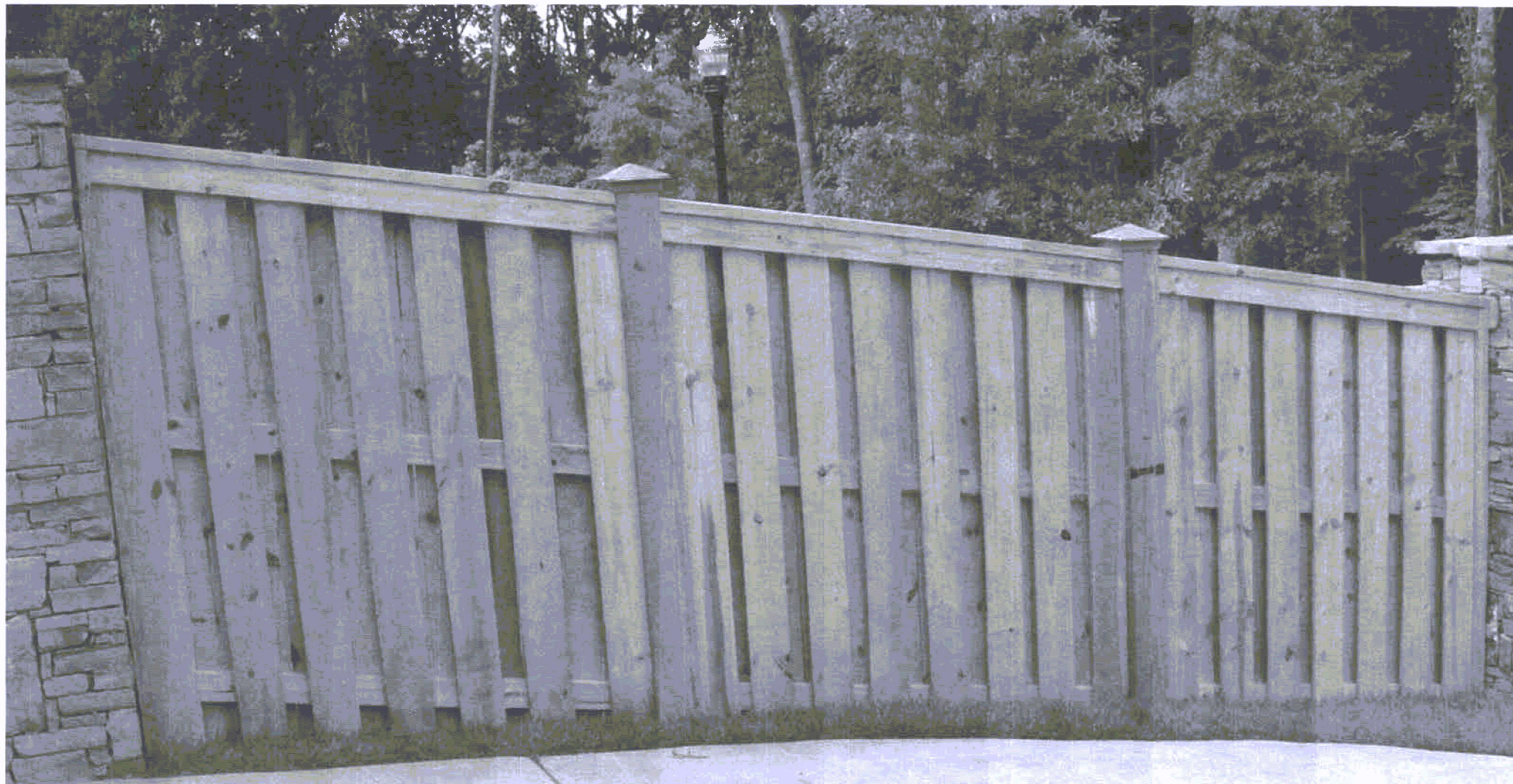
5. The proposed 6' tall fence conforms with applicable regulations of the district and conforms to the applicable regulations of city code.

Our family appreciates the consideration of allowing us a conditional use permit for a 6' foot tall fence along the 8' setback from property line along Smithtown road.

- The Walsh family

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Elevation





# Section cut

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Black Metal cap

Top of Horizontal  
fence panels

Top 1" of fence post  
(spaced @ 8" OC)

4" Max above  
top of Fence

4"

1"

4"

3 1/2"

4"

47" Above ground level  
@ East & North east  
fence perimeter

71" Above  
Ground Level  
@ North & west  
fence perimeter

1"

1 1/2"

1"

(Picket)

3/4"

3/4"

(Picket)

Fence Post  
4" X 4"

● = Emerald Green Arborvitae (21 total)

- Spaced 4' on Center

- 3' from North fence line / 5' from North property line

- 4' full width Maturity

- 12' - 14' tall full Maturity

● = Patriot Hostas (6 total)  
20" Height & 30" width  
@ Maturity

↑  
N

Surveyed property Line

CO. RD. NO. 19

Smithtown

120.82 meas

121.17 plot

1.0'

Edge of Rd. 8'

30' 60

8' Setback

Fence Wall  
(2 1/2 - 3' tall)

35'

Fence Line

plot meas.

DRIVE

Minnetonka Drive

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PROPOSED

5660 Minnetonka Drive CUP for 6' tall Fence along Smithtown Road.

The only plantings to screen the fence from the road will be on the North (Smithtown) side of fence. (orange dots on attached landscape drawing)

They will be Emerald Green Arborvitae (21 total) planted in a straight line 4' on center. Spaced 3 feet from north fence line, and 5 foot from north property line along Smithtown Road.

These will grow to a mature width of 4' in diameter and to a full mature height of 12-14'

\*\*these will all be planted in the 8' setback on private property.

The 6 total Patriot hostas will grow to a mature height of 20" and a mature width of 30". These will NOT grow above the 3' limit. (green dots on attached landscape drawing)

None of these plantings will be in the 30' x 30' diagonal traffic visibility corner required – we are leaving a 5' buffer from true diagonal clearance to either fence or plantings.

No planting on west side of property to screen fence. Only 4 Patriot hostas on east side of fence to fill in machinery entrance that was used during regrading.

No other plantings will be used to screen from road side of fence. Primary focus of plantings to screen from road side of fence would be the taller (21) emerald green arborvitae.

Thank you – Alec Walsh

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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;

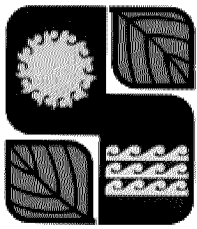
(iii) Fence arm extensions may not extend across an abutting property line or over any public right-of-way;

(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**

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MEMORANDUM

TO: Planning Commission, Mayor and City Council

FROM: Emma Notermann, Planning Technician

MEETING DATE: September 7, 2021

REQUEST: Variance to side and rear  
yard setbacks

APPLICANT: Wayne Hartmann

LOCATION: 27460 Maple Ridge Lane

REVIEW DEADLINE: November 26, 2021

LAND USE CLASSIFICATION: Low Density Residential

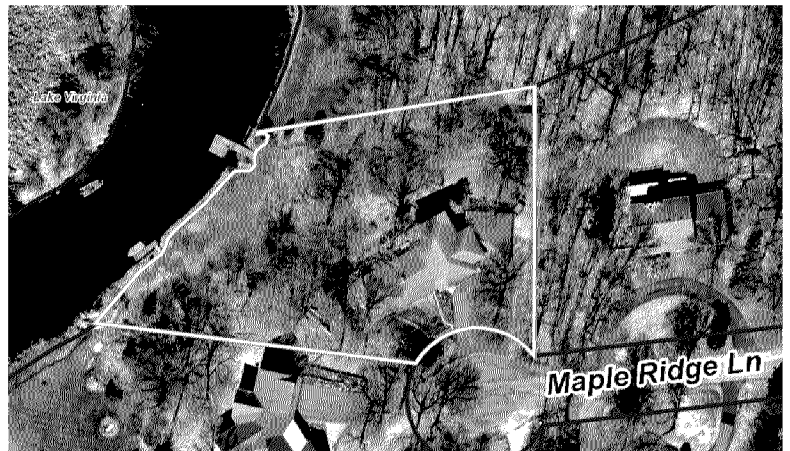
ZONING: R-1A/S

FILE NUMBER: 21.22

REQUEST:

The applicant requests a variance to the setback from the side and rear property lines for an accessory structure that includes a 16x 12-foot shed with an additional 16 x 10-foot carport on a 24-foot by 24-foot concrete pad.

The accessory structure is already constructed and is located approximately 4 feet from the side property line where 10 feet is required and 16 feet from the rear property line where 50 feet is required. The variance application was submitted after City staff was made aware that the shed under construction without permits.



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.

Staff has received several public comments that are attached to the memo.

## BACKGROUND

Context: The existing home was constructed in 1974. The lot was created in 1959 as part of the Virginia Highlands subdivision. The property is zoned R-1A and is in the Shoreland District of Lake Virginia.

Most of the adjacent properties are all developed with single-family homes and zoned R-1A and are in the Shoreland District.

### Applicable Code Sections:

Section 1201.26 subd. 5. a. of the zoning regulations requires a side setback of 30 feet total and a minimum of 10 feet.

Section 1201.10 subd. 5. d. (2) of the zoning regulations requires a rear yard setback of not less than 50 feet.

Section 1201.03 subd. 2. d. of the zoning regulations require that accessory buildings and structures shall be constructed within the buildable area of the lots as defined in § 1201.02 of this chapter except as provided in subdivision 3c of this section.

Section 1201.03 subd. 1. f. of the zoning regulations states that a lawful nonconforming use of a structure or parcel of land may be changed to lessen the nonconformity of use. Once a nonconforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the nonconformity.

## ANALYSIS

The accessory structure in question requires a variance because the previous accessory structure was not legally non-conforming, as it was constructed across a property line and was not issued a building permit. If the previous accessory structure had been legally non-conforming, staff would have been able to administratively approve the new accessory structure of similar or smaller size under Section 1201.03 subd. 1. f. of the zoning regulations.

The applicant's narrative is attached and indicates that the accessory structure has been reconstructed to address a couple of issues that the old accessory structure presented. The new accessory structure pad location is 4 feet from the side yard line, although this doesn't meet the 10-foot setback, the new location resolves the issue of the previous shed encroaching over the lot line on the neighbor's property and reduces the amount of the encroachment into the drainage and utility easement. The applicant also states that the new improvements to the property will include the installation of a drain/drywell to help with drainage issues in the northeast corner of the property. These improvements would occur in the easement and must also be reviewed by the City Engineer prior to installation. The applicant did subsequently state that they would not be moving forward with the drain installation.

The applicant's property is situated along Lake Virginia in a way that imposes both a 75-foot setback to the Ordinary High Water Level (OHWL) of Lake Virginia and a 50-foot rear yard setback.

The accessory structure has been constructed inside the drainage and utility easement that runs along the east and north property line. Because construction in drainage and utility easements is not permitted, the City will require an encroachment agreement with the property owner. This agreement

would protect the City against cost or liability for the structure and driveway should any work need to be completed in the easement.

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 lot configuration and setbacks for both side yards, a rear yard and the OHWL of Lake Virginia.
  - a. *Reasonable:* The applicant has proposed a reasonable residential use on the property.
  - b. *Unique Situation vs. Self-Created:* The situation is unique because the unique shape of the property means that the buildable area of the lot is subject to two side yard setbacks, a rear yard setback and a setback to the OHWL of Lake Virginia.
  - c. *Essential Character:* The proposed addition would not be out of character for the neighborhood. The new shed no longer encroaches over the lot line but is in the same general location as the previous shed was. The location is shielded by heavy tree cover.
3. *Economic Considerations:* The applicant has not proposed the variance solely based on economic considerations, but to enhance the functionality and usage of the shed space and to move the shed back over the applicant's property line.
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 shed is located towards the rear of the lot where three properties intersect. Both neighboring houses are approximately 100 feet away with heavy tree cover in the area.
5. *Impact to Public Welfare, Other Lands or Improvements:* Staff finds that the shed would not be detrimental to the public welfare as an accessory structure is a typical residential use in the area and is subject to the approval of the encroachment agreement to protect the public utility easement. The accessory structure is visible from the street, but is constructed in a manner to match the house and does not stand out.
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 and enter into an encroachment agreement.

## ATTACHMENTS

Location map

Applicants' narrative and plans

Previous survey and updated survey with approximate location

Photographs of accessory structure

Correspondence Received

## 27460 Maple Ridge Lane Location Map



## **Request for Variance for Shed located at 27460 Maple Ridge Lane, Shorewood MN 55331**

### **Purpose:**

This variance request seeks to gain approval for a replacement shed/carport located on the property. (For the remainder of this document, the term "Shed" will be taken to mean a Shed and Carport). The shed was constructed in 2021. It replaced an existing shed which was built without a foundation and was becoming unusable as it was sinking into the ground. The goals of the replacement were to: 1) Replace the shed with an exact functionality; 2) To adjust the placement slightly to remove the encroachment on my neighbor's property while maintaining access to the shed via the existing driveway (Note: the prior shed had been built 1' over the property line).

### **Background:**

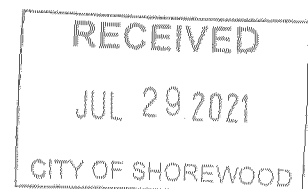
My initial intent was to lift the existing shed and place a foundation under it. When that effort failed, I began the process of rebuilding while moving the new shed off the property line as noted above. The submitted drawings show that the new shed is 6 feet off of the East Lot line – a 7' improvement over the previous placement.

### **Justification:**

- My intent was to replace -- but not exceed -- the functionality that I had with the previous unit.
- The current location of the shed is the best place for the shed (for ourselves and our neighbors):
  - My two adjacent neighbors have their sheds in this same area.
  - My shed is largely shielded from their sight by their own sheds and/or tree cover.
  - The placement of my home on the lot necessitated the driveway that leads to the garage being in the same easement area. This driveway also services the car port attached to the shed.
- Easements: No underground utilities currently exist in the easement area.
- Rebuilt shed is in the same vicinity as old one. There is no detrimental effect and in fact there is improvement (relocated off of neighbor's property)
- Practical Difficulties:
  - Setback requirements make it difficult to place the shed anywhere else on the property.
  - The unique shape of the lot forced concessions at the time the house was built. The house does not conform to setback requirements (it does not meet the 50' front setback) and as noted above, the driveway was constructed in the easement area.
  - The shed does not alter the look and feel of the neighborhood.
    - It is constructed with the same siding as the house.
    - The shingles match the house.
    - It is painted to match the house.
    - It is quality constructed and blends well with the area.
    - It is set within a natural mature Maple Woods area and is difficult to see unless you are in my driveway.
- Net Result: If approved the shed when completed will have:
  - Removed lot line encroachment
  - Improved surface water runoff through installation of drain/drywell and/or pervious pavers.

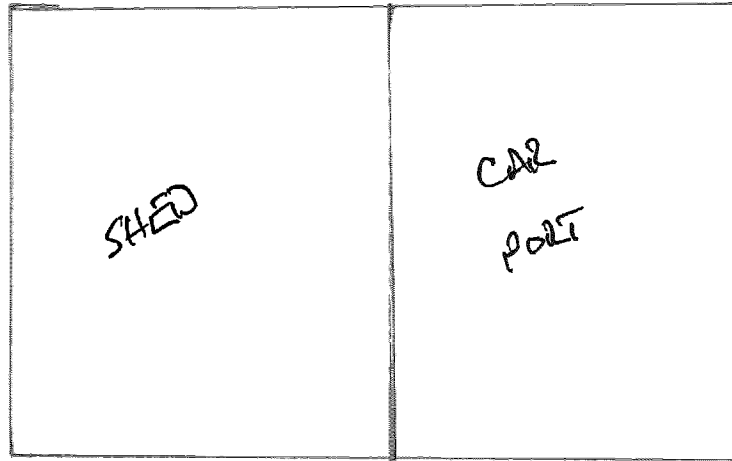
Thank you for your consideration.

*Wayne Haulman*  
*Michelle Sander*



27460 MAPLE RIDGE LN.

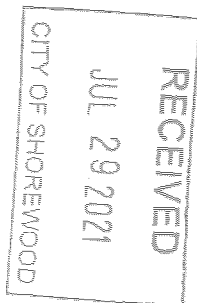
23 feet



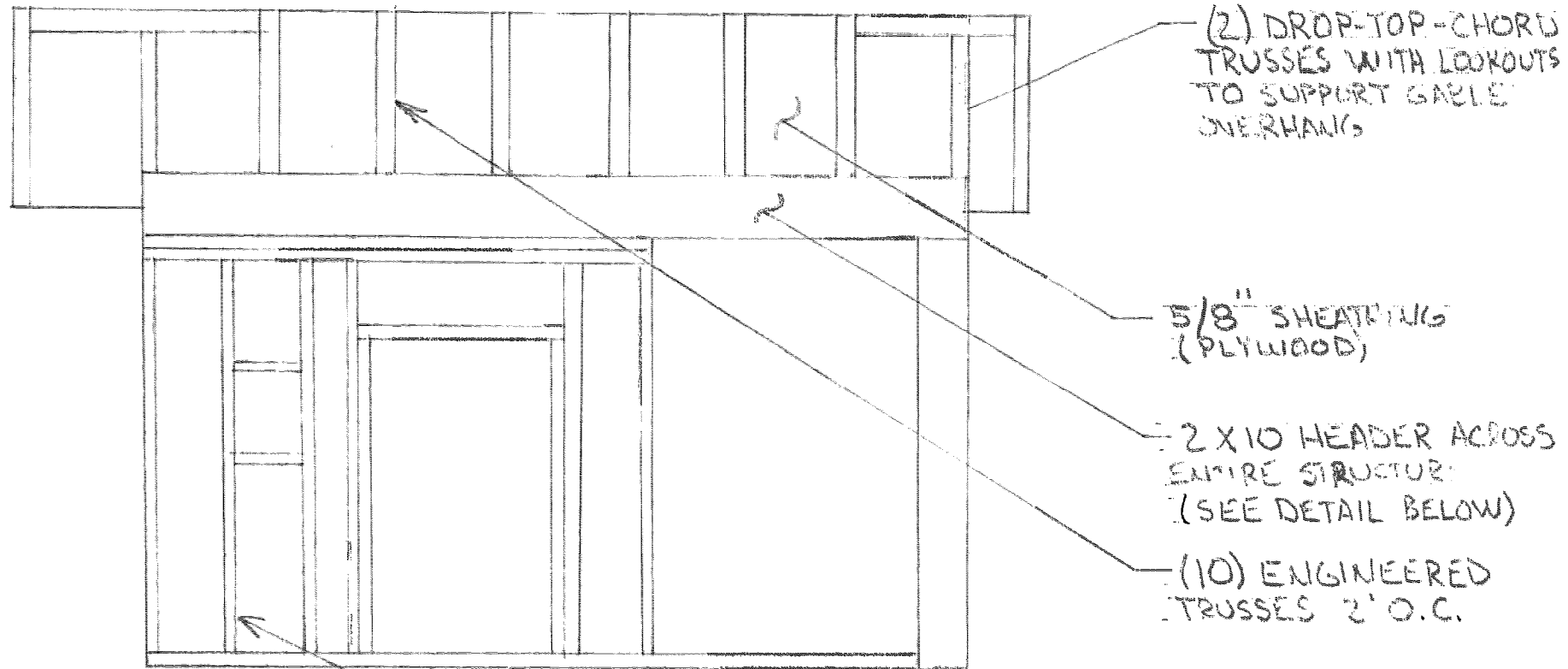
NORTH  
LOT  
LINE

EAST  
LOT  
LINE

6 feet



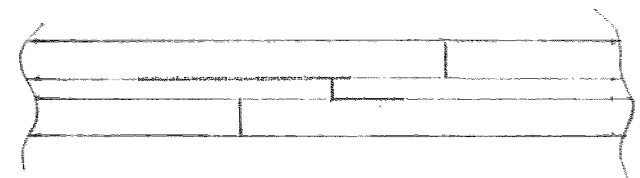
# 27460 MAPLE RIDGE LN



## FASTENER NOTES:

1. HURRICANE TIES FOR EACH TRUSS.
2. 1/2" BOLTS THROUGH PLATE INTO CONCRETE WITHIN 12" OF EACH END AND 6' SPACING.
3. 2" X 2" ANGLE IRON ATTACHES HEADER TO BUILDING, 6 TOTAL - 1 IN EACH CORNER AND 2 AT CENTER 6X6 POST
4. SIMPSON 6X6 GALVANIZED POST BASE FOR EACH 6X6 POST

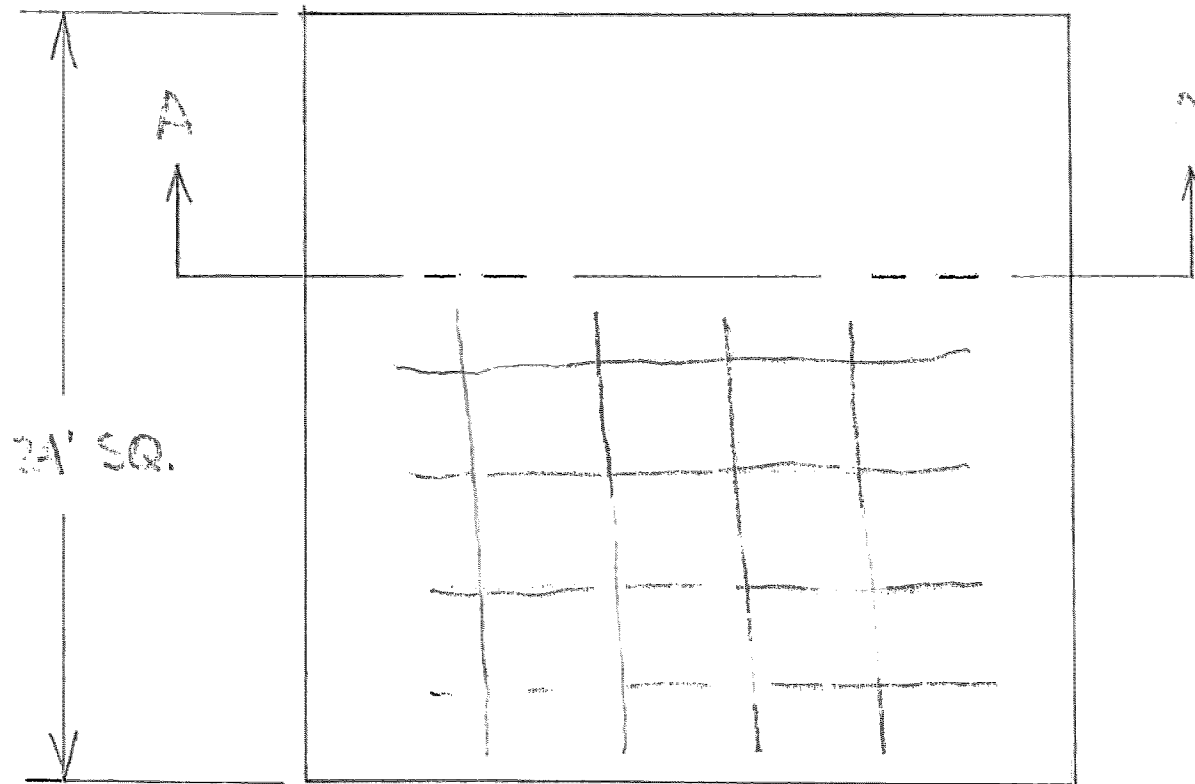
## HEADER DETAIL



1. 2X10 STRUCTURAL LUMBER WITH 1/2" PLYWOOD BETWEEN
2. JOINTS STAGGERED
3. FASTENED WITH CONSTRUCTION ADHESIVE & NAILS



# 27450 MAPLE RIDGE L.P. CONCRETE PAD

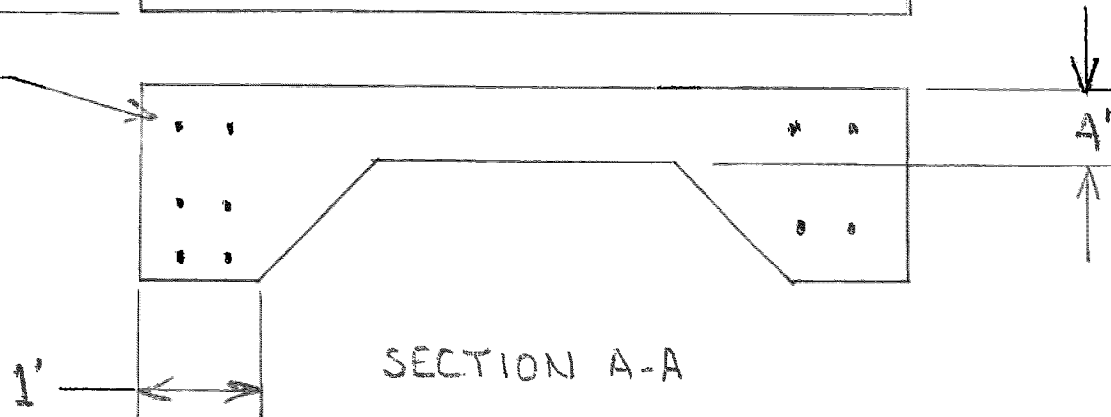


24' SQ.

## NOTES:

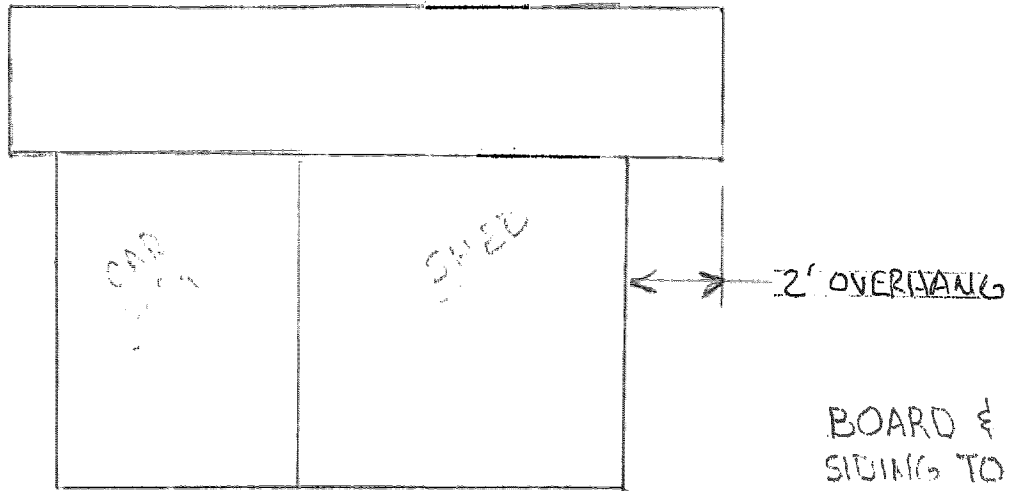
1. 4000 PSI CONCRETE.
2. #3 REBAR.
3. 4" COMPACTED CLASS 5 BASE.

2 LAYERS REBAR  
AT PERIMETER, 3  
IN THE BACK (NORTH)

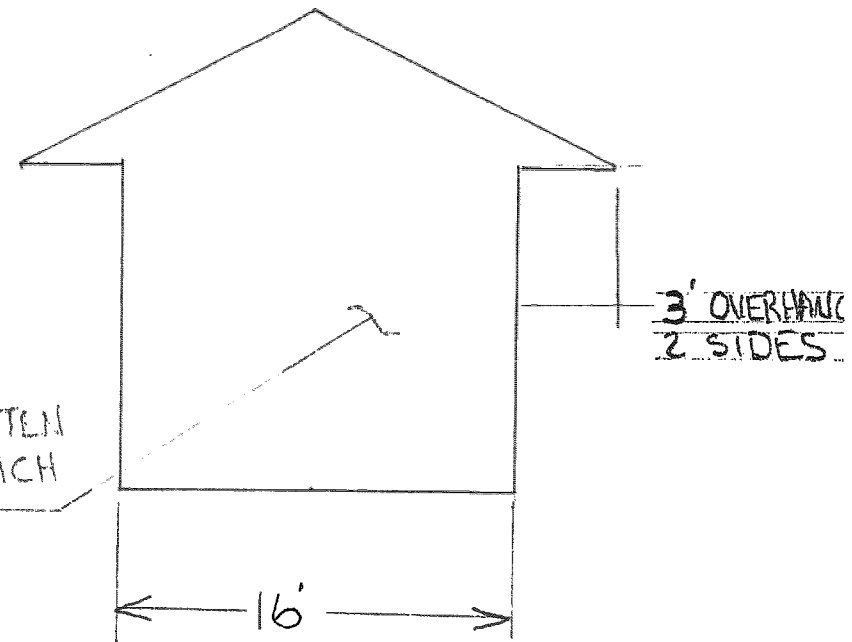


SECTION A-A

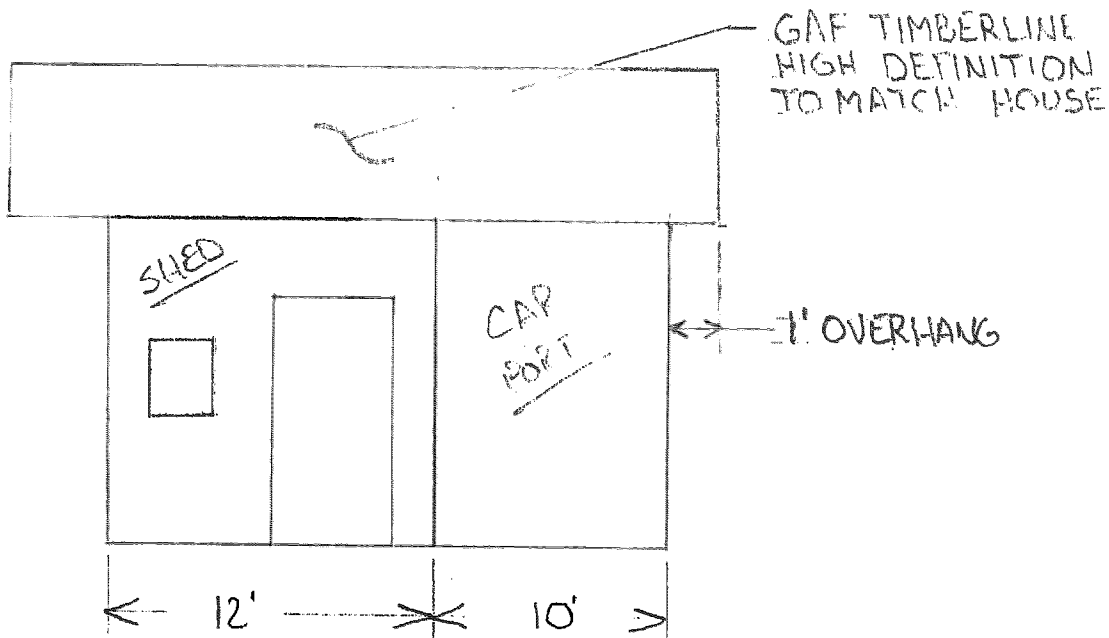
27460 MAPLE RIDGE LN  
ELEVATION VIEWS



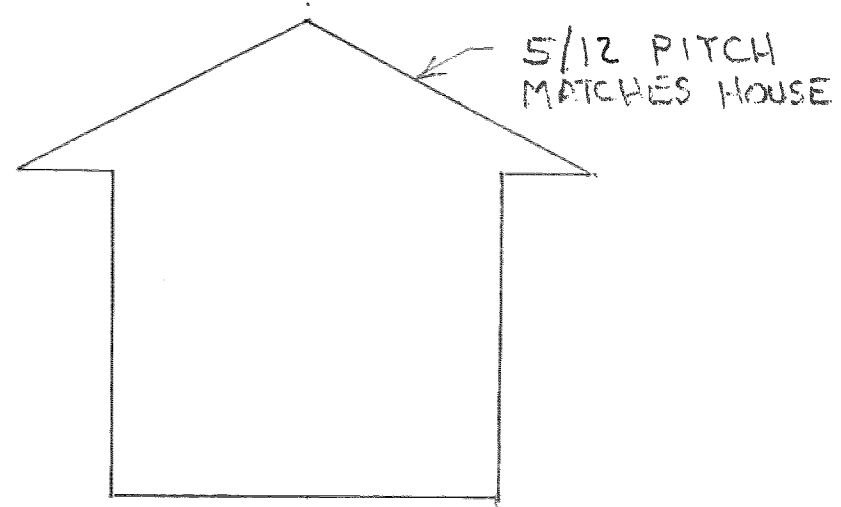
NORTH



WEST



SOUTH

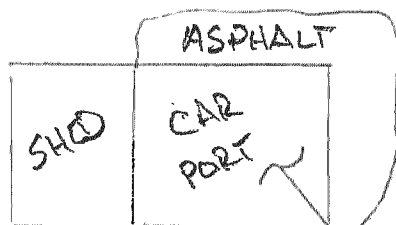


EAST

NOT TO SCALE

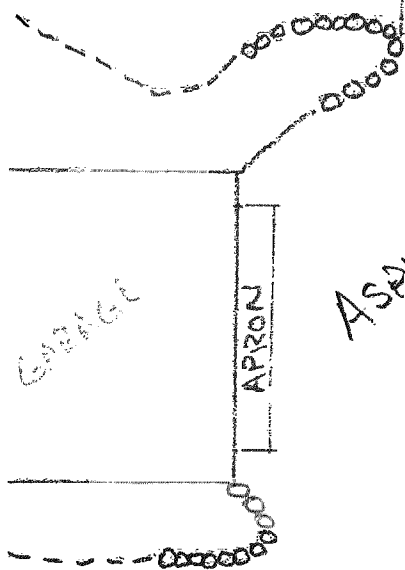
# OLD PAVEMENT CONFIGURATION

27460 MAPLE RIDGE LN



ASPHALT PREVIOUSLY  
EXISTED UNDER CAR  
PORT AREA, AS WELL  
AS ROUGHLY 2 FEET  
TO THE EAST AND  
NORTH OF PREVIOUS  
STRUCTURE.

• ~ 1619 S.F.



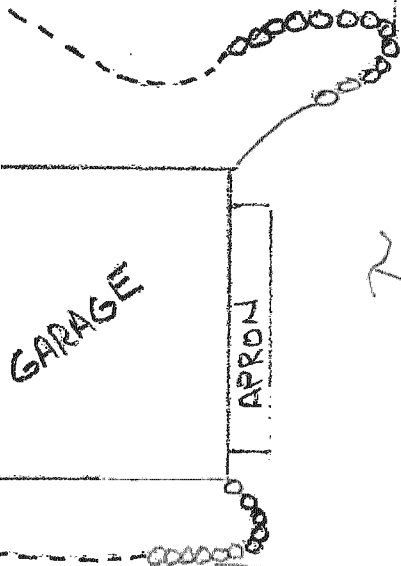
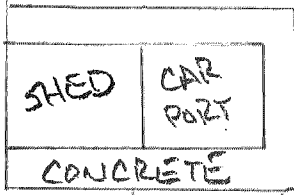
ASPHALT

CITY STREET

DRIVEWAY  
ISLAND

PROPOSED PAVEMENT  
CURRENTLY OUT FOR BIDS

27460 MAPLE RIDGE LN



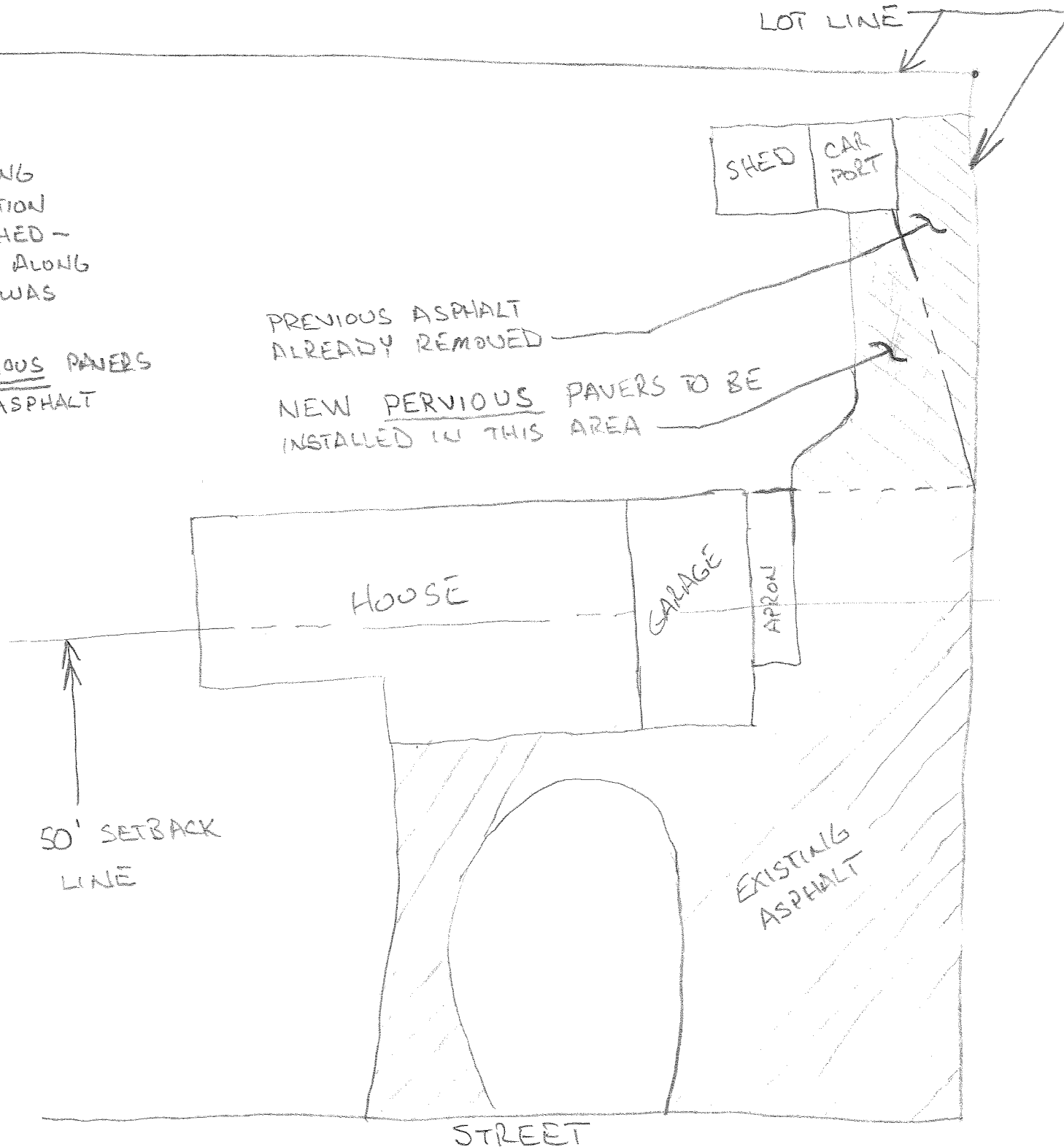
BEGINNING AT THIS ARC, THE  
ASPHALT WILL BE REMOVED  
AND REPLACED WITH  
INTERLOCKING PERMEABLE  
PAVERS.  
~ 1379 S.F.

EXISTING  
ASPHALT

CITY STREET

NOTES:

1. THE ENTIRETY OF THE EXISTING DRIVEWAY—INCLUDING THE PORTION RUNNING TO THE PREVIOUS SHED— WAS CONSTRUCTED DIRECTLY ALONG THE LOT LINE. THE HOUSE WAS BUILT THIS WAY (1974)
2. I INTEND TO INSTALL PERVIOUS PAVERS IN THE AREA WHERE OLD ASPHALT WAS REMOVED.



# ADVANCE SURVEYING & ENGINEERING CO.

5300 S Hwy, No. 101, Minneapolis, MN 55454 Phone (953) 474-7964 Fax (953) 225-0502 WWW.ANSYSUR.COM

SURVEY FOR: **WAYNE HARTMANN**

SURVEYED: July, 2015 DRAFTED: July 8, 2015

ADDRESS:  
27469 Maple Ridge Lane, Shorewood, Mn

LEGAL DESCRIPTION:  
Lot 7, Block 3, Virginia Highlands Addition, Hennepin County, Minnesota.

## SCOPE OF WORK & LIMITATIONS:

1. Showing the length and direction of boundary lines of the above legal description. The scope of our service does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct, and that the boundaries shown on this plan are correct.
2. Showing the location of existing improvements we deemed important.
3. Setting new monuments or verifying old monuments to mark the corners of the property.
4. Showing and tabulating hard cover area and the area of the lot for your review and for the review of such governmental agencies that may have jurisdiction over hard cover area.
5. While we show proposed improvements to your property, we are not as familiar with your plans as you are not as familiar with the requirements of governmental agencies as their employees are. We suggest that you review the survey to confirm that the proposals we show are what you intend and submit the improvements to the appropriate governmental agencies that may have jurisdiction over your project and gain their approval, if you can before beginning construction or planning improvements to the property.
6. Showing elevations on the site at selected locations to give some indication of the topography of this site. We have also provided a benchmark for your use in determining elevations for construction on this site. The elevations shown relate only to the benchmark provided on this survey. Use that benchmark and check at least one other feature shown on the survey when determining other elevations for use on this site or before beginning construction.

## STANDARD SYMBOLS & CONVENTIONS:

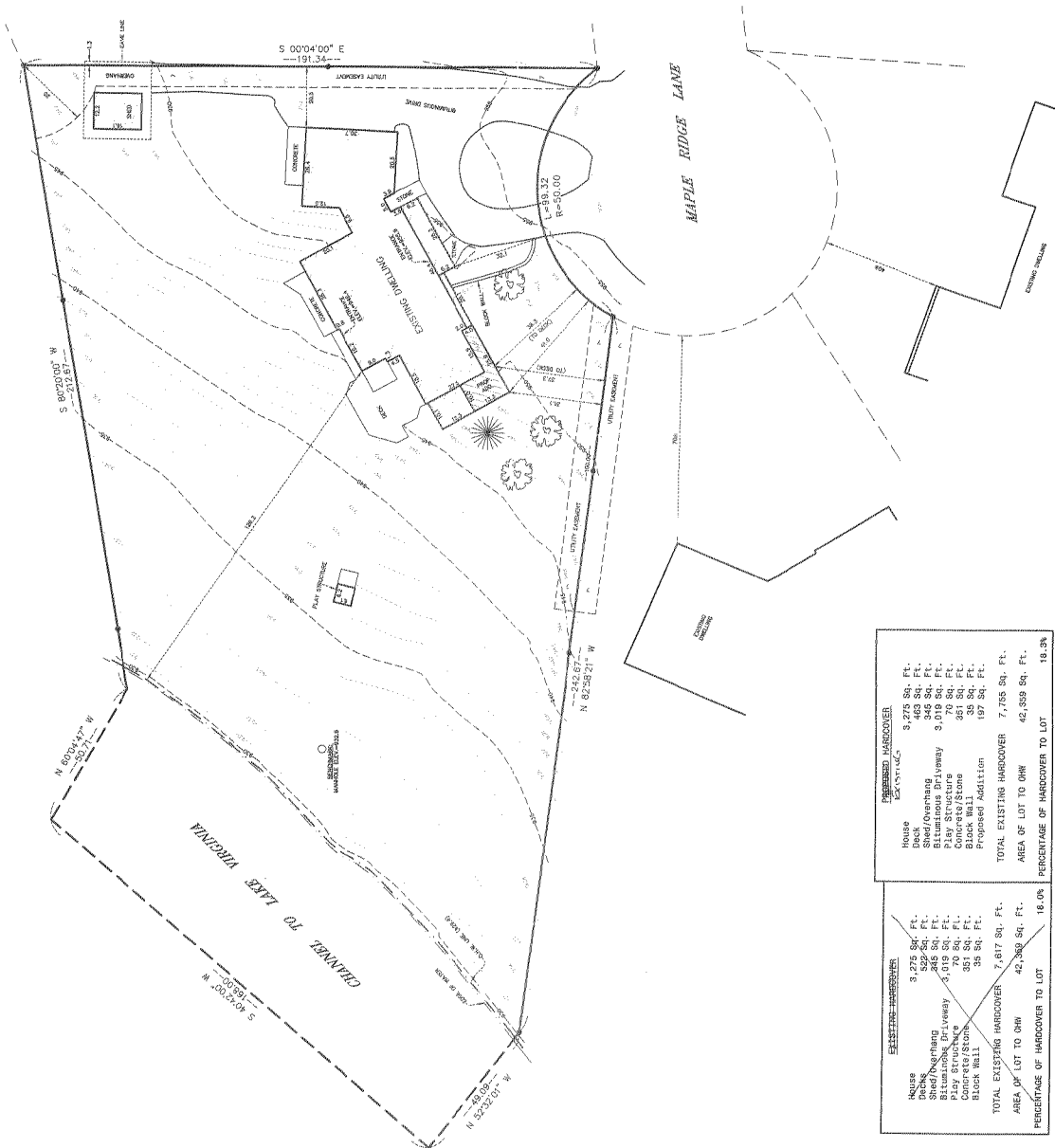
- Denotes 1/2" ID pipe with plastic plug bearing State License Number 9235, set, unless otherwise noted.

## CERTIFICATION:

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

Signature: James H. Parker Typed Name: James H. Parker Reg. No.: 9235

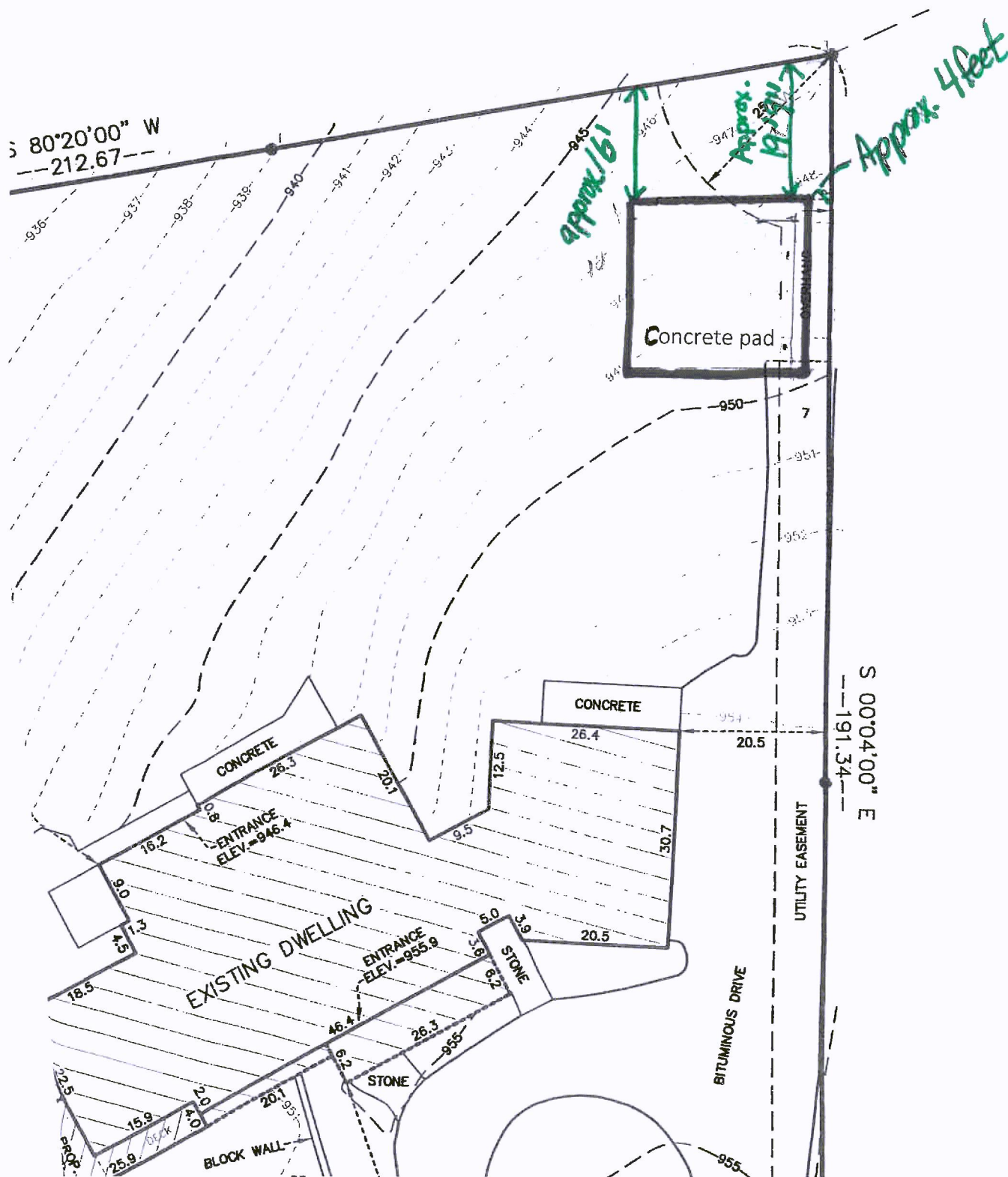
Date: July 8, 2015



EXISTING HARDWARE		PROPOSED HARDWARE	
House	3,275 Sq. Ft.	House	3,275 Sq. Ft.
Shed	463 Sq. Ft.	Shed	463 Sq. Ft.
Play Structure	3,018 Sq. Ft.	Play Structure	3,018 Sq. Ft.
Concrete/Stone	70 Sq. Ft.	Concrete/Stone	70 Sq. Ft.
Block Wall	881 Sq. Ft.	Block Wall	881 Sq. Ft.
Proposed Addition	197 Sq. Ft.	Proposed Addition	197 Sq. Ft.
<b>TOTAL EXISTING HARDWARE</b>	<b>7,765 Sq. Ft.</b>	<b>TOTAL EXISTING HARDWARE</b>	<b>7,765 Sq. Ft.</b>
<b>AREA OF LOT TO OWN</b>	<b>42,359 Sq. Ft.</b>	<b>AREA OF LOT TO OWN</b>	<b>42,359 Sq. Ft.</b>
<b>PERCENTAGE OF HARDWARE TO LOT</b>	<b>18.0%</b>	<b>PERCENTAGE OF HARDWARE TO LOT</b>	<b>18.3%</b>

DWG. NO. 150549 WP

Approximate new  
accessory structure location













## Emma Notermann

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**From:** Huminski, James Patrick <james.huminski@verizon.com>  
**Sent:** Monday, August 30, 2021 9:17 AM  
**To:** Planning  
**Subject:** Wayne Hartman - 27460 Maple Ridge Lane

To: Marie Darling

I am writing in response to the public meeting notice that you sent me via mail in relation to the variance for a shed at 27460 Maple Ridge Ln. By way of this letter, I am stating my support for granting this variance.

I am aware of Wayne and Michelle's attempt to replace the shed that was lost with one of similar size. Though the shed was moved slightly to eliminate the encroachment on the neighboring property, the general location of the shed is the right place on this property. Their property is 5 sided and as such it would seem that both of the setbacks should be considered as 'side' setbacks. The 'back' of their lot is truly the water channel - as it is for all of us along the channel. I don't see the 6-foot side setback as an issue given the previous placement, and the 'back' setback I view as more than adequate considering that in reality, this is a side lot line as well.

I appreciate anyone in the neighborhood making improvements to their property since it improves the value of all properties. I am in favor of you granting this variance. If you have questions, feel free to call - 612-272-2668.

Thank you

Jim

--

Jim Huminski  
Enterprise Sales Client Partner  
Verizon Enterprise Solutions

M 612-272-2668  
[james.huminski@verizon.com](mailto:james.huminski@verizon.com)



## Emma Notermann

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**From:** Wedin, Timothy <Timothy.Wedin@metc.state.mn.us>  
**Sent:** Tuesday, August 31, 2021 11:32 AM  
**To:** Planning  
**Cc:** Gordon, Adam; Odonnell, Tim  
**Subject:** Planning Commission Meeting - 27460 Maple Ridge Lane Variance Request  
**Attachments:** DOC083021-08302021143138.pdf

Thank you for the opportunity to comment on the attached Variance Request for 27460 Maple Ridge Lane.

MCES does not have an easement or any facilities in the area shown on the provided map. The variance, if granted, would not have any impact on our facilities or property rights in the area.

MCES neither supports nor opposes this variance.

Thank you,

Tim



**Tim Wedin, PE**

Pronouns: he/him/his

Assistant Manager | Interceptor Engineering

Metropolitan Council Environmental Services

3565 Kennebec Drive, Eagan, MN 55122

P. 651-602-4751 | C. 651-245-5589

[metro council.org](https://metro council.org) | [facebook](#) | [twitter](#)

## Emma Notermann

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**From:** Jason Hammerberg <jasonhammerberg@gmail.com>  
**Sent:** Tuesday, August 31, 2021 7:02 PM  
**To:** Planning  
**Subject:** 27460 Maple Ridge Lane Variance

Dear Planning Department,

We have reviewed the map and the requested variance for property address 27460 Maple Ridge Lane. We don't have an objection to the variance and it is in a location that is mostly hidden from public view. The variance mentions the 'rear property line' but it seems the Lake Virginia channel would actually be the rear. Our thoughts.

Sincerely,  
Jason & Ingrid Hammerberg  
27415 Maple Ridge Lane

## Emma Notermann

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**From:** Steve Craig <stevecraig06@gmail.com>  
**Sent:** Wednesday, September 1, 2021 9:08 PM  
**To:** Planning  
**Subject:** Public Notice 27460 Maple Ridge Lane

Good evening Marie and the rest of the Shorewood Planning Committee.

This email is concerning the Public Meeting Notice that we received on Friday August 27<sup>th</sup> in regards to 27460 Maple Ridge Ln. While we cannot be in attendance on Tuesday September 7<sup>th</sup>, please accept this correspondence as our written support in favor of approving the variance for Wayne and Michelle's shed/garage. My wife, Sarah, and I are their neighbors directly across the cul de sac at 27475 Maple Ridge Ln.

The shed/garage has been in place in the same location since we moved in December of 2015. I believe we are the only neighbors with a site line to the shed, everyone else has a wooded view of their lot. From our perspective, the new structure represents a visual upgrade from the previous shed/garage that was in place and conforms to the same look, colors, and aesthetic of their home. Wayne was considerate enough to reduce the footprint of the shed so that it no longer encroached as much as it previously had along their property line that abuts 27410 Maple Ridge Ln.

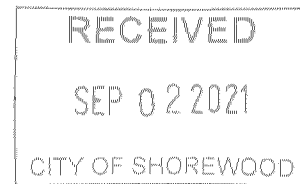
I would be happy to comment further as necessary.

Thanks for the considerate approach in reviewing this matter.

Steve Craig  
952-836-9740  
[stevecraig06@gmail.com](mailto:stevecraig06@gmail.com)

To the Shorewood Planning Commission

Re: 27460 Maple Ridge Lane Variance request



I live next door to Wayne and Michelle. I have lived in this neighborhood almost longer than anyone else and have watched many changes happen as a result. When Wayne and Michelle moved in, a shed existed on their property at the end of the driveway. The carport was a straight shot down the driveway.

Wayne is rebuilding the shed and it looks very nice. It fits with the style of their home and is painted the same color. It actually looks better than the original shed! I drive by their home every day and am happy they are making improvements to their property. That is good for the value of all of our homes.

I was surprised to learn their rear property line is in the woods along the side of their home. We both live on the channel and have always considered our rear lot line (back yard) to be the channel.

With all of this in mind, I am in support of granting the requested Variance.

Best Regards,

A handwritten signature in cursive script that reads "Peggy Ploen". The signature is written in dark ink and is positioned below the typed name "Peggy Ploen".