



DATE: January 11, 2021

TO: Honorable Mayor and City Councilmembers
Dave Perrault, City Administrator

FROM: Mike Mrosla, Community Development Manager/City Planner
Joe Hartmann, Associate Planner

SUBJECT: Planning Case #20-017
Applicant: Kye Samuelson
Property Location: 3493 Siems Court
Request: Variance

Budgeted Amount:
N/A

Actual Amount:
N/A

Funding Source:
N/A

Council Should Consider the Following

Motion to approve Planning Case 20-017 for a variance at 3493 Siems Court, based on the findings of fact and the submitted plans in the January 11, 2021 memo to the City Council.

Variance Flexibility Requested

The Applicant is requesting a variance for a larger than ordinance permitted accessory structure. The proposed structure would be used for the storage of recreational water equipment due to the rear yard topography.

A variance is requested for:

1. Proposed accessory structure height: currently proposed at nine (9) feet and five (5) inches tall, eight (8) feet tall is allowed by ordinance.
2. Proposed accessory structure area, currently proposed at 93.5 square feet, sixty-four (64) square feet is allowed by ordinance.

Background

At the October 7th Planning Commission meeting the Applicant requested a variance to build a 120 square foot accessory storage structure that encroached eighteen (18) inches into the Shore Impact Zone of Lake Johanna. The proposed structure exceeded the eight (8) foot height limitation at ten (10) feet, six (6) inches. The Planning Commission voted to table the request to allow the Applicant to revise their plans to better conform to the Shoreland Ordinance provisions.

The Applicant took the Planning Commissions comments under consideration and submitted revised plans for a smaller structure that would not encroach into the Shore Impact Zone. The Applicant is now proposing to construct structure a nine and a half (9.5) feet tall and ninety-three and a half (93.5) square feet in size. However, the proposed structure still required a variance due to the proposed height and area that exceeded current ordinance standards.

At their December 9, 2020 meeting the Planning Commission reviewed and discussed this application. The Planning Commission voted 4-3 to approve the planning case.

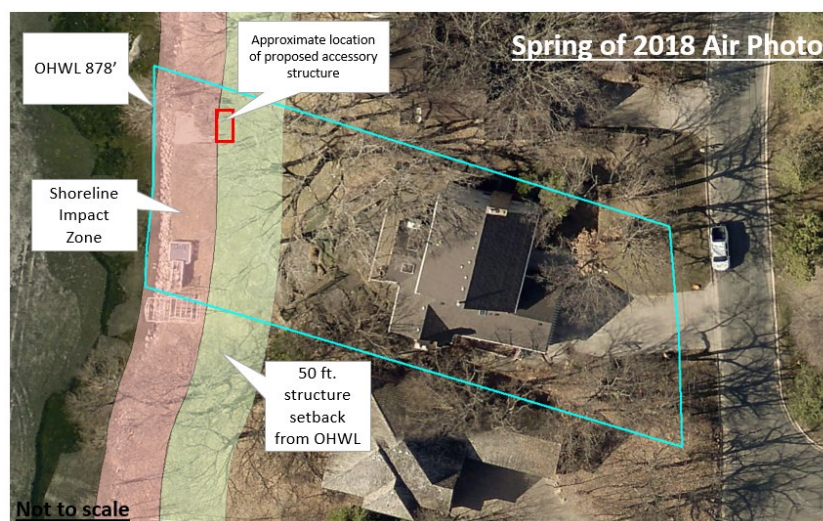
Plan Evaluation

Shoreland Structure Setbacks - 1330.03 - Meets Requirements

The Subject Property is located within a Shoreland Management District, which impacts the rear setback of the property. Shoreland Management Districts overlay existing City zoning districts shown on the official zoning map. The Shoreland Management District classifies Lake Johanna as a General Development Lake, which determines the setback requirements from the lakeshore. The rear of the Subject Property faces Lake Johanna, which has a fifty (50) foot setback from the Ordinary High Water Level (OHWL). Minnesota Statutes 103G.005 Subd. 14 defines OHWL as:

“...the elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial...”

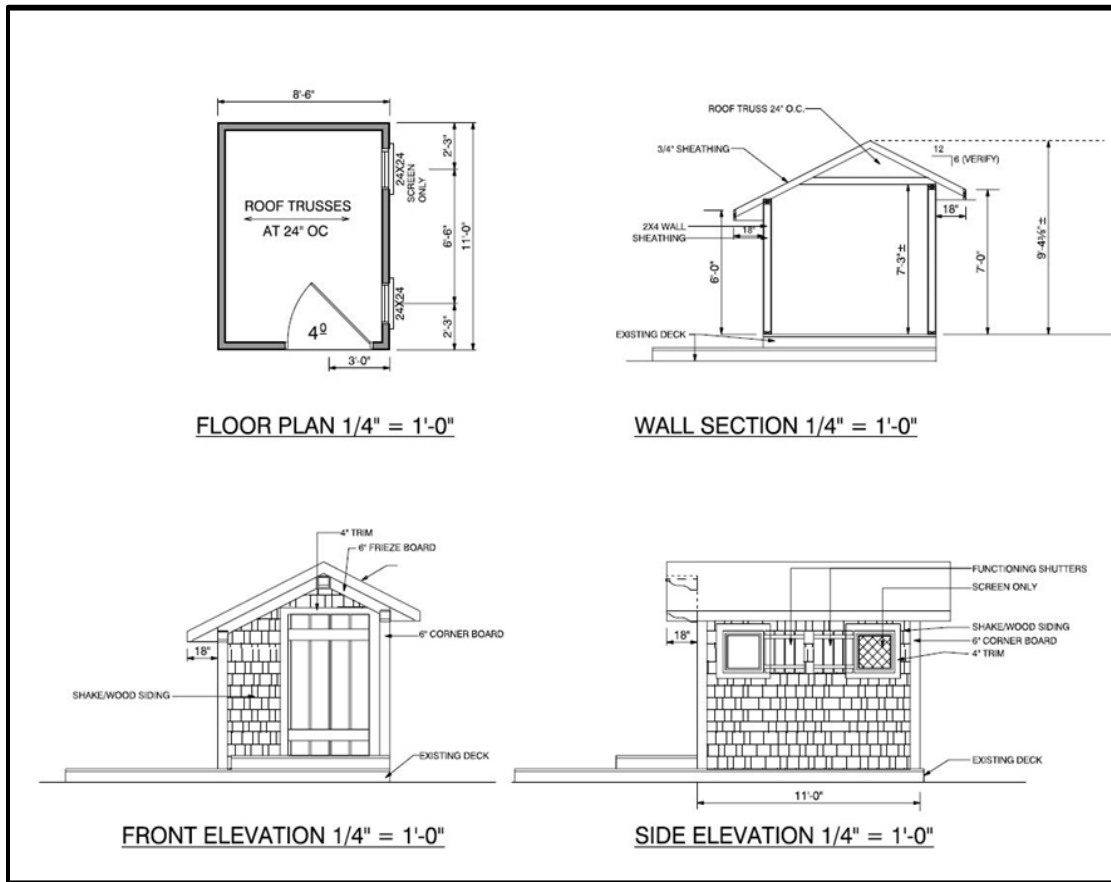
The OHWL of Lake Johanna is 878 feet above sea level according to Minnesota Department of Natural Resources. The Shore Impact Zone is the land located between the OHWL and a line parallel to it at a setback of 50 percent of the structure setback. In other words, the Shore Impact Zone is the twenty-five (25) feet nearest to the shore within the 50 foot rear yard setback of the OHWL. The proposed structure would be located 25.2 feet from the OHWL setback just outside the Shore Impact Zone on top of where an existing landing structure is located. As a condition of approval, staff is recommending that the Applicant submit a zoning permit for the proposed structure so that staff can verify the setbacks for the structure.



Shoreline Impact Zone and 50' structure setback.

Shoreland Regulations – 1330.03 Subd. 5 (E) - Flexibility Requested

City Code Section 1330.03 Subd. 5, E states that lakeshore lots are permitted one (1) accessory storage shed within the required structure setback from the OHWL, provided that it is not located within the Shore Impact Zone; does not exceed sixty-four (64) square feet in size and eight (8) feet in height measured to the highest point of the structure; and is not used for human habitation and does not contain a water supply or sewage treatment facilities. Measured from the base of the landing to the highest point of the structure, the proposed structure would exceed the eight (8) foot height limitation at nine (9) feet, six (6) inches tall. The structure proposed would measure 8.5 feet by 11 feet, or 93.5 square feet, which exceeds the 64 square foot maximum allowed within code.



Proposed structure elevations

Variance Requirements – Section 1355.04, Subd. 4

1. Purpose and Intent. The variance request shall comply with the purpose and intent of the provisions of the City's Zoning Regulations and with the policies of the City's Comprehensive Plan.

The Subject Property is zoned R-1, Single Residential District, is located in the Shoreland Management District and is guided as Low Density Residential on the Land Use Plan.

2. **Practical Difficulties.** The Applicant for a variance shall establish that there are practical difficulties in complying with the provisions of the Arden Hills Zoning Regulations. The term “Practical Difficulties” as used in the granting of a variance means:
 - a. *Reasonable Use.* The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance.
According to the Applicant, the storage of recreational water equipment for a single family home is a reasonable use of an accessory structure within the Shoreland Management District.
 - b. *Unique Circumstances.* The plight of the property owner is due to circumstances unique to the property not created by the landowner.
According to the Applicant, there is a thirty (30) foot grade difference every 100 feet, which creates a very steep slope to transport lake items up to store in the garage. This is unique to the property, making it difficult to place the storage structure elsewhere.
 - c. *Character of Neighborhood.* The variance, if granted, will not alter the essential character of the neighborhood.
According to the Applicant, the storage shed would be 30 feet below the adjoining neighbors, The Applicant is proposing to add landscaping to assist in screening the structure and making it inconspicuous and blended to the landscape.
3. **Economic Consideration.** Economic consideration alone does not constitute a practical difficulty.
According to the Applicant the proposed variance is not based on economic consideration.
4. **Access to Sunlight.** Inadequate access to direct sunlight for solar energy systems shall be considered a practical difficulty.
A solar energy system is not proposed.

Findings of Fact

The Planning Commission reviewed this application at their December 9, 2020, meeting and have offered the following findings of fact for your consideration:

1. City Staff received a land use application for a request to build an accessory structure for storage at the Subject Property 3493 Siems Court.
2. Storage of personal items is a permitted use for an accessory structure in the R-1 Single Family Residential District.
3. The Subject Property has a steep downward slope in the rear yard that prevents the Applicant from building on much of the site.
4. The Subject Property meets the minimum lot size, width, and length requirements for the R-1 District.
5. The Applicant is requesting flexibility with the maximum height and size restrictions for an accessory storage shed located within the Ordinary High Water Level (OHWL) setback requirement for Lake Johanna.
6. The rear yard setback requirement for a proposed accessory structure is determined by the OWHL of Lake Johanna.

7. The proposed structure is located 25.2 feet within the OHWL setback from Lake Johanna which is 50 feet.
8. The proposed storage structure would be located outside the Shore Impact Zone of Lake Johanna.
9. One (1) storage shed is permitted with the OHWL setback requirement of Lake Johanna as long as it does not exceed 64 square feet in size and eight (8) feet in height and is not within the Shore Impact Zone.
10. The proposed structure exceeds the height at nine (9) feet six (6) inches tall and exceeds the area dimension at 93.5 square feet.
11. The proposed structure would otherwise conform to all other requirements and standards of the R-1 district.
12. A variance may be granted if enforcement of a provision in the zoning ordinance would cause the landowner practical difficulties.

Additional Review

Residential Building Inspector

The Residential Building Inspector has reviewed the plans and has no additional comments at this time.

Engineering Staff

Engineering Staff reviewed the proposal and has no additional comments at this time.

Rice Creek Watershed District

The Rice Creek Watershed District has reviewed the proposed project and determined that no permit will be required.

Minnesota Department of Natural Resources

The DNR has reviewed the plans and has no additional comments on this time as the City of Arden Hills is the permitting agency.

Recommendation

The Planning Commission recommended approval by a 4-3 vote of Planning Case 20-017 for a Variance at 3493 Siems Court, based on the findings of fact and the submitted plans in the December 9, 2020 Report to the Planning Commission, as amended by conditions.

Motion Language Options

The following are motion language options for the City Council to consider:

1. Recommend Approval with Conditions: Motion to recommend *approval* of Planning Case 20-017 for a Variance at 3493 Siems Court, based on the findings of fact and the submitted plans, as amended by following conditions:
 1. A Zoning Permit for an accessory structure shall be issued prior to commencement of construction.

2. The exterior materials of the proposed addition shall be consistent or complementary in color, texture and quality with those visible on the existing structure.
 3. The Applicant shall add landscaped screening to assist in screening the structure from adjacent properties. Planning staff shall review and approve the screening plan prior to the issuance of Zoning Permit.
 4. The proposed accessory structure shall conform to all other standards and regulations in the City Code.
2. Recommend Approval as Submitted: Motion to recommend *approval* of Planning Case 20-017 for a Variance at 3493 Siems Court, based on the findings of fact and the submitted plans in the January 11, 2021, Report to the City Council.
 3. Recommend Denial: Motion to recommend *denial* of Planning Case 20-017 for a Variance at 3493 Siems Court, based on the following findings of fact: *findings to deny should specifically reference the reasons for denial*.
 4. Table: Motion to *table* Planning Case 20-017 for a Variance at 3493 Siems Court: *a specific reason and/or information request should be included with a motion to table*.

Public Notice and Comments

Although a variance does not require a public hearing, a public meeting notice was prepared by the City and mailed to properties within 500 feet of the subject property. At the time of writing this staff has not received any comments.

Deadline for Agency Actions

The City of Arden Hills extended the deadline for application processing for an additional 60 days on November 23rd ending on January 24, 2021 unless voluntary extensions are made. The Applicant has submitted revised plans on November 18, 2020 and staff received a completed application on November 30th, 2020. With consent of the Applicant, the City may extend the review period beyond the initial 120 days.

Budget Impact:

NA

Attachments:

- A. Land Use Application
- B. Location Map
- C. Setback Illustration
- D. Accessory Structure Elevations
- E. Variance Request Letter
- F. Planning Commission Report, December 9, 2020
- G. Draft Planning Commission Minutes, December 9, 2020
- H. PowerPoint Presentation
- I. Resolution 21-003