



**DRAFT**

Approved:

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**CITY OF ARDEN HILLS, MINNESOTA  
PLANNING COMMISSION  
WEDNESDAY, DECEMBER 9, 2020  
6:30 P.M. - ARDEN HILLS CITY HALL**

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**CALL TO ORDER/ROLL CALL**

Pursuant to due call and notice thereof, Chair Nick Gehrig called to order the regular Planning Commission meeting at 6:30 p.m. Due to the COVID-19 pandemic this meeting was held virtually.

**ROLL CALL**

Present were: Chair Nick Gehrig, Commissioners Marcie Jefferys, Steven Jones, James Lambeth, Subbaya Subramanian, Paul Vijums, Kurtis Weber (Alternate), and Jonathan Wicklund.

Absent: Commissioner Clayton Zimmerman.

Also present were: Community Development Manager/City Planner Mike Mrosła, Associate Planner Joe Hartmann, and Councilmember Steve Scott.

**APPROVAL OF AGENDA – DECEMBER 9, 2020**

Chair Gehrig stated the agenda will stand as published.

**APPROVAL OF MINUTES**

*October 7, 2020 – Planning Commission Regular Meeting*

**Commissioner Lambeth moved, seconded by Commissioner Subramanian, to approve the October 7, 2020, Planning Commission Regular Meeting as presented. A roll call vote was taken. The motion carried 6-0-1 (Commissioner Jefferys abstained).**

**PLANNING CASES**

- A. Planning Case 20-021; 2 Pine Tree Drive; Conditional Use Permit Release Request – *Public Hearing***

**Community Development Manager/City Planner Mrosła** stated in 2013 Bethel University acquired the Country Financial facility at 2 Pine Tree Drive. The property consisted of three (3) parcels that total approximately 43 acres. The subject property is located within the B-2 General

Business District, where higher educational uses are permitted by Conditional Use Permit. At its November 25, 2013 meeting, the City Council approved a CUP for Bethel University to use the existing facility as higher education.

**Community Development Manager/City Planner Mrosla** reported Bethel University has recently received approvals to subdivide the existing property at 2 Pine Tree Drive into three (3) lots of record. One (1) lot of record is the existing building and parking lot, and two (2) new lots on the north side of the property. Lake Johanna Fire Department has purchased Lot 2 for a future fire station. The attorney for Lake Johanna Fire Department has requested to clear title. The effect of the releases are to free the new parcel from CUPs and easements that remain applicable only to the parcel Bethel is retaining. This same process will need to occur for Lot 1, Block 1 and will be completed during the approval process for New Perspective Senior Living Planning Case 20-022.

**Community Development Manager/City Planner Mrosla** commented further on the request and recommended approval of the release to the Conditional Use Permit from Lot 2, Block 1 of 2 Pine Tree Drive North.

**Community Development Manager/City Planner Mrosla** reviewed the options available to the Planning Commission on this matter:

1. Recommend Approval
2. Recommend Denial
3. Table

**Chair Gehrig** opened the floor to Commissioner comments.

**Commissioner Lambeth** asked if the Lake Johanna Fire Department has closed on this property.

**Community Development Manager/City Planner Mrosla** reported the Lake Johanna Fire Department has closed on the property and this was a housekeeping matter.

**Commissioner Subramanian** questioned if the future senior development has been taken into consideration by the fire department.

**Community Development Manager/City Planner Mrosla** stated the fire department has been actively reviewing the development proposed for Lot 1.

**Commissioner Jefferys** inquired if the City would be seeing more requests related to the fire department.

**Community Development Manager/City Planner Mrosla** commented the fire department has secured the land and would be working to construct a new fire station in the coming years. He reported neighborhood meetings would have to be held prior to this project moving forward.

**Chair Gehrig** opened the public hearing at 6:43 p.m.

**Chair Gehrig** invited anyone for or against the application to come forward and make comment.

There being no comment Chair Gehrig closed the public hearing at 6:43 p.m.

**Chair Gehrig moved and Commissioner Lambeth seconded a motion to recommend approval of Planning Case 20-021 to release the Conditional Use Permit from Lot 2, Block 1 of 2 Pine Tree Drive North. A roll call vote was taken. The motion carried unanimously (7-0).**

**B. Planning Case 20-017; 3493 Siems Court Variance Request – *Public Hearing Required***

**Associate Planner Hartmann** stated Kye Samuelson (“Applicant”) has submitted a land use application for a variance to construct an accessory structure at 3493 Siems Court (“Subject Property”). The Applicant is requesting a variance for flexibility with a proposed accessory structure’s height and size within the Ordinary High Water Level (OHWL) setback. 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.

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

**Associate Planner Hartmann** reported 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. However, the proposed structure still requires a variance due to the proposed height and area that exceeds current ordinance standards. The Applicant proposes adding new conditions of approval to the request that would set performance standards for the structure and recognizes that this would set a precedent for future structures located near the shore to follow.

**Associate Planner Hartmann** stated for example, the Applicant proposing the use of language such as calling the overall structure a ‘floating shed’ that would require future residents to meet certain conditions unique to this specific scenario. On the Subject Property, the Applicant notes that the site features 100% drainage and runoff beneath the existing structure, with runoff uninhibited by any foundation or any non-natural elements, which could be a condition of approval for future applications. They also request an optional requirement for the addition and maintenance of vegetation around the future structure for environmental and aesthetic purposes.

**Associate Planner Hartmann** explained the Planning Commission is being asked to determine if a variance request for flexibility with the Shoreland Management District setback requirements should be approved for the new proposed accessory structure. This structure requires flexibility from the restrictions for City Code within Shoreland Management Districts. The evaluation of the proposal should be based on the provisions within the Zoning Code and the Requirements for a Variance in Section 1355.04, Subd. 4 and the Continuation of Nonconforming Uses in Section

1350.02. A revised application should be reviewed in the same manner as required for a new application. Any structural alteration or changes to the original plan require that all procedures shall apply as if a new application were being requested.

**Associate Planner Hartmann** reviewed the surrounding area, the Plan Evaluation and provided the Findings of Fact for review:

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 five (5) 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.

**Associate Planner Hartmann** stated staff recommends 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 the conditions below:

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.

**Associate Planner Hartmann** reviewed the options available to the Planning Commission on this matter:

1. Recommend Approval with Conditions
2. Recommend Approval as Submitted
3. Recommend Denial
4. Table

**Chair Gehrig** opened the floor to Commissioner comments.

**Commissioner Lambeth** stated this item was tabled due to the encroachment on the impact zone. He asked if this matter has been addressed.

**Associate Planner Hartmann** reported this was the case.

**Kye Samuelson**, the applicant, explained the size of the shed has been reduced from 120 square feet to 93.5 square feet. He indicated the shed would be used to store lake equipment. He commented further on how the shed would be placed on the property.

**Commissioner Lambeth** questioned if shrubs would be planted around the shed.

**Mr. Samuelson** reported he plans to plant shrubs around the shed whether or not the City makes this a condition for approval.

**Commissioner Subramanian** indicated he would like the landscaping and screening be made a requirement for the permit.

**Community Development Manager/City Planner Mroska** stated Condition 3 addresses this concern.

**Commissioner Subramanian** asked if the shed would still have a green roof.

**Mr. Samuelson** reported the redesign of the shed would not allow for a green roof, but noted the building would be screened with landscaping and would have natural vines planted to assist with screening the shed.

**Commissioner Vijums** commented on how lake life has changed since the time City Code was drafted noting there was a lot of additional equipment that needed to be stored and code has not adopted to these changes. He feared that once a variance was passed, the City would receive numerous requests for lakeshore sheds. He supported the City changing its code versus reviewing numerous variance requests in the future. He believed that the shed request before the Commission was still too large and for that reason would not be offering his support.

**Commissioner Weber** thanked the applicant for making concessions, but noted he agreed with Commission Vijums that approving this request would lead to additional shed requests on lakes. He recommended the City review the code.

**Commissioner Wicklund** commented on variance requirements and the criteria to meet a variance. He stated the reasonable use requirements have been met by the applicant, along with the character of the neighborhood. He discussed the significant sloping that occurs on the applicant's lot and how this was a unique circumstance. He reported if this variance were to pass it would be a great example of City staff and the Planning Commission working with the applicant given the fact City Code may be outdated. He noted the City Council would make the final determination regarding this request.

**Commissioner Jefferys** asked if there were other storage sheds on the lake that were larger than 64 square feet.

**Associate Planner Hartmann** stated if the variance were approved, this would be the largest shed on the lake.

**Community Development Manager/City Planner Mroska** reported there were other larger accessory structures that were nonconforming. He noted these were permitted without current staff's knowledge.

**Chair Gehrig** opened the public hearing at 7:14 p.m.

**Chair Gehrig** invited anyone for or against the application to come forward and make comment.

**Steve Nelson**, 3475 Siems Court, indicated he did not have a problem with the proposed size of the shed. He questioned if this were approved, if he would then be allowed to build a shed that would fit his 16 foot canoe. He indicated he would love to build a boathouse, but understood this was not allowed. He anticipated approval of this request would have a trickledown effect. He reported everyone on the lake has items that need to be stored and this should be taken into consideration by the City. He did not want the natural beauty of the lake taken away by having numerous buildings and sheds on the lakeshore.

**Terry Pernsteiner** contractor for the applicant, commented on the larger structures located on the lake, one being a two-story air conditioned boathouse.

**Mr. Samuelson** thanked the City for working with him on this variance request. He stated he has learned a lot through this process. He explained he appreciated all of the comments he has received from the City, the Planning Commission and his neighbors. He indicated he did not want to create a problematic precedent, but rather was trying to describe the unique characteristics of his lot.

There being no comment Chair Gehrig closed the public hearing at 7:23 p.m.

**Commissioner Jones** stated the Planning Commission was not a rule making body. He reported the applicant came to the Commission in October and the request was tabled. He believed the request before the Commission was reasonable. He supported this request being forwarded to the City Council noting the Council will take into consideration additional requests may be made in the future if this item were approved. He encouraged the City Council to review City Code regarding the size of sheds and accessory structures for lakeshore properties.

**Commissioner Wicklund** asked for a brief description on what would have to be done to update City Code.

**Community Development Manager/City Planner Mrosła** explained this would require a Zoning Ordinance Amendment, which would require public hearings, neighborhood meeting, Planning Commission review and City Council approval.

**Commissioner Wicklund** stated for the record residents were concerned about the precedent that would be set if this variance were approved. He discussed how lake activities have changed over the years and how there may be a need to address City Code because of this. He commented because of the unique slope of the property he would be supporting the requested variance for Mr. Samuelson moving onto the City Council.

**Commissioner Jefferys** stated she appreciated this discussion and how hard the applicant has worked to address the concerns that have been raised. She explained she believed the lake was a resource for a lot of people and for this reason, the bar has to be set higher in order for a variance to be approved. She commented on the practical difficulty standards and indicated she did not believe the applicant has a proven practical difficulty. She was of the opinion the proposed shed would change the character of the neighborhood. For this reason, she would not be supporting the variance request.

**Commissioner Lambeth moved and Commissioner Jones seconded a 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 the four (4) conditions in the December 9, 2020, report to the Planning Commission. A roll call vote was taken. The motion carried 4-3 (Commissioners Jefferys, Subramanian, and Vijums opposed).**

#### **UNFINISHED AND NEW BUSINESS**

None.

#### **REPORTS**

##### **A. Report from the City Council**

**Councilmember Scott** provided the Commission with an update from the City Council. He discussed the results of the recent election and noted Minnesota had a 79.956% voter turnout, which was the highest in the nation. He reported Communications Coordinator Gretchen Nedham joined the City last month. He stated the Council was working to finalize the 2021 budget and noted the Truth In Taxation Hearing would be held on Monday, December 14, 2020. He reported the Council was considering chicken keeping in the City of Arden Hills. He thanked the Commissioners for their service to the community and wished everyone Happy Holidays.

##### **B. Planning Commission Comments and Requests**

**Chair Gehrig** reported he would be stepping down from the Planning Commission after January 2021. He thanked the City for the opportunity to serve the community.

**Commissioner Vijums** thanked the City for recycling Christmas lights again this year. He asked for an update on TCAAP.

**Councilmember Scott** reported he had no update for the Commission at this time.

**Commissioner Weber** thanked Chair Gehrig for his service to the community on the Planning Commission.

**Commissioner Wicklund** thanked Chair Gehrig for his efforts. He also thanked Councilmember Scott for communicating with the City Council on behalf of the Planning Commission.

### **C. Staff Comments**

**Community Development Manager/City Planner Mrosla** thanked the Commission for all of their efforts over the past year.

**Commissioner Wicklund** asked what process would be followed for the appointment of a new Planning Commission Chair.

**Community Development Manager/City Planner Mrosla** described the appointment process noting the Mayor had the authority.

### **ADJOURN**

**Commissioner Jones moved, seconded by Commissioner Lambeth, to adjourn the December 9, 2020, Planning Commission Meeting at 7:47 p.m. A roll call vote was taken. The motion carried unanimously (7-0).**