



MEMORANDUM

DATE: July 12, 2021

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

FROM: Jane Kansier, AICP, Bolton & Menk

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

Budgeted Amount:	Actual Amount:	Funding Source:
N/A	N/A	N/A

Council Should Consider

- A motion to approve, table or deny Planning Case 20-017 for a variance at 3493 Siems Court

Approval of a variance requires a majority vote of the councilmembers.

Background

In September of 2020, Kye Samuelson (“Applicant”) requested a Variance in order to construct an accessory structure near the shoreline of 3493 Siems Court (“Subject Property”) within the Shore Impact Zone of Lake Johanna. 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 rationale for the variance was that the structure would be used for the storage of modern day recreational water equipment and the hardship was due to the rear yard topography. 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.

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.

The City Council reviewed this request at its January 11, 2021 meeting. The City Council voted unanimously to table this planning case to allow them to review the existing accessory structure size standards for the Shoreland District. The Applicant signed a 6-month Extension Form (Attachment B), requiring the City Council to take action on the variance request by July 12, 2021.

On June 28, 2021, the City Council approved Ordinance #2021-004, amending the requirements for accessory structures in the Shoreland District. This amendment increased the maximum size of an accessory structure to 100 square feet, and applied screening and design standards. The amendment did not increase the maximum height.

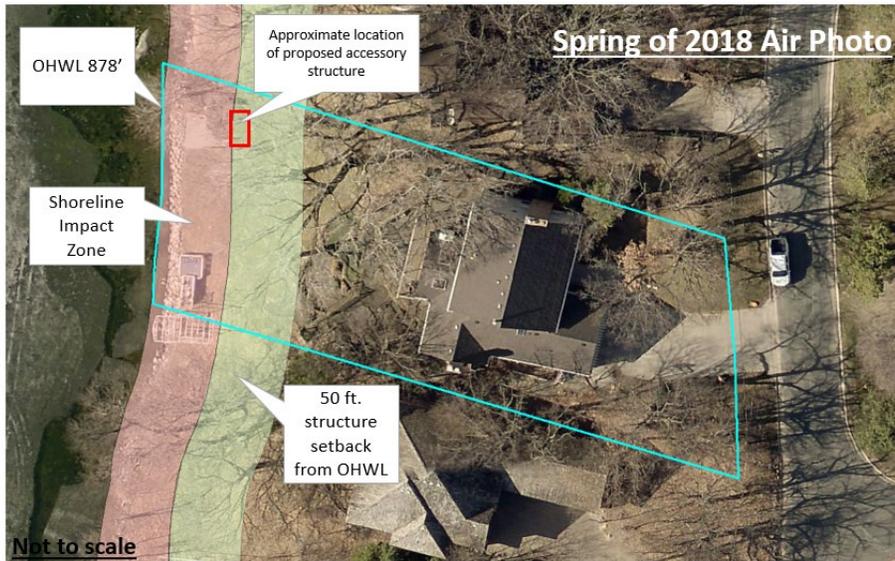
Plan Evaluation

The following evaluation is based on the updated zoning ordinance requirements.

Shoreland Structure Setbacks - 1330.03, Subd. 5.E.1 - Meets Requirements

The Subject Property is located within a Shoreland Management District, which impacts the rear setback of the property. Lake Johanna is classified as a General Development Lake, which requires fifty (50) foot setback from the Ordinary High Water Level (OHWL).

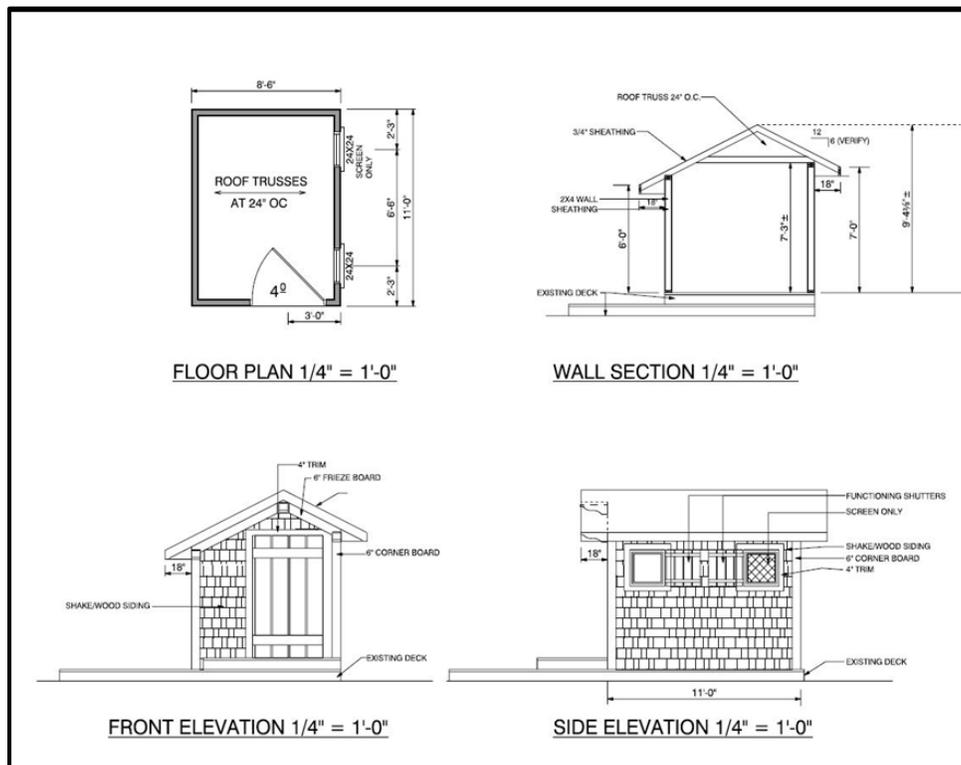
The OHWL of Lake Johanna is 878 feet above sea level according to Minnesota Department of Natural Resources. The Shore Impact Zone is the land located between the OHWL and a line parallel to it at a setback of 50 percent of the structure setback. In other words, the Shore Impact Zone is the twenty-five (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, 2 – Variance Requested

City Code Section 1330.03 Subd. 5,E,2 states that lakeshore lots are permitted one (1) accessory storage shed within the required structure setback from the OHWL, provided it does not exceed 100 square feet in size and 8 feet in height measured to the highest point of the structure. The proposed structure measures 8.5 feet by 11 feet, or 93.5 square feet. The height of the proposed structure, measured from the base of the landing to the highest point of the structure, is approximately 9' 5" in height. The applicant is requesting a variance to the maximum permitted height.



Proposed structure elevations

Shoreland Regulations – 1330.03 Subd. 5, E, 3 – Does Not Meet Requirements

City Code Section 1330.03 Subd. 5, E, 3 states the maximum width of an accessory structure, as viewed from the water, may not exceed ten (10) feet. The proposed site plan shows the long (11') end of the building will face the lake. In order to meet this requirement, the shed must be rotated on the lot so the short (8.5') end of the structure faces the water. As a condition of approval, staff is recommending the Applicant submit a zoning permit for the proposed structure so that staff can verify the location and setting of the structure.

Shoreland Regulations – 1330.03 Subd. 5, E, 4-8 –Meets Requirements

City Code Section 1330.03 Subd. 5, E, 4-8 states the following:

4. The structure or facility is not designed or used for human habitation and does not contain a water supply or sewage treatment facilities.
5. The structure or facility shall be constructed of material architecturally similar in design, texture, and color to the principal structure on the lot; the design shall be reviewed by the City Planner prior to issuance of building permits.
6. The structure shall be screened a minimum of 50 percent by opaque vegetation or topography on the three walls seen from the lake with ecologically suited landscaping landward of the ordinary high water level from the lake.
7. The roof shall not be used as a deck or storage area.
8. The structure or facility is not a boathouse or boat storage structure as defined under Minnesota Statutes, Section 103G.245.

The proposed structure meets these requirements. As a condition of approval, staff is recommending the Applicant submit a zoning permit with a landscaping plan for the proposed structure so that staff can verify the location and setting of the structure.

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 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 100 square feet in size and eight (8) feet in height.
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.

Based on the recent amendment to the Zoning Ordinance, the only variance requested at this time is a variance to the height of the structure.

Motion Language Options

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

1. Approval with Conditions: Motion to approve 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 structure shall be rotated on the site so the maximum width of the accessory structure, as viewed from the water, does not exceed ten (10) feet

3. The exterior materials of the proposed addition shall be consistent or complementary in color, texture and quality with those visible on the existing structure.
 4. The Applicant shall provide a landscaping plan indicating structure shall be screened a minimum of 50 percent by opaque vegetation or topography on the three walls seen from the lake with ecologically suited landscaping landward of the ordinary high water level from the lake. Planning staff shall review and approve the screening plan prior to the issuance of Zoning Permit.
 5. The proposed accessory structure shall conform to all other standards and regulations in the City Code.
2. **Denial:** Motion to *deny* 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.*
 3. **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. This case may only be tabled if the applicant agrees to an extension.*

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 before the January City Council meeting.

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 agreed to an extension of the deadline to July 12, 2021.

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. Planning Commission Minutes, December 9, 2020
- H. PowerPoint Presentation
- I. Resolution 21-039

