



REQUEST FOR PLANNING COMMISSION ACTION

MEETING DATE: March 28, 2022
PREPARED BY: Jesse Corrow, Associate Planner
AGENDA ITEM: 7103 Birchview Road North variance

PREVIOUS ACTIONS:
None

Requested Action: Variance

Zoning: R-2, Single Family Residential District

**Adjacent Land
Use and Zoning:**

North: R-2, Single-Family Residential District
East: R-2, Single-Family Residential District
South: R-2, Single-Family Residential District
West: Cedar Island Lake

Applicant:	I-Site Development dba Home Building & Remodeling Experts (HBRE)
Completed application received:	February 22, 2022
60 day review deadline:	April 23, 2022
Address:	7103 Birchview Road North

RECOMMENDED PLANNING COMMISSION ACTION:

Motion to recommend that the City Council direct the City Attorney to draft a resolution approving the 7103 Birchview Road North variance subject to:

The applicant shall acknowledge that Park Dedication requirements are based on staff review and recommendation to the Park and Recreation Board and their subsequent board action. Board meetings are held on the third Thursday of each month.

COMMENTS:

The applicant is requesting a variance to the shoreland setback for the purpose of constructing a deck on the lakeward side of the existing home at 7103 Birchview Road N. The deck is proposed to extend off the back of the house and is part of a larger remodel and second floor addition to the home.

The property is located near the end of a narrow peninsula that extends from the north shore of Cedar Island Lake. The existing home was constructed in 1963 and similar to many other homes on the peninsula, does not meet the current 75-foot shoreland setback requirement. An existing deck located at the southwest corner of the home further encroaches the shoreland setback and also encroaches the five-foot side yard setback. The distance from the existing deck to the Ordinary High-Water level (OHWL) is 47.6 feet at its nearest point.

The applicant is proposing to convert the existing deck into an enclosed porch and extend a new deck along the lakeward side of the home. A variance is requested to construct the new deck within 42.5 feet of the OHWL, approximately five feet closer than the existing deck.

As mentioned earlier, a second-floor addition is planned for the rambler style home. City code permits the upward expansion of a nonconforming structure as long as it is not constructed beyond its current setback and will otherwise be compliant with all other city ordinances. A separate “expansion permit” will be issued to allow for the addition of a second floor and new porch that replaces the current deck. The proposed building plans are included as an attachment.

Variance language in city code:

... In considering all requests for a variance, the planning commission and the city council serving as the board of adjustments and appeals shall make findings of fact that the proposed action complies with the requirements of Minn. Stats. § 462.357 and any amendments thereto, which include, but are not limited to:

- a. Variances shall only be permitted when they are in harmony with the general purpose and intent of city code and consistent with the comprehensive plan.
- b. Variances may only be permitted when the applicant establishes that there are practical difficulties in complying with the zoning ordinance, meaning the property owner proposes to use the lot or parcel in a reasonable manner not permitted by the zoning code.
- c. The plight of the property owner must be due to circumstances that are unique to the lot or parcel and is not created by the property owner.
- d. The variances must not alter the essential character of the locality. Code describes “not altering the essential character as not doing the following:
 - a. Impair an adequate supply of light and air to adjacent property.
 - b. Unreasonably increase the congestion in the public streets.
 - c. Increase the danger of fire or endanger the public safety.
 - d. Unreasonably diminish or impair established property values within the neighborhood, the character of the neighborhood, or in any way be contrary to the intent of this chapter.

Staff analysis

The variance request is in harmony with the general purpose and intent of city code and is consistent with the comprehensive plan. The applicant is planning improvements to the property that will compliment the neighborhood and the deck addition on the lakeside is consistent with other nearby homes. The variance request combined with the planned improvements to the home will not exceed the impervious coverage limitations, staff calculates the resulting impervious area at 24%.

There are practical difficulties on the property due to the nonconforming location of the house and the lack of room to build a deck on the lakeward side of the house.

Current zoning code would prohibit the deck addition as proposed because it would expand upon the existing nonconformity. A variance is necessary to permit what appears to be a reasonable request. The current property owners purchased their home in 2016 and did not contribute to the circumstance.

The lots on Birchview Road were platted in 1963, before the current shoreland regulations went into effect which is why many of these homes were built into the 75-foot setback. In fact, of the 10 homes on the peninsula, eight were constructed within the 75' shoreland setback. Four of the of these properties received variances after the shoreland regulations were adopted in order to build their homes.

Since many of the homes along Birchview Road are currently in the shoreland setback, the request to construct a deck into the setback would not appear to alter the essential character of the neighborhood. The two adjacent neighbors have provided letters supporting the variance request and express no objections to the location and design of the deck.

Summary

Staff finds that the applicant meets the standards for granting a variance. The lot was created before the shoreland regulations were in place and the proposed deck is in a practical location on the lakeside of the home which extends only five feet closer to the lake than the current deck.

ATTACHMENTS:

Attachment A: Narrative

Attachment B: Location map

Attachment C: Maps

Attachment D: Elevations and floor plans

Attachment E: Public comments