



**AGENDA  
PLANNING COMMISSION OF THE  
CITY OF WHITE BEAR LAKE, MINNESOTA  
MONDAY, AUGUST 28, 2023  
7:00 P.M. IN THE CITY HALL COUNCIL CHAMBERS**

**1. CALL TO ORDER AND ATTENDANCE**

**2. APPROVAL OF AGENDA**

**3. APPROVAL OF THE MINUTES**

A. Minutes of the Planning Commission meeting on July 31, 2023

**4. PUBLIC HEARING**

- A. **Case No. 23-25-V:** A request by **Michael Chilson** for a variance from the 4 foot maximum height allowed for a fence located in the front yard, per code section 1302.030, subd.6 in order to construct a 6 foot fence along the property line at the property located at 2175 Gardenette Drive.
- B. **Case No. 23-26-V:** A request by **BCD Homes** for a variance from the 4 foot maximum height for a solid wall, in order to retain two 5.3 foot tall stone pillars on the property.

**5. DISCUSSION ITEMS**

A. City Council Meeting Overview

**6. ADJOURNMENT**

Next Regular City Council Meeting .....September 12, 2023

Next Regular Planning Commission Meeting ..... October 30, 2023\*

\*September Planning Commission cancelled due to no Land Use applications

Zoning Update Community Advisory Committee (CAC) .....September 25, 2023



**MINUTES  
PLANNING COMMISSION MEETING  
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA  
MONDAY, JULY 31, 2023  
7:00 P.M. IN THE COUNCIL CHAMBERS**

**1. CALL TO ORDER AND ATTENDANCE**

**MEMBERS PRESENT:** Jim Berry, Pamela Enz, Andrea West, Ken Baltzer  
**MEMBERS ABSENT:** Mike Amundsen, Mark Lynch  
**STAFF PRESENT:** Jason Lindahl, Community Developer Director; Lindy Crawford, City Manager; Ashton Miller, City Planner; Shea Lawrence, Planning Technician  
**OTHERS PRESENT:** Dan Peltier, Cindy Peltier

**2. APPROVAL OF AGENDA**

It was moved by Member **Baltzer** and seconded by Member **Enz** to approve the agenda as presented.

Motion carried, 4:0.

**3. APPROVAL OF THE MINUTES**

**A. Minutes of June 26, 2023**

It was moved by Member **Enz** and seconded by Member **West** to approve the minutes of June 26, 2023

Motion carried, 4:0.

**4. CASE ITEMS**

**A. Case No. 23-24-Z:** A City initiated text amendment to the City Code, Article XIII – Zoning Code concerning tobacco and cannabis related uses.

Jason Lindahl, Community Development Director, discussed the case. Staff recommended approval of the case as proposed.

Member Enz asked if the tobacco shop downtown would be affected by this if they are also selling THC. Lindahl answered that the property is in the downtown zone and that they aren't permitted to sell THC. City Manager Lindy Crawford added that there is a moratorium on the sale of THC products in White Bear Lake which they have violated in

the past. Crawford added that the property would be grandfathered in to sell tobacco, but would not be permitted to become a cannabis retailer.

Member Berry asked if other tobacco shops have violated the THC moratorium. Crawford responded that there were violations by other shops, but they have since come into compliance. Berry asked for clarification on the grandfathered in status. Crawford confirmed the existing tobacco shops will be grandfathered in to sell tobacco products, not cannabis products.

Crawford explained that cities will be required to allow for at least 1 cannabis retailer per 12,500 residents, meaning White Bear Lake will be required to allow two. Therefore, the City has to outline locations where these retailers could be permitted. She added that the City will not be licensing for cannabis—that will remain at the state level through the Office of Cannabis Management (OCM). Once OCM receives an application they will reach out to the city for confirmation that the retailer would adhere to the City's zoning requirements before issuing the license.

Member Baltzer asked for clarification on the locations of the B-4 district. Crawford explained that Highway 96 and Century Avenue both have B-4 zones. Lindahl referred to the zoning map in the packet to highlight B-4 locations, noting that many of the B-4 sites are currently occupied by other uses.

Member Enz noted the proximity of some of the locations to the hockey arena. Crawford responded that the State did not provide definitions for public parks and public spaces. Once OCM comes out with further guidelines or definitions, Crawford explained that the zoning ordinance may need to be amended. Crawford emphasized the importance of adopting this ordinance now, so that the City can ensure future cannabis retailers are located in the appropriate zone. Lindahl added that adopting these minimum standards will help the City cover the gap before the State can establish the Office of Cannabis Management.

Member West asked if the B-4 district is also the district used for alcohol retailers. Lindahl responded that liquor sales are permitted starting in the B-2 district but because the zoning code cascades, it is also permitted in B-4. Off-sale liquor is prohibited starting in the B-5 district. Member West asked if the existing tobacco retailers that are not located in the B-4 district could eventually become cannabis retailers. Crawford explained they will be grandfathered in as tobacco retailers, so they would not be allowed to sell cannabis. Crawford clarified that the existing shops are not being rezoned to B-4, but the shops will be permitted to continue as tobacco retailers.

Member Baltzer asked if an existing business in the B-4 district could sell their property to a cannabis retailer. Crawford responded yes.

Crawford explained that changes may need to be made to the zoning code or municipal code as new information becomes available from the State.

Member Berry opened the public hearing.

Member Berry closed the public hearing.

It was moved by Member **Enz** to recommend approval of Case No. 23-24-Z, seconded by Member **Baltzer**.

Motion carried, 4:0.

Lindahl explained the case will go before City Council two times, on August 8<sup>th</sup> and August 22<sup>nd</sup>, because it is a text amendment.

- B. Case No. 23-22-V:** A request by **Saputo Cheese USA** for a 22.4 foot variance from the 30 foot minimum setback in the front yard, per code section 1303.190, Subd.5.c.1 in order to expand the boiler room located at 4041 Highway 61.

Ashton Miller, City Planner, discussed the case. Staff recommended approval of the case as proposed.

Member West, asked if the site meets fire code. Miller responded that the building is sprinkled and that the Fire Department requested that the access be maintained. Miller added that the applicant redesigned as to not impact the access and maintain the 16 feet drive lane.

Member Berry opened the public hearing.

Member Berry closed the public hearing.

It was moved by Member **Baltzer** to recommend approval of Case No. 23-22-V, seconded by Member **West**.

Motion carried, 4:0.

- C. Case No. 23-23-V:** A request by **Kaia Kroll** for a variance from the 11 foot maximum height per code section 1302.030, subd.4.i.1.b in order to reconstruct a garage that is taller than the house located at 1876 5th Street.

Shea Lawrence, Planning Technician discussed the case. Staff recommended approval of the case as proposed.

Member Berry opened the public hearing.

Member Berry closed the public hearing.

It was moved by Member **Enz** to recommend approval of Case No.23-23-V, seconded by Member **West**.

Motion carried, 4:0.

## 5. DISCUSSION ITEMS

### A. City Council Meeting Overview

Lindahl explained that the redevelopment proposal for 9 townhomes at 2502 County Rd E was approved by Council. The proposal for the property 2687 County Rd D for a 14 unit Memory Care Facility was approved. City Council also approved the fence height variance at 3944 Hoffman Road and the conditional use permit for an accessory dwelling unit at 4008 White Bear Ave.

## 6. ADJOURNMENT

There being no further business before the Commission, it was moved by Member **Baltzer**, seconded by Member **Enz** to adjourn the meeting at 7:49 p.m.



**City of White Bear Lake**  
Community Development Department

# MEMORANDUM

**TO:** The Planning Commission  
**FROM:** Shea Lawrence, Planning Technician  
**DATE:** August 28, 2023  
**SUBJECT:** 2175 Gardenette Drive North – Case No. 23-25-V

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## SUMMARY

The applicant, Michael Chilson, is requesting a variance from the 4 foot maximum height allowed for a fence located in the front yard, per code section 1302.030, subd.6 in order to construct a 6 foot fence along the property line at the property located at 2175 Gardenette Drive. Based on the findings made in this report, staff finds that the applicant has demonstrated a practical difficulty with meeting the City's zoning regulations as required by Minnesota Statute 462.357, Subd.6 and recommends approval of this request.

## GENERAL INFORMATION

Applicant/Owner: Michael Chilson

Existing Land Use / Zoning: Single Unit Dwelling; Zoned: R-3: Single-Family Residential and Shoreland Overlay

Surrounding Land: All directions: R-3: Single Family Residential and Shoreland Overlay

Comprehensive Plan: Low Density Residential

Lot Size & Width: Code: 10,500 square feet; 80 feet wide  
 Site: 10,833 square feet; 69 feet wide

60 Day Review Date: September 15, 2023

## BACKGROUND

The subject site is located at 2175 Gardenette Drive North. The property is a double frontage lot located between Gardenette Dr. N. to the south and Lilac Lane to the north. The property contains a single unit dwelling and attached garage that accesses Gardenette Drive. The property was platted in 1947 as part of the Garden-ette Park subdivision. According to Ramsey County GIS the home was originally constructed in 1950. The neighboring subdivision South

Shore Addition was platted in 1886. The Oak Grove subdivision also neighboring the Gardenette Park subdivision, was platted in 1895. This extended platting period of the area created a disconnected street pattern resulting in the double frontage lots on Gardenette Drive.

On double frontage properties both street lines are considered the front lot line when applying yard and parking regulations according to code. Because of this, both the yard facing Lilac Lane and the yard facing Gardenette Drive are considered front yards and there is no true back yard.

Community Comment. Under state law and the City's zoning regulations, variance applications require a public hearing. Accordingly, the City published notice of this request in the White Bear Press and mailed notice directly to property owners within 350 feet of the subject site. That notice directed all interested parties to send questions or comments to the Planning Department by mail, phone, or email or to attend the public hearing where they could learn about the request, ask questions, and provide feedback. Staff did not receive any comments from the community. During the public hearing, staff will provide an update if any public comments are received prior to the Planning Commission meeting.

#### **ANALYSIS**

Review Authority. City review authority for variance applications is considered a Quasi-Judicial action. This means the city acts like a judge in evaluating the facts against the legal standard. The city's role is limited to applying the legal standard of practical difficulties to the facts presented by the application. Generally, if the application meets the review standards, the variance should be approved.

Variance Review. The standards for reviewing variances are detailed in Minnesota State Statute 462.357, Subdivision 6. In summary, variances may be granted when the applicant establishes there are "practical difficulties" in complying with the zoning regulations. A practical difficulty is defined by the five questions listed below. Economic considerations alone do not constitute a practical difficulty. In addition, under the statute the City may choose to add conditions of approval that are directly related to and bear a rough proportionality on the impact created by the variance.

Staff has reviewed the variance request against the standards detailed in Minnesota State Statute 462.357, Subdivision 6 and finds the applicant has demonstrated a practical difficulty. The standards for reviewing a variance application and staff's findings for each are provided below.

1. Is the variance in harmony with the purposes and intent of the ordinance?

**Finding:** The purpose of the general building and performance standards is to "assure compatibility of uses; to prevent urban blight, deterioration and decay; and to enhance the health, safety and general welfare of the residents of the community." A fence is a compatible accessory use for a single unit dwelling and investment in the property could aid in the

prevention of urban blight. The fence will not be within sight lines of pedestrians or vehicles, so it will not detract from the safety and welfare of the community.

2. Is the variance consistent with the comprehensive plan?

**Finding:** The Comprehensive Plan provides general goals and polices to guide the future development and does not address specific guidelines for fences. The subject property is guided as Low Density Residential which is characterized by single family homes. According to the Comprehensive Plan this category allows densities of 3 to 9 units per acre. Based on the existing single unit house and the 10,833 sq. ft. lot size, the property is at a density of 4 units per acre, which falls within the density range for Low Density Residential. Constructing a fence will not impact the density of the property or the surrounding neighborhood or alter the character of the neighborhood, therefore the proposed variance is not inconsistent with the 2040 Comprehensive Plan.

3. Does the proposal put the property to use in a reasonable manner?

**Finding:** The requested variance puts the property to use in a reasonable manner. Fences are a common accessory structure for single unit dwellings. A majority of properties have a yard that is considered a backyard and therefore are permitted to have a 6 foot privacy fence along the lot line. Because of the unique nature of the lot being a double frontage lot, the property has no true rear yard where a 6 foot fence would be permitted by right. On this section of Gardenette Drive, the yards facing the Lilac Lane are treated as the backyard as all the houses face Gardenette, so it would be reasonable to construct a 6 foot fence.

4. Are there unique circumstances to the property not created by the landowner?

**Finding:** There are unique circumstances to the subject property not created by the homeowner. The lot is located between Lilac Lane and Gardenette Drive, making it a double frontage lot. Because of this, both the yard facing Gardenette Drive N and the yard facing Lilac Lane are considered front yards. This lot does not have true rear yard which allow for a 6 foot fence along the rear property line. Because of this, the only place a 6 foot fence is permitted by right would be on the sides of the house and 30 feet from the northern lot line. Additionally, the right-of-way on Lilac Lane is wider than the typical 60 feet, so there is additional boulevard space in front of the properties on the north side of Lilac Lane which face the subject property's rear yard.

5. Will the variance, if granted, alter the essential character of the locality?

**Finding:** The proposed variance will not alter the essential character of the locality. The lots on this section of Gardenette Drive are all double frontage lots. The subject property and the neighboring properties treat the yard facing Lilac Lane as the rear yard. Many of the lots have garages, sheds or chain link fences, which are not typically permitted in front yards. Six out of ten homes on this block have garages that sit within a few feet of the north lot line.



**RECOMMENDATION**

Staff recommend approval of the request, subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted in this application shall become part of the permit.
2. Per Section 1301.060, Subd.3, the variance shall become null and void if the project has not been completed or utilized within one (1) calendar year after the approval date, subject to petition for renewal. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
3. A zoning permit shall be obtained before any work begins.
4. The applicant shall verify the property line and have the property pins exposed at the time of the inspection.

**Attachments:**

Resolution

Zoning/Location Map

Plat Map

Applicant's Narrative and Plans

**RESOLUTION NO.**

**RESOLUTION GRANTING A FENCE HEIGHT VARIANCE FOR  
2175 GARDENETTE DRIVE NORTH WITHIN THE CITY OF WHITE BEAR LAKE, MINNESOTA**

**WHEREAS**, Michael Chilson has requested a variance from the 4 foot maximum height allowed for a fence located in the front yard, per code section 1302.030, subd.6 in order to construct a 6 foot fence along the property line at the property located at 2175 Gardenette Drive.

LEGAL DESCRIPTION: GARDEN-ETTE PARK W 37 FT OF LOT 6 AND EX W 48 FT LOT 7 BLK 2. PID 233022440008.

**WHEREAS**, the Planning Commission held a public hearing as required by the Zoning Code on August 28, 2023; and

**WHEREAS**, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed variance upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas;

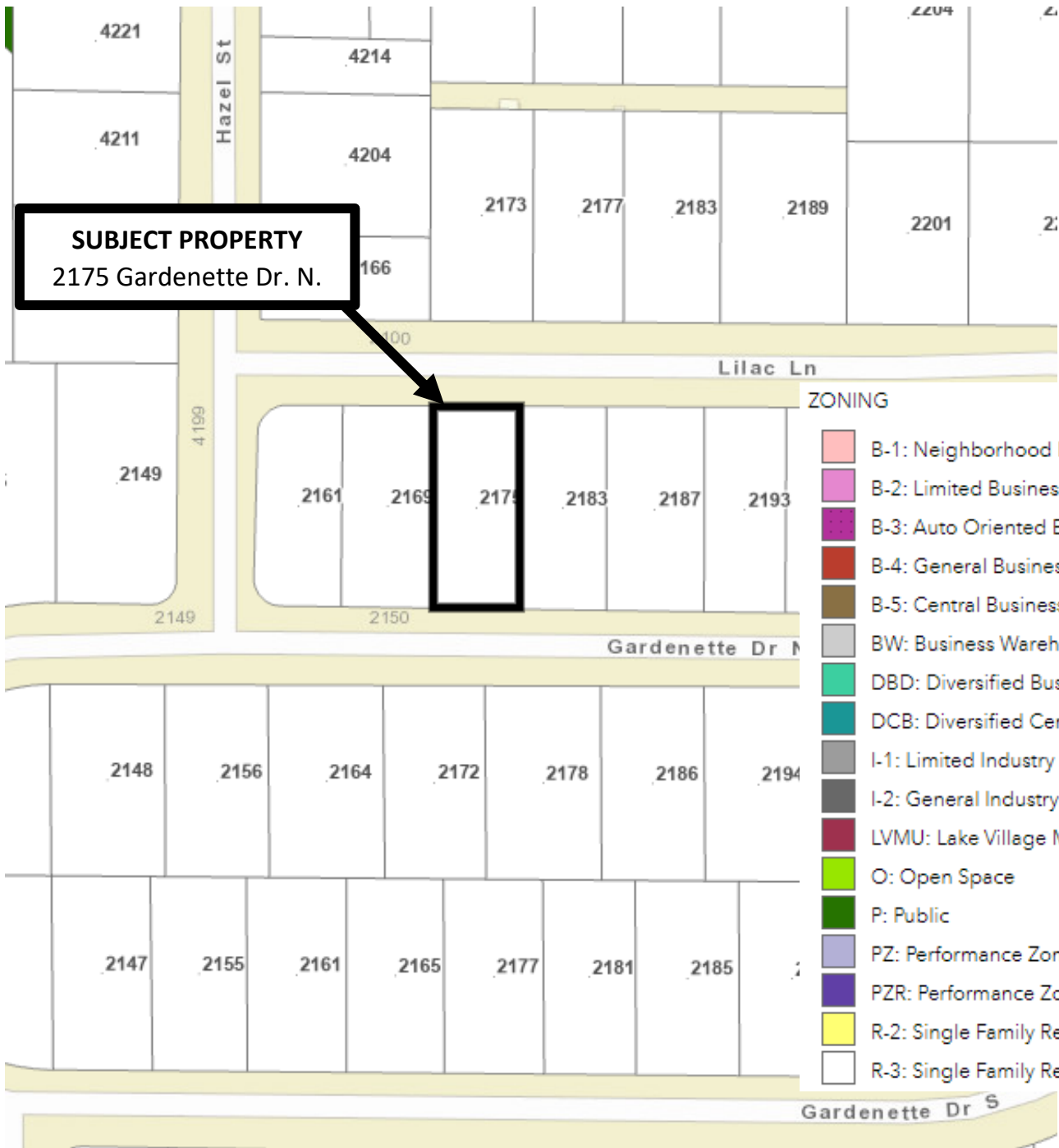
**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of White Bear Lake, Minnesota that the City Council accepts and adopts the following findings of the Planning Commission:


1. The requested variance is in harmony with purposes and intent of the ordinance.
2. The requested variance is consistent with the 2040 Comprehensive Plan.
3. Granting the requested variance will allow the property to be used in a reasonable manner.
4. There are unique circumstances to the property not created by the landowner.
5. Granting the requested variance alone will not alter the essential character of the neighborhood.

**BE IT FURTHER RESOLVED**, that the City Council of the City of White Bear Lake hereby approves the requested variance, subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted in this application shall become part of the permit.
2. Per Section 1301.060, Subd.3, the variance shall become null and void if the project has not been completed or utilized within one (1) calendar year after the approval date, subject to petition for renewal. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
3. A zoning permit shall be obtained before any work begins.
4. The applicant shall verify the property line and have the property pins exposed at the time of the inspection.



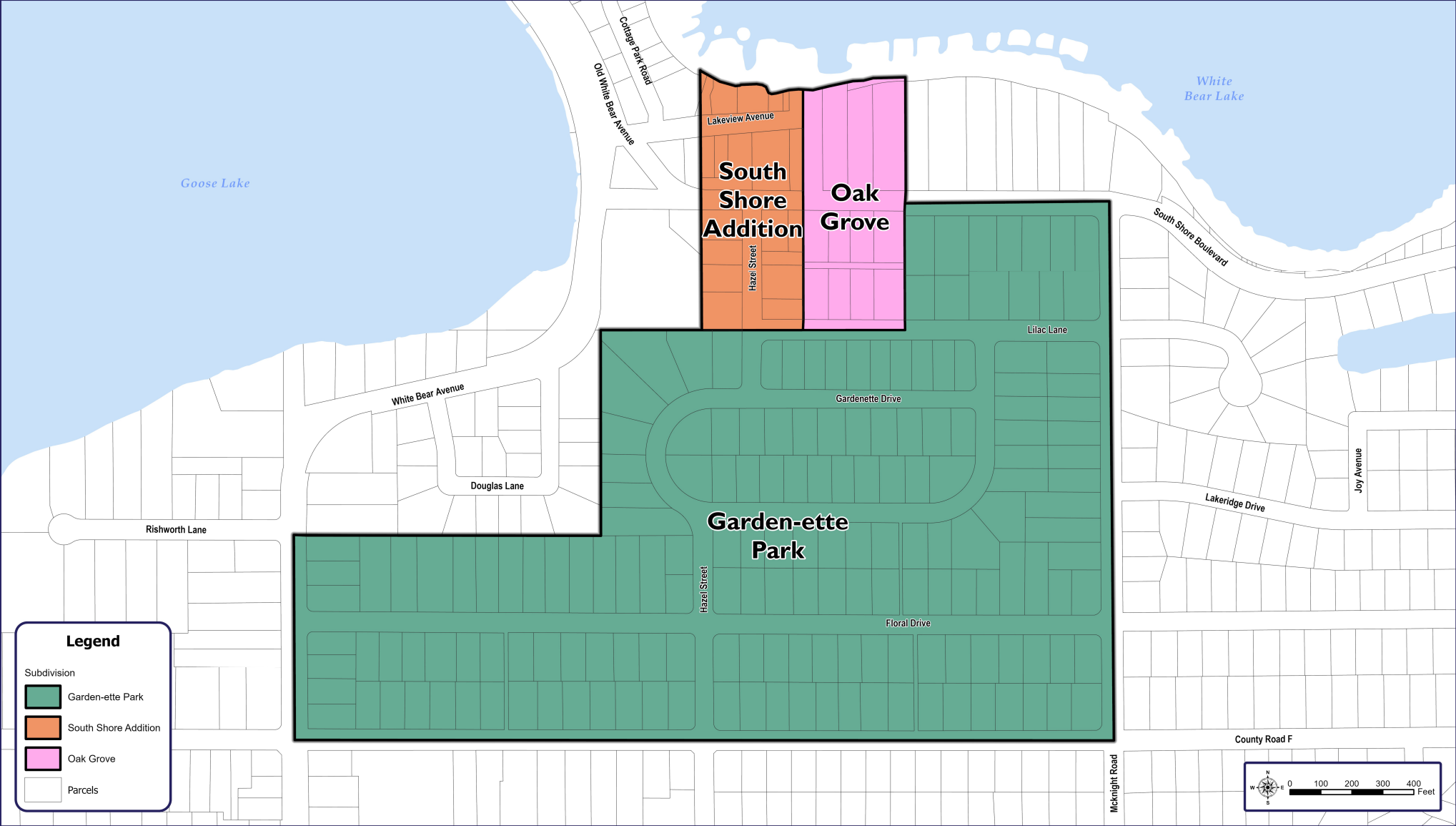


 <p>City of White Bear Lake Planning &amp; Zoning 651-429-8561</p>	<p><b>CASE NO.</b> : <u>23-25-V</u></p>
	<p><b>CASE NAME</b> : <u>2175 Gardenette Dr N – Fence Height</u></p>
	<p><b>DATE</b> : <u>8-28-2023</u></p>



# Subdivisions

## City of White Bear Lake



Dear friends,

I am writing to seek a fence variance for the backyard of my single family home at 2175 Gardenette Dr N. Current zoning rules say that the fences must be no more than 4 feet tall; I respectfully request a fence that is 6 feet tall.

Current zoning rules allow for a 6 foot tall fence in peoples backyards, but, I have something a little different than most. My backyard goes all the way to the neighboring street, Lilac Lane. The city views this as a "front yard" and would only allow a 4 ft fence.

The reason I want the fence is simply for privacy. From Lilac Lane you can see very clearly into my house as it has multiple windows facing Lilac Lane at street level. At the height of 4 feet I believe it will still be easy to see into the house. I believe having a private backyard / privacy is something everyone should have if they want it.

Thank you so much for your time and consideration.

Sincerely,

Michael Chilson

Gardenette Dr N

House and garage

Neighbors  
Fence

Bushes

35'

45'

Powerline Pole

30'

Proposed 6ft fence

Swing gate

Swing gate 8'

30'



Lilac Lane

Fence 15 ft from curb.



**City of White Bear Lake**  
Community Development Department

# M E M O R A N D U M

**TO:** The Planning Commission  
**FROM:** Ashton Miller, City Planner  
**DATE:** August 28, 2023  
**SUBJECT:** BCD Homes Variance – 4669 Lake Avenue – Case No. 23-26-V

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## SUMMARY

The applicant, BCD Homes, is requesting a 1.3 foot variance from the 4 foot maximum height for a solid wall, in order to retain two 5.3 foot tall stone pillars constructed on the property located at 4669 Lake Avenue. Based on the findings made in this report, staff finds that the applicant has demonstrated a practical difficulty with meeting the City's zoning regulations as required by Minnesota Statute 462.357, Subd.6 and recommends approval of this request.

## GENERAL INFORMATION

Applicant/Owner: BCD Homes / John & Shirley Johnson

Existing Land Use / Zoning: Single Family Home; zoned R-2: Single Family Residential & S: Shoreland Overlay

Surrounding Land Use / Zoning: All Directions: Single Family Homes; zoned R-2 & S

Comprehensive Plan: Low Density Residential

Lot Size & Width: Code: 15,000 square feet; 100 feet wide  
 Site: 34,848 square feet; 150 feet wide

60 Day Review Date: September 16, 2023

## BACKGROUND INFORMATION

The subject site is located on the north side of Lake Avenue, just east of Banning Avenue. A previous home was demolished in early 2021 and a permit for construction of a new single family home and attached garage was issued in September 2021. The plans did not include the pillars along Lake Avenue that were constructed sometime this spring when the builders' focus shifted to landscaping and other exterior improvements (see applicant's narrative). In April of 2023, the Building Official was on site for an inspection of the home and found the pillars to be too tall. Staff then directed the builders to reduce the height of the pillars or submit a variance



request.

The pillars are located on either side of a five foot wide walkway that extends from the front door of the home to Lake Avenue. The pillars are made of decorative stone that match the façade of the new home, adding to the lakeside cottage aesthetic of the neighborhood. They are constructed in a skillful manner that does not diminish neighboring property values.

The pillars also do not pose a health or safety risk to residents. Lake Avenue is a one way, low speed road, which the subject site does not have vehicular access to, so there is no impact on vehicle sight lines. Further, there is roughly 14 feet between the pillars and the curb of the road, so there is space for vehicles to see any pedestrians crossing the street to access the trail.

Community Comment. Under state law and the City's zoning regulations, variance applications require a public hearing. Accordingly, the City published notice of this request in the White Bear Press and mailed notice directly to property owners within 350 feet of the subject site. That notice directed all interested parties to send questions or comments to the Planning Department by mail, phone, or email or to attend the public hearing where they could learn about the request, ask questions, and provide feedback. Staff received an email from Craig and Gloria Drake at 4647 Lake Avenue, an email from Karen and John Taylor at 4661 Lake Avenue and one voicemail from Kathy Hoelscher at 4673 Lake Avenue supporting the request. One email was submitted from Susan Oven at 4681 Lake Avenue questioning why the work was done without a permit and one neighbor, Lynn Nelson, stated she was not opposed to the pillars. During the public hearing, staff will provide an update if any public comments are received prior to the Planning Commission meeting.

## **ANALYSIS**

Review Authority. City review authority for variance applications is considered a Quasi-Judicial action. This means the city acts like a judge in evaluating the facts against the legal standard. The city's role is limited to applying the legal standard of practical difficulties to the facts presented by the application. Generally, if the application meets the review standards, the variance should be approved.

Variance Review. The standards for reviewing variances are detailed in Minnesota State Statute 462.357, Subdivision 6. In summary, variances may be granted when the applicant establishes there are "practical difficulties" in complying with the zoning regulations. A practical difficulty is defined by the five questions listed below. Economic considerations alone do not constitute a practical difficulty. In addition, under the statute the City may choose to add conditions of approval that are directly related to and bear a rough proportionality on the impact created by the variance.

Staff has reviewed the variance request against the standards detailed in Minnesota State Statute 462.357, Subdivision 6 and finds the applicant has demonstrated a practical difficulty. The standards for reviewing a variance application and staff's findings for each are provided below.

1. Is the variance in harmony with the purposes and intent of the ordinance?

**Finding:** Fence standards are part of City Code Section 1302, General Building and Performance Standards. The purpose of this section of the code is, “to establish general development performance standards. These standards are intended and designed to assure compatibility of uses; to prevent urban blight, deterioration and decay; and to enhance the health, safety and general welfare of the residents of the community.” The fence regulations provide specific standards for the location and height of typical wood framed fence and generally prohibit solid walls in excess of four (4) feet above the grade of the adjacent ground. The pillars are approximately 2.5’ wide and 5.3’ tall and function more as a front yard entry feature or large fence post rather than a fence. The remaining portion of the wall is roughly 2’ tall and would not typically require a permit. The current zoning code does not adequately distinguish between decorative features such as these pillars and boundary fences, which is why the fence standards have been applied in this instance. Staff anticipates this ambiguity to be addressed in the zoning code update.

2. Is the variance consistent with the comprehensive plan?

**Finding:** The 2040 Comprehensive Plan does not speak directly to fences, pillars, monuments or the like, however the 2040 Future Land Use Map guides the property low density residential, of which typical housing types include single family detached and attached. Fences, landscaping, and other boundary demarcations are common accessory uses to single-family homes, therefore the proposal is not inconsistent with the comprehensive plan.

3. Does the proposal put the property to use in a reasonable manner?

**Finding:** This proposal puts the subject property to use in a reasonable manner. The pillars are mainly for aesthetic purposes, creating a focal entry point in the front yard. A number of shrubs, grasses, and perennials have been incorporated around the pillars to soften and enhance the landscaping.

4. Are there unique circumstances to the property not created by the landowner?

**Finding:** There are not unique circumstances to the property not created by the landowner, however staff finds that the height of portion of the stone feature that exceeds the 4 foot height limit is relatively minor compared to the whole section of the wall. The pillars are about 2.5 feet wide each and the wall is just under 40 feet in length, so only 12% of the entire wall is above the 4 foot limit. The majority of the wall is roughly 2 feet tall, which does not even require a permit.

5. Will the variance, if granted, alter the essential character of the locality?

**Finding:** Granting the requested variance will not alter the essential character of the surrounding neighborhood. There are other homes along Lake Avenue that have similar stone

features. In 2019, a variance was granted for a seven foot tall stone wall at 4955 Lake Avenue and stone entry pillars can be found in various front yards along Lake Avenue.

One of the reasons that the city limits the height of solid walls is to prevent properties from feeling closed off from the neighborhood. This particular feature is not used as a barrier or enclosure like a typical fence is, so is not creating a stark wall-like appearance. Rather, the front yard, which is 150 feet wide, generally remains open and the stone pillars blend in with the unique character of the Lake Avenue thoroughfare.

#### **RECOMMENDATION**

Staff recommends approval of the request, subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted in this application shall become part of the permit.
2. Per Section 1301.060, Subd.3, the variance shall become null and void if the project has not been completed or utilized within one (1) calendar year after the approval date, subject to petition for renewal. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
3. A zoning permit shall be obtained and all inspections passed.
4. The applicant shall verify the property line and have the property pins exposed at the time of the inspection.

#### **Attachments:**

Draft Resolution

Zoning/Location Map

Applicant's Narrative & Plans (4 Pages)

Staff Photos

Neighbor Comments – 4647 Lake Avenue

Neighbor Comments – 4681 Lake Avenue

Neighbor Comments – 4661 Lake Avenue

**RESOLUTION NO.**

**RESOLUTION GRANTING A HEIGHT VARIANCE FOR  
4669 LAKE AVENUE WITHIN THE CITY OF WHITE BEAR LAKE, MINNESOTA**

**WHEREAS**, John and Shirley Johnson (23-26-V) have requested a 1.3 foot variance from the 4 foot maximum height for a solid wall, per code section 1302.030, Subd.6.a in order to retain two stone pillars at the following location:

LEGAL DESCRIPTION: Attached as Exhibit A. PID 143022440030

**WHEREAS**, the Planning Commission held a public hearing as required by the Zoning Code on August 28, 2023; and

**WHEREAS**, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed variance upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of White Bear Lake, Minnesota that the City Council accepts and adopts the following findings of the Planning Commission:

1. The requested variance is in harmony with purposes and intent of the ordinance.
2. The requested variance is consistent with the 2040 Comprehensive Plan.
3. Granting the requested variance will allow the property to be used in a reasonable manner.
4. There are not unique circumstances to the property not created by the landowner; however, the historical layout of the building necessitates the setback variance in this location.
5. Granting the requested variance alone will not alter the essential character of the neighborhood.

**BE IT FURTHER RESOLVED**, that the City Council of the City of White Bear Lake hereby approves the requested variance, subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted in this application shall become part of the permit.
2. Per Section 1301.060, Subd.3, the variance shall become null and void if the project has not been completed or utilized within one (1) calendar year after the approval date, subject to petition for renewal. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
3. A zoning permit shall be obtained and all inspections passed.
4. The applicant shall verify the property line and have the property pins exposed at the time of the inspection.



## RESOLUTION NO.

### EXHIBIT A

#### Legal Description

Those parts of Lots 2, 3 and 4, AUDITOR'S SUBDIVISION NO. 42, Ramsey County, lying southerly and southeasterly of the following described line:

Commencing at the most westerly corner of Lot 5, AUDITOR'S SUBDIVISION NO. 42; thence southeasterly along the northeasterly line of said Lot 4, 140.92 feet to the point of beginning; thence southwesterly at right angles to said northeasterly line of said Lot 4, a distance of 75.00 feet to a point; thence westerly to a point on the most westerly line of said Lot 2, 154.65 feet South of the westerly end of the North line of said Lot 4;

and lying southwesterly of Line A, described as follows:

Commencing at the most westerly corner of Lot 5, AUDITOR'S SUBDIVISION NO. 42; thence southeasterly along the northeasterly line of said Lot 4, AUDITOR'S SUBDIVISION NO. 42, a distance of 140.92 feet to the point of beginning; thence southwesterly at right angles to said northeasterly line of said Lot 4, a distance of 10.00 feet; thence southeasterly and parallel with the northeasterly line of said Lot 4, a distance of 235.85 feet to a Judicial Landmark on the southeasterly line of said Lot 4 where it intersects Line A, lying 10.00 feet southwesterly of the most easterly corner of said Lot 4

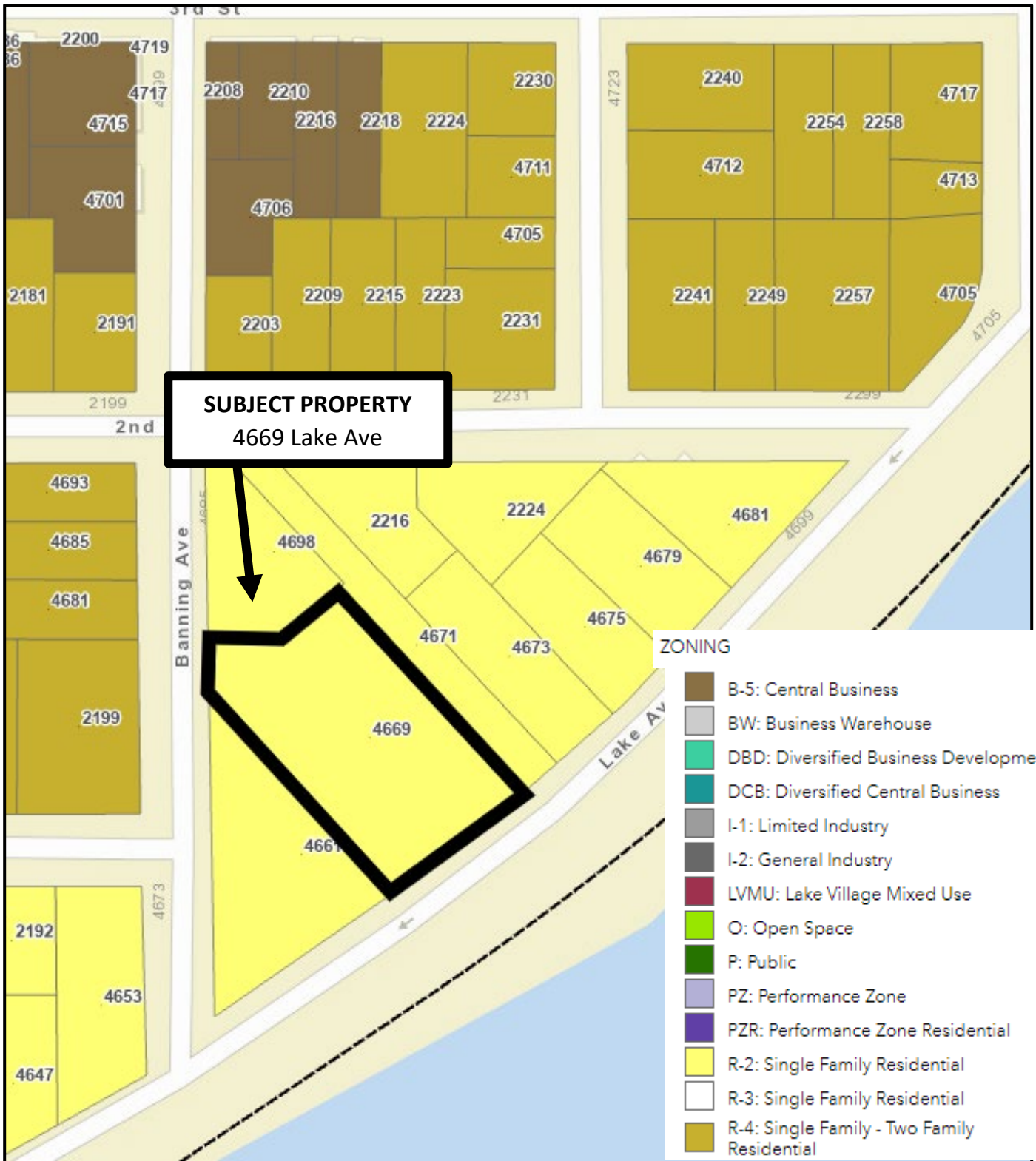
and those parts of Lake Avenue lying southeasterly of, and adjacent to, the southeasterly lines of the above-described portions of said Lots 2, 3 and 4;

and accretions to the above-described portions of said Lots 2, 3 and 4, AUDITOR'S SUBDIVISION NO. 42 lying between said Lake Avenue, the water's edge, and lines described as follows


Commencing at a Judicial Landmark on the southeasterly line of said Lot 4, AUDITOR'S SUBDIVISION NO. 42 where it intersects Line A, lying 10.00 feet southwesterly of the most easterly corner said Lot 4; thence southeasterly along said Line A extended 68.00 feet to a Judicial Landmark; thence continuing southeasterly along said extended Line A to the shoreline of White Bear Lake; thence southwesterly along said shoreline to the intersection with the southwesterly line of said Lot 2, AUDITOR'S SUBDIVISION NO. 42, extended southeasterly from a Judicial Landmark at the most southerly corner of said Lot 2 to the shoreline; thence northwesterly along said extended southwesterly line of said Lot 2 to a Judicial Landmark 63.92 feet southeasterly of the most southerly corner of said Lot 2; thence continuing northwesterly along said extended southwesterly line of said Lot 2, 63.92 feet to said Judicial Landmark at the most southerly corner of said Lot 2; thence northeasterly, along the southeasterly lines of said Lots 2, 3 and 4 to the point of beginning and there terminating

a portion of the boundary lines of which have been judicially determined in Court File CO-04-4882. For the purposes of this registration proceeding, when the shoreline of White Bear Lake recedes below the ordinary high water mark, said extended lines shall not be extended beyond 400 feet. Subject to the proprietary and sovereign rights of the State of Minnesota in all that portion of the land lying below the natural ordinary high water mark thereof; not intending, however, to deprive the fee owners of the usual riparian rights that attach to the land riparian to a navigable public body of water incident to ownership thereof.

Subject to an easement in favor of the City of White Bear Lake for sidewalk, roadway, utility, and bike path purposes over, under, and across that portion of the property lying parallel with and 45.00 feet southeasterly of the southeasterly lines of the above-described portions of Lots 2, 3, and 4, AUDITOR'S SUBDIVISION NO. 42, as set forth in the instrument dated February 15, 2006, submitted for recording on February 15, 2006 as Document No. 3926467 of Ramsey County Records.



**SUBJECT PROPERTY**  
4669 Lake Ave

 <p>City of White Bear Lake Planning &amp; Zoning 651-429-8561</p>	<p><b>CASE NO.</b> : <u>23-26-V</u></p>
	<p><b>CASE NAME</b> : <u>BCD HOMES Wall Height</u></p>
	<p><b>DATE</b> : <u>8-28-2023</u></p>

BCD Homes

4669 Lake Ave, White Bear Lake

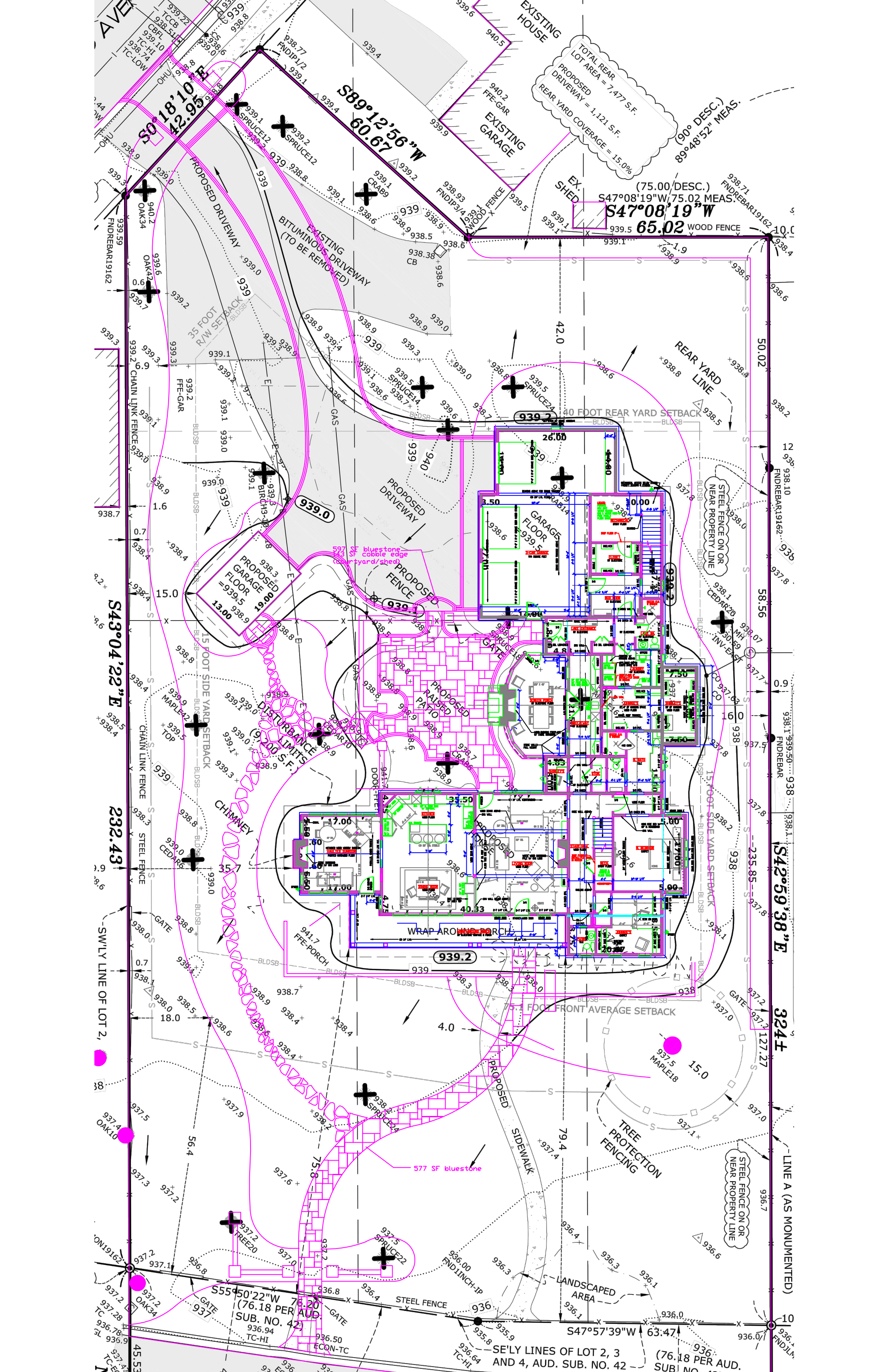
Stone pillar variance

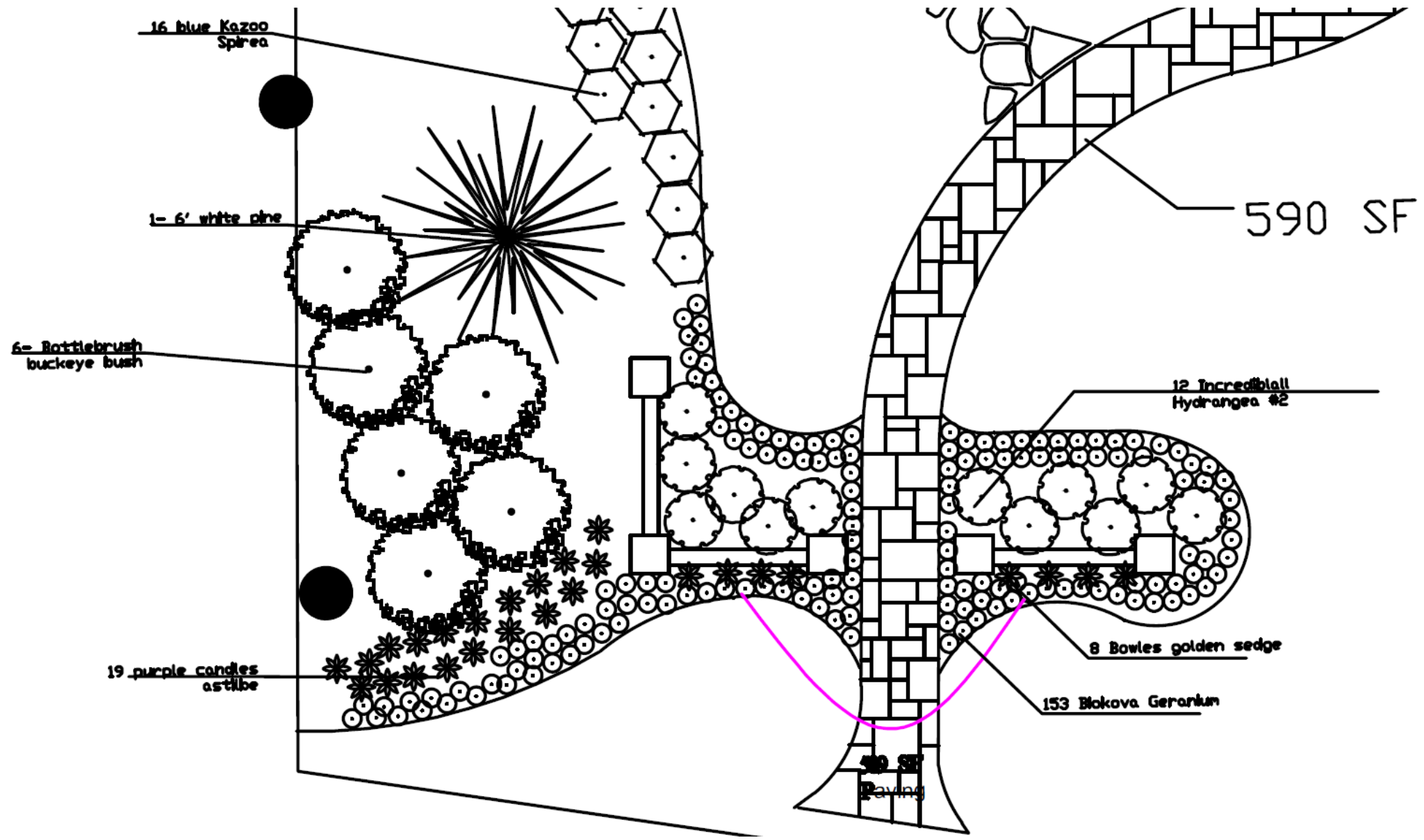
We did a stone wall and pillars along the road at Lake Ave, two of the pillars ended up taller than 4', so we are requesting a variance to leave the pillars at their current height of 64".

When we were doing the block and stone work the grade was not at final height, we set the block work at what I thought was going to be the needed height for the stone, unfortunately we went too high with them. We had tented off and heated the area to do the stonework around the block, by the time I realized how tall they were my Mason was already completed with them. The height is not overly tall and does look appropriate with the structure and landscape design. I am hoping you can approve this variance so we can keep pillars as they are because they really do look good as they are.

Thank You.







# Landscape Plan





## Ashton Miller

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**From:** Craig Drake <craig\_drake@yahoo.com>  
**Sent:** Saturday, August 19, 2023 3:55 PM  
**To:** Community Development  
**Cc:** gloria\_drake@yahoo.com  
**Subject:** BCD Homes variance

We live at 4647 Lake Ave., and support the home builder to allow the current front entry gate to remain at the height that it is.

Thank you,

Craig and Gloria.

Sent from my iPad

## Ashton Miller

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**From:** susan oven <susan.oven@gmail.com>  
**Sent:** Tuesday, August 22, 2023 7:49 AM  
**To:** Community Development  
**Subject:** Fwd: 4669 Lake Av variance

Dear Planning Commission members,

A neighbor just corrected me- I thought the variance request was for the property at the corner of Lake and Morehead, and the pillars were the ones that have been in place for many years. My mistake!

I understand the variance is for the property one house east of Banning/Lake. This brings me to a question: Why is there a variance request for pillars that have just been built? Shouldn't the variance have been requested and approved before the pillars were put up? Especially since this dwelling was under construction for over two years, you would think there would have been adequate time to consider the variance request.

Susan Oven

Begin forwarded message:

**From:** susan oven <[susan.oven@gmail.com](mailto:susan.oven@gmail.com)>  
**Subject:** 4669 Lake Av variance  
**Date:** August 20, 2023 at 4:00:00 PM CDT  
**To:** [communitydevelopment@whitebearlake.org](mailto:communitydevelopment@whitebearlake.org)

Dear Planning Commission members,

Please retain the two stone pillars at 4669 Lake Avenue. They are a lovely reminder of the history of White Bear Lake.

Thank you,  
Susan Oven  
4681 Lake Av.

Sent from my iPhone

## Ashton Miller

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**From:** Karen Taylor <kwttaylor784@gmail.com>  
**Sent:** Thursday, August 24, 2023 10:12 AM  
**To:** Community Development  
**Subject:** variance for 4669 Lake Ave

We live next door to Johnsons and would like to see the stone pillars remain in place. The beautiful stonework fits with the style of the house and it is well landscaped. A nice addition to the neighborhood.

Karen and John Taylor  
4661 Lake Avenue