
CITY OF EMILY

PLANNING COMMISSION/BOARD OF ADJUSTMENT

AGENDA

Tuesday October 7, 2025

Please Silence All Cell Phones.

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Roll Call**
4. **Additions or Deletions to Agenda** *(Commission Action-Motion)*
5. **Open Forum-** *This is the time to provide comments to the Planning Commissioners about items not on the agenda. No action will be taken on these items. If you're speaking, please come to the podium, state your name and address for the record.*

6. **Public Hearing-Variance Request**

Open Public Hearing *(Chair to open Public Hearing discussion)*

- a. Public Hearing-Variance Request Public Hearing on Tuesday, October 7, 2025, to consider Variance requests for 21930 County Road 1, Emily, MN, Parcel Number 21220560, property owners Mike and Julie Smithson.

A number of inter-related variance requests will be reviewed:

1. **Staff Report** *(Steve to provide)*
2. **Public Testimony** *(Applicant and others)*
 - Septic System Upgrades-(Appears house now to meet code)
 - House Addition-home addition and decks (Setback variances to Lake and Road)
 - Garage, Driveway and Holding Tank Addition (Setbacks to Lake and Road)

Close Public Hearing *(Chair to close Public Hearing discussion)*

7. **Consideration of Smithson Variance Request.** *(Commission Action-Motion)*

8. Public Hearing-Ordinance Regulating Communication Towers and Antennas

9. Open Public Hearing *(Chair to open Public Hearing discussion)*

b. Public Hearing- Public Hearing on Tuesday, October 7, 2025 to consider recommendation of approval of an Ordinance Regulating Communication Towers and Antennas. The hearing will be held at 6:00 PM in the Emily City Hall Council Chambers, 39811 State Hwy 6, Emily, MN, 56447.

Close Public Hearing *(Chair to close Public Hearing discussion)*

10. Consideration of Ordinance Request. *(Commission Action-Motion)*

11. Approval of Minutes

a. September 2, 2025 regular meeting *(Commission Action-Motion)*

12. Land Use Ordinance Subcommittee Meeting update

13. New Business

14. Old Business

15. P&Z Administrator's Report

16. Adjourn *(Commission Action-Motion)*

This agenda is not exclusive. Other business may be discussed as deemed necessary.

City of Emily-Variance Review Report

Planning Commission (BZA) Review Date: October 7, 2025, 6:00 PM

Council Review Date (Appeal Only): October 8, 2025

Applicant Information

Property Owners: Mike and Julie Smithson

Mailing Address: 7389 Moccasin Trail, Chanhassen, MN 55317

Site Address (Subject Parcel): 21930 County Road 1, Emily, MN

Parcel Number: 21220560

Introduction: This report examines a variance request for parcel #21220560 in the City of Emily (Crow Wing County, MN), a lakeshore residential property owned by Mike and Julie Smithson. The Smithsons are seeking **multiple variances** to allow improvements on their property while addressing unique site constraints. Below, the report details the **parcel information** (location, legal description, zoning), the **specific variances requested** and their rationale, the **findings of fact** supporting the variance (demonstrating possible compliance with legal criteria and the comprehensive plan), the **conditions of approval** recommended to mitigate impacts, and relevant **supporting documents/communications** that provide background context.

The Smithsons have been working on this project with city staff for over one year. In addition, they met once with the Planning Commission to go over ideas and get recommendations. Due to those conversations much of the original project has been downsized, the garage is smaller than the one previously considered (there is an expired variance on the property for a garage of approximately the same size, but never built), the proposed expansion of the house is smaller than originally considered, the SSTS is being relocated onto the property and the porch addition on the Lake side of the project will not be enclosed or improved. After adjustments, the new septic system meets code but still requires a variance for the holding tank by the garage.

Legal Description: *PT OF GOV LOT 6 SEC 22 & PT OF GOV LOT 2 SEC 23 DESC AS FOL: BEG AT THE SE COR OF SAID GOV LOT 6, WHICH IS ALSO THE SW COR OF SAID GOV LOT 2, THEN S 85°04'49" W (ASSUMED BEARING) 12 FT M/O/L ALONG THE S LINE OF SAID GOV LOT 6 TO THE W'LY ROW LINE OF CO STATE AID HWY #1, THEN NE'LY ALONG SAID ROW LINE TO ITS INTERSECTION WITH THE N LINE OF THE S 281.2 FT OF SAID GOV LOT 2, THEN S 87°27'31" W 130 FT M/O/L ALONG SAID N LINE & ITS W'LY PROJECTION TO THE SHORE OF RUTH LAKE, THEN SW'LY ALONG SAID SHORE TO ITS INTERSECTION WITH THE S LINE OF SAID GOV LOT 6, THEN N 85°04'49" E 162 FT M/O/L ALONG SAID S LINE TO THE POB; Section 22, Twp 138, Rng 26*

(This legal description shows that the parcel spans parts of Government Lots 6 and 2 in Sections 22 and 23, respectively, abutting **Ruth Lake** on the west and **County Road 1** on the east.)

Variance Request

The applicants are requesting approval of **two distinct variances** (some with multiple parts) to facilitate improvements on their lakefront residential property. Each component of the project needs relief from City ordinance setback requirements (primarily the Shoreland lake setback and the County Road right-of-way setback):

1. **Septic System (SSTS) Upgrade:** After changes, the proposed septic system for the house meets setback requirements and does not require a variance. The holding tank for the garage will still require a variance.
2. **Residential Addition & Deck Encroachment: Variance for a home addition and wrap-around deck.** The owners plan to **add onto the south side of the existing house** and construct a **wrap-around deck with steps**. These improvements will encroach into the **lake setback** (from Ruth Lake) and the **road setback** (from County Rd 1) beyond what the ordinance allows. The addition and deck are designed to improve the home's functionality (adding living space, a larger kitchen, an office, etc.), but given the lot's narrow depth, any expansion triggers setback issues. Thus, variances are needed to permit the house expansion and deck as proposed. The existing deck towards the lake already exceeds this new request, and this new request does not go closer to the OHW than a deck that what is currently in place.

The variance request for the house includes:

- a) House addition, including steps and wrap around porch, is 40 feet from Lake OHW, when 75 feet is mandated, **requiring a 35 foot variance**.
 - b) The House addition, including wrap around deck and steps is 24 feet from County Road 1, when 50 feet is mandated, **requiring a 26 foot variance**.
3. **Detached Garage, Holding Tank & Driveway Extension: Variance for a new accessory garage structure near the lake and road, with holding tank.** The Smithsons wish to **build a detached garage** on the property (with an associated septic holding tank) and extend the existing driveway for access. The planned garage site is within the ordinary high-water mark setback from the lake and within the road setback, so it cannot be built without a variance. The new garage would replace or supersede a previously approved garage plan from 2021. (In fact, an older variance granted in 2021 for a similar lakeside garage will

be **repealed** as part of this process, to be replaced by the current proposal.) The variance allows the garage and driveway extension to be constructed in the only feasible area, given the parcel's shape and dual frontage on lake and road.

The variance request for the garage, driveway and holding tank is:

- a) The garage is 39 feet to the Lake OHW, 75 feet is mandated, **requiring a 36 foot variance.**
- b) The edge of the asphalt is 28 feet from the Lake OHW, when 75 is mandated, **requiring a 47 foot variance.**
- c) The garage and asphalt is within 10 feet of the County Road ROW, when 50 feet is mandated, **requiring a 40 foot variance.**
- d) The holding tank is 55 feet from the Lake OHW, and 10 feet from the road ROW, requiring a **20 foot variance** from the Lake OHW (It meets State standard from the road ROW-no separate city standard)

Reasons for the Request & Practical Difficulties: The common rationale behind these variances is that **strict application of the standard setback controls would prevent reasonable use and updates to this unique property.** This parcel is **unusually configured**, essentially a long, narrow strip between a lake and a road, leaving **no building area that fully complies** with all setbacks. In order to make the property suitable for full-time residential use (with a compliant septic system, adequate living space, and garage storage), the owners must build into setback areas. The **practical difficulty** is not self-created; it arises from the **lot's physical constraints** and the public interests (lake and road) on either side. The Smithsons have demonstrated good-faith efforts to minimize the degree of variance needed, for example, they **reduced the size of the house addition and shifted the garage location further from the lakeshore to reduce visual impact and meet the spirit of the rules, they are proposing to build a new septic system on site, but have made adjustment to meet code.** They are requesting only what is necessary to achieve a functional layout for their home (intending to use it as a permanent residence, not for any commercial purpose). The variances, if granted, would allow *reasonable use* of the property that is in harmony with its residential/lakeshore character.

(See the attached application and personal findings of the applicant)

Potential Findings of Fact

In evaluating the variance, the City of Emily must consider the "**practical difficulties**" test and other criteria set by state law and the local ordinance. Below are the key **findings of fact** as addressed by city staff, and they appear to demonstrate that

the proposal meets the spirit of the ordinance and will not harm public interests or the neighborhood:

- **Unique Property Constraints:** The subject property's situation is exceptional, it is **bordered by Ruth Lake on the west and County Road 1 on the east**, resulting in overlapping setback zones that **leave no adequate buildable area** for improvements without a variance. This physical layout (a narrow lakeshore parcel) is highly unusual and directly creates the need for relief.
- **Not a Self-Created Hardship:** The **plight of the landowner is due to circumstances unique to the property and not created by the landowner**. The Smithsons did not plat or shape the lot; they purchased it as is. It is described as a **"very large, but thin" parcel** by staff, meaning the lot's shoreline length is long but the depth is limited. The strict code requirements (e.g. a 75-foot lake setback and county road setback) would be **impractical to apply given the lot's size and shape**. Thus, the need for variances stems from the land's original configuration, not any action of the owners.
- **Reasonable Use of Property:** Without the variances, the owners would be denied a reasonable use of their property, specifically, they wouldn't be able to upgrade the home for full-time occupancy or have any garage, which are normal residential uses. Granting relief permits a **reasonable residential use that is in line with expectations for a single-family home**. Importantly, **the variance is not motivated solely by economic considerations**. The Smithsons' goal is to make the property their permanent home with modern amenities (safe septic, sufficient living space, garage storage), not to derive extra financial gain. In fact, their June 2025 correspondence emphasizes they are "trying to only add what we need to make this our permanent residence", indicating the project is about personal use and necessity, not profit.
- **Consistency with Intent of Ordinance and Plan:** The variances, if granted with appropriate conditions, **will still be in keeping with the spirit and intent of the City's land use code and the Comprehensive Plan**. The ordinance's intent in this shoreland context is to **protect water quality, preserve the lakeshore character, and ensure safety near roads**. Those intents are upheld here: for example, **stormwater from new impervious areas will be managed on-site by the existing natural ridge (ice ridge) before reaching the lake**, and the structures are being sited to maintain as much setback as feasible (the garage is placed as far back from the lake as the property allows, and screening vegetation will remain). The Comprehensive Plan's goals for housing and environmental protection are both addressed, the owners can improve their home (meeting housing needs) in a way that **avoids environmental degradation** (septic

upgrade, stormwater mitigated). Thus, the *spirit* of the rules is observed even though the *letter* is relaxed.

- **Permitted Use in Zone:** The proposal **will not create a land use that is not permitted** in the zoning district. The parcel is zoned “**Shoreland Residential**”, which allows single-family dwellings and customary accessory structures. The Smithsons intend to continue using the property as a single-family residence; the variances only concern placement of structures on the lot, not the type of use. A house, a septic system, and residential accessory structures (like a garage) are all inherently allowed uses on residential land. The variance does not grant any use that would otherwise be forbidden, it merely permits these structures at reduced setbacks.
- **No Alteration of Essential Character:** The requested variances **will not alter the essential character of the locality** or neighborhood. The surrounding area is a mix of lake homes and cabins; what is proposed (home expansion and a garage) is consistent with that character. The **scale and visibility** of the new structures are being managed: “*the structure will be screened from view from the lake*” by retaining vegetation and the natural ridge. Additionally, other properties in the vicinity have accessory buildings and additions of **similar size** to what is proposed, so it will not introduce something out of the ordinary. By keeping the new garage low-profile and behind the tree line, and by moderate sizing of the addition, the plan ensures the **look and feel of the shoreline** is preserved. Neighbors and lake users should see little difference in the property’s appearance after the project – thus the *essential character* (a lakeside residence with accessory structures) remains intact.
- **Minimal Environmental Impact:** The plan takes into account environmental protection measures. The **existing and proposed impervious surface coverage will remain under 20% of the lot area**, which is within the City’s allowable limit (20% max) for shoreland parcels. This means the site isn’t being overbuilt, green space is preserved to absorb runoff. Additionally, **the new septic system will greatly improve environmental conditions** by replacing an old non-compliant system. The new SSTS is to be placed north of the dwelling and is **not in the immediate vicinity of the lake** or the new structures, ensuring it functions properly without risk to the lake. A significant natural feature on the lot, a “**historic**” ice ridge along the shoreline, will remain untouched and continue to act as a buffer that **filters and infiltrates stormwater runoff before it reaches Ruth Lake**. By **conditioning the variance on preserving this ridge** (see Conditions), the City ensures that any additional runoff from the new roof and driveway will be mitigated on-site. These considerations show the variance can be granted **without detriment to water quality, public safety, or adjacent properties**.

In sum, the findings above seem to establish that the statutory requirements for granting a variance are met: **practical difficulties** are present (due to the land's unique layout, not caused by the applicants), the variance is **in harmony with the general purpose and intent** of the ordinance and consistent with the comprehensive plan, and the proposed use is **reasonable** and will **not alter the essential character** of the locality. These findings would be formally adopted as part of the approval.

Smithson Parcel Number 21220560 Impervious Surface Calculations

29,661 Square Feet (.07 acres)

	Existing (Sq. Ft.)	Proposed (Sq. Ft.)
Cabin	1,100 (3.7%)	1,585 (5.3%)
Shed	164 (0.6%)	164 (0.6%)
Flagstone Walkway	90 (0.3%)	90 (0.3%)
Bituminous Driveway	2,403 (8.1%)	2,444 (8.2%)
Proposed Garage	0	960 (3.2%)
	3,757 (12.7%)	5,736 (17.7%)

Impervious surfaces in a Shoreland Residential District should not exceed 20%.

Potential Conditions of Approval

If the variance is approved, the City will impose certain **conditions** to ensure that the project remains in compliance with the intent of the ordinance and to mitigate any potential negative effects. The following **conditions of approval** are recommended (and in some cases were explicitly cited in draft documents or the approval resolution):

1. **Preservation of "Historic" Ice Ridge:** The **natural earthen ridge along the shoreline (historic ice ridge) must not be disturbed. No removal or alteration of vegetation on that ridge is allowed.** This condition protects the existing natural stormwater barrier so that runoff from the new addition and garage will infiltrate into the ground behind the ridge, rather than directly entering Ruth Lake. *(Any future shoreline work would require separate review.)*

2. **Superseding of Previous Variance:** The 2021 variance approval for a garage on this parcel is to be considered null and void, replaced by the current variance. In other words, this new variance **repeals and supersedes the prior granted variance** for the garage. All conditions and permissions for the garage are now governed by the 2025 approval. *(This ensures there is no confusion or stacking of variances; only the new plan may be pursued.)*
3. **Septic System Compliance:** The **existing non-conforming septic system must be properly abandoned** (taken out of service and secured per regulations), and the **new SSTS must be installed according to all applicable state and county standards**. The owners will need to submit a final septic design/site plan to the City and obtain approval **before building permits are issued** for the project. This condition guarantees that the septic upgrade is done safely and meets health codes (since the variance allows it closer to certain features than normally permitted-(holding tank on the garage).
4. **Adherence to Approved Plans & Permits:** All improvements – the house addition, decking, garage, holding tank, and driveway extension – **shall be built substantially as depicted in the approved site plans and building plans presented with the variance application**. The owners must obtain all required **building permits and inspections** for the work. In particular, the addition and garage must not exceed the footprint or encroach further than what was approved. **Erosion control measures** (silt fencing, etc.) must be implemented during construction to prevent sediment from reaching the lake. This set of conditions ensures the project that gets built is the one evaluated for the variance (no expansions or changes without further review), and that standard construction best practices are followed.
5. **Time Limit – 1 Year to Act:** The property owners must **commence the proposed improvements within 12 months of the variance approval date** (or within any extended timeframe allowed by statute) or else the variance permit will expire. This is in accordance with City and Minnesota Statute requirements. It encourages timely completion of the project. If unforeseen delays occur, the owners can request an extension, but otherwise the variance would become void after one year of non-use, preventing open-ended permissions on the property.

By enforcing the above conditions, the City can approve the variances while **safeguarding public interests and ensuring compliance**. These conditions will be documented in the official variance approval and must be satisfied as part of the building permit and inspection process.

Supporting Documents & Background Materials

Several documents and communications provide context and support for the variance request and the findings listed above:

- **Previous Variance Record (2021):** *City of Emily Board of Adjustment Variance* document (Crow Wing County Recorder Document No. 956624) dated March 2, 2021. This is the recorded approval for a prior variance on the same Parcel #21220560 (under the previous owner, Robert Orstad). It allowed construction of a 918 sq ft garage 55 ft from the lake (20 ft closer than normally allowed). Its **findings of fact** – e.g. the parcel's impervious coverage (<15% at that time) and the presence of the protective ice ridge – have been referenced in the current analysis, as the same site characteristics apply. The **current variance request effectively replaces this 2021 variance**, since the Smithsons' plan is different; the 2021 document is included for historical reference and confirmation of the property's unique constraints.
- **2025, 60-Day Review Extension Letter:** A letter from the City of Emily to Julie Smithson, pursuant to Minnesota Statute §15.99, extending the action deadline on the variance application. In this letter (dated in August of 2025), the City formally notifies the applicant that **more time is needed beyond the initial 60 days** to decide on the variance, and sets the **Planning Commission hearing for October 7, 2025 and the City Council decision for October 14, 2025**. The letter cites the timing of the filing and statutory notification requirements, as well as the fact that the **request involves multiple variances and requires thorough preparation**, as reasons for the extension. This document underscores the complexity of the case and ensures the city's compliance with procedural timelines.
- **Complete Application from the Smithsons: (Attached)**
- **Site Survey (Attached)**
- **In conclusion**, the variance for Parcel #21220560 (Smithson property) is supported by strong findings of fact and, if the Planning Commission (BZA) approves it with the recommended conditions, will allow the owners to improve their property in a manner that **balances their needs with the public interest and maintains the character of the Ruth Lake shoreline**. The thorough documentation and conditions will ensure the outcome remains consistent with Emily's land use policies and environmental protections.



39811 State Highway 6
PO Box 68
Emily, MN 56447
218-763-2480

City of Emily Notice of Public Hearing

TO WHOM IT MAY CONCERN: The City of Emily Planning Commission, acting as the Board of Zoning Adjustment, will hold a Public Hearing on Tuesday, October 7, 2025, to consider Variance requests for 21930 County Road 1, Emily, MN, Parcel Number 21220560, property owners Mike and Julie Smithson. The hearing will be held at 6:00 PM in the Emily City Hall Council Chambers, 39811 State Hwy 6, Emily, MN, 56447.

A number of inter-related variance requests will be reviewed:

- 1) Septic System Upgrades (setback variances to Side Lot Line and House)
- 2) House Addition-home addition and decks (Setback variances to Lake and Road)
- 3) Garage, Driveway and Holding Tank Addition (Setbacks to Lake and Road)

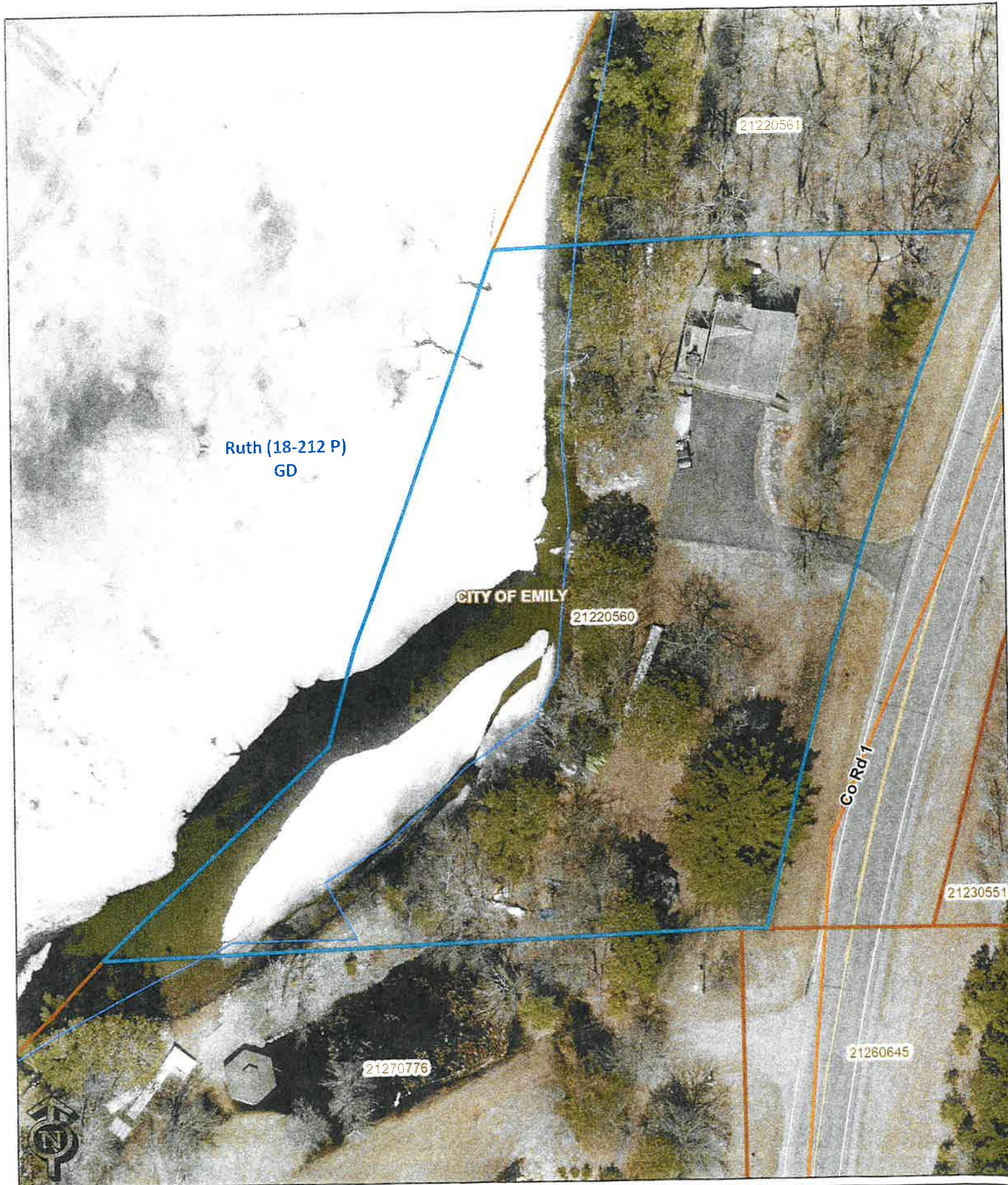
The staff report and meeting packets will be available approximately one week prior to the meeting. Packets can be accessed by contacting the city.

Members of the public may attend in person or monitor the meeting on-line. If you wish to provide written comments, please email to zoning@emily.net or mail to PO Box 68 Emily, MN 56447. If you want more information, please contact Planning and Zoning at 218-763-2480, or email the Zoning Clerk at zoning@emily.net.

City of Emily Planning Commission

Board of Adjustments





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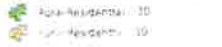
Land Use Classification



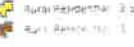
City of Emily Districts



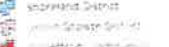
Commercial and Industrial Districts



Rural Residential Districts



Suburban and Other Districts



CITY OF EMILY-PLANNING COMMISSION REVIEW SHEETS

Property Owners: Mike and Julie Smithson

Mailing Address: 7389 Moccasin Trail, Chanhassen, MN 55317

Site Address (Subject Parcel): 21930 County Road 1, Emily, MN

Parcel Number: 21220560

Request Summary- Approval / denial of requested variances subject to conditions listed in the report and proposed Recording Document. The applicants request approval of three distinct variances, with multiple parts, to allow improvements to their residential property:

- 1) Residential Addition & Decking – addition to house, wrap-around deck and steps requiring variances from lake and road setbacks.
- 2) Garage, Holding Tank & Driveway – construction of a garage, holding tank, and driveway extension requiring variances from lake and road setbacks.

An older variance previously granted for a garage will be repealed during this process and in the recording document.

Variance Request #1 – Residential Addition & Decking

Description:

- Addition to the south side of the existing home.
- Wrap-around porch, deck, and steps.
- Requires variances from both lake setback and road setback.

Requested Variances (Two Parts):

- a) House Addition & Deck – Lake OHW Setback
 - Required: 75 feet
 - Proposed: 40 feet
 - Variance Requested: 35 feet (per application notes)
- b) House Addition & Deck – County Road 1 Setback
 - Required: 50 feet
 - Proposed: 24 feet
 - Variance Requested: 26 feet (per application notes)

• *Facts to be Considered:*

1. The existing house is already located closer to the lake and road than current ordinance requirements.

2. Expansion areas are limited due to lot size, placement of existing structures, and shoreland standards.
3. The proposed addition is intended to provide functional space and safe access.
4. The deck and steps will extend existing use patterns without significantly altering neighborhood character.
5. Vegetative buffers and erosion control can mitigate potential lake impacts.

- *Findings of Fact:*

- ☐ Practical Difficulties: _____
- ☐ Reasonableness of Request: _____
- ☐ Essential Character of Locality: _____
- ☐ Comprehensive Plan Consistency: _____
- ☐ Unique Circumstances: _____
- ☐ Not Solely for Economic Gain: _____
-

Variance Request #2 – Garage, Driveway Extension and Holding Tank

Description:

- Construction of a new garage and septic holding tank.
- Extension of the asphalt driveway for access.
- Requires variances from lake setback and road setback.

Requested Variances (Four Parts):

a) Garage– Lake OHW Setback

- Required: 75 feet
- Proposed: 39 feet
- Variance Requested: 36 feet

b) Garage- Road setback (and asphalt)

- Required: 50 feet
- Proposed: 10
- Variance Requested: 40 feet

b) Driveway Asphalt Edge – Lake OHW Setback

- Required: 75 feet
- Proposed: 28 feet
- Variance Requested: 47 feet

c) Holding Tank – OHW Setback

- Required: 75 feet
- Proposed: within 55
- - Variance Requested: 20 feet

- Facts to be Considered:

1. A prior garage variance on this parcel will be repealed as part of this application.
2. Placement options for the garage and holding tank are limited due to lot constraints, septic system location, and road/lake setbacks.
3. The garage provides a reasonable and customary accessory use for a residence.
4. The holding tank is necessary to support updated SSTS requirements and long term functionality of the accessory building.
5. The proposed asphalt extension is intended for safe access but requires encroachment into shoreland.
6. Design and placement will be evaluated to minimize impacts on lake, road, and neighboring properties.

- *Findings of Fact:*

- ☐ Practical Difficulties: _____
- ☐ Reasonableness of Request: _____
- ☐ Essential Character of Locality: _____
- ☐ Comprehensive Plan Consistency: _____
- ☐ Unique Circumstances: _____
- ☐ Not Solely for Economic Gain: _____

(Reserved for Recorder)

**CITY OF EMILY
PLANNING COMMISSION, BOARD OF ZONING ADJUSTMENT
APPROVAL OF VARIANCES**

On the 7th, of October 2025, following a public hearing conducted by the Emily Planning Commission, acting as the Board of Zoning Adjustment (BZA), the BZA hereby approved a series of variances on behalf of: **Mike and Julie Smithson, 7389 Moccasin Trail, Chanhassen, MN 55317 for the property at 21930 County Road 1, Emily, MN 56447.**

In accordance with the provision of the City of Emily Land Use Ordinance and pursuant to the requirements of Chapter 462 of the Minnesota State Statutes, in the City of Emily, Crow Wing County, Minnesota, the approved variances authorized the above named to:

- 1) Construct a Residential Addition and Deck within 40 feet of the Lake OHW (35 foot variance) and within 24 feet of County Road 1 (26 foot variance).
- 2) Construct a detached Garage, Driveway Extension and Holding Tank; garage within 39 feet of the Lake OHW (36 foot variance), driveway edge within 28 feet of the Lake OHW (47 foot variance) and within 10 feet of County Road 1 (40 foot variance) and Holding Tank within 55 feet of the Lake OHW (20 foot variance).
- 3) Superseding Prior Variance: This approval supersedes and repeals the previous variance granted for this parcel (Crow Wing County Recorder Document No. 956624, recorded March 2, 2021). The 2021 variance is void and of no further effect.

Legal Description

PT OF GOV LOT 6 SEC 22 & PT OF GOV LOT 2 SEC 23 DESC AS FOL: BEG AT THE SE COR OF SAID GOV LOT 6, WHICH IS ALSO THE SW COR OF SAID GOV LOT 2, THEN S 85°04'49" W (ASSUMED BEARING) 12 FT M/O/L ALONG THE S LINE OF SAID GOV LOT 6 TO THE W'LY ROW LINE OF CO STATE AID HWY #1, THEN NE'LY ALONG SAID ROW LINE TO ITS INTERSECTION WITH THE N LINE OF THE S 281.2 FT OF SAID GOV LOT 2, THEN S 87°27'31" W 130 FT M/O/L ALONG SAID N LINE & ITS W'LY PROJECTION TO THE SHORE OF RUTH LAKE, THEN SW'LY ALONG SAID SHORE TO ITS INTERSECTION WITH THE S LINE OF SAID GOV LOT 6, THEN N 85°04'49" E 162 FT M/O/L ALONG SAID S LINE TO THE POB; Section 22, Township 138, Range 26.

Parcel Number: 21220560

The approval was made based on the following findings of fact and with the following conditions of approval.

Finding of Facts:

1. The property is located at 21930 County Road 1, PIN 21220560.
2. The property is zoned "Shoreline Residential" and is located within the Shoreland Overlay Zone.
3. The existing and proposed impervious surface is less than the 20% maximum permitted (17.7%) after all improvements.
4. The property contains a significant historic ice ridge along the shoreline of the property. Any additional stormwater runoff generated should infiltrate the ground prior to entering the lake if the historic ice ridge is left in place.
5. The applicant has established that practical difficulties exist due to the parcel's unique configuration between lake and road, and the very narrow and long configuration, (proximity to Ruth Lake on the West side, and County Road 1 on the East side), creating a situation when there is no adequate buildable areas for an accessory structure, SSTS placement or modest house additions.
6. The plight of the landowner is due to circumstances unique to the property not created by the landowner.
7. The request is reasonable and necessary for full-time residential use, allowed in this district.
8. The variances will not alter the essential character of the locality.
9. The proposal is consistent with the City of Emily Comprehensive Plan.
10. The plight of the landowner is due to circumstances not created by the landowner and are unique to the property and not self-created.
11. The request is not based solely on economic considerations.
12. The applicant is requesting a series of variances that are interrelated, including a new location for a non-conforming septic system, house, and garage expansion.

Conditions:

1. Preservation of Ice Ridge: The historic ice ridge must remain undisturbed with intact vegetation.
2. Repeal of Prior Variance: The 2021 garage variance granted by the city on March 2, 2021, Crow Wing County Document 956624, is inactive, out of compliance and voided.
3. Septic Compliance: Non-conforming septic will be abandoned; new SSTS will be installed and meet State and city standards.
4. Adherence to all plans: All work must follow approved plans as submitted to the city and approved by the Planning Commission (BZA) and erosion control measures must be in place until the project is completed and the site is stabilized.
5. Time limit: Work must commence within 12 months and be completed within two years, subject to any approved extensions.

I certify that the above is a true and correct statement based on the approved minutes of the Emily Planning Commission, Board of Zoning Adjustment meeting held on October 7, 2025, and on record at Emily City Hall, 39811 State Highway 6, Emily, MN 56447.

Cari Johnson
City Clerk

Date

Stamp

Drafted By:

Steven C. Jones, Community Development Administrator
Sourcewell
P.O. Box 219, Staples, MN 56479

RECEIVED
AUG 13 2025

CITY OF EMILY BY:
VARIANCE APPLICATION

Name of Applicant Mike and Julie Smithson

Property Address 21930 Co Rd One, Emily

Mailing Address _____
(if different than above)

Phone 952-250-3469 Email juliesmithson@mchsi.com

APP #	<u>V25-02</u>
Date	<u>8/13/2025</u>
Fee	<u>500.00</u>
(for office use only)	

Applicant is:

Legal Owner ☒
Contract Buyer ☐
Option Holder ☐
Agent ☐
Other _____

Title Holder of Property (if other than applicant)

Mike + Julie Smithson
(Name)
7389 Moccasin Trl
(Address)
Chanhassen, MN 55317
(City, State, Zip)

Signature of Owner, authorizing application (required) [Signature]
(By signing the owner is certifying that they have read and understood the instructions accompanying this application.)

Signature of Applicant (if different than owner): _____
(By signing the applicant is certifying that they have read and understood the instructions accompanying this application.)

Property ID # (8 digit # on Tax Statement) 21220560

Zoning District SR, Lake Name (if applicable) Ruth Lake

What are you proposing for the property? State nature of request in detail: A 33' x 14' addition to the house onto impervious, existing driveway and a 24' x 40' garage - set back south of the driveway, tucked behind the lake berm to minimize visibility from the lake, a new septic system - updated and completely on air property. See attached.
What changes (if any) are you proposing to make to this site?

Building: 33' x 14' addition - south side of current home - survey incl.
24' x 40' garage south of driveway - survey incl.
Landscaping: approx. 450 sq' of additional driveway
Parking/Signs: no changes to parking or signs

Pursuant to the Emily City Code of Ordinances Chapter 152.156, the applicant should be prepared at the Public Hearing to explain the practical difficulty for the proposed Variance. A "practical difficulty," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. (Per Minnesota State Statutes 394.27, Subdivision 7 (In Part))

Please answer the following questions which will be the legal basis of the review:

When responding to the questions, it is essential to provide detailed and comprehensive answers. Simple "yes" or "no" responses are insufficient. We encourage you to elaborate on your answers, providing specific examples, explanations, and any relevant context that supports your response. Detailed answers not only help us understand your perspective better but also ensure that all aspects of the variance request are thoroughly considered.

See attached for detailed answers.

- 1) **Reasonableness:** Will the variance allow the property owner to use the property in a reasonable manner?

See attached
YES. This addition will allow us to make this our full-time residence. Mike works from home & this will provide space for a home office. We are not adding any bedrooms, just additional kitchen, living and owners BR space.

- 2) **Uniqueness:** Is the variance necessary because of circumstances unique to the property (not caused by the landowner)?

See attached
YES. The variance is necessary because we have no control over the placement of our house relative to the lake or road. We have land space available, under 20% impervious, but not compliant w/ regard to lake or road. We have not created this hardship.

- 3) **Essential Character:** Will the variance alter the essential character of the locality?

For example, will the resulting structure be out of scale, out of place, or otherwise inconsistent with the surrounding area?

See attached
No. This addition will not change the character of the locality. We are maintaining a 3BR residence and adding an office. We are increasing the square footage by less than 50% and building onto already impervious ground (driveway). We are only adding 14' to the front (driveway side) of the house. The garage would be long and narrow, tucked back behind view from the lake. The size of the addition is still much smaller than our neighbor

Other Questions Reviewed by the Planning Commission, please answer as you are able:

- (4) How is granting this Variance consistent with the intent of the City of Emily Land Use or Subdivision Ordinance?

- (5) What other options, either conforming or non-conforming, have been considered and why were those options not chosen?

We have zero conforming options. We have considered several possibilities, including adding Lakeside onto the deck, adding roadside a larger addition, adding a level above or building a much larger garage with livable space above. We have tried to ask for the

- (6) Describe the impact to traffic on roads and highways in the vicinity, and expected traffic generated by this application. Is there adequate parking available to accommodate the proposal? ^{least} ^{environmental} ^{impact.}

This will have zero impact on traffic.

We are not changing the entrance or creating an addition that would affect traffic.

The structures do not encroach on the neighbors. In fact, we are eliminating the encroachment of our septic

- (7) Discuss any environmental limitations of the site or area. ^{System on our neighbor} ^{to the north.}

We have met w/ the city many times to find a plan that will limit the environmental impact. The total impervious of our property, with

the ~~three~~ two additions is less than 18%. We are keeping the ice ridge intact and protected.

- (8) Please include any other comments pertinent to this request.

We have owned this property since June 2022.

We love Emily and Ruth Lake and want to make it our permanent residence. We have made other improvements to our

property and want to continue to make our place visually appealing to both the Lakeside and roadside.

Name of Applicant Mike and Julie Smithson
Property Address 21930 Co Rd One, Emily, MN 56447
Mailing Address 21930 Co Rd One, Emily, MN 56447
Phone 952-250-3469

Applicant is
Legal Owner yes

Proposing We are proposing an addition to the driveway side of the house (southside), onto the current driveway, a 33'x14' addition to include an office, an extension to the kitchen, an enlarged bedroom, and a sitting room. Additionally, we are asking for a garage 24'x40' to be built on the southside of the driveway, tucked behind the berm to diminish the view from the lake. To complete the additions to our property, we will need a new septic system. Our current drain field is on our neighbor's property with an easement that expires when a new system is installed. Our new septic design places the entirety of the system on our property. The garage requires a separate septic holding tank that is included in a separate septic design.

Building An extension of our current home 33' wide and 14' deep to the south. Site drawings and a survey with the proposed additions have been completed and included. Secondly, a garage, 24'x40' south of the current home and driveway (unattached). The total addition, including a small extension of the driveway to meet the new garage, leaves our total impervious at less than 19%.

Landscaping We will maintain as much of our current landscaping as possible. We have no plans for significant additions to our current landscape. We will need approximately 12' of additional driveway to reach the new garage from the existing driveway. We are using approximately 450 square feet of existing driveway to accommodate the addition (using existing impervious space for the addition).

Reasonableness YES. This addition will allow us to make this our full-time residence. Mike works from home, and this will provide an office space for him to work. The plan expands our kitchen, allowing us to share our home with our family and extended family. The addition does not add any bedrooms to the property, but allows us to have a master bedroom with a bathroom and additional storage and living space. We are updating our septic system (which is valid until May 2028) from a 40+ year old system, and bringing the entire system onto our own property vs partially draining

onto our neighbor's property. The septic design is included in this application.

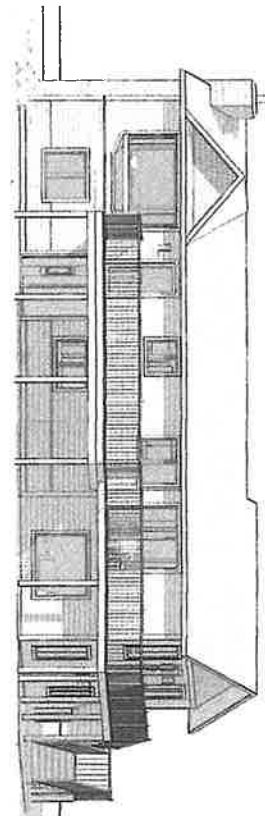
Uniqueness YES. This variance is necessary because we have no control over the placement of our home relative to the lake or the road. We have the land to build and to stay under 20% impervious, but our property is long and narrow. We have not created this hardship due to any building decisions we have made, nor have we split the property or changed it in any way.

Essential Character No. This addition will not change character of the locality. We are maintaining a three bedroom residence and adding an office. The overall size of the house is increasing by less than 50% and the addition will be built on existing impervious property. We are only adding 14' to the front of the structure. Our garage will be long and narrow, tucked back away from the lake, partially hidden from lake view. Our neighbors to the south have a large compound—there house sleeps 20+ people, they have a garage and a gazebo. Our house is tiny in comparison. We are not renting our any portion of our current or future property. This is going to remain a family home. The scope of the project, overall, is very small. The addition will seamless match the current home, creating a very small impact on the overall character of the property.

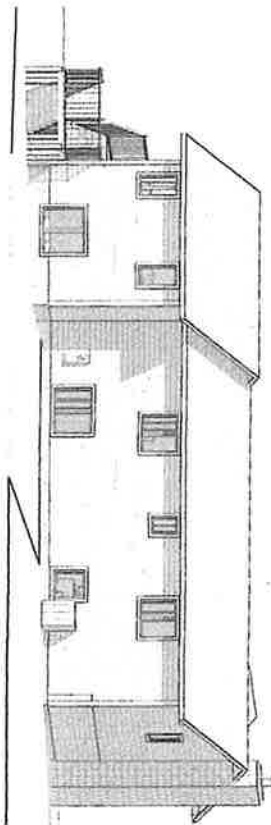
Intent of the City

Other Options There are no conforming options for this property due to the proximity to the lake and county road one. We have considered many options prior to this proposal. Iterations included—extending the kitchen lakeside onto the deck, adding 18x26 feet of additional building to the roadside of the home, adding a level above the current dwelling, or building a much larger garage with livable space above. We believe that by adding to already existing impervious asphalt at the front of the house, we are minimizing the overall impact to the lake, the land, and the general appearance of this proposed addition. We have attempted to make the garage as long and narrow as possible to minimize the appearance from the lake. We are hoping that the garage will decrease some of the effect of the traffic from county road one (noise and visual of passing traffic). We originally wanted an attached garage, but the impact of that would have been much greater than what we are proposing now.

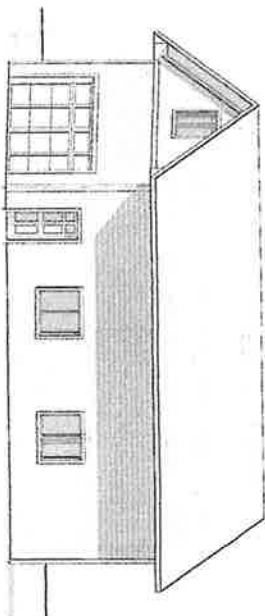
Traffic	This will have no impact on traffic. We are not changing the entrance to the property or creating an addition that would affect traffic. Once completed, there will be no effect to the neighbors' property. The structures do not encroach on either property line. In fact, we will be eliminating the encroachment of our septic system on our neighbor to the north.
Environment	We have met with the city many times (Steve and Sue) to try to find a reasonable proposal that would minimize the effect on the lake, the property, and the surrounding environment. I have met with the city council previously to ask for their opinions regarding these changes. We are trying to limit our request to the bare minimum of what we need to make this our full-time residence. By using existing impervious property as our main area for the addition, we believe the impact will be minimal. We are keeping the total impervious land use under 20%. By placing the garage deeper into the property, closer to the road vs the lake, and hiding it behind the berm, we are trying to minimize the visual effect of that addition. We are protecting the existing historic ice ridge on the property. We are placing the garage far from the ice ridge and making no changes to the ice ridge itself. We are improving the septic system, updating a 40+ year old septic that encroaches on our neighbor's property, with a new, and larger system, fully on our own property.
Other Comments	We have had this property since June 2022. We love Emily and want to make it our full-time residence. We have made other improvements to our property, including removing the landing that was previously on this property and replacing it with DNR and city approved rip rap. We maintain our property, hoping that it is visually pleasing to passing boats and cars. The small changes we are asking for would allow us to spend many years enjoying Ruth Lake and the town of Emily, well into retirement and for future generations. We have given this proposal years of consideration, trying to create the least environmental impact possible. It is not within our control that there are no conforming options for adding onto our existing property.

[illegible]

1	NEW - CALIF LANE VIEW
A.021	



2	NEW - CARR STREET VIEW
A-933	



NEW - GARAGE LAKE OVERALL VIEW

21930 COUNTY ROAD 1
EMILY, MN 56447

PROJECT #
MAR116
SHEET NAME
SCHEDULES/ISO VIEWS

AGENDA ITEM
City of Emily, Minnesota

ITEM: Consideration of New Communication Tower Ordinance 152.090 and Repeal of existing Ordinance 152.089

TIMELINE

Ordinance Subcommittee: July 1, 2025 (First Discussion)

Review by the DNR: (DNR Review received 7/31/25.)

Ordinance Subcommittee: Aug. 5, 2025 (Second Revision)

Ordinance Subcommittee: Sept 2 (Third Revision and Recommendation to the Planning Commission)

Planning Commission: Sept. 2 (Consideration/ Called for Public Hearing)

Planning Commission: Oct. 7, 2025 (Public Hearing and Recommendation to the City Council)

City Council: October 14, 2025 (Consideration of Ordinance and Summary Ordinance)

ORDINANCE NO. 2025-__

CITY OF EMILY, CROW WING COUNTY, MINNESOTA

**AN ORDINANCE ADDING SECTION 152.090 TO THE EMILY CITY CODE –
REGULATING COMMUNICATION TOWERS AND ANTENNAS WITHIN THE CITY
OF EMILY AND REPEALING SECTION 152.089 IN ITS ENTIRETY**

THE CITY COUNCIL OF THE CITY OF EMILY, MINNESOTA, ORDAINS:

Section 1. Purpose and Intent. The purpose of this Section is to allow essential communication services, including personal wireless (cellular) networks, public safety radio networks, and amateur radio while safeguarding the public health, safety, and welfare and preserving the character of the community. The City acknowledges that federal and state regulations limit local authority in this area: for example, FCC PRB-1 requires that local ordinances reasonably accommodate Amateur Radio communications and use the minimum practicable regulation to address local needs, the FCC's OTARD rule protects certain small residential antennas from local regulation, and Minnesota Statutes §237.163 makes small wireless facilities in public rights-of-way a permitted use (with only limited conditions allowed). This Section is intended to comply with those mandates. The goals of this ordinance are to (a) enable robust communication networks for residents, businesses, and emergency services, (b) minimize adverse visual impacts of towers through careful design and placement, (c) protect adjoining properties and the public from hazards such as tower collapse or icefall, and (d) ensure that new infrastructure is deployed thoughtfully, with opportunities for co-location on existing structures to reduce the proliferation of towers.

Section 2. Definitions. For the purposes of this Section, the following definitions apply:

- **Antenna:** A device or array used to transmit or receive electromagnetic signals. This includes omni-directional “whip” antennas, directional panel antennas, satellite dishes, and any part of a communications system attached to a support structure for the purpose of transmitting or receiving radio frequency signals.
- **Towers (Commercial):** Any structure that is taller than fifteen (15) feet and built for the primary purpose of supporting one or more antennas. This definition includes self-

supporting lattice towers, guyed towers, monopoles, and other freestanding vertical structures designed to support telecommunications equipment. (This definition **excludes** lightweight poles or masts under 15 feet in height used for residential antennas, which are not regulated as “towers” under this Section.)

- **Amateur Radio Tower:** A tower, as defined above, which is owned or operated by an FCC-licensed Amateur Radio operator and is used exclusively for non-commercial Amateur Radio communications.
- **Shoreland:** Land located within 1,000 feet of the ordinary high-water level of a lake, or within 300 feet of a river or stream (or the landward extent of a floodplain of such river or stream), as defined in Minnesota’s Shoreland Management rules (Minn. Rules 6120.2500–6120.3900).
- **Tower Height:** The vertical distance measured from the average natural ground level at the base of the tower to the highest point of the tower, including any attached antennas or lightning rod.
- **CUP:** Conditional Use Permit, a City permit to allow certain types of development (per requirements in the city code) in a zoning district, with conditions, to ensure compatibility with surrounding land uses.

Section 3. Applicability; Nonconforming and Exempt Facilities.

- A. Applicability:** The provisions of this Section 152.090 shall apply to all communication towers and antennas erected, altered, or replaced after the effective date of this ordinance and located within the City of Emily. Any existing tower or antenna that was lawfully established prior to the effective date of this ordinance shall be subject to the requirements in subsection (B) below.
- B. Existing Installations (Nonconforming Towers):** Communication towers and antennas that were lawfully in existence prior to adoption of this Section may continue to be used and maintained as legal nonconforming structures. However, if such a tower or antenna is proposed to be heightened, enlarged, or modified in a manner that materially increases its nonconformance (for example, increasing the height, adding additional antennas that substantially change its appearance or loading, or changing its purpose from a private use to a commercial use), then the

proposed alteration shall require compliance with this Section (including obtaining any necessary permits). Ordinary repair and maintenance of nonconforming towers is permitted; replacement of elements (antennas, guy wires, etc.) is also permitted as long as it does not expand the structure's dimensions or conflict with any other regulations or permit conditions.

C. Exempt Facilities: The following antennas, towers, or facilities are exempt from the requirements of this Section (no City zoning permit or CUP required), except that they must comply with applicable building codes and other federal or state regulations:

- 1) **Residential Antennas and Small Dishes:** Antennas designed for routine residential use, including:
 - a. Traditional rooftop television or radio receiving antennas, and
 - b. Satellite dishes less than one (1) meter in diameter,are exempt from local regulation (the City cannot unreasonably restrict these under the FCC's OTARD rules) and thus are permitted outright. This exemption assumes such devices are installed at a customary height for residential reception and solely for the property owner's or tenant's use.
- 2) **Small Wireless Facilities in Public Rights-of-Way:** Any "small wireless facility" located in a public right-of-way, as defined and authorized by Minn. Stat. §237.162 and §237.163 (and regulated by the City's Right-of-Way Ordinance), is not subject to the provisions of this Section. Such facilities (e.g., small 5G antennas on utility poles or streetlights) are governed by state law and separate City permit processes.
- 3) **Free-standing communication towers** 15 feet or under are allowed in all zoning districts, except no tower may be located in the required setback from the ordinary high-water level or impact zones established for each lake or river in the Shoreland areas.
- 4) **Temporary Antennas/Towers (Emergency or Event Use):** Temporary communication antennas or towers that are deployed in response to an emergency or for a short-term event are exempt from the provisions of this Section, provided

that they remain in place for no more than thirty (30) days and are removed promptly after the emergency or event has concluded. The Zoning Administrator may grant a reasonable extension of this time limit in the case of a prolonged disaster response or other bona fide emergency. Any temporary tower must be installed and operated in a safe manner (e.g., securely anchored, and kept at a reasonable height) and should avoid causing harmful interference with existing communications. Temporary wireless facilities supporting a community event (such as a portable cell on wheels for a festival) are also allowed under this exemption, subject to the same 30-day removal requirement unless an extension is approved.

Section 4. General Standards for All Towers and Antennas. The following standards shall apply to any communication tower or antenna governed by this Section (whether commercial, public, or private) unless a specific exemption has been provided in Section 3 or a stricter provision applies in Section 5 (Shoreland standards):

A. Permitted Zoning Districts and Required Permits:

1. Towers (Commercial):

- a) Allowed Zoning Districts:** Open Space, Downtown Mixed Use, Highway Mixed Use, Commercial Transition/Light Industrial
- b) Permit Required:** A Conditional Use Permit (CUP) is required for all towers.
- c) CUP Requirement:** In addition to other zoning requirements, all requests should include consideration of possible mitigation measures (height limitations, screening, and stealth design).

2. Amateur (Ham) Radio Towers:

- a) Allowed Zoning Districts:** In all Districts (except Shoreland Districts) with a land use permit. Towers may be built up to the allowable height for all structures in the District, plus 50%. Requests in excess of this standard requires a CUP.

- b) **Shoreland Districts:** Permitted with a land use permit if the tower is 25 feet high or less. Any towers or structures over 25 feet in height in a Shoreland District requires a Variance.
- c) **Setback in Shoreland:** No tower is allowed in the required ordinary high-water level setback or shore impact zones established for each Lake or River in the Shoreland areas.

3. Exception for Towers or Antennas Mounted on an Existing Structures or Buildings:

- a) **Allowed Zoning District:** Permitted in all zoning districts (except Shoreland Areas), if the antenna or towers does not exceed the height requirement in that district by more than 50% of the allowable height for that district.
- b) A CUP is required if the height increase request exceeds requirements in “section a” above, or if the proposed use significantly alters a structure.
- c) Mounting on existing structures is not allowed on buildings, structures or poles in the Shoreland areas if it is in the required setback from the ordinary high-water level or shore impact zones, established for each Lake or River.
- d) In Shoreland areas the total height of the tower may not exceed 25 feet from the ground elevation, even if attached to a building or a structure, without a variance.

4. Public Safety/Governmental Towers or Antennas:

- a) **Allowed Zoning Districts:** All Districts, except Shoreland areas, with a CUP.
- b) **Placement of City Owned Land:** Permitted with a CUP and Council approval of the land use.
- c) **CUP Requirement:** In addition to normal city standards, all requests should include consideration of mitigation measures (height, screening, design).

B. Co-location and Use of Existing Commercial Towers (Subject to CUP)

- 1) New commercial towers must be designed to support additional antennas if over 75 feet in height to encourage co-location, unless shown to be infeasible during the CUP review.
- 2) Applicants must provide a study of nearby alternatives (buildings, towers) and demonstrate why co-location isn't viable.
- 3) Amateur towers are exempt from co-location requirements.

C. Commercial Tower Height Limits (Subject to CUP)

- 1) No universal maximum, but generally:
 - a) Maximum allowed height is 199 feet or less to avoid FAA and other federal requirements.
 - b) In Shoreland Residential & Commercial Districts towers are not allowed.
 - c) Subject to all other sections of this code.

D. Commercial Tower Setbacks and Separation (Subject to CUP)

- 1) **Fall Zone:** Minimum setback from property lines equals the tower height.
- 2) **Residential Buffer:** If adjacent to residential zones, the city may require, in the CUP, additional setback requirements.
- 3) **Tower-to-Tower Separation:** New towers must be at least 1,320 feet ($\frac{1}{4}$ mile) from existing towers unless justified by technical needs.

E. Commercial Tower Design, Appearance, and Security (Subject to CUP review)

- 1) **Monopole** designs preferred.
- 2) **Color:** Neutral, matte tones (gray, brown, etc.). No reflective or bright finishes.
- 3) **Lighting:** Prohibited unless required by FAA.
- 4) **Security:** 6-ft fence minimum, access restriction, and screening (fence or vegetation).
- 5) **Signage:** Only basic site ID/emergency contact allowed. No advertising.

F. Radio Frequency Emissions and Interference: All towers and transmitting antennas shall comply with the radio-frequency (RF) exposure standards of the Federal Communications Commission (FCC). The City may require the applicant to provide documentation or calculations demonstrating compliance with FCC OET Bulletin 65 (RF exposure guidelines) for the general public and for workers on-site. Furthermore, no antenna or tower shall cause localized interference with the reception of other communication signals such as television, radio, internet, or public safety communications. The City may condition approval of any commercial wireless facility on the operator's agreement to mitigate any such interference promptly if it occurs. The plans for any new tower may be referred to local public safety officials (Fire, Police, EMS) for review to ensure that the proposed frequencies and equipment will not conflict with emergency communication systems. In addition, as noted in subsection 4(C) above, the City may require the tower to be designed to accommodate public safety antennas. The owner of any tower shall cooperate in good faith with the City and other public safety agencies to allow the mounting of public safety communications equipment (such as police/fire radio antennas) on the tower in the future, **at no cost** to the City, provided such equipment does not interfere with the primary use of the tower. This requirement may be formalized through a development agreement or CUP conditions.

G. Abandonment and Removal: To prevent abandoned towers from becoming nuisances, each tower owner shall be responsible for removing any tower that is **out of service** or otherwise abandoned. A tower that is not used for its originally intended and authorized purpose for a continuous period of twelve (12) months shall be considered abandoned (unless such non-use is due to ongoing maintenance or retrofit work and the owner notifies the City of such circumstances). As a condition of approval for any new tower, the owner shall enter into a **Tower Removal Agreement** (or similar binding instrument) with the City, agreeing to remove the tower, antennas, and all above-ground related facilities within 90 days after the tower's abandonment. Removal includes the

complete disassembly of the tower and associated above-ground structures and proper disposal thereof, and restoration of the site as near as practicable to its pre-development condition (including the removal of concrete foundations to a depth of at least 1 foot below grade and site re-vegetation). If an abandoned tower is not removed within the 90-day period, the City may remove or contract to remove the tower and assess the cost to the property owner or draw on the performance bond/letter of credit described below.

The City may require the tower applicant to post a financial security (performance bond, cash escrow, or irrevocable letter of credit) to ensure removal of the facility in the event of abandonment. The amount of such security shall be determined by the City based on a removal cost estimate (including site restoration) plus a contingency. The security (if required) shall be kept in force by the tower owner until the tower is removed and site restored. Government-owned public safety towers may be exempted from the financial security requirement at the discretion of the City Council, provided there is a written commitment for removal in place via an intergovernmental agreement or similar understanding.

Section 5. Additional Standards for Shoreland Areas. Towers and antennas located within the City's designated Shoreland overlay areas (as defined in Section 2) shall meet all the above requirements of this Section, and the following supplemental standards intended to protect the scenic and environmental values of Shoreland areas:

- A. Vegetation Preservation:** In shoreland areas, the removal of natural vegetation for the siting or construction of any tower shall be limited to the minimum extent necessary. The tower shall be located, to the greatest degree feasible, within or adjacent to existing vegetation (such as tree lines or forested areas) that can provide screening. The City may require the planting of additional native trees or vegetation to replace removed vegetation or to provide a year-round visual buffer of the tower from the lake or river, especially if the tower will be visible from public recreation areas or multiple shoreline properties.

- B.** In no case should the tower or antenna (including ham radio towers) be located within the required setback from the ordinary high water level (OHWL) or impact zones established for each lake or river in the shoreland areas.
- C. Height in Shoreland:** Recognizing the Minnesota Department of Natural Resources (DNR) Shoreland guidelines, the City's default maximum structure height in Shoreland Residential zones is **25 feet**. However, the City also acknowledges the federal mandate (PRB-1) to reasonably accommodate Amateur Radio communications. Therefore, an Amateur Radio Tower over 25 feet may be considered within a shoreland area with a variance, as this may be considered a reasonable accommodation balancing effective communication with shoreline protection.
- D.** In evaluating such a request, the City will give special consideration to the scenic impact (visibility of the tower from the lake or river and surrounding shoreland) and environmental factors (such as impact on bird flyways). The City may consult DNR shoreland specialists or guidelines for guidance on mitigating visual impact. The City shall ensure that any height restriction or conditions imposed on a shoreland tower are the minimum necessary to protect shoreline aesthetics and environmental quality, consistent with the obligation to reasonably accommodate essential communication services.
- E. Commercial Towers in Shoreland Areas:** Commercial telecommunication towers are not allowed in Shoreland areas.
- F. Conflicts:** The provisions of this Section are in addition to, not in lieu of, the general shoreland zoning rules of the City and State. In case of conflict, the more restrictive provision shall apply.

Section 6. Enforcement and Effective Date.

- A. Enforcement:** The City's Zoning Administrator, or their designee, is responsible for enforcing this Section. Enforcement powers include the ability to conduct inspections, investigate complaints, and undertake any remedies provided by law or the City Code

to prevent or correct violations. Installation or operation of a tower or antenna in violation of this Section or the terms of any permit/CUP shall be deemed a violation of the City Code. The City may issue stop-work orders or citations for violations, and the City may pursue civil remedies such as injunctions or abatement to prevent or remove violations. Each day that a violation continues is considered a separate offense for penalty purposes.

B. Penalties: Any person or entity that violates any provision of this Section 152.090 shall be subject to the penalties set forth in the general penalty provisions of the City of Emily Code of Ordinances. Typically, a violation of the zoning ordinance is a misdemeanor, punishable by a fine and/or up to 90 days in jail as provided by Minnesota law. In addition to (or in lieu of) criminal penalties, the City may impose administrative fines if established by ordinance or seek civil penalties.

The City may also seek injunctive relief or an order of abatement from the court to require removal of any tower or antenna that is erected or maintained in violation of this Section. The violator (including the property owner, tower owner, and/or operator of the antenna, as applicable) may be held responsible for the City's enforcement costs, including attorney fees, as allowed by law or by court order.

C. Effective Date: This ordinance shall take effect upon its passage and publication according to law. All new towers and antennas must comply with the requirements herein from and after the effective date. Existing towers and antennas (lawfully established before enactment of this Section) are not required to immediately conform to the new standards, but must adhere to subsection 4(H) (Abandonment and Removal) henceforth, and should be brought into compliance with other provisions of this Section to the extent reasonably feasible if modifications are made.

The City will mail or deliver a copy of this ordinance to known tower owners following adoption, to inform them of the new regulations. Going forward, Section

152.090 of the City Code (as established by this ordinance) shall govern all communication towers and antennas in the City of Emily.

Section 7. Repealer. Former Section 152.089 of the Emily City Code, entitled “Antennas and Towers,” is hereby repealed in its entirety, along with any other ordinances or parts of ordinances that are inconsistent with the provisions of this Ordinance.

Passed by the City of Emily City Council this ____ day of _____, 2025.

Tracy Jones, Mayor

Attest:

Cari Johnson, City Clerk/Treasurer

SUMMARY ORDINANCE

ORDINANCE NO. 2025-____

AN ORDINANCE ADDING SECTION 152.090 REGULATING COMMUNICATION
TOWERS AND ANTENNAS AND REPEALING SECTION 152.089 IN ITS ENTIRETY
FOR THE CITY OF EMILY
COUNTY OF CROW WING, STATE OF MINNESOTA

The following is the official Summary of Ordinance No. 2025-____, approved by the City Council of the City of Emily, on the ____ day of _____, 2025.

The purpose of this Ordinance is to add Section 152.090 Regulating Communications Towers and Antennas within the City Limits of the City of Emily, including purpose and intent, definitions, applicability, temporary towers, general standards, zoning and permitting, additional standards in the shoreland, enforcement and repeal of ordinance 152.089 (conflicting ordinance).

The City Council determines that publication of the title and a summary of this ordinance will clearly inform the public of the intent and effect of the ordinance and the Council has approved the text of this summary and has directed that the title and a summary be published pursuant to Minnesota Statute § 412.191 Subd. 4.

A printed copy of the Ordinance is available for inspection by any person at the office of the City Clerk.

Passed by the Council this ____ day of _____, 2025, by the Emily City Council.

CITY OF EMILY

By: Tracy Jones

Its: Mayor

By: Cari Johnson

Its: City Clerk

**EMILY PLANNING COMMISSION/BOARD OF ADJUSTMENT
REGULAR MEETING
September 2, 2025**

1. CALL TO ORDER

The meeting was called to order by Commissioner Rheume at 6:00 pm.

2. Pledge of Allegiance was recited.

3. ROLL CALL

PRESENT: Pat Rheume, Mark Mosman, Lynn Bartel, Brent Nolby,
Dave Johnson, and Faye Hughes

Council: Greg Koch (Liaison) Gary Hanson

Staff: Steve Jones, Zoning Administrator (Sourcewell), Sue Fahrendorff, Zoning Clerk

Sourcewell: Jeremy Doyle

4. ADDITIONS OR DELETIONS TO AGENDA

None

**MOTION BY COMMISSIONER BARTEL TO APPROVE AGENDA AS PRESENTED.
SECONDED BY COMMISSIONER JOHNSON. ALL VOTED IN FAVOR. MOTION
CARRIED 5-0.**

5. OPEN FORUM

None

6. APPROVAL OF MINUTES

a. August 5, 2025 Regular Meeting Minutes.

**MOTION BY COMMISSIONER JOHNSON TO APPROVE MINUTES AS
PRESENTED. SECONDED BY COMMISSIONER MOSMAN. ALL VOTED IN FAVOR.
MOTION CARRIED 5-0.**

7. LAND USE ORDINANCE SUBCOMMITTEE MEETING UPDATE

- The Land Use Ordinance Subcommittee discussed Communication Tower Ordinance. The committee requested minor changes to the draft for review with a recommendation the Planning Commission call for a Hearing at the October 2025 meeting.
- The Subcommittee will be discussing storage containers as residences at their meeting in October.

8. NEW BUSINESS

- a. November Planning Commission meeting date change due to School Board Special Election for Monday, November 3rd, 2025.

MINUTES

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MOTION BY COMMISSIONER RHEAUME TO CHANGE MEETING DATE TO MONDAY NOVEMBER 3RD, 2025. SECONDED BY COMMISSIONER BARTEL. ALL VOTED IN FAVOR. MOTION CARRIED 5-0.

- b. Called for Public Hearing at the October 2025 Planning Commission Meeting upon recommendation of Land Use Ordinance Subcommittee for New Ordinance No. 152.090 Communication Towers.

Discussion regarding shoreland impact zone, height restrictions in the shoreland impact zone, and if a Conditional Use Permit was required for all permit applications.

MOTION BY COMMISSIONER JOHNSON TO CALL FOR PUBLIC HEARING FOR ORDINANCE NO. 152.090 COMMUNICATION TOWERS AT THE OCTOBER 7, 2025 PLANNING COMMISSION MEETING. SECONDED BY COMMISSIONER BARTEL. ALL VOTED IN FAVOR. MOTION CARRIED 5-0.

- c. Wesleyan Church Outdoor Market Permit exception for September 20, 2025.

Discussion regarding the Outdoor Market permit exception to allow flea market and homemade craft items for the Saturday September 20th market. Concerns were brought up regarding what types of vendor products would be sold at the market and to avoid it becoming a flea market/craft fair event. The original intent of the Outdoor Market was for it to be more of a Farmer's Market of produce, flowers, and Cottage Food items.

MOTION BY COMMISSIONER MOSMAN TO ALLOW A ONE TIME EXCEPTION TO THE WESLEYAN CHURCH OUTDOOR MARKET PERMIT FOR SEPTEMBER 20, 2025 ALLOWING CRAFT AND FLEA MARKET ITEMS. SECONDED BY COMMISSIONER HUGHES. COMMISSIONERS BARTEL, RHEAUME, HUGHES, AND MOSMAN VOTED IN FAVOR. COMMISSIONER JOHNSON VOTED AGAINST. MOTION CARRIED 4-1.

9. OLD BUSINESS

None

10. P & Z ADMINISTRATOR'S REPORT

- Jones stated staff did a visual site inspection and drafted a letter to the property owner regarding a cannabis plant in a window of a home that was visible by the road, which is against State law.
- Jones stated staff assisted with a complaint regarding driveway erosion at a new construction site. Letter was sent to property owner.
- Follow-up on a property that had an expired permit with two extensions. Letter sent to property owner.
- Discussion regarding lighting at the Holiday Station store. Jones stated that would be more of nuisance concern rather than a zoning issue.

MINUTES

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96 **11. ADJOURNMENT**

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98 **MOTION BY COMMISSIONER JOHNSON TO ADJOURN THE MEETING.**
99 **SECONDED BY COMMISSIONER HUGHES. ALL VOTED IN FAVOR. MOTION**
100 **CARRIED 5-0**

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102 The meeting adjourned at 6:28 pm.

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104 Respectfully submitted,

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108 Sue Fahrendorff,
109 Zoning Clerk
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25-59	8/26/2025	9/2/2025	21220566	Oehrlein	John	41264 State HWY 6	SSTS Permit	Install a 1,500 Gallon Holding Tank Construct a new 32'X32'(640 SqFt) Dwelling	\$260.00	HWU	Yes 9-15-2025 GK
25-60	8/26/2025	9/2/2025	21220566	Oehrlein	John	41264 State HWY 6	Land Use Permit	Replace Existing Steps to lake. Install a 200 SwFt Paver Patio area.	\$250.00	HMU	
25-61	9/8/2025	9/16/2025	21250554	Laurel Leaf Landscapping	Peg Tembreull	23289 North Shore Drive	Land Use Permit		\$160.00	SR	
25-62	9/9/2025	9/16/2025	21320504	Haugen	Jeffery & Lynette	39898 Par West Drive	Land Use Permit	Construct a 30'X75' (2,250 SqFt) Dwelling w/attached garage on main lot	\$550.00	NR	New Permit issued for construction. (Permit #22-58 expired 8/23/2025 after 2 extensions issued)
25-63	9/9/2025	9/16/2025	21300526	Hansen	Matthew & Gene	40527 Bufferfield Beach Rd	Land Use Permit	Construct a 40'X60' (2,400 SqFt) Accessory Structure	\$400.00	SR	
25-64	9/23/2025	9/25/2025	21030505	Blackwell	Tim	21310 Evening Star Lane	Land Use Permit	construct a 24'X36' (864 SqFt) Accessory Structure	\$250.00	RP	
25-65	9/29/2025	9/30/2025	21260523	Chuba	Rodney	XXXX E Emily Dr	Land Use Permit	Construct a 40'X72' (2,880 SqFt) accessory structure Pole Shed	\$400.00	NR	
NUMBER	Recd	Appvrd	RE CODE	LAST	FIRST	ADDRESS	TYPE	DESCRIPTION	FEE	DISTRICT	Project Completed Y/N