Scott County

May 13, 2019
Board of Adjustment

Table of Contents

<table>
<thead>
<tr>
<th>Item</th>
<th>Index</th>
</tr>
</thead>
<tbody>
<tr>
<td>Board of Adjustment Cover / Agenda</td>
<td>1</td>
</tr>
<tr>
<td>Agenda</td>
<td></td>
</tr>
<tr>
<td>Minutes from October 8, 2018 Meeting for Approval</td>
<td></td>
</tr>
<tr>
<td>Beuch Variance</td>
<td>2</td>
</tr>
<tr>
<td>Vogel Variance</td>
<td>3</td>
</tr>
<tr>
<td>Schwartz Variance</td>
<td>4</td>
</tr>
<tr>
<td>Election of Officers</td>
<td>5</td>
</tr>
</tbody>
</table>
AGENDA

I. ROLL CALL AND INTRODUCTIONS

II. APPROVAL OF OCTOBER 8, 2018 BOA MINUTES

III. PUBLIC HEARING – 6:30 PM FRANCIS AND COLLEEN BEUCH (PL#2019-015)
   A. Request for a Variance to reduce the side setback from thirty (30) feet to four (4) feet and to expand a legal non-conforming structure by more than 50%.

      Location:           Section 29
      Township:           Spring Lake
      Current Zoning:     UTR

IV. PUBLIC HEARING – 6:35 PM TOM AND JANAE VOGEL (PL#2019-017)
   A. Request for a Variance to reduce the required front setback from thirty-five (35) feet to ten point three (10.3) feet and to expand a legal non-conforming structure by over 50% of the existing square footage.

      Location:           Section 30
      Township:           Spring Lake
      Current Zoning:     UTR

V. PUBLIC HEARING – 6:40 PM VERN SCHWARTZ (PL#2019-016)
   A. Request for a Variance to replace a non-conforming structure more than 50% of existing square footage and to locate a detached accessory building 5 feet from the local road right-of-way.

      Location:           Section 17
      Township:           Helena
      Current Zoning:     A-1

VII. ELECTION OF OFFICERS

VIII. GENERAL & ADJOURN
I. ROLL CALL AND INTRODUCTIONS

Chair Hartmann opened the meeting at 6:30 PM with the following members present: Ray Huber, Donna Hentges, Gary Hartmann, and Ed Hrabe. Lee Watson, Thomas Vonhof, and Barbara Johnson were absent.

**County Staff Present:** Brad Davis, Planning Manager; Greg Wagner, Senior Planner; Nathan Hall, Associate Planner; Deb Brazil, Administration; Tom Wolf, County Board Commissioner; and Deputy Clerk to the Board, Dianna Gerold.

II. APPROVAL OF SEPTEMBER 10, 2018 MINUTES.

Motion by Commissioner Huber; Second by Commissioner Hrabe to approve the 09/10/2018 minutes. The motion carried unanimously.

III. PUBLIC HEARING 6:30 PM VARIANCE William Gelow (PL#2018-084)

1. A variance from the required 35’ road right-of-way setback to 28.92’ to construct an attached garage.

   | Location: | Section 3 |
   | Township: | Credit River |
   | Current Zoning: | RR-2 |

Nathan Hall presented the staff report for this application. The specific details within the staff report and a video are available on the Scott County Website [October 8, 2018 Planning Advisory Commission Agenda Packet](#).

For the Staff report please click on the download arrow and click on Agenda, Save and Open. Please open the bookmark at the top of the page and click on the Bill Gelow Variance.

The video of this meeting is also available for viewing if you would click on the media button to the left of the agenda.

**Comments from the Commissioners:**

Commissioner Huber mentioned the old garage building must have encroached within the setback; and this update will be a dramatic improvement.

Chair Hartman opened the meeting up to the public.

Jane Gelow shared they wanted to improve the property and make it as livable as possible.

**Noting no additional comments from the public there was a motion by**
Commissioner Hentges; second by Commissioner Huber to close the public hearing. The motion carried unanimously.

Motion by Commissioner Huber; second by Commissioner Hrabe to approve the variance from required 35’ road right-of-way setback to 28.92’ to construct an attached garage noting the Township of Credit River approved this request.

The motion carried unanimously.

Criteria for Variance Consideration:

1. **Granting the variance will not be in conflict with the Comprehensive Plan.**

   The Comprehensive Plan guides this parcel as Rural Residential Growth. The property will continue to be used as a single-family residence and is not in conflict with the Comprehensive plan.

2. **Exceptional or extraordinary circumstances apply to the property which do not generally apply to other properties in the same zoning district or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since the enactment of this Ordinance had no control.**

   The property was platted in 1913 prior to current zoning regulations that would require a larger lot size and width.

3. **The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.**

   The literal interpretation of the ordinance would deprive the applicants of rights enjoyed by other properties in the area. Other properties in the subdivision have homes that do not meet the setback requirements due to aspects of the historic subdivision.

4. **That the special conditions or circumstances do not result from the actions of the applicant.**

   As stated, Lakeview Gardens was platted in 1913 prior to current zoning lot standards; a situation that was out of the control of the applicant.

5. **That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district.**

   Granting of the requested variance would not confer the applicant any special privilege, as it would allow them to replace their detached garage (which was closer to the right-of-way) with an attached garage.

6. **The variance requested is the minimum variance which would alleviate the practical difficulty.**

   The requested variance alleviates the practical difficulty created by the Scott County Zoning Ordinance. The requested variance would reduce the front yard setback on the property allowing an attached garage of typical proportions to be built at the front of the property.

7. **The variance would not be materially detrimental or will not essentially alter the character of the property in the same zoning district.**

   The variance would not alter the character of the property or the area if granted since neighboring properties have similar sized homes and garages.
8. *Economic considerations alone do not constitute a practical difficulty.*

Economic considerations are not suggested as a reason for this variance request.

V. **GENERAL & ADJOURN**

Motion by Commissioner Hentges; second by Commission Huber to adjourn the meeting at 6:38 PM. The motion carried unanimously.

Gary Hartmann  
Chair, Board of Adjustment

Deputy Clerk to the Board
Request:

A variance to reduce the side setback from thirty (30) feet to four (4) feet and to expand a legal non-conforming structure by more than 50%.

Nathan Hall, Associate Planner, is the project manager and is available for questions at 952-496-8892

<table>
<thead>
<tr>
<th>General Information:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Applicant:</strong> Dotson LLP</td>
</tr>
<tr>
<td><strong>Property Owner:</strong> Francis M. &amp; Colleen M. Beuch</td>
</tr>
<tr>
<td><strong>Public Hearing Date:</strong> May 13, 2019</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Zoning/Comprehensive Plan Information:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Zoning District:</strong> Urban Transition Reserve, UTR</td>
</tr>
<tr>
<td><strong>Overlay Zoning District:</strong> N/A</td>
</tr>
<tr>
<td><strong>Watershed District:</strong> PLSLWD</td>
</tr>
<tr>
<td><strong>Ordinance Sections:</strong> Chapters 2 &amp; 33</td>
</tr>
</tbody>
</table>

Report Attachments:
1. Site Location Map
2. Aerial Photo
3. Plans & materials provided by applicant
4. Site Survey
5. Letter from neighboring property owner
6. Spring Lake Township Recommendation
Request: A variance to reduce the side setback from thirty (30) feet to four (4) feet and to expand a legal non-conforming structure by more than 50%.

Comprehensive Plan: The 2030 Comprehensive Plan Update guides this parcel as Urban Transition.

Adjacent Land Use/Zoning: 
- North – 0.53 - 0.56 acre residential parcels, zoned UTR
- South & West – 5 acre residential parcel, zoned UTR
- East – 10 acre residential parcel, zoned UTR

Existing Conditions: The 5 acre parcel has an existing home and a detached garage.

Ordinance Requirements: 
- Front Yard Setback: 100’ from right-of-way
- Side Yard Setback: 30’
- Rear Yard Setback: 60’

Proposed Setbacks: 
- Front Yard: Unaltered
- Side Yard: 4’
- Rear Yard Setback: Unaltered

Background: Dotson LLP is requesting a variance in order to construct an attached garage and home addition, located at 1321 205th St. E, in Section 29 of Spring Lake Township. The parcel is zoned Urban Transition Reserve, UTR, and consists of an existing home and detached garage in the far NW corner of the property. The parcel size is five (5) acres and primarily in agricultural production.

The applicant is proposing the removal of a detached garage that is currently 8 feet from the property line followed by the construction of a home addition and an attached garage. The addition will expand the home by more than 50%. The existing home is a non-conforming structure that is placed approximately 58 feet from county road right-of-way. The proposed
addition will not extend any further into the required front setback but would extend 4 feet further into the side setback. The applicant has stated that the desire to create a more accessible home necessitates the layout of the proposed demolition/addition project. It was also noted, by the applicant, that the home’s laundry is currently in the basement level and the owners are seeking to address current and future mobility issues by bringing more functionality to the main level of the home.

Analysis-
The applicants would like to demolish the detached garage and create an addition to the existing home. The existing home was built before the adoption of the Zoning Ordinance and does not meet the existing setback standards. Many other properties in Lydia do not meet setback requirements due to the development of the community prior to the adoption of zoning regulations.

Multiple homes in the unincorporated community of Lydia do not meet the current front, rear, or side setbacks, including adjacent properties. The application included a letter from the neighboring property owner to the west that states their acceptance of further encroachment into the setback.

Township Recommendation:
The Spring Lake Town Board made a recommendation of approval at their March 2019 monthly meeting. A copy of the recommendation is attached to the staff report.

Staff Recommendation:
While the setback requested is close to the property line, the subject property and adjacent properties were developed prior to the adoption of a zoning ordinance and the required setbacks. Based on the project information submitted by the applicant and subject to the criteria for practical difficulty, staff recommends approval of the requested variance.

Criteria for Granting Variances:
1. Granting the variance will not be in conflict with the Comprehensive Plan.

   The Comprehensive Plan guides this parcel as Urban Transition Reserve. The property will continue to be used as a single-family residence and is not in conflict with the Comprehensive plan.

2. Exceptional or extraordinary circumstances apply to the property which do not generally apply to other properties in the same zoning district or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since the enactment of this Ordinance had no control.

   The property was constructed prior to current zoning regulations that would require minimum setbacks.

3. The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.

   The literal interpretation of the ordinance would deprive the applicants of rights enjoyed by other properties in the area. Other properties in the area have homes that do not meet the setback requirements due to aspects of the historic hamlet.

4. That the special conditions or circumstances do not result from the actions of the applicant.
As stated, the property was developed prior to the current zoning standards; a situation that was out of the control of the applicant.

5. **That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district.**

Granting of the requested variance would not confer the applicant any special privilege, as it would allow them to replace their detached garage (which was closer to the right-of-way) with an attached garage.

6. **The variance requested is the minimum variance which would alleviate the practical difficulty.**

The requested variance alleviates the practical difficulty created by the Scott County Zoning Ordinance. The requested variance would reduce the side yard setback on the property allowing the existing home to be extended.

7. **The variance would not be materially detrimental or will not essentially alter the character of the property in the same zoning district.**

The variance would not alter the character of the property or the area if granted since neighboring properties have similar sized homes and garages.

8. **Economic considerations alone do not constitute a practical difficulty.**

Economic considerations are not suggested as a reason for this variance request.

**Board of Adjustments/Township Alternatives:**
1. Approve the variance request as recommended by zoning staff based on the practical difficulty criteria as detailed in this report.

2. Approve the variance request with amendments to the requested variance and to the practical difficulty criteria.

3. Table the variance request for a specific reason.

4. Deny the variance request for a specific reason.

**Suggested Motion for Board of Adjustments or Township Board:**

Based on the findings listed in the staff report, I recommend approval a variance to reduce the side setback from thirty (30) feet to four (4) feet and to expand a legal non-conforming structure by more than 50%.
VARIANCE NARRATIVE 1321 205TH ST

ITEM #1—COMPREHENSIVE PLAN

---MOST OF THE PROPERTIES ARE CITY LOT SIZE WITH STRUCTURES CLOSE TO, ON OR OVER CURRENT DRAWN LOT LINES (SEE PICTURE #1). EVEN THOUGH THIS PROPERTY HAS ACREAGE, THE HOUSE AND GARAGE ARE SITUATED TO ONE SIDE OF THE LOT AND ARE PART OF THE NEIGHBORHOOD LOOK AND FUNCTION. IT WILL BE AN UPDATED, CONVENTIONAL, PROPORTIONAL HOUSE AND GARAGE. (SEE PICTURES #1 & #4)

ITEM #2—EXCEPTIONAL, UNIQUE CIRCUMSTANCES

---THE HOUSE AND GARAGE ARE SITUATED TO ONE SIDE OF THE LOT. IT WOULD NOT BE FEASIBLE TO SITUATE THE GARAGE AND LAUNDRY/BATH AREA TO ACCOMMODATE FUTURE HANDICAP ACCESSIBILITY ANY OTHER PRACTICAL WAY.

ITEM #3—DEPRIVED RIGHTS

---OTHER PROPERTIES IN THE COMMUNITY HAVE LARGER GARAGES OR STRUCTURES AND ARE CLOSER THE LOT LINES. (SEE PICTURES #4, #5, #6, #7, & #8)

ITEM #4—RESULT OF APPLICANTS ACTIONS

---IT IS NOT AFTER THE FACT OR THE RESULT OF APPLICANTS ACTIONS

ITEM #5—SPECIAL PRIVILEDGES DENIED OTHERS

---IT IS NOT DISPROPORTIONAL TO OTHER PROPERTIES AND THEIR LOCATIONS WITH RESPECT TO PROPERTY LINES (SEE PICTURES #4, #9, & #10)

ITEM #6—MINIMUM VARIENCE

---I WOULD LIKE TO SEE A LARGER GARAGE TO ACCOMMODATE GETTING CAR DOORS OPEN WITHOUT RESTRICTION AND HAVE ROOM FOR A FUTURE HANDICAP RAMP TO ACCESS THE HOUSE.

ITEM #7—ALTERING THE CHARACTER OF THE PROPERTY

---THE DESIGN WILL NOT CHANGE THE CHARACTER OF THE PROPERTY. THE BATHROOM/LAUNDRY/ENTRY WILL BE SITUATED IN THE AREA BETWEEN THE HOUSE AND EXISTING GARAGE. THE ONLY NOTICEABLE CHANGE WILL BE THAT THE FOOTPRINT WILL MOVE CLOSER TO THE SIDE LOT LINE WHICH WILL NOT AFFECT THE CHARACTER OF THE PROPERTY OR THE NEIGHBORHOOD. THE CLOSEST PROPERTY HAS A DRIVEWAY ADJACENT TO THIS PROPERTY AND THE OWNER IS NOT OPPOSED TO THE LOCATION. (SEE PICTURES #2, #3, #9, & #10)

ITEM #8

---THERE ARE NO ECONOMIC CONSIDERATIONS AFFECTING THIS
SKETCH FOR FRANCIS BEUCH

PID: 119290170
ADDRESS: 1321 - 205TH STREET EAST

PROPERTY DESCRIPTION

THE NORTH FIFTY-SIXTH AND ONE-SEVENTH (56 1/7) ACRES OF THE EAST FOURTEEN (14) ROODS OF THE NORTH FIFTEEN (15) ACRES OF THE WEST THIRTY (30) ACRES OF THE EAST ONE-HALF OF THE SOUTHWEST QUARTER (213 2/3) OF SECTION TWENTY-NINE (29), TOWNSHIP ONE HUNDRED FOURTEEN (114), RANGE TWENTY-TWO (22), SCOTT COUNTY, MINNESOTA.

Bohlen
Surveying & Associates
31533 Cottage Avenue
Northfield, MN 55057
Phone: (507) 454-7709
Email: info@bohlen surveying.com

1602 CIB Road E
Burnsville, MN 55337
Phone: (952) 895-8212
Fax: (952) 895-8209
Dear Spring Lake Township Board,

Frances Beach, my next door neighbor talked to me about his wanting to tear down his garage and put up a new garage. Frances said "that the new shed may extend out on his property. It will go out further towards our property, further than what the current garage does now." I just want you to know that it is fine with us that this would happen.

Frances is a great neighbor, very kind and helpful.

I am writing this note because I work evenings at my job, and will not be able to attend this meeting.

Sincerely Yours,

Martin Beach

[Signature]
TOWNSHIP RECOMMENDATION

REQUEST FOR SUPPORT

On March 14, 2019, the Town Board of Spring Lake Township met with Francis Beuch to discuss a request for a variance for a side yard setback less than the required 15 feet located at 1321 E. 205th Street, Jordan, PID (119290170), to allow for a handicap accessible addition/remodel.

PROJECT DESCRIPTION

After reviewing the Request, the Town Board made the following recommendation:

☑ Recommends approval of the request as presented

☐ Recommends approval of the request with the following conditions:

☐ Recommends disapproval of the request for the following reasons:

☐ Has no recommendation, but will forward the request to the Planning Commission or Board of Adjustment:

Affirmation of Board Action

<table>
<thead>
<tr>
<th></th>
<th>In favor</th>
<th>Opposed</th>
<th>Abstained</th>
<th>Absent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Doug Berens</td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Glenn Kelley</td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ted Kowalski</td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Stipulations

I hereby attest that the information provided above is an accurate account of the actions taken by the Spring Lake Town Board on March 14, 2019.

Melissa Hanson, Town Clerk

Date: 03/14/19
Request:

A variance to reduce the required front setback from sixty-seven (67) feet to ten point three (10.3) feet and to expand a legal non-conforming structure by over 50% of the existing square footage.

Nathan Hall, Associate Planner, is the project manager and is available for questions at 952-496-8892

General Information:

<table>
<thead>
<tr>
<th>Applicant:</th>
<th>Site Location:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tom &amp; Janae Vogel</td>
<td>20420 Langford Way</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Property Owner:</th>
<th>Township:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tom &amp; Janae Vogel</td>
<td>Spring Lake, Section 30</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Public Hearing Date:</th>
<th>Action Deadline:</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 13, 2019</td>
<td>May 28, 2019 (60 Day)</td>
</tr>
</tbody>
</table>

Zoning/Comprehensive Plan Information:

<table>
<thead>
<tr>
<th>Zoning District:</th>
<th>Comprehensive Land Use Plan:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Transition Reserve, UTR</td>
<td>Urban Transition</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Overlay Zoning District:</th>
<th>School District:</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td>Jordan #717</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Watershed District:</th>
<th>Fire District:</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLSLWD</td>
<td>Prior Lake Fire Department</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ordinance Sections:</th>
<th>Ambulance District:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapters 2 &amp; 33</td>
<td>Allina</td>
</tr>
</tbody>
</table>

Report Attachments:

1. Site Location Map
2. Aerial Photo
3. Narrative
4. Site Survey
5. Building Plans
Request: A variance to reduce the required front setback from sixty-seven (67) feet to ten point three (10.3) feet and to expand a legal non-conforming structure by over 50% of the existing square footage.

Comprehensive Plan- The 2030 Comprehensive Plan Update guides this parcel as Urban Transition.

Adjacent Land Use/Zoning- **North** – 9.04 acre vacant parcel, zoned UTR  
**South** – 0.3 acre residential parcel, zoned UTR  
**East** – 8.96 acre residential parcel, zoned UTR  
**West** – 1.29 commercial parcel & 8.02 acre residential parcel, zoned UTR

Existing Conditions- The 10 acre parcel contains an existing home and pole building. The south half of the site is largely wooded and the north half of site is in crop production.

Ordinance Requirements-  
**Front Yard Setback:** 67’ from right-of-way  
**Side Yard Setback:** 30’  
**Rear Yard Setback:** 60’

Proposed Setbacks-  
**Front Yard:** 10.3’ from road right-of-way  
**Side Yard:** approx. 41’  
**Rear Yard Setback:** Unaltered

View of existing home and the detached structure.

Background- Tom and Janae Vogel are requesting a variance in order to expand their existing home located at 20420 Langford Way, in Section 30 of Spring Lake Township. The parcel is zoned Urban Transition Reserve, UTR, and consists of an existing home, accessory building, well established trees, and an open field. The parcel is 10 acres and located in the unincorporated hamlet known as Lydia. Tax records note that the original home was built in 1880, prior to the adoption of any zoning ordinance. An addition was constructed at the rear of the home in 2002.

The applicant is planning the removal of the original house and the construction of a new home over the existing footprint. The addition would remain at the rear of the home and the footprint of the new structure would be expanded to the north and south of the old home. The applicant is proposing that the façade of the new structure not extend any further into the setback than the current façade. However, the proposed porch would extend further into the front setback than
the current porch. The proposed structure would extend 56.7 feet into the required front setback of 67 feet.

The area north of the home is at a lower elevation and contains hydric soils and floodplain. The owner has stated that the need for a new structure is related to the poor foundation of the old house that is subject to frequent flooding. The applicant has stated that there is no other feasible way to expand the structure due to the location of the well, accessory building, and septic system. The adjacent properties in Lydia do not meet the setback requirement from Langford Way.

The applicant intends for the 2002 addition at the rear of the home to be adapted to serve as a semi-independent living space for the owner’s parents. The Scott County Zoning Ordinance would define the space as an Attached Accessory Dwelling Unit (ADU), a use that requires an administrative permit.

Analysis-
The applicants would like to demolish and replace part of the existing home. The existing home was built long before the adoption of the Zoning Ordinance and does not meet the existing setback standards. Many other properties in Lydia do not meet setback requirements due to the development of the hamlet in earlier decades.

The structure would not extend any further into the front setback than the current structure with the exception of the covered entryway. Staff is recommending that the front entry not extend any further to the east than the existing covered porch, which currently stands at 12.7 feet from the right-of-way.

Township Recommendation:
The Spring Lake Town Board will be making a recommendation at their May, 2019 monthly meeting. A copy of the recommendation will be provided at the public hearing.

Staff Recommendation:
Based on the project information submitted by the applicant and subject to the criteria for practical difficulty, staff recommends approval of the variance to reduce the required front setback from sixty-seven (67) feet to twelve point seven (12.7) feet and to expand a legal non-conforming structure by over 50% of the existing square footage.

Criteria for Granting Variances:
1. Granting the variance will not be in conflict with the Comprehensive Plan.

   The 2030 Comprehensive Plan guides this parcel as Urban Transition Reserve. The property will continue to be used as a single-family residence and is not in conflict with the Comprehensive plan.

2. Exceptional or extraordinary circumstances apply to the property which do not generally apply to other properties in the same zoning district or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since the enactment of this Ordinance had no control.

   The property was constructed prior to current zoning regulations that would require minimum setbacks.

3. The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
The literal interpretation of the ordinance would deprive the applicants of rights enjoyed by other properties in the area. Other properties in the area have homes that do not meet the setback requirements due to aspects of the historic hamlet.

4. *That the special conditions or circumstances do not result from the actions of the applicant.*

As stated, the property was developed prior to the current zoning standards; a situation that was out of the control of the applicant.

5. *That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district.*

Granting the requested variance would not confer the applicant any special privilege, as it would allow them to replace part of their existing structure without further encroaching into the front setback.

6. *The variance requested is the minimum variance which would alleviate the practical difficulty.*

The requested variance alleviates the practical difficulty created by the Scott County Zoning Ordinance. The requested variance would reduce the front yard setback on the property allowing the existing home to be rebuilt.

7. *The variance would not be materially detrimental or will not essentially alter the character of the property in the same zoning district.*

The variance would not alter the character of the property or the area if granted since neighboring properties are built at a similar distance to the local street.

8. *Economic considerations alone do not constitute a practical difficulty.*

Economic considerations are not suggested as a reason for this variance request.

**Board of Adjustments/Township Alternatives:**

1. Approve the variance request as recommended by zoning staff based on the practical difficulty criteria as detailed in this report.

2. Approve the variance request with amendments to the requested variance and to the practical difficulty criteria.

3. Table the variance request for a specific reason.

4. Deny the variance request for a specific reason.

**Suggested Motion for Board of Adjustments or Township Board:**

Based on the findings listed in the staff report, I recommend approval of a variance to reduce the required front setback from sixty-seven (67) feet to twelve point seven (12.7) feet and to expand a legal non-conforming structure by over 50% of the existing square footage.
SPRING LAKE TOWNSHIP
SECTION 30
THOMAS & JANAЕ VOGEL
REQUEST FOR VARIANCE
Variance Request for 20420 Langford Way

Concept

Janae and Tom Vogel, owners of property at 20420 Langford Way, are requesting a variance for set back minimum requirement of 75 feet from the county road to the front edge of the building of property in rural Scott County, in Lydia Village, Fish Lake Township.

The plan is to remove the existing approximately 100 year old 26ft x 26 ft farm house and build a new two story structure that will be attached to the existing 26 ft x 40 ft building that was built onto the old farm house in 2002. The old farm house is built on a stacked field stone foundation, with inadequate footings, a crawl space/basement without a concrete floor that is subject to constant flooding and risks damage to furnace, water heater and electric service. Even with sub-pumps, the water levels in the “basement/crawl space” cannot be adequately controlled to prevent damage to furnace and electric service. The new two story residence will have a complete new concrete foundation, concrete walls, and floor. A significant improvement to the residence and community. Existing utilities; electric, water, septic, gas could be used with the new structure at the existing building site. Other options and locations on the property were considered for the improvement of the residence to provide additional room for a multi generation home.

The problem is the requirement for the minimum of 75 feet set back from the country road. The existing old farm house currently does not comply with this set back requirement. The new family residence will be built on the existing footprint of the old farm house and will not be any closer to the county road than the existing old farm house. The new residence will be expanded to the south for a larger floor plan and expanded to the north for the addition of an attached three car garage. All of these new structures will not be built any closer to the existing county road than the existing old farm house. The building on the adjacent property to the south, also does not comply with the 75 foot set back requirement. Most of all the residential buildings in Lydia, do not comply with the 75 foot set back. The new structure will follow the existing set back line of the current old farm house and the building of the adjacent property.

Other options considered for expansion of the residence would be to locate a full new structure further west from the county road. The problem is location of the existing water well and an existing 40foot by 40 foot metal barn. Another option would be to locate a full new structure north and west of the existing structure. This presents a problem with location of the current septic system and the terrain drops off significantly causing problems with surface water flooding for the new structure.

A new certified land survey was completed for confirmation of the existing set backs, location of the 75 foot backs. The proposed new structure drawings are included and laid out on the land survey for review.
Grading, drainage, and erosion control plan

The existing building site is slightly elevated to the county road and drainage ditch. This elevation will be maintained to provide proper drainage away from the new house structure and run off into the county ditch approximately 500 feet north of the building site. Erosion will be maintained with grass cover surrounding the structure, with gradual incline up towards the house to minimize any erosion. During construction silt fencing will be maintained to prevent run off and control erosion.

Screening/landscaping plan

Currently there are existing lilac bushes, and trees surrounding the perimeter of the property. West of the building site, is heavy mature tree coverage. This aesthetic screening/landscaping will be maintained. Currently there is an existing 7 foot privacy fence on the south property boundary. These will be maintained for a pleasant appearance of the property from the roads and adjacent neighbors. Several large old trees that are very close to the existing house will be removed for the addition.

Nuisance mitigation plan

During the construction, all work will be done between the hours of 8am and 6pm to minimize the noise levels of construction for neighbors. Truck traffic serving the construction will also comply with these times.

Property use will continue as a family residence and hobby farm with only small farm animals, and has not been a nuisance to the neighbors.
CERTIFICATE OF SURVEY

~for~ LAWRENCE BENJAMIN
~of~ 20420 Langford Way,
Jordan, MN

NOTES

- Field survey was completed by E.G. Rud and Sons, Inc. on 2/26/19
- Bearings shown are on the Scott County Coordinate System.
- This survey was prepared without the benefit of title work. Additional easements, restrictions and/or encumbrances may exist other than those shown herein. Survey subject to revision upon receipt of a current title commitment or an attorney’s title opinion.
- Due to field work being completed during the winter season there may be improvements in addition to those shown that were not visible due to snow and ice conditions characteristic of Minnesota winters.
- Septic location was not observed as part of this survey because of the excessive snow depth during winter onsite.
- The purpose of this survey was to show existing improvements relative to the street for a building variance.

Scale 1" = 30'    Drawn By: SNN    Project Manager: KDN    Job No.: 19102BS

DENOTES SCOTT COUNTY SECTION MONUMENT
DENOTES WELL
DENOTES POWDER POLE
DENOTES OVERHEAD WIRE
DENOTES ADJACENT PARCEL OWNER INFORMATION (PER SCOTT COUNTY TAX INFORMATION)

I hereby certify that this plan, survey or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota. Dated this 27th day of February, 2019.

License No. 45356

E.G. RUD & SONS, INC.
Professional Land Surveyors
300 5th Avenue SE, Suite 2
Hutchinson, MN 55350
Tel: (320) 587-2328 Fax: (320) 587-5369

\[Signature\]
CERTIFICATE OF SURVEY
~for~ LAWRENCE BENJAMIN
~of~ 20420 Langford Way, Jordan, MN

NOTES
- Field survey was conducted by E.G. Rud and Sons Inc. on 2/26/19
- Bearings shown are on the Scott County Coordinate System.
- This survey was prepared without the benefit of title work. Additional easements, restrictions and/or encumbrances may exist other than those shown herein. Survey subject to revision upon receipt of a current title commitment or an attorney's title opinion.
- Due to field work being completed during the winter season there may be improvements in addition to those shown that were not visible due to snow and ice conditions characteristic of Minnesota winters.
- Septic location was not observed as part of this survey because of the excessive snow depth during winter month.
- The purpose of this survey was to show existing improvements relative the street for a building variance.

Scale 1" = 30'  Drawn By: SNN  Project Manager: KDN  Job No.: 19102BS

** Denotes Iron Set  ** Denotes Iron Found
Bearings shown are on an assumed datum.

I hereby certify that this plan, survey or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota. Dated this 27th day of February, 2019.

License No. 45356
Vern Schwartz - Variance #PL2019-016

Request:

Variance to replace a non-conforming structure more than 50% existing square footage and to locate a detached accessory building 5 feet from local road right-of-way.

Greg Wagner, Senior Planner is the project manager and is available for questions at 952-496-8360

General Information:

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Vern Schwartz</th>
<th>Site Location</th>
<th>24916 St. Benedict Road</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Owner</td>
<td>Wayne Daniel</td>
<td>Township</td>
<td>Helena, section 17</td>
</tr>
<tr>
<td>Public Hearing Date</td>
<td>May 13, 2019</td>
<td>Action Deadline</td>
<td>May 29, 2019 (60 Day)</td>
</tr>
</tbody>
</table>

Zoning/Comprehensive Plan Information:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Overlay Zoning District</td>
<td>Shoreland</td>
<td>School District:</td>
<td>New Prague #721</td>
</tr>
<tr>
<td>Watershed District</td>
<td>Scott WMO</td>
<td>Fire District:</td>
<td>New Prague</td>
</tr>
<tr>
<td>Ordinance Sections</td>
<td>Chapters 2, 25 &amp; 70</td>
<td>Ambulance District:</td>
<td>North Memorial</td>
</tr>
</tbody>
</table>

Report Attachments:
1. Site Location Map
2. Aerial Photo
3. Variance request
4. Site plan
5. Proposed Building Elevations
6. Township Recommendation
Request: A variance to replace a non-conforming structure more than 50% existing square footage and to locate a detached accessory building 5 feet from local road right-of-way.

Comprehensive Plan: The 2030 Comprehensive Plan Update guides this parcel as Agricultural Preservation

Adjacent Land Use/Zoning - North – 10 acre residential parcel, zoned A-2
South – St. Benedict Ball Field on 3 acres, zoned A-1
East – St. Benedict Parish parcel on 7 acres, zoned A-1
West – 13 acre undeveloped parcel, zoned A-1

Existing Conditions: The 1 acre parcel is mostly wooded and slopes from the road to the west towards a DNR Protected Stream. There is an existing home built in 1930 and the applicants are in the process of removing the foundation of the single stall detached garage.

Ordinance Requirements - Front Yard Setback: 35 feet from the local road right-of-way
Side Yard Setback: 15 feet
Shoreland: 100 feet from DNR Stream

Proposed Setbacks - Front Yard: 5 feet from township road right-of-way
Side Yard: 84 feet
Shoreland: 110 feet

Aerial showing the approximate location of the new garage and setbacks.
Background & Analysis:
Vern Schwartz, applicant, and Wayne Daniel, property owner, are requesting a variance to construct a detached accessory building on a legal non-conforming lot of record located in section 17, Helena Township. The home at 24916 St. Benedict Road was built in 1930 with a single stall (12'x18') detached garage located on the north end that was in a state of disrepair when Mr. Daniel purchased the property in June 2018. The 1 acre property was separated into 3 non-conforming parcels that were created prior to the home being built; however, the land owner has recently recorded a deed to combine the parcels into one single lot. The property fronts on St. Benedict Road, a DNR protected stream on the west side, and is largely wooded over much of the property.

The existing home is located at a zero-foot setback to the township road right-of-way (30 feet from road centerline), and the single stall garage was located 23 feet back from the road right-of-way (53 feet from road centerline). Residential non-conforming structures are allowed to be repaired, maintained, or replaced within 180 days of being damaged, destroyed, or otherwise removed. They can also be expanded by 50% of their square footage provided the expansion does not further reduce the required setback. The applicants originally intended to rebuild the garage on the existing footprint; however, when they removed the building this spring the foundation was found to be in poor shape and would require full replacement.

The applicants are requesting a variance to replace the non-conforming structure with a new 24'x24' (576 sq. ft.) detached garage. The new garage would be located still north of the home but 12 feet away versus less than 1 foot with the previous garage. They propose to locate garage closer to the road than the previous garage, which would place it 5 feet from the road right-of-way (38 feet from road centerline). The setback to the DNR stream would be increased from 102 feet to 110 feet (100 feet is the requirement), and they would maintain the required 20 foot setback to the septic drainfield. The other concern that requires moving the garage closer to the road is that the property has a large amount of floodplain, and the garage needs to be 1 foot above (926.3') the 100 year flood elevation. As proposed the garage would be at 926.5'.

Staff is supportive of the variance request due to the age of the property and home, and that the property has no other garage structure. This 2 stall garage would be in line with the rear of the home and also 8 feet further back from the road than the front of the home. The applicant met with County Environmental Services, Natural Resources, and Zoning staff to ensure the best placement for the structure so that it is situated away from the septic tanks and drainfield, is outside of the regulatory floodplain, and does not interfere with the road. The driveway would be approximately 25 feet deep so a vehicle would be able to park in the driveway without extending onto the road. The MN DNR is supportive of the request since it increases the structure distance to the DNR stream.

Township Recommendation:
The Helena Town Board made a recommendation of approval at their April 2019 monthly meeting. A copy of the recommendation is attached to the staff report.

Staff Recommendation:
Based on the project information submitted by the applicant and subject to the criteria for practical difficulty, staff recommends approval of the requested variance.

Criteria for Practical Difficulty:
1. Granting the variance will not be in conflict with the Comprehensive Plan.

The Comprehensive Plan guides this parcel as Agricultural Area, which allows single family residential structures and accessory buildings
2. Exceptional or extraordinary circumstances apply to the property which do not generally apply to other properties in the same zoning district or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since the enactment of this Ordinance had no control.

The property was created and the home built in 1930 prior to current Zoning Ordinance standards. The property owner has also combined the three parcels that make up the property into a single parcel to eliminate any other property line encumbrances.

3. The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.

This home and previous single stall accessory building were developed when garage sizes were largely smaller. The applicants could replace to the same size and specifications; however, they have chosen to build a larger garage that would allow them to keep more items stored inside for security and site aesthetics.

4. That the special conditions or circumstances do not result from the actions of the applicant.

The lot and home were not created by the applicant as this area was developed prior to the applicant owning the lot.

5. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district.

Granting of the requested variance would not confer on the applicant any special privilege, as it would allow them to build a reasonable sized garage on a property that does not have any garage storage building.

6. The variance requested is the minimum variance which would alleviate the practical difficulty.

The proposed structure meets the side yard setback, will be 8 feet further from the DNR Stream than the previous garage, and will be set 8 feet further back from the road than the existing home. This will allow for off-street parking of a vehicle in the driveway without extending onto St. Benedict Road.

7. The variance would not be materially detrimental or will not essentially alter the character of the property in the same zoning district.

The variance would not alter the character of the property or the area as many of the other homes in the St. Benedict area have detached garages or other detached accessory buildings.

8. Economic considerations alone do not constitute a practical difficulty.

Economic considerations are not a reason for this variance request; the variance allows the applicants to make a reasonable use of the property by constructing a garage.
Board of Adjustments/Township Alternatives:
1. Approve the variance request as recommended by zoning staff based on the practical difficulty criteria as detailed in this report.

2. Approve the variance request with amendments to the requested variance and to the practical difficulty criteria.

3. Table the variance request for a specific reason.

4. Deny the variance request for a specific reason.

Suggested Motion for Board of Adjustments or Township Board:
Based on the criteria for determining practical difficulty listed in the staff report, I recommend approval of the requested variance to replace a non-conforming structure more than 50% existing square footage and to locate a detached accessory building 5 feet from local road right-of-way.
HELENA TOWNSHIP
SECTION 17
VERN SCHWARTZ
REQUEST FOR VARIANCE
To whom it may concern:

Re: 24916 St.Benedict Rd., New Prague, Mn

When we purchased the above property a single car garage had been previously torn down. The remaining foundation was beyond repair so we removed that as well.

The house was built in 1930 and is situated approximately 30 feet from the road. Fortunately the road carries very little traffic. We have remodeled the house and cleaned up the trees and debris on the 1 acre lot.

As we all know a garage in Minnesota is a necessity. We are asking for a variance so that we can build a 24’ x 24’ steel, pole frame garage with a 8’ x 16’ double overhead door, one service door and one window. The garage would set back 8’ farther from the road than the house and meet the required septic set back requirements.

I believe this garage would be a real asset to the neighborhood landscape as it would allow cars, bicycles, and other family toys to be stored inside, out of the weather as well as out of sight.

Thank you for your consideration.

Wayne Daniel/Vern Schwartz
612-810-8097
vernschwartz@yahoo.com
ELEVATION PLAN (BY DIRECTION, ALL WINGS) -- West
TOWNSHIP RECOMMENDATION FORM

On April 4, 2019, the Town Board of discussed with Debra Thompson (Owner: Smith Dental), the request to receive a variance to 38 feet from building for a detached garage.

After reviewing the Request, the Town Board:

- V RECOMMENDS APPROVAL WITH THE FOLLOWING CONDITIONS: George Current
  - Zoning ORDINANCE:
  - SUP Has Right to File Ordinance

- HAS NO RECOMMENDATION, BUT WILL FORWARD THE REQUEST TO THE PLANNING COMMISSION OR BOARD OF ADJUSTMENT.

SIGNED:

[Signatures]

CLERK

SUPERVISOR

SUPERVISOR

SUPERVISOR

White - County

Yellow - Township Copy

Pink - Applicant's Copy

Form #1910
ELECTION OF OFFICERS

Board of Adjustment 2019

Election of officers will proceed as follows:

Gary Hartman – Board of Adjustment Meeting

- Open nominations for Chair of Board of Adjustment
- Nominate
- Ask three (3) times “are there any other nominations”
- Motion to close nominations
- Close nominations for Chair of Board of Adjustment
- Vote on nominations for Chair of Board of Adjustment
- Announce new Chair and vote count

- Open nominations for Vice-Chair of Board of Adjustment
- Nominate
- Ask three (3) times “are there any other nominations”
- Motion to close nominations
- Close nominations for Vice-Chair of Board of Adjustment
- Vote on nominations for Vice-Chair of Board of Adjustment
- Announce new Vice-Chair and vote count

- Open nominations for Secretary of Board of Adjustment
- Nominate
- Ask three (3) times “are there any other nominations”
- Motion to close nominations
- Close nominations for Secretary of Board of Adjustment
- Vote on nominations for Secretary of Board of Adjustment
- Announce new Secretary and vote count

Planning Advisory Commission meeting follows.