



SCOTT COUNTY
BOARD OF ADJUSTMENT
MEETING MINTUES

Scott County Government Center
200 Fourth Avenue West
Shakopee, Minnesota

Monday, September 14, 2020 6:30PM

I. ROLL CALL AND INTRODUCTIONS

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

County Staff Present: Brad Davis, Planning Manager; Marty Schmitz, Zoning Administrator; Greg Wagner, Principal Planner; Nathan Hall, Associate Planner; Kiara Swanson, Video Technician; Tom Wolf, County Board Commissioner; and Deputy Clerk to the Board, Barb Simonson.

II. APPROVAL OF AUGUST 10, 2020 BOARD OF ADJUSTMENT MINUTES.

Motion by Commissioner Johnson; Second by Commissioner Vonhof to approve the August 10, 2020 BOA minutes. The motion carried unanimously as noted below.

Chair Hartmann called for a roll call vote with results as follows:

Commissioner Vonhof: Aye
Commissioner Hartmann: Aye
Commissioner Hentges: Aye
Commissioner Hrabe: Aye
Commissioner Huber: Aye
Commissioner Johnson: Aye
Commissioner Watson: Aye

The motion passed with 7 Ayes

III. PUBLIC HEARING 6:30 PM MESENBRINK VARIANCE (PL#2020-046)

A. Request for a Variance to Reduce the Required Lot Width from 100 feet to 66 feet.

Location: Section 10
Township: Credit River
Current Zoning: UER

Principal Planner Greg Wagner provided a brief description of the current request and noted there has been a change in the situation. Mr. Wagner presented a memo from the Credit River Town Board on the matter. The matter will be tabled to a future Board of Adjustment meeting as the applicant and township have agreed to modify the request. The applicant will bring a new request forward with the recommended changes. Mr. Wagner noted that Commission does not need to make a motion or action on this item since Staff, Township and Applicant are requesting the matter be tabled until the next meeting.

IV. PUBLIC HEARING 6:35 PM BRANDON HALL VARIANCE (PL#2020-056)

- A. Request for a Variance From the Required Minimum Lot Size of 40 Acres in the Urban Transition Reserve District to a 1.95 Acre Parcel.

Location: Section 13
Township: Helena
Current Zoning: UTR

Planner 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: [September 14, 2020 Board of Adjustment Agenda Packet](#).

(To view the staff report or video on the website, www.scottcountymn.gov, click on the download arrow and click on Agenda, Save and Open. Next open the bookmark at the top of the page and click on the Hall Variance project.)

Comments and Questions from the Commissioners:

Commissioner Huber asked about the applicants plans for the existing garage. *Mr. Hall reported the applicant will be abandoning the septic system and removing the living quarters from the garage.*

Chair Hartmann commented on his site visit to the property and his visit with the applicant about their plans for the property. He asked about the township's right to farm ordinance and what it means. *Mr. Hall explained what he knew about the ordinance and it is mainly to make the new owners aware of area farming that may occur around the property.*

Chair Hartmann opened the meeting up to the public:

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

Motion by Commissioner Huber; second by Commissioner Hentges to approve the variance based on the criteria listed in the staff report, I recommend approval of the requested variance from the required minimum lot size of 40 acres in the Urban Transition Reserve District to a 1.95 acre parcel.

Chair Hartmann called for a roll call vote with results as follows:

**Commissioner Vonhof: Aye
Commissioner Hartmann: Aye
Commissioner Hentges: Aye
Commissioner Hrabe: Aye
Commissioner Huber: Aye
Commissioner Johnson: Aye
Commissioner Watson: Aye**

The motion passed with 7 Ayes

Criteria for Approval – Practical Difficulties:

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

The Comprehensive Plan guides this property as Urban Transition for very long-range urban development. The lot size is significantly larger than a typical urban sized lot and therefore would not 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 lot was created in the mid 1970's when zoning regulations require a larger lot size and width. The extraordinary circumstance in this case is that the structure continued to be occupied for approximately 40 years after the previous owner was convicted of a zoning violation for using the structure as a residence. The residential use of the property and the real estate listing would certainly suggest that residential uses would be permitted here.

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 use of the applicant's property for the construction of a single-family home is consistent with how other properties in the area are used. Because of changes to the minimum lot size in this area over the years most of the lots around the applicants don't meet the current minimum lot size of 40 acres. The applicant's circumstance is unique, staff is not aware of any other lot in the County where there has been a non-conforming residential use occurring for the past 40 years. In addition, this same variance was approved in 2013.

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

The property had been used residentially for approximately 40 years and the real estate listing advertised the property as residential. The buyer most likely would have had no knowledge that in 1976 a prior owner was charged and convicted of using the property as a residence in violation of the Zoning Ordinance. Nothing was recorded against the parcel to indicate the residential use was non-conforming and it appears that no action was taken by the County after the conviction to remove the living quarters from the garage. In addition, this same variance was approved in 2013.

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 variance would allow the applicants to replace the existing small non-conforming living quarters on the property with a home. While this would be a special privilege granted to the applicant staff is not aware of any other any properties in the County where there has been a non-conforming residential use occurring for the past 40 years.

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

The requested variance to the 1.95-acre lot is the minimum necessary to alleviate the practical difficulties.

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 be detrimental or alter the character of the properties in the zoning district or the immediate neighborhood. The use of the lot for a single-family residence is consistent with how the other properties in the area are use. Not approving the variance would be more detrimental to the area as the lot and structure would only be able to be used for storage which is inconsistent with how other properties in the area are used.

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

There is an economic component to this request without the variance the value of the property is significantly less than it is as a building site.

V. GENERAL & ADJOURN

Motion by Commissioner Huber; second by Commission Johnson to adjourn the meeting at 6:47 PM. The motion carried unanimously at noted below.

Chair Hartmann called for a roll call vote with results as follows:

- Commissioner Vonhof: Aye
- Commissioner Hartmann: Aye
- Commissioner Hentges: Aye
- Commissioner Hrabe: Aye
- Commissioner Huber: Aye
- Commissioner Johnson: Aye
- Commissioner Watson: Aye

Meeting was adjourned.

Gary A. Hartmann

Gary Hartmann
Chair, Board of Adjustment

10-12-2020

Date

Barbara Simonson

Barbara Simonson
Deputy Clerk to the Board

10/12/2020

Date