

**AGENDA
PLANNING COMMISSION MEETING
CITY OF SHOREVIEW**

**DATE: SEPTEMBER 23, 2014
TIME: 7:00 PM
PLACE: SHOREVIEW CITY HALL
LOCATION: 4600 NORTH VICTORIA**

1. CALL TO ORDER

ROLL CALL

APPROVAL OF AGENDA

2. APPROVAL OF MINUTES

August 26, 2014

Brief Description of Meeting Process – Chair Steve Solomonson

3. REPORT ON CITY COUNCIL ACTIONS

September 2, 2014 and September 15, 2014

4. NEW BUSINESS

A. PUBLIC HEARING – CONDITIONAL USE PERMIT

File No: 2529-14-19

Applicant: Kyle & Colleen Baker

Location: 1349 Meadow Avenue

B. VARIANCE

File No. 2543-14-33

Applicant: Lucas & Amanda Peterson

Location: 285 Snail Lake Road

C. VARIANCE / MINOR SUBDIVISION

File No: 2544-14-34

Applicant: Gregory Livermont

Location: 4525 Rice Street

5. MISCELLANEOUS

A. City Council Assignments for *October 6, 2014 and October 20, 2014*
Commission Members Thompson and McCool

B. Planning Commission November and December meeting date

C. Planning Commission Workshop @ 6:00 pm before the regular meeting.

6. ADJOURNMENT

**SHOREVIEW PLANNING COMMISSION
MEETING MINUTES
August 26, 2014**

CALL TO ORDER

Chair Solomonson called the August 26, 2014 Shoreview Planning Commission meeting to order at 7:00 p.m.

ROLL CALL

The following Commissioners were present: Chair Solomonson, Commissioners, Ferrington, McCool, Peterson, Proud, and Schumer.

Commissioner Proud was absent.

APPROVAL OF AGENDA

MOTION: by Commissioner Schumer, seconded by Commissioner Ferrington to approve the amended August 26, 2014 Planning Commission meeting agenda.

VOTE: Ayes - 6 Nays - 0

APPROVAL OF MINUTES

MOTION: by Commissioner Schumer, seconded by Commissioner Peterson to approve the July 22, 2014 Planning Commission meeting minutes, as submitted.

VOTE: Ayes - 4 Nays - 0 Abstain - 2 (Ferrington, Thompson)

Commissioners Ferrington and Thompson abstained, as they were not present at the July 22nd meeting.

REPORT ON CITY COUNCIL ACTIONS:

City Planner Kathleen Castle reported that the City Council approved the following applications in August:

- Union Gospel Mission
- Wireless facility for AT&T

NEW BUSINESS

PUBLIC HEARING - CONDITIONAL USE PERMIT

FILE NO: 2537-14-27

APPLICANT: ROBERT G. HINZE
LOCATION: 4801 KENT DRIVE

Presentation by City Planner Kathleen Castle

The application is for a Conditional Use Permit for a detached accessory structure. The property is zoned R1, Detached Residential District with a lot area of 12,196 square feet and developed with a single-family home of approximately 1,120 square feet. There is an attached garage of 576 square feet. The request is to build a detached storage shed on the property of 280 square feet. A Conditional Use Permit is needed, as the property is less than one acre and the proposed shed exceeds 150 square feet.

The proposal does comply with City standards regarding the size of detached structure, total square footage allowed and the ratio of accessory structure square footage to the principal dwelling. Setbacks and height are in compliance. The design complies with the character of the neighborhood. There are trees along the rear property line and along Tanglewood

Notice of the public hearing was published in the newspaper and notices were sent to property owners within 350 feet. Two comments supporting the project were received.

Staff finds the proposal in accordance with the City's Comprehensive Plan policies. It is consistent with Development Code standards, and staff's recommendation is for the Planning Commission to forward the proposal to the City Council for approval.

Commissioner McCool asked for clarification on additional recommended screening. Economic Development and Planning Technician Nikki Hill responded that additional screening has not been discussed with the applicant. However, the applicant has been very cooperative and no problem is foreseen with this recommendation.

City Attorney Kelly stated that proper notice was given and published for the public hearing.

Chair Solomonson opened the public hearing. No one present offered to give testimony.

MOTION: by Commissioner Schumer, seconded by Commissioner Peterson to close the public hearing.

VOTE: Ayes - 6 Nays - 0

Commissioner McCool noted that the garage and proposed shed abut the property to the north with minimal screening. He would like to see a requirement that modifies condition No. 3 that requires a landscaping plan approved by staff at the time a building permit is issued.

Commissioner Schumer asked how that process would work. Ms. Castle explained that a landscaping plan would be required at the time of application for a building permit. A landscaping escrow would be required. Upon completion, there would be an inspection and the landscaping escrow would not be released until the landscaping is approved.

Chair Solomonson asked what acceptable screening would entail. Ms. Castle stated that the shed does not have to be blocked. What is needed is landscaping to soften the appearance and minimize the impact of the structure on adjoining properties.

MOTION: by Commissioner Schumer, seconded by Commissioner Thompson to recommend the City Council approve the Conditional Use Permit application submitted by Robert Hinze, 4801 Kent Drive, to construct a 280 sq. ft. detached accessory structure (shed) on his property. The Conditional Use Permit authorizes 280 square feet of total floor area for the detached accessory structure, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The exterior design of the shed shall be consistent with the plans submitted and complement the home on the property.
3. The applicant shall obtain a building permit for the structure. The structure shall comply with the Building Code standards.
4. The accessory structure shall be screened from view of adjacent properties and public streets through the use of landscaping, berming, fencing or a combination thereof.
5. The structure shall not be used in any way for commercial purposes.

Said approval is based on the following findings of fact:

1. The proposed accessory structure will be maintain the residential use and character of the property and is therefore in harmony with the general purposes and intent of the Development Ordinance.
2. The primary use of the property will remain residential and is in harmony with the policies of the Comprehensive Guide Plan.
3. The conditional use permit standards as detailed in the Development Ordinance for residential accessory are met.
4. The structure and/or land use conform to the Land Use Chapter of the Comprehensive Guide Plan and are compatible with the existing neighborhood.

VOTE: Ayes - 6 Nays - 0

VARIANCE

FILE NO: 2542-14-32
APPLICANT: JESSE STRATTON
LOCATION: 448 TANGLEWOOD DRIVE

Presentation by City Planner Kathleen Castle

The application is to construct a fence taller than the 4 feet allowed in the front yard. Exceptions are for double fronted lots, where a 6-foot fence is permitted in the rear yard abutting an arterial

road. If a side yard is adjacent to a public road, a 6-foot fence is permitted with a minimum setback of 10 feet and with additional landscaping. Frontage for this subject property is on Hodgson Road, but access to the property is through a driveway easement at 456 Tangelwood Drive.

The property is zoned R1, Detached Residential with a lot area of 16,117 square feet. The lot width along Hodgson Road is 82.26 feet. It is developed with a single-family home with attached garage, driveway and sidewalk areas. Landscaping would be planted in front of the proposed fence, either transplanting mature lilacs or a landscaping plan that is submitted.

The applicant states that the fence height is reasonable and will provide sound, safety and privacy from the arterial roadway, Hodgson Road. There are unique circumstances with lot access and adjoining land uses. The character of the neighborhood will not be altered. There are nearby 6-foot tall privacy fences on Hodgson Road.

Staff finds that the fence is reasonable. The increased height is reasonable because of the arterial roadway, change of land uses and the lot characteristics. Unique circumstances exist with the lot orientation toward Hodgson Road. Development has changed on this block from large lot residential to high density and low density residential served by an internal local road. Other neighborhoods along Hodgson allow 6-foot fences due to lot orientation and traffic noise. The average daily trips on Hodgson counted in 2011 was 14,300. That number is expected to increase. The character of the neighborhood will not be impacted with the proposed fence height due to changes in land use and the development pattern.

Notices were sent to property owners within 150 feet. No comments were received. Staff is recommending approval with the conditions listed in the staff report.

Chair Solomonson clarified that the need for a variance is because the frontage on Hodgson is considered the front yard.

Commissioner Ferrington asked for clarification of the landscaping plan submitted at this meeting. Ms. Castle explained that the first choice is to transplant mature lilacs. Otherwise, arborvitae are proposed with a mulched ground cover. The alternate landscape plan adds shrubs with the arborvitae instead of the lilacs.

Chair Solomonson expressed concern about gate access along Hodgson when there is no property access. A gate access could mean future storage, but City Code would apply regarding front yard storage.

Mr. Jesse Stratton, 448 Tanglewood Drive, Applicant, stated that he is willing to answer any questions. The landscaping is planned to provide full screening within a few years.

Commissioner Ferrington asked if this new fence would be tied into other existing fences. **Mr. Stratton** stated that his fence would tie in at the southwest corner. All neighbors have fences.

Mr. Rick Tillman, 4772 Hodgson, stated that he does not understand the need for a 6-foot fence. His front yard cannot have a 6-foot fence. His neighbor has a 4-foot fence. Ms. Castle explained that Mr. Tillman did apply for a 6-foot fence in the front yard adjoining Hodgson Road and was informed that the height could not exceed 4-feet. His property does not have frontage on two roads because of the outlot between his property and the roadway serving the Whispering Pines subdivision (Majestic Court). **Mr. Tillman** stated that his objection is a 6-foot fence next to a 4-foot fence. The 6-foot fence will close off the neighbor who has a 4-foot fence. His main concern is the look of fences. He urged staff and commissioners to actually look at the area. Photos do not show what is going on.

Ms. Saya Stratton 448 Tanglewood, Applicant, stated that Mr. Tillman's property does not have a fence. The mature lilacs are 12 feet in height, but between them the property is open to the traffic. The reason for the 6-foot fence is for privacy and security. There is a 6-foot fence along the garage. The proposed fence would be adjoined to the neighbor's 4-foot fence. The gate is to access outside the fence and maintain landscaping. Landscaping will be coordinated through City staff.

Commissioner McCool asked if a 1-foot berm with a 4-foot fence has been considered. **Ms. Stratton** stated that they support the contractor's recommendation for a 6-foot fence.

Commissioner Ferrington reviewed the exact amount of fencing and location around the Stratton property.

Commissioner McCool asked if access off Hodgson Road would be an option if the property were redeveloped. Ms. Castle responded access was restricted to Tanglewood Drive when this lot was created. Ms. Castle explained that a County permit would be required, as Hodgson is a county road. She believes an access permit would be difficult to obtain due to the access management policies..

Commissioner Peterson stated that there are many existing fences in the area with the sound barrier wall to the north. Some are not screened well. He is pleased to see the planned screening. This plan is consistent with what is already in the neighborhood and should be supported.

Commissioner Ferrington agreed and stated that she can well understand the need for more privacy as Hodgson continues to become a busier road.

Chair Solomonson agreed and stated he supports staff's review and recommendation.

Commissioner McCool stated that he also supports the application. The circumstances are unique in that the lot functions as a corner lot. The other unique circumstance is the changing development of the area.

MOTION: by Commissioner Schumer, seconded by Commissioner Thompson to adopt the attached Resolution 14-62, including findings of fact, permitting the construction

of 6-foot tall privacy fence in the front yard of the property at 448 Tanglewood Drive, subject to the following conditions:

1. The approval permits a 6-tall privacy fence in the front yard of the property.
2. Said fence shall be setback a minimum of 10 feet from the front property line.
3. Vegetative screening shall be installed and maintained between the fence and the front property line. A landscape plan shall be submitted to the City Planner for review and approval prior to the issuance of a building permit.
4. The fence shall be maintained in accordance with the standards of the Development Code.
5. The applicant shall obtain a building permit for the structure.

Said approval is based on the following findings of fact:

1. *Reasonable Manner.* The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations. The applicants' proposal to construct a fence is reasonable, especially along an arterial roadway.
2. *Unique Circumstances.* The plight of the property owner is due to circumstances unique to the property not created by the property owner. Unique circumstances are present due to changes in the development pattern, land uses and increased traffic along Hodgson Road. The applicant's property is one of two single-family residential properties that have a front yard onto Hodgson Road on this block. Land use along the corridor have transitioned and include high density residential uses. Further transition of land uses is expected on the west side of Hodgson Road. Traffic has increased and is anticipated to increase in the future.
3. *Character of Neighborhood.* The variance, if granted, will not alter the essential character of neighborhood. The variance will not alter the character of the neighborhood because of the changes in the development pattern, adjoining land uses and proposed screening. Since this property is only one of two residential lots whose front lot lines abut Hodgson Road on this block, the character of the neighborhood will not be altered

Discussion:

Chair Solomonson asked if the new landscaping plan is an update. Ms. Castle stated that the new landscaping plan was submitted earlier in the day and replaces the first one.

VOTE: Ayes - 6 Nays - 0

VARIANCE

FILE NO: 2539-14-29
APPLICANT: BRADY & JAMIE MARTIN
LOCATION: 948 ROBINHOOD PLACE

Presentation by Senior Planner Rob Warwick

This application is a requested variance to increase the amount of accessory structure floor area permitted from 288 square feet to 576 square feet in order to construct a 24 x 24 foot detached

garage in the rear yard of their standard corner lot. The garage would be used to store a boat and a vehicle.

The property consists of 16,900 square feet with a lot width of 108 feet on Robinhood Place. The east side abuts Nottingham Place. It is developed with a two-story house with a basement tuck-under two-car garage of 528 square feet. The garage entry is on the south or rear of the house. The driveway access is on Nottingham Place. A detached shed is located in the rear yard. It is a legal non-conforming structure that is in poor condition and will be removed. The proposed garage has a 10-foot setback from the rear lot line and 37 feet from Nottingham Place. This complies with City requirements.

A detached accessory structure is allowed with a maximum floor area of 288 square feet. A variance is requested for the proposed 576 square foot garage. Total floor area of all accessory structures must be less than 1200 square feet or 90% of the foundation area of the dwelling. The total floor area of the attached and proposed detached 576 square foot garage is 1104 square feet or 81.8% of the house foundation.

The applicant states that the second-story addition was built in 2008. A garage expansion was explored at that time but was not possible due to setback and architectural constraints. The topography, location and design of the house create practical difficulty.

Staff agrees that expanding the attached garage would be difficult because it is in the basement. However, this type of garage is not unique but is common in parts of the City that were developed in the 1950s and 1960s. As there is a large shed in the rear yard and the fact that both adjacent properties have detached garages, staff does not believe this proposal will alter the character of the neighborhood.

Staff does not believe practical difficulty exists. The existing non-conforming shed could be rebuilt in the same location and at the same size. Staff believes the applicants should consider reducing the size of the proposed garage closer to the 368 square feet of the existing shed. Another alternative would be to convert part of the attached garage to living area and reduce the garage portion to a one-car size. Then a detached garage of up to 750 feet would be allowed.

Notices were mailed to property owners within 150 feet. One comment of support was received. Staff cannot make affirmative findings for all three variance criteria and, therefore, does not recommend approval.

Chair Solomonson asked what the City would require to convert part of the existing garage to living space. Mr. Warwick answered that one garage door would have to be removed, an exterior wall built, as well an interior wall to separate the garage from the new living space.

Commissioner Thompson asked for further clarification on the discussion with the applicant regarding staff's recommendations. Mr. Warwick stated that the applicant prefers not to alter the existing house. Conversion to living space would require a foundation and roof in addition to new walls. It would be architecturally and structurally challenging.

Commissioner Ferrington stated that she does not believe it makes sense to convert part of the garage to living space. The gain would only be 11 feet, and it would be architecturally difficult. A conversion to living space to put a larger garage in the rear yard is counter to what the Commission is trying to do with accessory structures in yards. Mr. Warwick explained that this is a difficult application. Staff was unable to find that the tuck-under style garage and topography create uniqueness and so warrant a larger detached accessory structure than permitted by code. The existing legal 368 square foot non-conforming accessory structure could be rebuilt and would be larger than the 288 square feet that Code allows.

Chair Solomonson stated that his dilemma is that if a portion of the attached garage were converted to living space, the larger detached garage could be built without a variance. However, he did observe that the property size supports a two-car garage in the rear.

Mr. Brady Martin, 948 Robinhood Place, Applicant, stated that the house was built in the 1950s by his grandfather. He grew up in the house. It is important to them to keep the character of the house. It is difficult to understand there are no unique circumstances. He has driven around the City and not been able to find a configuration of a house with driveway to the rear. The existing shed was a hunting shack. It is infested, there is no flooring and walls are collapsing. It is not salvageable. It would require a variance to move that structure, or the driveway would have to be extended to its current location. They do not want a giant 3-car garage in the back yard with conversion of part of the tuck-under to living space. Such enclosure would not severely alter the character of the house. There would only be 11 feet to adding a third stall to the existing garage. That would another roof line and involve removing two trees and landscaping. **Mr. Martin** stated that his work requires that he have a take-home vehicle. They would rather reduce the size of the requested garage than convert existing garage space to living space.

Chair Solomonson noted that to convert the existing attached double garage to a single garage would be very tight. Car doors would hit the walls of a single garage.

Mr. Denny Campbell, 4910 Nottingham Place, stated that his garage is 24 x 24. It is a nice size but is not huge. Any smaller makes it only functional to put a car in. He has no problem with Mr. Martin's application. Other immediate neighbors have detached double garages.

Commissioner Thompson stated that she believes the request is reasonable. She has more trouble with converting to living space and then being able to build a much larger than requested garage than the request that has been submitted.

Chair Solomonson stated that if one stall of the existing double garage were converted to living space, it does hamper the function of the remaining garage stall, which is a hardship. The property is unique. The practical difficulty is the configuration of the existing house.

Commissioner Peterson stated that the house has been remodeled very attractively. It is unique in location, and he sees that there is practical difficulty. This proposed garage is finishing the remodeling.

Commissioner Ferrington noted that the proposal complies with height, pitch of the roof, setback from the road, and impervious surface will not be increased. A non-conforming structure that is falling down will be removed. She does not believe altering the architecture of the home is reasonable. She supports this proposal.

Commissioner McCool expressed his support also. The tuck-under garage is unique. The proposal is less than what is allowed by Code.

Commissioner Schumer stated that this is a good plan, but appropriate findings have to be stated.

MOTION: by Commissioner Ferrington, seconded by Commissioner Thompson to adopt Resolution 14-64 approving a variance to increase the maximum floor area for a 576 square foot detached accessory structure for Brady and Jamie Martin on their property at 948 Robinhood Place, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.
4. The existing shed shall be removed prior to issuance of a building for the proposed garage.
5. Use of the accessory structure shall be for personal use only and no commercial use or commercial related storage is permitted.

Said approval is based on the following findings of fact:

1. *The proposal is in harmony with the policies of the Comprehensive Plan and complies with the spirit and intent of the Development Code.*
2. *Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*

On this property, an attached garage up to 1,000 square feet and a detached accessory structure of up to 150 square feet are permitted with a building permit. A detached accessory structure 150 square feet to 288 square feet in size is permitted with a Conditional Use Permit. The existing attached garage has a floor area of 528 square feet, but expanding the attached garage is not feasible. The foundation area of the house is 1350 square feet. City Code limits the total floor area of all accessory structures to the lesser of 1,200 square feet or 90% of the living area foundation. The proposed detached garage has an area of 576 square feet, and the proposed 1,104 square feet of total accessory floor area is about 82% of the living area foundation. The two-story house will remain the primary feature of the property. An existing non-conforming detached accessory structure will be removed with this project.

3. *Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*

Practical difficulty stems from the topography, location and design of the existing house and attached garage. Expansion of the existing basement garage is limited due to these factors, and leaves the applicants without garage areas for needed storage. The circumstances with the corner lot, a tuck under attached garage not visible from the front lot line, access to the garage at the rear of the house with a driveway to the side yard is unique. The house was recently renovated in a manner that preserved the original design features, and enlarging the attached garage is not possible without altering that design integrity.

4. *Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

The proposed garage will be sided with hardi-board that matches that used on the exterior of the house. Detached garages are found in the neighborhood, including on the two adjacent properties, and this property has had a large shed located in the rear yard since the 1960s. Given these conditions, constructing a 24- by 24-foot garage in the rear yard will not alter the character of the existing neighborhood.

Discussion:

Commissioner Schumer stated that he thought staff was looking for additional findings, but if what is presented is sufficient, he can support the motion as presented.

Commissioner Thompson stated that based on the discussion and the prepared findings by staff, she believes the findings are sufficient.

Commissioner McCool stated that it should be noted that a non-conforming structure is being removed. The need for additional storage is not compelling and he would add language about the tuck-under design, the recent remodeling, a corner lot that constrains garage expansion to describe unique circumstances.

Commissioners Ferrington and Thompson accepted Commissioner McCool's statement as a friendly amendment to No. 2 of Findings.

VOTE: Ayes - 6 Nays - 0

Chair Solomonson called a 10-minute break and then reconvened the meeting.

VARIANCE/RESIDENTIAL DESIGN REVIEW

FILE NO: 2540-14-30
APPLICANT: DOUGLAS & RENELLE MAHONEY / TRACY CRANE
LOCATION: 5466 LAKE AVE

Presentation by Senior Planner Rob Warwick

The proposal is to add a full second story addition above the attached garage. A 2-foot cantilever on the street side would increase the foundation area. The addition setback would be 42.6 feet from the front lot line, which is less than the minimum 55.55 foot setback based on the location of the dwellings on the adjacent lots. Therefore, a variance is required. The property is a substandard riparian lot on Turtle Lake consisting of 9,600 square feet with a lot width of 68 feet at the front and tapering to 38 feet at the Ordinary High Water (OHW).

The property has a two-bedroom house with 2,150 square feet of foundation area. The house is built on a slab with no basement. There is a three-car attached garage with living area above. The house is a non-conforming structure because it is located at less than the minimum front setback.

The proposed addition consists of three bedrooms, a bath and loft/play area. A 2-foot cantilever on the front is needed to increase usable space for bedrooms and the play area, which reduces the front setback to 42.6 feet. The current setback is 44.6 feet, which also does not meet the required 55.55 feet. The peak height of the home will increase to 30.75 feet. There is no increase to impervious surface, but the cantilever increases the foundation area by 64.4 square feet from the existing 2151 square feet, and this also requires a variance. The foundation area allowed is 18% of the existing lot area; existing is 22.4%; what is proposed with the cantilever is 23.1%.

The applicant states that practical difficulty exists because of the location of the dwelling on the lot to the east, which is approximately 88 feet from the front lot line. Other houses on Lake Avenue are set back less than 45 feet. The proposed addition uses existing foundation space; the cantilever increases livability of the addition.

Staff finds that the addition is reasonable because there are only two bedrooms in the main house. The design and layout of the existing house create practical difficulty. The cantilever replaces the eyebrow architectural feature without increasing impervious surface. Other houses in the area are closer to the street and taller so this proposal will not alter the character of the neighborhood. An addition to this house is not possible without a variance.

Two practices of shoreland mitigation are required. The applicants have chosen architectural mass using a brown siding to match the existing home. Also, two rain gardens will be fed from gutters and downspouts.

Notice of the application was mailed to property owners within 150 feet of the subject property. No comments were received. Staff is recommending approval of the variances. If the variances are approved, the Residential Design Review can be approved.

Commissioner Ferrington asked if moving the bathroom wall is interior to the house. Mr. Warwick explained that it keeps the living area from encroaching into the 10-foot setback. Commissioner Ferrington noted that the setback on the east side is 9.7 feet and not the required 10 feet. Mr. Warwick clarified that the 9.7 foot setback is to the existing house, not the addition.

MOTION: by Commissioner Schumer, seconded by Commissioner Ferrington to adopt Resolution 14-63 approving variances to reduce the front setback to 42.6 feet, and to increase the foundation area by 64.4 square feet to 2,215.4 square feet, in order to allow expansion of the non-conforming dwelling and to approve the Residential Design Review application submitted by Tracy Crane for the property at 5466 Lake Avenue, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The front setback will be a minimum of 42.6 feet for the proposed addition measured to the cantilever on the front of the house.
3. The applicant shall execute a mitigation affidavit prior to issuance of a building permit for the project.
4. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
5. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.

Said approval is based on the following findings of fact:

1. *The proposal is in harmony with the policies of the Comprehensive Plan and complies with the spirit and intent of the Development Code.*
2. *Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*

The existing house is designed with just two bedrooms, both on the second floor. Adding bedrooms to better accommodate family living is a reasonable use of the property, and is not possible without a variance for this non-conforming dwelling.

3. *Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*

Practical difficulty for the front setback variance stems from the 88-foot front setback of the dwelling located on the adjacent property. This setback is greater than other dwellings on the riparian lots along Lake Ave. and increases the front setback for the subject property.

Practical difficulty for the foundation area variance is due to the design of the existing house, which exceeds the permitted 18% foundation area, yet has only two bedrooms. Increasing the living area as proposed has a minimal impact on the foundation area while allowing conversion of the dwelling to accommodate a young family. The intent of the foundation area limitation is to address the developed area on substandard lots. Here, the cantilever replaces the existing eyebrow with an added extension of only 0.5 feet and no impact on impervious surface coverage, yet allowing space for three added bedrooms.

4. *Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

The proposed second story addition will result in a design similar to several other dwellings that exist along this street. Other houses are nearer the street and taller than the proposed addition. Given these conditions, staff believes that constructing a second story addition above the existing garage will not alter the character of the existing neighborhood.

5. *The proposal complies with the adopted standards for a substandard riparian lot, with approval of the variances requests.*

Discussion:

Chair Solomonson stated that this is a very straight forward decision. The proposal is a creative design that does not increase the footprint of the house or impervious surface.

VOTE: **Ayes - 6** **Nays - 0**

VARIANCE / RESIDENTIAL DESIGN REVIEW

FILE NO: **2541-14-31**
APPLICANT: **LANCE & SHELLY REDLINGER**
LOCATION: **1000 COUNTY ROAD I**

Presentation by City Planner Kathleen Castle

This application is for a variance to build a detached accessory structure to exceed the maximum area permitted from 288 square feet to 744 square feet. The request is also to exceed the combined area permitted for all accessory structures from 1,000 square feet to 1,268 square feet. The property is a substandard riparian lot on the north shore of Turtle Lake with frontage on County Road I. The lot width is 66.95 feet with lot area of 27,442 square feet or 0.62 acres. The property has a two-story home that is 1, 839 square feet with a walkout basement on the lake side and an attached garage of 524 square feet.

The proposed detached garage of 744 square feet has a height of 17.6 feet. An interior storage ceiling of 5 feet will have access with a pull-down attic staircase. After discussing the proposal with staff, some modifications were made with a reduction in height thereby decreasing the height of the storage area. This plan also increase the side yard setback from 4.1 feet to 10 feet. Driveway improvements will be needed for access.

The applicants state that practical difficulty is present because the existing garage of 524 square feet is well below the 1000 square feet allowed. The attached garage is only 21.9% of the foundation size of the home, and up to 80% can be allowed. Expanding the existing garage is not a viable option. One reason is that the side yard setback of the garage on the west is 7.9 feet, and expansion of the garage on the east would cut off access to the front door of the house.

Staff finds that the proposal does comply with building standards for lot coverage, building height, foundation area, setbacks and architectural mass. There is practical difficulty present.

The accessory floor area requested is approximately 69% of the dwelling floor area, which means the dwelling will remain the principal structure on the property. Riparian lots have greater storage needs. This lot is significantly larger at 27,442 square feet than the minimum lot size of 15,000 square feet required for shoreland parcels. The narrow lot width of 66 feet makes it difficult to expand the existing garage. Unique circumstances are the narrow width, large square footage of the parcel and being a riparian lot.

The size of the proposed garage is comparable to other detached accessory structures in the neighborhood. The average size of detached accessory structures is 757 square feet. Six properties were found to have attached garages averaging 615 square feet in addition to the detached garage. The average total square footage for all accessory structures, attached and unattached, is 3,336. The most square footage on a parcel is 1,524 square feet; the least is 672 square feet. Shoreland mitigation practices selected are architectural mass and vegetative buffer.

Notices were sent to property owners within 150 feet of the applicant's property. One written comment of support was received. Staff finds that the project complies with the Residential Design Review standards and recommends approval subject to the conditions and findings.

Commissioner Ferrington asked if it was discussed with the applicants to reduce the size of the requested garage by 68 feet in order to need only the one variance for the structure size and not a second variance to exceed the total combined accessory structure square footage. Ms. Castle stated that based on staff recommendations, the applicants did make modifications. Their thinking is that it would be possible to add a 1000 square foot garage if it could be added onto the house plus a detached structure of 288 square feet. Commissioner Ferrington asked the reason for the garage length of 31 feet.

Mr. Redlinger, Applicant, responded that with a truck, boat and trailer, he is trying to plan enough space to be able to take equipment in and out without having to move the truck, boat or trailer. He plans a utility door on the back side, away from County Road I, to be able to take lawn and other equipment in and out.

Commissioner McCool stated that this is a reasonable request, and would fit in the neighborhood. His concern is seeing the uniqueness of the property with this size structure.

Commissioner Peterson stated that he is having difficulty supporting this application because it is much larger than the other requests seen at this meeting. It is not uncommon to have a long narrow lot on Turtle Lake.

Commissioner Schumer stated that he has no problem. The proposed garage will fit in the neighborhood. That size structure is needed for boats and trailers. The applicant has already reduced the size to respond to staff recommendations.

Commissioner Thompson stated that she would support the application.

Chair Solomonson stated that he would like to have a workshop discussion on accessory structures. At one time a tiered system was discussed. He believes this property is unique because of its long, narrow configuration and he would support the application.

Commissioner Ferrington stated that she also is concerned about the size, but the large size of the property and the fact that the applicant has responded to staff's input allows her to support the project.

MOTION: by Commissioner Schumer, seconded by Commissioner Thompson to adopt the attached Resolution 14-65, including findings of fact, permitting the construction of 744 square foot detached accessory structure for Lance and Shelly Redlinger on their property at 1000 County Rd I. Said approval is subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.
4. A Mitigation Affidavit shall be executed prior to the issuance of a building permit for the addition.
5. The exterior design and construction of the structure must comply with Section 205.082 (5e), Exterior Design and Construction.
6. Use of the accessory structure shall be for personal use only and no commercial use or commercial related storage is permitted.

Said approval is based on the following findings of fact:

1. *Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*

A variance is needed to allow the proposed structure to exceed the maximum area permitted. On this property, a detached accessory structure of up to 150 square feet is permitted with a building permit. A detached accessory structure 150 square feet to 288 square feet in size is permitted with a conditional use permit. The City Code limits the total floor area of all accessory structures to the lesser of 1,200 square feet or 90% of the living area foundation on lots less than one-acre. The attached garage has a floor area of 524 square feet and the proposed detached garage has an area of 744 square feet. The foundation area of the house is 1,839 square feet. The proposed 1,268 square feet of total accessory floor area is about 69% of the living area foundation, therefore, the home will remain the primary feature of the property.

In Staff's opinion, the variance request to build the garage in the proposed location represents a reasonable use of the property. City Code permits detached garages as an

accessory use. By establishing these provisions, the City deems that a detached garage represents a reasonable use of the property provided Code standards are met. Garages are needed for vehicle parking and storage of normal household equipment and supplies. Additionally, lake lots have the potential to create greater storage needs.

Furthermore, the 27,442.8 square foot property is significantly larger than the 15,000 square foot required lot size for a single family residential riparian property in the City and greater than the minimum lot area of 10,000 square feet required for properties in the R1 zoning district.

2. *Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*

Practical difficulty stems from the uniqueness of the parcel. It is a substandard riparian lake parcel with an average width of 66 ft, which is significantly less than the 100 feet required. The small width of the parcel leaves the sideyard setback of the existing garage at 7.9 feet, leaving only 2.9 feet for any allowable expansion of the current detached garage. The combination of a riparian parcel, narrow width of the parcel, and larger square footage of the parcel are unique circumstances to this lot.

3. *Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

Staff believes that the variance will not alter the essential character of the existing neighborhood as the adjacent properties are riparian and as such there are other detached garages and accessory structures located in the front of the lot. The size of the structure is comparable to other detached accessory structures on adjacent properties.

Ten adjacent riparian properties along County Road I were reviewed for their accessory structure size and square footages to see if the request is compatible with the surrounding neighborhood. Out of the ten properties staff looked at, the average size for a detached accessory structure was 757 square feet. Six of the properties had attached garages in addition to a detached garage; the average square footage for the attached garage was 615 square feet. The average total square footage for all accessory structures, attached and detached, is 1,126, with the high being 1,524 square feet and the low 672 square feet.

The existence of similar structures along County Rd I in relatively the same location further mitigates the potential impacts of the structure. The orientation of the garage would give the appearance of a standard two car garage when viewed from County Road I. The proposed garage would match the architectural style of the current home.

Discussion:

Commissioner McCool stated that he does not believe the Commission is acting consistently, and he will not support it. This applicant simply wants more storage space. If the proposal was closer to a standard size structure, he could support it.

Commissioner Schumer countered that it would be difficult to find an applicant who is not looking for more storage space.

Commissioner Peterson agreed that a workshop discussion is needed to develop a consistent approach. Better standards are needed. He would not support the application.

City Attorney Kelly stated that each application is unique in itself. The Commission is charged with determining practical difficulty, unique circumstances, reasonable use and the character of the neighborhood. A workshop would be to discuss parameters. Does it meet the spirit and intent based on the uniqueness of the property, reasonable manner and character of the neighborhood. The Commission has been consistent in applying these criteria.

VOTE: Ayes - 4 Nays - 2 (McCool, Peterson)

PUBLIC HEARING
PLANNED UNIT DEVELOPMENT – DEVELOPMENT STAGE COMPREHENSIVE
SIGN PLAN

FILE NO: 2538-14-28
APPLICANT: KIMLEY HORN ENGINEERING/RAISING CANE’S
 RESTAURANT
LOCATION: 26-30-23-32-0014 (LOT 2, BLOCK 1, SHOREVIEW TARGET 2ND
 ADDITION) LEXINGTON

Presentation by City Planner Kathleen Castle

The applicant requests an amendment to the PUD and approval of a Comprehensive Sign Plan to develop Lot 2 of the Shoreview Target 2nd Addition with a restaurant with a drive-through facility. The restaurant is Raising Cane’s. The property was re-platted last year for future commercial development. The lot consists of 1.14 acres. The lot fronts on the south public access driveway but also has frontage on Lexington Avenue. It is a corner lot. It is developed with a private drive and parking lot. Target has a sign easement on the property.

When the property was re-platted, the PUD was amended to address parking, signage, impervious surface and Target operations. Deliveries are prohibited between 12:00 a.m. and 5:00 a.m. At Target’s request, a condition restricting hours was lifted and the store is permitted to be open 24-hours.

The proposed restaurant seeks hours of operation from Sunday to Thursday, 10:00 a.m. to 12:00 a.m. and Friday and Saturday from 10:00 a.m. to 2:00 a.m. The maximum number of employees anticipated is seven. Truck deliveries will be made three times per week by small trucks. The same limit restricting semi-truck deliveries between 12:00 a.m and 5:00 a.m. applies.

Flexibility is requested regarding the setbacks for the trash enclosure. The required setback is 50 feet; the application is for 44.5 feet. Also a 20-foot setback is required at the rear lot line; the applicant proposes 4.5 feet. The restaurant building complies with all setback requirements. The historic drainage pattern will be maintained and storm water directed to Outlot A and the storm water pond through existing infrastructure. Lot coverage will decrease from 69.35% to 61.4%.

The parking areas has two access points. The 28 parking stalls proposed exceeds the 16 required. The proposed drive-through lane accommodates 10 stacking car spaces; 6 are required. Landscaping is planned to include a combination of ornamental trees, shrubs and other plantings. Some of the existing vegetation will be retained. The applicant is working with staff regarding additional landscaping.

The Comprehensive Sign Plan shows a free standing sign. The PUD encourages a shared sign with Target, but Target has indicated that the existing sign is not designed for an additional panel and would prefer separate signage for Raising Cane's. The proposed free-standing monument sign is reasonable and complies with City requirements.

One wall sign is allowed. The applicant seeks a deviation of three wall signs to identify Raising Cane's, one on the south, one on the east and one on the west. The south wall sign is 7 feet; 6.9 feet is permitted. Staff does not believe this is a significant deviation. Another deviation requested to have a hand-painted mural sign on the west wall of 139.5 square feet.

Staff believes the signs are well done and add interest to the facility. Staff supports the sign plan.

Notices were sent to property owners within 350 feet, and notice was published in the legal newspaper. Land Johanna Fire Department has reviewed the plan. The Rice Creek Watershed requires a permit. The only comment received is from the City of Arden Hills expressing concerns about the visual impact of a mural on Lexington Avenue.

Staff believes the proposal is consistent with the PUD. The proposed deviations for site design and signage will not detract from the site. Staff is recommending approval with the conditions listed in the staff report.

Commissioner Ferrington asked if the lighting would be turned off on the mural sign when the restaurant is not in operation. Ms. Castle would ask the applicant to respond.

Commissioner Peterson noted EQC comments regarding the trash enclosure. He asked if it is of adequate size. Ms. Castle stated that those comments have been forwarded to the applicant. There is no response yet.

Commissioner Peterson asked if a condition could be added as a reasonable practice for landscaping to require inverted islands for additional watering of grass and trees other than just a sprinkler system. Ms. Castle stated that the applicant could be encouraged to explore inverted islands, but should not be required to build them, as the soil conditions may not be suitable.

Chair Solomonson asked if the mural content could be changed in the future and could it be illuminated? Ms. Castle stated that a sign permit is required from the City for the mural; an amendment to the PUD would be required for illumination.

Chair Solomonson asked if there are concerns with having the trash enclosure close to the holding pond. Ms. Castle responded that the City Engineer expressed no concerns.

City Attorney Kelly stated that proper notice has been published for the public hearing.

Chair Solomonson opened the public hearing.

The applicant stated that everything will be done first class. This will be the first free-standing Raising Cane's restaurant in this area. This is the 200th restaurant. The menu is the best chicken fingers. A lot of money is put in landscaping. Raising Cane's supports business development and entrepreneurship as well as participating in fundraisers in over 3100 school districts. Over \$5 million was given to charities last year. Raising Cane's will quickly become part of the community. The murals are hand painted and maintained. "Shoreview" will be on the mural because Raising Cane's will identify with this community.

The site drains to the middle of the site, which will have to be raised several feet. Extensive grading will be required for positive drainage away from the restaurant. Trees will be lost, but Cane's is ready to work with staff on desired landscaping. He would like to pile snow along the back fence so it would melt and run into the pond that is there. A report on the environment impact suggests expansion of the recycling service yard. He would support that. Bike racks will be added. The mural would not be lit during closed hours.

MOTION: by Commissioner Schumer, seconded by Commissioner Ferrington to close the public hearing.

VOTE: Ayes - 6 Nays - 0

Commissioner Peterson offered two additional conditions to address the comments received from the EQC: 1) Shall work with City staff to insure that the trash enclosure is of sufficient size to conform with state laws; and 2) the applicant consider inverted parking lot islands to capture and store rainwater and excess storm water.

Commissioner Ferrington clarified that the deviations being requested are the number of wall signs and a mural sign on Lexington. She noted negative comments from Arden Hills and asked staff to respond. Ms. Castle stated that murals are not allowed in Shoreview or Arden Hills. There is question of equity for businesses in Arden Hills on Lexington who may want a mural. There is also concern about the impact to the larger Lexington Avenue corridor. Staff does not believe what is proposed is overwhelming, or out of scale or out of proportion from what is currently along the corridor.

Commissioner Schumer stated that Shoreview has no idea what will go in the development that is occurring in the same area on Lexington in Arden Hills. Raising Cane's is a national company, and this is their logo sign.

Ms. Castle noted that the City Attorney suggested the motion be split so there would be one motion for the PUD and one motion for the Comprehensive Sign Plan.

MOTION: by Commissioner Peterson, seconded by Commissioner Schumer to approve the amendment to the Planned Unit Development – Development Stage application submitted by Kimley-Horn, on behalf of Raising Cane's, for the property known as Lot 2, Shoreview Target Second Addition, Lexington Avenue. Said approval is subject to the following and with the addition of the following: 1) Shall work with City staff to insure that the trash enclosure is of sufficient size to conform with state laws; and 2) the applicant consider inverted parking lot islands to capture and store rainwater and excess storm water.

Planned Unit Development – Development Stage Amendment

1. This approval permits the development of this parcel with a restaurant facility approximately 2,890 square feet in size.
2. Approval of the final grading, drainage, utility, and erosion control plans by the Public Works Director, prior to the issuance of a building permit for this project.
3. The applicant is required to enter into a Site Development Agreement and Erosion Control Agreement with the City. Said agreements shall be executed prior to the issuance of any permits for this project.
4. The items identified in the email from the Assistant City Engineer must be addressed prior to the issuance of a building permit.
5. The items identified in the memo from the Fire Marshal shall be addressed prior to the issuance of a building permit.
6. The exterior of the trash enclosure shall be of a masonry material that compliments the restaurant building. Landscape screening shall be provided along the north, south and east sides of the structure.
7. Prior to submittal of the Final PUD, the applicant shall work with the City regarding the proposed landscape plan to address the retention of existing trees/shrubs, shade trees and plant material sizes.
8. A permit shall be obtained from the Rice Creek Watershed District prior to the issuance of a building permit for this project.
9. Semi-truck trailer deliveries are prohibited between 12:00 am to 5:00 am. The applicant is encouraged to utilize small trucks for delivery.
10. The Building Official is authorized to issue a building permit for the project, upon satisfaction of the conditions above.

VOTE: Ayes - 6 Nays - 0

MOTION: by Commissioner Peterson, seconded by Commissioner Ferrington to approve the Comprehensive Sign Plan submitted by Kimley-horn, on behalf of Raising

Cane's, for the property known as Lot 2, Shoreview Target Second Addition, Lexington Avenue. Said approval is subject to the following:

Comprehensive Sign Plan

1. The signs on the property shall comply with the plans submitted for the Comprehensive Sign Plan application. Any significant change will require review by the Planning Commission and City Council.
2. Signage shall be maintained in accordance with the City's Sign Code.
3. The applicant shall obtain a sign permit prior to the installation of the new signs on the property.

This approval is based on the following findings of fact:

1. The proposed land use is consistent with the designated commercial land use in the Comprehensive Plan.
2. The proposed use is consistent with the underlying C1, Retail Service zoning of the PUD.
3. The amended PUD provides a benefit to the community by providing additional commercial services.

Discussion:

Commissioner McCool offered an amendment that the references to PUD for the Comprehensive Sign Plan motion be changed to Comprehensive Sign Plan. Commissioner Schumer seconded the amendment.

VOTE ON THE AMENDMENT:

Ayes - 6

Nays - 0

VOTE ON COMPREHENSIVE SIGN PLAN MOTION AS AMENDED

Ayes - 6

Nays - 0

MOTION: By Commissioner Schumer, seconded by Commissioner McCool to reconsider the motion approving the PUD amendment.

VOTE:

Ayes - 6

Nays - 0

MOTION: by Commissioner Schumer, seconded by Commissioner Ferrington to add to the approval of the PUD Amendment includes the three Findings of Fact on the motion sheet:

This approval is based on the following findings of fact:

1. The proposed land use is consistent with the designated commercial land use in the Comprehensive Plan.

2. The proposed use is consistent with the underlying C1, Retail Service zoning of the PUD.
3. The amended PUD provides a benefit to the community by providing additional commercial services.

VOTE: Ayes - 6 Nays - 0

MISCELLANEOUS

City Council Meetings

Chair Solomonson and Commissioner Peterson will respectively attend the September 2nd and September 15th City Council meetings.

ADJOURNMENT

MOTION: by Commissioner Schumer, seconded by Commissioner Thompson to adjourn the meeting at 10:32 p.m.

VOTE: Ayes - 6 Nays - 0

ATTEST:

Kathleen Castle
City Planner

TO: Planning Commission

FROM: Niki Hill, Economic Development and Planning Technician

DATE: September 17, 2014

SUBJECT: File No. 2529-14-19, Conditional Use Permit – Kyle and Colleen Baker – 1349 Meadow Ave

INTRODUCTION

Kyle and Colleen Baker, submitted a Conditional Use Permit application to construct an attached accessory structure on their property. On single-family residential parcels one acre or larger in size, accessory structures that exceed the maximum allowable square footage are permitted with a Conditional Use Permit. The intent of the Conditional Use Permit process is to review the proposal in terms of the Development Code standards, Conditional Use Permit criteria and consistency with the Comprehensive Plan

BACKGROUND AND PROJECT DESCRIPTION

The property is located on the northern Shoreview border with frontage on County Road J on the north and access to Meadow Avenue via a private driveway easement to the south. Neighboring uses include single family residential on the south and east sides and Park and natural area on the north and west sides. The City of Circle Pines/Anoka County are north of County Road J.

The property is 6.56 acres and has a width over 360 feet and depth of 780.00 feet. The property is developed with a single family home that currently has a foundation area of 2,214 square feet with a 524 square foot tuck under garage. The house is located just over 111 feet from the south property line which is considered the rear property line. The property has access to Meadow Avenue via a 20 foot shared driveway easement along the west side of 1345 Meadow Avenue. The applicant proposes to close off the existing tuck under garage and construct a 60 x 34 foot, 2,040 square foot attached accessory structure which will be used as garage space that will have living space above. This addition will attach to the south side of the existing house via a new foyer/hallway increasing the foundation area to a minimum of 2,364 square feet. Please see the attached plans.

DEVELOPMENT CODE

The property is Zoned R1 residential, as are the properties to the south and east.

The accessory structure regulations were revised in 2006 and stricter standards were created to ensure the compatibility of these structures with surrounding residential uses. The maximum area permitted by right for an attached accessory structure is 1,000 square feet or 80% of the dwelling unit foundation area, whichever is more restrictive. The combined area of all accessory structures cannot exceed 90% of the dwelling unit foundation area or 1,200 square feet, whichever is more restrictive. On parcels 1 acre or larger in size, accessory structures may exceed the maximum allowable square footage permitted by Code with a Conditional Use Permit provided certain standards are met.

Accessory structures must be setback a minimum of 5 feet from a side lot line, 10 feet from a rear lot line, and 10 feet from any private easements. When a Conditional Use Permit is required, the side-yard setback increases to 10 feet. The exterior design of the structure must be compatible with the dwelling and be similar in appearance from an aesthetic, building material and architectural standpoint. The proposed design, scale, height and other aspects related to the accessory structure are evaluated to determine the impact on the surrounding area. Building permits may be issued upon the finding that the appearance of the structure is compatible with the structures and properties in the surrounding area and does not detract from the area. The intent of these regulations and the City's Comprehensive Plan's policies is to ensure that the residential character of the property and neighborhood is maintained and that dwelling unit remains the primary feature and use of the property.

Conditional Use Permit

Attachment A summarizes the standards which must be met for the Conditional Use Permit to be granted. These standards address location, structure setbacks, screening, and exterior design. In addition, a Conditional Use Permit can only be granted upon the finding that the proposed use is in harmony with and conforms to the Comprehensive Plan policies and Development Code standards.

COMPREHENSIVE PLAN

The property is guided as RL, Low Density Residential as are the properties to the east, south and southwest. To the west, the property is guided as N, Natural, as it is wetland.

The RL land use designation identifies areas for continued or future low density (0 to 4 units per acre) detached single-family residential uses. The residential use of the property is consistent with this designation.

APPLICANT'S STATEMENT

The applicant states that the new structure will replace the current tuck under garage and add additional storage space, which is insufficient for a growing family of four with multiple vehicles, hobby items, and yard equipment necessary to maintain a property with more than six acres. See attached statement.

STAFF REVIEW

The proposal was reviewed in accordance with the standards specified in the Development Code, including the Conditional Use Permit performance standards and criteria.

The proposed structure complies with the performance standards for all accessory structures and those for a Conditional Use Permit. The following table summarizes the proposal in terms of these standards. Note that the table identifies the maximum area for accessory structures that are permitted by right. The maximum area can be exceeded with a Conditional Use Permit but these standards are being provided as a point of reference for the Commission.

ACCESSORY STRUCTURE PERFORMANCE STANDARDS			
	Development Code Standard	Existing	Proposed
Area			
Attached Accessory Structures	*1,000 sf or 80% of the dwelling unit foundation area (1771.2 sf)	524 sf	2,040 sf
All Accessory Structures	*1,200 sf or 90% of the dwelling unit foundation area (2127.6 sf) – whichever is more restrictive.	0	2,040 sf
Setbacks			
Side lot line	5 feet	N/A	62 ft
Rear lot line	30 ft (attached)	N/A	40 ft
Building Height	35 ft maximum (attached)	N/A	26 ft
Exterior Design	Compatible with the residence and be similar in appearance	N/A	Color and siding to match the existing home – The roof is designed with dormers and accentuates the living space above
Screening	Structure shall be screened from view of public streets and adjoining properties.	N/A	Retain existing vegetation and add vegetation along east side of property.
CONDITIONAL USE PERMIT PERFORMANCE STANDARDS			
Location	Rear Yard		Rear Yard (Attached to home)
Setbacks			
Side lot line	10 feet		62 feet
Rear lot line	10 feet		40 feet
	Greater setbacks can be required to mitigate impacts		
Minimum Lot Area	1 acre above OHW		1.5 acres – upland area
Screening	Structure shall be screened from view of public streets and adjoining properties.		Retain existing vegetation and add vegetation along east side of property. Will not be visible from County Road J.
Other	Shall comply with standards of Section 205.082 (D)(5)		See table above

**May be exceeded with a Conditional Use Permit*

While the proposal complies with standards, Staff has concerns regarding the proposed accessory structure relating to the integration or design of the structure with the current home and property; the visual impact of the structure on adjoining properties and use.

As previously stated, the property has a lot area of 6.56 acres and is developed with the single-family home. The majority of the property consists of wetland area with approximately 1.5 acres of upland area. The house is situated in the southeastern corner of the property due to the wetland and access to the property is gained from the south. To minimize the appearance of the addition as garage area, the Staff has asked to the applicant to modify the design to visually integrate the addition with the existing dwelling. This will be accomplished in part by the addition that connects the proposed attached garage to the current dwelling, increasing the foundation area of the home. The total floor area of the accessory structure will be 86.2% of the dwelling unit foundation area. While this exceeds the 80% of the dwelling unit foundation area guideline, it is less than the 90% guideline used for all accessory structures and is permitted with the Conditional Use Permit. If the living space above is added to the floor area, the garage will be less than 80%. In addition, the applicant has also modified the design to mitigate the potential impacts by adding dormers to the roofline, the removal of the third double size garage door and adding windows to soften the appearance of the structure.

Staff believes these changes help mitigate the visual impact of the structure on the adjoining properties. From the rear property line to the south, the structure would be setback 40 feet exceeding the minimum 30-foot setback required for a principal structure and the 10-feet required for the Conditional Use Permit. The orientation of the structure with the shorter width facing the south and retention of trees also minimizes the visual impact for the adjoining homes. Mature trees will remain between the applicant's property and the residential properties to the south and southwest. The single-family home to the east will also be impacted and it is the applicant's intent to add landscaping to reduce this impact.

Regarding use, the applicant has stated that the structure will not be used for commercial purposes. The reason for a structure of this size is to provide enclosed storage space for vehicles, hobby items and yard equipment to maintain the acreage. The use as described is consistent with the Development Code as it would be accessory to the residential use of the property. There is, however, some concern that a garage of this size may be easily converted or used for commercial purposes. A condition will be attached prohibiting the commercial use of this structure. Resolutions for Conditional Use Permits are recorded so any future property owner would be aware of such a restriction. If a violation were to occur, citations may be issued and/or the permit revoked.

With the changes made to the design of the structure and use of the structure for personal purposes, Staff finds the criteria for the Conditional Use Permit are met. As the structure is accessory to the residential use, it is in harmony with general purpose of the Development Code and Comprehensive Plan policies.

COMMENT

Property owners within 350' of the property were notified of the application. Comments received have been attached. The majority express concern or opposition due to the size of the structure. Neighbors also express opinions regarding the impact on property values, wildlife, noise, visibility and use of the structure. Comments are attached.

RECOMMENDATION

A Conditional Use Permit may be granted provided the proposed use is listed as a conditional use for the district in which it is located and upon showing that the standards and criteria of the Development Code are satisfied. The Conditional Use Permit criteria includes that the use shall be in harmony with the general purposes and intent of the Development Code and Comprehensive Plan; and that the structure/land use conforms with the Comprehensive Plan and are compatible with the existing neighborhood. Based on the modifications in design and applicant's statement that the garage will be used for personal/residential purposes, Staff believes, these criteria are met. An accessory structure of this size is compatible with the residential land uses provided the project adheres to the Code standards and conditions of approval. Staff is recommending the Planning Commission recommend the City Council approve the Conditional Use Permit subject to the following:

1. The project must be completed in accordance with the plans submitted as part of the application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The exterior design, materials and finish of the structure shall be compatible with the dwelling.
3. To mitigate the visual impact of the accessory structure addition, design features identified (use of dormers, living space addition, removal of the existing garage doors, use of windows) shall be used to integrate the accessory structure into the design of the dwelling.
4. Additional screening and landscaping shall be installed and maintained on the east side of the property to mitigate impacts on the adjacent property. A landscape plan shall be submitted with the building permit application.
5. The structure shall be setback a minimum of 40-feet from the south property line.
6. The applicant shall obtain a building permit for the structure.
7. The structure shall not be used in any way for commercial purposes.
8. The City reserves the right to inspect the property to verify compliance with the Conditional Use Permit and Development Code Requirements.
9. A tree protection and replacement plan shall be submitted with the building permit application. Replacement of landmark trees is required at a 3:1 ratio.

Attachments:

1. Attachment A – Conditional Use Permit, Standards for Detached Accessory Structures
2. Location Map
3. Aerial Map
4. Pictometry Photos
5. Applicant's Statement and Submitted Plans
6. Comments
7. Motion Sheet

ATTACHMENT A

- (1) The accessory structure shall be located in the rear yard of the property except as otherwise permitted by this ordinance.
- (2) The accessory structure shall be setback a minimum of 10 feet from the side property line and 10 feet from the rear property line; however, the City may require greater setbacks to mitigate impacts on adjoining properties.
- (3) For parcels 1 acre or larger in size, the lot shall have a minimum area of 1 acre above the ordinary high water line of a lake, ponding area or wetland on the property.
- (4) The accessory structure shall be screened from view of adjacent properties and public streets through the use of landscaping, berming, fencing or a combination thereof.
- (5) The structure shall comply with the standards of Section 205.082(D)(5) of this ordinance.

Conditional Use Permit Criteria









Certain land uses are designated as a conditional use because they may not be suitable in a particular zoning district unless conditions are attached. In those circumstances, conditions may be imposed to protect the health, safety and welfare and to insure harmony with the Comprehensive Plan.

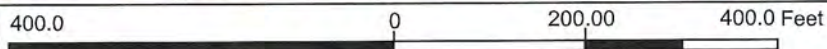
In addition to the standards identified above, the City Council must find that the use complies with the following criteria.

- (1) The use is in harmony with the general purposes and intent of the Development Ordinance.
- (2) The use is in harmony with the policies of the Comprehensive Guide Plan.
- (3) Certain conditions as detailed in the Development Ordinance exist.
- (4) The structure and/or land use conform to the Land Use Chapter of the Comprehensive Guide Plan and are compatible with the existing neighborhood.

Legend



-  City Halls
-  Schools
-  Hospitals
-  Fire Stations
-  Police Stations
-  Recreational Centers
-  Parcel Points
-  Parcel Boundaries



NAD_1983_HARN_Adj_MN_Ramsey_Feet
 © Ramsey County Enterprise GIS Division

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

Conditional Use Permit



Baker - 1349 Meadow Ave

Print Date: 09/19/2014
Image Date: 03/25/2012
Level: Neighborhood



Baker - 1349 Meadow Ave

Print Date: 09/19/2014
Image Date: 05/04/2011
Level: Neighborhood



Baker - 1349 Meadow Ave

Print Date: 09/19/2014
Image Date: 05/04/2011
Level: Neighborhood



Baker - 1349 Meadow Ave

Print Date: 09/19/2014
Image Date: 05/04/2011
Level: Neighborhood

6 September 2014

To Whom It May Concern:

A request is made to erect an attached accessory structure on the southern side of the property located at 1349 Meadow Avenue in Shoreview, Minnesota, connected by an entry style area. The current attached garage is essentially non-functional for the current owners, as the interior space was designed for smaller cars 30 years ago. There is not enough room on length, width, or height to work for a modern family, as not all of the doors can even be opened when vehicles are inside. The garage is also moist at almost all times due to its low level and moisture often condenses. The garage cannot be modified without significant expense and still cannot most likely have all necessary modifications made.

Property owners are still currently in planning/design stages with architect to ensure that the structure will be in graceful harmony with the existing dwelling, located directly north of the proposed structure. Property owners will most likely be closing the openings for the existing overhead doors to the tuck-under garage to allow for a more pleasing layout.

The existing property mentioned has a total land area exceeding six acres, of which, more than one acre is above the ordinary high water line of the wetland on the property. These conditions allow for the proposed attached accessory building to be constructed well outside of the setbacks and does not take up a significant portion of the property. The new structure will replace the existing garage and storage space, which is quite insufficient for a growing family of four with multiple vehicles, hobby items, and yard equipment necessary to maintain a property with more than six acres. The new structure will contain these items that would otherwise need to stay outside under the elements and also provide a more functional garage space for the property owners for the same reasons.

Again, the final design plan is still in process with professionals to strive for a harmonious relationship with the surrounding nature and neighborhood. The attached documents lay out the relationship between the new and existing structure, the location, and the basic proposed look. The new structure will coordinate with the existing home's exterior.

Sincerely,

Kyle and Colleen Baker

MINOR SUBDIVISION ~for~ THOMAS AND BARBARA FLEISCHACKER

OF: 1349 MEADOW AVENUE

PROPERTY DESCRIPTION

The East 460 feet of the North 800 feet of Government Lot 3, Section 3, Township 30, Range 23, Ramsey County, Minnesota. Except that part of the South 20 feet of the North 800 feet of said Government Lot 3 lying between the northerly extensions of the West line of Lot 4 and the East line of Lot 1, Block 1, ROYAL OAK ESTATES WEST SECOND ADDITION, Ramsey County, Minnesota, according to the record plot thereof.

PROPOSED DESCRIPTIONS

PARCEL A

The West 365 feet of the East 460 feet of the North 800 feet of Government Lot 3, Section 3, Township 30, Range 23, Ramsey County, Minnesota. Except that part of the South 20 feet of the North 800 feet of said Government Lot 3 lying between the northerly extensions of the West line of Lot 4 and the East line of Lot 1, Block 1, ROYAL OAK ESTATES WEST SECOND ADDITION, Ramsey County, Minnesota, according to the record plot thereof.

PARCEL B

The East 95 feet of the North 800 feet of Government Lot 3, Section 3, Township 30, Range 23, Ramsey County, Minnesota. Except that part of the South 20 feet of the North 800 feet of said Government Lot 3 lying between the northerly extensions of the West line of Lot 4 and the East line of Lot 1, Block 1, ROYAL OAK ESTATES WEST SECOND ADDITION, Ramsey County, Minnesota, according to the record plot thereof.

PROPOSED EASEMENT DESCRIPTIONS

PARCEL A

A perpetual easement for drainage and utility purposes over the easterly and westerly 5 feet. Except the North 43 feet, the southerly 10 feet, and the south 10 feet of the North 53 feet of the following described property:

The West 365 feet of the East 460 feet of the North 800 feet of Government Lot 3, Section 3, Township 30, Range 23, Ramsey County, Minnesota. Except that part of the South 20 feet of the North 800 feet of said Government Lot 3 lying between the northerly extensions of the West line of Lot 4 and the East line of Lot 1, Block 1, ROYAL OAK ESTATES WEST SECOND ADDITION, Ramsey County, Minnesota, according to the record plot thereof.

PARCEL B

A perpetual easement for drainage and utility purposes over the easterly and westerly 5 feet. Except the North 43 feet, the southerly 10 feet, and the south 10 feet of the North 53 feet of the following described property:

The East 95 feet of the North 800 feet of Government Lot 3, Section 3, Township 30, Range 23, Ramsey County, Minnesota. Except that part of the South 20 feet of the North 800 feet of said Government Lot 3 lying between the northerly extensions of the West line of Lot 4 and the East line of Lot 1, Block 1, ROYAL OAK ESTATES WEST SECOND ADDITION, Ramsey County, Minnesota, according to the record plot thereof.

PROPOSED PONDING AND FLOWAGE EASEMENT

That part of the East 460 feet of the North 800 feet of Government Lot 3, Section 3, Township 30, Range 23, Ramsey County, Minnesota lying westerly and northerly of the following described line:

Commencing at the northeast corner of said Government Lot 3, thence on an assumed bearing of North 89 degrees 29 minutes 05 seconds West, along the north line of said Government Lot 3, 30.07 feet to the point of beginning of the line to be described; thence South 00 degrees 30 minutes 55 seconds East 49.80 feet; thence South 53 degrees 41 minutes 32 seconds East 18.71 feet; thence South 23 degrees 51 minutes 05 seconds West 53.74 feet; thence South 05 degrees 57 minutes 00 seconds West 41.65 feet; thence South 55 degrees 57 minutes 14 seconds East 33.96 feet; thence South 10 degrees 03 minutes 53 seconds East 35.04 feet; thence South 08 degrees 13 minutes 46 seconds West 65.46 feet; thence South 30 degrees 06 minutes 03 seconds West 32.37 feet; thence South 43 degrees 49 minutes 29 seconds West 30.22 feet; thence South 13 degrees 05 minutes 27 seconds East 70.49 feet; thence South 27 degrees 00 minutes 23 seconds West 58.31 feet; thence South 47 degrees 40 minutes 35 seconds West 34.24 feet; thence South 74 degrees 57 minutes 48 seconds West 40.20 feet; thence North 65 degrees 23 minutes 33 seconds West 55.64 feet; thence South 64 degrees 26 minutes 49 seconds West 45.77 feet; thence South 26 degrees 41 minutes 27 seconds West 80.52 feet; thence South 12 degrees 54 minutes 38 seconds West 54.56 feet; thence South 06 degrees 15 minutes 08 seconds West 58.16 feet; thence South 15 degrees 08 minutes 30 seconds East 58.65 feet; thence South 23 degrees 23 minutes 09 seconds East 51.80 feet; thence South 83 degrees 58 minutes 07 seconds West 86.88 feet; thence South 00 degrees 30 minutes 50 seconds West 30.00 feet more or less to the south line of the above described property, and said line there terminating.

Except that part of the South 20 feet of the North 800 feet of said Government Lot 3 lying between the northerly extensions of the West line of Lot 4 and the East line of Lot 1, Block 1, ROYAL OAK ESTATES WEST SECOND ADDITION, Ramsey County, Minnesota, according to the record plot thereof.

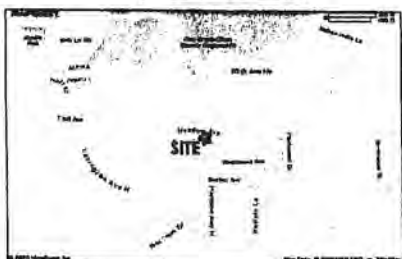
NOTES

- Field survey was completed by E.G. Rud and Sons, Inc. on 12/3/09.
- Bearings shown are on an assumed datum.
- This survey was prepared without the benefit of title work. Additional easements, restrictions and/or encumbrances may exist other than those shown hereon. Survey subject to revision upon receipt of a current title commitment or an attorney's title opinion.
- Wetland delineation completed by Earth Science and Associates. (651)674-6210

LEGEND

- DENOTES IRON MONUMENT FOUND AS LABELED
- DENOTES IRON MONUMENT SET, MARKED RLS# 4157
- ⊕ DENOTES RAMSEY COUNTY CAST IRON MONUMENT
- DENOTES POWER POLE AND OVERHEAD WIRES
- DENOTES RETAINING WALL
- DENOTES FENCE
- DENOTES CONCRETE SURFACE
- DENOTES BITUMINOUS SURFACE
- DENOTES LIGHT POLE
- DENOTES TELEPHONE PEDESTAL
- DENOTES CABLE PEDESTAL
- DENOTES EXISTING CONTOURS
- DENOTES EXISTING SPOT ELEVATION

VICINITY MAP



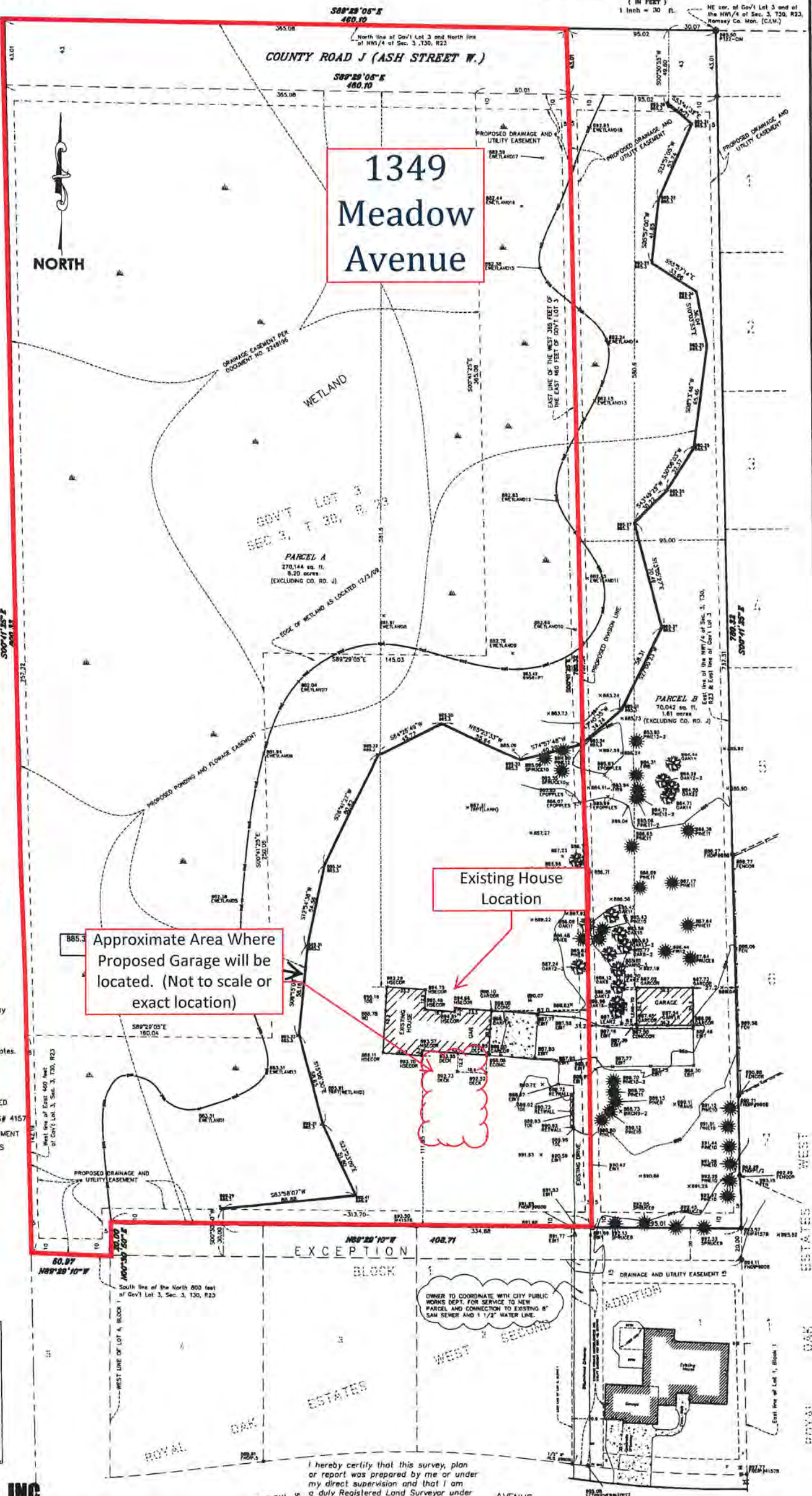
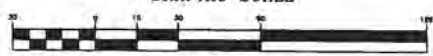
E.G. RUD & SONS, INC.
 Professional Land Surveyors
 6776 Lake Drive NE, Suite 110
 Lino Lakes, MN 55014
 Tel. (651) 361-8200 Fax (651) 361-8701

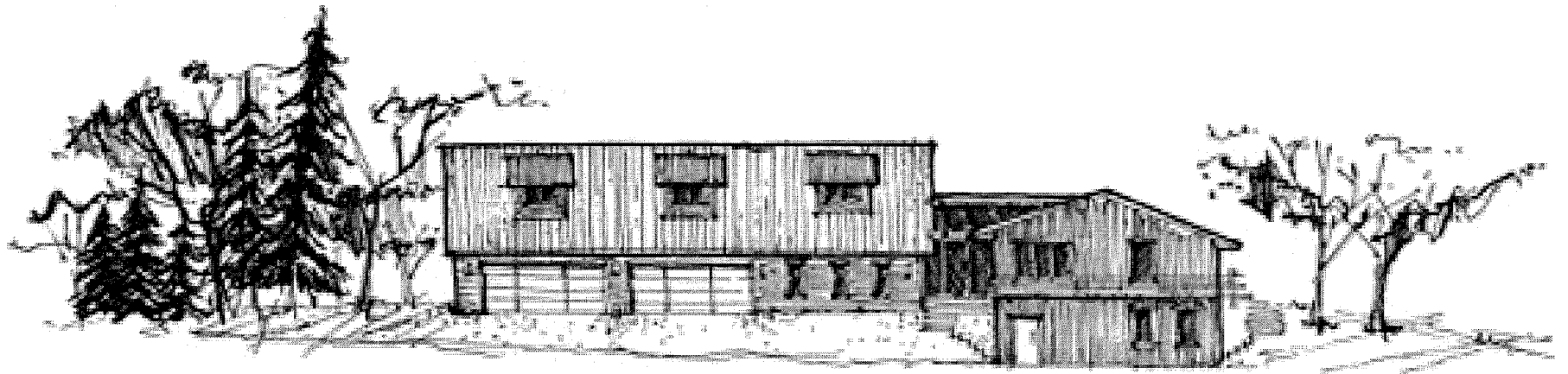
NO.	DATE	DESCRIPTION	BY
1	7/14/10	Wetland revisions per TEP Panel	rlr
2	7/21/10	PONDING AND FLOWAGE EASE	rlr
3			

I hereby certify that this survey, plan 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.

JASON E. RUD
 Date: 7/21/2010 License No. 41578

GRAPHIC SCALE







Nicole Hill <nhill@shoreviewmn.gov>

Conditional Use Permit Application - 1349 Meadow Ave

Leh, Brian [SLC] <BLEh@its.jnj.com>
To: "nhill@shoreviewmn.gov" <nhill@shoreviewmn.gov>

Wed, Sep 17, 2014 at 10:14 AM

Ms. Hill, Please see my comments with regard to the Conditional Use Permit application submitted for 1349 Meadow Ave.

- The size of the proposed building based on the drawings and dimensions included in your request for comment, would far exceed a reasonable garage structure
- As part of the neighborhood, no other home has a garage even remotely this size, which would seem to run counter to the character of the neighborhood
- Since the proposed structure is so far beyond the necessary size of a two to three care garage (which is the standard in the neighborhood), it suggests a more commercial use. Again, inconsistent with the neighborhood.

Thank you for the opportunity submit my concerns/comments

Brian Leh

1355 Meadow Ave. Shoreview



Fwd: Conditional Use Permit application for a garage at 1349 Meadow Ave, Shoreview

Niki Hill <nhill@shoreviewmn.gov>

Thu, Sep 18, 2014 at 9:04 AM

To: ROBERT WARWICK <rwarwick@shoreviewmn.gov>, Kathleen Nordine <kcastle@shoreviewmn.gov>

Can you add this to the packet? This gentleman called yesterday and I encouraged him to put his concerns in writing.

Thanks!

----- Forwarded message -----

From: "Robert Thomas" <Budster981@comcast.net>

Date: Sep 17, 2014 11:03 PM

Subject: Conditional Use Permit application for a garage at 1349 Meadow Ave, Shoreview

To: <nhill@shoreviewmn.gov>, "Robert Thomas" <budster981@comcast.net>, "Dan Maynard" <dan.e.maynard@gmail.com>, <mariyln.c.thomas@gmail.com>

Cc:

Sept 17, 2014

Niki Hill:

Pursuant to our telephone conversation this afternoon I am summarizing many of our concerns regarding the application for construction of a garage at 1349 Meadow Ave.

For background information, we, Robert and Marilyn Thomas have resided at 1375 Meadow Ave since July, 1990, a period of over 24 years. At that time we had considerable choices of available lots in the development, Royal Oaks, Second Addition, by the sole developer Wooddale Homes. We specifically chose 1375 Meadow Ave, not only because that the area north of our property line was wooded with both massive red and white oaks and scrub trees, but also because the area further north and northwest was designated wetlands controlled by the Rice Creek Water District, populated by several herons, birds and other wildlife. We later discovered some time after residing that the area was being used by deer as a bedding area.

Our concerns are the following:

1. The size of this proposed garage on the property of 1345 Meadow Ave is a monstrosity, encompassing 2040 square feet. Providing a comparison, we have a three car garage, at 797 square feet, thus this proposal would be nearly 2.7 times the size of ours, the equivalence of a 8 car garage! A garage of this massive size is more befitting a 20 or 40 acre hobby farm in the country, not the residential area of Shoreview. I can imagine that a garage of this size could be the largest residential garage in Shoreview.

2 This proposed garage, no matter what the orientation, parallel or perpendicular, would seriously physically encroach on the properties of 1375, 1365 and 1355 Meadow Ave as this garage would extend south of the 1349 Meadow Ave home, considerably close to the northern property lines of 1375, 1365 and 1355 Meadow Ave.

3. In 1993, we, at 1375 Meadow Ave, and our two neighbors to our east, 1365 and 1355 Meadow Ave purchased 3 connecting lots from the previous owner of the current 1349 address, the Fleischeckers, in order to extend our property lines further north and to provide some additional buffer. At that time we met considerable resistance from the Planning Commissioner, Randy Johnson, being told that Shoreview did not wish to allow us to purchase this land, as it might have an impact on future development on the property at 1349 Meadow Ave. Our attorney at that time threw up his arms and informed us that he had done all that could do as our attorney representing us

and asked us to personally contact both the Mayor and the City Council of Shoreview to ask for their assistance. I, in turn called the Mayor at that time, Mr Chalmers, and within two days we were contacted by our attorney who stated that I don't know what you did, but it was effective , and our purchase was allowed to proceed. Unfortunately, because of considerably more hours required by our attorney, our fees were considerably higher than the initial estimate. With this purchase of this additional 20 foot depth to our north. the proposal now will encroach upon these three properties even more so.

4. The footprint of this garage proposal is 2040 sq ft which is considerably more than the footprint of the home. The total sq footage of the home is 2214 according to county tax records. Considering that a significant portion of the home is two levels, the actual footprint is probably no more than 1500 sq ft. Unfortunately, the county tax records do not indicate the foundation size of this home, so only an estimate can be made as to the actual footprint size. A residential garage, no matter where it is located, including Shoreview, should never have a footprint disproportionately larger than the actual home footprint, much less being considerably larger than the home in this case.

5 . Such a garage will have a significantly negative impact to the beauty and quality of life that one can appreciate living in an area that encompasses Both a Woodlands of mature oaks and Wetlands.

6. This proposal apparently has not addressed an Environmental Impact Study, conducted by the Rice Creek Water District and possibly the DNR. We are quite concerned that such a large structure would impinge upon the bedding areas of the deer population in the woodlands directly behind 1375 Meadow Ave. This may further impinge upon the deer population, especially taking into account the loss of open and wooded bordered land both at the large residential development near the northern Shoreview water tower, as well as the Westin Woods development just north of Ct Rd J at the previous site of the Katehaven Golf Course. Our northern property line is located 800 feet south of Cty Rd J. Also the water runoff from this huge roof, apron and driveway may affect the properties to the south, as well as the wetlands.

7. We are also concerned that a garage of this massive size and orientation may have a negative impact on the resale value of not only the homes that directly border this garage proposal, but may also have a negative impact on the surrounding homes as Comps are used to determine the value of homes. if our house sells less than what would have been the value without this garage, the comp for our home will be used by the lender and other agencies that will in turn decrease the value of the surrounding homes.

8. If the proposed garage is allowed to pass, a precedent will be set which will be used by other home owners who want to expand structures on their properties that will again physically impinge upon and devalue the properties of those surrounding homeowners.

9. Reviewing the land plat mailed to us and using a bird's eye view of the area on Google Maps, it appears that there is considerably more land to the North of the home at 1349 Meadow Ave to build such a garage than the current proposal which is to the South. Why can't the garage be placed in a north location, which still has considerable distance from the Wetlands area, but would be not noticeable by the neighbors to the south.

10. We understand that the proposed Usage of such a huge garage is reportedly for residential only. The letter sent by Shoreview indicated that this would be a garage, with no mention of occupancy. Today you had indicated that this garage would also be used for occupancy by the owners with a connection by a walkway to the existing home. Does this walkway extend beyond the home even further south, and then the 60 foot deep garage will be located beyond that walkway depth, thus encroaching upon our properties even closer? Also now that there will be occupancy in the area above the garage with windows, the issue of lighted rooms comes into question at night and their relative very close distance from our homes, as opposed to a static garage for storage only, which would be unlit to the interior except when the garage opens and closes.

11. The current owner has indicated that the garage will be used for residential use only. Currently, and for quite some time before, they have parked on the Southwest portion of their backyard, a large commercial white vehicle with the exterior of the vehicle clearly stating in very large letters " AMERICAN SIDING COMPANY". Why is such a vehicle allowed to be placed in his backyard of all places in view of many of the neighbors being parked closer to our property line than to his own home. and will be considerably more noticeable so, when the leaves on the deciduous leaves fall in the next month or so. This commercial vehicle should NOT be allowed to be placed in their proposed residential usage only garage. And again, why is it currently being allowed to be in its current location?

12. The current owner states that his existing 2 car garage is both too small for his vehicles and has some issues

with water. Considering that Minnesota has had record rains this spring and summer with the water level much higher than normal, this is more likely a rare anomaly rather than a constant year round problem. Why not rebuild the current garage larger with improved drainage and sloping to prevent water accumulation in the garage?

13. The area that will be occupied in the area above the garage should never be allowed now or in the future to be used as rental space, as well large and noisy parties, etc. The driveway allowing the homes of both 1349 and 1347 to enter onto Meadow Ave are utilizing and sharing the SAME driveway for a distance of 225 ft if not longer, and this driveway is only 10 ft in width may cause more traffic exiting the driveway on Meadow Ave

14. The color of the proposed garage should match the color of the current home which is a dark brown which allows the current home to blend into the wooded environment much better than a white or cream home. This darker color should be required in the future, as well.

15. If such a garage is constructed the owner should be required at their expense for the appropriate Screening with the planting of large Evergreen and Spruce trees and their replacement, should die in the future, in order to block the views of such a massive garage for the surrounding neighbors for year round screening, rather than the current deciduous trees.

16. With the current leaf cover, superficially there may appear to be less of a problem, when viewed at this time of year, but when the deciduous trees lose their leaves in the next month or two, this garage will be considerably more noticeable for a period extending from late October to mid May, a period of 6 to 7 months.

17. With storage of multiple types of vehicles in this proposed garage, the issue of increase in the noise and additional use by such vehicles, some of which may be large, of a very narrow and very long driveway exiting on Meadow Ave, also poses a safety hazard to the many children of the neighborhood who ride their bikes and play in the area.

We ask that the members of the Planning Commission and the City Council actual evaluate the impact on this proposal by personally visiting this site. When viewed from the narrow driveway noted above and looking west, it will reveal how close the garage will be to the three properties at 1375, 1365 and 1355. These properties, as well as the surrounding homes, also represent some of the most expensive properties in Shoreview.

We would ask that each and every concern that we have made be addressed by both the Planning Commission Committee, as well the City Council, if it eventually reaches that level.

Robert and Marilyn Thomas
1375 Meadow Ave
Shoreview
[651 503-2029](tel:6515032029) (cell)



Conditional use Permit for 1349 Meadow Avenue

CZECHD@aol.com <CZECHD@aol.com>

Tue, Sep 16, 2014 at 11:02 AM

To: nhill@shoreviewmn.gov

Cc: DJCzech1@msn.com

Dear Niki:

We have reviewed the information we received regarding the proposed structure at 1349 Meadow Avenue. We do not believe that a Conditional Use Permit should be granted for a 2,040 square foot garage. A six plus car garage is not compatible with the existing neighborhood. The structure itself does not seem to even match the current home due to its steep roof pitch. I am not aware of any garages in the neighborhood that tower over the house like this one does.

The standard garage size in the area is 2-3 stalls. We would offer our support for a structure in line with that (3 stall garage). We feel that can be accomplished within the 1,000 sq .ft. limitation. If approved we would hope that the structure would be placed as shown in the "Perpendicular Option". We also think the structure should have a roof line similar to that of the home at that address.

If the Baker's placed the structure on the north side of their home our concerns over its size would be greatly reduced.

Sincerely

David & Debbie Czech
1365 Meadow Avenue
Shoreview, MN 55126
651 784-0961

Dear Planning Commission,

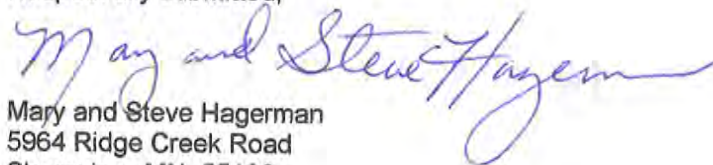
As a neighboring, adjacent home to the proposed building structure on 1349 Meadow Avenue, Shoreview. Baker residence. We want to voice our concerns to your notified proposal. Our address is 5964 Ridge Creek Road, Shoreview, MN 55126
We have lived in our house since 1992.

We are opposed to the proposed structure for the following reasons:

1. Building structure is larger than the existing home structure's footprint on current lot. Most of their lot structure is considered wetlands and unbuildable and an emergency egress.
2. In addition proposed structure is larger than most structures in the area. Current floor print structures in adjacent areas are homes, not garages.
3. New building structure would cause a significant loss in our home value. And all the homes in area. Due to significant tree loss which would occur to make room for new building. Our new view would be of an oversized garage. Instead of beautiful nature area we currently have. And current trees are deciduous and would not block structure from most of our yearly view. Detracting from our personal backyard enjoyment of our home.
4. Our enjoyment of nature and our beautiful view would be lost and impaired significantly.
5. Questionable use of this structure, whether homeowners will be running a business out of new structure? And not zoned for business. Woodland animals would be displaced. Currently with loss of Kate Haven golf course across from J. Animals have lost significant open space area.
6. Fire hazard for the size of current buildings on the two existing lots. Currently, little to no room for fire trucks to enter and exit using small driveway. And with added structure next to no room. Jeopardizes our area existing homes due to not adequate egress to take care of potential fires at these two structures, timely. Endangering adjacent homes.
7. Area homes had covenants to ensure a neighborhood that would be kept to a level that would keep our home values. Structure would not be allowed with covenants.
8. Issue of new and bothersome noise level if proposed building is to be used for shop/ industrial/ increased noise vehicles/ equipment potential.
9. We moved into area for the school district, love of nature and peaceful surroundings. This space is too small. The space is not appropriate for a structure of this type and would be disservice to your long standing Shoreview, West Royal Oaks residents. We vote NO.

Thank you for considering our concerns and we hope you will do the right thing and not increase fire hazard, not ruin our properties, and our enjoyment of our homes. Please let us know if you have any questions?

Respectfully submitted,



Mary and Steve Hagerman
5964 Ridge Creek Road
Shoreview, MN 55126
651-780-5663

MOTION

MOVED BY COMMISSION MEMBER: _____

SECONDED BY COMMISSION MEMBER: _____

To recommend the City Council approve the Conditional Use Permit submitted by Kyle and Colleen Baker, 1349 Meadow Ave, to construct an attached accessory structure on their property, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The exterior design, materials and finish of the structure shall be compatible with the dwelling.
3. To mitigate the visual impact of the accessory structure addition, design features identified (use of dormers, living space addition, removal of the existing garage doors, use of windows) shall be used to integrate the accessory structure into the design of the dwelling.
4. Additional screening and landscaping shall be installed and maintained on the east side of the property to mitigate impacts on the adjacent property. A landscape plan shall be submitted with the building permit application.
5. The structure shall be setback a minimum of 40-feet from the south property line.
6. The applicant shall obtain a building permit for the structure.
7. The structure shall not be used in any way for commercial purposes.
8. The City reserves the right to inspect the property to verify compliance with the Conditional Use Permit and Development Code Requirements
9. A tree protection and replacement plan shall be submitted with the building permit application. Replacement of landmark trees is required at a 3:1 ratio.

Said approval is based on the following findings of fact:

1. The proposed accessory structure will be maintain the residential use and character of the property and is therefore in harmony with the general purposes and intent of the Development Ordinance.
2. The primary use of the property will remain residential and is in harmony with the policies of the Comprehensive Guide Plan.
3. The conditional use permit standards as detailed in the Development Ordinance for residential accessory are met.
4. The structure and/or land use conform to the Land Use Chapter of the Comprehensive Guide Plan and are compatible with the existing neighborhood.

VOTE:

AYES:

NAYS:

Regular Planning Commission Meeting
September 23, 2014

TO: Planning Commission
FROM: Kathleen Castle, City Planner
DATE: September 16, 2014
SUBJECT: File No. 2543-14-33, Peterson – 285 Snail Lake Road, Variance

INTRODUCTION

Lucas and Amanda Peterson submitted a variance application to exceed the maximum area permitted for a detached accessory structure on their property at 285 Snail Lake Road. The proposed detached accessory structure will be used as a garage and has an area of 924 square feet. The Development Code permits detached accessory structures up to 750 square feet on residential properties less than one acre in size, therefore, a variance is needed.

PROJECT DESCRIPTION

The property is located on Snail Lake Road, east of Hodgson Road. The parcel has an area of 25,000 square feet (.57 acres) and a lot width of 100 feet along Snail Lake Road. It is developed with a detached two-story single-family home constructed in the late 1940's or early 1950's. There is also a detached accessory structure on the property which was constructed in the 1950's and is approximately 22' x 22' (484 sf) in size and oriented with the garage doors facing east. This garage is located to the rear of the home and is deteriorating with an unstable roof and foundation/floor. Access to the property and the garage is via a gravel driveway along the east side of the home.

The Peterson's are proposing to demolish the existing garage and construct a new detached garage on the property. The proposed detached accessory structure would be 33' x 28' (924 square feet) in size and oriented with the garage doors facing towards the south. The proposed garage location is also in the rear yard but would be located closer to and east of the home. The construction would occur in two phases with the concrete slab being installed first and the garage structure constructed at a later date. The proposed detached accessory structure would have a peak height of 18' and interior storage space designed with a 6' ceiling height. The exterior finish materials will include gray lap siding, asphalt shingles and white trim. Please refer to the attached plans.

DEVELOPMENT CODE

The property is zoned R1, Detached Residential. Accessory structures are permitted provided certain standards are met. The regulations pertaining to accessory structures were revised in April 2006 to address the compatibility of such structures in residential neighborhoods. Changes to the ordinance focused on the permitted area, exterior design and construction of these structures.

The maximum permitted area of a detached accessory structure located on parcels less than one acre in size with no attached two car garage (or larger) is 750 square feet or 80% of the dwelling

unit foundation area, whichever is more restrictive. The combined area of all accessory structures is limited to the lesser of 1,200 square feet or 90% of the foundation area of the dwelling. In this case, the maximum area permitted for a detached accessory structure is 750 square feet. The applicant has requested a variance to allow a 924 -square foot detached garage.

Regarding height, the maximum height permitted is 18 feet, as measured from the highest roof peak to the finished grade. In no case, shall the height of the accessory structure exceed the height of the dwelling unit. Storage areas are permitted above the main floor provided they do not exceed an interior height of 6 feet.

The exterior design and materials used in the accessory structure must be compatible with the dwelling unit and be similar in appearance from an aesthetic, building material and architectural standpoint. The proposed design, scale, massing, height and other aspects related to the accessory structure needs to be evaluated with consideration of structures and properties in the surrounding area.

Variance Criteria

When considering a variance request, the Commission must determine whether the ordinance causes the property owner practical difficulty and find that granting the variances is in keeping with the spirit and intent of the ordinance. Practical difficulty is defined as:

1. *Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*
2. *Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*
3. *Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

For a variance to be granted, all three of the criteria need to be met.

APPLICANT'S JUSTIFICATION OF PRACTICAL DIFFICULTY

The applicants are requesting a variance to exceed the maximum 750 square foot garage allowed on the property. They state practical difficulty is present. With the existing garage in poor condition, it is reasonable to remove it and construct a new garage. The use of this garage will be for personal use (vehicle parking, storage), accessory to the residential use of the property and in keeping with the property and neighborhood. Unique circumstances relate to the condition of the existing garage and size of the home. The proposed structure will be less than 75% of the dwelling unit foundation area. Removal of the existing garage and construction of a new garage will not alter the character of the neighborhood.

See applicant's statement attached.

STAFF REVIEW

The following table summarizes the proposal in terms of the Development Code requirements.

	Existing	Proposed	Development Code Standard
Area			
Detached Accessory Structure	484 sf	924 sf	*750 sf or 75% of the dwelling unit foundation area (966) – whichever is more restrictive 1,200 sf or 90% of the dwelling unit foundation area (1,159 sf) – whichever is more restrictive
All Accessory Structures	484 sf	924 sf	
Setback			
Side Lot Line	51 ft (east) 24 ft (west)	8.8 ft (east) 58.5 ft (west)	5 ft from a side lot line.
Front Lot line	187 ft	150 sf	104 ft (at or behind the existing home)
Rear Lot Line	36 ft	60 ft	
Height			
Roof Peak	16ft +/-	18 ft	18 ft
Sidewall	8 ft	10 ft	10 ft
Interior Storage Area	8 ft	6 ft	6 ft
Exterior Design	Siding and roof color match the home	Match existing house	Compatible with the residence and be similar in appearance
Screening	Existing vegetation/fence	Retain existing vegetation/fence, additional shrubbery along side	None

* Denotes Variance Request

Staff reviewed the plans in accordance with the variance criteria. The characteristics of this lot and neighborhood mitigate the impact of the proposed structure. Staff is able to make findings that practical difficulty is present so all three criteria are met, which are discussed below.

Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.

A variance is needed to allow the proposed structure to exceed the maximum area permitted. On this property, a detached accessory structure of up to 750 square feet is permitted with a building permit. The regulation also uses a benchmark of 75% of the dwelling unit foundation area; however, the lesser of the two areas defines the maximum area permitted. The home has a dwelling unit

foundation area of 1,288 square feet. The proposed 924 square feet detached garage is just under 72% of the dwelling unit foundation area.

If the garage were attached to the home, a variance would not be needed. The applicant did explore this option but prefers the detached garage to maintain the character of the existing home and property. The applicants were also concerned about how an attached garage would fit in with the floor plan and other improvements made to the house.

In Staff's opinion, the variance request to rebuild the detached garage at the proposed size and location represents a reasonable use of the property. Since the proposed square footage is 72% of the dwelling unit foundation area, the home will remain the primary use and feature of the property. The placement of the garage farther from the front property line than the home will also aid in minimizing the visual impact.

Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.

The existing home is older, built in the late 1940's or early 1950's and is of a farmhouse style. While the home does have a basement, using the basement for storage is difficult since it has a lower ceiling height. The additional area in the garage and storage loft would provide usable and needed storage space. In Staff's opinion, this represents a unique circumstance.

The existing detached garage was also built in the early 1950's and is in poor condition. The condition of this garage and need for replacement represents a unique circumstance.

In addition, the property is 25,000 square feet in size (.57 acres) and larger than the standard residential lot. In the R1 District, the minimum lot size permitted is 10,000 square feet. Using geographic information system data from Ramsey County, the average lot size for existing single-family residential properties in the City is about 17,761 square feet, therefore, this parcel is larger than the average. This is a unique circumstance.

The variance will not alter the essential character of existing neighborhoods

Staff believes that the variance will not alter the essential character of the existing neighborhood. The properties on this portion of Snail Lake Road are ½ acre or larger and there is not a defined neighborhood character as the single-family homes vary in age, style and design. The majority of homes have attached garages while there are two homes that have detached garages in addition to the attached garages. In these cases, the total square footage exceeds that of what is currently permitted. A detached garage is currently located on the property and the replacement of this deteriorating structure with a new garage that is designed to match the home will improve the appearance of the property. The size of the proposed garage is in scale with the property and home and will not be a dominant feature or use of the property. Existing vegetation will screen the structure from view of the adjoining property and shrubs are proposed along the east side of the structure. In addition, the structure will be setback about 150 feet from the public right-of-way and there is a shrub hedge along the front property line.

PUBLIC COMMENT

Property owners within 150 feet were notified of the applicant's request. One comment was received in support of the project.

STAFF RECOMMENDATION

As noted above, staff is able to make affirmative findings regarding practical difficulty and so recommends approval to the Planning Commission. Staff believes that this structure complies with the spirit and the intent of the code as the house will remain the primary structure/use and the character of the neighborhood is not altered. Unique circumstances that are present relate to the age of the home, size of the property and deteriorating condition of the existing garage.

Staff recommends that the Planning Commission adopt the attached Resolution 14-81. The following conditions should be attached to an approval:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The exterior design and construction of the structure must comply with Section 205.082 (5e), Exterior Design and Construction.
3. Use of the accessory structure shall be for personal use only and no commercial use or commercial related storage is permitted.
4. Prior to the issuance of a building permit, a landscape plan shall be submitted identifying the landscape shrubbery along the east side of the garage.
5. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
6. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.

Attachments

- 1) Resolution 14-81
- 2) Location Map
- 3) Aerial Map
- 4) Applicant's Statement
- 5) Submitted Plans
- 6) Public Comment
- 7) Motion

**EXTRACT OF MINUTES OF MEETING OF THE
PLANNING COMMISSION OF SHOREVIEW, MINNESOTA
HELD SEPTEMBER 23, 2014**

* * * * *

Pursuant to due call and notice thereof, a meeting of the Planning Commission of the City of Shoreview, Minnesota was duly called and held at the Shoreview City Hall in said City at 7:00 PM.

The following members were present:

And the following members were absent:

Member introduced the following resolution and moved its adoption.

**RESOLUTION NO. 14-81 FOR A VARIANCES RELATED TO A DETACHED
ACCESSORY STRUCTURE**

WHEREAS, Lucas and Amanda Peterson, submitted a variance application for the following described property:

Vac N 30 Ft Of Snail Lake Rd Adj And Fol E 100 Ft Of W 200 Ft Of S 220 Ft Of Lot 24
J. F. Eisenmenger's,lake Villa

(This property is more commonly known as 285 Snail Lake Road)

WHEREAS, the Development Regulations establish a maximum detached accessory structure size of 750 square or 75% of the dwelling unit foundation area, whichever is less, on parcels less than 1 acre in size; and

WHEREAS, the applicant has requested the a variance to exceed the maximum 750 square feet permitted for a detached accessory structure as a 924 square foot structure is proposed; and

WHEREAS, the Shoreview Planning Commission is authorized by State Law and the City of Shoreview Development Regulations to make final decisions on variance requests; and

WHEREAS, on September 23, 2014 the Shoreview Planning Commission made the following findings of fact:

1. *Reasonable Manner.* *The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*

The variance request to rebuild the detached garage at the proposed size and location represents a reasonable use of the property. The garage will be used for storage of personal property. Use of the existing home for storage is limited due to the low ceiling height in the basement. Since the proposed square footage is 72% of the dwelling unit foundation area, the home will remain the primary use and feature of the property

2. *Unique Circumstances.* *The plight of the property owner is due to circumstances unique to the property not created by the property owner.*

Unique circumstances are present due to the age and size of the existing home, low ceiling height in the basement, deteriorating condition of the existing garage and larger size of the property.

3. *Character of Neighborhood.* *The variance, if granted, will not alter the essential character of the neighborhood.*

The variance will not alter the essential character of the existing neighborhood as properties on this portion of Snail Lake Road are ½ acre or larger and there is no defined neighborhood character as the single-family homes vary in age, style and design. Attached and detached garages are present. The replacement of the existing deteriorating garage with a new detached garage that is designed to match the home will improve the appearance of the property. The size of the proposed garage is in scale with the property and home and will not be a dominant feature or use of the property.

NOW, THEREFORE, BE IT RESOLVED BY THE SHOREVIEW PLANNING COMMISSION, that the variance request for property described above, 285 Snail Lake Road, is approved, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The exterior design and construction of the structure must comply with Section 205.082 (5e), Exterior Design and Construction.
3. Use of the accessory structure shall be for personal use only and no commercial use or commercial related storage is permitted.
4. Prior to the issuance of a building permit, a landscape plan shall be submitted identifying the landscape shrubbery along the east side of the garage.
5. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.

6. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.

The motion was duly seconded by Member and upon a vote being taken thereon, the following voted in favor thereof:

And the following voted against the same:

Adopted this 23rd day of September, 2014

Steve Solomonson, Chair
Shoreview Planning Commission

ATTEST:

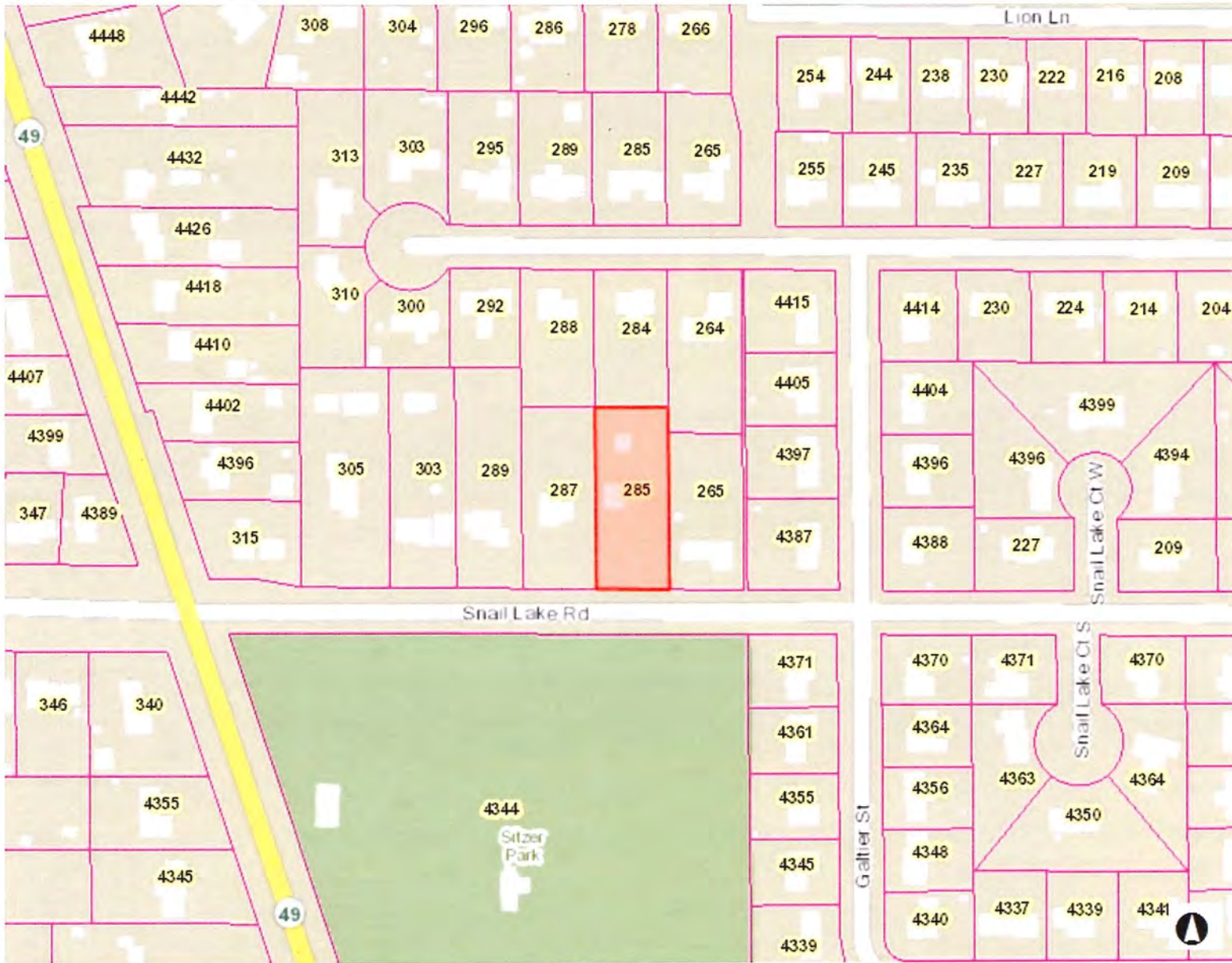
Kathleen Castle, City Planner

ACCEPTANCE OF CONDITIONS:

Lucas Peterson, 285 Snail Lake Road

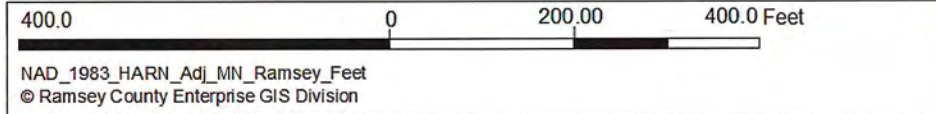
Amanda Peterson, 285 Snail Lake Road

MapRamsey Peterson - 285 Snail Lake Road



Legend

- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- Parcel Points
- Parcel Boundaries



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes
Variance



Legend



- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- Parcel Points
- Parcel Boundaries

200.0 0 100.00 200.0 Feet


NAD_1983_HARN_Adj_MN_Ramsey_Feet
 © Ramsey County Enterprise GIS Division

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes









Accessory Structures

 Peterson - 285 Snail Lake Road



Legend

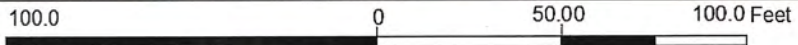


-  City Halls
-  Schools
-  Hospitals
-  Fire Stations
-  Police Stations
-  2 Recreational Centers
-  Parcel Points
-  Parcel Boundaries



Notes

Variance



NAD_1983_HARN_Adj_MN_Ramsey_Feet
 © Ramsey County Enterprise GIS Division

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
 THIS MAP IS NOT TO BE USED FOR NAVIGATION

City of Shoreview Planning Commission: Attention Kathleen Castle

Address of 285 Snail Lake Road

08/12/2014

Dear Ms. Castle and members of the Planning Commission;

This proposal letter is to request and substantiate the grant of a Variance for a residence located at 285 Snail Lake Road in the City of Shoreview. The Ramsey County Property ID# is 24.30.23.13.0058. The property sits on .57 acres and is 100 feet wide by 250 feet long. The Variance requested is two parts; first for the installation of a concrete free floating slab (33'w x 28' l) and second, a matching garage that will sit on top of the concrete. Total square feet for the detached structure will be 924 feet. As described below this structure will clearly meets the justification of such variance as described in City Code 201.010.

Detached Garage and Free Floating Slab

In 2012, my wife and I purchased a home built in 1952 located at 285 Snail Lake Road. The home had sat vacant for over a year. A total transformation and remodel occurred to the property through a hired contractor and working with Mr. Rob Warwick of the City of Shoreview. Along with updating the home's interior, repair and renovation were conducted on the outside of the home. These changes increased value to the property in addition to benefiting the neighborhood and community in which we reside. During the construction that took place, one thing that was not repaired was the garage which currently sits in our backyard and is in disrepair with failing structure.

Practical Difficulties

- i. Reasonable Manner.
 - a. As property owners our intention for the addition of the detached structure will be used strictly in a reasonable manner for personal, not business use. Currently the detached garage that exists on the property sits in the back yard of the home forcing us to drive into the back yard with our vehicles to access it. As it stands now the garage has a collapsing roof forcing our use of the garage to be used strictly as storage and not for parking. By granting our Variance request a new detached garage will bring the property into visual harmony with our existing neighbors' home by facing the garage to the street which is consistent with other homes in the neighborhood. This proposed garage will blend into the existing home's exterior plan and siding which will not be a visual hindrance on the neighborhood. (See attached drawing.)
 - b. As described in the Development and Regulations Code 201.010 the granted Variance will maintain the high quality of life within our community by promoting investment into our property which will enhance not only our property, but the neighborhood properties surrounding us.

ii. Unique Circumstances.

a. Applying for this Variance is due to the unique circumstances set forth before our ownership of the property took place.

1. Due to original construction of the home in 1952 the foundation and basement contains small overhead which consists of 6 ½ foot ceilings seriously reducing any appropriate homeowner storage. By granting our Variance a proper garage will allow for storage to be used by the homeowner.
2. The original garage construction was done with improper header support and framing for the roof. This has caused an unstable roof line and sagging of the header which has forced bracing by the homeowner and prevention of parking inside the structure rendering the current garage useless. The concrete flooring of this structure has also heaved preventing any type of fix for flooring of the current structure. These things prevent any real fix for the existing structure.
 - By granting our variance the proper procedure for construction will be conducted as required by the City of Shoreview building requirements. These construction plans are contained in this material along with truss specs and concrete slab detail.
3. The current garage layout is in the property's back yard which is a near violation of the current requirements by the City of Shoreview for a rear set back. Granting our Variance will allow for proper placement of a new detached garage and conform to building requirements and uniformity of the neighborhood's garage locations along with a proper rear set back of 60'.
 - See attached color photograph of current layout of property.
4. The current detached garage location forces homeowners to drive through an unestablished driveway into the backyard of their home to access the structure. Granting our Variance request would allow the new detached garage structure to face the City street and allow in and out access to the garage through the established driveway like other homeowners in our neighborhood.
 - See attached drawing of how the garage will look from street view.
5. The set back of the new detached garage from our neighbor's east property line will be 8'8" which is over the required 5' set back needed by current City of Shoreview requirements and code. There is already established grass preventing any erosion concerns in this 8'8" area. Upon completion of construction, this area will be cared for and shrubbery will be planted as well.
6. The actual foundation of our home due to our remodel is 1288 square feet. We are looking for a 33' wide x 28' long garage which will have a square footage of 924. These numbers are within code for the City of Shoreview's 75% of the home's foundation size which is 966 square feet.
 - See attached plot survey in grid format.
7. If the Variance is granted our construction plans will consist of an 18' roof peak, 10' sidewalls and have only 6' of interior storage space. This is detailed in

attached plans from the building material company and in hand drawn design plans. The current structure has an 8' storage area against current City of Shoreview code requirements.

8. The current detached garage structure will be torn down and removed alleviating further eye sore for our neighborhood if the Variance is granted.
9. Lastly the quality of our garage concrete flooring will contain a more expensive fiber mesh concrete along with proper core fill, rebar and a twelve inch deep sidewall to prevent heaving like the current structures concrete issues.

iii. Character of the Neighborhood.

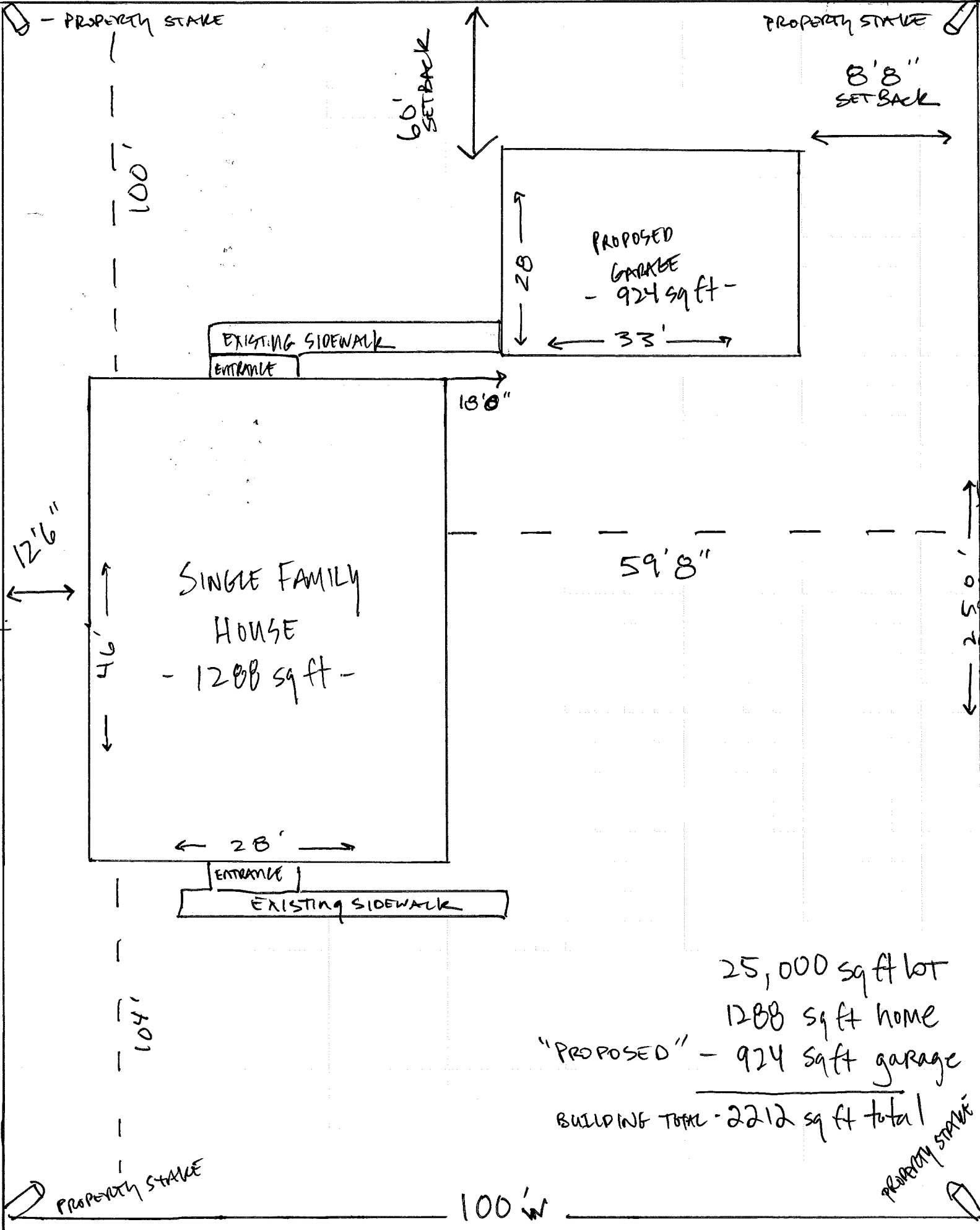
- a. The Variance, if granted, will not alter the essential character of the neighborhood. To the contrary the Variance if granted will be a reinvestment into the neighborhood and the address itself. My wife and I have made this address our home and have a deep investment into the City of Shoreview itself. Compromising the integrity of the neighborhood or the City of Shoreview by adding this garage is not our intention. It is our intention to benefit the City itself by adding to the overall value of the entire neighborhood along with conforming to the adjacent properties through a uniform placement of the concrete and garage. The improvements will also help us to establish a lawn consistent with our neighbors instead of bare and void space where the existing driveway is placed. This project will help complete and beautify the entire block.
- b. Lastly the granting of the Variance will allow us to store our larger belongings and park our vehicles in a secure location and out of sight. These practices are helpful in deterring petty thefts and auto break-ins in the neighborhood.

Ms. Castle and the City of Shoreview Community Development Program and Planning Commission please grant us this Variance at 285 Snail Lake Road. My wife and I look forward to living at this home, raising a family here and investing as involved members within this community. Together we have spoken with and met our neighbors who have graciously extended their well wishes in our goal of investing into 285 Snail Lake Road and a new garage. Our construction requests conform to exact specifications as required by the City of Shoreview requirements for a detached garage structure.

Thank you for your time and consideration,

Lucas and Amanda Peterson

285 SNAIL LAKE ROAD - PIN# 24.30.23.13.0058

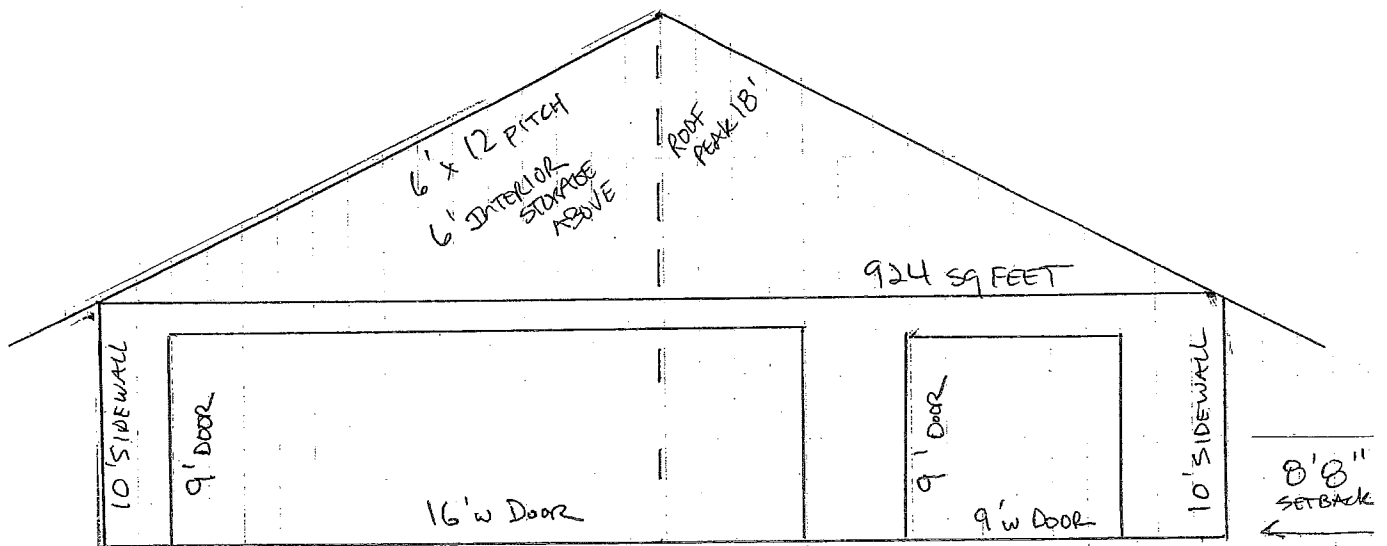


25,000 sq ft lot
 1208 sq ft home
 "PROPOSED" - 924 sq ft garage
BUILDING TOTAL - 2212 sq ft total

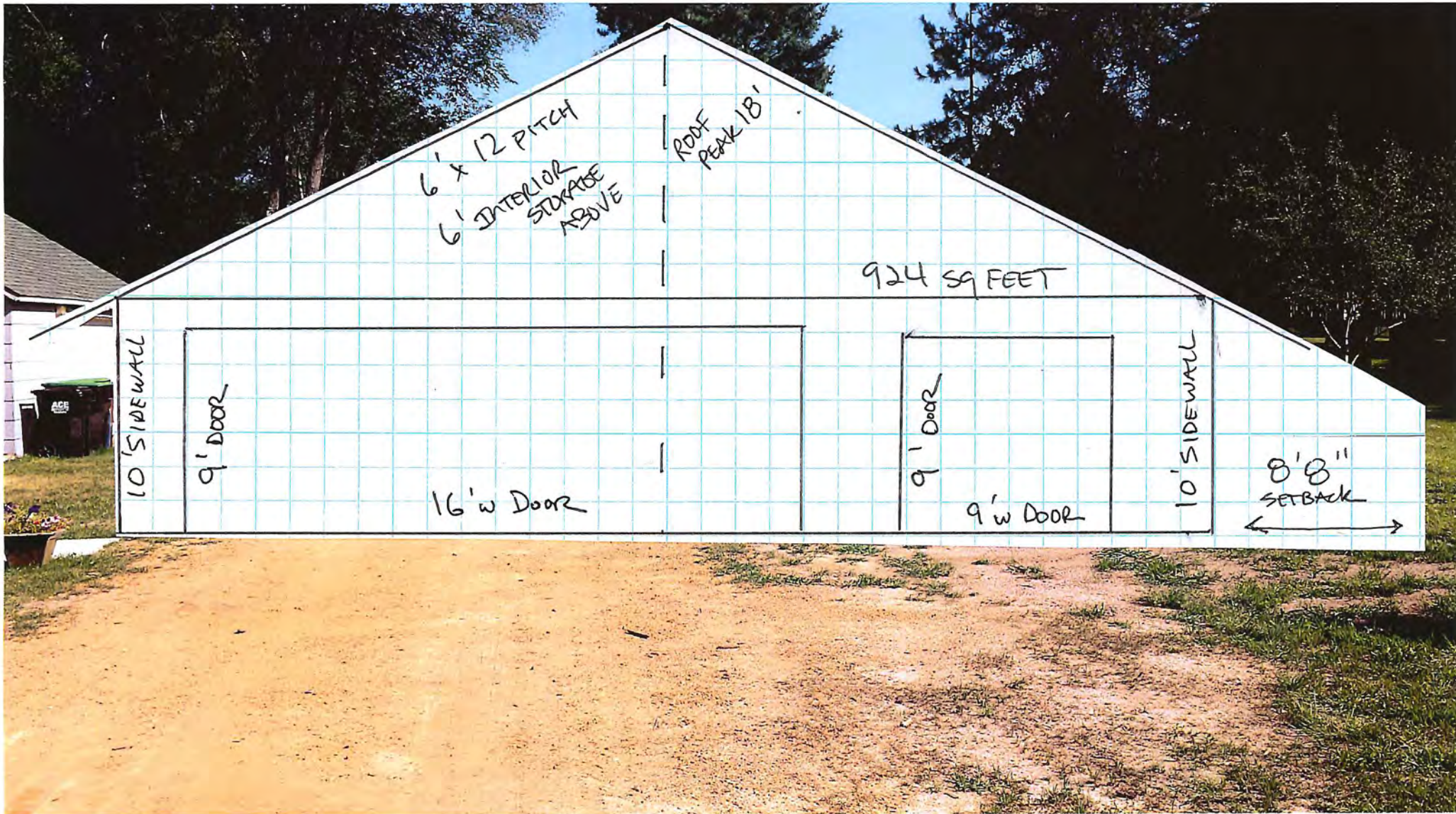
100' W

CURRENT LOT LAYOUT
(NOTE - STRIKES FOR PLOT SURVEY)
• BACKYARD GARAGE ACCESS
• DELAPIDATED CURRENT STRUCTURE)





FACING STREET VIEW AND PLACEMENT (NOTE SETBACK)



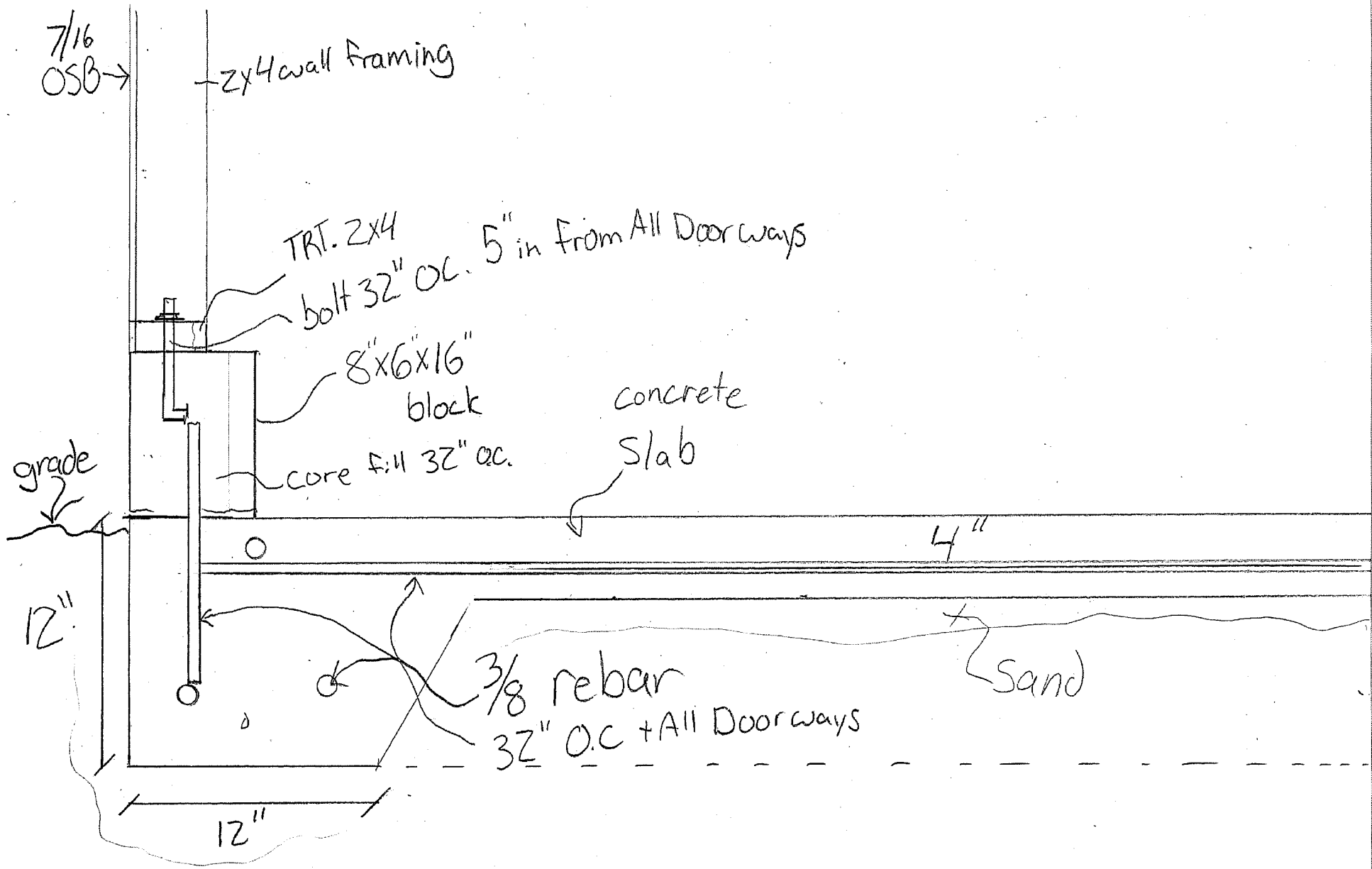
PROPOSED
GARAGE
FOOTPRINT

PROPERTY STAKE

PROPERTY LINE

8'8"
SETBACK





City Council:
Sandy Martin, Mayor
Emy Johnson
Terry Quigley
Ady Wickstrom
Ben Withhart



City of Shoreview
4600 Victoria Street North
Shoreview, MN 55126
651-490-4600 phone
651-490-4699 fax
www.shoreviewmn.gov

September 8, 2014

REQUEST FOR COMMENT

Dear Shoreview Property Owner:

Please be advised that on **Tuesday, September 23rd at 7:00 p.m.**, the Shoreview Planning Commission will consider a Variance Application submitted by Lucas and Amanda Peterson for a proposed detached garage on their property at 285 Snail Lake Road. The Peterson's are proposing to demolish the existing detached garage and replace it with a detached garage that has an area of 924 square feet (28' x 33'). This area exceeds the maximum 750 square feet permitted, therefore a variance is needed. Please see the attached plans.

If you have any comments, you may email me or fill out the bottom portion of this letter and mail it back to me. Comments received by **September 18th** will be distributed to the Planning Commission with their agenda packet. Comments received after that date but before the meeting will be distributed to the Commission at the meeting. You are also welcome to attend the meeting which is held in the **City Council Chambers, Shoreview City Hall, 4600 North Victoria Street.**

The agenda and staff report to the Planning Commission will be available on the City website by September 19th. Please use this weblink to review details of the project and City standards after that date; www.shoreviewmn.gov/pc/documents.

If you would like more information or have any questions, please call me at 651-490-4682 between 8:00 a.m. and 4:30 p.m., Monday through Friday. You may leave a voice mail message at any time. Comments or questions can also be submitted via e-mail to me at kcastle@shoreviewmn.gov.

Sincerely,


Kathleen Castle
City Planner

Comments:

We have no objection to this proposal.

Name: Jeanette and Pat Cleary
Address: 288 Jansa Drive

MOTION TO APPROVE

MOVED BY COMMISSION MEMBER: _____

SECONDED BY COMMISSION MEMBER: _____

To adopt the attached Resolution 14-81, including findings of fact, permitting the construction of 924 square foot detached accessory structure for Lucas and Amanda Peterson on their property at 285 Snail Lake Road. Said approval is subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The exterior design and construction of the structure must comply with Section 205.082 (5e), Exterior Design and Construction.
3. Use of the accessory structure shall be for personal use only and no commercial use or commercial related storage is permitted.
4. Prior to the issuance of a building permit, a landscape plan shall be submitted identifying the landscape shrubbery along the east side of the garage.
5. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
6. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins

Said approval is based on the following findings of fact:

1. *Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*

The variance request to rebuild the detached garage at the proposed size and location represents a reasonable use of the property. The garage will be used for storage of personal property. Use of the existing home for storage is limited due to the low ceiling height in the basement. Since the proposed square footage is 72% of the dwelling unit foundation area, the home will remain the primary use and feature of the property

2. *Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*

Unique circumstances are present due to the age and size of the existing home, low ceiling height in the basement, deteriorating condition of the existing garage and larger size of the property.

3. *Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

The variance will not alter the essential character of the existing neighborhood as properties on this portion of Snail Lake Road are ½ acre or larger and there is no defined neighborhood character as the single-family homes vary in age, style and design. Attached and detached garages are present. The replacement of the existing deteriorating garage with a new detached garage that is designed to match the home will improve the appearance of the property. The size of the proposed garage is in scale with the property and home and will not be a dominant feature or use of the property.

VOTE:

AYES:

NAYS:

Regular Planning Commission Meeting
September 23, 2014

TO: Planning Commission
FROM: Rob Warwick, Senior Planner
DATE: September 18, 2014
SUBJECT: File No. 2544-14-34 Greg Livermont, Minor Subdivision and Variance, 4525 Rice Street

INTRODUCTION

Greg Livermont has submitted a minor subdivision application to divide the property at 4525 Rice Street into two parcels for single-family residential development. A variance application was also submitted to create the new western parcel without frontage on a public street. This application was complete as of September 9, 2014.

BACKGROUND

This property has been proposed for development on several occasions. At two meetings in early 2003, the Planning Commission reviewed applications for a proposed Planned Unit Development and Rezoning for this property. Concept plans for first, a 12-unit, and later, a 9-unit, townhouse development were considered. At this time, the properties were designated as Medium Density Residential (RM) on the City Planned Land Use Map, while located in the R-1 Detached Residential District on the City Zoning Map.

The Planning Commission recommended denial of the applications, based on density, street placement and alignment, and site assembly. The applications were withdrawn.

In 2005, the City initiated an application to amend the Comprehensive Plan, designating the planned land use for this and three adjacent parcels RL, Low Density Residential (0-4 units per acre). The amendment was approved by the City, and accepted by the Metropolitan Council. The RL designation has been effective since that time. The R-1 zoning district is consistent with the RL designation of the Comprehensive Plan.

In 2006, the City reviewed a Concept PUD for 4 lots for development with detached single-family homes. The plat included construction of a public street along the south property line. Based on comments received during the Concept PUD review, the applicant revised the plans for review in 2007, when the City reviewed and approved preliminary and final plat for a 6 lot development to occur on 4525 Rice St. and the parcel immediately to the east, 4521 Rice St. This plat included a public street located along the north property line. The final plat was not recorded, and the developer subsequently filed for bankruptcy. Both properties, 4525 and 4521, were taken back by the bank through foreclosure.

SITE CHARACTERISTICS

The parcel is a flag lot with 56.6 feet of frontage on Rice Street and a gross area of 1.827 acres. There are several easements on the property. First, a ten-foot wide utility easement extends south from the Tudor Oaks condos. While this easement was intended to include municipal water and sanitary sewer lines, it

appears that the utility lines, as built, are not completely within the easement. The second easement is for public road and utility purposes, and is 56.6 feet wide. This easement extends from Rice St. west for about 270 feet, terminating at the north-south easement for the sewer and water utilities. Net of the existing road easement, the site has an area of about 1.6 acres.

The property is currently developed with a single-family home, two detached accessory buildings, driveway and a rock garden. The center of the property is cleared and has been maintained as a lawn, while the perimeter is dominated by small trees. There are mature trees located on the property, including oak, Siberian elm, willow, box elder, maple, spruce, and cottonwood. A pond is located along the south property line. There is a six-foot embankment bordering the pond. The topography of the upland portion of the site is relatively flat, sloping to the south. Structures on the properties to the north and west are developed at an elevation 12 to 16 feet higher than the elevation of the subject property. These parcels slope down to the subject property.

The property is located in the R-1, Detached Residential District. Immediately to the north are the Tudor Oaks condominiums, in the R-3, Multi-Dwelling Residential District. This development consists of 36 units in 5 buildings. Tudor Oaks also contains 36 townhomes in 4-unit buildings, which are located to the northwest across Galtier Place. These quad-homes are located in the R-2, Attached Residential District. To the immediate west is the Paulsen Addition (6 twin-homes totaling 12 units), in the R-2, Attached Residential District.

The properties immediately to the east and south on Rice Street are occupied by single-family dwellings, and these residences are noted on the survey. Further south is a detached residential neighborhood, Hidden Oaks. These properties are also located in the R-1 District. Zoning designations for this area are attached. To the east, across Rice Street is the Sucker Lake Park in the City of Vadnais Heights.

Storm sewers that drain Galtier, constructed with the Tudor Oaks and Paulsen Addition developments, channel stormwater onto the northwest and west boundaries of the subject property, where a drainage swale directs the stormwater to the pond.

MINOR SUBDIVISION

Development Ordinance Requirements.

Minor subdivisions require review by the Planning Commission and approval by the City Council. Minor subdivisions must be reviewed in accordance with subdivision and zoning district standards in the Development Regulations.

The City's subdivision standards require all lots to have a minimum 30-feet of frontage on a public road. Municipal sanitary sewer and water must be provided to the resulting lots. These standards also require 5-foot public drainage and 10-foot utility easements along property lines where necessary. Public drainage and utility easements are also required over infrastructure, watercourses and floodways. A 16.5 foot wetland buffer is required to protect wetlands from the impact of development.

Key lots (any lot where the side lot line abuts the rear lot line of one or more adjoining parcels) are discouraged and must be at least 15-feet more in depth or width than the minimum requirement. When a side lot line abuts a rear lot line, the setback for principal and accessory structures increases to a

minimum of 20-feet from a side lot line. Through the subdivision process, the City can require a greater width or depth to increase the proposed structure setback from the adjoining properties.

In the R-1 District, the lot standards require a minimum lot area of 10,000 square feet and a width of 75 feet. Regarding structure setbacks, the front yard setback of the proposed homes is a minimum of 25-feet and a maximum of 35-feet. The dwelling must also maintain a minimum setback of 10 feet from a side property line, except for the side lines that abut the rear lot line of the adjacent property when a 20-foot setback is required. A 30 foot rear setback is required. Accessory structures, including attached garage, must maintain a minimum setback of 5-feet from a side lot line.

STAFF REVIEW

Lot Standards

The proposed parcels comply with the minimum dimensional standards for parcels in the R1 zoning district. The existing parcel is a key lot, and with the subdivision, both resulting parcels will be key lots. As such both are subject to the additional structure setback and lot depth or width requirements. Both parcels exceed the minimum lot depth and lot width (see table below). The area reported for Parcel B includes the existing 268- by 56-foot road easement. Net of this easement area, Parcel B has an area of about 29,000 sf.

	Requirements	Parcel A (West)	Parcel B (East)
Area:	10,000 sf	35,253 sf	44,021 sf
Width: Key Lot	75 feet 90 feet*	217.8 feet	200 feet (Average)
Depth: Key Lot	125 feet 140 feet*	162 feet	217.8 feet

** For Key lots, an additional 15 feet is required for either the lot width or lot depth*

Parcel A is a Key lot since the north lot line is defined as a side lot line and abuts the rear lot line of the property to the north. Parcel B is a Key lot since the east lot line is a side lot line that abuts the rear lot line of the property to the east, 4521 Rice Street. These lot lines are defined the same as for the existing lot, which is now a Key lot.

Municipal Utilities

Municipal sanitary sewer and water service are already provided to property. An additional service stub will need to be provided for water and sanitary for the second parcel. Standard drainage and utility easements along the property lines will be required, as well as over the wetland and wetland buffer area. The utility service for the future house on Parcel A must cross Parcel B, and so a private easement will be required.

Access

The single access point will remain on Rice Street, and a shared driveway will be established across Parcel B to serve both of the proposed parcels. The drive must be developed with a minimum width of 12-feet, and a 13-foot height clearance. A private easement and maintenance agreement between the two properties is required for this shared access driveway.

Vegetation and Woodlands

The submitted survey identifies landmark trees on the property. Landmark trees removed will need to be replaced at a ratio 2:1 on Parcel A, and a ratio of 3:1 on Parcel B, in accordance with the City's regulations. Tree removal, replacement and protection will be addressed further in the Development Agreement.

Grading, Drainage and Stormwater Management

The majority of the site is relatively flat, with adjacent properties on the north, east and west all at higher grade elevations. The proposed homes are anticipated to be a one-story design on Parcel B and a two-story on Parcel A. Both resulting parcels drain to the pond located at the south edge of the property. Grading plans will be required with the building permit applications, and are subject to review and approval by the City Engineer.

Buildable Areas

The existing house will be demolished. The detached garage will be replaced with garages attached to the new homes, but will be retained for storage during the construction period. Each lot has a building pad area that staff believes is sufficient for construction of a new house. The buildable area on Parcel B is split into two pieces by the utility easement for the municipal water and sewer infrastructure. The east side of the pad is about 45-feet by 100-feet, and the pad west of the utility easement is about 70-feet by 100-feet. On Parcel A, the pad is approximately 110-feet by 130-feet. Please see the annotated site plan that shows the approximate buildable areas.

VARIANCE

When considering a variance request, the Commission must determine whether the ordinance causes the property owner practical difficulty and find that granting the variances is in harmony with the Comprehensive Plan, and in keeping with the spirit and intent of the ordinance. Practical difficulty is defined as:

- 1. Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*
- 2. Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*
- 3. Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

For a variance to be granted, all three of these criteria must be met.

Reasonableness

Staff believes that it is reasonable to subdivide the property into two parcels for detached residential dwellings given the existing public easements, the area of the existing lot, and the background of prior

development approvals. The proposed lots conform to the dimensional requirements for the R-1 District, except for the road frontage for Parcel A.

Unique Circumstances

The configuration, topography, and situation of the existing property is unique, as it is currently a flag lot, with the majority of its area located off of the improved public street. The narrow road frontage for the existing parcel is less than 60 feet. While it may be possible to gerrymander lot boundaries to comply with the frontage requirement, staff believes that the resulting lots would not meet the spirit and intent of the Code. Staff believes that with two lots, installing a public street is not warranted, and does not serve the public interest for it would not provide connectivity for other than the two parcels directly served. Subdividing the existing flag lot to create lots as here proposed appears an appropriate solution given the conditions.

Character of the Neighborhood

The area is characterized by residential develops with densities ranging from low- to high-, with housing types that include detached- and attached-single family as well as multi-family residential. Given the range of housing styles and density, staff believes that approving the variance will not alter the character of the neighborhood.

PUBLIC COMMENT

Property owners within 350 feet were notified of the applicant's request. Three comments have been submitted each expressing concern with the potential loss of mature trees resulting from the future construction. The written comments are attached.

AGENCY COMMENTS

Notice of the proposal was circulated to other public agencies for comment, and no concerns were identified. The Ramsey County Public Works Dept. identified that the County highway plan calls for a 50-foot half-width, and so an added 10-foot easement is needed. The Ramsey Washington Metro Watershed District notes that a District permit does not appear to be needed, and that the 16.5 foot wetland buffer required by the City will meet District objectives. The Lake Johanna Fire Department has no concerns for providing fire protection for these parcels. These comments are attached.

STAFF RECOMMENDATION

The minor subdivision application has been reviewed in accordance with the standards of the Development Regulations. The proposed parcels comply with the subdivision standards, provided the variance for lot frontage is approved by the Planning Commission. Staff recommends the Planning Commission adopt Resolution 14-82, approving the variance, and recommend approval of the minor subdivision to the City Council, subject to the following conditions:

Variance

1. The approval is subject to approval of the Minor Subdivision application by the City Council.
2. This approval will expire after one year if the subdivision has not been recorded with Ramsey County.
3. The approval is subject to a 5-day appeal period.

Minor Subdivision









1. The minor subdivision shall be in accordance with the plans submitted, prepared by Alliant Engineering dated September 9, 2014.
2. The applicant shall pay a Public Recreation Use Dedication fee as required by Section 204.020 of the Development Regulations before the City will endorse deeds for recording. The fee will be 4% of the fair market value of the property, with credit given for the existing residence.
3. Public easements for Rice Street (an added 10-feet), drainage and utility, and a 16.5 foot wetland buffer shall be conveyed to the City as required by the Public Works Director. The applicant shall be responsible for providing legal descriptions for all required easements. Easements shall be conveyed before the City will endorse deeds for recording.
4. Municipal water and sanitary sewer service shall be provided to both lots. Private easements shall be reviewed and approved by the City Attorney prior to recording. The private utility easements shall be conveyed prior to issuance of a building permit by the City.
5. Any work in the Rice Street right-of-way is subject to the permitting requirements of Ramsey County.
6. Parcel C shall be conveyed only to the owner of the property located at 4505 Rice Street, and shall be combined with the existing parcel for tax purposes.
7. The applicants shall enter into a Development Agreement with the City. This agreement shall be executed prior to the City's release of the deeds for recording.
8. The garage shall be removed prior to the City endorsing the Deed for Parcel B or as addressed in the Development Agreement to ensure removal.
9. A tree protection plan shall be submitted prior to issuance of a building permit (including the demolition permit). The approved plan shall be implemented prior to the commencement of work on the property and maintained during the period of construction. The protection plan shall include wood chips and protective fencing at the drip line of the retained trees.
10. An erosion control plan shall be submitted with the building permit application for each parcel and implemented during the construction of the new residence.
11. A final site-grading and drainage plan shall be submitted and approved by the City Engineer prior to issuance of a building permit.
12. Tree removal requires replacement trees per City Code. City requirements for the tree removal and protection plan shall be detailed in the Development Agreement.
13. The driveway shall be developed with a minimum 12-foot width and 13-foot height clearance.
14. This approval shall expire after one year if the subdivision has not been recorded with Ramsey County.

Attachments

- 1) Location Map
- 2) Site Aerial Photo
- 3) Submitted Statement and Plans
- 4) 1980 Survey showing existing public easements
- 5) Survey with approximate buildable areas
- 6) Response to Request for Comment
- 7) Resolution 14-82
- 8) Motion



Legend

-  City Halls
-  Schools
-  Hospitals
-  Fire Stations
-  Police Stations
-  2 Recreational Centers
-  Parcel Points
-  Parcel Boundaries

563.0 0 281.52 563.0 Feet

NAD_1983_HARN_Adj_MN_Ramsey_Feet
© Ramsey County Enterprise GIS Division

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

Enter Map Description









1: 3,378





Legend



-  City Halls
-  Schools
-  Hospitals
-  Fire Stations
-  Police Stations
-  Recreational Centers
-  Parcel Points
-  Parcel Boundaries

Notes

Enter Map Description

193.3 0 96.64 193.3 Feet

NAD_1983_HARN_Adj_MN_Ramsey_Feet
© Ramsey County Enterprise GIS Division

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Greg and Jennifer Livermont
Troy and Sarah Wangler
4525 Rice Street
Shoreview, MN 55126

August 25, 2014

City of Shoreview,

We are requesting a variance for the Minor Subdivision of the lot at 4525 Rice Street in Shoreview, MN. This property, along with the property at 4521 Rice Street, had previously been approved to be subdivided into six lots. This subdivision was approved by the city, but was not carried through with due to financial implications with the developer. The Livermont and Wangler parties have an agreement to purchase the property at 4525 Rice St from the current owner, Albert Porter. This purchase will close on Friday, September 12th, 2014. We are asking for a variance to allow a private driveway easement to gain access to the property on the west side of this proposed minor subdivision. The shared driveway will be constructed to the standards of the local fire department so that safety is not compromised. Attached is the survey completed by Alliant Engineering back in 2006, which is on file with the City of Shoreview from the previous proposal. We are in the process of updating this survey, but have included an outline of what we anticipate the proposed lot dimensions to be, along with the two new homes which will be constructed on the two new lots created by this minor subdivision.

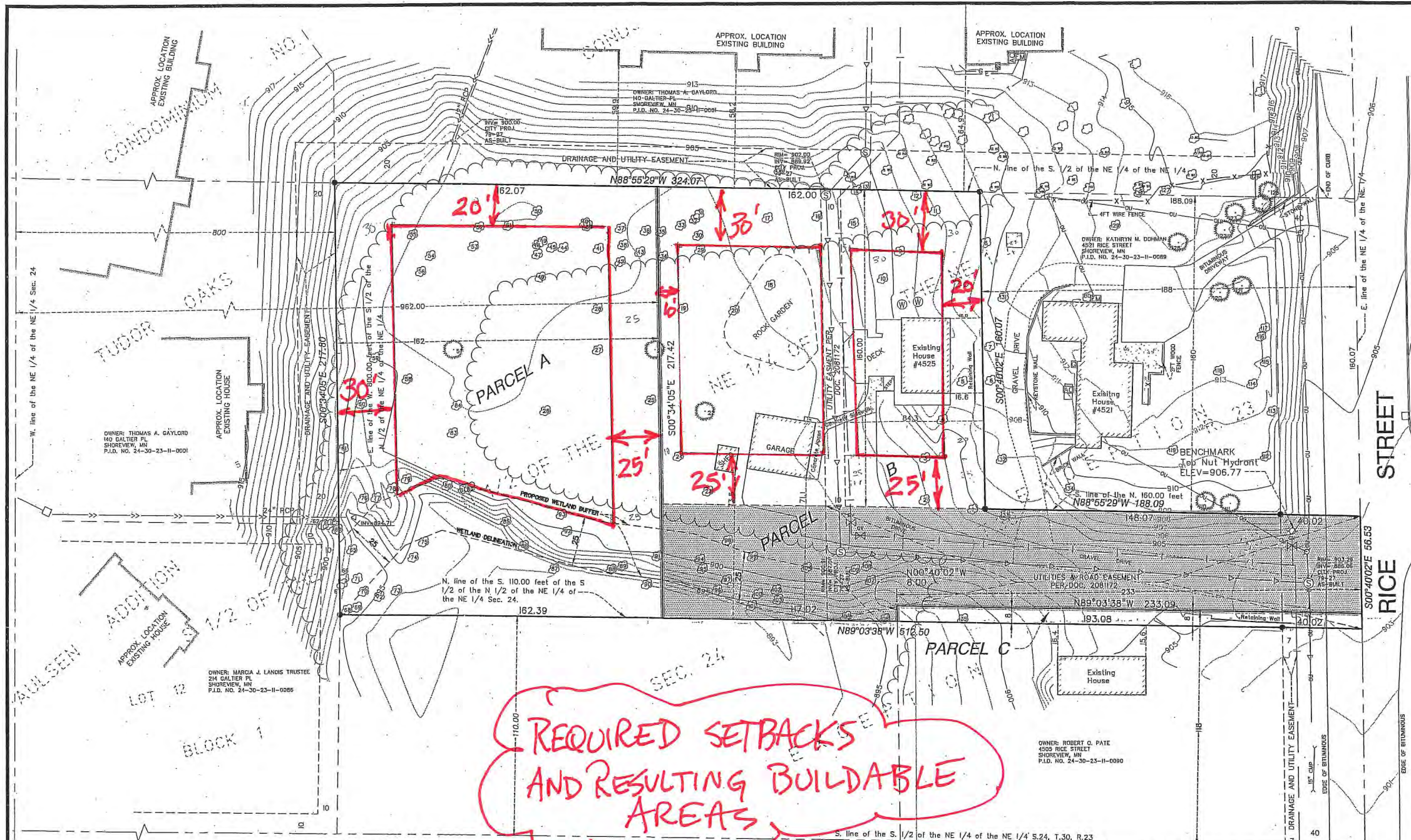
We anticipate the updated survey to be completed shortly and will provide you with this once it has been completed.

Thank you for your consideration and please don't hesitate to call or e-mail either Troy or Greg if you have any questions.

Sincerely,

Greg Livermont
651-341-1566

Troy Wangler
612-270-1922



REQUIRED SETBACKS
AND RESULTING BUILDABLE
AREAS

- Notes:
- The locations of underground utilities are depicted based on available maps, records and field locations and may not be exact. Verify all utilities critical to construction or design.
 - The basis of bearings is assumed.
 - All distances are in feet.
 - The area including right of way is approximately 81,139 sq. ft. or 1.863 acres.
 - This survey was prepared from legal descriptions supplied and our in house records and may not depict all easements, appurtenances or encumbrances affecting the property.
 - Bench Marks: Top nut of hydrant near SE corner of property has an elevation of 906.77 N.G.V.D. 29.
 - Existing conditions survey prepared by Howard R. Green, dated 2001 and revised by Alliant Engineering May 2006.
 - R/W for Rice Street and Drainage & Utility Easements are depicted as shown on Ramsey County hall section map.
 - Adjacent property owners shown were taken from Ramsey County's Dept. of Property Records and Revenue web site and may not be current.

EXISTING LEGAL DESCRIPTION

That part of the South one-half of the North one-half of the Northeast Quarter of the Northeast Quarter of Section 24, Township 30, Range 23, Ramsey County Minnesota, lying East of the West 800 feet thereof, except the South 110 feet thereof; and except the North 180 feet of the East 188 feet thereof.

PROPOSED LEGAL DESCRIPTION:

Parcel A: That part of the East 162.00 feet of the West 962.00 feet of the South 1/2 of the North 1/4 of the Northeast 1/4 of Section 24, Township 30, Range 23, Ramsey County, Minnesota.
Together with an easement for driveway purposes over, under, and across that part of the South 1/2 of the North 1/4 of the Northeast 1/4 of Section 24, Township 30, Range 23, lying South of the North 160.00 feet; East of the West 962.00 feet; and North of the South 110 feet thereof, except the South 8.00 feet of the East 233.00 feet thereof, Ramsey County, Minnesota.
Area is approximately 95,253 square feet or 0.609 acres.

Parcel B: That part of the South 1/2 of the North 1/4 of the Northeast 1/4 of Section 24, Township 30, Range 23, lying East of the West 962.00 feet and lying North of the South 110 feet thereof; except the North 160 feet of the East 188 feet, and also except the South 8.00 feet of the East 233.00 feet thereof, Ramsey County, Minnesota.
Area is approximately 44,021 square feet or 1.011 acres.

Parcel C: The North 8.00 feet of the South 118.00 feet of the East 233.00 feet of the South 1/2 of the North 1/4 of the Northeast 1/4 of Section 24, Township 30, Range 23.
Area is approximately 1,865 square feet or 0.043 acres.

LEGEND:

- ⊕ EXISTING WELL
- ⊙ EXISTING HYDRANT
- ⊠ EXISTING GATE VALVE
- ⊕ EXISTING SANITARY MANHOLE
- EXISTING CATCH BASIN
- ⊕ EXISTING POWER POLE W/ GUY WIRE
- |— EXISTING WATER MAIN
- |>— EXISTING SANITARY SEWER
- |>>— EXISTING STORM SEWER
- OU— EXISTING OVERHEAD UTILITY
- |— EXISTING TREE LINE
- 19 DENOTES TREE TAG ID. NO.
- 91 DENOTES HERITAGE TREE TAG ID. NO.
- ⊙ EXISTING CONIFEROUS TREE
- ⊙ EXISTING DECIDUOUS TREE
- - - - - EXISTING CONTOUR
- - - - - WETLAND DELINEATION
- ▨ PROPOSED DRIVEWAY EASEMENT

TREE INVENTORY

TAG#	SIZE	SPECIES	TAG#	SIZE	SPECIES	TAG#	SIZE	SPECIES	TAG#	SIZE	SPECIES	TAG#	SIZE	SPECIES
*1	19"	Oak-White (Quercus alba)	*30	17"	Elm-Siberian (Ulmus pumila)	59	5"	Spruce-Colorado (Picea pungens)	88	14"	Willow-Black (Salix nigra)	*117	16"	Red Oak (Quercus rubra)
*2	25"	Oak-Red (Quercus rubra)	31	13"	Elm-Siberian (Ulmus pumila)	60	25"	Willow-Weeping / damaged top	89	24"	Willow-Black (Salix nigra)	*118	17"	Red Oak (Quercus rubra)
*3	42"	Oak-Red (Quercus rubra)	32	11"	Elm-Siberian (Ulmus pumila)	61	7"	Maple-Sugar (Acer saccharum)	90	13"	Willow-Black (Salix nigra)	*119	26"	Red Oak (Quercus rubra)
*4	23"	Oak-Red (Quercus rubra)	33	10"	Elm-Siberian (Ulmus pumila)	62	18"	Box Elder (Acer negundo)	*91	16"	Elm-Siberian (Ulmus pumila)	120	11"	Blue Spruce (Picea pungens)
*5	25"	Oak-Red (Quercus rubra)	34	11"	Elm-Siberian (Ulmus pumila)	63	25"	Cottonwood (Populus deltoides)	92	10"	Box Elder (Acer negundo)	121	9"	Blue Spruce (Picea pungens)
*6	15"	Oak-Red (Quercus rubra)	35	5"	Elm-Siberian (Ulmus pumila)	64	20"	Cottonwood (Populus deltoides)	93	10"	Box Elder (Acer negundo)	122	11"	Blue Spruce (Picea pungens)
*7	34"	Oak-Red (Quercus rubra)	36	7"	Elm-Siberian (Ulmus pumila)	65	7"	Maple-Silver (Acer saccharinum)	94	28"	Cottonwood (Populus deltoides)	123	12"	Blue Spruce (Picea pungens)
*8	32"	Oak-Red (Quercus rubra)	37	7"	Elm-Siberian (Ulmus pumila)	66	21"	Cottonwood (Populus deltoides)	95	9"	Cottonwood (Populus deltoides)	124	13"	Blue Spruce (Picea pungens)
*9	8"	Maple-Silver (Acer saccharinum)	38	5"	Elm-Siberian (Ulmus pumila)	67	11"	Cottonwood (Populus deltoides)	96	8"	Willow-Black (Salix nigra)	125	12"	Blue Spruce (Picea pungens)
*10	29"	Maple-Silver (Acer saccharinum)	39	25"	Cottonwood (Populus deltoides)	68	13"	Cottonwood (Populus deltoides)	97	15"	Willow-Black (Salix nigra)	126	12"	White Oak (Quercus alba)
11	4"	Elm-American (Ulmus americana)	40	8"	Elm-Siberian (Ulmus pumila)	69	16"	Cottonwood (Populus deltoides)	98	8"	Box Elder (Acer negundo)	127	11"	White Oak (Quercus alba)
12	8"	Oak-White (Quercus alba)	41	7"	Elm-Siberian (Ulmus pumila)	70	17"	Cottonwood (Populus deltoides)	99	11"	Box Elder (Acer negundo)	*128	16"	Eastern Red Cedar (Juniperus virginiana)
13	15"	Oak-Red (Quercus rubra)	42	17"	Elm-Siberian (Ulmus pumila)	71	14"	Cottonwood (Populus deltoides)	100	16"	Willow-Black (Salix nigra)	129	16"	Paper Birch (Betula papyrifera)
14	5"	Oak-White (Quercus alba)	43	8"	Elm-Siberian (Ulmus pumila)	72	15"	Cottonwood (Populus deltoides)	101	12"	Maple-Silver (Acer saccharinum)	*130	27"	Red Oak (Quercus rubra)
*15	23"	Maple-Silver (Acer saccharinum)	44	8"	Elm-Siberian (Ulmus pumila)	73	10"	Cottonwood (Populus deltoides)	102	22"	Willow-Black (Salix nigra)	*131	25"	White Oak (Quercus alba)
*16	5"	Maple-Silver (Acer saccharinum)	45	10"	Elm-Siberian (Ulmus pumila)	74	10"	Willow-Black (Salix nigra)	103	16"	Willow-Black (Salix nigra)	*132	25"	Red Oak (Quercus rubra)
*17	15"	Oak-White (Quercus alba)	*46	20"	Elm-Siberian (Ulmus pumila)	75	21"	Cottonwood (Populus deltoides)	104	7"	Elm-Siberian (Ulmus pumila)	133	5"	Amur Maple (Acer amuricum)
*18	16"	Oak-Red (Quercus rubra)	47	11"	Elm-Siberian (Ulmus pumila)	76	21"	Cottonwood (Populus deltoides)	105	11"	Willow-Black (Salix nigra)	*134	32"	Red Oak (Quercus rubra)
*19	54"	Cottonwood (Populus deltoides)	48	10"	Elm-Siberian (Ulmus pumila)	77	22"	Cottonwood (Populus deltoides)	106	14"	Oak-Red (Quercus rubra)	135	12" x 12"	White Oak (Quercus alba)
20	6.5' x 3'	Apple (Malus spp.)	49	4"	Elm-Siberian (Ulmus pumila)	78	18"	Cottonwood (Populus deltoides)	107	19"	Willow-Black (Salix nigra)			
21	7"	Spruce-Colorado (Picea pungens)	50	11"	Box Elder (Acer negundo)	*79	31"	Cottonwood (Populus deltoides)	108	10"	Elm-Siberian (Ulmus pumila)			
22	7"	Spruce-Colorado (Picea pungens)	51	6"	Elm-Siberian (Ulmus pumila)	80	14"	Cottonwood (Populus deltoides)	109	5"	Elm-Siberian (Ulmus pumila)			
23	5"	Maple-Red (Acer rubrum)	52	31"	Cottonwood (Populus deltoides)	81	13"	Cottonwood (Populus deltoides)	110	12"	White Pine (Pinus strobus)			
24	18"	Cottonwood (Populus deltoides)	53	9"	Box Elder (Acer negundo)	*82	30"	Cottonwood (Populus deltoides)	111	12"	Blue Spruce (Picea pungens)			
*25	24"	Elm-Siberian (Ulmus pumila)	54	15"	Box Elder (Acer negundo)	83	12"	Willow-Weeping (Salix babylonica)	*H2	21"	Red Oak (Quercus rubra)			
*26	15"	Maple-Silver (Acer saccharinum)	55	12"	Box Elder (Acer negundo)	84	19"	Willow-Weeping (Salix babylonica)	*H3	21"	Red Oak (Quercus rubra)			
27	13"	Cottonwood (Populus deltoides)	56	6"	Elm-American (Ulmus americana)	85	8"	Maple-Silver (Acer saccharinum)	*H4	21"	Red Oak (Quercus rubra)			
28	9"	Cottonwood (Populus deltoides)	57	4"	Spruce-Colorado (Picea pungens)	86	9"	Box Elder (Acer negundo)	*H5	18"	Red Oak (Quercus rubra)			
29	10"	Elm-Siberian (Ulmus pumila)	*58	36"	Willow-Weeping (Salix babylonica)	87	9"	Willow-Black (Salix nigra)	116	12"	Red Oak (Quercus rubra)			

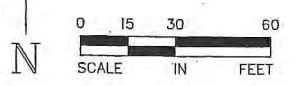
*LANDMARK TREE- ALL TREES > 15" DBH, EXCEPT FOR BOX ELDER, COTTONWOOD AND WILLOW, THEN > 30" DBH.

233 Park Ave S, Ste 300
Minneapolis, MN 55415
612.758.3080 MAIN
612.758.3099 FAX
www.alliant-inc.com

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Land Surveyor under Minnesota statutes 326.02 to 326.16.

DENNIS B. OLMSTEAD
Dennis B. Olmstead
08/09/14 Date License Number 18425

DRAWN BY GB, DE
CHECKED BY DBO
DATE ISSUED 09/09/14
SCALE 1"=30'
JOB NO. 140119
BOOK NA



Drawing name: X:\2014\140119\survey\existing conditions\140119survey.dwg Sep 09, 2014 1:13pm

400 E. ST. GERMAIN ST
ST. CLOUD, MN 56301
612-251-7761



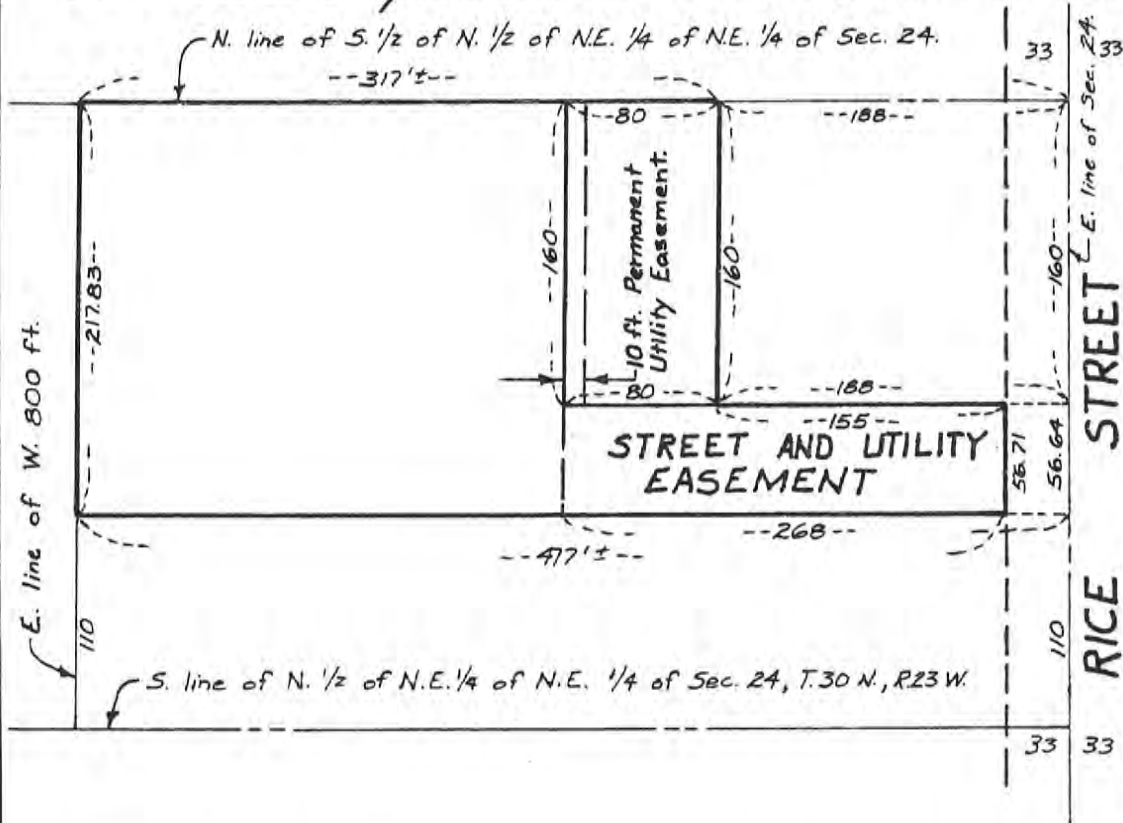
314 OAK ST.
SAUK CENTRE, MN 56378
612-352-3884

500 W HWY 96, ST PAUL MN 55112 612-484-3301

I hereby certify that this Certificate of Survey Description Easement Plan Specification or Building Location 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.

C. Royt W. Carley

Reg. No. 4987 Date 4-16-80



Scale:
1 inch = 100 feet

A permanent utility easement over, under and across the West 10 feet of the East 268 feet of the North 160 feet of the S 1/2 of the N 1/2 of the NE 1/4 of the NE 1/4 of Section 24, Township 30, Range 23, Ramsey County, Minnesota.

A permanent street and utility easement over, under and across that part of the East 268 feet of the S 1/2 of the N 1/2 of the NE 1/4 of the NE 1/4 of Sec. 24, Township 30, Range 23, Ramsey County, Minnesota which lies South of the North 160 feet thereof and North of the South 110 feet thereof.

4525 RICE ST. - EXISTING PUBLIC EASEMENTS

16190

Zoning Classifications

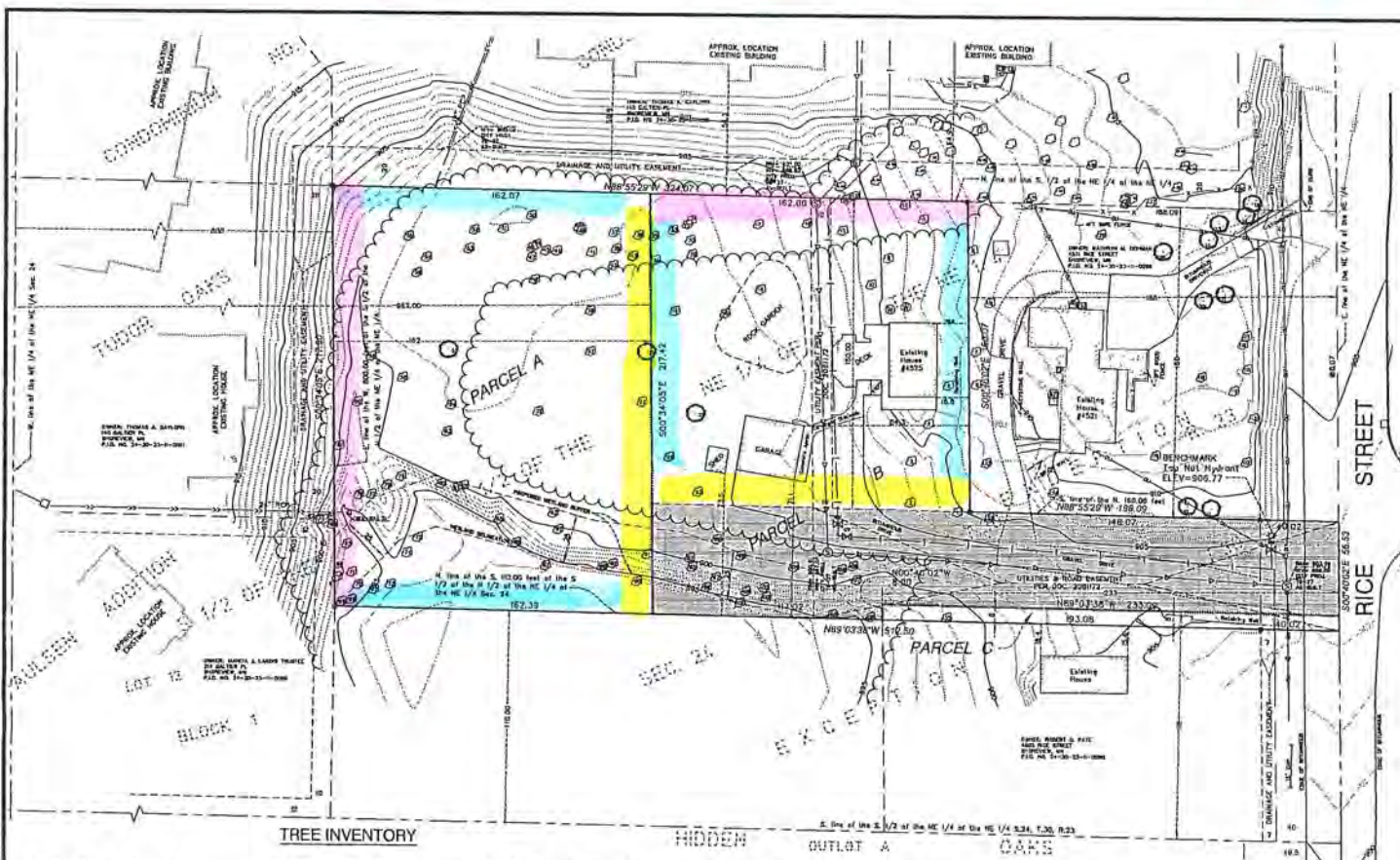
-  RE - Residential Estate
-  R1- Detached Residential
-  R2 - Attached Residential
-  R3 - Multi-Dwelling Residential
-  R4 - Mobile Home Residential
-  C1 - Retail Service
-  C2 - General Commercial
-  OFC - Office
-  I - Industrial
-  T - Tower
-  OS - Open Space
-  PUD - Planned Urban Development
-  UND - Urban Under Developed
-  BPK - Business Park
-  Water



FRONT LOT LINE

REAR LOT LINE

SIDE LOT LINE



- Notes:
- The location of underground utilities are depicted based on available records, records and field surveys and may not be exact. Verify all utilities located in construction or during.
 - The dates of surveys is as noted.
 - All dimensions are in feet.
 - The area including right-of-way is approximately 81,725 sq. ft. or 1.873 acres.
 - This survey was prepared under the supervision of the Engineer and the survey records and may not be used for any other purpose or circumstances affecting the property.
 - Block Mark: Typical of typical near SE corner of parcel may be a witness of 608 77 A.G.D. 38.
 - Existing conditions survey prepared by Howard A. Oles, dated 2005 and revised by Adam Engineering May 2006.
 - File for Rice Street and Danks 8 Utility Easements are defined as shown on Ramsey County AAF section map.
 - Adjacent property owners names have been taken from Ramsey County's Dept. of Property Records and Personal and may not be correct.

EXISTING LEGAL DESCRIPTION

That part of the South one-half of the North one-half of the Northeast Quarter of the Northeast Quarter of Section 24, Township 25, Range 23, Ramsey County, Minnesota, being East of the West 800 feet line, except the South 110 feet thereof, and except the North 150 feet of the East 180 feet thereof.

PROPOSED LEGAL DESCRIPTION

Parcel A: That part of the East 172.00 feet of the West 302.30 feet of the South 1/2 of the North 1/2 of the Northeast 1/4 of Section 24, Township 25, Range 23, being North of the South 110 feet line of the Northeast 1/4 of the Northeast 1/4 of Section 24, Township 25, Range 23, being South of the North 150.00 feet, East of the West 482.00 feet, and North of the South 110 feet line thereof, except the South 8.00 feet of the East 238.00 feet thereof, Ramsey County, Minnesota. Area is approximately 33,230 square feet or 0.763 acres.

Parcel B: That part of the South 1/2 of the North 1/2 of the Northeast 1/4 of the Northeast 1/4 of Section 24, Township 25, Range 23, being East of the West 800 feet and West of the South 110 feet thereof, except the North 150 feet of the East 180 feet, and the East 150 feet of the East 230 feet thereof, Ramsey County, Minnesota. Area is approximately 14,027 square feet or 0.321 acres.

Parcel C: The North 8.00 feet of the South 110 feet of the East 230 feet of the South 1/2 of the North 1/2 of the Northeast 1/4 of the Northeast 1/4 of Section 24, Township 25, Range 23. Area is approximately 1,628 square feet or 0.037 acres.

LEGEND:

- ⊙ EXISTING WELL
- ⊕ EXISTING HYDRANT
- ⊕ EXISTING GATE VALVE
- ⊕ EXISTING SANITARY MANHOLE
- ⊕ EXISTING CATCH BASIN
- ⊕ EXISTING POWER POLE W/ OUT WIRE
- EXISTING WATER MAIN
- EXISTING SANITARY SEWER
- EXISTING STORM SEWER
- EXISTING OVERHEAD UTILITY
- EXISTING TREE LINE
- ⊕ EXISTING TREE TAG ID, H/L
- ⊕ EXISTING HERITAGE TREE TAG ID, H/L
- ⊕ EXISTING CONIFEROUS TREE
- ⊕ EXISTING DECIDUOUS TREE
- ⊕ EXISTING CONTAINER
- WETLAND DELINEATION
- PROPOSED DRIVEWAY EASEMENT

TREE INVENTORY

TAG#	SIZE	SPECIES	TAG#	SIZE	SPECIES	TAG#	SIZE	SPECIES	TAG#	SIZE	SPECIES	TAG#	SIZE	SPECIES
1	18"	Oak-White (Quercus alba)	20	12"	Pin-Striped (Pinus strobus)	53	5"	Spice-Cedars (Juniperus spicata)	88	14"	Willow-Black (Salix nigra)	112	12"	Red-Oak (Quercus rubra)
2	20"	Oak-Red (Quercus rubra)	21	12"	Pin-Striped (Pinus strobus)	54	5"	Spice-Cedars (Juniperus spicata)	89	14"	Willow-Black (Salix nigra)	113	12"	Red-Oak (Quercus rubra)
3	42"	Oak-Red (Quercus rubra)	22	12"	Pin-Striped (Pinus strobus)	55	5"	Spice-Cedars (Juniperus spicata)	90	14"	Willow-Black (Salix nigra)	114	12"	Red-Oak (Quercus rubra)
4	25"	Oak-Red (Quercus rubra)	23	12"	Pin-Striped (Pinus strobus)	56	5"	Spice-Cedars (Juniperus spicata)	91	14"	Willow-Black (Salix nigra)	115	12"	Red-Oak (Quercus rubra)
5	25"	Oak-Red (Quercus rubra)	24	12"	Pin-Striped (Pinus strobus)	57	5"	Spice-Cedars (Juniperus spicata)	92	14"	Willow-Black (Salix nigra)	116	12"	Red-Oak (Quercus rubra)
6	10"	Oak-Red (Quercus rubra)	25	12"	Pin-Striped (Pinus strobus)	58	5"	Spice-Cedars (Juniperus spicata)	93	14"	Willow-Black (Salix nigra)	117	12"	Red-Oak (Quercus rubra)
7	24"	Oak-Red (Quercus rubra)	26	12"	Pin-Striped (Pinus strobus)	59	5"	Spice-Cedars (Juniperus spicata)	94	14"	Willow-Black (Salix nigra)	118	12"	Red-Oak (Quercus rubra)
8	24"	Oak-Red (Quercus rubra)	27	12"	Pin-Striped (Pinus strobus)	60	5"	Spice-Cedars (Juniperus spicata)	95	14"	Willow-Black (Salix nigra)	119	12"	Red-Oak (Quercus rubra)
9	8"	Maple-Sugar (Acer saccharum)	28	12"	Pin-Striped (Pinus strobus)	61	5"	Spice-Cedars (Juniperus spicata)	96	14"	Willow-Black (Salix nigra)	120	12"	Red-Oak (Quercus rubra)
10	24"	Maple-Silver (Acer saccharinum)	29	12"	Pin-Striped (Pinus strobus)	62	5"	Spice-Cedars (Juniperus spicata)	97	14"	Willow-Black (Salix nigra)	121	12"	Red-Oak (Quercus rubra)
11	12"	Oak-White (Quercus alba)	30	12"	Pin-Striped (Pinus strobus)	63	5"	Spice-Cedars (Juniperus spicata)	98	14"	Willow-Black (Salix nigra)	122	12"	Red-Oak (Quercus rubra)
12	12"	Oak-White (Quercus alba)	31	12"	Pin-Striped (Pinus strobus)	64	5"	Spice-Cedars (Juniperus spicata)	99	14"	Willow-Black (Salix nigra)	123	12"	Red-Oak (Quercus rubra)
13	12"	Oak-White (Quercus alba)	32	12"	Pin-Striped (Pinus strobus)	65	5"	Spice-Cedars (Juniperus spicata)	100	14"	Willow-Black (Salix nigra)	124	12"	Red-Oak (Quercus rubra)
14	8"	Maple-Silver (Acer saccharinum)	33	12"	Pin-Striped (Pinus strobus)	66	5"	Spice-Cedars (Juniperus spicata)	101	14"	Willow-Black (Salix nigra)	125	12"	Red-Oak (Quercus rubra)
15	23"	Maple-Silver (Acer saccharinum)	34	12"	Pin-Striped (Pinus strobus)	67	5"	Spice-Cedars (Juniperus spicata)	102	14"	Willow-Black (Salix nigra)	126	12"	Red-Oak (Quercus rubra)
16	13"	Oak-White (Quercus alba)	35	12"	Pin-Striped (Pinus strobus)	68	5"	Spice-Cedars (Juniperus spicata)	103	14"	Willow-Black (Salix nigra)	127	12"	Red-Oak (Quercus rubra)
17	18"	Oak-Red (Quercus rubra)	36	12"	Pin-Striped (Pinus strobus)	69	5"	Spice-Cedars (Juniperus spicata)	104	14"	Willow-Black (Salix nigra)	128	12"	Red-Oak (Quercus rubra)
18	5.5' x 3'	Apple (Malus sp.)	37	12"	Pin-Striped (Pinus strobus)	70	12"	Collaredwood (Populus deltoides)	105	14"	Willow-Black (Salix nigra)	129	12"	Red-Oak (Quercus rubra)
19	24"	Maple-Silver (Acer saccharinum)	38	12"	Pin-Striped (Pinus strobus)	71	12"	Collaredwood (Populus deltoides)	106	14"	Willow-Black (Salix nigra)	130	12"	Red-Oak (Quercus rubra)
20	10"	Oak-Red (Quercus rubra)	39	12"	Pin-Striped (Pinus strobus)	72	12"	Collaredwood (Populus deltoides)	107	14"	Willow-Black (Salix nigra)	131	12"	Red-Oak (Quercus rubra)
21	3"	Spice-Cedars (Juniperus spicata)	40	12"	Pin-Striped (Pinus strobus)	73	12"	Collaredwood (Populus deltoides)	108	14"	Willow-Black (Salix nigra)	132	12"	Red-Oak (Quercus rubra)
22	3"	Spice-Cedars (Juniperus spicata)	41	12"	Pin-Striped (Pinus strobus)	74	12"	Collaredwood (Populus deltoides)	109	14"	Willow-Black (Salix nigra)	133	12"	Red-Oak (Quercus rubra)
23	3"	Maple-Red (Acer rubrum)	42	12"	Pin-Striped (Pinus strobus)	75	12"	Collaredwood (Populus deltoides)	110	14"	Willow-Black (Salix nigra)	134	12"	Red-Oak (Quercus rubra)
24	24"	Maple-Red (Acer rubrum)	43	12"	Pin-Striped (Pinus strobus)	76	12"	Collaredwood (Populus deltoides)	111	14"	Willow-Black (Salix nigra)	135	12"	Red-Oak (Quercus rubra)
25	24"	Maple-Red (Acer rubrum)	44	12"	Pin-Striped (Pinus strobus)	77	12"	Collaredwood (Populus deltoides)	112	14"	Willow-Black (Salix nigra)	136	12"	Red-Oak (Quercus rubra)
26	24"	Maple-Red (Acer rubrum)	45	12"	Pin-Striped (Pinus strobus)	78	12"	Collaredwood (Populus deltoides)	113	14"	Willow-Black (Salix nigra)	137	12"	Red-Oak (Quercus rubra)
27	24"	Maple-Red (Acer rubrum)	46	12"	Pin-Striped (Pinus strobus)	79	12"	Collaredwood (Populus deltoides)	114	14"	Willow-Black (Salix nigra)	138	12"	Red-Oak (Quercus rubra)
28	24"	Maple-Red (Acer rubrum)	47	12"	Pin-Striped (Pinus strobus)	80	14"	Collaredwood (Populus deltoides)	115	14"	Willow-Black (Salix nigra)	139	12"	Red-Oak (Quercus rubra)
29	24"	Maple-Red (Acer rubrum)	48	12"	Pin-Striped (Pinus strobus)	81	14"	Collaredwood (Populus deltoides)	116	14"	Willow-Black (Salix nigra)	140	12"	Red-Oak (Quercus rubra)
30	10"	Oak-Red (Quercus rubra)	49	12"	Pin-Striped (Pinus strobus)	82	14"	Collaredwood (Populus deltoides)	117	14"	Willow-Black (Salix nigra)	141	12"	Red-Oak (Quercus rubra)
31	10"	Oak-Red (Quercus rubra)	50	12"	Pin-Striped (Pinus strobus)	83	14"	Collaredwood (Populus deltoides)	118	14"	Willow-Black (Salix nigra)	142	12"	Red-Oak (Quercus rubra)
32	10"	Oak-Red (Quercus rubra)	51	12"	Pin-Striped (Pinus strobus)	84	14"	Collaredwood (Populus deltoides)	119	14"	Willow-Black (Salix nigra)	143	12"	Red-Oak (Quercus rubra)
33	10"	Oak-Red (Quercus rubra)	52	12"	Pin-Striped (Pinus strobus)	85	14"	Collaredwood (Populus deltoides)	120	14"	Willow-Black (Salix nigra)	144	12"	Red-Oak (Quercus rubra)
34	10"	Oak-Red (Quercus rubra)	53	12"	Pin-Striped (Pinus strobus)	86	14"	Collaredwood (Populus deltoides)	121	14"	Willow-Black (Salix nigra)	145	12"	Red-Oak (Quercus rubra)
35	10"	Oak-Red (Quercus rubra)	54	12"	Pin-Striped (Pinus strobus)	87	14"	Collaredwood (Populus deltoides)	122	14"	Willow-Black (Salix nigra)	146	12"	Red-Oak (Quercus rubra)
36	10"	Oak-Red (Quercus rubra)	55	12"	Pin-Striped (Pinus strobus)	88	14"	Collaredwood (Populus deltoides)	123	14"	Willow-Black (Salix nigra)	147	12"	Red-Oak (Quercus rubra)
37	10"	Oak-Red (Quercus rubra)	56	12"	Pin-Striped (Pinus strobus)	89	14"	Collaredwood (Populus deltoides)	124	14"	Willow-Black (Salix nigra)	148	12"	Red-Oak (Quercus rubra)
38	10"	Oak-Red (Quercus rubra)	57	12"	Pin-Striped (Pinus strobus)	90	14"	Collaredwood (Populus deltoides)	125	14"	Willow-Black (Salix nigra)	149	12"	Red-Oak (Quercus rubra)
39	10"	Oak-Red (Quercus rubra)	58	12"	Pin-Striped (Pinus strobus)	91	14"	Collaredwood (Populus deltoides)	126	14"	Willow-Black (Salix nigra)	150	12"	Red-Oak (Quercus rubra)
40	10"	Oak-Red (Quercus rubra)	59	12"	Pin-Striped (Pinus strobus)	92	14"	Collaredwood (Populus deltoides)	127	14"	Willow-Black (Salix nigra)	151	12"	Red-Oak (Quercus rubra)
41	10"	Oak-Red (Quercus rubra)	60	12"	Pin-Striped (Pinus strobus)	93	14"	Collaredwood (Populus deltoides)	128	14"	Willow-Black (Salix nigra)	152	12"	Red-Oak (Quercus rubra)
42	10"	Oak-Red (Quercus rubra)	61	12"	Pin-Striped (Pinus strobus)	94	14"	Collaredwood (Populus deltoides)	129	14"	Willow-Black (Salix nigra)	153	12"	Red-Oak (Quercus rubra)
43	10"	Oak-Red (Quercus rubra)	62	12"	Pin-Striped (Pinus strobus)	95	14"	Collaredwood (Populus deltoides)	130	14"	Willow-Black (Salix nigra)	154	12"	Red-Oak (Quercus rubra)
44	10"	Oak-Red (Quercus rubra)	63	12"	Pin-Striped (Pinus strobus)	96	14"	Collaredwood (Populus deltoides)	131	14"	Willow-Black (Salix nigra)	155	12"	Red-Oak (Quercus rubra)
45	10"	Oak-Red (Quercus rubra)	64	12"	Pin-Striped (Pinus strobus)	97	14"	Collaredwood (Populus deltoides)	132	14"	Willow-Black (Salix nigra)	156	12"	Red-Oak (Quercus rubra)
46	10"	Oak-Red (Quercus rubra)	65	12"	Pin-Striped (Pinus strobus)	98	14"	Collaredwood (Populus deltoides)	133	14"	Willow-Black (Salix nigra)	157	12"	Red-Oak (Quercus rubra)
47	10"	Oak-Red (Quercus rubra)	66	12"	Pin-Striped (Pinus strobus)	99	14"	Collaredwood (Populus deltoides)	134	14"	Willow-Black (Salix nigra)	158	12"	Red-Oak (Quercus rubra)
48	10"	Oak-Red (Quercus rubra)	67	12"	Pin-Striped (Pinus strobus)	100	14"	Collaredwood (Populus deltoides)	135	14"	Willow-Black (Salix nigra)	159	12"	Red-Oak (Quercus rubra)
49	10"	Oak-Red (Quercus rubra)	68	12"	Pin-Striped (Pinus strobus)	101	14"	Collaredwood (Populus deltoides)	136	14"	Willow-Black (Salix nigra)	160	12"	Red-Oak (Quercus rubra)
50	10"	Oak-Red (Quercus rubra)	69	12"	Pin-Striped (Pinus strobus)	102	14"	Collaredwood (Populus deltoides)	137	14"	Willow-Black (Salix nigra)	161	12"	Red-Oak (Quercus rubra)
51	10"	Oak-Red (Quercus rubra)	70	12"	Pin-Striped (Pinus strobus)	103	14"	Collaredwood (Populus deltoides)	138	14"	Willow-Black (Salix nigra)	162	12"	Red-Oak (Quercus rubra)
52	10"	Oak-Red (Quercus rubra)	71	12"	Pin-Striped (Pinus strobus)	104	14"	Collaredwood (Populus deltoides)	139	14"	Willow-Black (Salix nigra)	163	12"	Red-Oak (Quercus rubra)
53	10"	Oak-Red (Quercus rubra)	72	12"	Pin-Striped (Pinus strobus)	105	14"	Collaredwood (Populus deltoides)	140	14"	Willow-Black (Salix nigra)	164	12"	Red-Oak (Quercus rubra)
54	10"	Oak-Red (Quercus rubra)	73	12"	Pin-Striped (Pinus strobus)	106	14"	Collaredwood (Populus deltoides)	141	14"	Willow-Black (Salix nigra)	165	12"	Red-Oak (Quercus rubra)
55	10"	Oak-Red (Quercus rubra)	74	12"	Pin-Striped (Pinus strobus)	107	14"	Collaredwood (Populus deltoides)	142	14"	Willow-Black (Salix nigra)	166	12"	Red-Oak (Quercus rubra)
56	10"	Oak-Red (Quercus rubra)	75	12"	Pin-Striped (Pinus strobus)	108	14"	Collaredwood (Populus deltoides)	143	14"	Willow-Black (Salix nigra)	167	12"	Red-Oak (Quercus rubra)
57	10"	Oak-Red (Quercus rubra)	76	12"	Pin-Striped (Pinus strobus)	109	14"	Collaredwood (Populus deltoides)	144	14"	Willow-Black (Salix nigra)	168	12"	Red-Oak (Quercus rubra)
58	10"	Oak-Red (Quercus rubra)	77	12"	Pin-Striped (Pinus strobus)	110	14"	Collaredwood (Populus deltoides)	145	14"	Willow-Black (Salix nigra)	169	12"	Red-Oak (Quercus rubra)
59	10"	Oak-Red (Quercus rubra)	78	12"	Pin-Striped (Pinus strobus)	111	14"	Collaredwood (Populus deltoides)	146	14"	Willow-Black (Salix nigra)	170	12"	Red-Oak (Quercus rubra)
60	10"	Oak-Red (Quercus rubra)	79	12"	Pin-Striped (Pinus strobus)	112	14"	Collaredwood (Populus deltoides)	147	14"	Willow-Black (Salix nigra)	171	12"	Red-Oak (Quercus rubra)
61	10"	Oak-Red (Quercus rubra)	80	12"	Pin-Striped (Pinus strobus)	113	14"	Collaredwood (Populus deltoides)	148	14"	Willow-Black (Salix nigra)	172	12"	Red-Oak (Quercus rubra)
62	10"	Oak-Red (Quercus rubra)	81	12"	Pin-Striped (Pinus strobus)	114	14"	Collaredwood (Populus deltoides)	149	14"	Willow-Black (Salix nigra)	173	12"	Red-Oak (Quercus rubra)
63	10"	Oak-Red (Quercus rubra)	82	12"	Pin-Striped (Pinus strobus)	115	14"	Collaredwood (Populus deltoides)	150	14"	Willow-Black (Salix nigra)	174	12"	Red-Oak (Quercus rubra)
64	10"	Oak-Red (Quercus rubra)	83	12"	Pin-Striped (Pinus strobus)	116	14"	Collaredwood (Populus deltoides)	151	14"	Willow-Black (Salix nigra)	175	12"	Red-Oak (Quercus rubra)
65	10"	Oak-Red (Quercus rubra)	84	12"	Pin-Striped (Pinus strobus)	117	14"	Collaredwood (Populus deltoides)	152	14"	Willow-Black (Salix nigra)	176	12"	Red-Oak (Quercus rubra)
66	10"	Oak-Red (Quercus rubra)	85	12"	Pin-Striped (Pinus strobus)	118	14"	Collaredwood (Populus deltoides)	153	14"	Willow-Black (Salix nigra)	177	12"	Red-Oak (Quercus rubra)
67	10"	Oak-Red (Quercus rubra)	86	12"	Pin-Striped (Pinus strobus)	119	14"	Collaredwood (Populus deltoides)	154	14"	Willow-Black (Salix nigra)	178	12"	Red-Oak (Quercus rubra)
68	10"	Oak-Red (Quercus rubra)	87	12"	Pin-Striped (Pinus strobus)	120	14"	Collaredwood (Populus deltoides)	155	14"	Willow-Black (Salix nigra)	179	12"	Red-Oak (Quercus rubra)
69	10"	Oak-Red (Quercus rubra)	88	12"	Pin-Striped (Pinus strobus)	121	14"	Collaredwood (Populus deltoides)	156	14"	Willow-Black (Salix nigra)	180	12"	Red-Oak (Quercus rubra)
70	10"	Oak-Red (Quercus rubra)	89	12"	Pin-Striped (Pinus strobus)	122	14"	Collaredwood (Populus deltoides)	157	14"	Willow-Black (Salix nigra)	181	12"	Red-Oak (Quercus rubra)
71	10"	Oak-Red (Quercus rubra)	90	12"	Pin-Striped (Pinus strobus)	123	14"	Collaredwood (Populus deltoides)	158	14"	Willow-Black (Salix nigra)	182	12"	Red-Oak (Quercus rubra)
72	10"	Oak-Red (Quercus rubra)	91	12"	Pin-Striped (Pinus strobus)	124	14"	Collaredwood (Populus deltoides)	159	14"	Willow-Black (Salix nigra)	183	12"	Red-Oak (Quercus rubra)
73	10"	Oak-Red (Quercus rubra)	92	12"	Pin-Striped (Pinus strobus)	125	14"	Collaredwood (Populus deltoides)	160	14"	Willow-Black (Salix nigra)	184	12"	Red-Oak (Quercus rubra



Robert Warwick <rwarwick@shoreviewmn.gov>

Regarding 4525 Rice Street

DENISE SPECHT <spechtd@msn.com>

Mon, Sep 15, 2014 at 6:51 AM

To: "rwarwick@ci.shoreview.mn.us" <rwarwick@ci.shoreview.mn.us>

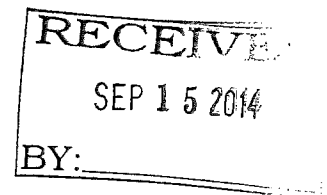
Mr. Warwick and the Shoreview Planning Commission,

I am unable to attend your September 23rd meeting. Please accept the following for comment regarding the subdivision and variance for 4525 Rice Street:

A number of years ago, there were other plans to develop this property. Part of those plans included an agreement, facilitated by the City, between the developer and the Tudor Oaks Condominium Association (the property to the north and west of 4525 Rice Street). The developer was to replant trees on the association's property - a green buffer between the association and the newly developed property. Representatives from Tudor Oaks Condo Association and the developer walked the property and planned tree placement on a map. As you know, that development didn't happen.

I ask the commission and city consider a similar agreement for the development of this property. Thank you for your consideration.

Sincerely,
Denise Specht
166 Galtier Place, Shoreview
651-503-7765
spechtd@msn.com





Robert Warwick <rwarwick@shoreviewmn.gov>

Application for a minor subdivision and variance for property located at 4525 Rice Street

Nettie Monroe <njmcraftqueen@gmail.com>
To: rwarwick@ci.shoreview.mn.us

Mon, Sep 15, 2014 at 7:33 PM

I am an owner at the Tudor Oaks Condo Association, and recently received notice regarding the above application.

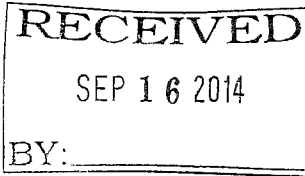
I realize the application is for a variance for the shared driveway and proposal to split the property to allow for removal of existing home and building of a rambler style home on one property (Parcel B) and a two story home on the other (Parcel A.) I also understand the reason for the variance is the proposed shared driveway does not meet City Code.

My concern is the building of two homes on this lot would result in the removal of many of the mature and maturing trees and perhaps upset wetland nature of the lot. I hope there will be a provision to ensure that a "green buffer zone" would remain between the proposed homes and the Tudor Oaks Condos or a plan that if trees are removed there is a commitment to replant or replace the trees to protect the wildlife in the area and retain the natural beauty that currently exists.

Thank you for your time and consideration.

Nettie Monroe

174 Galtier Place



Comments:

One of the main reasons why I purchased my Tudor Oaks Condominium (20 years ago) - was that I loved the backyard that was surrounded with mature trees and that my patio area was very private and quiet. If "Parcel A" gets developed, it looks like many trees will be cut down - resulting in less privacy for everyone on the East facing side of our building. I am expressing my hopes that as many trees as possible, not be taken down during the construction - so that the Tudor Oaks neighborhood can continue to enjoy a beautiful and quiet place to call home. Thank you for your kind consideration of this request.

T:/surveys/2544-14-34 4525 rice

Name: Patricia J. Kachel

Address: 200 Galtier Place, Shoreview MN 55126



Robert Warwick <rwarwick@shoreviewmn.gov>

4525 Rice Street Minor Subdivision

Tom Wesolowski <twesolowski@shoreviewmn.gov>
To: "WARWICK, ROBERT" <rwarwick@shoreviewmn.gov>

Wed, Sep 10, 2014 at 12:14 PM

Rob,

Reviewed the minor subdivision application for 4525 Rice Street and have the following comments:

The existing easement for the water and sewer main is not over the water main. The easement should be relocated so it is over both the water and the sewer. The easement should extend 5-feet on either side of the water and sewer main, so approx. width of 20-feet.

Typical drainage and utility easements along the lot lines should be fine except for the SW corner. There should be a drainage easement that covers the storm sewer outlet and wetland area similar to what was proposed for the Windemere Addition.

Water and sewer services will need to be extended to the west property, which will be considered private and not part of the City's system. If the services are extended across the east lot a private easement will be required. If the water and sewer are extended from the area located within the driveway easement a separate easement would not be needed.

If the existing Utility and Road easement is vacated as part of the split a utility easement will be needed over the existing water and sewer mains located in the current easement. The easement should extend 5-feet on either side of the water and sewer main.

Let me know if you have any questions.

Thank you, Tom

—
Tom Wesolowski, P.E.
City Engineer
City of Shoreview
twesolowski@shoreviewmn.gov
Direct Tel: 651-490-4652
Fax: 651-490-4696



Robert Warwick <rwarwick@shoreviewmn.gov>

Site Photos - 4525 Rice

Paige Ahlborg <paige.ahlborg@rwmwd.org>
To: Robert Warwick <rwarwick@shoreviewmn.gov>
Cc: "WESOLOWSKI, TOM" <twesolowski@shoreviewmn.gov>

Thu, Sep 11, 2014 at 3:13 PM

Since this project will not require a District permit, we do not enforce our buffer requirements. We would defer to the City's requirement of 16.5'.

Paige Ahlborg
Watershed Project Manager
Ramsey-Washington Metro Watershed District
2665 Noel Drive
Little Canada, MN 55117
Office: (651)792-7964

Follow the District on Twitter & Like Us on Facebook.

From: Robert Warwick [mailto:rwarwick@shoreviewmn.gov]
Sent: Tuesday, September 09, 2014 12:14 PM
To: Paige Ahlborg
Cc: WESOLOWSKI, TOM
Subject: Site Photos - 4525 Rice

[Quoted text hidden]



Robert Warwick <rwarwick@shoreviewmn.gov>

Minor Subdivision, 4525 Rice St., Shoreview

Eric Nordeen <enordeen@ljfd.org>

Wed, Sep 17, 2014 at 2:02 PM

To: Robert Warwick <rwarwick@shoreviewmn.gov>

Rob I only have one comment.

1 – No comments, Lake Johanna FD does not have any fire protection concerns with this project.

From: Robert Warwick [mailto:rwarwick@shoreviewmn.gov]

Sent: Wednesday, September 17, 2014 11:45 AM

To: NORDEEN, ERIC

Subject: Fwd: Minor Subdivision, 4525 Rice St., Shoreview

[Quoted text hidden]



Robert Warwick <rwarwick@shoreviewmn.gov>

Minor Subdivision, 4525 Rice St., Shoreview

Lux, Joseph <Joseph.Lux@co.ramsey.mn.us>

Tue, Sep 9, 2014 at 8:16 AM

To: Robert Warwick <rwarwick@shoreviewmn.gov>, Paige Ahlborg <paige.ahlborg@rwmwd.org>

Cc: "Laberee, Erin" <Erin.Laberee@co.ramsey.mn.us>

Hi, Rob:

Since this subdivision would simply add the traffic from another home to an existing driveway, I don't see anything we'd object to. The County's Major Street Plan requires a 99' right of way on this segment of Rice Street and 40' exists, so we'd request dedication of an additional ten feet of right of way. Erin, have I missed anything? Please let us know if there are any questions.

Joe Lux

Joseph Lux

Senior Planner

Ramsey County Public Works

1425 Paul Kirkwold Drive

Arden Hills, MN 55112-3933

651-266-7114

**From:** Robert Warwick [mailto:rwarwick@shoreviewmn.gov]**Sent:** Friday, September 05, 2014 1:25 PM**To:** Lux, Joseph; Paige Ahlborg**Subject:** Minor Subdivision, 4525 Rice St., Shoreview

[Quoted text hidden]

**EXTRACT OF MINUTES OF MEETING OF THE
PLANNING COMMISSION OF SHOREVIEW, MINNESOTA
HELD SEPTEMBER 23, 2014**

* * * * *

Pursuant to due call and notice thereof, a meeting of the Planning Commission of the City of Shoreview, Minnesota was duly called and held at the Shoreview City Hall in said City at 7:00 PM.

The following members were present:

And the following members were absent:

Member _____ introduced the following resolution and moved its adoption.

**RESOLUTION NO. 14-82 FOR A VARIANCE TO CREATE A NEW PARCEL
WITHOUT FRONTAGE ON A PUBLIC ROAD**

WHEREAS, Greg Livermont submitted a variance application for the following described property:

That part of the South one-half of the North one-half of the Northeast Quarter of the Northeast Quarter of Section 24, Township 30, Range 23, Ramsey County, Minnesota, lying East of the West 800 feet thereof, except the South 110 feet thereof; and except the North 160 feet of the East 188 feet thereof.

(This property is more commonly known as 4525 Rice Street)

WHEREAS, the Development Regulations require all newly created parcels to have frontage on a public road; and

WHEREAS, the applicants have requested a variance to this requirement in order to subdivide their property and create a parcel that has access from a private roadway; and

WHEREAS, the Shoreview Planning Commission is authorized by State Law and the City of Shoreview Development Regulations to make final decisions on variance requests; and

WHEREAS, on September 23, 2014 the Shoreview Planning Commission made the following findings of fact:

1. *Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*

The proposal is reasonable due to the size of the property and small, narrow frontage on a public road. Both of the proposed parcels exceed the dimensional standards required for lots in the R-1, Detached Residential District, and provide buildable areas sufficient for construction of a new house on each resulting lot.

2. *Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*

Practical difficulty is due to the existing lot configuration and situation. The lot is a flag lot, with the large portion of the lot situated behind an adjoining lot. The existing frontage provides space only for access to the property. Surrounding properties are all developed, and so a public street would serve only the two parcels here, and would not connect with other portions of the City street system.

3. *Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

The area is currently a mix of high-, medium-, and low-density residential developments. Increasing the intensity of development on the subject property should not alter the character of the existing neighborhood.

NOW, THEREFORE, BE IT RESOLVED BY THE SHOREVIEW PLANNING COMMISSION, that the variance request for property described above, 4525 Rice Street, be approved, subject to the following conditions:

1. The approval is subject to approval of the Minor Subdivision application by the City Council.
2. This approval will expire after one year if the subdivision has not been recorded with Ramsey County.
3. The approval is subject to a 5-day appeal period.

The motion was duly seconded by Member _____ and upon a vote being taken thereon, the following voted in favor thereof:

And the following voted against the same:

Adopted this 23rd day of September, 2014

Steve Solomonson, Chair
Shoreview Planning Commission

ATTEST:

Kathleen Castle, City Planner

ACCEPTANCE OF CONDITIONS:

Greg Livermont, 4525 Rice Street

**PROPOSED MOTION
TO APPROVE THE VARIANCE AND RECOMMEND THE MINOR SUBDIVISION**

MOVED BY COMMISSION MEMBER _____

SECONDED BY COMMISSION MEMBER _____

To adopt Resolution No. 14-82 approving the variance to create a lot without frontage on a public street, and to recommend the City Council approve the minor subdivision request submitted by Greg Livermont to divide the property at 4525 Rice Street into two parcels for single-family residential, subject to the following conditions:

Variance

1. The approval is subject to approval of the Minor Subdivision application by the City Council.
2. This approval will expire after one year if the subdivision has not been recorded with Ramsey County.
3. The approval is subject to a 5-day appeal period.

Minor Subdivision

1. The minor subdivision shall be in accordance with the plans submitted, prepared by Alliant Engineering dated September 9, 2014.
2. The applicant shall pay a Public Recreation Use Dedication fee as required by Section 204.020 of the Development Regulations before the City will endorse deeds for recording. The fee will be 4% of the fair market value of the property, with credit given for the existing residence.
3. Public easements for Rice Street (an added 10-feet), drainage and utility, and a 16.5 foot wetland buffer shall be conveyed to the City as required by the Public Works Director. The applicant shall be responsible for providing legal descriptions for all required easements. Easements shall be conveyed before the City will endorse deeds for recording.
4. Municipal water and sanitary sewer service shall be provided to both lots. Private easements shall be reviewed and approved by the City Attorney prior to recording. The private utility easements shall be conveyed prior to issuance of a building permit by the City.
5. Any work in the Rice Street right-of-way is subject to the permitting requirements of Ramsey County.
6. Parcel C shall be conveyed only to the owner of the property located at 4505 Rice Street, and shall be combined with the existing parcel for tax purposes.
7. The applicants shall enter into a Development Agreement with the City. This agreement shall be executed prior to the City's release of the deeds for recording.
8. The garage shall be removed prior to the City endorsing the Deed for Parcel B or as addressed in the Development Agreement to ensure removal.
9. A tree protection plan shall be submitted prior to issuance of a building permit (including the demolition permit). The approved plan shall be implemented prior to the commencement of work

on the property and maintained during the period of construction. The protection plan shall include wood chips and protective fencing at the drip line of the retained trees.

10. An erosion control plan shall be submitted with the building permit application for each parcel and implemented during the construction of the new residence.
11. A final site-grading and drainage plan shall be submitted and approved by the City Engineer prior to issuance of a building permit.
12. Tree removal requires replacement trees per City Code. City requirements for the tree removal and protection plan shall be detailed in the Development Agreement.
13. The driveway shall be developed with a minimum 12-foot width and 13-foot height clearance.
14. This approval shall expire after one year if the subdivision has not been recorded with Ramsey County.

This motion is based on the following findings:

Variance

1. The proposal is reasonable due to the size of the property and small, narrow frontage on a public road. Both of the proposed parcels exceed the dimensional standards required for lots in the R-1, Detached Residential District, and provide buildable areas sufficient for construction of a new house on each resulting lot.
2. Practical difficulty is due to the existing lot configuration and situation. The lot is a flag lot, with the large portion of the lot situated behind an adjoining lot. The existing frontage provides space only for access to the property. Surrounding properties are all developed, and so a public street would serve only the two parcels here, and would not connect with other portions of the City street system.
3. The area is currently a mix of high-, medium-, and low-density residential developments. Increasing the intensity of development on the subject property should not alter the character of the existing neighborhood.

Minor Subdivision

1. The subdivision is consistent with the policies of the Comprehensive Plan and in compliance with the regulations of the Development Code.
2. The proposed lots conform to the adopted City standards for the R-1 District.

VOTE:

AYES:

NAYS:

PLANNING COMMISSION WORKSHOP

SEPTEMBER 23, 2014

**UPPER CONFERENCE ROOM
SHOREVIEW CITY HALL**

(Before the regular meeting - 6:00 pm)

Agenda (DRAFT)

- 1. Review of Meeting Process**
- 2. Variances/Conditional Use Permits**
- 3. Accessory Structure Regulations**

TO: Planning Commission
FROM: Kathleen Castle, City Planner
DATE: September 18, 2014
RE: Planning Commission Workshop

A Planning Commission Workshop is scheduled on September 23rd *before* the regular Planning Commission Meeting to review items recently raised by the Commission. The two items scheduled for discussion include the following:

VariANCES/Conditional Use Permits

Information from the City's Development Code and League of Minnesota Cities is attached that defines each one and provides the criteria or findings that must be met for approval.

A variance is a waiver or exception from a performance standard (i.e. structure setbacks, foundation area, etc.) and can be granted if it is determined that enforcement of the Development Code would cause the property owner practical difficulty. In determining whether or not practical difficulty is present, three factors must be present: reasonableness, uniqueness and essential character. Findings for a variance are intended to be more difficult to satisfy than those required for a conditional use permit.

In all the zoning districts, the Development Code identifies permitted and conditional uses. Permitted uses are allowed by right. Conditional uses are allowed in a particular zoning district provided certain criteria and performance standards are met. If the proposed use satisfies the general criteria and performance standards, then the permit must be approved.

For both requests, conditions can be attached provided said conditions are related to the request.

Accessory Structures

Information is also being presented to the Commission regarding the current requirements for accessory structures. Commission members have expressed interest in reviewing the standards in response to the recent increase in applications for variances and conditional use permits.

Considerable input from the City Council and Planning Commission was received when the current standards were developed in 2006. The intent of the ordinance revision was to establish standards that permitted accessory structures provided they were in character with the residential use of the property and neighborhood. The performance standards developed considered the lot size, permitted floor area, building height and exterior design and construction. In addition, structures that exceeded certain size standards would be permitted via a conditional use permit

provided the criteria and standards were met. A variance would be required for structures that exceeded the size limitations and other performance standards identified.

An excerpt from the Development Code with the accessory structure requirements is attached. A summary of ordinance requirements from other communities is also attached. Information pertaining to recent accessory structure activity, including variances and conditional uses, will be available at the meeting.

At this time, the Staff is asking the Commission to summarize concerns regarding the current standards which could then be presented to the City Council at a joint workshop in the future.

VARIANCES/CONDITIONAL USE PERMITS

- (d) A reduction of open space or green areas that has a considerable affect on the development plan.
- (e) A reduction of off-street parking or loading areas.
- (f) A reduction in the effectiveness or extent of surface water management plan as determined by the City Engineer.

203.070 Variances.

(A) Application. An application for a variance or variances (herein collectively "variance") from the provisions of Chapter 204, 205, 206, 207.050(D), 209 ("Shoreview Development Regulations") shall be made on forms provided by the City Manager. Completed applications shall be forwarded to the Planning Commission.

(B) Review Process. The Planning Commission shall review completed variance applications pursuant to Shoreview City Code Section 203.020(C) and Minnesota Statute §15.99. Modifications shall not be made to the variance application during the review process.

(C) Criteria for Review. The following criteria shall be applied to the City's review of a variance application:

(1) Purpose and Intent. The variance request shall comply with the purpose and intent provisions of City Code Section 201.010 and with the policies of the City's Comprehensive Plan.

(2) Practical Difficulties. The application for a variance shall establish that there are practical difficulties in complying with the provisions of the Shoreview Development Regulations. The term "Practical Difficulties" as used in the granting of a variance means:

(a) Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.

(b) Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.

(c) Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.

(3) Economic Consideration. Economic consideration alone does not constitute practical difficulties.

Rev. Date
7/5/11
Ord. #880

- (4) Access to Sunlight. Inadequate access to direct sunlight for solar energy systems shall be considered a practical difficulty.
- (5) Earth Sheltered Housing. Earth sheltered construction, as defined in Minnesota Statutes §216(C)06, Subd. 14, shall be considered a practical difficulty if the property is otherwise in compliance with the Shoreview Development Regulations.
- (6) Non-Permitted Use. A variance shall not be granted if it would allow a use which is not otherwise permitted in the zoning district where the property is located.
- (D) Conditional Approval. The Board of Adjustments may impose conditions in granting a variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.
- (E) Expiration. An approved variance, which is not implemented within one year from the date of approval, shall become void.
- (F) Decision and Appeal. Decisions of the Planning Commission shall be final unless the applicant or other aggrieved party appeals to the City Council. Appeals shall be processed in accordance with Section 203.020(E).

203.080 Development Agreements.

(A) Development Contract.

- (1) Contract Required. A Developer Contract will be required and executed prior to issuance of all building permits, installation of public or private infrastructure, recording of a final plat, and final construction plan approval for multiple-family residential, commercial, office or industrial developments. The Developer shall enter into a written contract and submit required financial securities to the City. The Development Contract will require the Developer to furnish and construct said public and private infrastructure improvements at his/her sole cost and in accordance with City approved construction plans and specifications, City Standards, City Ordinances, City Policies and the Development Contract.
- (2) Inspection.
 - (a) The Development Contract may include provisions for one or more full-time City personnel or its representative at the City Manager's discretion. The Developer shall pay all costs incurred by the City in conjunction with the development of the plat. The Developer shall



INFORMATION MEMO

Land Use Variances

Learn about variances as a way cities may allow an exception to part of their zoning ordinance. Review who may grant a variance and how to follow and document the required legal standard of “practical difficulties” (before 2011 called “undue hardship”). Links to a sample ordinance and forms for use with this law.

RELEVANT LINKS:

[Minn. Stat. § 462.357, subd. 6.](#)

[Minn. Stat. § 462.357, subd. 6.](#)

[Minn. Stat. § 462.357, subd. 6.](#)

I. What is a variance

A variance is a way that a city may allow an exception to part of a zoning ordinance. It is a permitted departure from strict enforcement of the ordinance as applied to a particular piece of property. A variance is generally for a dimensional standard (such as setbacks or height limits). A variance allows the landowner to break a dimensional zoning rule that would otherwise apply.

Sometimes a landowner will seek a variance to allow a particular use of their property that would otherwise not be permissible under the zoning ordinance. Such variances are often termed “use variances” as opposed to “area variances” from dimensional standards. Use variances are not generally allowed in Minnesota—state law prohibits a city from permitting by variance any use that is not permitted under the ordinance for the zoning district where the property is located.

II. Granting a variance

Minnesota law provides that requests for variances are heard by a body called the board of adjustment and appeals; in many smaller communities, the planning commission or even the city council may serve that function. A variance decision is generally appealable to the city council.

A variance may be granted if enforcement of a zoning ordinance provision as applied to a particular piece of property would cause the landowner “practical difficulties.” For the variance to be granted, the applicant must satisfy the statutory three-factor test for practical difficulties. If the applicant does not meet all three factors of the statutory test, then a variance should not be granted. Also, variances are only permitted when they are in harmony with the general purposes and intent of the ordinance, and when the terms of the variance are consistent with the comprehensive plan.

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

III. Legal standards

When considering a variance application a city exercises so-called “quasi-judicial” authority. This means that the city’s role is limited to applying the legal standard of practical difficulties to the facts presented by the application. The city acts like a judge in evaluating the facts against the legal standard. If the applicant meets the standard, then the variance may be granted. In contrast, when the city writes the rules in zoning ordinance, the city is exercising “legislative” authority and has much broader discretion.

A. Practical difficulties

“Practical difficulties” is a legal standard set forth in law that cities must apply when considering applications for variances. It is a three-factor test and applies to all requests for variances. To constitute practical difficulties, all three factors of the test must be satisfied.

1. Reasonableness

The first factor is that the property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, if the variance application is for a building too close to a lot line or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable.

2. Uniqueness

The second factor is that the landowner’s problem is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees.

RELEVANT LINKS:

2011 Minn. Laws, ch. 19,
amending Minn. Stat. §
462.357, subd. 6.

*Krummenacher v. City of
Minnetonka*, 783 N.W.2d 721
(Minn. June 24, 2010).

Minn. Stat. § 462.357 subd.
6.

Minn. Stat. § 394.27, subd. 7.

See Section I, *What is a
variance*.

See IV-A, *Harmony with
other land use controls*.

3. Essential character

The third factor is that the variance, if granted, will not alter the essential character of the locality. Under this factor, consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

B. Undue hardship

“Undue hardship” was the name of the three-factor test prior to a May 2011 change of law. After a long and contentious session working to restore city variance authority, the final version of HF 52 supported by the League and allies was passed unanimously by the Legislature. On May 5, Gov. Dayton signed the new law. It was effective on May 6, the day following the governor’s approval. Presumably it applies to pending applications, as the general rule is that cities are to apply the law at the time of the decision, rather than at the time of application.

The 2011 law restores municipal variance authority in response to a Minnesota Supreme Court case, *Krummenacher v. City of Minnetonka*. It also provides consistent statutory language between city land use planning statutes and county variance authority, and clarifies that conditions may be imposed on granting of variances if those conditions are directly related to, and bear a rough proportionality to, the impact created by the variance.

In *Krummenacher*, the Minnesota Supreme Court narrowly interpreted the statutory definition of “undue hardship” and held that the “reasonable use” prong of the “undue hardship” test is not whether the proposed use is reasonable, but rather whether there is a reasonable use in the absence of the variance. The new law changes that factor back to the “reasonable manner” understanding that had been used by some lower courts prior to the *Krummenacher* ruling.

The 2011 law renamed the municipal variance standard from “undue hardship” to “practical difficulties,” but otherwise retained the familiar three-factor test of (1) reasonableness, (2) uniqueness, and (3) essential character. Also included is a sentence new to city variance authority that was already in the county statutes.

RELEVANT LINKS:

[LMC model ordinance.](#)

[LMC model variance application form.](#)

[LMC model resolution adopting findings of fact.](#)

[Minn. Stat. § 462.357, subd. 6.](#)

[See LMC information memo, *Taking the Mystery out of Findings of Fact.*](#)

[Minn. Stat. § 462.357, subd. 6.](#)

C. City ordinances

Some cities may have ordinance provisions that codified the old statutory language, or that have their own set of standards. For those cities, the question may be whether you have to first amend your zoning code before processing variances under the new standard. A credible argument can be made that the statutory language pre-empts inconsistent local ordinance provisions. Under a pre-emption theory, cities could apply the new law immediately without necessarily amending their ordinance first. In any regard, it would be best practice for cities to revisit their ordinance provisions and consider adopting language that mirrors the new statute.

The samples linked at the left reflect the 2011 variance legislation. While they may contain provisions that could serve as models in drafting your own documents, your city attorney would need to review prior to council action to tailor to your city's needs. Your city may have different ordinance requirements that need to be accommodated.

IV. Other considerations

A. Harmony with other land use controls

The 2011 law also provides that: "Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the terms of the variance are consistent with the comprehensive plan." This is in addition to the three-factor practical difficulties test. So a city evaluating a variance application should make findings as to:

- Is the variance in *harmony with* the purposes and intent of the ordinance?
- Is the variance *consistent with the comprehensive plan*?
- Does the proposal put property to use in a *reasonable manner*?
- Are there *unique circumstances* to the property not created by the landowner?
- Will the variance, if granted, alter the *essential character* of the locality?

B. Economic factors

Sometimes landowners insist that they deserve a variance because they have already incurred substantial costs or argue they will not receive expected revenue without the variance. State statute specifically notes that economic considerations alone cannot create practical difficulties. Rather, practical difficulties exist only when the three statutory factors are met.

RELEVANT LINKS:

Minn. Stat. § 462.357, subd.
6.

C. Neighborhood opinion

Neighborhood opinion alone is not a valid basis for granting or denying a variance request. While city officials may feel their decision should reflect the overall will of the residents, the task in considering a variance request is limited to evaluating how the variance application meets the statutory practical difficulties factors. Residents can often provide important facts that may help the city in addressing these factors, but unsubstantiated opinions and reactions to a request do not form a legitimate basis for a variance decision. If neighborhood opinion is a significant basis for the variance decision, the decision could be overturned by a court.

D. Conditions

A city may impose a condition when it grants a variance so long as the condition is directly related and bears a rough proportionality to the impact created by the variance. For instance, if a variance is granted to exceed an otherwise applicable height limit, any conditions attached should presumably relate to mitigating the effect of excess height.

V. Variance procedural issues

A. Public hearings

Minnesota statute does not clearly require a public hearing before a variance is granted or denied, but many practitioners and attorneys agree that the best practice is to hold public hearings on all variance requests. A public hearing allows the city to establish a record and elicit facts to help determine if the application meets the practical difficulties factors.

B. Past practices

While past practice may be instructive, it cannot replace the need for analysis of all three of the practical difficulties factors for each and every variance request. In evaluating a variance request, cities are not generally bound by decisions made for prior variance requests. If a city finds that it is issuing many variances to a particular zoning standard, the city should consider the possibility of amending the ordinance to change the standard.

RELEVANT LINKS:

[Minn. Stat. § 15.99.](#)

[Minn. Stat. § 15.99, subd. 2.](#)

See LMC information memo, *Taking the Mystery out of Findings of Fact.*

[Minn. Stat. § 15.99, subd. 2.](#)

Jed Burkett
LMCIT Land Use Attorney
jburkett@lmc.org
651.281.1247

Tom Grundhoefer,
LMC General Counsel
tgrundho@lmc.org
651.281.1266

C. Time limit

A written request for a variance is subject to Minnesota's 60-day rule and must be approved or denied within 60 days of the time it is submitted to the city. A city may extend the time period for an additional 60 days, but only if it does so in writing before expiration of the initial 60-day period. Under the 60-day rule, failure to approve or deny a request within the statutory time period is deemed an approval.

D. Documentation

Whatever the decision, a city should create a record that will support it. In the case of a variance denial, the 60-day rule requires that the reasons for the denial be put in writing. Even when the variance is approved, the city should consider a written statement explaining the decision. The written statement should explain the variance decision, address each of the three practical difficulties factors and list the relevant facts and conclusions as to each factor.

If a variance is denied, the 60-day rule requires a written statement of the reasons for denial be provided to the applicant within the statutory time period. While meeting minutes may document the reasons for denial, usually a separate written statement will need to be provided to the applicant in order to meet the statutory deadline. A separate written statement is advisable even for a variance approval, although meeting minutes could serve as adequate documentation, provided they include detail about the decision factors and not just a record indicating an approval motion passed.

VI. Variances once granted

A variance once issued is a property right that "runs with the land" so it attaches to and benefits the land and is not limited to a particular landowner. A variance is typically filed with the county recorder. Even if the property is sold to another person, the variance applies.

VII. Further assistance

If you have questions about how your city should approach variances under this statute, you should discuss it with your city attorney. You may also contact League staff.

203.031 Accessory Apartment Permit.

- (A) Application. Applications for an accessory apartment within RE or R-1 zoning districts shall be allowed subject to review by the City Manager. Applications shall be made on forms provided by the City and shall include the submittal information indicated on the form.
- (B) Notice. The City Manager shall provide written notification to property owners within 150 feet of the property that a permit has been approved upon issuance of the permit.
- (C) Review Process. Applications for accessory apartments shall be reviewed administratively by the City Manager in accordance with Section 203.020 (D).
- (D) Criteria for Review. The City Manager shall review the completed application in consultation with the Building Inspector and Fire Chief, and shall determine whether the application complies with the regulations of the Development Ordinance and meets the standards in Section 207.010.
- (E) Length of Permit. Upon the sale of a home having an accessory apartment permit, the buyer must renew the permit.
- (F) Record of Permit. The City shall require the owner to place restrictive covenants on the property controlling the use of the accessory apartment. The City Attorney must approve said covenants. Said covenants shall be filed with the Ramsey County Recorder or Registrar of Titles.

203.032 Conditional Use Permit (Non-Floodplain).

- (A) General. Certain uses, while generally not suitable in a particular zoning district, may under some circumstances be suitable if conditions are attached. In those circumstances, conditions may be imposed to protect the health, safety and welfare of the community and to insure harmony with the Comprehensive Guide Plan. The permit shall be granted for a particular use and not a particular person or firm.
- (B) Applications. The property owner, individual or other entity that has legal interest in the property may submit applications for a Conditional Use Permit. This application shall be filed with the City Manager on the application form provided by the City and include the required information.
- (C) Review Process. Conditional use permit applications shall require a public hearing and shall be processed in accordance with Section 203.020(A).
- (D) Criteria for Review. The Conditional Use Permit may be granted provided the proposed use is listed as a conditional use for the district in which it is located

and upon showing that the standards and criteria of the Development Ordinance will be satisfied in addition to the following:

- (1) The use is in harmony with the general purposes and intent of the Development Ordinance.
 - (2) The use is in harmony with the policies of the Comprehensive Guide Plan.
 - (3) Certain conditions as detailed in the Development Ordinance exist.
 - (4) The structure and/or land use conform to the Land Use Chapter of the Comprehensive Guide Plan and are compatible with the existing neighborhood.
- (E) Length of Conditional Use Permit. Any use permitted under the terms of a conditional use permit shall be established and conducted in conformity to the terms of such permit and of any conditions designated in connection therewith. The Conditional Use Permits shall remain in effect for as long as the conditions agreed upon are observed, provided that nothing in this section shall prevent the City Council from action or amending the Development Ordinance to change the status of conditional uses.
- (F) Record of Permit. A certified copy of any conditional use permit shall be filed with the Ramsey County Recorder or Registrar of Titles.

203.033 Conditional Use Permits (Floodplain)

Ord. 864
Rev.
4/19/10

Application. Certain uses may be permitted in the FW, FF, GF Districts with a Conditional Use Permit provided the criteria of Section 205.091 are met so as to promote the public, health, safety and general welfare.

- (A) Application. Certain uses may be permitted in the Floodplain District with a Conditional Use Permit provided the standards of Section 205.091 are met so as to promote the public, health, safety and general welfare. Applications for a conditional use permit in a floodplain shall be made on forms provided by the City Manager and include the required information.
- (B) Review Process. Conditional use permit applications in floodplains shall require a public hearing and shall be processed in accordance with Section 203.020(A).
- (C) Notice and Hearing Procedure. In addition to the notice and hearing requirements in Section 203.020(A), the City Manager shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Conditional Use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

(D) Issuance and Conditions. The City Council may prescribe such conditions and safeguards, in addition to those specified below, when granting a Conditional Use Permit as it deems necessary to satisfy the intent and requirements of Section 205.091, the Floodplain Management Ordinance. Such conditions may include, but are not limited to, the following:

- (1) Modification of waste treatment and water supply facilities.
- (2) Limitations on period of use, occupancy, and operation.
- (3) Imposition of operational controls, sureties, and deed restrictions.
- (4) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- (5) Flood-proofing measures, in accordance with the State Building Code and this ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

(E) Criteria for Review. The City Council shall consider all relevant factors specified in the Development Ordinance, and

- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
- (2) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the owner.
- (5) The importance of the services provided by the proposed facility to the community.
- (6) The requirements of the facility for a water front location.
- (7) The availability of alternative locations not subject to flooding for the proposed use.

- (8) The compatibility of the proposed use with existing development and the planned use of the property.
 - (9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
 - (10) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
 - (12) Such other factors which are relevant to the purposes of this ordinance.
- (F) Notification of Decision. In addition to Section 203.020(A)(5), the City Manager shall forward a copy of all decisions granting Conditional Use Permits to the Commissioner of Natural Resources within ten (10) days of the Council's action.

203.034 Design Review for Substandard Lots.

(A) Administrative Review.

- (1) Eligible Projects. Design review for the following projects shall be reviewed administratively by the City Manager in accordance with Section 203.020(D):
 - (a) Projects on lots that exceed 80% of the minimum required lot width, depth, and area.
 - (b) Driveways, sidewalks, patios, and other at-grade structures.
 - (c) All detached accessory structures including sheds, garages, and water-oriented structures.
 - (d) Attached decks and unenclosed porches.
 - (e) Enclosed porches, dwelling additions, and additions to an attached garage, provided said porch or addition is 150 square feet or less.
- (2) Application. Administrative design review will be performed as part of the Building Permit process. In addition to information required for Building Permit review, the applicant must provide any and all information requested by the City Manager for the purpose of determining compliance with the applicable design standards of the Development Ordinance.

Rev. Date
5/1/06
Ord. #796



INFORMATION MEMO

Land Use Conditional Use Permits

Learn the basics of conditional use permits (CUPs) in administering the city's land use ordinances. Define conditional use permits, for what purposes they may be granted; learn who grants them and procedural considerations for public hearings and the role of neighborhood opinion. Understand expiration dates, time limits and revocation of CUPs.

RELEVANT LINKS:

I. Conditional use

A conditional use is a land use designated in a zoning ordinance that is specifically allowed in a zoning district so long as certain standards are met. The zoning ordinance typically detail both general standards that apply to all conditional uses, as well as specific standards that apply to a particular conditional use in a given zoning district.

A use is typically designated in a zoning ordinance as conditional because of hazards inherent in the use itself or because of special problems that its proposed location may present. For example, uses that generate traffic such as family childcare, service stations, convenience stores, or drive-thrus are often designated as conditional uses.

II. Conditional use permit (CUP)

A conditional use permit is a document a city issues to grant a conditional use when the general and specific ordinance standards have been met by the applicant. The use is allowed by permit only if the special concerns are addressed as set forth in the zoning ordinance. Conditional use permits are authorized under state law.

Minn. Stat. § 462.3595.

A. General CUP standards

A zoning ordinance will typically detail general standards that apply to all conditional uses. For example, some zoning ordinances provide that all conditional uses must conform to the comprehensive land use plan of the community, be compatible with the adjoining properties, and be served by adequate roads and public utilities.

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

RELEVANT LINKS:

See Section IV, Public hearings.

Minn. Stat. § 15.99.

B. Specific CUP standards

In addition to general CUP standards, many zoning ordinances will detail specific standards that apply to a particular conditional use, such as those made for businesses operating a drive-thru. Conditions for such uses may include specific standards regarding things like off-street parking and loading areas, landscaping and site plan, and hours of business operation.

III. Granting conditional use permits

Generally CUPs are granted only for uses specifically listed in the zoning ordinance as conditional uses in a particular zoning district. If a use is not designated as a conditional use in a zoning district, then arguably the city has no ability to issue a CUP without first amending the zoning ordinance to provide for the conditional use. This would of course allow other applicants to apply for a conditional use permit under the same standards.

A. Who grants

A CUP is typically approved by the city council. Planning commissions often first consider the CUP application and make recommendations to the city council. State statute allows the city council to designate its CUP approval to another authority, and some cities have designated the planning commission as the approving body. In any event, the city council is generally makes the final decision on CUPs.

B. Required approval

If a proposed conditional use satisfies both the general and specific standards set forth in the zoning ordinance, the applicant is entitled to the conditional use permit. Importantly, if the applicant meets the general and specific ordinance standards, the city usually has no legal basis for denying the CUP.

C. Time limits

A written request for a CUP is subject to Minnesota's 60-day rule, and must be approved or denied within 60 days of the time it is submitted to the city. A city may extend the time period for an additional 60 days, but only if it does so in writing before expiration of the initial 60-day period. Under the 60-day rule, failure to approve or deny a request within the statutory time period is considered an approval.

RELEVANT LINKS:

[Minn. Stat. § 462.3595, subd. 3.](#)
[A.G. Op. 59-A-32 \(February 27, 1990\).](#)

[Minn. Stat. § 462.3597.](#)

[Minn. Stat. § 462.3595, subd. 2.](#)
[Minn. Stat. § 462.357, subd. 3.](#)

See LMC information memo, *Public Hearings*.

D. Other conditions on permits

1. Permitted

Reasonable conditions relating to the ordinance standards may be attached to a CUP based upon factual evidence contained in public record. For example, if a zoning ordinance provides that a conditional use should not have adverse visual or noise impacts on any adjacent property, a city might require specific screening and landscaping conditions to address any potential impacts established in the record.

2. Not permitted

State statute provides that a CUP remains in effect as long as the conditions agreed upon are observed. The attorney general has found that time limits such as sunset provisions or automatic annual review are not consistent with state law, explaining that cities may not enact or enforce provisions that allow a city to terminate CUPs without regard to whether or not the conditions agreed upon are observed.

If a city wishes to place time constraints on particular uses, then the appropriate zoning tool is an interim use permit, rather than a conditional use permit. State law authorizes interim use permits for a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

IV. Public hearings

A proposed conditional use is allowed only after a statutorily required public hearing. The city must provide published notice of the time, place, and purpose of the hearing on a proposed CUP at least 10 days prior to the day of the hearing. If the decision affects an area of five acres or less, the city may need to mail notice to property owners within a 350-foot radius of the land in question. The purpose of the public hearing is to help develop a factual record as to whether the applicant meets the relevant ordinance standards such that the CUP should be granted.

A. City role in hearing

A city exercises so-called “quasi-judicial” authority when considering a CUP application. This means that the city’s role is limited to applying the standards in the ordinance to the facts presented by the application. The city acts like a judge in evaluating the facts against the standards. If the applicant meets the standards, then the CUP should be granted. In contrast, when the city in zoning ordinance designates certain uses as conditional, the city is exercising “legislative” authority and has much broader discretion.

RELEVANT LINKS:

See LMC information memo,
*Taking the Mystery out of
Findings of Fact.*

Minn. Stat. § 462.3595, subd.
3.

Minn. Stat. § 462.3595, subd.
4.

Jed Burkett
651.281.1247
jburket@lmc.org

League of Minnesota Cities.

B. Role of neighborhood opinion

Neighborhood opinion alone is not a valid basis for granting or denying a CUP. While city officials may feel their decision should reflect the overall preferences of residents, their task is limited to evaluating how the CUP application meets the ordinance standards. Residents can often provide important facts to help the city address whether the application meets the standards, but unsubstantiated opinions and reactions to an application do not form a legitimate basis for a CUP decision. If neighborhood opinion serves as the sole basis of the decision, it could be overturned by a court if challenged.

C. Documentation of hearing

Whatever the decision, a city should create a record that will support it. If a city denies a CUP application, the 60-day rule requires the reasons for the denial be put in writing. Even if a city approves a CUP, a written statement explaining the decision is advisable. The written statement explaining the decision should address the general and specific ordinance standards, and explain the relevant facts and conclusions.

V. Conditional use permit after issuance

A conditional use permit is a property right that “runs with the land” so it attaches to and benefits the land and is not limited to a particular landowner. State statute requires that CUPs be recorded with the county recorder’s office. When the property is sold, the new landowner will have the continued right to the CUP so long as the conditions are met.

A city can revoke a conditional use permit if there is not substantial compliance with conditions, so long as the revocation is based upon factual evidence, after appropriate notice and hearing. Because a CUP is a property right, a city should work closely with the city attorney if considering a CUP revocation.

VI. Further assistance

LMCIT offers land use consultations, training and information to members. Contact the League’s Loss Control Land Use Attorney for assistance. You can also learn more about land use issues in the land use section of the League’s website.

ACCESSORY STRUCTURES

(a) Add 15 feet for the minimum corner lot width requirement.

(3) Setbacks.

Rev. Date
5/20/13
Ord. 907

(a) Front Yard. Dwellings and accessory structures shall have a front yard setback of at least twenty-five (25) feet but in no event more than forty (40) feet.

(b) Rear Yard. Dwellings shall have a rear yard setback of at least 30 feet and accessory structures shall have a rear yard setback of at least 10 feet, regardless of lot area requirements.

(c) Side Yard. Side yards adjoining a street right-of-way shall be treated as a front yard for purposes of setback requirements. Dwellings and accessory structures shall maintain minimum side yard setbacks as follows:

<u>District</u>	<u>Dwelling</u>	<u>Accessory Structures</u>
RE (20)	10	5
RE (40)	10	5
RE (60)	15	10
RE (80)	15	10

(d) Lot Coverage. Lot coverage shall be restricted as follows:

<u>District Title</u>	<u>Maximum Lot Coverage</u>
RE (20)	30%
RE (40)	20%
RE (60)	15%
RE (80)	15%

(D) Lots of Record. Legal lots of record that existed prior to a rezoning to a Residential Estate District shall continue to be classified as buildable lots, provided any new construction complies with the RE District standards to extent practical, as determined by the Director of Community Development.

205.082 Detached Residential District (R1)

(A) Purpose. In addition to the purposes defined in Section 205.080 (Residential Overview), the Detached Residential District is established to reserve appropriately located areas for single-family living at reasonable population densities consistent with the Land Use Plan Chapter of the Comprehensive Guide Plan.

(B) Permitted Uses. In addition to the uses defined in Section 205.080 (Residential Overview), the following activities are permitted in the Detached Residential District:

- (1) Single-family structures and accessory structures.
- (2) Accessory apartments subject to permit requirements of Section 203.031 (Accessory Apartment Permit).
- (3) Manufactured homes.
- (4) The keeping of non-domestic animals is permitted on property containing two (2) or more acres. The City Council may require the owner of non-domestic animals to apply for a Conditional Use Permit if the Council determines that it is in the best interest of the public's health, safety or general welfare; provided, however, that the raising and keeping of not more than four (4) hen chickens or pullets is permitted on property less than two (2) acres provided a license is obtained in accordance with Section 601.020(D).
- (5) The keeping of Wild Animals is permitted pursuant to the provisions of Section 601.020(B) and provided a license is obtained in accordance with the requirements of that Section.

Rev.Date
5/3/10
Ord. #868

Rev. Date
11/17/08
Ord. 837

(C) Conditional Uses. Approval of a Conditional Use Permit shall require compliance with the requirements set forth in Section 203.032(D) (Conditional Use Permits).

- (1) Funeral Homes (mortuaries) provided the site adjoins a collector or arterial roadway. The performance standards set forth in Section 205.043(C) (General Commercial District (Conditional Uses) shall also be imposed as a condition(s) of approval.

(2) Accessory Structures.

- (a) On parcels less than 1 acre in size, accessory structures that have an area of 150 square feet to 288 square feet in size are permitted as a conditional use provided the standards in Section 205.082(C)(2)(c) are met.
- (b) On parcels 1 acre or larger in size, accessory structures that exceed the maximum allowable square footage are permitted as a conditional use provided the standards in Section 205.082(C)(2)(c) are met.

Rev.Date
4/17/06
Ord. #789

(c) Performance Standards

- (1) The accessory structure shall be located in the rear yard of the property except as otherwise permitted by this ordinance.
- (2) The accessory structure shall be setback a minimum of 10 feet from the side property line and 10 feet from the rear property line; however, the City may require greater setbacks to mitigate impacts on adjoining properties.

- (3) For parcels 1 acre or larger in size, the lot shall have a minimum area of 1 acre above the ordinary high water line of a lake, ponding area or wetland on the property.
- (4) The accessory structure shall be screened from view of adjacent properties and public streets through the use of landscaping, berming, fencing or a combination thereof.
- (5) The structure shall comply with the standards of Section 205.082(D)(5) of this ordinance.

(D) Required Conditions. In addition to the conditions of Section 205.080(D) (Residential Overview), the following conditions apply:

- (1) Lot Size. A lot of not less than 10,000 square feet with a minimum width of 75 feet and a minimum depth of 125 feet.
- (2) Setback. Dwelling and accessory structures shall have a front yard setback of at least twenty-five (25) feet but in no event more than forty (40) feet. The side yard setback shall be a minimum of ten (10) feet except that side yards adjoining a street right-of-way shall be treated as a front yard for purposes of setback requirements. The rear yard setback shall be a minimum of thirty (30) feet. Zero lot line developments are permitted if consistent with adjacent land uses.
- (3) Height. 35-foot maximum.
- (4) Lot coverage. Maximum of 40%.
- (5) Accessory Structures.

(a) Maximum Area.

- (i) Attached Accessory Structure: 1,000 square feet or 80% of dwelling unit foundation area, whichever is more restrictive.
- (ii) Detached Accessory Structure:
 - a. Area shall not exceed the 75% foundation area of the dwelling unit or 750 square feet whichever is more restrictive.
 - b. Parcels less than 1 acre in size:
 - i. When there is no attached garage or an attached garage that is less than a two-car, a single detached accessory structure may consist of the maximum area allowed in Section 205.082(D)(5)(a)(ii)(a). However, the second detached structure shall not exceed 150 square feet. The area of the second detached accessory structure may be increased to a

Rev. Date
5/20/13
Ord. 907

Rev. Date
4/17/06
Ord. #789

maximum of 288 square feet upon Conditional Use Permit approval.

- ii. When there is an attached two-car garage or larger on the property, the total area of all detached accessory structures shall not exceed 150 square feet. The total area of all detached accessory structures may be increased to a maximum of 288 square feet upon Conditional Use Permit approval.

c. Parcels that have a lot area of one or more acres:

- i. When there is no attached garage or an attached garage that is less than a two-car, a single detached accessory structure may consist of the maximum area allowed in Section 205.082(D)(5)(a)(ii)(a). However, the second detached structure shall not exceed 288 square feet.
- ii. When there is an attached two-car garage or larger on the property, the total area of all detached accessory structures shall not exceed 288 square feet.
- iii. The maximum allowable square footage for accessory structures may be exceeded upon Conditional Use Permit approval.

- (iii) The combined area of all accessory structures shall not exceed 90% of the dwelling unit foundation area or 1,200 square feet whichever is more restrictive.

(b) Minimum Setbacks

i. Attached Accessory Structures

- a. Rear yard setback: Not less than 30 feet or the minimum setback required for the principal structure
- b. Side yard setback: 5 feet

ii. Detached Accessory Structures

- a. Side yard: 5 feet
- b. Rear yard: 10 feet
- c. Alleys:

- i. 20 feet if a garage overhead door faces the alley.

- ii. 10 feet if a garage overhead door is side loaded and does not face the alley.
- iii. Location of the accessory structure shall not interfere with vehicle visibility or traffic movement in the alleyway.
- iii. Accessory structures on corner lots shall be setback the same distance as the principal structure from the street right-of-way except as permitted in 205.080(D)(1).
- iv. No accessory structures shall be located in the front yard of any lot, except for a riparian lot which shall comply with the provisions of Section 203.039 (Riparian Lot-Detached Accessory Structure Permit).
- v. Structures housing non-domestic animals: 100 feet from all property lines except as permitted by the City's licensing provisions.

(c) Height – Detached Accessory Structures

- i. Height of sidewalls cannot exceed 10 feet.
- ii. Maximum height: 18 feet as measured from the highest roof peak to the lowest finished grade; however, in no case shall the height of the accessory structure exceed the height of the dwelling unit
- iii. Storage areas are permitted above the main floor provided they do not exceed an interior height of 6 feet.

(d) Maximum Number of Detached Accessory Structures: 2

(e) Exterior Design and Construction

- (i) The exterior design and materials shall be compatible with the dwelling unit and be similar in appearance from an aesthetic, building material and architectural standpoint.
- (ii) Unfinished metal building exteriors, including corrugated metal siding, untreated non-decay resistant wood, concrete block, cloth, plastic sheeting and other materials that are not compatible with residential neighborhoods are prohibited.
- (iii) All accessory buildings shall maintain a high standard of architectural and aesthetic compatibility with surrounding properties to ensure that they will not adversely impact the surrounding properties and neighborhood.
- (iv) All accessory structures shall have a finished flooring system, with the exception of boathouses.

- (v) No accessory structure shall be constructed prior to the construction of a principal structure.
- (f) Use: Accessory structures are to be used for personal use only and no commercial use or commercial related storage is permitted.
- (g) Escrow: A cash escrow may be required to insure the removal of any accessory structure on the property if said structure must be removed to comply with this Ordinance.
- (h) Evaluation of Impact. The proposed design, scale, massing, height and other aspects related to the accessory structure of any permit requested herein shall be evaluated by the City Manager with respect to the structures and properties in the surrounding area. A building permit may be issued upon the finding that the appearance of the structure is compatible with the structures and properties in the surrounding area and does not reasonably detract from the appearance of the area or city as a whole. Conditions may be attached to the approval of any building permit to ensure that the proposed structure does not have a negative impact on the surrounding areas.

205.083 Attached Residential District (R2)

- (A) Purpose. In addition to the purposes defined in Section 205.080(A) (Residential Overview), the Attached Residential District is established to:
 - (1) Provide for all income levels an opportunity to enjoy a medium density environment.
 - (2) Reserve appropriately located areas for family living in a variety of types of dwellings at a reasonable range of population densities consistent with the Land Use Chapter of the Comprehensive Guide Plan.
 - (3) Provide special requirements for common facilities, parking and other conditions created by an increased population density.
- (B) Permitted Uses. In addition to the uses defined in Section 205.080(B) (Residential Overview), buildings with 2-6 residential units are permitted in the Attached Residential District.
- (C) Required Conditions. In addition to the conditions of Section 205.080(D) (Residential Overview), the following conditions apply for the Attached Residential District:
 - (1) Lot size. Minimum zoned area of 5 acres unless being rezoned from Urban Underdeveloped; minimum lot size of 10,000 square feet per building plus 1,000 square feet per unit and a width of not less than 80 feet per building.

Municipality	Height	Setbacks	Area	Number	Permit Required?
Arden Hills	15 feet or the height of the principal structure to which it is accessory, whichever is lower.	10 feet from all rear and interior side lot lines.	Limited to 728 square feet. A larger structure up to 1,456 may be permitted with a Site Plan Review as approved by the Planning Commission and City Council.	2	For all structures over 120 square feet.
Bloomington	12 feet measured from the lowest exterior point to the highest point in the roof.	5 feet sideyard 5 feet or 10 feet depending on zoning district.	Parcels with 15,000 square feet or less: Equal to the maximum floor area allowed for garages, plus 120 square feet, less the total floor area of all garages on the parcel. In no event greater than 1,120 square feet for all. Parcels greater than 15,000 square feet: Included in maximum combined garage and accessory building size	2	For all structures over 120 square feet.
Brooklyn Park	Must not exceed 18 ft or the height of the principal building, whichever is less.	5 or 7.5 feet from any interior property line depending on the zoning district.	The combined floor area of the detached accessory building (s) and an attached garage shall not exceed the area of the foundation footprint of the house or 1,000 square feet, whichever is greater.	2	For all structures over 120 square feet.
Golden Valley	10 feet from floor to top plate.	5 feet from rear or side property line	800 square feet - for a single structure 1,000 square feet total accessory structures - total must be less than that of the principal structures, including attached garage.	?	For all structures over 120 square feet.
New Brighton	Accessory structures or detached garages shall match or compliment the existing primary residential structures in height and materials, and shall conform with all of the setback requirements for the zoning district where located.	5 feet from rear or side property line	The combined size of any attached and detached accessory structures or garages shall not exceed 1,664 square feet.* Any structures larger than 624 square feet up to 1,064 square feet shall be subject to approval of a Special Use Permit.		For all structures over 120 square feet.
Oakdale		10 from sideyard and 30 from rear yard.	Private detached garages not exceeding 1,000 square feet. Accessory buildings may not exceed 200 square feet.	2	For all structures over 120 square feet.
Robbinsdale	Storage sheds shall not exceed 16 feet in height (measured from grade to midpoint on gable end).	1 1/2 feet to the side property line and 2 feet from the rear property line if the property line adjoins an alley right-of-way	Sliding Scale based on Lot Width* 800-1200 for a single accessory building 1000-1400 square feet total coverage allowed.		For all structures over 120 square feet.

Saint Louis Park	Accessory structure must not exceed 15 feet in height unless the roof pitch of the accessory building matches the pitch on the house. If the pitch matches, the additional height shall not to exceed 24 feet in total.	2 feet from side or rear lot line	Total cumulative ground floor area of all accessory buildings and structures shall not exceed 800 square feet (or) 25 percent of the area between the principal structure and rear lot line.	N/A	For all structures over 120 square feet.
White Bear Lake	The height of a storage shed is limited to 12 feet as measured from ground to grade to the top of the roof.	5 feet from rear or side property line	For lots 10,500 square feet or less: The combined square footage of a storage shed and an attached or detached garage shall not exceed 1,000 square feet or 100 percent of the first floor area.	2	For all structures over 120 square feet.
Vadnais Heights	Single story not to exceed the height of the principal building.	5 feet from side and 10 feet from rear property line	No more than 1 oversized shed shall be allowed per single family home or lot.	2	For all structures over 120 square feet.