



Scott County
Board of Adjustment
January 8, 2018
6:30PM

Scott County Government Center
County Board Room
200 Fourth Avenue West
Shakopee, MN



**SCOTT COUNTY
BOARD OF ADJUSTMENT**

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200 Fourth Avenue West
Shakopee, Minnesota**

**Monday, January 08, 2018
County Board Room at 6:30 PM**

- I. ROLL CALL AND INTRODUCTIONS
- II. APPROVAL OF DECEMBER 11, 2017 MINUTES
- III. ELECTION OF OFFICERS
- IV. GENERAL & ADJOURN



**SCOTT COUNTY
BOARD OF ADJUSTMENT
Meeting Minutes**

**Scott County Government Center
200 Fourth Avenue West
Shakopee, Minnesota**

Monday, December 11, 2017

County Board Room at 6:30 PM

I. ROLL CALL AND INTRODUCTIONS

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

County Staff Present: Planning Manager, Brad Davis; Zoning Administrator, Marty Schmitz; Senior Planner, Greg Wagner; Administration Karen Kreuser; County Board Commissioner, Tom Wolf; and Deputy Clerk to the Board, Dianna Gerold.

II. APPROVAL OF OCTOBER 9, 2017 MINUTES

On a motion by Commissioner Watson, second by Commissioner Vonhof the minutes of the October 9, 2017 Board of Adjustment meeting were approved as written. The motion carried with a vote of six (6) ayes. Commissioner Huber abstained from voting.

III. PUBLIC HEARING – 6:30 PM – Yorway Custom Homes (PL#2017-111)

- A. To consider the request for a variance from the required 66 feet frontage on a publicly maintained road to construct a home on a legal non-conforming lot.

Location: Section 10

Township: Credit River

Current Zoning: RR-2

Greg Wagner provided an overview of the request for variance from the required 66 feet frontage on a publicly maintained road to construct a home on a legal non-conforming lot. The parcel is a 2.5 acre lot that was created and recorded prior to 1965. Any lot that was legally created and recorded prior to the inaction of the Scott County Zoning Ordinance on October 29, 1971 is considered a legal lot of record.

The parcel is considered non-conforming since it does not have physical frontage on a publicly maintained road; county ordinance has required lot frontage for new parcels since the 1971 ordinance.

This property has been before the Scott County Board of Adjustment on two previous occasions, in 1996 and 2004, for variances from the required lot frontage on a publicly maintained road. On both occasions the Board of Adjustment did approve the variances; however, since neither variance was acted upon within 1 year of issuance the variances both expired. Yorway Custom Homes has submitted proposed home building plans, attached to this report, and indicated that they plan to start construction this winter if the variance is granted.

Support for the previous two variances was based on the lot being a lot of record that pre-dated zoning ordinance regulations requiring frontage on a publicly maintained road. Additionally, it was also required to show that a valid easement agreement existed that allowed access to the land-locked parcel. Previous to both variances, the land owners of the subject parcel and the 2.5 acre residential parcel immediately north did record a driveway easement granting access across the north property to the land-locked parcel. This Driveway Easement and Maintenance Agreement has again been updated by the new owners of both parcels prior to the Board hearing.

The Credit River Town Board made a recommendation of approval at their November 2017 monthly meeting.

Commissioner Huber asked if the parcels to the NW of this piece of property were part of Murphy Hanrahan Regional Park? He remembered there was a house that was torn down on one of the parcels; and he thought the larger parcels were part of Murphy. *Mr. Wagner responded saying the larger parcels to the west are part of Murphy Hanrahan.*

Commissioner Vonhof for clarification reiterated the information relating to the old driveway/easement which was identified in 2006 and asked about the new arrangement/easement which was negotiated. Greg Wagner provided a drawing which illustrated where the new driveway would be located as agreed to by the owners.

Mr. Brett Tupy, Yorway Custom Home Builders, explained that with traffic in the evening, the previous agreement and easement would have allowed light from headlights to shine on the north property owner's home and also would preclude the use of an alternate septic site. Instead they have proposed and agreed to run the driveway along east property line to allow the new home owners access to their property. This agreement has been drawn up, surveyed and executed by both parties; it is ready to be recorded.

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

Chair Hartmann opened the meeting up to the public. Noting no public comment, there was a motion by Commissioner Vonhof; second by Commissioner Johnson to close the public hearing. The motion carried unanimously.

There was a motion by Commissioner Vonhof; second by Commissioner Huber based on the criteria for determining practical difficulty listed in the staff report, I recommend approval of the requested variance from the required 66 foot lot frontage requirement to construct a home on a legal non-conforming parcel noting the Credit River township approved this request. The motion carried with six (6) ayes. Commissioner Johnson abstained from voting.

Criteria for Practical Difficulty:

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

The Comprehensive Plan guides this parcel as Rural Residential Growth, which allows single family residential structures.

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

The property was created with adjacent properties in 1965 prior to current zoning regulations requiring lots to have physical frontage on a publicly maintained road.

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

This area of the County was platted and/or otherwise subdivided prior to current zoning standards, which has led to homes on other non-conforming or substandard lots that are non-conforming due to lot size or shape; this lot is lacking required road frontage.

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

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

5. *That granting the variance requested will not confer on the applicant any special privilege that is denied by*

this Ordinance to owners of other lands, structures or buildings in the same district.

Granting of the requested variance would not confer on the applicant any special privilege, as it would allow them to build on a lot of record, and noting that the County Board of Adjustment has previously approved this variance for this parcel.

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

There would be no minimum variance as the request is from lot frontage and not a required setback.

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

The variance would not alter the character of the property or the area as it would allow construction of a home similar to other properties in the area.

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

Economic considerations are not suggested as a reason for this variance request; the variance allows the applicants to make a reasonable use of the property by constructing a home.

V. GENERAL & ADJOURN

Motion by Commissioner Huber to adjourn and second by Commission Hrabe. The meeting adjourned at 6:45 PM. The motion carried unanimously.

Gary Hartmann
Chair of the Board of Adjustment

Date

Deputy Clerk to the Board

ELECTION OF OFFICERS

Board of Adjustment 2018

Election of officers will proceed as follows:

Gary Hartman – Board of Adjustment Meeting

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

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

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

Planning Advisory Commission meeting follows.