



SCOTT COUNTY
BOARD OF ADJUSTMENT
MEETING MINUTES

Scott County Board Room
200 Fourth Ave West
Shakopee, Minnesota
Monday, July 11, 2022, 6:30PM

I. ROLL CALL AND INTRODUCTIONS

Chair Ray Huber opened the meeting at 6:30 PM with the following members present: Jay Picha, Lee Watson, Donna Hentges, Barbara Johnson, Kent Robbins and Tom Vonhof.

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

II. APPROVAL OF MAY 9, 2022 BOARD OF ADJUSTMENT MINUTES.

Motion by Commissioner Robbins; Second by Commissioner Vonhof to approve the May 9, 2022 BOA minutes. The motion passed unanimously.

III. PUBLIC HEARING 6:31 PM DEROMA VARIANCE (PL#2022-037)

- A. Request for a Variance From the Required 50-Foot Bluff Setback to 10-Foot to Replace a Non-Compliance Septic System.

Location:	Section 3
Township:	Sand Creek
Current Zoning:	TR-C

Planner Greg Wagner presented the staff report for this application. The specific details within the staff report are available on the official Scott County Website at www.scottcountymn.gov under Government and then under County Board Agendas and Minutes by searching Board of Adjustment meeting to download the packet file.

Commissioner Questions and Comments:

Commissioner Robbins asked if the whole drainage field met the setback requirements. *Mr. Wagner explained that the owner has worked with a couple septic companies to explore options. The space for the tanks north of the home is limited due to the property line. The space to the south does not meet setback requirements.*

Commissioner Johnson inquired if any trees or the shed will be impacted. *Mr. Wagner stated the trees and shed won't be impacted. Drain field will be to the south of the shed.*

Chair Huber opened the floor for public comment. No one approached the podium.

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

Motion by Commissioner Watson; second by Commissioner Robbins, based on the criteria for granting a variance, I recommend approval of the requested 40-foot variance to reduce the 50-foot bluff setback to 10-feet to a septic tank subject to the conditions listed in the staff report.

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

Commissioner Robbins: Aye

Commissioner Picha: Aye

Commissioner Hentges: Aye

Commissioner Huber: Aye

Commissioner Vonhof: Aye

Commissioner Johnson: Aye

Commissioner Watson: Aye

The motion for passed with 7 Ayes.

Criteria for Approval (Practical Difficulty):

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

The proposal does not conflict with the Comprehensive Plan as it supports replacement of a non-compliant septic system.

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 has significant topographical challenges due to the bluff area on the east and north; however, it was developed in the 1970's prior to current bluff setback standards.

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

The Board granted a similar bluff setback variance in fall of 2021 to replace a non-compliance system, and there are several parcels in the immediate area that have similar bluff or topographical situations, so this property would be similar in status to those properties and should be viewed with the same considerations for septic compliance

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

As indicated the site was developed in 1979 and the bluff setback standards were not adopted into the Zoning Ordinance until 2010 so the circumstances were not caused by the applicant.

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

Granting of the requested variance would not confer on the applicants any special privilege, but rather allow replacement of a non-compliant septic system

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

The septic tanks are located to best route wastewater coming out of the home, into the tanks, and then down to the septic drain field while providing some distance from the top of the bluff versus how the current tank was located on the top of bluff line.

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

The variance would not be materially detrimental or alter the character of neighboring properties as the variance deals with an existing home and replacement of a septic system. Failing to replace a non-compliance system may have other negative impacts if effluent is not properly treated.

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

There are no economic considerations involved in this variance request. The applicant has until 2031 to replace but is possibly selling the home and is choosing to replace the system ahead of any sale so there are no issues going forward.

PUBLIC HEARING 6:43 PM KRZMARCIK VARIANCE (PL#2022-041)

- A. Request for a Variance From the Required 600-Foot lot Width in the A-1 Zoning District to 75-Feet to Modify the lot Line Between to Legal Non-Conforming Lots.

Location: Section 07
Township: Helena
Current Zoning: A-1

Planner Marty Schmitz presented the staff report for this application. The specific details within the staff report are available on the official Scott County Website at www.scottcountymn.gov under Government and then under County Board Agendas and Minutes by searching Board of Adjustment meeting to download the packet file.

Commissioner Questions and Comments:

Commissioner Picha inquired if there would be a grade change. *Mr. Schmitz states he doesn't assume any major grade changes.*

Chair Huber opened the floor for public comment. No one approached the podium.

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

Motion by Commissioner Johnson; second by Commissioner Vonhof based on the eight hardship criteria for granting a variance I recommend approval of the requested variance from the required 600-Foot lot width, noting the one condition of approval.

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

**Commissioner Robbins: Aye
Commissioner Picha: Aye
Commissioner Hentges: Aye
Commissioner Huber: Aye
Commissioner Vonhof: Aye
Commissioner Johnson: Aye
Commissioner Watson: Aye
The motion for passed with 7 Ayes.**

Criteria for Approval:

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

Granting the variance will not be in conflict with the 2040 Comprehensive Plan. The applicants currently have 2 non-conforming lots. The lots are non-conforming due to their lot size and width and have been impacted by a road corridor study completed in 2005. The variance will permit the lots to be developed with additional options for house and septic locations.

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 is bordered by future CR 64 on the north. CR 64 is identified as a future arterial road in the 2040 Comprehensive Plan. The road corridor through part of the property is unique to this property and does impact the use of these lots. The variance permits the lots to be developed with greater options for house and septic locations. Ultimately keeping the home on the west lot further back from the 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.*

The literal interpretation of this ordinance allows the applicants the right to develop their property with the existing parcels. However, the identified road corridor does impact how and where the north lot can be developed. The additional County Road setback from the County 64 corridor makes it difficult to place a home on the current north lot.

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

The identified road corridor was defined by Scott County through a study completed in 2005 and was not a result of the actions of the applicant. The hardship in this case is that the County is requesting additional easement that impacts the lots.

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

Granting the variance will not confer any special privilege to the applicants as it will allow them to develop the lots with the least impact by the future road.

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

The variance is the minimum variance which would alleviate the hardship. When the future road is constructed both lots will conform to the required 600-foot lot width.

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

The variance would not be materially detrimental to the character of the area and would not impact other properties.

8. *Economic considerations alone do not constitute a practical difficulty if a reasonable use of the property otherwise exists under the provisions of this Ordinance.*

The proposal is not based on economic factors but rather on issues related to land use and transportation planning.

Conditions of Variance Approval:

1. The applicants shall dedicate 75 feet of roadway easement for the extension of CR 64 along the northern property line.

VI. GENERAL & ADJOURN

Motion by Commissioner Johnson; second by Commission Robbins to adjourn the meeting.
The motion carried unanimously.

Meeting was adjourned at 6:48 pm by Chair Huber.

Donna M. Huber

Ray Huber *Donna Hentges*
vice Chair, Board of Adjustment

9/12/22

Date

Keri Wiscovitch

Keri Wiscovitch
Deputy Clerk to the Board

9/12/22

Date

