



SCOTT COUNTY
BOARD OF ADJUSTMENT
MEETING MINUTES

Scott County Government Center
County Board Room
200 Fourth Ave West
Shakopee, Minnesota

Monday, June 12, 2023
County Board Room at 6:30 PM

I. ROLL CALL AND INTRODUCTIONS

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

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

II. APPROVAL OF April 10, 2023 BOARD OF ADJUSTMENT MINUTES

Chair Huber called for a motion to approve the minutes. Commissioner Robbins noted a correction on Pg. 2 which Chair Huber asked for a motion and not making a motion. The motion carried unanimously.

III. PUBLIC HEARING 6:30 PM: ROTHNEM VARIANCE (PL#2023-031)

- A. Request for a variance from the 150 foot setback to a DNR Natural Environment Lake to 102 feet to septic tank, 60 feet to septic drain field, and to 120 feet for a new home.

Location: Section 22
Township: Cedar Lake
Current Zoning: RR-1 Rural Residential Reserve

Nathan Hall presented the staff report for this application. The specific details within the staff report and a video are available at the Scott County Website link: [June 12, 2023 Board of Adjustment](#) Agenda Packet. The staff report can be found in the full agenda packet located by clicking Board of Adjustment.

The agenda packet can also be found by visiting the official county website at www.scottcountymn.gov and searching under >Government>then County Board Agendas and Minutes>then search Board of Adjustment.

Commissioner Comments and Questions:

Commissioner Robbins asked for clarification on if the staff wished the septic site would be further back.

Mr. Hall explained because of the location the site cannot be further away.

Commissioner Hussain expressed concerned if this is only 150 feet from the lake will it be polluting the lake.

Mr. Hall responded that while this location is not ideal it is exceeding other distances that county engineers and the DNR feel it is understandable.

Commissioner Hussain further asked for the DNR comments.

Mr. Hall explained there is email communication between staff and the DNR which they approved the variance but did not follow up with a formal memo.

Chair Huber questioned the applicant if they are willing to work with staff and their septic designer to pivot the septic site so it is as far away from the lake as possible.

Blake Rothnem, Applicant agreed and felt this is something they are willing to do.

Chair Huber verbally opened the public hearing.

Public Comments and Questions at the Podium

No one approached the podium.

Chair Huber called for a motion to close the public hearing.

Motion by Commissioner Watson to close the public hearing; second by Commissioner Picha. The motion carried unanimously.

Motion by Commissioner Robbins; second by Commissioner Watson, based on the criteria for approval listed in the staff report, I recommend approval of a variance from the 150-foot setback to a DNR Natural Environment Lake to 102 feet to the septic tank, 60 feet to the septic drain field, and to 120 feet for a new home, and Applicant work with Staff to review shifting the septic site so it is further away from the water.

Chair Huber called for a vote on the motion to approve the request as follows:

Commissioner Husain: Aye

Commissioner Picha: Aye

Commissioner Robbins: Aye

Commissioner Huber: Aye

Commissioner Vohnhof: Aye

Commissioner Hentges: Aye

Commissioner Watson: Aye

The motion passed unanimously with 7 Ayes.

Criteria for Approval:

1. *Granting the variance will not be in conflict with the Comprehensive Plan.*
The proposal is in conformance with the Scott County 2040 Comprehensive Plan goals and policies for promoting public health, safety, and general welfare.
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 small, legal non-conforming parcel was created prior to the enactment of this ordinance. The small parcel size does limit the options for placing a single-family home and septic system on the property while meeting all of the setback requirements.
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.*
Literal interpretation of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district. Without the issuance of a variance the property could not be developed with a single-family home.
4. *That the special conditions or circumstances do not result from the actions of the applicant.*
The circumstances surrounding the variance request do not result from the actions of the applicant. The current owner did not create the non-conforming parcel.

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.*
There have been variances in Cedar Lake Township for the reduction of structure setbacks, but not on nearby properties which have not faced the same practical difficulties.
6. *The variance requested is the minimum variance which would alleviate the hardship.*
The requested variance alleviates the practical difficulty created by the non-conforming parcel and the Scott County Zoning Ordinance. The proposed house would not be closer to the OHWL than the placement of the previous buildings. The proposed septic system is located at the maximum distance from the OHWL that is feasible.
7. *The variance would not be materially detrimental or will not essentially alter the character of the property in the same zoning district.*
The variance would not be detrimental to Nash Lake or essentially alter the character of the neighborhood.
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.*
There are no economic considerations involved in this variance request.

IV. PUBLIC HEARING 6:30 PM: LAKE MARION VARIANCE (PL#2023-034)

- A. Request for a variance from the required 150-foot setback to a residential zoning district to 85 feet and from the required 100-foot county road right-of-way setback to 55 feet to construct an indoor storage facility.

Location:	Section 1
Township:	New Market
Current Zoning:	C-1 General Commercial District

Greg Wagner presented the staff report for this application. The specific details with in the staff report and a video are available at the Scott County Website link: [June 12, 2023 Board of Adjustment](#) Agenda Packet. The staff report can be found in the full agenda packet located by clicking Board of Adjustment.

The agenda packet can also be found by visiting the official county website at www.scottcountymn.gov and searching under >Government>then County Board Agendas and Minutes>then search Board of Adjustment.

Commissioner Comments and Questions:

Commissioner Robbins question why the Applicant keeps coming back for variances.

Mr. Wagner explained the setback distances have increased since the lots were platted 1972. Now the require county road setback and the residential zoning setback overlap. Variances are required for each parcel as the applicant has acquired property to expand. Mr. Wagner also noted the property owner has combined all properties into a single lot.

Chair Huber asked about the stormwater plan and whether there is a pond on the north side. Mr. Wagner noted that there will be an infiltration basin.

Chair Huber asked if the building is located more east than the other two buildings.

Mr. Wagner responded that because of the added width the building is set 12 feet further east.

Chair Huber verbally opened the public hearing.

Public Comments and Questions at the Podium

No one approached the podium.

Chair Huber called for a motion to close the public hearing.

Motion by Commissioner Watson to close the public hearing; second by Commissioner Vonhof. The motion carried unanimously.

Motion by Commissioner Vonhof; second by Commissioner Robbins, based on the criteria for approval listed in the staff report, I recommend approval of the variance from the required 150 foot setback to an existing residential zoning district to 85 feet and from the required 100 foot road right-of-way setback to 55 feet. Noting Township recommendations.

Chair Huber called for a vote on the motion to approve the request as follows:

**Commissioner Husain: Aye
Commissioner Picha: Aye
Commissioner Robbins: Aye
Commissioner Huber: Aye
Commissioner Vonhof: Aye
Commissioner Hentges: Aye
Commissioner Watson: Aye**

The motion passed unanimously with 7 Ayes.

Criteria for Approval:

1. *Granting the variance will not be in conflict with the Comprehensive Plan.*
The proposal is in conformance with the Scott County 2040 Comprehensive Plan goals and policies for development of commercial parcels.
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 parcel was created in 1972 prior to current setback regulations from adjacent residential parcels, and the parcel size of 1.8 acres is below the 2.5 acre minimum lot size requirement. The variance and lot combination with the adjacent lot will eliminate a non-conforming parcel.
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.*
Literal interpretation of the Zoning Ordinance would not allow the property owner to construct a structure on the property.
4. *That the special conditions or circumstances do not result from the actions of the applicant.*
The circumstances are not based on actions of the applicant; the lot was created in 1972 prior to current lot and setback requirements from adjacent residential districts.
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.*
The proposal would not provide the owner any special privileges denied to other property but would allow development on a non-conforming commercial lot and would have setbacks to the road right-of-way and adjacent residential parcels that are equal to or greater than the existing storage buildings to the south of this parcel.
6. *The variance requested is the minimum variance which would alleviate the practical difficulty.*
The variance would permit the structure to be no closer than the existing buildings are located from County Road 46 right-of-way and greater to the residential zoning district properties to the east than the existing structures.

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 allow any new use; rather it would allow expansion of a use that was approved by the County, which has been in operation since 1999. Additionally, the east property line is wooded and provides some screening to the residential parcels.

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

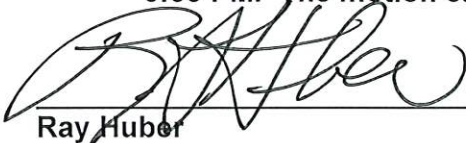
While the proposal is to expand a commercial business, the requested variance would allow use of a non-conforming commercial parcel that would otherwise have difficulties meeting county standards for stormwater management, wastewater treatment, and other ordinance regulations.

Conditions of Approval:

1. Any requirements stated in the New Market Town Board recommendation.

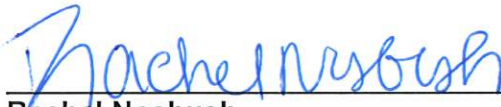
V. GENERAL & ADJOURN

Motion by Commissioner Hentges; second by Commissioner Huber to adjourn the meeting at 6:55 PM. The motion carried unanimously.



Ray Huber
Chair, Board of Adjustment

8.14.23
Date



Rachel Nosbush
Deputy Clerk to the Board

Aug 14 2023
Date

