



SCOTT COUNTY
BOARD OF ADJUSTMENT
MEETING MINUTES

Scott County Government Center
County Board Room 226
200 Fourth Ave West
Shakopee, Minnesota

Monday, June 10, 2024
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 Vonnhof, Donna Hentges and Lee Watson.

County Staff Present: Greg Wagner-Principal Planner, Nathan Hall-Associate Planner; Tom Wolf-County Board Commissioner and Rachel Nosbush-Deputy Clerk to the Board.

II. APPROVAL OF May 13, 2024 BOARD OF ADJUSTMENT MINUTES

Chair Huber called for a motion to approve the minutes. Motion by Commissioner Robbins; second by Commissioner Vonnhof to approve the minutes of May 13, 2024. The motion carried unanimously.

III. PUBLIC HEARING

3.1 PUBLIC HEARING 6:30 PM: ALSHEBAIKI VARIANCE (PL#2024-030)

- A. Request for a Variance From the Required 66 Feet of Lot Frontage on a Publicly Maintained Street to 30 Feet of Frontage on an easement of Record

Location: Section 33
Township: Spring Lake
Current Zoning: RR-1 – Rural Residential

Nathan Hall presented the staff report for this application. The specific details within the staff report and video are available at the Scott County Website link: [June 10, 2024 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 how this variance is on the agenda and why the county attorney felt it was appropriate to approve this matter when the same variance was approved in 1994 and nothing was done. *Mr. Hall explained there are county ordinances that if an applicant came in front of the Board, and if that applicant was denied their variances there is a six-month waiting period before they can come before the Board again. Mr. Hall further explained that even if the variance was approved or denied 20 years ago they still have the right to come before the Board.*

Commissioner Vonnhof questioned that there is a legal binding easement going over Lots A and B to Lot C. *Mr. Hall confirmed there is a perpetual easement over Lots A and B.*

Commissioner Picha further questioned the easement and who would be the responsible party of maintaining the driveway.

Mr. Hall explained that is a legal arrangement that will need to be dealt with between the two parties.

Chair Huber asked if the driveway is already placed or if there are still easement issues.

Mr. Hall responded that there is no physical driveway at this time and the applicant will need to apply for a grading permit to begin construction of the driveway.

Chair Huber asked if there will be a septic mound.

Mr. Hall answered it is a Type 1 septic which is a mound system.

Commissioner Husain questioned the concern of the neighboring property's letter from their attorney.

Mr. Hall made response that the driveway is to go over and across Lot A and B, which is owned by the neighboring property, to access Lot C, which is the Applicant's property. Mr. Hall further responded that this is not an economic reason for the variance which was stated in the letter.

Chair Huber opened the public hearing.

Public Comments and Questions at the Podium

Abigail Box, Family Member Representing Applicant, made comment that there is already an existing portion of the driveway and their understanding of the issue arising from the neighboring property owner is that as the easement states, they would be the ones responsible for maintaining a large portion of the driveway. Ms. Box made further comment that the applicant wishes to finalize the variance and move along with their project.

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

Motion by Commissioner Robbins to close the public hearing; second by Commissioner Hentges. The motion carried unanimously.

Motion by Commissioner Watson; second by Commissioner Robbins, based on the variance criteria listed in the staff report, I recommend approval of the requested variance from the required 66 feet of lot frontage on a publicly maintained street to 30 feet of frontage on an easement of record.

Chair Huber called for a vote on the motion to continue 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 Comprehensive Plan guides this property as Rural Residential Growth. The proposed density is less than what is allowed in the Rural Residential Growth area and therefore granting the variance will not be in conflict with the 2040 Comprehensive Plan.

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

The site topography and natural conditions of the site make the construction of a public road infeasible. The applicant has had no control over the topography or other circumstances related to the creation of the 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.*

The literal interpretation of this ordinance would deprive the applicant of the opportunity to develop the property in a similar manner to neighboring properties.

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

The parcel was created long before the applicant's ownership of the parcel and therefore they have had no control over the topography or current state of the 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.*
Granting the variance will not confer any special privilege to the applicant as a similar variance was issued to a previous owner of the subject property and an adjacent property.
6. *The variance requested is the minimum variance which would alleviate the hardship.*
It is difficult to determine minimum variance as the parcel will not have any frontage on a public road. The construction of any length of road along the subject parcel may be considered a hardship and have negative impacts on adjacent properties.
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 but would lead to construction of a driveway and single-family home, as is common in the area.
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.

3.2 PUBLIC HEARING 6:48 PM: BOROWICZ VARIANCE (PL#2024-032)

- A. Request for a Variance 150 Foot Setback to a DNR Natural Environment Lake to the Replace a Non-Compliant Septic System

Location: Section 16
Township: Spring Lake
Current Zoning: Rural Residential Single Family, RR-2

Nathan Hall presented the staff report for this application. The specific details within the staff report and video are available at the Scott County Website link: [June 10, 2024 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 that the present septic system drain field is in a non-compliant state.

Mr. Hall confirmed.

Chair Huber commented that the present septic drain field is 3 feet above the water table and this variance is to move the entire septic site to a safer location.

Mr. Hall confirmed.

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

Motion by Commissioner Vonhof; second by Commissioner Robbins, based on the variance criteria listed in the staff report, I recommend approval of the requested variance from the required 150-foot setback to a DNR

Natural Environment Lake to 70-feet to replace septic tanks and 79-feet to replace a non-compliant septic drain field.

Chair Huber called for a vote on the motion to continue 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 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 parcel shape and topography does limit the options for placing a 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 replace the failing septic system and its function as a single-family property would be impaired.
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 for septic system placement on nearby properties including the property immediately to the south of the subject parcel.
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. 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 Buck 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. GENERAL & ADJOURN

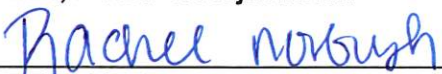
Motion by Commissioner Hentges; second by Commissioner Picha to adjourn the meeting at 6:53PM.

The motion carried unanimously.



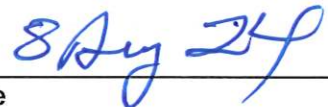
Ray Huber

Chair, Board of Adjustment

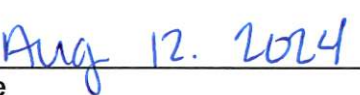


Rachel Nosbush

Deputy Clerk to the Board



Date



Date