

EXHIBIT 7

Pictures of 6 homes located immediately to the north of the Mimbach Lake Home on Grand Lake. The first page shows the Mimbach Lake Home, which is gray with white trim. The pictures then show homes moving north of the Mimbach Lake Home on Grand Lake. Each picture was taken at the waterline. Pictures were taken on October 31, 2016.



tabbles

EXHIBIT

7

















EXHIBIT 8

Pictures of homes located on Agate Beach Road on Grand Lake.

Exhibit 8 contains pictures taken of homes located on Agate Beach Road during the summer of 2016. The pictures were taken from a boat on Grand Lake. The first page of Exhibit 8 contains a map of Grand Lake with all the street numbers of homes located on the eastern shores of Grand Lake. The subsequent pages contain pictures of the various homes on Grand Lake with the corresponding street number. The map of Grand Lake also contains numbers in blue which correspond to the numbers alongside each of the pictures taken. The Mimbach Lake Home is on Picture No. 12, and the Ruether home is on the left side, and the Schendel home is on the right side.



Clarence Bloch Farm ■

Hubert Ln

ddies on Grand ■

B

Grand Lake

B

Grand Lake Rd

Grand Lake Rd

Google

Grand Lake Rd

- 10919
- 10893
- 10855
- 10855
- 10819
- 10803
- 10777
- 10749
- 10745
- 10717
- 10699
- 10651
- 10601
- 10583
- 10549
- 10531
- 10523
- 10521
- 22093
- 22065
- 22045
- 22015
- 21983
- 21937
- 21917
- 21895
- 21863
- 0
- 21833 - 12
- 21813
- 21785
- 21763
- 21743
- 21723 - 17
- 21657
- 21633
- 21607
- 21603 - 13
- 21583 - 12, 13
- 21567 Agate Beach Road**
- 21553 - 12
- 21537 - 15
- 21528
- 21503 - 3
- 21485
- 21475 - 4
- 21443 - 5, 9
- 21415 - 10
- 21405 - 6
- 21387 - 7
- 21373
- 21353
- 21335 - 1
- 21317 - 2
- 21323 - 2
- 21307
- 21293
- 21273
- 21215
- 21209
- 21203



Numbers in blue correspond to numbered pictures

Map data ©2016



1

21335



2

→ 21323

21317



3

21503



4

Tiny house
21475



5

21443



6
21405



7
21387



8



9

21443



10

21415



11



12

21583
Schendel

21567

21553
Schendel



13

21583

21603



14



15

21537



16

21657, ~~21723~~
Log House 21743



17

21723



18

EXHIBIT 9

Names and addresses of the 10 homeowners located on both the north and south side of the Mimbach Lake Home.

Addresses/Names start 10 houses North of the Mimbach's Residence to their residence and then each house South of their residence. Included are residence owner, Agate Beach Road address, permanent address, and type of residence on Agate Beach road.

Agate Beach Cabin LLC
21813 Agate Beach Rd
St. Cloud, MN 56301
Parcel Number 76.41648.0900
Seasonal Recreational Residence

5462 Golfview Cir N
Oakdale, MN 55128

Edward J Zapp Rev Trust
21785 Agate Beach Rd
St. Cloud, MN 56301
Parcel Number 76.41648.0800
Residential Homestead

21785 Agate Beach Rd
St. Cloud, MN 56301

Edward J Zapp Rev Trust
21763 Agate Beach Rd
St. Cloud, MN 56301
Parcel Number 76.41648.0700
Seasonal Recreational Residence

21785 Agate Beach Rd
St. Cloud, MN 56301

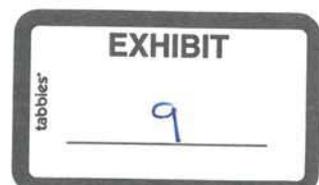
Laura & Timothy Saterfield
21743 Agate Beach Rd
St. Cloud, MN 56301
Parcel Number 76.41800.0001
Seasonal Recreational Residence

505 E Dean Ave
Madison, WI 53716

Timothy J & Lori A Torborg
21723 Agate Beach Rd
St. Cloud, MN 56301
Parcel Number 76.41800.0002
Seasonal Recreational Residence

1932 Tyrol Dr
St. Cloud, MN 56301

Michael G. Torborg



21657 Agate Beach Rd
St. Cloud, MN 56301
Parcel Number 76.41800.0004
Seasonal Recreational Residence

2201 Clare Ct PO Box 714
St. Cloud, MN 56302

Paul J Donnay
21633 Agate Beach Rd
St. Cloud, MN 56301
Parcel Number 76.41800.0006
Seasonal Recreational Residence

9705 63rd Ave N
Maple Grove, MN 55369

James L Schueller Rev Trust
21607 Agate Beach Road
St. Cloud, MN 56301
Parcel Number 76.41800.0007
Residential Homestead

21607 Agate Beach Rd
St. Cloud, MN 56301

Roma K Steil
21603 Agate Beach Rd
St. Cloud, MN 56301
Parcel Number 76.41800.0008
Residential Homestead

21603 Agate Beach Rd
St. Cloud, MN 56301

Thomas A Ruether
21583 Agate Beach Rd
St. Cloud, MN 56301
Parcel Number 76.41800.0009
Residential Homestead

21583 Agate Beach Rd
St. Cloud, MN 56301

Kathleen Mimbach Trust
21567 Agate Beach Rd
St. Cloud, MN 56301
Parcel Number 76.41800.0010)
Registered – Seasonal Recreational

7 Skyview Drive
Sauk Rapids, MN 56379

Jean E Schendel Trust
21553 Agate Beach Rd
St. Cloud, MN 56301
Parcel Number 76.41800.0011
Seasonal Recreational Residence

1309 Kings Run Dr. NW
Rochester, MN 55901

Michael L Hornung Rev Trust
21537 Agate Beach Rd
St. Cloud, MN 56301
Parcel Number 76.41800.0012
Seasonal Recreational Residence

1816 8th St N
Sartell, MN 56377

Leroy K Steinhoff Rev Trust
21528 Agate Beach Rd
St. Cloud, MN 56301
Parcel Number 76.41800.0013
Residential Homestead

21525 Agate Beach Rd
St. Cloud, MN 56301

Nona J Peterson
21503 Agate Beach Rd
St. Cloud, MN 56301
Parcel Number 76.41800.0014
Seasonal Recreational Residence

2041 Highview Dr
Sauk Rapids, MN 56379

Judith L Rothstein Trust Agree
21485 Agate Beach Rd
St. Cloud, MN 56301
Parcel Number 76.41800.0015
Residential Homestead

PO BOX 923
St. Cloud, MN 56302

James A Hall Rev Trust
21475 Agate Beach Rd
St. Cloud, MN 56301
Parcel Number 76.41800.0016
Seasonal Recreational Residence

21443 Agate Beach Rd
St. Cloud, MN 56301

Pauline M Hall Rev Trust
21443 Agate Beach Rd
St. Cloud, MN 56301
Parcel Number 76.41800.0017
Residential Homestead

21443 Agate Beach Rd
St. Cloud, MN 56301

Leander H Torborg Rev Trust
21415 Agate Beach Rd
St. Cloud, MN 56301
Parcel Number 76.41705.0001
Seasonal Recreational Residence

1000 23rd Ave N
St. Cloud, MN 56303

John E Knutson Trust
21405 Agate Beach Rd
St. Cloud, MN 56301
Parcel Number 76.41705.0002
Residential Homestead

21405 Agate Beach Rd
St. Cloud, MN 56301

Steven A & Robin J Kraemer
21387 Agate Beach Rd
St. Cloud, MN 56301
Parcel Number 76.41705.0003
Residential Homestead

21387 Agate Beach Rd
St. Cloud, MN 56301

THOMAS G. JOVANOVIH
Thomas.Jovanovich@jkalawfirm.com

November 16, 2016

VIA EMAIL AND REGULAR MAIL
mbode@rockvillecity.org

Martin Bode, City Administrator
City of Rockville
229 Broadway Street East
PO Box 93
Rockville MN 56369

RE: Application for Variance Request by Kathleen Mimbach
Our File No. 41103

Dear Mr. Bode:

In preparing the Application for Variance Request for the sideyard setback on behalf of Kathleen Mimbach, I noticed that the variance documents and application form from the City were dated September 16, 2009. The variance application and forms, as well as the Section 30 dealing with variances, requires as one of the conditions for the variance that "the property cannot be put to a reasonable use without the variance."

On May 6, 2011, a new law was passed which renamed the municipal variance statute from "undue hardship" to "practical difficulties". The new law does not require a finding that the property cannot be put to a reasonable use without the variance. Rather, the law states: "'Practical difficulties' . . . means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality." Minnesota Statutes §§394.27, Subd. 7 and 462.357, Subd. 6.

In preparing the variance request for Kathleen Mimbach, we utilized the practical difficulties test as set forth in Minnesota Statutes, rather than the undue hardship test as set forth in the Ordinance.

I am enclosing four different minutes for Planning Commission meetings at the City of Rockville during the past two years. Based on these minutes, it appears that the City is utilizing the more recent "practical difficulty" test in granting variances. The Wahnschaffe variance on August 13, 2013 referenced Minnesota Statutes §§462 and 394.27. The findings by the Planning Commission utilized the practical difficulties test with this question: "Does the proposal put property to use in a reasonable manner?" The Wahnschaffe variance was granted and part of the variance included a request for a sideyard setback in an R1 District in the Shoreland Management Area. Please see pages 16-18 of the Planning Commission Meeting Minutes.

I am also enclosing the Planning Commission Meeting Minutes for the Heimenz variance on November 10, 2015, which was for an increase in the impervious surface in the Shoreland Management Area for a non-conforming lot. The variance was approved and the findings show that the practical difficulties test was utilized by the Planning Commission. Please see pages 38-41 of the Planning Commission Meeting Minutes.

Also enclosed is the Massmann variance request for increase in impervious surface. Again, the standard used was the practical difficulties test and Minnesota Statutes §§462 and 394.27 were specifically cited. The variance was granted. Please see pages 39-42 of the Planning Commission Meeting Minutes.

Lastly, I have enclosed the Neu variance of September 9, 2014. This was in the Shoreland Management Area and was for a sideyard setback to five feet for construction of a garage. The variance was granted. Please see pages 25-26 of the Planning Commission Meeting Minutes.

Would you kindly make this letter and the attachments a part of the official application for the Kathleen Mimbach variance request.

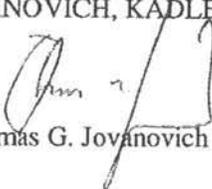
You may want to consult with the City Attorneys with respect to changing the Ordinance to comply with the current State law. I am sending a copy of this letter to Attorney Jim Thomson, who is representing the City of Rockville in the Ruether v. Mimbach lawsuit.

If you have any questions regarding the enclosed, please advise.

Sincerely,

JOVANOVICH, KADLEC & ATHMANN, PA

By


Thomas G. Jovanovich

TGJ/baw

Enclosure

c: Chris LaNave (via email)
James Thomson (via email)

**MINUTES OF A REGULAR PLANNING COMMISSION MEETING HELD,
TUESDAY, July 9, 2013 – 6:00 P.M. – ROCKVILLE CITY HALL**

The meeting was called to order by Chair Toni Honer. Roll call was taken and the following members were found to be present: Member Jerry Tippelt, Member Dale Borgmann, and Duane Willenbring – Liaison.

Absent were: none

Staff members present were: Zoning Administrator Rena Weber & Administrative Assistant Mandy Lais.

Others present: Mr. Todd Wahnschaffe, Mr. Rick Tallman

APPROVAL OF AGENDA/AMENDMENTS – Motion by Member Tippelt, second by Member Borgmann to approve the agenda with amendments. Motion carried unanimously.

APPROVAL OF MINUTES 5/14/13 – Motion by Member Borgmann, second by Member Tippelt, to approve the minutes of 5/14/13 as presented. Motion carried unanimously.

Site Visit: Mr. Todd Wahnschaffe's Home at 25632 Lake Road

Variance Request:

Zoning Administrator Rena Weber explained that Mr. Wahnschaffe would like to replace a deck. He wants to replace it with a 14 foot deck, which is 2 feet past the existing patio which is currently at 12 feet. The deck that was there was taken down 3 years ago or more, which was also 12 feet. In order to do this, he will need a variance.

Chair Honer asked where the ordinary high water mark was.

Zoning Administrator Rena Weber stated what's being proposed is in the 50 foot shore impact zone. Mr. Wahnschaffe is at 35 feet from the edge of the stone down to the water.

Mr. Wahnschaffe stated it will be 14 feet from the house toward the lake.

Zoning Administrator Rena Weber stated that Mr. Wahnschaffe's garage roof collapsed and he would also like to build a garage 42 X 28 to replace the garage damaged by the past storm.

Mr. Wahnschaffe stated that the garage would be flush with the sidewalk, and go past the house 1 to 1 1/2 feet. And he would be moving it away from the neighbors line 2 feet and it would go out 28 feet toward the road. So he is coming in further from the road from where the past garage was located. And the entry to the new garage will be from the road. The past garage was 21.3 X 31.3 and the proposed garage is going to be 42 X 28, and he is willing to take out the other impervious surfaces, but would like to keep the small shed if possible. But if he has to he will take it down. He will be entering his garage from the road.

Zoning Administrator Rena Weber stated that the group will go back to City Hall after this site visit to have the public hearing.

Mr. Tallman stated what Mr. Wahnschaffe is proposing sounds reasonable.

Chair Honer expressed a concern with the deck proposal, because it is impeding on the 50 foot buffer from the lake.

Mr. Wahnschaffe stated that what he is asking for is only 2 feet more than what was previously there before.

Member Tippelt stated that he doesn't have a problem with the 14 foot deck, because it is not past what the neighbor's house has.

Mr. Wahnschaffe said he had no problem doing water mitigation.

Zoning Administrator Rena Weber suggested he create a buffer by the water.

Member Borgmann stated that the buffers are around 5 feet from the lake or he suggested rain barrels.

Mr. Wahnschaffe stated he would be ok with that.

Mr. Tallman stated he has a buffer and it works well and it is left natural by the water.

Public Hearings continued at 6:23 pm at Rockville City Hall.

Mr. Tallman stated everything that is being proposed is within reason, he is not as far out as the neighboring property, farther away from the road with his new garage, this is a win win. City would gain more tax revenue, and increase the value of the home.

Motion by Member Tippelt, second by Member Borgmann, to close the public hearing.

AYES: Tippelt, Borgmann, Honer.

ABSTAIN:

Motion passed on a 3 to 0 vote.

Member Tippelt stated a concern about the impervious surface, all the water going down to the lake.

Chair Honer stated we can ask for mitigation.

Chair Honer stated that we do have an ordinance and we are crossing a line, that 50 feet should be protected.

Zoning Administrator Rena Weber asked to talk about the deck which is 14 feet wide (2 feet more than what was there, which is also past the concrete structure).

Mr. Wahnschaffe wants the 14 foot deck because it will look better.

Chair Tippelt doesn't have a problem with the deck as long as it is not extending past the neighbor's house, and would like to see mitigation with a rain garden or buffer to hold back the water.

Mr. Wahnschaffe is willing to do mitigation.

Zoning Administrator Rena Weber suggested a buffer with native grasses right by the lake, where you won't mow.

Mr. Wahnschaffe stated he would be open to that.

Chair Honer stated they need to decide on variance requests:

1. Variance to construct a 42' x 28' attached garage and to locate it in the front yard of property abutting Pleasant Lake – Recreational Development Lake.
2. Said request is to also locate said structure 37 feet from the centerline of the roadway – (should be 63') Lake Road
3. Structure would be 8' 6" from side yard lot line (should be 10').
4. Impervious Surface – Total lot area is 11,808.75 sf. of which 15% is 1771.35 sf. allowed Proposed 3045 sf. plus the driveway.
5. Rebuild deck to lake side of house within the 50' shore impact zone. 38'6" from OHWL

Member Tippelt suggests to approve the variance providing the 2 sheds are taken down, rain gutters and rain barrels and buffer.

Zoning Administrator Rena Weber read the Finding Of Fact Form for **25632 LAKE ROAD**
SUPPORTING/DENYING A VARIANCE

A variance may be granted when the applicant for the variance established that there are practical difficulties in complying with the zoning ordinance. The consideration of the following criteria as defined in Minnesota Statutes Section 462 and Minnesota Statutes Section 394.27:

1. Is the variance in *harmony* with the purposes and intent of the ordinance?
 Why or Why not? **ALREADY A NON-CONFORMING LOT**
Chair Honer Y Member Borgmann Y Member Tippelt Y
2. Is the variance *consistent with the comprehensive plan*?
 Why or Why not?
Chair Honer Y Member Borgmann Y Member Tippelt Y
3. Does the proposal put property to use in a *reasonable manner*?
 Why or Why not?
Chair Honer Y Member Borgmann Y Member Tippelt Y
4. Are there *unique circumstances* to the property not created by the landowner?
 Why or Why not? **ROAD-NEIGHBOR S BUILDING OVER THE LINE**
Chair Honer Y Member Borgmann Y Member Tippelt Y
5. Will the variance, if granted, maintain the *essential character* of the locality?
 Why or Why not?
Chair Honer Y Member Borgmann Y Member Tippelt Y

IF ALL OF THE ANSWERS ARE "YES", THE CRITERIA FOR GRANTING THE VARIANCE HAVE BEEN MET.

Motion by Member Tippelt, second by Member Borgmann, to approve the variance, with the conditions that the 2 sheds are taken down, a rain barrel be installed, and gutters on the garage are installed, and also a buffer to be installed to cover a percentage of the impervious surfaces to be calculated by Zoning Administrator Rena Weber.

AYES: Tippelt, Borgmann, Honer.

ABSTAIN:

Motion passed on a 3 to 0 vote.

Feed Lot Issue for Mr. Edelbrock

Zoning Administrator Rena Weber stated Mr. Bob Edelbrock owns 10 acres of land on Rausch Lake Road and wanted to subdivide his 10 acres into 5 acres lots around a year ago. His next door neighbor has a feed lot. The other neighbor south (Mr. Glenn Bartell) gave up his feed lot so the other neighbor could have his feedlot.

Now (Mr. Randy Libbesmeler) property (12 acres) at 21152 Rausch Lake Road is for sale now and they are advertising it to have 75 animal units. Feed lots get inspected every 4 years. Concern is that the realtor is advertising it for 75 animal units. Mr. Edelbrock and Mr. Bartell visited with Ms. Becky Schlorf June 13th at Stearns County Court house. Ms. Schlorf provided information and the property is registered for 76.5 animal units, however in 2007 10 animals were present, 2010 there were 3 animals were present.

**MINUTES OF A REGULAR PLANNING COMMISSION MEETING HELD,
TUESDAY, NOVEMBER 10TH, 2015 – 6:00 P.M. – ROCKVILLE CITY HALL**

The meeting was called to order by Chair Bill Becker. Roll call was taken and the following members were found to be present: Member Dale Borgmann, Member Toni Honer, Member David Meyer and Liaison Susan Palmer.

Absent were: Member Jerry Tippelt

Staff members present were: Administrator Rena Weber & Administrative Asst. Debbie Weber.

Others present: Susan Hiemenz, Wayne Hiemenz, Travis Kunz, Shannon Kunz, Nikki Walters, Shawn O'Keefe, Vern Salz, and John Vogt.

APPROVAL OF AGENDA/AMENDMENTS – Motion by Chair Becker, second by Member Honer, to approve the agenda with amendments. Motion carried unanimously.

Rena requested that the committee approve the findings of facts for Randy Seykora Variance. It was agreed upon by the committee to wait until the next meeting because Member Meyer and Member Honer were not present at the last meeting and need time to review the variance before proceeding with the findings of facts.

APPROVAL OF MINUTES 10/13/15 – Motion by Member Honer, second by Member Meyer, to approve the 10/13/15 minutes as presented. Motion carried unanimously.

New Business:

PUBLIC HEARING FOR WAYNE HIEMENZ @ 25465 PLEASANT ROAD – VARIANCE

Notice is hereby given that the Rockville Planning Commission will hold a public hearing on **Tuesday, November 10, 2015 at approximately 6:00 p.m. at Rockville City Hall – 229 Broadway Street East** to consider the request of Wayne Hiemenz for a variance from impervious surface requirements. The address of the property is: 25465 Pleasant Road with a legal description of: Lot 11, Pleasant Beach – City of Rockville.

The request is to re-construct a 26' x 46' attached garage in the R-1 – Shoreland District and provide a breezeway connecting the house to the garage.

Variances from the following will be discussed:

- Impervious surface (exceeds 15%) by 2113.46 square feet

STAFF REPORT

Re: Variance Request(s)
76.42140.0010 Owners: Wayne & Susan Hiemenz
Property Address: 25465 Pleasant Road

Variance(s) Requested:

1. Variance to construct a 46' x 26' attached garage and to provide a breezeway connecting the house to the garage on property abutting Pleasant Lake – Recreational Development Lake.
2. Impervious Surface – Total lot area is 15,456.90 sf of which 15% is 2318.54 allowed Proposed is 4432 sf of which 2113.46 is over the 15% allowed.

Construction Requests:

1. Construct new attached garage and match the existing residential structure.

Relevant Information:

1. This property is located within the 1000' Shoreland Overlay District.
2. Property contains 15,456.90 square feet more or less.
3. 18 notices of public hearing were sent out.

Recommendations:

1. This requires one variance on a non-conforming lot that was in place before the ordinance was adopted.
2. Require mitigation of 2,113.46 square feet of run off.

11/10/2015

One letter was submitted from neighbor, Dedric McBroom, approving of the variance.

Wayne Hiemenz spoke and addressed the committee. He clarified the size of 26' x 46'. Mr. Hiemenz stated that the improvements to the existing structure will greatly improve the overall appearance. Member Honer stated that she and Member Meyer did a site visit a couple months ago.

Motion by Member Borgmann, second by Member Honer, to close the public hearing at 6:13 pm. Motion carried unanimously.

FINDINGS OF FACT A review of the finding was done:

**WAYNE HIEMENZ
25465 PLEASANT ROAD
FINDING OF FACT
SUPPORTING/DENYING A VARIANCE**

A variance may be granted when the applicant for the variance established that there are practical difficulties in complying with the zoning ordinance. The consideration of the following criteria as defined in Minnesota Statutes Section 462 and Minnesota Statutes Section 394.27:

- 1. Is the variance in *harmony* with the purposes and intent of the *ordinance*?
Why or Why not?

Becker Yes Honer Yes Borgmann Yes Meyer Yes

- 2. Is the variance *consistent* with the *comprehensive plan*?
Why or Why not?

Becker Yes Honer Yes Borgmann Yes Meyer Yes

- 3. Does the proposal put property to use in a *reasonable manner*?
Why or Why not?

Becker Yes Honer Yes Borgmann Yes Meyer Yes

- 4. Are there *unique circumstances* to the property not created by the landowner?
Why or Why not?
non-conforming lot _____

Becker Yes Honer Yes Borgmann Yes Meyer Yes

- 5. Will the variance, if granted, maintain the *essential character* of the locality?
Why or Why not?

Becker Yes Honer Yes Borgmann Yes Meyer Yes

IF ALL OF THE ANSWERS ARE "YES", THE CRITERIA FOR GRANTING THE VARIANCE HAVE BEEN MET. FINDING OF FACT.8/9/11 ADOPTED.FORMS

Motion by Member Honer, second by Member Meyer, to recommend approval of the variance and allow up to 29.8% impervious surface with mitigation. Motion carried unanimously.

PUBLIC HEARING FOR TRAVIS KUNZ @ 23445 COUNTY ROAD 8 – CONDITIONAL USE PERMIT

Notice is hereby given that the Rockville Planning Commission will hold a public hearing on **Tuesday, November 10, 2015 at approximately 6:15 p.m. at Rockville City Hall, 229 Broadway Street East, Rockville, MN** to consider the request of Travis R. Kunz for an **Amended Conditional Use Permit** for a canine boarding facility in the R-2 District. The address of the property is: 23445 County Road 8, Cold Spring, MN 56320 with a legal description of:

14.00 Acres N462' of NW4SE4 Section Seventeen (17), Township One hundred Twenty-three (123) North, Range Twenty-nine (29) West. Stearns County, Minnesota.

SECTION 18 Subdivision 4: Conditional Uses reads:

7. Uses the City Council determined to be substantially similar in nature to the conditional uses listed above and not detrimental to the City's general health and welfare.

Request is to expand a canine boarding facility.

STAFF REPORT:

Re: Conditional Use Permit Request
76.41629.0500: Owners: Travis R. Kunz
Property Address: 23445 County Road 8, Cold Spring, MN 56320
Legal Description: 14.00 A N462' of NW4SE4, Section 17, Twp. 123, Range 029

Conditional Use Permit Requested:

SECTION 18 Subdivision 4: Conditional Uses reads:

The following uses may be allowed as conditional uses following the procedures set forth in this Ordinance and further subject to the performance and general development standards contained in this Ordinance.

7. Uses the City Council determined to be substantially similar in nature to the conditional uses listed above and not detrimental to the City's general Health and welfare.

The request is to EXPAND canine boarding facility.

Relevant Information:

4. This property is located in the R-2 District.
5. Property contains 14.00 acres more or less.
6. 24 notices of public hearing were sent out.
7. The area is completely surrounded by trees.
8. The city has not received any complaints of the operation thus far.

Recommendations:

1. Mr. Kunz would like to expand the canine boarding business from the present 15 stalls.
2. There will be more traffic in the neighborhood as people drop off and pick up their pets.
3. If the neighbors are fine with this – it could be allowed as a CUP.

Travis and Shannon Kunz spoke on their behalf explaining the details and benefits of this type of business. They explained the need for expansion due to their success. Member Honer also voiced her approval. Member Meyer verified the amount of their current acreage and the possible noise level. Kunz explained that they keep the canines supervised and monitored at all times.

11/10/2015

Motion by Member Borgmann, second by Member Honer, to close the public hearing at 6:30 pm. Motion carried unanimously.

Motion by Chair Becker, second by Member Honer, to recommend approval of the Conditional Use Permit. Motion carried unanimously.

PUBLIC HEARING FOR DAVID & FRANCES LENZMEIER @ 10819 MITCHELL LANE – VARIANCE

Notice is hereby given that the Rockville Planning Commission will hold a public hearing on **Tuesday, November 10, 2015 at approximately 6:30 p.m. at Rockville City Hall – 229 Broadway Street East** to consider the request of David & Frances Lenzmeier for a variance from Shoreland Requirements. The address of the property is: 10819 Mitchell Lane with a legal description of: Lot 3, Wheelock Shore Lots

The request is to construct a 60 square foot addition to an attached deck in the R-1 – Shoreland District.

Variances from the following will be discussed:

- ◆ Impervious surface will exceed the 15% rule by 2850.00 square feet

STAFF REPORT:

Re: Variance Request(s)
76.42340.0002: Owners: David & Frances Lenzmeier
Property Address: 10819 Mitchell Lane

Variance(s) Requested:

3. Variance to construct a 10' x 12' pad to place a storage shed on adjacent to existing paver patio of property abutting Grand Lake – General Development Lake.
4. Variance to include the driveway impervious surface.
5. Impervious Surface – Total lot area is 21,600 sf of which 15% = 3240. The proposed request is to exceed the 15% by 2554 or 44%.

Construction Requests:

2. Construct new accessory structure and match the existing residential structure.

Relevant Information:

9. This property is located within the 1000' Shoreland Overlay District.
10. Property contains 21,600 square feet more or less.
11. 10 notices of public hearing were sent out.

Recommendations:

3. This requires a variance on a non-conforming lot that was in place before the ordinance was adopted
4. This is a lot of driveway and maybe some should be turned back into grass.
2. If granted mitigation plan must be approved.

Motion by Member Honer, second by Member Borgmann, to close the public hearing at 6:35 pm. Motion carried unanimously.

Concerns were raised by the Planning Commission members and need clarification from the homeowner. The Lenzmeiers were not available for comment. A site visit will need to be scheduled before proceeding.

Motion by Member Meyer, second by Member Honer, to table this variance and schedule a site visit with the Lenzmeiers. Motion carried unanimously.

PUBLIC HEARING FOR SHAWN O'KEEFE – MAJOR SHORELAND ALTERATION PERMIT

Notice is hereby given that the Rockville Planning Commission will hold a public hearing on **Tuesday, November 10, 2015 at approximately 6:45 p.m. at Rockville City Hall – 229 Broadway Street East** to consider the request of Shawn O'Keefe for a variance for a major Shoreland alteration permit. The address of the property is: 21096 Fowler Road with a legal description of: 5.89 Acres, part of Government Lot 4, Section 28, Township 123 North, Range 29 West.

**MINUTES OF A REGULAR PLANNING COMMISSION MEETING HELD,
TUESDAY, DECEMBER 10, 2013 – 6:30 P.M. – ROCKVILLE CITY HALL**

The meeting was called to order by Chair Toni Honer. Roll call was taken and the following members were found to be present: Member Vince Schaefer, Member Rick Tallman, Member Dale Borgmann, Member Jerry Tippelt, and Duane Willenbring – Liaison.

Absent were: none

Staff members present were: Zoning Administrator Rena Weber, Administrative Assistant Mandy Lais

Others present:

APPROVAL OF AGENDA/AMENDMENTS – Motion by Member Schaefer, second by Member Tallman, to approve the agenda with amendments. Motion carried unanimously.

APPROVAL OF MINUTES 11/12/13 – Motion by Member Schaefer, second by Member Tallman, to approve of the 11/12/13 minutes at the next meeting. Motion carried unanimously.

**Public Hearing @ 6:30 pm for Felix Massmann
201 Mill Street**

**STAFF REPORT
FELIX MASSMANN**

Rockville Planning Commission; City Council

Re: Variance Request
76.42240.0054; Owner: Felix Massmann
Property Address: 201 Mill Street, Rockville, MN 56369

Variance(s) Requested:

1. After the Fact Variance from impervious surface requirements by approximately 880 SF.

Construction Requests:

1. Construct a 1208 square foot home on an existing lot, keep one storage shed, and also keep the existing driveway.

Relevant Information:

1. R-1 Single Family Dwelling District.
2. 31 notices of Public Hearing were sent out.
3. The former home was hit by a tree during the 6/21/13 storm and it took all summer of dealing with the insurance company to agree on a replacement amount. The timing was an important fact in this situation as it was only settled late October/early November. The children wished to get going on this before winter – therefore the need for the after the fact variance.
4. Entrance to the house is from Mill Street and the family would to construct a small pad at the entrance. This was not drawn in on the plans.

Recommendations:

1. Maintain existing drainage patterns over, under, and across the property.
2. If approved the owner should provide on site storm water disposal such as a rain barrel or underground trench to catch the water. A rain garden could be installed. There is a drainage swale along the south line of the property between the house and BNSF property line. If not approved it was suggested that the driveway be replaced with pavers.
3. No additional driveways will be allowed.
4. Proper temporary and permanent erosion control measures (BMP's) shall be implemented during and after construction to minimize sediment leaving the site; this would include proper

12/10/2013

installation of silt fence or bio-rolls on the down gradient side(s) of any excavations or earth disturbing activities, and subsequent re-vegetation of the disturbed areas soon after work is completed.

5. The new house and existing accessory structure must match.
6. If you approve the requests do so with conditions.

Submitted by:
Rena Weber
Zoning Administrator

Chair Honer invited anyone to speak.

Mr. Jim Massmann -7353 Ahles Rd, St. Cloud

Mr. Joe Massmann - 8363 245th Street, St. Cloud

Mr. Jim Massmann stated that they are doing the after the fact variance because of the storm damage done to his dad's house and due to insurance difficulties and delays. They needed to get started with the building of his dad's home. They had a hard time finding the property lines because the two surveys that were done showed different information. The surveyor they hired found two stakes, and came up with the property lines. The surveyor found 4 feet that no one owned located between his dad's property and on the south side of Cottonwood. They incurred \$20,000 in extra costs by having to hire a surveyor. Also to take into consideration, the property is close to the railroad which will not be built on and given the 4 feet the surveyor found. They are asking that, given this has been a financial hardship for his dad and given his age and ease of using a wheel chair, they would like to have concrete surfaces rather than pavers.

Member Tippelt asked about the 4 feet no one owns?

Mr. Joe Massmann stated not according to the surveyor. Take a look at the map. If you look at cottonwood, 4.2 on the east end and tapers back to 3.6 on the west end of cottonwood.

Chair Honer stated it is not unusual for that to happen.

Mr. Joe Massmann stated the past surveys were done in 1856 and 1921.

Member Tippelt asked if there is a culvert under the County Road?

Mr. Jim Massmann stated there was no culvert under the County Road, however, there is a culvert under cottonwood, but it is blocked.

Member Tippelt asked if they get a heavy rain, how is the house affected?

Mr. Jim Massmann stated the house is 10 inches higher than the alley. The rain doesn't affect the house.

Member Schaefer asked if the elevation changed from what it was before?

Mr. Jim Massmann stated there was no change in elevation from the last house.

Member Borgmann inquired about sandy soil?

Mr. Jim Massmann stated that it is sand.

Member Schaefer asked about the square footage of the house and garage.

Zoning Administrator Rena Weber stated 2122 should be the total square footage for their property.

Chair Honer stated the house and garage siding has to match.

Motion by Member Schaefer, second by Member Borgmann, to close the public hearing at 6:52 pm.

AYES: Honer, Tallman, Schaefer, Borgmann, Tippelt

ABSTAIN:

Motion passed on a 5 to 0 vote.

Member Schaefer asked why this needed to be an after the fact variance?

Zoning Administrator Rena Weber stated after reviewing the site plan they are over 880 sq. ft. on the impervious surface. It was common sense to let them build ahead of time due to insurance time restraints and seasonal timing causing an after the fact variance.

Chair Honer stated they should look at the staff report to decide if there are any other restrictions to be put on the variance.

FINDING OF FACT
Felix Massmann -201 Mill Street
 SUPPORTING/DENYING A VARIANCE

A variance may be granted when the applicant for the variance established that there are practical difficulties in complying with the zoning ordinance. The consideration of the following criteria as defined in Minnesota Statutes Section 462 and Minnesota Statutes Section 394.27:

1. Is the variance in *harmony* with the purposes and intent of the *ordinance*?
 Why or Why not?

Chair Honer Y M. Tallman Y M. Schaefer Y M. Borgmann Y M. Tippelt Y

2. Is the variance *consistent with the comprehensive plan*?
 Why or Why not?

Chair Honer Y M. Tallman Y M. Schaefer Y M. Borgmann Y M. Tippelt Y

3. Does the proposal put property to use in a *reasonable manner*?
 Why or Why not?

Chair Honer Y M. Tallman Y M. Schaefer Y M. Borgmann Y M. Tippelt Y

4. Are there *unique circumstances* to the property not created by the landowner?
 Why or Why not? 4 feet and the Burlington Northern on the south side.

Chair Honer Y M. Tallman Y M. Schaefer Y M. Borgmann Y M. Tippelt Y

5. Will the variance, if granted, maintain the *essential character* of the locality?
 Why or Why not? This is a residential neighborhood that has been established.

Chair Honer Y M. Tallman Y M. Schaefer Y M. Borgmann Y M. Tippelt Y

IF ALL OF THE ANSWERS ARE "YES", THE CRITERIA FOR GRANTING THE VARIANCE HAVE BEEN MET.

Liaison Willenbring stated the railroad is adjacent to the house and he didn't think the rain barrels would make a difference and feels a rain garden would be most effective.

Motion by Member Tippelt, second by Member Tippelt to approve the variance as it is presented.

Motion is rescinded.

Member Schaefer questioned the advantages of a rain garden and barrels?
 Liaison Willenbring recommends a rain garden, and wants to reiterate the foot print of the new home is larger than the past home. Liaison Willenbring had a letter of support for the Massmans from Mr. Karls.
 Member Tallman stated how well his rain garden works, and he can visibly see how well it works to prevents run off from going directly into the lake. The water drains into the ground just fine.

Motion by Member Schaefer, second by Member Borgmann, to approve the after the fact variance with the condition a rain garden will be put in, and the size be comparable to the overage in impervious surface.

AYES: Honer, Tallman, Schaefer, Borgmann, Tippelt

ABSTAIN:

Motion passed on a 5 to 0 vote.

Zoning Administrator Rena Weber stated Mr. Tamm dropped two houses on his one lot in Brentwood with no permit. She talked with the City Attorney and she had the City Council prepare a letter for him to remove the houses. He is planning to come and ask the council for forgiveness and an extension to next spring. City Hall received many complaints on these homes.

Member Borgmann concurs that the houses look terrible.

Zoning Administrator Rena Weber stated the brown house needs to meet the roof pitch of the neighborhood covenants, and the front of the house needs to change.

Liaison Willenbring stated it would be difficult for the houses to meet the covenants given the shape they are in.

Member Schaefer stated that what matters is that the ordinance was clearly violated, and in the past we have enforced the ordinance in other situations.

Updates:

Mr. Dan Hanson wants to change the lines on two of the lots thus may request a qualified minor subdivision.

Ms. Susan Dean has two lots on Grand Lake – Agate Beach Road and wants to split them.

Goat Cheese Plant – no new information.

City of Cold Spring is drilling for water on the Molitor Farm in Rockville.

ADJOURNMENT – Motion by Member Borgmann, second by Member Schaefer to adjourn the meeting at 7:24 PM. Motion carried unanimously.

MANDY LAIS
ADMINISTRATIVE ASSISTANT

TONI HONER
CHAIR

Motion carried unanimously.

Member Becker stated the hours need to be addressed. And what they allowed for repairs and the dust. Chair Honer stated that our ordinance stated 7:00 am, they could do maintenance from 6 am to 7 am.

Member Tippelt stated the residents need a contact number.

Member Becker stated he would recommend sticking to the city ordinance 7 to 10, with warm up of vehicles at 6:30 am.

Member Borgmann stated that they should have one night to do repairs until 12 midnight and the rest of the time shut down by 10 pm.

Mr. Magnuson asked if he can have a generator start at 6:30 am?

Chair Honer stated yes that is the warm up.

Chair Honer summarized the expectations of Knife River to extend the maintenance hours until midnight, Monday – Thursday, operations will be 7 am – 10 pm with a 6:30 am warm up. And the dates will go from October 6th to December 31st.

Motion by Member Becker, second by Member Borgmann, to approve the IUP as it is presented with the following conditions, operation hours 7 am – 10 pm Mondays – Thursdays with 6:30 am warm-up for vehicles, with extended hours for maintenance until midnight, preventative measures to keep the dust under control, and clean up debris that gets tacked onto the city roads, dates October 6 to December 31. Motion carried unanimously.

PUBLIC HEARING @ 6:30 PM FOR BEN & ROXIE NEU – 25595 LAKE ROAD – VARIANCE

Re: Variance Request
76.40133.0026: Owners: Ben & Roxie Neu
Property Address: 25595 Lake Road, St. Cloud, MN 56301

Variance(s) Requested:

1. Variance to construct an attached 52.7' x 28' garage and to locate it 5' from the side yard lot line where 10' is required.

Construction Requests:

1. Construct a 1475.60 square foot building to match the house.

Relevant Information:

1. R-1 – Residential District Shoreland District.
2. Total Square Footage is 1.72 acres – impervious is 10.8%
3. 16 notices of public hearing were sent out
4. No certificate of survey was required as the applicant supplied information from Stearns
- 5.

Recommendations:

1. Maintain existing drainage patterns over, under, and across their property.
2. No additional driveways will be allowed.
3. Proper temporary and permanent erosion control measures (BMP's) shall be implemented during and after construction to minimize sediment leaving the site; this would include proper installation of silt fence or bio-rolls on the down gradient side(s) of any excavations or earth disturbing activities, and subsequent re-vegetation of the disturbed areas soon after work is completed.
4. Approve with these conditions.

Mr. Ben Neu - 25595 Lake Road, stated they walked around and spoke to the neighbors. The Hagbloom's at 25573 Lake Road, are ok with what the Neu's want to do. The Neu's have been there since August 1st.

**Motion by Member Becker, second by Member Borgmann, to close the public hearing at 7:00 p.m.
Motion carried unanimously.**

9/9/2014

Member Borgmann stated he saw the Neu's house and he is fine with what they want to do.

A review of the finding was done (A copy of the finding of facts is hereby attached and marked Exhibit A)

1. 4 yes why:
2. 4 yes why:
3. 4 yes why:
4. 4 yes why: trying to do this to prevent cutting down trees and the way the lot was laid out.
5. 4 yes why:

***Motion by Member Becker, second by Member Tippelt, to approve as presented.
Motion carried unanimously.***

Board/Staff Report

Chair Honer -Sharon Hodel asked about building on the Grand Lake side of her acreage. She wants to build, right by Blochs. She would have to rezone, but can't rezone if it's tillable.

Member Tippelt gave an update on the grass mowing in the industrial park, its gone from the assessor, to the person who does the repossessed properties. Assessors can't afford to cut the grass. The restrictions are at a state level.

Change the name of 235th street? There is a 235th Street in Cold Spring and causes some confusion.

Chair Honer stated the Browns abatement process has started

406 Aspen Court has a hoop structure.

Shwinghammers- Spportsmans Club. Take a look on the tour

Castaway's vehicles were all licensed.

ADJOURNMENT – Motion by Member Borgmann, second by Member Becker, to adjourn the meeting at 7:15 PM. Motion carried unanimously.

**MANDY LAIS
ADMINISTRATIVE ASSISTANT**

**TONI HONER
CHAIR**

CITY OF ROCKVILLE

P.O. BOX 93

229 Broadway Street East

ROCKVILLE, MN 56369

(For Your Information – FYI, Council Action Needed = CA)

**AGENDA
NOVEMBER 16, 2016
ROCKVILLE CITY HALL
5:00 P.M.**

1. **Call to Order**
2. **Roll Call**
 - Recess to Work Shop**
 - a. 2017 Budget
 - b. Assessment Policy
 - Reconvene Council Meeting 6:00 p.m.**
3. **Pledge of Allegiance**
4. **Approval of Agenda - CA**
5. **Open Forum (4) Minute Limit (no sharing/allotting of minutes, statements only no dialog)**
6. **Approval Rockville City Council Minutes of October 19th, 2016 - CA**
7. **Approval of Bills Paid - CA**
8. **Consent Agenda: - CA**
 - a) Approve of October/November 2016 Journal Entries
 - b) Resolution 2016-41 Arcon Mitigation Agreement
9. **Public Hearing 2017 Street Project – City Engineer**
 - a) Resolution 2016-47 Ordering Improvements 2017 Street Project CA
10. **Final Assessment 260th Street – David Blommel**
11. **Department Reports**
 - a) Sheriff's Report
 - b) Planning Commission
 - 1) Resolution 2016-42 Combining 2 Lots Import Motors CA
 - 2) Resolution 2016-43 Peter & Janet Schaefer/Shirley Tonnell Administrative Plat CA
 - c) Administration
 - 1) 2017 Budget
 - 2) Resolution 2016-44 Canvassing the 2016 Elections CA
 - 3) Special Assessment RE: Tax Forfeiture Property PIP Consensus
 - 4) Resolution 2016-45 Certify to 2017 Tax Rolls - Outstanding Bills & Invoice CA
 - 5) Revisit the Assessment Policy
 - 6) Resolution 2016 – 46 RTCB CA
 - 7) Request to vacate City right-of-way, cabin at Lions Park
 - 8) Water Pressure and GPM Guidelines
 - d) Public Works
 - 1) MDH Water Report

**CITY OF ROCKVILLE
APPLICATION FOR VARIANCE REQUEST: Fee \$200
RECORDING FEE \$ 46.00 (PER DOCUMENT)**

Need separate checks: 1 for variance request & 1 for recording fee(s)

Need a Copy of Deed

PLEASE NOTE: ANY COSTS (i.e. LEGAL, ENGINEERING, ADMINISTRATIVE, STEARNS COUNTY FEES, ETC) INCURRED OVER AND ABOVE THE APPLICATION FEE ARE THE RESPONSIBILITY OF THE PETITIONER

PROPERTY LOCATION/ADDRESS: 9785 County Road 6

LEGAL DESCRIPTION: _____ PARCEL#: _____ ZONING: _____

EXPLANATION OF REQUEST: Electronic Sign on top of Business Sign

Provide Individual property owner names/addresses within 350 feet or nearest 10 property owners, whichever is greatest.

If replacing an existing structure, what will be done with the old structure? _____

Has a variance request been made previously on this property? _____ If yes, when? _____

PROPERTY OWNER:

WK 252-2348

Name (Print): DEFF G KRAUS Phone: 320-250-4850
First Name Middle Initial Last Name

Address: 9785 County Road 6

Signature (required): [Signature] Date: 11-8-2016

*Signature of property owner shall serve as acknowledgement and authorization of this request.

APPLICANT:

Same dba Juffs Auto Body

Name (Print): _____ Phone: _____

Address: _____

Signature (required): _____ Date: _____

(I hereby certify that I have read the above information and I agree with the terms).

STAFF USE ONLY:

Permit# _____
 R# Variance Application Fee Check # 35873 Date 11-9-16 101.41000.34103 \$200.00
 R# Reimb. for Invoice Check# Date 11-9-16 101.41000-34102 \$46.00

11.45



219.45

9785 Co. Rd. 6



RHEAUMES 320.252.7680
RHL SUPERGRAPHICS.COM

Staff Use only:

Zoning Administrator reviewed Variance Application.

1. Referred to City Attorney and/or City Engineer: Date _____

Why: _____

2. Determination made & why: _____

Complete Application

Incomplete Application Why: _____

Applicant was notified for additional information: Date _____ in which the information needs to be turned in by. _____ in person _____ by phone _____ email

Staff _____ Date _____

**CITY OF ROCKVILLE
VARIANCE APPLICATION AND THE PROCESS**

VARIANCES

No variance in the provisions or requirements of this Ordinance shall be authorized by the City Council unless it finds evidence that the following facts and conditions exist:

1. **Unique Circumstances**. That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district. The unique circumstances did not result from the acts of the property owner.
2. **Necessary to Preserve reasonable use of the property**. The property cannot be put to a reasonable use without the variance. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same district and in the same vicinity.
3. **Not merely economic**. The possibility of increased financial return or economic consideration will not in itself be deemed sufficient to warrant a variance if a reasonable use for the property exists under this Ordinance's terms. This means that cost or money savings cannot be the only reason for the variance.
4. **Maintains the Character of the Neighborhood**. The variance will not alter the area's essential character of the neighborhood.
5. **Meets the Spirit of this Ordinance and Comprehensive Plan**. The variance maintains the spirit and intent of this Ordinance and the Comprehensive Plan.

OTHER CONSIDERATIONS

1. **Solar Energy Systems**. Undue hardship shall include, but not be limited to, inadequate access to direct sunlight for solar energy systems.
2. **Earth Sheltered Homes**. Variances shall be granted for earth sheltered construction as defined in Minn. Stat. ' 116J.06, Subd. 2, when in harmony with this Ordinance.
3. **Non-permitted Use**. The City Council may not permit as a variance any use that is not permitted under this Ordinance for property in the zone where the affected person's land is located.
4. **Temporary Use for one family dwelling**. The City Council may permit as a variance the temporary use of a one (1) family dwelling as a two (2) family dwelling.
5. **Variances in Floodplain Districts**. No variance shall have the effect of allowing a Floodplain District a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area or permit standards lower than those required by state law.
6. **Conditions**. The City Council may impose conditions in granting variances to insure compliance and protect adjacent properties.

VARIANCE PROCEDURE

1. **Application Filing Required.** A person applying for a variance must fill out and submit to the Zoning Administrator a Variance Application form.
 - A. Application filled out & signed
 - B. Variance justification form filled out: (A variance cannot be granted unless evidence is presented that satisfies, at a minimum, the 3 questions on the justification form. Failure to adequately provide such information may result in a denial of your request for a variance.)

2. **Copy of Deed.**

3. **Provide Individual Property Owner names:** Within 350 feet or nearest 10 property owners (whichever is greatest).

4. **Required Fees.** A fee the City Council shall establish by resolution must accompany the application. **An additional fee may be charged for a typical projects, which in the opinion of the Zoning Administrator will require additional staff time and/or City expenditures. In such case, the applicant must reimburse the City for administrative time and professional services and costs incurred by the City.**
 - ◆ The required fee offsets –Staff time, publishing the public hearing notice, mailing the notice to property owners, the regular scheduled meetings of the Planning Commission & Council.
***Note: There is an additional cost to hold a special meeting.

5. **Detailed material.** Fully explaining the specific variance request.

6. **Application must include a site plan**
******Site Plan shows the following, as applicable:***
 - A. Site description (legal description).
 - B. A Certificate of Survey.
 - C. Site plan drawn to scale showing the parcel and building dimensions, area and setbacks.
 - D. Location of all existing and proposed buildings and their square footage.
 - E. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, sidewalks, vehicular circulation, and snow storage locations.
 - F. Landscaping and screening plans.
 - G. Waste facilities including enclosure and screening.
 - H. Drainage and grading plan.
 - I. Sanitary sewer and water plan with estimated use per day.
 - J. Soil type.
 - K. Any additional written or graphic information reasonably required by the Zoning Administrator or the Planning Commission.

7. **Notice for Floodplain Properties.**
 1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance; and
 2. Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

When a complete variance application is on file. (Here are the next steps)

1. **Referral to Planning Commission.** After the Zoning Administrator has reviewed the application and the date has been set for the public hearing, the Zoning Administrator shall refer the application to the Planning Commission, together with the Zoning Administrator's review and recommendations regarding the application.
2. **Planning Commission Review.** The Planning Commission shall consider the request at their next regularly scheduled meeting and shall make a recommendation and report to the City Council
 - A. The applicant or the applicant's representative(s) must appear before the Planning Commission in order to answer questions concerning the Variance application.
3. **Recommendation by the Planning Commission.** After reviewing the Variance, the Planning Commission will make a written report and recommendation to the City Council.
4. **Decision by City Council.** Upon receiving the Planning Commission's report and recommendation to the City Council as to whether or not a variance should be granted. The City Council, acting as the Board of Adjustment will make the final decisions on all variances.
 - A. **Appearance by Applicant.** The applicant or applicant's representative(s) must appear before the City Council in order to answer questions concerning the variance application.
5. **Vote Required.** Approval of any Variance to this Ordinance will require passage by a majority of the votes cast.
6. **Conditions and/or Revisions.** If the City Council grants the Variance, it may impose conditions it considers necessary to protect public health, safety and welfare. The City Council may also revise the variance to ensure that it is the minimum variance required.
7. **Written Findings.** The City Council will issue written findings stating the reasons for its decision and any conditions imposed, and will serve a copy of its decision on the applicant by U.S. mail, within ten (10) days after its decision. In any event, the City Council will make a decision on each Variance application within sixty (60) days after the Zoning Administrator receives the application or will extend the time for consideration under state law.
8. **Recording.** A certified copy of every Variance to abstract or registered property shall be filed with the Stearns County Recorder. The variance shall include the legal description of the property involved.
 - ◆ Stearns County Recorder office charges a fee to record the legal document.
The Applicant is responsible for those fees.
9. **Resubmission.** No application, which is substantially the same as and application of a denied Variance shall be resubmitted for a period of one (1) year from the date of the denial. The City Council may permit a new application if, in its opinion, new evidence or a change in circumstances warrant reconsideration.

APPEALS AND ADMINISTRATIVE DECISIONS

Appeals of decisions of the Zoning Administrator will be heard by the City Council provided that the person making the appeal files an application for a hearing within thirty (30) days after the decision to be appealed was delivered to the applicant by the Zoning Administrator. The following procedure will be followed:

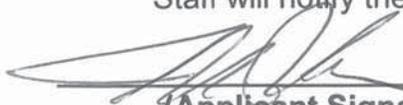
1. **Application.** The person making the appeal must apply for a hearing before the City Council on forms provided by the Zoning Administrator.
2. **Notice and Hearing.** The City Council will schedule a hearing on the appeal.
 - A. At least ten (10) days prior to the hearing a notice will be published in the official county newspaper.
 - B. The City Council will make their decision within thirty (30) days of the public hearing or may extend the time for consideration as permitted by state law.

LAPSE OF VARIANCE

If within one (1) year after granting a Variance the work permitted is not started, such variance shall become null and void unless a petition for an extension has been approved by the City Council.

THE STEPS:

1. Provide a complete application by the 2nd Tuesday of the month to be on the following month's Planning Commission Agenda.
2. **DATE:** _____ Planning Commission –May schedule a site visit; hold the public hearing at their meeting and make a recommendation to the Council at the next City Council meeting.
3. **DATE:** _____ Council - (Meets 3rd Wednesday of month) Makes the final decision–if Council grants the Variance Request.
4. Applicant:
 - ◆ If applicant waits for Council approval before providing the plans the next step is to fill out the Building Permit Application & provide 2 full sets of plans to City Hall.
 - ◆ If Applicant provided the Building Permit Application & 2 full sets of plans with the variance request. The applicant will need to notify City Hall that the plans that are on file are correct. This process will not be forwarded to the Building Official until applicant contacts City Hall.
DATE: _____ **Applicant should call City Hall.**
5. Building Official–Reviews the plans (allow 4-6 days). Once City Hall receives the plans back, Staff will notify the Applicant with the cost of the building permit.



(Applicant Signature)

(I hereby certify that I have read the above information and I agree with the terms.)

11-8-2016

Date

VARIANCE INFORMATION SHEET

Variance Definition: *A modification of the literal provisions of this ordinance granted when strict enforcement would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. The crucial points of the variance are (a) undue hardship, (b) unique circumstances and (c) applying to individual property. A variance is not justified unless all three elements are present in the case. District boundary lines, zoning, property use, or non-conforming use restrictions shall not be revised or amended by granting a request for variances.*

Variance: Where there are practical difficulties or unusual hardships in the way of carrying out the strict letter of the provisions of this ordinance, the Governing Body shall have the power, in a specific case to permit a variance from the provisions of this ordinance (see definition of variance). A variance permit shall expire after ninety (90) days following date of issuance unless written application for time extension is received and granted by the Governing Body prior to such expiration date.

WHEN IS A VARIANCE APPROPRIATE? A variance may be needed when a landowner wishes to develop property, and due to the uniqueness of their lot, they are unable to comply with the ordinance.

CAN ANYONE GET A VARIANCE? No. The courts have said the applicant has a “heavy burden of proof” to show there are no reasonable development options, and there is “hardship” in following the rules of the ordinance.

WHAT IS A HARDSHIP? “Hardship” as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. (Minnesota Statutes 394.27)

HOW DO I APPLY FOR A VARIANCE? You must submit a completed application and a site plan (to scale) that shows all physical characteristics of your property to the Planning/Zoning Committee. There is an example of a site plan attached to the variance application. This site plan must include: accurate property dimensions and shape, road centerline and right-of-way, all existing and proposed structures with dimensions, septic system, wells, driveways, city services, nearby structures on adjacent property, steep slopes, topographic alterations, wetlands, etc. All site plans must be signed and dated by the applicant.

WHO DECIDES IF I WILL GET A VARIANCE? After submitting the application for a variance to the Planning/Zoning Committee for review their recommendation is forwarded to the City Council. (Applications are to be submitted to the City Clerk and they will be put on the agenda for the next available meeting) The applicant then decides if they want to proceed with the variance request. If the applicant does proceed, the applicant then requests a Public Hearing to formally ask for the variance to be granted. A fee of \$200.00 dollars must accompany this request. At the public hearing the Planning Commission and the community have the opportunity to voice their opinions, both for and against, regarding the variance request. If it is found that the three points outlined above in the definition of a variance are met, it will then go to City Council for approval. Any building permits required in relation to a variance must also be approved by the City Council.

It is important to note that a variance cannot be used to circumvent the more formal procedures required to change the zoning category of land (request for rezoning)

December 13, 2016

STAFF REPORT

Rockville Planning Commission; City Council

Re: Variance Request(s)

76.41604.0900 Owners: Jeffery and Gina Kraus dba: Jeff's Auto Body

Property Address: 9785 County Road 6

Legal Description: 75.03A P/O N2NE4 & N 33 1/3 RODS of S2NE4 & P/O E2NW4 Lying E RR ROW Less 41 Acres & Less Hwy 23 ROW Section-Township-Range 03-123-029

Zoning District: B-2 – General Business

Variance(s) Requested:

1. Variance to construct a 4.2' x 19.95, 84sf Electronic sign on top of his current 6.8 x 19.95, 136sf for a total 220sf

Section 12, Subdivision 16.

B.1. Maximum aggregate area for lot.

- a. Single entity occupant property – One (1) square foot per lineal front foot.

B.3. Maximum sign area of Freestanding signs

- a. If facing Trunk Highway 23 – One hundred-fifty (150) square feet.
- b. If facing other arterial or collector street – One hundred twenty-five (125) square feet.

Relevant Information:

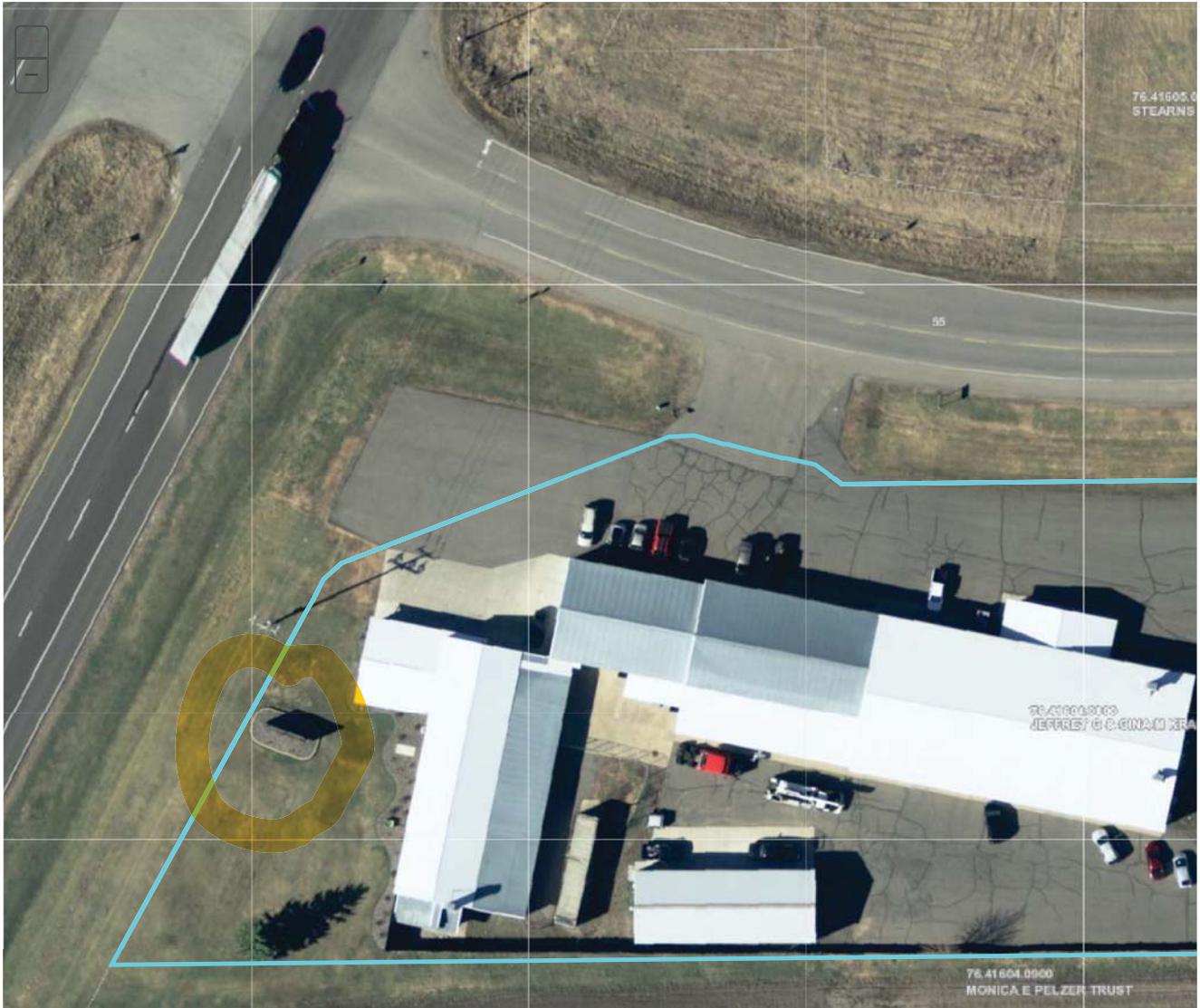
1. This property is located on the West side of CR 6 at the intersection of State Highway 23.
2. Property 4.56 acres more or less.
3. Front footage (Hwy 6) 760 lineal feet more or less, (Hwy 23) 183 lineal feet more or less
4. 6 notices of public hearing were sent out.

RECOMMENDATION

1. **Approve**

Submitted by:
Martin M. Bode
Zoning Administrator

Var – Jeff's Auto Body Sign 2016



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Title

8.5 x 11 Portrait

- 8.5 x 11 Portrait
- 8.5 x 11 Landscape
- 11 x 17 Portrait
- 11 x 17 Landscape
- Image (jpeg)

Show Legend

- Show Legend
- Show Property Info
- Map Only

[Documents](#)



CITY OF ROCKVILLE

229 Broadway Street East

P.O. Box 93

Rockville MN 56369

Phone 320-251-5836

Fax 320-240-9620

Jeff Hagen, Mayor
Don Simon, Councilor
Susan Palmer, Councilor
Richard Tallman, Councilor
Duane Willenbring, Councilor

Martin M. Bode, City Administrator
Judy Neu, Finance Director
Nick Waldbillig, Public Works Director
Debbie Weber, Administrative Assistant

NOTICE OF PUBLIC HEARING CITY OF ROCKVILLE

Notice is hereby given that the Rockville Planning Commission will hold a public hearing on **Tuesday, December 13, 2016 at approximately 6:00 p.m. at Rockville City Hall – 229 Broadway Street East** to consider the request of Jeffery and Gina Kraus dba: Jeff's Auto Body, for a variance to the Sign Ordinance. The address of the property is: 9785 County Road 6 -Rockville, MN with a legal description of: Parcel No. 76.41604.0900, 75.03A P/O N2NE4 & N 33 1/3 RODS of S2NE4 & P/O E2NW4 Lying E RR ROW Less 41 Acres & Less Hwy 23 ROW Section-Township-Range 03-123-029

The request is to exceed the square foot area of a sign in a B2 – General Business District.

All persons attending the hearing and wishing to address the Planning Commission will have an opportunity to do so. Those not able to be present at this meeting should submit their opinions in writing to the Rockville City Administrator, P.O. Box 93, Rockville, MN 56369 prior to the hearing.

Martin M. Bode
City Administrator

Publish 11/29/2016
Cold Spring Record

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Jeff's Auto Body Sign Variance CS Paper.wd.doc

STATE OF MINNESOTA)
)ss.
COUNTY OF STEARNS)

AFFIDAVIT OF SERVICE

Debbie Weber, being duly sworn, on oath says that at the City of Rockville in said County and State, on the **23rd** day of **November, 2016** he/she served the annexed Notice on see attachment, the person therein named, personally, by then and there handing to and leaving with him/her a true and correct copy of said Notice.

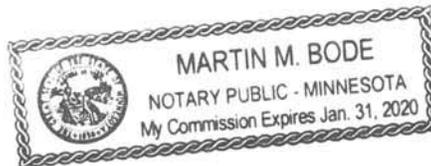


Signature

Subscribed and sworn to before me this 23 day of November, 2016.



Notary Public Signature BODE
MINNESOTA
Jan. 31, 2020



Notary Public Stamp

~~JEFFREY G & GINA M KRAUS~~
22877 FOXFIRE CT
COLD SPRING MN 56320-9763

JEFFREY G & GINA M KRAUS
22877 FOXFIRE CT
COLD SPRING MN 56320-9763

VERNON P SALZL REV TRUST
21770 FISHER CT
COLD SPRING MN 56320

STEARNS COOP ELECTRIC ASSN
PO BOX 40
MELROSE MN 56352-1455

MONICA E PELZER TRUST
9563 COUNTY ROAD 6
SAINT CLOUD MN 56301

~~MONICA E PELZER TRUST~~
~~9563 COUNTY ROAD 6~~
~~SAINT CLOUD MN 56301~~

County + state (2) → see attached

6 Notices



CITY OF ROCKVILLE

P.O. Box 93 • Rockville, Minnesota 56369

Jodi L. Teich, P.E.
Stearns County
455 28th Avenue South
Waite Park MN 56387

Minnesota Department of Transportation
395 John Ireland Blvd
St. Paul MN 55155-1800

SmartConnect Map



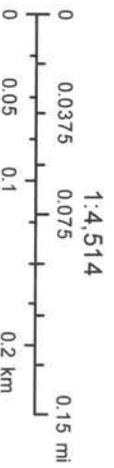
November 22, 2016

Search Results: Parcels

Override 1

Parcels

SEH



ORDINANCE NO. 2016-86

ORDINANCE AMENDING CERTAIN SECTIONS OF THE CITY OF ROCKVILLE ZONING CODE

WHEREAS, the City Council of the City of Rockville adopted official zoning controls ("Zoning Code") pursuant to the authority granted in Minnesota Statutes, Chapter 462 in April 2003 which replaced all pre-existing official controls; and

WHEREAS, the City Council amended the Zoning Code by Ordinance Numbers 2003-06, 2004-18, 2004-19, 2004-20, 2004-25, 2004-26, 2006-30, 2007-40, 2007-41, 2007-42, 2007-43, 2007-44, 2008-45, 2008-46, 2008-47, 2008-49, 2008-50, 2008-51 and 2008-53; 2009-58, 2009-61, 2009-62, 2009-63, 2010-64, 2011-69, 2011-70, 2011-73, 2012-74, 2012-76, 2014-82, 2015-84 and 2016-85.

WHEREAS, the City Council has the authority pursuant to Minnesota Statutes, Chapter 462 to amend the official zoning controls; and

WHEREAS, the City Council seeks to amend: certain zoning requirements, and

WHEREAS, public hearing was held on December 13, 2016 in front of the City Planning Commission, and members of the public were given an opportunity to comment on the proposed amendment(s)

NOW, THEREFORE, THE CITY COUNCIL DOES ORDAIN TO AMEND THE ROCKVILLE ZONING ORDINANCE AS FOLLOWS:

SECTION 33: STORMWATER MANAGEMENT Subdivision 12b;A-3 is hereby amended as follows:

3. On a General or Recreational Development lake, 15%, except that a lot of record may contain up to 25% impervious surface, without a variance, if the parcel provides a plan to the City that treats surface water runoff for water quality, as provided in 13(b).

SECTION 9: GENERAL REQUIREMENTS Subdivision 2;F is hereby amended as follows:

- F. **Site Plan Required**. All accessory structures shall require a building permit and approval of a Site Plan.

SECTION 9: GENERAL REQUIREMENTS Subdivision 2;H is hereby amended as follows:

- H. **Design and Appearance of Exterior**. All accessory buildings greater than 200 square feet shall be constructed so that the appearance of its exterior is uniform and resembles the color and material of the principal structure. For purposes of this Subdivision 2(G):

SECTION 9B: SITE PLAN Subdivision 1;1-i is hereby amended as follows:

- i. The erection or construction of any principal structure or building and/or any accessory structure within any zoning classification require submittal of a site plan to the City; except that single/two family residential units on lots within approved subdivisions shall be exempt providing they adhere to elevations and building types as approved with the grading/drainage plan.

SECTION 9B: SITE PLAN Subdivision 2;2-A,a is hereby amended as follows:

- a. Building permit applications for the construction of principal structures and/or accessory structures in the R-1 single family and R-2 two family district shall illustrate the location of the proposed building(s) relative to property lines, easements (public and private), elevations and the uses of all remaining land.

SECTION 9B: SITE PLAN Subdivision 2;2-B,a is hereby amended as follows:

- a. Building permit applications for the construction of principal and accessory structures in the A-40 Agricultural District shall illustrate the location of the proposed building(s) relative to property lines, easements (public and private), elevations and the uses of all remaining land.

SECTION 17: R-1 SINGLE FAMILY RESIDENTIAL DISTRICT Subdivision 3;4, is hereby amended as follows:

4. Accessory Buildings (not exceeding two hundred (200) square feet in area) for storing domestic equipment and non-commercial recreational equipment.

SECTION 18: R-2 TWO FAMILY RESIDENTIAL DISTRICT Subdivision 3;3, A, is hereby amended as follows:

- A. Accessory Buildings (not exceeding two hundred (200) square feet in area) for storing domestic equipment and non-commercial recreational equipment.

EFFECTIVE DATE: This ordinance shall become effective upon its passage and publication in the official newspaper.

Dated this 21st day of December, 2016

ATTEST:

Martin M. Bode
City Administrator/Clerk

Jeff Hagen
Mayor

Published: Cold Spring Record
December 27, 2016