



**SIOUX FALLS AND MINNEHAHA COUNTY
BOARD OF ADJUSTMENT
MEETING MINUTES**

April 23, 2018

**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS BOARD OF ADJUSTMENTS
April 23, 2018**

A joint meeting of the County and City Planning Commissions was held on April 23, 2018 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Bonnie Duffy, Becky Randall, Adam Mohrhauser, Doug Ode, Mike Ralston, and Jeff Barth.

CITY PLANNING COMMISSION MEMBERS PRESENT: Sean Ervin, John Paulson, Sharon Chontos, Katherine Fiegen, Nicholas Sershen, Steve Gaspar, and Kurt Johnson.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and David Heinold - County Planning
Donna Kelly – Office of the State’s Attorney
Jeff Schmitt – City Planning

The County Planning Commission Chair Bonnie Duffy presided over the meeting. The City Planning Commission was chaired by Sean Ervin.

ITEM 1. Approval of Minutes – September 28, 2015

A motion was made for the County by Commissioner Barth and seconded by Commissioner Randall to **approve** the meeting minutes for September 28, 2015. The motion passed unanimously. The same motion was made for the City by Commissioner Gaspar and seconded by Commissioner Johnson to **approve** the meeting minutes for September 28, 2015. The motion passed unanimously.



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ITEM 2. VARIANCE #18-02 to reduce the front yard setback from 30 feet to 9 feet on the property legally described as Tract 13 (Ex. H-1), West Acres, SW1/4, Section 17-T101N-R50W.

Petitioner: Garrett Bruhn

Property Owner: same

Location: 46728 265th St. - Approximately 2 miles west of Sioux Falls

Staff Report: Scott Anderson

This would reduce the required front yard setback from 30 feet to 9 feet.

General Information:

Legal Description – Tract 13 (Ex. H-1), West Acres, SW1/4, Section 17-T101N-R50W.

Present Zoning – A1 Agriculture

Existing Land Use – residential

Parcel Size – approximately .5 acres

Staff Report: Scott Anderson

Staff Analysis: The applicant is requesting a variance to reduce the minimum front yard setback from 30 feet to 9 feet in order to construct a new 26' by 26' detached garage. The proposed garage would be located north of the existing residence and the driveway to the garage would come off of Kuhle Drive

On April 5, 2018 staff conducted a site visit. The property is generally flat. There is an approximate 2 feet elevation difference from west to east. The existing septic tank and drain field are located on the south side of the existing residence and would not be impacted by the proposed garage. The residence has an existing double stall attached garage with a circular driveway from 265th Street (W. 12th or SD Highway 42) and Kuhle Drive. Also during the site inspection, staff noted several other structures in the area that do not meet the minimum front setback, such as the garage located 26495 Kuhle Drive and the residence at 26497 Kuhle Drive.

This area has recently been added to the Sioux Falls joint zoning area. As such, the request was routed to the City of Sioux Falls for comments. On April 6, 2018, City Planner, Jeff Schmidt, provided comments indicating that no hardship exists and that they would not support the variance request. City planning staff also noticed that the location of the proposed garage could be moved east and meet all of the setback requirements.

Minnehaha County Zoning Ordinance clearly states that the Board of Adjustment may not vary the setback regulations unless it makes findings based upon evidence that **all** of the following conditions are present. Staff has visited the site and prepared its observations in regard to the following.



1. That specific circumstances or conditions, such as exceptional narrowness, topography, or siting exists.

There are no unique topographical features associated with this lot. The Zoning Ordinance states that the topography of the lot has to be so extreme that it would result in a hardship to the owner and not merely an inconvenience. The owner has failed to demonstrate this. In fact, it appears that there is room to the east where the proposed garage could be constructed and meet the minimum setback requirement.

2. That the Variance does not grant a use which is otherwise excluded from that particular district, or diminish or impair property values within the area.

The requested variance would not allow a use otherwise excluded from the district.

3. That due to the specific circumstance or existing conditions strict application of the Zoning Ordinance would be an unwarranted hardship.

No hardship exists. The applicant has full use of the property with a single family residence and garage. An alternate location can be found on the lot which would meet all of the minimum required setbacks. While the lots within the subdivision are relatively small, the applicant can construct this detached garage and meet all of the required setbacks.

4. That the granting of a Variance is not contrary to the public interest and is in harmony with the general purposes and intent of the Zoning Ordinance.

The proposed variance is not in the public's interest. The proposal would allow a reduction in a setback when a suitable alternative exists. The applicant can alter plans for the location of the garage and meet the requirement setbacks.

5. That because of circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

The property owner has full reasonable use of the property. The property owner can construct the garage to meet all of the required setbacks. Strict provisions of the zoning regulations pose no hardship to the applicant. The intent and purpose of the minimum setback may even benefit this property owner, as any future road expansion or infrastructure improvements such as sidewalks will not have as significant of an impact on the proposed garage.

In reviewing this aspect of the criteria set forth in the Zoning Ordinance, the applicant cannot make a case for the reduced setback. The property owner has full reasonable use of the property. The property owner can construct the garage to meet all of the required setbacks by moving the



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proposed location to the east.

Recommendation: Staff recommends **denial** of Variance #18-02 to reduce the front yard setback from 30 feet to 9 feet.

PUBLIC TESTIMONY

Scott Anderson of the County Planning Department presented the staff report and recommendation.

Commissioner Barth clarified with staff that the required setback for this location is 30 feet and that there is two front yard setbacks.

Commissioner Randall asked how far back is the house from the road. Scott Anderson responded that he was not certain, but judging by the photo and site visit, the house is approximately 20 feet away.

Garrett Bruhn, the petitioner at 46728 265th Street, explained that there is a 30 foot setback requirement from the right-of-way. He added that he reasonable didn't want to have a driveway extended through his back yard.

Commissioner Mohrhauser, asked if the existing tool shed is planned for removal. Garret Bruhn responded that the shed would be removed and the fence will be replaced.

Commissioner Barth clarified with staff that there is a 3 foot setback from the side yard for an accessory building. Garrett Bruhn added that there is a power line along the north side of the property that requires 7 feet or clearance.

Nobody else came up to speak about the item and the floor was closed by the chair.

DISCUSSION

Commissioner Barth noted that there may be a time sidewalks will be coming through and 9 feet will not be enough space.

Commissioner Johnson noted that standards are important and this request may encroach on future development and ongoing use of the property.

ACTION

A motion was made to **deny** Variance #18-02 for the County by Commissioner Barth and seconded by Commissioner Randall. The motion passed unanimously. A motion was made to **approve** Variance #18-02 for the City by Commissioner Johnson and seconded by Commissioner Chontos. The motion failed by unanimous vote.

Variance #18-02 – Denied



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Old Business

None.

New Business

None.

Adjourn

A motion was made for the County by Commissioner Barth and seconded by Commissioner Randall to **adjourn**. The motion passed unanimously. A motion was made for the City by Commissioner Gaspar and seconded by Commissioner Paulson to **adjourn**. The motion passed unanimously. The meeting was adjourned at 7:16 pm.