

RESOLUTION NO. PC17-050

**A RESOLUTION OF THE CITY OF SHAKOPEE APPROVING A REQUEST TO
ALLOW A TYPE B NONCONFORMING USE TO BE CONSTRUCTED IN THE OLD
SHAKOPEE RESIDENTIAL (R-1C) ZONE.**

WHEREAS, Viktor Tukhlynovych, applicant and property owner, has requested a determination by the Board of Adjustment and Appeals concerning a Type B nonconformity, under the provisions of Chapter 151, Land Use Regulation (Zoning), of the City of Shakopee City Code, Section 151.017 (D), to allow a proposed building construction to match the existing non-conforming front yard building setback, but meeting all other required zoning standards; and

WHEREAS, the subject parcel of land is presently zoned Old Shakopee Residential (R-1C) Zone; and

WHEREAS, the legal description for the subject parcel of land for which the request is being made is:

*The North Half of Lots 6 and 7 of Block 73, City of Shakopee, Scott County, Minnesota;
and*

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT AND
APPEALS OF THE CITY OF SHAKOPEE, MINNESOTA, AS FOLLOWS:**

That the application for determination is approved, based on the following findings with respect to City Code Sec. 11.91, Subd. 4. A, "Regulation of Type B Nonconformities."

1. The number and extent of nonconformities will not be increased in conjunction with the proposed construction or intensification;

The existing non-conformity of the building setback (i.e. existing wall of house along Holmes Street) will not be increased in conjunction with the proposed renovation.

2. The impact of nonconformities upon adjacent property will not be increased in conjunction with the proposed construction or intensification; and

The impact of the nonconformity upon adjacent property will not be increased in conjunction with the proposed reconstruction. The proposal would be equal to or setback greater than the existing structure, and would maintain the min. side yard required setback. The structure located to the south of this appears to have greater than a 10-foot side yard setback.

3. The conditions to be imposed by the Board of Adjustment and Appeals will affect the intent of this section.

Purpose of Section 151.017 (D). It is recognized that there are structures and uses of land which were lawful when established but which do not now comply with all applicable provisions of this Chapter. It is also recognized that there are Type B nonconformities in which the uses continue to be permissible but which are operated on sites or in structures which do not fully meet the development standards of this Chapter. It is the intent of this Chapter to distinguish between uses, which are not permitted, and those in which development standards or other incidents of development are not in full compliance with this Chapter. Type B nonconformities will be allowed to continue in existence and expand under carefully regulated conditions.

NOW THEREFORE, BE IT ALSO RESOLVED BY THE BOARD OF ADJUSTMENT AND APPEALS OF THE CITY OF SHAKOPEE, MINNESOTA, THAT:

The number and extent of nonconformities will not be increased in conjunction with the proposed construction, nor will the impact of nonconformities upon adjacent property be increased in conjunction with the proposed construction, provided the proposal is constructed consistent with the submitted plans and in compliance with the following conditions:

1. There shall be maintained a minimum of 6 feet between the proposed garage and any structures on adjacent lots.
2. The property owner must obtain a right-of-way permit for working with City sidewalk and curb & gutter for the driveway installation.

Adopted by the Board of Adjustment and Appeals of the City of Shakopee, Minnesota this 5th day of October, 2017.

**Chair of the Board of Adjustment
and Appeals**

ATTEST: _____
Michael Kerski
Director of Planning and Development

CERTIFICATION OF RESOLUTION NO. PC17-050

I, Lori Hensen, City Clerk for the City of Shakopee, do hereby certify that the attached is a true and correct copy of **Resolution No. PC17-050**, presented to and adopted by the Board of Adjustment and Appeals of the City of Shakopee at a duly authorized meeting thereof held on the 5th day of October, 2017, as shown by minutes of the meeting in my possession.

Dated this _____ day of _____, 2017

Lori Hensen, City Clerk

SEAL

Prepared by:
THE CITY OF SHAKOPEE
129 South Holmes
Shakopee, MN 55379