

RESOLUTION NO. PC2022-007

A RESOLUTION OF THE CITY OF SHAKOPEE, MINNESOTA, APPROVING A VARIANCE TO CITY CODE SECTION 151.112, SUBDIVISION E (LANDSCAPING REQUIREMENTS) AND DENYING A VARIANCE REQUEST TO CITY CODE SECTION 151.040, SUBDIVISION F, (HIGHWAY BUSINESS ZONE DESIGN STANDARDS).

WHEREAS, Jarice Barbee (applicant) and Steve Soltau of Shakopee Crossings Limited Partnership (property owner) have made application for two variances in the Highway Business (B-1) Zoning District; and

WHEREAS, the property upon which the requests are being made is legally described as:

(See Attached Exhibit); and

WHEREAS, all required public notices regarding the public hearing for the application were duly sent and posted and all persons appearing at the hearing have been given an opportunity to be heard thereon; and

WHEREAS, the Board of Adjustment and Appeals of the City of Shakopee did review the application on May 5, 2022 and adopted the following findings:

Findings for the Variance Request to City Code Section 151.112 (Landscaping Requirements)

Criterion I

The strict enforcement of the ordinance provisions would cause undue hardship because of circumstances unique to the individual property under consideration. Undue hardship means the following:

1.A. The property owner proposes to use the property in a reasonable manner not permitted by an official control;

***Finding 1.A.** The applicant is proposing a reasonable use of the property and in a manner that is consistent with the spirit and intent of the landscaping requirements for parking areas.*

1.B. The plight of the landowner is due to circumstances unique to the property;

Finding 1.B. *The proposed regulation requires 1 landscape island per 10 parking spaces. This requirement was intended for larger parking areas. If an island is required in this area, the applicant would be providing an island in this row per 5.5 spaces.*

1.C. The circumstances were not created by the landowner;

Finding 1.C. *Although the current landowner did create this lot, the landscaping regulations for parking areas were slightly different when the lot was created.*

1.D. The variance, if granted, will not alter the essential character of the locality; and

Finding 1.D. *The variance will not alter the character of the area. The applicant is proposing to plant several trees in the area that will shade this parking area.*

1.E. The problems extend beyond economic considerations. Economic considerations do not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.

Finding 1.E. *The problems extend beyond economic considerations. The intent of the code regulation is to provide tree coverage and break up large expanses of pavement. The applicant's site has a total of 19 proposed parking spaces in three different areas of the site.*

Criterion 2:

It has been demonstrated that a variance as requested will be in harmony with the general purposes and intent of the chapter.

Finding 2 *The proposed variance would be in harmony with the general purpose and intent of Chapter 151 (Zoning) as it would allow for one row of parking with 11 spaces. Requiring a landscape island in this row would end up requiring an island per 5.5 spaces in this area.*

Criterion 3

The request is not for a use variance.

Finding 3: *The request is not a use variance.*

Criterion 4

Conditions to be imposed by the Board of Adjustment and Appeals will insure compliance to protect the adjacent properties.

Finding 4: *The applicant is proposing to plant trees in this area on the site plan of the proposed conditional use permit.*

Criterion 5

Variances in the flood plain overlay zone also shall meet additional criteria:

Finding 5: *(Not applicable since the property is not within the flood plain overlay zone.)*

Findings for denial of the Variance Request to City Code Section 151.040

Criterion 1

The strict enforcement of the ordinance provisions would cause undue hardship because of circumstances unique to the individual property under consideration. Undue hardship means the following:

1.A. The property owner proposes to use the property in a reasonable manner not permitted by an official control:

Finding 1.A. The property can be put to a reasonable use. The applicant is proposing to create a new lot for the proposed car wash facility. There is nothing preventing the applicant / property from creating a lot that allows the proposed facility to meet the setback requirements.

1.B. The plight of the landowner is due to circumstances unique to the property;

Finding 1.B. There is nothing unique on the property that limits the north-south depth of the lot, as the parcel has not been created yet.

1.C. The circumstances were not created by the landowner;

Finding 1.C. The circumstances are created by the landowner's desire to place a lot line 15.8' closer to the proposed building than the code allows.

1.D. The variance, if granted, will not alter the essential character of the locality; and

Finding 1.D. The variance would alter the essential character of the locality, as none of the freestanding retail buildings in this area have a setback less than 20' from a lot line and the applicant is proposing a deviation by 15.8', or a 79% reduction in setback. The applicant / property owner have not presented a plan showing how this property is unique and that there is not space available for this building to meet the setback.

1.E. The problems extend beyond economic considerations. Economic considerations do not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.

Finding 1.E. The problems do not extend beyond economic considerations. The applicant / owner are proposing a lot that does not meet the requirements. Allowing the creation of a smaller lot for a new building purely for economic reasons sets a precedent.

Criterion 2

It has been demonstrated that a variance as requested will be in harmony with the general purposes and intent of the chapter.

Finding 2 The proposed variance would not be in keeping with the spirit and intent of Chapter 151 (Zoning) as it would allow a building to be placed significantly closer to the lot line than the surrounding commercial uses. A lot can be created that would allow the building to meet the setback requirements and provide adequate separation from the unknown future development to the south.

Criterion 3

The request is not for a use variance.

Finding 3 The request is not a use variance.

Criterion 4

Conditions to be imposed by the Board of Adjustment and Appeals will insure compliance to protect the adjacent properties.

Finding: *The board is denying the proposed variance request, no additional conditions are necessary.*

Criterion 5

Variances in the flood plain overlay zone also shall meet additional criteria:

Finding 5 ***(Not applicable since the property is not within the flood plain overlay zone.)***

Adopted in the regular session of the Board of Adjustment and Appeals of the City of Shakopee, Minnesota, held the _____ day of May, 2022.

Chairperson,
Board of Adjustment and Appeals

ATTEST:

Michael Kerski,
Director of Planning and Development

PREPARED BY:
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