

RESOLUTION PC2023-011

A RESOLUTION OF THE CITY OF SHAKOPEE, MINNESOTA, DENYING A VARIANCE REQUEST TO CITY CODE SECTION 151.142, SUBDIVISION E, (PERFORMANCE/DESIGN STANDARDS).

WHEREAS, G4 Construction Management, LLC, applicant, and J & A Financial, LLC (dba Culver's Restaurant), property owner, have made application for a Variance of the design standards regarding parking facility setbacks; and

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

Lot 1, Block 2, Valley Park 12th Addition; 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 August 3, 2023 and adopted the following findings:

Findings for denial of the Variance Request to City Code Section 151.142 (Design Standards):

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, but not in a manner that is consistent with the spirit and intent of the City Code requirements for parking areas. There is nothing preventing the applicant / property owner from continuing to utilize the site in its present configuration, or with improvements that would not further impact the parking lot setbacks.

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

Finding 1.B. The proposed expansion of the parking lot is not a unique circumstance to this property. This business has operated successfully in its current configuration (building and parking layout) since the original construction/site development in the early 2000's.

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

Finding 1.C. The landowner did create this current proposal and the circumstances surrounding it.

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

Finding 1.D. *The variance will alter the character of the area as the parking lot would be located closer to the property line and could create undesirable lighting conflicts between the headlights of those cars in the lot with those on the adjacent street (Canterbury Road).*

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.*

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 harmony with the general purpose and intent of Chapter 151 (Zoning) as it would allow a parking area well within the desired setbacks as established in the City Code.*

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 ensure compliance to protect the adjacent properties.

Finding 4: *Should the Board support this request, they should provide conditions that would ensure some form of protection of the adjacent properties.*

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 3rd day of August, 2023.

Chairperson,
Board of Adjustment and Appeals

ATTEST:

Michael Kerski,
Director of Planning and Development

PREPARED BY:
City of Shakopee
485 Gorman Street
Shakopee, MN 55379