

RESOLUTION NO. PC2024-009

**A RESOLUTION OF THE CITY OF SHAKOPEE, MINNESOTA, DENYING A
VARIANCE REQUEST TO CITY CODE SECTION 111.02 (BUILDING PERMITS)
AND 151.108 (CONSTRUCTION MATERIAL) FOR AN OVERHEIGHT FENCE IN
THE FRONT YARD CONSTRUCTED OF POULTRY NETTING AND T-POSTS IN
THE RURAL RESIDENTIAL ZONING DISTRICT**

WHEREAS, Kayden Fox (applicant and property owner) has made application for a variance to City Code Section 111.02, Subdivision B. and Section 151.108, Subdivision A, to retain an unpermitted fence greater than three (3) feet in height in the front yard that is constructed of t-posts and thin, flexible, galvanized steel wire with hexagonal gaps (poultry wire) for the keeping of ducks and geese at 1396 Blue Heron Trail in the Rural Residential (RR) zoning district; and

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

Lot 2, Block 3, Timber Trails, in Scott County, MN; 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 8, 2024 and adopted the following findings:

Findings for the Variance Request to City Code Section 111.02 (Building Permits) and Section 151.108 (Construction Materials)

Criterion I

The application for the variance establishes that there are practical difficulties in complying with the official control. Practical difficulties 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 existing four (4) foot tall fence constructed of t-posts and poultry wire is not reasonable as this residential development is not agricultural and the property is visible from a*

city park (Timber Trails) and adjacent residences. A fence three (3) feet in height would be permitted in the front yard provided it meets the requirements of City Code Section 111.02B. The City Code was amended By Ordinance 885 in 2014 to allow hen chickens on all properties with conditions outlined in City Code Section 130.04H. The City Code does not address decks/geese.

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

Finding 1.B. The property is similar in size and has the same zoning designation (RR) as the immediately surrounding properties. There are no circumstances unique to the property that would prohibit the installation of a fence that meets the construction material, height, and location requirements.

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

Finding 1.C. The circumstances are created by the landowner's desire to keep an unpermitted fence that does not meet City Code requirements related to construction materials, height, and location.

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

Finding 1.D. The variance would alter the essential character of the locality as there a limited number of fences in this development and those that do exist are constructed of allowed materials (wood and chain link). The standards are in place so aesthetically pleasing, high quality materials that are easily maintained are utilized for fencing.

1.E. The problems extend beyond economic considerations. Economic considerations alone do not constitute practical difficulties.

Finding 1.E. The problems do not extend beyond economic considerations. The applicant is requesting to use the proposed t-posts and poultry wire in lieu of a fence constructed of chain link, vinyl, wood or other allowed materials. There are no circumstances unique to the property that would prohibit the installation of a fence that meets the construction material, height, and location requirements.

Criterion 2

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

Finding 2: The proposed variance would not be keeping with the spirit and intent of Chapter 151 (Zoning) as it would allow the use of a lower standard of fencing materials at a height of four (4) feet in a very visible location adjacent to a city park (Timber Trails) and other residential properties in the development. The 2040 Comprehensive Plan guides this property as Suburban Residential as it will be served by municipal utilities in the future.

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 must be directly related to and must bear a rough proportionality to the impact created by the variance.

Finding 4: 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 August, 2024.

Chairperson,
Board of Adjustment and Appeals

ATTEST:

Michael Kerski,
Director of Planning and Development

PREPARED BY:
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