

RESOLUTION NO. PC2024-010

A RESOLUTION OF THE CITY OF SHAKOPEE, MINNESOTA, APPROVING A VARIANCE REQUEST TO CITY CODE SECTIONS 54.15.C.8 AND 151.007.J.4.M FOR PROPERTY AT 4935 EAGLE CREEK BOULEVARD.

WHEREAS, Dale Denn, Homestead Septic, applicant, and Lincoln Castle, property owner, have made application for a Variance of the bluff setback to allow an Individual Sewage Treatment System (ISTS) six (6) feet from the bluff impact zone, where 50' is the minimum required setback per City Code; and

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

East 100 feet of the West 825 feet of Section 15, Township 115, Range 22, Scott County, Minnesota; 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 Sections 54.15.C.8 and 151.007.J.4.M.:

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, in a manner that is consistent with the spirit and intent of the City Code requirements. The property owner is experiencing a failing sewage system, and construction of a replacement system that could meet all city and county requirements is not possible. The design they are proposing is the least impactful to this and surrounding properties.*

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

***Finding 1.B.** The proposed replacement system in the location identified is the only option available to them. The property is narrow and the bluff is close to the rear of the residential structure. The well for this property and adjacent homes are in the front yard and locating this system would in the front yard would not allow for compliance with setbacks to the wells.*

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

***Finding 1.C.** The landowner did not create this situation. They are only dealing with how to install a new system that minimizes impacts on adjacent properties and the bluff impact zone.*

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 as the replacement system will generally be in the same location as the existing failing system, albeit slightly closer to the bluff impact zone.

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. They include physical limiting 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 be in harmony with the general purpose and intent of Chapter 151 (Zoning).

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.)

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

That the variance to City Code Sections 54.15.C.8 and 151.007.J.4.M is hereby approved, subject to the following conditions:

1. The design of the proposed replacement ISTS shall be similar to the plan submitted, and subject to final review/approval by the City and Scott County at time of building permit.
2. A certified land survey shall be required at time of building permit to ensure the setbacks proposed are met.
3. Obtain a grading permit prior to ground disturbance.
4. Install tree protection fencing at the drip line of all trees proposed to be protected, and install erosion control fencing at perimeter of project to ensure minimal erosion and ground disturbance of the bluff impact zone.

Adopted in the regular session of the Board of Adjustment and Appeals of the City of Shakopee, Minnesota, held the 8th day of August, 2024.

Chairperson,
Board of Adjustment and Appeals

ATTEST:

Michael Kerski,
Director of Planning and Development

PREPARED BY:
City of Shakopee
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