

RESOLUTION NO. PC2018-004
A RESOLUTION OF THE CITY OF SHAKOPEE, MINNESOTA,
APPROVING VARIANCES OF REDUCED LOT WIDTHS AND SIDE YARD
SETBACKS FOR CERTAIN PROPERTIES LOCATED WITHIN WINDERMERE
SOUTH

WHEREAS, D.R. Horton, Inc. - Minnesota, applicant, and Joe Theis, property owner, have made application to lot widths and side yard setback variances for certain properties located south of 17th Avenue, west of CSAH 78/Marystown Rd., and north of CSAH 78 in Windermere South; and

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

Windermere South, 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 this application on April 5, 2018 and adopted the following findings:

Variance Findings:

Criterion 1

The strict enforcement of the ordinance provisions would cause practical difficulties because of circumstances unique to the individual property under consideration. Practical difficulties means the following:

1.A. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance:

Finding 1.A. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance, with the construction of single story homes with setbacks that still propose adequate separation from the adjacent structures and driveways.

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

Finding 1.B. The property is unique in that the individual lots are smaller with reduced setbacks from the standard R-1B Zone requirements; however, this development was part of a

planned proposal that received reduced setback approvals with their original proposal. The current proposal is not out of character with the balance of the development, as represented in the first two phases of Windermere Development located adjacent to the north.

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

Finding 1.C. The circumstances generally lie with the previously approved Bluffs of Marystown project, which proposed a mixed residential use with reduced setbacks similar to what is presently being proposed.

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

Finding 1.D. The variances would not alter the character of the locality. By all appearances, the proposed structures will function much like compliant structures.

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

Finding 1.E. The request is not economic in nature, the variance requests allow for construction of structures on property with setbacks generally similar to other adjacent structures and consistent with the West End Study plan which identified this area for townhouses and small single-family lots in a medium density neighborhood.

Criterion 2

It has been demonstrated that a variance as requested will be in keeping with the spirit and intent of the Zoning Ordinance.

Finding 2 The proposed variances would in keeping with the spirit and intent of Chapter 151.

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 conditions listed in the draft resolution and Preliminary Plat will regulate the use of the property by providing for ways of mitigating the impact of reduced setbacks and lot widths.

Criterion 5

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

Finding 5 (Not applicable since this 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 variances for lot widths and side yard setbacks for certain properties located in Windermere South are hereby approved, subject to the following conditions:

1. The 33 properties proposed with reduced lot widths are those lots identified in Blocks 9, 10 & 11 of the submitted preliminary plat of Windermere South.

2. All structures shall comply with all other performance standards of Chapter 151.108 (B) and the design standards of 151.033 (Urban Residential Zone) of the City Code except for the requested side yard setback variance.
3. The residential subdivision shall be developed consistent with the approved Windermere South Preliminary Plat.

Adopted by the Shakopee Board of Adjustment and Appeals on the 5th day of April, 2018.

BOAA Chairperson

ATTEST:

Michael Kerski
Director of Planning & Development

PREPARED BY:
City of Shakopee
129 Holmes Street South
Shakopee, MN 55379