

RESOLUTION NO. PC2019-007
A RESOLUTION OF THE CITY OF SHAKOPEE, MINNESOTA,
APPROVING A VARIANCE TO THE SIDE YARD SETBACK AT 165 MOUND
STREET

WHEREAS, Jeremy Gylland, property owner, has made application for a Variance to the side yard setback; and

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

P & V 2ND ADDN Lot 002 Block 002

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 June 6, 2019 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 mean 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 is proposing to use the property in a reasonable manner. This Variance of 2.5 feet will allow Mr. Gylland to park all of his vehicles inside the garage, which is not something he is able to do currently. Planning staff is preparing to alter the code in the Urban Residential Zone in the coming months to allow principal structures to be 7.5 feet from the side-yard property line, and this Variance will be in keeping with that upcoming change.

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

Finding 1.B. The circumstances of this project are unique to the property. Mr. Gylland's house is built on a hill, with a walk out basement located behind the house/garage. The property owner was not able to build his garage further back into his property as a result. The only option he was left with was to extend the current garage to the west.

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

Finding 1.C. The circumstances causing Mr. Gylland to be unable to build an addition to his garage on a different portion of his property were not created by him. Rather, the size of his lot, and the slope of the property are the contributing factors.

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

Finding 1.D. Staff does not believe that allowing the 2.5 foot Variance to the side-yard setback will alter the essential character of this locality. As mentioned above, there is an intent to update the side yard setback in the Urban Residential Zone the coming months, and this Variance will match what will be allowed in the future. Additionally, there are other houses on the street that have added an additional stall to their garage, and Mr. Gylland's proposed addition would not be a departure from what exists in this neighborhood already.

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 for the side-yard setback Variance is not economic in nature. It is due to the logistical problem of the slope of the property.

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 be in keeping with the spirit and intent of the Zoning Ordinance, and will not be a Variance from the Zoning Ordinance in the future.

Criterion 3

The request is not for a use variance.

Finding 3 The requests are 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 proposed will result in a similar/compatible situation with the most adjacent properties.

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 variance to the side yard setback for the property located at 165 Mound is hereby granted, subject to the following conditions:

1. A building permit shall be submitted for the garage addition, at which time it will be reviewed to ensure compliance with all applicable City Code, Building Code, and Fire Code regulations
2. Prior to any land disturbing activity, the applicant will obtain a grading permit and/or a building permit. Along with the permit(s), the applicant must submit existing and proposed grading plans to verify that the drainage and utility easement is not impacted by the proposed addition.

Adopted by the Shakopee Board of Adjustment and Appeals on the 6th day of June, 2019.

BOAA Chairperson

ATTEST:

Michael Kerski
Director of Planning & Development

PREPARED BY:
City of Shakopee
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Shakopee, MN 55379