

RESOLUTION NO. R2019-090

A RESOLUTION OF THE CITY OF SHAKOPEE APPROVING THE PRELIMINARY AND FINAL PLAT OF MOUNT OLIVE CHURCH ADDITION AND VARIANCES OF FRONT AND SIDE YARD SETBACKS.

WHEREAS, D.R. Horton, Inc. - Minnesota, applicant and Mount Olive Lutheran Church, property owner, have made application for Preliminary and Final Plat of Mount Olive Church Addition and Variances to allow 25 foot front yard and 7.5 foot side yard setbacks; and

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

Lot 1, Block 3, Windermere South and Lot 1, Block 1, Theis Highlands 1st Addition; and

WHEREAS, all required public notices regarding the public hearing for the Preliminary Plat and Variances were duly sent and posted and all persons appearing at the hearing have been given an opportunity to be heard thereon; and

WHEREAS, the Planning Commission held a public hearing and reviewed the Preliminary Plat and Variances on August 8, 2019; and

WHEREAS, the City Council reviewed the Variance Requests and the Preliminary and Final Plat on August 20, 2019.

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 and applicant propose 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 developments and adequate 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 is contingent to a development that received reduced setback approvals, and the current proposal is not out of character with the balance of that development.

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 unlike 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.

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 will regulate the use of the property by providing for ways of mitigating the impact of reduced setbacks.

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 City Council of the City of Shakopee, Minnesota that the Variance Requests of reduced Front Yard Setbacks (25 feet, where 30 feet is the min. requirement) and Side Yard Setbacks (7.5 feet, where 10 feet is the min. requirement), and Preliminary & Final Plat of Mount Olive Church Addition is hereby approved subject to the following conditions:

I) The following procedural actions must be completed prior to the recording of a Final Plat:

- A. Approval of title by the City Attorney.
- B. Provide electronic files (AutoCAD and Portable Document Format) of the Final Plat to be recorded with datum on the Scott County coordinate system.
- C. Park dedication fees in the amount required by the City Code and adopted City fee schedule shall be paid prior to the recording of the final plat. At this time, that fee has been calculated to be \$16,020.00, to be verified prior to recording.
- D. Easements will be shown on the Final Plat as approved by the City Engineer. They include, but are not be limited to, the following:
 - 1. Provide drainage and utility easements on all property lines as set forth in Section 10.1 (A-D) of the City of Shakopee Design Criteria.
 - 2. Provide a minimum of 5 feet of trail/sidewalk easement adjacent to the entire length of the northerly right-of-way of 128th Street.
 - 3. Provide a 15-foot trail/sidewalk easement along the entire property frontage along County Road 15 (Marystown Road).
- E. The applicant must pay all applicable fees/charges listed below, as required by the most current City of Shakopee Fee Schedule:
 - 1. Storm Water Management Plan Review Fees.
 - 2. Trunk Sanitary Sewer Charge.
 - 3. Trunk Storm Water.
- F. Connection to sanitary sewer must be made within three (3) years of the recording of final plat.
- G. Submit a detailed lot area drawing showing the total plat area, the total drainage and utility easement area encompassing high water levels of wetlands/storm water basins, the total area of right-of-way, the total area of conservation easements and outlots and the total area of lots.
- H. Approval of the final plat does not constitute approval of the submitted construction plans.
- I. Obtain approval of the subdivision's storm water management plan.
- J. Dedicate three (3) feet of right-of-way along the south property line.
- K. Dedicate a min. of 75 feet of right -of-way from the centerline of CSAH 15.
- L. The applicant will provide additional right-of-way in the form of sight triangles 15 feet in dimension at every intersection.

II. Following approval and recording of the final plat, the following conditions shall apply:

- A. The developer shall contact SPU directly for specific requirements related to municipal water service, underground electric service, and street lighting installation for this project. The developer will be responsible for complying with their standard terms and conditions, installing a lateral water main distribution system in accordance with utility policy, paying the associated inspections costs, granting any necessary easements, paying the Trunk Water Charge, paying the Water Capacity Charge, entering into an Underground Distribution Agreement and paying all associated fees.
- B. Water service to Lots 1-4, Block 1 is not available until after the water main is completed around Mount Olive Church to the existing 8" water main on the north side of the church and the existing 12" water main in 128th Street West.

- C. Grading for a future trail along CSAH 15 shall be required, with the developer to provide escrow funds for the construction of this future trail.
- D. A trail easement for the future trail along CSAH shall be provided, consistent with City Engineering requirements.
- E. All trails and sidewalks shall be constructed to meet ADA requirements/guidelines.

III. The following conditions need to be addressed/completed prior to approval of a grading permit, a street and utility plan, and/or a building permit:

- A. Grade the entire site, as proposed on the approved plans, in one phase within one year from the date of approval of the grading permit application. Grading is defined as bringing the site to the proposed finished grade with materials deemed acceptable by the City of Shakopee engineering department, providing topsoil per City requirements and applying seed, mulch and/or sod per City requirements and providing an as-built record grading plan per Section 2.5 of the City of Shakopee Design Criteria.
- B. The applicant must obtain a NPDES construction site permit prior to any land disturbing activity. A copy of the permit coverage card and letter must be provided to the city.
- C. Submit a Construction Management Plan. The applicant must enter into a Construction Management Agreement with the City of Shakopee. A copy of the agreement can be obtained from the Public Works Department.
- D. Record plans need to be provided per the City of Shakopee Design Criteria, Section 2.5 and Section 11.2 (A-L). The record plans need to be submitted to the engineering department.
- E. Noise issues may arise as traffic volumes increase on the County roadway over time. Noise attenuation for the new homes is the responsibility of the developer.
- F. No ponding, berming, landscaping, or signage shall be permitted within the County right-of-way.
- G. Any work within the County right-of-way shall require a County permit.

Adopted in Regular session of the City Council of the City of Shakopee, Minnesota, held on the ____ day of _____, 2019.

ATTEST:

Mayor of the City of Shakopee

Lori Hensen, City Clerk