

RESOLUTION NO. PC2021-002
A RESOLUTION OF THE CITY OF SHAKOPEE, MINNESOTA,
APPROVING VARIANCES TO THE MAXIMUM IMPERVIOUS SURFACE AND
MINIMUM LOT WIDTH IN THE SHORELAND OVERLAY ZONE FOR TWO
LOTS IN THE PROPOSED WHISPERING WATERS SUBDIVISION

WHEREAS, Key Land Development, applicant, and Steven and Kathleen Muhlenhardt, property owners, have made application for a variance to allow a maximum impervious surface percentage of 50% where 25% is permitted and to create lots 65' and 69' in width where lots are required to be 75' in the Shoreland Overlay Zone; and

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

Proposed Lots 86 and 110 in the Whispering Waters Preliminary Plat; 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 February 4, 2021 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 applicant is proposing to construct two single-family houses on lots that a portion of each lot falls in the Shoreland Overlay Zone.

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 properties. The properties only have approximately 0.01 acres and 0.04 acres that actually fall within the Shoreland Overlay Zone, and therefore the Shoreland Overlay regulations apply.

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

Finding 1.C. The circumstances were not created by the landowner. A small portion of two lots fall within 300' of the Prior Lake Outlet Channel, and therefore are in the Shoreland Overlay Zone.

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

Finding 1.D. The variances requested would not alter the character of the locality, 52 other lots in proposed subdivision will meet the width and impervious surface requirements of the Shoreland Overlay Zone.

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 considerations are not economic, as the irregular path of the Prior Lake Outlet Channel and proposed configuration of the subdivision has created small areas on two lots that fall within the Shoreland Overlay Zone. The regulations of the overlay zone apply to the entire property if any of the property falls within 300' of the HWL of stream.

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 Chapter 151, as the intent of the regulations is to limit impervious surfaces and runoff to lakes and streams. The portions of the properties that actually fall within the shoreland overlay zone will likely have a very small amount of impervious surface, or no impervious surface.

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: Conditions are already in place in city code regarding setbacks and maximum impervious surface ensure orderly development of the two lots that do not alter the character of the locality.

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 to the maximum impervious surface percentage and minimum lot width in the Shoreland Overlay Zone is hereby approved, subject to the following conditions.

1. The proposed lot width for Lot 86 must be at least 65' and the lot width of Lot 110 must be at least 69'.
2. The maximum impervious surface percentage on Lots 86 and 110 must not exceed 50%.

Adopted by the Shakopee Board of Adjustment and Appeals on the 4th day of February, 2021.

BOAA Chairperson

ATTEST:

Michael Kerski
Director of Planning & Development

PREPARED BY:
City of Shakopee
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