

**MINUTES OF THE
MINNEHAHA COUNTY ZONING BOARD OF ADJUSTMENT**

March 23, 2015

A meeting of the Zoning Board of Adjustment was held on March 23, at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY ZONING BOARD OF ADJUSTMENT MEMBERS PRESENT: Wayne Steinhauer, Mike Cypher, Bonnie Duffy, Becky Randall, and Jeff Barth.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and David Heinold - County Planning
Sara Show – States' Attorney

The meeting was chaired by Wayne Steinhauer.

ZONING BOARD OF ADJUSTMENT

ITEM 1. Approval of Minutes – February 23, 2015

A motion was made by Commissioner Cypher and seconded by Commissioner Barth to **approve** the February 23, 2015 minutes. The motion passed unanimously.

ITEM 2. VARIANCE #15-02 to reduce the front yard setback on the properties legally described as Lots 3A and 4A, Block 2 of Berry's Subdivision in the NE1/4, NE1/4, Section 16-T102N-R49W.

Petitioner: Ron Jensen & James Kreitel

Property Owner: James Kreitel

Location: 47489 258th St. Approximately 3 miles north of Sioux Falls

Staff Report: David Heinold

To reduce the front yard setback.

General Information:

Legal Description – Lots 3A and 4A, Block 2, Berry's Subdivision, NE1/4 NE1/4, Section 16-T102N-R49W

Present Zoning – RC Recreation/Conservation District

Existing Land Use – Residential

Parcel Size – 1.74 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting a variance from the front yard setback requirement on the subject properties along the platted Lindbergh Avenue right-of-way to allow improvement of a nonexistent, substandard public right-of-way. The requested variance is necessary to provide an additional 36 foot dedicated public right-of-way for future improvement of Lindbergh Ave. as

required by the zoning ordinance. The petitioner and the property owner have agreed to offset the proposed Lindbergh Ave. public right-of-way in order to minimize the deflection in the road alignment and to avoid conflict with existing sanitary sewer lift station.

The Zoning Board of Adjustment shall not vary the regulations unless it shall make findings based upon the evidence presented to it in each specific case that all of the following conditions are present:

(A). That specific circumstances or conditions, such as exceptional narrowness, topography, or siting exists.

The two lots were originally platted with a minimum road right-of-way requirement unlike the present 66 foot width for subdivision roads and there is an existing sanitary sewer lift station that cannot be reasonably relocated abutting the east side of the current 30 foot Lindbergh Ave. right-of-way.

(B). That the variance does not grant a use which is otherwise excluded from that particular district, or diminish or impair property values within the area.

The reduced front yard setback will not permit a use not permitted in this zoning district or diminish property values in the area; however, the variance would allow the expansion of an existing substandard road right-of-way to be in conformance with the requirements for subdivision roadways.

(C). That due to the specific circumstance or existing conditions strict application of the Zoning Ordinance would be an unwarranted hardship.

The existing detached garage on Lot 3A was built in 2002 with a 30 foot setback from the Lindbergh Ave. right-of-way. The petitioner stated that the variance is necessary to accommodate for a minimization of the amount of road deflection, which is needed to avoid conflicts with the existing sanitary sewer lift station parcel.

(D). That the granting of a variance is not contrary to the public interest and is in harmony with the general purposes and intent of the Zoning Ordinance.

The proposed front yard setbacks would negate the Subdivision Ordinance requirement for corner lots to have extra width to permit adequate building setbacks from both roads, but the ordinance also states that curved interior lot lines are prohibited. The petitioner mentioned that the property owner of the subject parcel indicated that he supports the right-of-way offset because removing the existing trees would be an improvement to the property and building the road as straight as possible to minimize the amount of deflection onto his property.

(E). That because of circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

The two subject properties have already been developed and the lot to the east is currently developing commercial business opportunities at a key rural service area. The increase in the minimum standard for roadway width creates an undue hardship on the property owners of the

parcels on both sides of the Lindbergh Ave. right-of-way. The existing right-of-way is already within the minimum 660-foot setback distance from the center of the road to the middle of the Renner Corner intersection with County Highway 130 and South Dakota Highway 115; therefore, the petitioner would be unable to locate the proposed 66 foot road right-of-way much closer to the intersection than the existing approach. Thus, staff believes that it would be in the best interest of the public to authorize the variance to encourage and promote commercial development expansion of an existing rural service area as well as to provide secondary access to the corner lot, Lot 4A.

Recommendation:

Staff found that the requested variance meets the provisions in Article 21.00 of the 1990 Revised Zoning Ordinance for Minnehaha County and recommended **approval** of Variance #15-02.

PUBLIC TESTIMONY

Staff presented a brief summary of the analysis report on the variance request.

Commissioner Barth asked if the trees and telephone box located adjacent to the Lindbergh Ave. right-of-way would have to be relocated and staff indicated that the narrative mentions that they would be removed because of future road improvements.

Commissioner Cypher asked for clarification on the engineering map if it shows the road deflection. Staff explained that the map shows the minimum deflection with the variance.

Commissioner Steinhauer asked for the record what the front yard setback would be on the two lots with the variance request. Staff stated that the requested variance on Lot 3A would be from 30 feet to 10 feet and Lot 4A from 30 feet to 20 feet.

Ron Jensen, 25804 Lindbergh Ave., identified himself as the petitioner and provided the address of his property.

Commissioner Steinhauer asked if the petitioner had anything to add or if he knew anything about the tree adjacent to right-of-way. Mr. Jensen indicated that the trees on both sides would be removed because they are too close to the road and they would be replaced.

Commissioner Steinhauer closed the floor to public testimony.

DISCUSSION

Commissioner Barth asked what the small square plot of land was on the engineering map and staff mentioned that the sanitary sewer lift station is located on that plot as a separate 25 foot by 25 foot lot from the public right-of-way.

Commissioner Cypher asked for clarification that the variance request is okay with the Renner Sanitary Sewer District and staff indicated that the lift station would not be moved.

ACTION

A motion was made to **approve** Variance #15-02 to reduce the front yard setback on the east side of Lot 3A from 30 feet to 10 feet and east side of Lot 4A from 30 feet to 20 feet by Commissioner Cypher and seconded by Commissioner Barth. The motion passed unanimously.

Variance #15-02 – Approved

Adjourn

A motion was made to **adjourn** by Commissioner Randall and seconded by Commissioner Barth. The motion passed unanimously.