



**MINUTES OF THE
MINNEHAHA COUNTY ZONING BOARD OF ADJUSTMENT**
January 29, 2019

A meeting of the Zoning Board of Adjustment was held on January 28, at 9:03 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY ZONING BOARD OF ADJUSTMENT MEMBERS PRESENT: Bonnie Duffy, Adam Mohrhauser, Ryan VanDerVliet, Mike Ralston, Doug Ode, and Jeff Barth.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and David Heinold - County Planning
Donna Kelly – States Attorney

The meeting was chaired by Bonnie Duffy.

PUBLIC COMMENT.

Commissioner Duffy opened the floor for public comment and nobody moved to speak.

A motion was made to **approve** the August 27, 2018 meeting minutes by Commissioner Barth and seconded by Commissioner Ralston. The motion passed unanimously.



ITEM 2. VARIANCE #19-01 to reduce the front yard setback from 30 feet to 28 feet on the property legally described as North 100 feet, County Auditor Tract 2, SE1/4 SE1/4, Section 9-T102N-R49W.

Petitioner: Paul Sorum

Property Owner: same

Location: 25795 475th Ave.

Approximately 3 miles north of Sioux Falls

Staff Report: Kevin Hoekman

General Information:

Legal Description – North 100 feet, County Auditor Tract 2, SE1/4 SE1/4, Section 9-T102N-R49W

Present Zoning – C-Commercial

Existing Land Use – Full service restaurant, and attached office space.

Parcel Size – 0.4 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting a variance to reduce the front yard setback in order to construct a wheelchair accessible vestibule on the east side of the established restaurant. The required front yard setback in a commercial zoning district is 30 feet. The proposed vestibule will extend two feet into the required setback; therefore the 28 feet requested setback will accommodate the vestibule addition.

The petitioner narrative explains that the vestibule is needed to reduce stress on the HVAC system for the restaurant. The vestibule is designed to be approximately 6 feet by 12 feet (72 square feet) to allow for wheelchair accessibility. The zoning ordinance allows for a vestibule addition to extend into the front yard, but only if the vestibule is 40 square feet or less in size. Staff feels that the proposed variance is in the spirit of the ordinance while maintaining ADA accessibility.

1. That specific circumstances or conditions, such as exceptional narrowness, topography, or siting exists.

The property is currently developed with a multi-tenant building which has a full service restaurant on the east side. A portion of the east side of the existing structure is already built to the front yard setback line. The vestibule would not be able to be wide enough for a door and ADA accessible space if the 30 setback requirement is met.

2. 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 variance will allow for the planned construction of a vestibule. Vestibules are common features of commercial businesses where there are heavy traffic in and out.

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



It is possible that a vestibule could be constructed to project into the building; however that would result in the loss of floor space in a busy restaurant, and likely extra engineering and construction costs. Vestibules of less than 40 square feet in area are allowed by the ordinance to project into the front yard setback. The proposed vestibule is approximately 72 square feet to meet ADA accessibility.

4. 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.

It is in the public interest to allow for a vestibule large enough for ADA accessibility. Vestibules are common features of commercial businesses and there are already signs and other structures close to the right-of-way within the two neighboring properties.

5. 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 vestibule addition would not be able to meet ADA accessibility if the property was developed in strict conformance with the ordinance.

Recommendation:

Staff recommends **approval** of Variance #19-01 to reduce the front yard setback from 30 feet to 28 feet.

Public Testimony

Kevin Hoekman, County Planner II, presented a brief overview of the staff report and recommendation for Variance #19-01.

Paul Raynolds, from RCM Inc., was present to take any questions. No questions were raised by the Planning Commission.

Commissioner Duffy called for public testimony and there was no answer.

Action

A motion was made to **approve** Variance #19-01 by Commissioner Barth and seconded by Commissioner Ralston. The motion passed unanimously.

Variance #19-01 - Approved

Adjourn

A motion was made to **adjourn** by Commissioner Barth and seconded by Commissioner Mohrhauser. The motion passed unanimously. The meeting was adjourned at 9:08 p.m.