



**SIOUX FALLS AND MINNEHAHA COUNTY
BOARD OF ADJUSTMENT
MEETING MINUTES**

April 22, 2019

**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS BOARD OF ADJUSTMENTS
April 22, 2019**

A joint meeting of the County and City Planning Commissions was held on April 22, 2019 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Bonnie Duffy, Becky Randall, Adam Mohrhauser, Ryan VanDerVliet, Doug Ode, Mike Ralston, and Jeff Barth.

CITY PLANNING COMMISSION MEMBERS PRESENT: Sharon Chontos, Kati Johnson, Kurt Johnson, John Paulson, and Steve Gaspar.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and David Heinold - County Planning
Donna Kelly – Office of the State’s Attorney
Albert Schmidt – City Planning

The County Planning Commission Chair Bonnie Duffy presided over the meeting. The City Planning Commission was chaired by Sharon Chontos. Planning Commission Chair Bonnie Duffy called the joint City of Sioux Falls and Minnehaha County Board of Adjustments meeting to order at 7:00 p.m.

PUBLIC COMMENT.

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

Consent Agenda

Chair Commissioner Duffy read each item on the consent agenda and nobody from the Commission, staff, or the public desired to comment about any item.

A motion was made for the County by Commissioner Barth and seconded by Commissioner Ralston to **approve** the consent agenda consisting of Item 1. The motion passed unanimously. The same motion was made for the City by Commissioner Kurt Johnson and seconded by Commissioner Kati Johnson to **approve** the consent agenda consisting of Item 1. The motion passed unanimously.

ITEM 1. Approval of Minutes – February 25, 2019

As part of the consent agenda, a motion was made for the County by Commissioner Barth and seconded by Commissioner Ralston to **approve** the meeting minutes for February 25, 2019. The motion passed unanimously. The same motion was made for the City by Commissioner Kurt Johnson and seconded by Commissioner Kati Johnson to **approve** the meeting minutes for February 25, 2019. The motion passed unanimously.



Regular Agenda

ITEM 2. VARIANCE #19-04 to reduce the minimum Front Yard Setback from 50 feet to 10 feet on the property legally described as 1/2 Vacated Section Line Right-of-Way Lying Adjacent & N1/2 (EX H-1, H-2, H-4 & Ex. Part NE1/4 & NW1/4 Lying South of I-90 & Ex. N640' W300' NW1/4 & Ex. LOTS H-3 & H-4) Section 30-T102N-R48W, Brandon Township.

Petitioner: Bruce Aljets

Property Owner: Audrey Aljets

Location: 26012 478th Ave. Located Approximately 1 miles northeast of Sioux Falls

Staff Report: David Heinold

General Information:

Legal Description – 1/2 Vacated Section Line Right-of-Way Lying Adjacent & N1/2 (EX H-1, H-2, H-4 & Ex. Part NE1/4 & NW1/4 Lying South of I-90 & Ex. N640' W300' NW1/4 & Ex. LOTS H-3 & H-4) Section 30-T102N-R48W, Brandon Township.

Present Zoning – A-1 Agricultural District

Existing Land Use – Campground

Parcel Size – 253.21 acres

Staff Report: David Heinold

Staff Analysis:

The applicant is requesting a variance from the front yard setback along Interstate 90 from fifty (50) feet to ten (10) feet due to the natural topography of the area where it will be more costly to construct a building in a different area. The application states that there will be no significant impact to adjacent properties as Interstate 90 is the only adjacent property from the requested variance.

On April 8, 2019, staff visited the property and determined that the requested variance does not serve to further the interest to protect the health, safety, and general welfare of the general public. Staff has provided a few pictures of the site for referencing the proposed setback variance, which also shows the location of the proposed building.

The City of Sioux Falls Planning & Development Services staff has provided comment letter on Variance #19-04, which is included for your review.

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

The subject property has a considerable amount of topographical challenges to the north of the existing campground and recreation area. Staff believes that there are no specific site conditions



that would limit the applicant's ability to construct a building near the campground area for approval of a setback reduction along Interstate 90 property boundary. There are already other buildings on the same property that have been constructed to the north on higher elevation than the proposed site. There are other commercial and agricultural properties to the west of the subject property that have similar topographic contours.

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 request will not grant a use which is otherwise excluded from that particular district, or diminish or impair property values within the area. The only property immediately affected is the Interstate 90 highway right-of-way. The approval of the requested variance would set a precedent for similar properties located along Interstate 90.

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

The strict application of the Zoning Ordinance requirements would not cause an unwarranted hardship for the property owner. Staff believes that there are other areas on this property that the applicant could develop a building in conformance with the Zoning Ordinance.

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.

Due to the proximity to Interstate 90 and the relative site conditions, staff believes that the variance request would be contrary to the public interest and not in harmony with the general purposes and intent of the Zoning Ordinance. The intent of the front yard setback is to prevent encroachment of buildings from the public right-of-way.

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 subject property can be developed for the applicant's stated purpose in a reasonable manner in accordance with the Zoning Ordinance regulations. The property owner has a total of 253.71 acres in land area to locate the proposed building. Staff agrees that most of the property has steep slopes; however, there are locations near the existing campground area that could be used to accommodate additional buildings for reasonable use of the property.

Recommendation:

Staff finds that the requested variance is not in the public interest and recommends **denial** of Variance #19-04.

Public Testimony

David Heinold, County Planning Department, presented a brief overview of the staff report and recommendation for Variance #19-04.



**SIOUX FALLS AND MINNEHAHA COUNTY
BOARD OF ADJUSTMENT
MEETING MINUTES**

April 22, 2019

Bruce Aljets, 26012 478th Ave., mentioned that he lost about three acres of land to the construction of Interstate 90 and Veterans Parkway. Mr. Aljets explained that he has to move the recreation facilities to new locations along the area north of the interstate right-of-way. He continued to mention that he has 18 acres currently being leased on the family property, but it is not feasible for him to locate the building other than the proposed location.

Commissioner Randall asked the petitioner if the proposed building could be oriented in a different direction. Mr. Aljets explained that the building needs to be located near the jumping pillow to ensure safety.

Commissioner Barth questioned the placement of the building near the interstate right-of-way.

Albert Schmidt, City Planning & Development Services, explained the difference between city and county setbacks to the planning commissioners.

Scott Anderson, County Planning Director, explained that the joint planning commissions should only be concerned with the setback reduction variance request for the proposed building or any future buildings along the Interstate 90 front yard setback.

Mr. Aljets mentioned that he may obtain more land for the campground and looking at options for future commercial land.

Commissioner Barth asked the petitioner how big he plans to construct the building. Mr. Aljets explained that the proposed building will be 45 feet by 75 feet.

Commissioner Barth questioned deferral of the variance request and Mr. Anderson mentioned that the planning commission needs to ask the applicant first.

Mr. Aljets explained that he cannot keep delaying his plans to build the proposed building.

Commissioner Ralston added that he would be more comfortable with 25 feet not 10 feet at 55 mph speeds on the interstate off ramp.

Commissioner Randall mentioned that 10 feet from the interstate right-of-way is too close.

Commissioner Gaspar explained that the petitioner could turn the building 90 degrees and be 40 feet from the interstate boundary.

Commissioner Duffy called for additional public testimony but there was no answer.

Commissioner Duffy closed the floor to public testimony.



**SIoux FALLS AND MINNEHAHA COUNTY
BOARD OF ADJUSTMENT
MEETING MINUTES**

April 22, 2019

Discussion

Director Anderson explained the various actions that the Zoning Board of Adjustments can decide on the variance request.

Commissioner Barth asked what the City planning commission would like to hear.

Commissioner Gaspar mentioned that the building could be built at least 35 or 40 feet from the right-of-way, but is doable without a variance. He continued to add that 10 feet is awfully close.

Commissioner Barth asked Commissioner Duffy what she thinks about the variance request.

Commissioner Duffy stated safety concerns over the 10-foot setback variance request.

Commissioner Barth questioned what the motion for action should be for both of the zoning board of adjustments.

Commissioner Gaspar explained that the City always votes in the affirmative according to the motion.

Commissioner Chontos questioned if the board of adjustments should recommend the 50 feet or an alternative from 10 feet to 25 feet.

Commissioner Kurt Johnson mentioned that this is an interstate off ramp and wouldn't want anything in too close proximity to the travelling public.

Commissioner Randall concluded that there isn't anything that has been provided that would prohibit development of the site.

Action:

As part of the consent agenda, a motion was made for the County by Commissioner Randall and seconded by Commissioner Ode to **deny** Variance #19-04. The motion passed unanimously. The same motion was made for the City by Commissioner Paulson and seconded by Commissioner Gaspar to **approve** Variance #19-04. The motion fails (5-0).

Variance #19-04 - Denied



**SIOUX FALLS AND MINNEHAHA COUNTY
BOARD OF ADJUSTMENT
MEETING MINUTES**

April 22, 2019

Old Business

None.

New Business

None.

Adjourn

A motion was made for the County by Commissioner Barth and seconded by Commissioner Ralston to **adjourn**. The motion passed unanimously. A motion was made for the City by Commissioner Gaspar and seconded by Commissioner Kati Johnson to **adjourn**. The motion passed unanimously. The meeting was **adjourned** at 7:40 pm.