

**CITY OF GRANT
PLANNING COMMISSION MEETING**

Tuesday, June 20, 2017

6:30 p.m.

Town Hall

Please be courteous and turn off all electronic devices during the meeting.

AGENDA

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. APPROVAL OF AGENDA
4. APPROVAL OF MINUTES: April 18, 2017
5. NEW BUSINESS
 - A. Introduction to Comprehensive Plan Updates
 - B. PUBLIC HEARING, Application for Minor Subdivision , 9694 75th Street North
 - C. PUBLIC HEARING, Application for Variance from Road Setback for Garage Construction, 9051 Lansing Avenue North
 - D. PUBLIC HEARING, Application for Variance from Maximum Height of Fence, 6990 117th Street North
6. OLD BUSINESS (None)
7. ADJOURN

PLANNING COMMISSION MEETING MINUTES CITY OF GRANT

April 18, 2017

Present: John Rog, James Drost, Jerry Helander, Jeff Schafer, Jeff Geifer and Robert Tufty

Absent: Darren Taylor

Staff Present: City Planner, Jennifer Haskamp; City Clerk, Kim Points

1. **CALL TO ORDER**

The meeting was called to order at 6:30 p.m.

2. **PLEDGE OF ALLEGIANCE**

3. **APPROVAL OF AGENDA**

MOTION by Commissioner Schafer to approve the agenda as presented. Commissioner Tufty seconded the motion. MOTION carried unanimously.

4. **APPROVAL OF MINUTES, March 16, 2017**

MOTION by Commissioner Drost to approve the March 16, 2017 Minutes, as amended. Commissioner Tufty seconded the motion. MOTION carried unanimously.

5. **NEW BUSINESS**

There was no new business.

6. **OLD BUSINESS**

Consideration of Application for Major Subdivision, 11253 75th Street N and 11601 75th Street N – City Planner Haskamp advised the Applicant, Bob Appert on behalf of Streetcar Holdings is requesting approval of a Preliminary Plat to subdivide the properties located at 11253 and 11601 75th Street North. The properties have historically been known as the “Carlson Farm” and the “Masterman Farm” and both farms contain several PIDs of varying acreages (see table below). Collectively the Carlson Farm and Masterman Farm contain approximately 318 acres, and the Applicant is proposing to subdivide the properties into 29 rural residential lots and 2 large-lot agricultural properties. The following summary information is provided to assist in your review and consideration:

Applicant: Streetcar Holdings, LLC	Site Size: ~318 Acres (Total)
Owners: Robert Carlson Estate (Linda Powell, trustee) David Washburn (Masterman Farm)	Request: Major Subdivision – Preliminary Plat To create 31 lots
Zoning & Land Use: A-1 Proposed Plat Name: Farms of Grant	PIDs Carlson: 2503021310002 (6.18 Ac.) 2503021320001 (73.16 Ac.) 2503021340001 (74.96 Ac.) 3603021210001 (40.05 Ac.)
Address: 11253 75 th Street N. (Carlson) 11601 75 th Street N. (Masterman)	PIDs Masterman: 2503021420003 (12.26 Ac.) 2503021430002 (20.08 Ac.) 2503021420002 (25.43 Ac.) 2503021430001 (20.11 Ac.) 3603021120002 (8.87 Ac.) 3603021120001 (31.24 Ac.)

At the regular March Planning Commission meeting staff presented a full staff report of the site plan, preliminary plat and supplemental materials submitted by the Applicant. The following staff report should be reviewed in conjunction with the Staff Report dated March 8, 2017, as staff did not re-state information that was provided for and analyzed within the previous report. Instead the following staff report is focused on review of additional materials and any revisions that have been made to the Site Plan and Preliminary Plat in response to comments and recommendations heard at the March meeting and received from other regulatory agencies.

City Planner Haskamp advised on March 16, 2017 the Planning Commission held their regular meeting to consider the request for major subdivision of approximately 318-acres of land historically known as the Masterman and Carlson Farms. Staff provided a presentation of the Staff Report dated March 8, 2017 to the Planning Commission which

reviewed the proposed subdivision for consistency with the City subdivision and zoning ordinances. After staff's presentation, the Applicant and Owner briefly presented their application and addressed some of staff's questions identified within the Staff Report.

After presentation of the Staff Report, the Planning Commission opened the Public Hearing. The Public Hearing was published in the City's official newspaper and individually addressed letters were sent to property owners within 1,250-feet of the Project as required by the City's ordinances. The Planning Commission Meeting Minutes from the March 16th Public Hearing contain the official record of the proceedings and are not detailed in the following staff report. The Public Hearing was closed on March 16, 2017. There were several reoccurring concerns/comments heard during public testimony which are summarized in the following list. Staff has provided a summary response to each identified issue/concern immediately following the issue which is shown in *italics*:

- Safety of access locations of new roadway on Lake Elmo Avenue ("CR-17") and 75th Street North ("CSAH 12")
The Applicant hired a consultant to prepare a short traffic analysis related to access locations which addressed the number of projected trips generated because of the development, access spacing and sight distance analysis. A more detailed description of this information can be found in subsequent sections of this report, and the Traffic Memo prepared by the Applicant is also attached to this staff report for review and consideration.
- Concern of construction traffic – particularly on CR-17 due to nature of rolling topography in this area.
The City understands the concern regarding construction traffic, and identifying a safe construction traffic route should be identified if the project is approved. Staff would suggest that the proper 'route' be identified within the Development Agreement, and that a condition of the Preliminary Plat be added to ensure that the construction traffic be directed to the safest haul/construction route throughout project development.
- Concerns regarding lot sizes, particularly the dominance of lots ranging in size between 5.0 and 7.0 acres, and the impression that the lot sizes were a 'variance' from the city's ordinances.
*As detailed in the staff report dated March 8, 2017, the minimum lot size in the A-1 zoning district is 5.0 acres. All proposed lots meet or exceed the minimum lot size, and thus require **NO variances** from the lot size requirements are needed. Comprehensively the project exceeds the minimum gross density of one lot per 10 acres, and thus **NO variances** from the density requirements are needed. All lots within the proposed*

subdivision meet the City's minimum lot size and density requirements as stated within the March Staff Report.

- Questions regarding how to permanently protect the two large agricultural tracts (Lot 1 and 17, Block 1) from further subdivision into perpetuity.

There are several ways in which the two large lots will be protected into perpetuity if the subdivision is approved. The City will require a Deed Restriction in the form of a Covenant be recorded against both lots detailing that there are no additional density units available to the lots, or stated another way, that the two large lots may not be further subdivided. This restriction will also be identified within the Development Agreement and Homeowners Association (HOA) documents to ensure that all future owners in the neighborhood understand the restriction. The HOA documents and the Covenants will also protect the right of the large lot owners to continue agricultural uses if desired.

- Adjacent property owners to the east and west of the new roadway expressed concern of proximity of new roadway to their homes, and the potential for impact from headlights, sound, etc.

The Applicant has submitted a screening plan to address some of these potential issues and concerns which is attached for your review and consideration. Staff reviewed the screening plan which is detailed in subsequent sections of this staff report.

- Concern of adequate septic sites, protection and ensuring each lot has adequate area; questions regarding how this is achieved when custom grading.

The Applicant has completed soil testing to demonstrate that there is adequate area on each created lot for a primary and secondary septic site, and have submitted the preliminary results to Washington County Environmental Services. To ensure these sites are protected during construction, staff would recommend including a condition that septic sites must be roped off prior to any site work occurring to ensure that they are undisturbed during construction. Staff would further suggest that a condition be added that final design and proper permits must be obtained prior to issuance of a building permit on each lot. These conditions should also be addressed within the Development Agreement.

- Concerns regarding surface/storm water runoff and disturbance of wetland areas on-site versus cropland areas

The proposed subdivision is subject to the applicable rules and regulations regarding stormwater which are regulated by the City and the Browns Creek Watershed District (BCWD). Additionally, a wetland delineation was completed last fall/winter which must be submitted for formal review and approval by the LGU. Any wetland

disturbance/alterations will be required to follow all rules for wetland mitigation and replacement. Staff would recommend that a condition be included in the preliminary plat approval that stormwater permit approval and wetland delineation approval shall be completed prior to Final Plat of any portion of the Project. Further if any wetland replacement is required, that the wetland replacement plan be addressed within the Development Agreement.

- Questions regarding well and septic distance separation, as well as viability of installing new wells given concerns over water table and aquifer.

The well locations are not identified on the preliminary plat which is typical for custom built and graded lots. The city is not the permitting authority for well installation, and therefore the Applicant will be required to obtain all necessary permits and approvals from the appropriate agency(s). The Applicant will be subject to all state, county, and local rules for adequate setbacks between wells and septic systems/drainfields. Staff would recommend that this be included as a condition of preliminary plat approval and that such language should also be included within the Development Agreement.

Once the public hearing was closed the Planning Commission requested that the Applicant update their drawings to reflect the recommendations of the city staff, and to address some of the concerns and comments heard during public testimony. Additionally, at the meeting staff indicated that Washington County was in process of performing a detailed review of the plat with respect to the access locations and their formal review letter was anticipated the week following the Planning Commission meeting. As such, the Planning Commission requested that the Applicant also address the concerns and comments of Washington County once the review letter was received. Staff has included a copy of the review letter received by Washington County, and will address their comments in subsequent sections of this report.

As stated in the March 8, 2017 staff report, the proposed Project is subject to the City's and the BCWD's stormwater rules and regulations. The Applicant is working through the permitting process with the BCWD, and if any substantive changes to the preliminary plat are required to comply with the BCWD rules, the Project may be subject to additional review by the Planning Commission. Staff would recommend including this as a condition of Preliminary Plat approval.

Washington County has reviewed the proposed access locations as stated within their letter dated March 23, 2017. As previously noted, at the time of this staff report they have not had time to review the Traffic Memo prepared by Spack Consulting on behalf of the Applicant. Staff has forwarded the Memo to Washington County and will provide an update, if available, at the Planning Commission meeting.

Additionally, the Applicant has submitted an application to Washington County for preliminary review of the soil sampling conducted for the septic drainfields. At the time of this report the County had not responded. Staff will provide a verbal update, if available, at the Planning Commission meet and would recommend including a condition that Final Plat will not be granted without preliminary review from Washington County.

The following conditions are proposed for your review and consideration related to the plat:

- An updated Preliminary Plat, if necessary, and revised Grading and Erosion Control Plans depicting any necessary changes and/or modification shall be submitted for review and approval of city staff within 12-months of Preliminary Plat approval.
- The Applicant shall obtain all necessary stormwater permits from the BCWD and such permits shall be acquired prior to the City granting any Final Plat of the Project.
- If the BCWD permitting process results in any substantive changes to the Preliminary Plat then the Applicant may be required to submit a revised Preliminary Plat for review and consideration by both the Planning Commission and City Council.
- The Applicant shall obtain an approved wetland delineation prior to any Final Plat of the Project being granted.
- If necessary, a wetland mitigation and replacement plan shall be approved prior to any Final Plat of the Project being granted.
- A letter from Washington County Environmental Services shall be provided indicating that the proposed primary and secondary septic sites meet their standards and requirements, and that adequate area exists on each lot to accommodate a septic system. Such letter shall be provided prior to granting any Final Plat of the Project.
- The Applicant will be required to enter into a Development Agreement prior to the City granting any Final Plat of the Project to ensure that the requirements and conditions as set forth herein are complied with, and ensure the installation of the subdivision infrastructure.
- The Applicant shall obtain all necessary permits for installation of individual wells serving each lot, and such permits shall be obtained prior to the City issuing any Building Permit for such lot.
- The City Engineer shall identify a preferred construction route to be used throughout construction of the Project. The route shall be agreed to with the Applicant and identified within the Development Agreement.
- The Applicant shall be allowed to Phase the project as depicted on the exhibit identified as “Phase Plan” and dated 4/10/2017 which shall be incorporated into the Development Agreement.

- The full public right-of-way of Street A shall be dedicated at time of Phase I Final Plat.
- The Applicant shall obtain access permits from Washington County prior to the City granting any Final Plat of the Project.
- The Applicant shall be required to install all necessary improvements to CR 17 and CSAH 12 as agreed to, and conditioned by, Washington County. Such improvements shall be included and addressed within the Development Agreement.
- The Development Agreement shall include language regarding the Restrictive Covenants affecting Lots 1 and 14, Block 1 with respect to density allocation, and that such properties may not be further subdivided.
- Site improvements as described within Section 30-194 shall be agreed to and identified within a Development Agreement.
- The Applicant shall be required to install the trees as identified on the Landscape Screening Plan, and such trees shall be installed with Phase I, and locations coordinated with the land owner.
- A street name for the proposed Street A shall be provided prior to granting any Final Plat of the Project.
- The Applicant shall prepare the Homeowners Association (HOA) documents which shall be reviewed by the City Attorney, at a minimum, and any modifications necessary made prior to Final Plat approval.
- The Applicant shall prepare a Restrictive Covenant for Lot 1 and Lot 14, Block 1 indicating that the properties may not be further subdivided. The City Attorney shall review and approve the restrictive Covenant prior to the City granting any Final Plat of the Project.
- The Restrictive Covenants and Development Agreement shall be recorded at Washington County with the Phase I Final Plat.
- The Applicant shall identify and rope off all septic drainfield areas on the site prior to the City issuing any grading permits on the subject property.
- The Applicant shall be required to obtain all septic permits, based on actual design of a principal structure, prior to the city issuing a building permit.

Staff is requesting a recommendation from the Planning Commission reflecting one of the following options:

- Recommendation to the City Council of Approval with Draft Conditions and Findings
- Recommendation to the City Council of Denial with Findings

- Continue the discussion to the next available Planning Commission, and request additional information from the Applicant, if applicable

If the Planning Commission recommends Approval, the following draft Findings are provided for your consideration:

- The proposed FOG preliminary plat is consistent with the City's adopted Comprehensive Plan.

Commissioner Tufty inquired about the thought of moving the lot lines away from the roadway. City Planner Haskamp advised the applicant did not move the road area in outlots that could accommodate another row of trees. On the actual project site the County proposed an easement to the property.

Commissioner Helander stated the property in question places the road 25 feet from the property line. City Planner Haskamp stated that if the current structure does not meet the setbacks it would be deemed a legal non-conforming lot or use.

Commissioner Geifer asked if it is typical to do plantings/screening on the adjacent property as opposed to the project site. City Planner Haskamp stated it is not necessarily typical but it is not unusual. The screening in this case would be better and the City has no standards in terms of what plantings need to be done. Landscaping/screening is subjective. Often staggering is done and in this case, the plan takes into account the plantings that are already there so the end result is the same as staggering.

Commissioner Drost commented on the safety of the road and read the traffic statements from Spack which did not take into account weather conditions. A warning sign should be put at the top of the hill. Site and speed is a problem and accidents will happen.

City Planner Haskamp advised the traffic analysis and spacing guidelines come from the County and they have jurisdiction on the road. The study included trips at full plan build out and the industry standard was used for the trips per day in that land use category. She reviewed the traffic study and components that were used in the study that are required by Washington County. The County will be reviewing the traffic plan and will project feedback as well as potential road improvement requirements. There are a lot of conditions in terms of approval but that is not unusual as many other agencies have jurisdiction. The final plat also has to come back for approval and has to be consistent with the preliminary plat.

The Commission suggested a condition be placed on the approval relating to discussions with property owners about the plantings.

City Planner Haskamp suggested language to the seventh bullet note from the bottom be added that if the adjacent landowners prefer screening planted on the development site that will be accommodated at Outlots A and B.

Motion by Commissioner Tufty to recommend approval of application of major subdivision as amended. Commissioner Geifer seconded the motion. Motion carried unanimously.

7. **ADJOURNMENT**

MOTION by Commissioner Schafer to adjourn the meeting at 7:53 p.m. Commissioner Schafer seconded the motion. Motion carried unanimously.

Respectfully submitted,

Kim Points
City Clerk

DRAFT



STAFF REPORT

TO: Planning Commission Members
Kim Points, City Administrator/Clerk

Date: June 12, 2017

RE: Application for Minor Subdivision
9694 75th Street North

CC: Kevin Sandstrom, City Attorney

From: Jennifer Haskamp, Consulting City Planner

Background

The Applicant and Owner, David Washburn (Applicant), is requesting permission to subdivide the property located at 9694 75th Street North into two (2) parcels. There is an existing homestead and several accessory buildings located on the existing property.

A duly noticed public hearing was noticed for June 20, 2017 at 7:00 PM, and notices sent to individual property owners located within ¼-mile (1,320 feet) of the proposed subdivision.

The following staff report is provided for your review and consideration of the subject application

Project Summary

Owner & Owner:	David Washburn
PID:	2703021130001
Address:	9694 75 th Street North
Zoning & Land Use:	A-2
Request:	Minor Subdivision to create one ~29.99 Acre Lot, and one ~5.51 Acre Lot

The Applicant is proposing a Minor Subdivision (lot split) of the existing 35.5 Acre parcel into two (2) lots that could be developed with single-family residential uses in the future. No new structures are proposed as part of this application; however, the intent is to create two buildable residential lots. There is an existing homestead located on the subject property which would remain in its current configuration for now, but may be subject to redevelopment in the future. To demonstrate that both parcels are developable, the Applicant has submitted a wetland delineation for the property, septic/soil borings, and a Survey demonstrating the proposed configuration.

Review Criteria

The City's subdivision ordinance allows for minor subdivisions and lot line adjustments as defined in Section 30-9 and 30-10. The sections of the code that relate to dimensional standards and other zoning considerations are provided for your reference:



Secs. 32-246

Existing Site Conditions

The existing parcel is located north of 75th Street North and is approximately 35.5 acres. The existing parcel is bordered by 75th Street North on the south, and contains approximately 880-feet of frontage. There is an existing homestead on the parcel located approximately 330-feet to the west of the easterly property line and setback approximately 110-feet from the southerly property line (approximately 170-feet from the centerline). Current right-of-way for 75th Street North is platted as part of the county’s roadway and is not included in the subject property’s acreage calculation. There are five (5) accessory buildings on the site with a total square footage of approximately 2,806 square feet. There are currently two accesses onto the property from 75th Street North; there is a driveway into the existing homestead, and a second more substantial field road located approximately 370-feet to the west of the homestead’s driveway.

The Applicant completed a wetland delineation for the site which identified 11 wetlands of various sizes. The wetlands are generally clustered on the south and eastern half of the site, with only the northwestern 10-15 +/- acres being fairly dry. Based on an aerial review, this area appears to be the only portion of the site that has been used for agricultural uses and/or open grasslands. The remaining 20-25 acres of the site includes intermittent wetland areas, woodlands, tree cover and rolling topography.

Comprehensive Plan Review

The adopted Comprehensive Plan sets a maximum density of 1 unit per 10 acres in the A-2 land use designation. The proposed minor subdivision/lot line rearrangement of the 35.5 acres results in one additional unit. The original 40 included the adjacent Exception parcel, which when considered collectively would result in three (3) lots on 40 acres, or a proposed gross density of approximately 1 unit per 13 acres. The minor subdivision as proposed meets the density requirements as established in the comprehensive plan. Further, the intent of the A-2 land use designation is to promote rural residential uses, and the proposed subdivision is consistent with that objective.

Zoning/Site Review

Dimensional Standards

The following site and zoning requirements in the A-2 district are defined as the following for lot standards and structural setbacks:

Dimension	Standard
Lot Area	5 acres
Lot Width (public street)	300'
Lot Depth	300'
FY Setback – County Road (Centerline)	150'
Side Yard Setback (Interior)	20'
Rear Yard Setback	50'
Maximum Height	35'



Lot Area and Lot Width

The proposed subdivision is depicted on Attachment B: Minor Subdivision. As shown the proposed subdivision would result in newly created Parcel A and Parcel B. The following summary of each created parcel is identified on the table below:

Lot Tabulation:

Parcel	Size	Frontage/Lot Width	Lot Depth
Parcel A	27.99 Acres	380.33'	1,854'
Parcel B	5.51 Acres	500.03'	395.68'

As proposed, both created lots meet the city’s dimensional standards for size, frontage/lot width and lot depth.

Setbacks

The existing homestead and accessory structures are located on proposed Parcel B, and are subject to the city’s setback requirements. The existing principal structure is setback approximately 110-feet from the right-of-way line (southerly property line) of 75th Street North which is County State Aid Highway 12. However, the City’s ordinance requires that the setback be measured from the centerline of the roadway, and the existing home is setback approximately 170-feet from the centerline of the roadway and therefore meets the city’s setback requirement. The existing home will be setback approximately 300-feet from the created westerly property line, 230-feet from the easterly property line, and 240-feet from the rear property line. As proposed the existing home will meet all setback requirements. The accessory building located the closest to the proposed westerly property line is setback approximately 66-feet, and meets the City’s ordinance requirements. The accessory building located the closest to the northerly property line is approximately 160-feet, and meets the City’s ordinance requirements. All other property lines are existing and remain in their current configuration (south and easterly property lines are unchanged and therefore setbacks to existing structures not evaluated).

It should also be noted that the existing accessory building located near the proposed westerly property line of Parcel B is setback approximately 40-feet from the delineated boundary of Wetland #3. The City’s ordinances require a 50-foot wetland buffer and an additional 10-foot structural setback from the wetland buffer. The existing accessory building would be considered a legal non-conforming structure. All future buildings would be required to meet the wetland setbacks and any improvements to existing non-conforming structures would be subject to applicable ordinance requirements. However, the proposed subdivision has no impact on the wetland setback and therefore is not an issue with respect to the requested subdivision; but, the Applicant and any future homeowners should be aware of the wetland setback requirements when planning for development or redevelopment of the lots. *Staff would recommend including a condition that all new structures, accessory and principal, must comply with the city’s wetland buffer setback requirements.*

Since no new structures are proposed as part of this subdivision, *staff would recommend including a condition that all future structures and improvements will be subject to the applicable setback rules and regulations in effect at the time of application.*

Access & Driveways



No new access or driveways are proposed as part of this application. There is an existing driveway that serves the existing home on Parcel A, and there is an existing gravel driveway/trail that provides access to Parcel B. The Applicant should be aware that any new accesses will be subject to review and approval from Washington County because 75th Street North is under their authority. Staff would recommend including a condition that all new accesses, or changed accesses, are subject to review and approval by Washington County.

Accessory Structures

As previously stated there are five (5) accessory structures on the site which total approximately 2,806-square feet. All of the structures will be located on newly created Parcel B, which will be subject to the Accessory Structure standards contained in Section 32-313. On parcels between 5 and 9.59 acres, a combined square footage not to exceed 2,500 square feet and no more than three (3) buildings are permitted. It appears from the survey that the two smaller buildings (7.3' x 7.6' and 6.5' x 12.8') would not be counted against the quantity of buildings permitted because they would be classified as Sheds per ordinance; however, this should be confirmed with the Applicant. Based on conversations with the Applicant they are comfortable removing, at a minimum the building that is 13.4'x16.7' which would reduce the square footage of building by approximately 224 square feet, and if the other two structures are deemed sheds, would then bring Parcel B into compliance with current ordinance standards. However, if the two smaller structures do not meet the definition of a "Shed" then the Applicant would be required to work with City staff on a removal plan that would bring the parcel into compliance. *Staff would recommend including a condition that the Applicant shall provide a written statement, and identify on a corresponding exhibit, which buildings will be removed, and which buildings would be classified as a 'Shed'.* Since the buildings are currently existing on the site, *Staff would also recommend including a condition that the Applicant be required to submit a Letter of Credit, or other tool acceptable to the City Attorney, that would cover the removal costs of the identified accessory buildings* to ensure the property is brought into compliance. Further, the Planning Commission should discuss whether there is a time limit on removal, so that the corresponding LOC can be drafted to reflect that schedule.

Utilities (Septic & Well)

Septic System – Soil Borings

The existing home is currently served by a septic system that will continue to be used for the existing homestead. Both the septic system and well are located on Parcel B. *Staff would recommend including a condition that any redevelopment of the parcel with a new, or substantially larger, principal structure may necessitate a new septic system and at such time a septic permit must be obtained from Washington County.* To demonstrate the buildability of Parcel A, the Applicant submitted septic/soil borings which were submitted to Washington County for their preliminary review. Since a new home is not currently proposed on Parcel A, the review is conceptual and a system has not been designed. However, based on the preliminary results it appears that there is adequate area on Parcel A to install a septic system to support a new home, if and when, proposed. *Staff would recommend including a condition of approval that a septic permit must be acquired from Washington County prior to the city issuing a building permit for a principal structure on Parcel A.*

Wells

There is an existing well on Parcel B that will continue to be used for the property. Since Parcel A is vacant and no home is designed yet for the lot no well has been installed. *Staff would recommend including a*



condition that if and when a new home is proposed on Parcel A that the appropriate permits to install a well must be obtained prior to the city issuing a building permit.

Other Subdivision Standards

In addition to the dimensional standards identified in Section 32-246 of the City's Zoning Ordinance, there are some additional design standards found in Section 30-107 Lot Requirements which are summarized below:

- "Side lot lines shall be substantially at right angles to straight street lines...unless topographic conditions necessitate a different arrangement."

The north end of the proposed westerly property line jogs slightly. The Applicant has indicated that this jog is due to the location of the existing driveway on Parcel A that they would like to keep intact. It appears that there would be sufficient area to adjust this lot line to remove the jog and still avoid the existing drive. Staff would recommend the Applicant consider adjusting this line to comply with the ordinance.

Other Agency Review

The subject property is located on CSAH 12, and therefore is subject to Washington County's review and comment. Staff received an email from Washington County staff who has reviewed the proposed subdivision. Washington County is requesting an additional 15-feet of right-of-way in the form of an easement be dedicated along the frontage of the subject property. Staff would recommend including this as a condition of approval, and request that the Survey be updated to reflect the additional right-of-way.

Additionally, as previously discussed, if and when development or redevelopment of the lots occurs proper permits for installation of wells, septic systems, or driveways will be subject to review and approval of the appropriate permitting authorities.

Requested Action

Staff is requesting a recommendation from the Planning Commission reflecting one of the following options:

- Recommendation to the City Council of Approval with Draft Conditions
- Recommendation to the City Council of Denial with Findings
- Continue the discussion to the next available Planning Commission, and request additional information from the Applicant, if applicable

If the Planning Commission recommends Approval, the following draft Conditions are provided for your consideration:

Draft Conditions

The following draft conditions are provided for your review and consideration:

1. The minor subdivision plan shall be updated to reflect the request of Washington County for an additional 15-feet of right-of-way easement along CSAH 12.



2. The minor subdivision plan shall be updated to adjust the westerly property line of Parcel B to remove the jog and create a straight property line.
3. All future structures and improvements, accessory and principal, must comply with the city's wetland buffer setback requirements.
4. All future structures and improvements will be subject to the applicable setback rules and regulations in effect at the time of application.
5. The Applicant shall provide a written statement and identify on a corresponding exhibit which buildings will be removed, and which buildings would be classified as a 'Shed' per the City's ordinance
6. The Applicant will submit a schedule and accessory building removal plan that will be reviewed and approved by city staff.
7. The Applicant shall submit a Letter of Credit, or other form acceptable to the City Attorney, to ensure the removal of the accessory buildings is completed and that Parcel B is brought into compliance with the city's ordinances.
8. Any redevelopment of Parcel B with a new, or substantially larger, principal structure may necessitate a new septic system and at such time a septic permit must be obtained from Washington County prior to the City issuing a building permit.
9. A septic permit must be acquired from Washington County prior to the city issuing a building permit for a principal structure on Parcel A.
10. If and when a new home is proposed on Parcel A the appropriate permits to install a well must be obtained prior to the city issuing a building permit.
11. Any new access to Parcel A or Parcel B shall be subject to review and approval of Washington County.

Attachments:

Attachment A: Application

Attachment B: Minor Subdivision exhibit, dated 11/16/2016

Attachment C: Washington County Email 6/13/2017



Application Date:	
Fee: \$400	Escrow: \$4,000

check # 7188 - 400.00
check # 7189 - 4,000.00

MINOR SUBDIVISIONS

A minor subdivision is any subdivision containing not more than two lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property.

PARCEL IDENTIFICATION NO (PIN): 27-030-21-13-0001		ZONING DISTRICT & COMP PLAN LAND USE:
LEGAL DESCRIPTION: See surveyor		LOT SIZE:
PROJECT ADDRESS: 9694 - 75th St No Stillwater, MN 55082	OWNER: Name: David Washburn Address: 9694 - 75th St No Stillwater, MN 55082 Phone: 612/366-1458 Email: redcardfarme	APPLICANT (IF DIFFERENT THAN OWNER): Mailing Address use for correspondence: David Washburn 9694 - 75th St No Stillwater, MN 55082 redcardfarm@mac.com
DESCRIPTION OF REQUEST: Permission to create a 5.51 acre lot which includes the existing home and two conforming out buildings. The remaining 21.99 ac lot will be vacant and contain/retain two density units.		
EXISTING SITE CONDITIONS: 1 home & 2 out buildings		
APPLICABLE ZONING CODE SECTION(S): <i>Please review the referenced code section for a detailed description of required submittal documents, and subsequent process.</i> 1. Chapter 30; Section 30-9		

Submittal Materials

The following materials must be submitted with your application in order to be considered complete. If you have any questions or concerns regarding the necessary materials please contact the City Planner.

AP – Applicant check list, CS – City Staff check list

AP	CS	MATERIALS
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p><u>Site Plan: Technical drawing demonstrating existing conditions and proposed changes</u> (Full scale plan sets shall be at a scale not less than 1:100)</p> <ul style="list-style-type: none"> ▪ North arrow and scale ▪ Name, address, phone number for owner, developer, surveyor, engineer ▪ Streets within and adjacent to the parcel(s) including driveway access points ▪ Topographic data at two (2) foot contour intervals and steep slopes ▪ Proposed lot sizes (with dimensions) indicating setbacks for newly created lots ▪ Buildable area with acres and square footage identified ▪ Wetland limits (delineation) ▪ Drainage plans ▪ Soil tests for the installation of an on-site septic system

Application for: **MINOR SUBDIVISION**
City of Grant

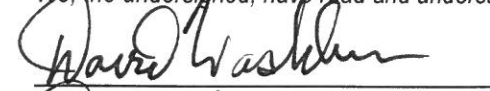
		<ul style="list-style-type: none"> ▪ Septic system and well location ▪ Building locations and dimensions with setbacks ▪ Vegetation and landscaping ▪ Wetland Delineation ▪ Shoreland classifications: waterbodies, Ordinance High Water Level, 100 year flood elevation, and bluff line ▪ Name of subdivision with lot and block numbers of property, if platted <p>COPIES: 20 copies (4 sets at 22" x 34" and 16 at 11" x 17" format)</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A <u>certificate of survey</u> , by a registered land surveyor for each parcel will be required. The survey must show newly created lots and the original lot, limits of any wetland, one acre of buildable area, and elevation of the building site above any lake, stream, wetland, etc.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Statement acknowledging that you have contacted the other governmental agencies such as Watershed Districts, County departments, State agencies, or others that may have authority over your property for approvals and necessary permits.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mailing labels with names and address of property owners within 1,320 feet, contact Washington County Surveyor's Office: (651) 430-6875
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Minor Subdivision submittal form completed and signed by all necessary parties
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Paid Application Fee: \$400
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Escrow Paid: \$4,000

Review and Recommendation by the Planning Commission. The Planning Commission shall consider oral or written statements from the applicant, the public, City Staff, or its own members. It may question the applicant and may recommend approval, disapproval or table by motion the application. The Commission may impose necessary conditions and safeguards in conjunction with their recommendation.

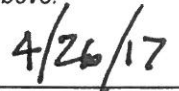
Review and Decision by the City Council. The City Council shall review the application after the Planning Commission has made its recommendation. The City Council is the only body with the authority to make a final determination and either approve or deny the application for minor subdivision.

This application must be signed by ALL owners of the subject property or an explanation given why this not the case.

We, the undersigned, have read and understand the above.



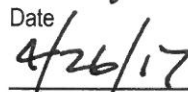
Signature of Applicant



Date



Signature of Owner



Date



Jennifer Haskamp <jhaskamp@swansonhaskamp.com>

Minor Sub - Washburn

Ann Pung-Terwedo <Ann.Pung-Terwedo@co.washington.mn.us>
To: Jennifer Haskamp <jhaskamp@swansonhaskamp.com>

Tue, Jun 13, 2017 at 10:32 AM

Jennifer,

The future right-of-way requirements identified in the 2030 Washington County Comprehensive Plan (Transportation Plan), Minimum Right-of-Way Widths for County Roads along this section of County State Aid Highway (CSAH) 17, Stillwater Blvd is 150 feet or 75 feet from the centerline of the roadway. There is currently 60 feet so 15 feet of right-of-way should be dedicated by an easement.

Thanks,

Ann

Ann Pung-Terwedo | Senior Planner

Phone: 651-430-4362 | Fax: 651-430-4350

Ann.pung-terwedo@co.washington.mn.us

Washington County Public Works Department

11660 Myeron Rd North | Stillwater, MN 55082

“Plan, build and maintain a better Washington County”



From: Jennifer Haskamp [mailto:jhaskamp@swansonhaskamp.com]
Sent: Monday, June 12, 2017 11:01 AM
To: Ann Pung-Terwedo <Ann.Pung-Terwedo@co.washington.mn.us>
Subject: Minor Sub - Washburn

[Quoted text hidden]



STAFF REPORT

TO: Planning Commission Members
 Kim Points, City Clerk/Administrator
 Kevin Sandstrom, City Attorney

Date: June 12, 2017

RE: Variance from Front Yard Setback to construct Accessory Building at 9051 Lansing Avenue N.

From: Jennifer Haskamp

Background

The Applicants and Owners (“Applicants”), Jon and Michelle Weaver, have requested a variance from front yard setback to construct a new accessory structure (detached garage) on their property. The Applicants live on the property in the existing principal structure that contains an attached garage. There are extensive wetlands and sloping topography on the site which constrains the area available for construction of any new accessory structure(s).

The following staff report summarizes the requested variance, and existing conditions of the site.

Project Summary

Applicant & Owner: Jon & Michelle Weaver	Site Size: 9.86 Acres Location: 9051 Lansing Avenue North Existing Home: Constructed in 1991 Zoning & Land Use: A-2
Request: Variance from front yard setback to construct an accessory structure (detached garage) on the subject property. The location of the proposed detached garage is in front of the principal structure and would encroach approximately 41.2’ into the required front yard setback.	

As referenced above, the Applicants have requested the following variance:

- Structural Setback from front yard lot line on Lansing Avenue, which serves as the primary frontage and access to the existing principal structure.
- In addition to the requested variance, Staff has identified an additional potential setback encroachment associated with the proposed structure. The survey prepared by Cornerstone Land Surveying, Inc., dated May 8, 2017 identifies an approximate wetland boundary based on aerial data. As shown, the proposed location of the detached garage would encroach into the city’s wetland buffer requirements and structural setbacks from a wetland buffer. This is further discussed in subsequent sections of this report.

The following summary of the requested variance and proposed project is as follows:

- The proposed Accessory Structure (detached garage) would be accessed from the existing driveway, and no new curb-cuts/drives are requested as part of this application.



- The proposed Accessory Structure (detached garage) is 24' x 24', or 576 square feet. The purpose of the Accessory Structure is for storage of personal property such as cars, garden equipment, etc., and is therefore defined as a “*detached residential accessory building*” per the City’s ordinances.
- There are no other existing accessory buildings on site.
- The proposed Accessory Structure is located in front of the principal structure.

Review Criteria

Section 32-60 establishes the criteria for granting and review of variance requests. In addition to a site plan and development plans, the variance application process requires the Applicants to prepare a statement of reasons why the request is made describing the hardship (or practical difficulty) where a hardship is defined in Section 32-59 as, “the proposed use of the property and associated structures in question cannot be established under the conditions allowed by this chapter or its amendments and no other reasonable alternate use exists; however, the plight of the landowner must be due to physical conditions unique to the land, structure or building involved and are not applicable to other lands, structures or buildings in the same zoning district....Economic considerations alone shall not constitute a hardship.”

The applicant has provided a brief narrative describing the practical difficulty of their property to construct an accessory building/detached garage which is provided in Attachment 1: Application.

Existing Site Conditions

The subject property is approximately 9.86 acres, an unplatted corner lot that is bordered by Lansing Avenue along the westerly property line and Dellwood Road North (Highway 96) on the southerly property line. There is an existing principal structure located approximately 345’ north of the Highway 96 right-of-way, and is setback approximately 50-feet from the Lansing Avenue right-of-way. The existing home is accessed from a u-shaped driveway which is connected to Lansing Avenue. There are no existing accessory structures on the site. The site includes extensive wetland areas behind (to the east) and to the south of the principal structure. A wetland delineation was not submitted or completed as part of this application; however, the National Wetland Inventory (NWI) and GIS data available identifies this wetland complex on their mapping. Additionally, the site is vegetated with significant tree cover surround the wetland complex. The site is heavily sloped with approximately the western third (1/3) of the site on higher ground, and then sloping steeply to the east into the wetland complex.

Dimensional Standards

The following site and zoning requirements in the A-2 district regulate the site and proposed project:

Dimension	Standard
Lot Size	5 acres
Frontage – public road	300’
Front Yard Setback	65’



Side Yard Setback	20'
Rear Yard Setback	50'
Height of Structure	35'
Driveway Setback	5'
Wetland Buffer Setback (Type 3, 4, 5)	50'
Structural Setback from Wetland Buffer	10'

The subject property is an existing lot and contains an existing principal structure with an attached garage, and there are no other accessory buildings currently on site. The lot in its current configuration meets the dimensional standards for frontage, lot size, and density. The existing principal structure does not appear to meet the minimum front yard setback requirements; however, there are no changes proposed to the principal structure and therefore if it is non-compliant with respect to setbacks the structure would be considered legally non-conforming and subject to the non-conforming rules of the ordinance. However, since the proposed project does not include any alterations to the principal structure, no further analysis or consideration is made with respect to this issue.

The purpose of this review is to consider the application for a variance to construct a new accessory structure (detached garage) on the subject parcel in a location that does not meet the City's current dimensional standards. The following review applies specifically to the requested variance and proposed accessory structure.

Lot Size/Constraints

The subject property is approximately 9.86 Acres per the survey submitted as part of this application (Attachment B: Certificate of Survey) and meets the city's minimum lot size requirements. As previously noted there is an existing home on the subject property, and there are no other structures on the site. While the lot size exceeds the minimum area requirements, the buildable area onsite is constrained due to the presence of significant wetlands and sloping topography. The natural physical constraints of the property limit the buildable area on the site, leaving the 'high-and-dry' land on the western third of the property leaving the remained largely unbuildable or inaccessible. The buildable area is further limited by the presence of dedicated right-of-way which extends along the entire western property line associated with Lansing Avenue, and along the entire southern property line for Dellwood Road (Highway 96). These physical constraints affected where the existing home was placed, which was generally near the west-central portion of the site on the high point (knoll) of the site. The existing home is accessed from a u-shaped driveway, and the proposed accessory building would be accessed from this driveway of the southern end of the horseshoe.

The Applicant has also been in touch with the Browns Creek Watershed District (BCWD) who has indicated their preference to locate the new accessory building as far away from the existing wetland complex as possible to protect the water quality. *Given the presence of the wetlands, the sloping topography and the location of*



the existing driveway and principal structure the proposed location of the new accessory structure seems like the only reasonable location available to site the building.

Setbacks

The Applicants are requesting relief from the City's front yard setback requirements to permit them to construct a new accessory structure that encroaches into the setback. The following definition of "Setback" can be found in Section 32-1 Definitions, and is provided for your review and consideration when considering this request:

Setback means the minimum horizontal distance between a structure and street right-of-way, lot line or other reference point as provided by ordinance. Distances are to be measured perpendicularly from the property line to the most outwardly extended portion of the structure.

Setback can apply to front, rear and side yards as well as setbacks from other features on site such as wetlands, waterbodies, septic systems and wells. The Applicants' materials specifically requested a variance from the front yard setback, which as indicated on the table on the previous page, requires all structures to be setback a minimum of 65-feet from the right-of-way line. As indicated on the Certificate of Survey the proposed location of the new Accessory Structure would be setback only 23.8-feet from the right-of-way line on Lansing Avenue. The proposed location of the new Accessory Structure would meet all other lot-line setback requirements (side yards and rear yard).

In addition to the Applicants' identified requested variance, staff has also identified the potential encroachment of the new structure into the city's required wetland setback. The following summary of this issue is provided:

Wetland Setbacks

As previously described, the City's ordinance provides dimensional standards and requirements from lot lines, but also setbacks from wetlands. As shown on the Certificate of Survey prepared by Cornerstone Land Surveying, there is a significant wetland complex located on the subject property. The wetland areas were not formally delineated; however, the survey identifies the approximate wetland location based on an aerial photo analysis. As shown on the table on the previous page, there is a 50-foot buffer around all Type 3, 4 and 5 wetlands, with an additional 10-foot structural setback from the buffer area. As shown on the Detail drawing submitted on the Certificate of Survey, the proposed structure would encroach into the wetland buffer and would fail to meet the structural setback from the wetland buffer. As drawn, it appears that the new structure would encroach approximately 5-10' into the wetland buffer, and would encroach 10-feet into the structural setback.

It should be noted that because a wetland delineation was not completed to determine the wetland boundary, it is not possible to determine the exact extent of the encroachment. However, staff is



confident that the proposed location would encroach into the setbacks, and therefore, would require additional variances to construct the garage in the proposed location.

The following table summarizes the requested variances, and also notes whether the request was made by the Applicants or identified by the staff through this review process.

Requested Variances

See Attachment B for Certificate of Survey for corresponding drawing:

Standard	Required	Proposed	Variance	Description
Front Yard Setback	65'	23.8'	41.2'	The current home is located in the west central portion of the site, and the proposed Accessory Structure would be accessed from the existing driveway. The area with the existing home is the natural high point on the site. (APPLICANT)
Wetland Buffer	50'	40-45' (+/-)	5-10' +/-	There is a large wetland located to the east and south of the existing principal structure. The location of the new garage appears to encroach into the required wetland buffer. A wetland delineation was not completed to determine the full extent of the encroachment. (STAFF)
Structural Setback from Wetland Buffer	10'	0'	10'	The proposed structure would encroach fully into the structural setback area, as well as extend into the wetland buffer. (STAFF)

Analysis of Variance from Front Yard Setback

The request for a variance from front yard setback seems reasonable given the site constraints as described in the Applicants' narrative, the comments of the BCWD and as demonstrated on the Certificate of Survey. Based on the submitted information, the site has natural physical constraints due to the presence of the wetlands and the sloping topography. Further, the buildable area is reduced by the presence of right-of-way on the western property line (Lansing Ave) and on the southern property line (Highway 96). Based on the physical constraints on the buildable area of the property, there does not appear to be a location on site where the Accessory Structure could be constructed and meet all setback requirements.

Analysis of Variance from Wetland Setbacks

While the Applicants did not request a variance from the wetland buffer setback and structural setback from wetland buffer, it is clear from the Certificate of Survey that the proposed location does not meet these setbacks. Staff would make the following notes regarding the wetland setback issues:

- If the desired and optimum location for the accessory building is to the south of the existing home, there does not appear to be a location that would meet the wetland buffer setbacks. This area is naturally constrained by the existing home, the configuration of the existing driveway and the wetlands.



- If this is the desired location, then staff would recommend a boundary determination of the wetland edge closest to the proposed Accessory Structure Location be performed to identify with more accuracy the extent of the encroachment, and to determine if the building could be shifted and/or the orientation changed slightly to reduce/minimize the encroachment.
- Once the wetland edge is identified, staff would recommend that the affected buffer area (or the quantity of encroachment square footage) be 'averaged' and added to other areas along the wetland edge as permitted by ordinance.

If the Planning Commission agrees with this approach, staff would recommend including these steps/standards as conditions of approval. If conversely the Planning Commission thinks that additional information regarding the wetland edge is necessary to determine the extent of the encroachment, the Planning Commission could request that this information be submitted prior to making a recommendation to the City Council. Staff would request the Planning Commission discuss the wetland setback issue and the approach at the meeting and provide direction to the staff.

Accessory Buildings

Section 32-313 regulates accessory buildings quantity and size. The proposed structure is defined within this section of the ordinance as a “*Detached residential accessory building* means an accessory building used or intended for the storage of motor driven passenger vehicles, hobby tools, garden equipment, workshop equipment, etc., with a maximum gross area regulated in subsection (b) of this section.”

Subsection (b)(2)(e) Parcels between 9.6 and 14.99 acres allows a maximum combined square footage of 3,500 square feet and up to four (4) accessory buildings. There are no other accessory buildings on site, and the proposed detached garage is approximately 24'x24' with a total square footage of 576 SF. As proposed, the building meets the City's Ordinance requirements for square footage.

With respect to the proposed location of the Accessory Structure, Subsection (i)(2) States that “A detached garage or other accessory building which is less than 300 feet from the front lot line and in front of the principal structure on the lot may be constructed after the issuance of a certificate of compliance, provided that the detached garage or accessory building meets the following requirements:

- a. The detached garage or accessory building meets the setback requirements of the underlying zoning district; and
- b. The exterior of the detached garage or other accessory building is consistent with the design and character of the principal structure on the lot on the effective date of the ordinance from which this article is derived; and
- c. The applicant is issued a building permit for the detached garage or accessory building if one is required.



As stated within this staff report, since the proposed Accessory Structure does not meet the front yard setback a variance is required, which overrides subsection (a) above, and thus results in the Applicants' request for a variance. If a variance is recommended for approval by the Planning Commission, they could also recommend that the Certificate of Compliance (COC) be waived since this process will include reasonable conditions that would be redundant to those that would likely be included in a COC.

If the Planning Commission recommends waiving the COC, staff would suggest that the variance include a condition that addresses subsection (b) above. Since the proposed Accessory Structure is located in front of the Principal Structure and is located closer to the road than 300-feet staff still believes it is important for the exterior of the structure be consistent with the design and character of the principal structure. While the Applicants did include an elevation of the proposed Accessory Structure, the elevation did not include a description of how it complies with the standard that it be consistent in color and character to the Principal Structure (house).

Engineering Standards

The City Engineer has reviewed the attached Certificate of Survey and has no comments at this time. The City Engineer would recommend including a condition that the Applicant be required to obtain a grading permit prior to commencement of any site work, if applicable.

Other Agency Review

The site is located in the Browns Creek Watershed District (BCWD). Per the correspondence provided with the Application and found in Attachment A, if the proposed project remains below their thresholds for fill/grading and size no BCWD permits are required for construction. Staff would recommend including in any condition of approval that the applicant is responsible to acquire any necessary permits from the BCWD, and should be aware that they are subject to the review if the project's parameters should change as full grading plans are developed.

Summary - Draft Findings and Conditions

Staff would agree with the Applicants that the site has natural and physical constraints which limit the buildable area onsite, particularly the wetland complex and significant slope/topographic changes on the site. As such staff believes the variance is reasonable and constitutes practical difficulties which are not present on other similarly zoned and guided properties within the city.

The following draft findings related to the hardship (practical difficulty) are provided for your review and consideration:



- The buildable area on the subject property is constrained by natural features including a large wetland and significant sloping topography.
- There is a significant area of land, which would otherwise be buildable, in the designated right-of-way for both Lansing Avenue and Highway 96 which further constrains where any lot improvements could be located.
- The site constraints on site are not self-created, are the result of the natural landscape or are associated with a public improvement.

Draft Conditions:

- Must submit description of how the proposed Accessory Structure is consistent in character and color to the principal structure.
- A wetland edge determination should be made to establish the boundary of the wetland and determine the square footage affected by the encroachment.
- The wetland buffer area shall be averaged, and that portion which is impacted should be mitigated with additional protected buffer area on site. The additional buffer should be placed into an easement that should be identified on an updated Certificate of Survey, or on a separate exhibit, and then should be recorded with the property and the approved variance.
- A building permit should be obtained prior to any site work being completed.
- A grading permit should be obtained from the City Engineer, if applicable.
- The Applicant shall be responsible for obtaining any required permits from BCWD.

Action requested:

Staff is seeking a recommendation from the Planning Commission regarding the requested variance and the potential variance to wetland setback as identified in this staff report. Staff recommends approval of the variance, and if the Planning Commission agrees, requests the Planning Commission make a recommendation to the City Council to approve the variance from front yard setback and wetland setbacks with draft conditions and findings as presented by staff.

Attachments

Attachment A: Application and Applicant's Narrative (5/18/2017)

Attachment B: Certificate of Survey dated 5/8/2017

City of Grant
P.O. Box 577
Willernie, MN 55090



Phone: 651.426.3383
Fax: 651.429.1998
Email: clerk@cityofgrant.com

Application Date:	
Fee: \$400	Escrow: \$3,000

Check # 8944

VARIANCE REQUEST

In certain cases a variance from the strict enforcement and adherence to the zoning ordinance may not be possible due to practical difficulties associated with a property. A practical difficulty means that the proposed use of the property and associated structures in question cannot be established under the conditions allowed by the zoning ordinance and that no other reasonable alternate use exists. The following application is provided for such circumstances and will be determined by the Board of Adjustment for the City of Grant.

PARCEL IDENTIFICATION NO (PIN): LEGAL DESCRIPTION: See Attached		ZONING DISTRICT & COMP PLAN LAND USE: LOT SIZE: 10 acres / A2
PROJECT ADDRESS: 9051 Lansing Ave N Stillwater MN 55082	OWNER: Name: Jon & Michelle Weaver Address: Same as project Address City, State: ↓ Phone: 651-430-0499 / 651-485-7912 Email: jweaver@bellbanks.com	APPLICANT (IF DIFFERENT THAN OWNER):
BRIEF DESCRIPTION OF REQUEST: Variance Request to Build Garage		
EXISTING SITE CONDITIONS: 10 Acre Lot. Deep Slopes & wetland No other area to build garage		
APPLICABLE ZONING CODE SECTION(S): Please review the referenced code section for a detailed description of required submittal documents, and subsequent process. 1. Chapter 32, Sec. 32-60. Variances.		

Submittal Materials

The following materials must be submitted with your application in order to be considered complete. If you have any questions or concerns regarding the necessary materials please contact the City Planner.

AP – Applicant check list, CS – City Staff check list

AP	CS	MATERIALS
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Site Plan: All full scale plans shall be at a scale not smaller than 1" = 100' and include a north arrow <ul style="list-style-type: none"> ▪ Property dimensions ▪ Area in acres and square feet ▪ Setbacks ▪ Location of existing and proposed buildings (including footprint, and dimensions to lot lines) ▪ Location of current and proposed curb cuts, driveways and access roads ▪ Sanitary sewer (septic) and water utility plans ▪ Location of well and septic systems on adjacent properties ▪ Location of wetlands and other natural features ▪ Existing and proposed parking (if applicable) ▪ Off-street loading areas (if applicable) ▪ Existing and proposed sidewalks and trails <p>COPIES: 1 plan at 22"x34", 12 plans at 11"x17" (half scale)</p>

Application for: **VARIANCE**
City of Grant

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Architectural/Building Plan (if Applicable): All full scale plans shall be at a scale not smaller than 1" = 100' and include a north arrow</p> <ul style="list-style-type: none"> ▪ Location of proposed buildings and their size including dimensions and total square footage ▪ Proposed floor plans ▪ Proposed elevations ▪ Description of building use <p>COPIES: 1 plan set 22"x34", 12 plan sets 11"x17" (half scale)</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Written Narrative: Describe your request and the practical difficulties that are present on the site and why a Variance is sought.</p> <p>COPIES: 15</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Statement acknowledging that you have contacted other governmental agencies such as Watershed Districts, County departments, State agencies, or others that may have jurisdiction over your project.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mailing labels with names and address of property owners within ¼ mile (1,320 feet). Contact Washington County to obtain list/labels.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Paid Application Fee: \$400
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Escrow Paid: \$3,000
MATERIALS THAT MAY BE REQUIRED UPON THE REQUEST OF THE CITY PLANNER		
<input type="checkbox"/>	<input type="checkbox"/>	Survey of the property: An official survey, by a licensed surveyor, must be submitted with the application. The survey shall be scalable and in an 11" x 17" format.
<input type="checkbox"/>	<input type="checkbox"/>	Wetland Delineation: A wetland delineation may be necessary depending on the reason for the variance, and stated site constraints.
<input type="checkbox"/>	<input type="checkbox"/>	Electronic copy of all submittal documents

This application must be signed by ALL owners of the subject property or an explanation given why this not the case.

We, the undersigned, have read and understand the above.

Michelle Weaney
Signature of Applicant

5/18/17
Date

Signature of Owner (if different than applicant)

Date

Administrator/Clerk

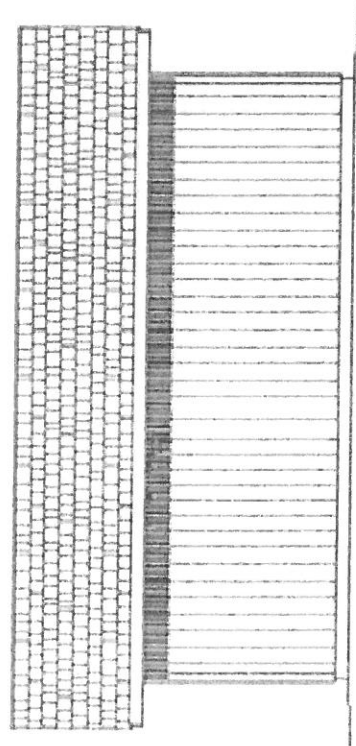
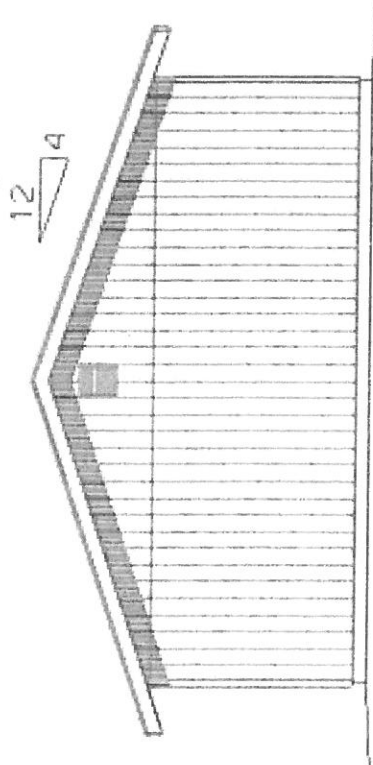
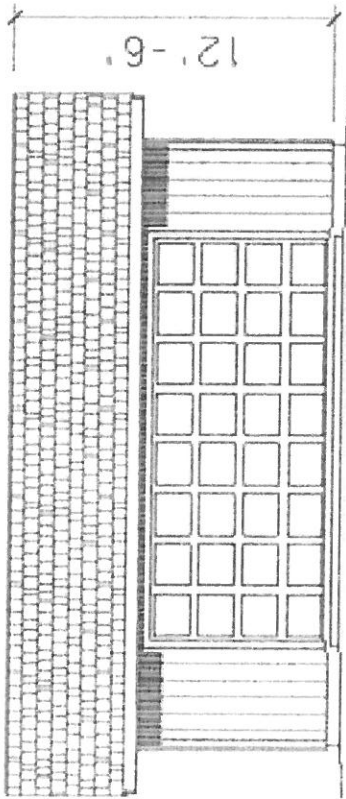
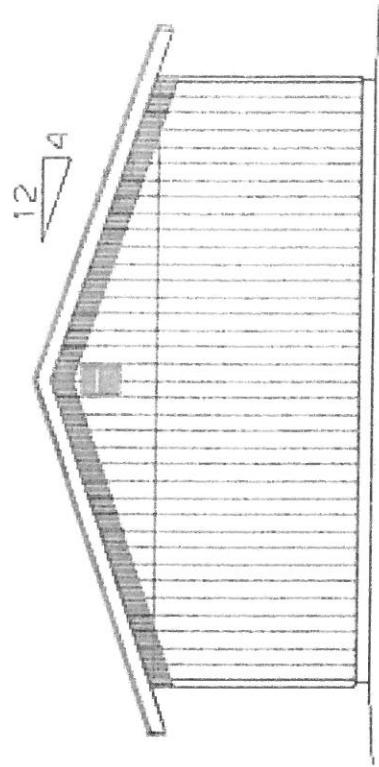
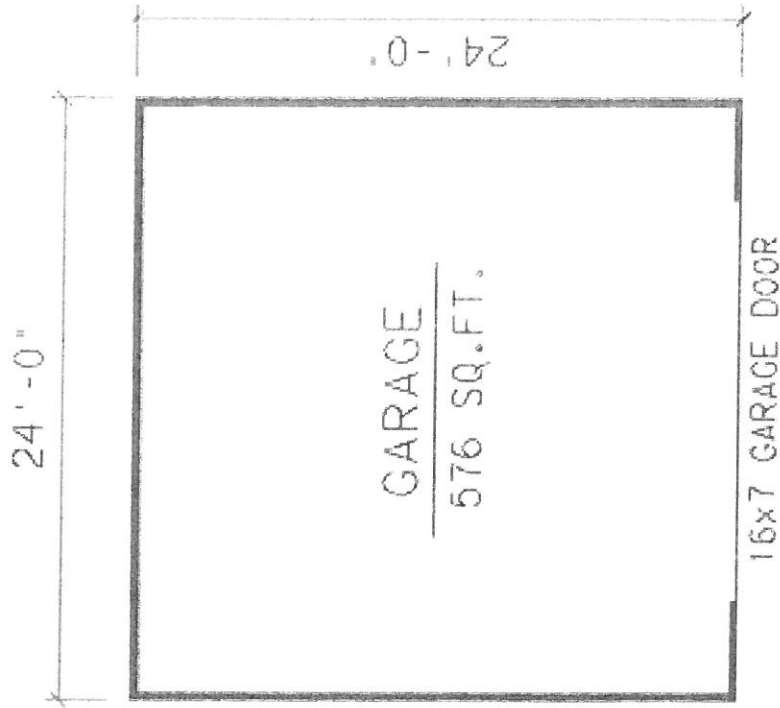
From: Michelle <michelle@weaverproducts.com>
Sent: Thursday, May 18, 2017 11:00 AM
To: clerk@cityofgrant.com
Subject: New garage build on 9051 Lansing Ave No.

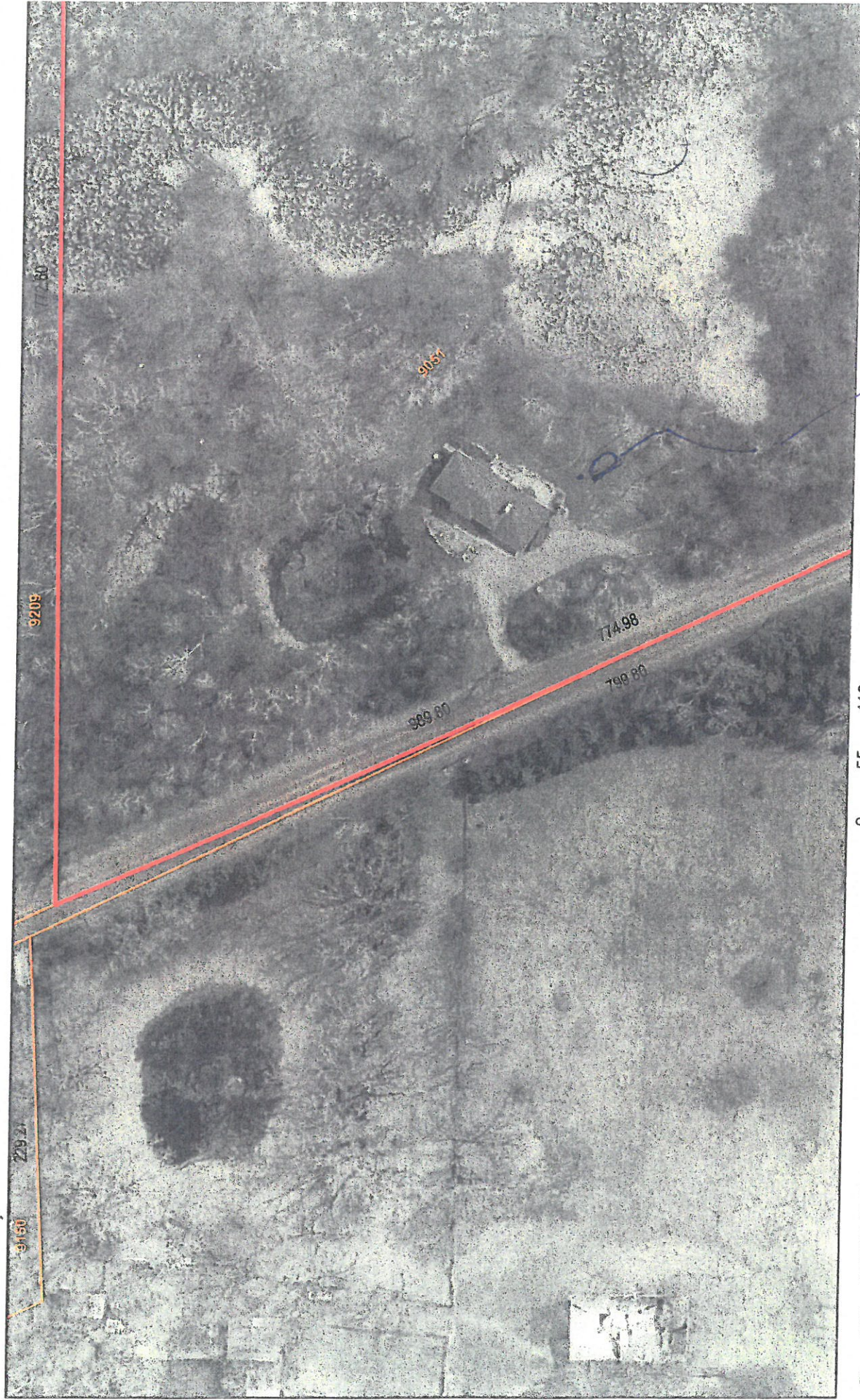
Grant City Council –

We were hoping to build a new 2 car garage on our property located at 9051 Lansing Ave North in the city of Grant. The garage is 24x24 with a poured wall & a block foundation. There will be minimal ground movement on the site because of the concrete wall and the span Crete floor.

The proposed location of the garage does not meet the road setbacks, therefore we are requesting a variance due to the topography of our property. There is no other location to build a garage.

Sincerely,
Jon & Michelle Weaver
9051 Lansing Ave N
Grant, MN 55082





Parcel ID: 1303021340004

Parcel Address:
9051 LANSING AVE N, CITY OF GRANT

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

This drawing is the result of the compilation and reproduction of land records as they appear in various Washington County offices. The drawing should be used for reference purposes only. Washington County is not responsible for any



STAFF REPORT

TO: Planning Commission Members
Kim Points, City Clerk
Nick Vivian, City Attorney

Date: June 12, 2017

From: Jennifer Haskamp

RE: Variance from the maximum fence height to permit an 8-foot fence on the property line at 6990 117th St N

Background

The Applicant and Owner, Chuck Lucius (Applicant), is requesting a variance from the maximum fence height requirements to allow for the installation of an 8-foot fence on the subject property at 6990 117th Street North. Approximately 30-acres of the subject property is in the City of Grant, and approximately 10 acres of the subject property is located in the City of Dellwood. As stated within the Applicant’s narrative (Attachment A: Applicant & Narrative) the Applicant recently obtained a Conditional Use Permit (CUP) from the City of Dellwood to install the proposed eight (8) foot tall fence along the property lines of the portion of their property located in the City of Dellwood. While the City of Dellwood processes fences in excess of 6-feet through a CUP process, the City of Grant does not permit fences above 6-feet located on a property line, and as a result the Applicant has requested a variance from this standard.

A duly noticed public hearing was published for June 20, 2017 at 7:00 PM, and individual property owners were notified within ¼-mile (1,320-feet) of the proposed project location.

The following staff report summarizes the requested variance, and existing conditions of the site.

Project Summary

Applicant & Owner: Chuck Lucius	Site Size: PID 0603021140001 – 39.99 Acres (Grant) PID 0503021230003 – 9.79 Acres (Dellwood)
Address: 6990 117 th Street North	Zoning & Land Use: A-1
Request: The applicant is requesting a variance from the maximum height of a fence along a property line to allow for the installation of an eight (8) foot fence along the northerly and westerly property lines of the subject property.	

The following summary of the requested variance and proposed project is as follows:

- The Applicant is proposing to construct and install an 8-foot tall agricultural style fence along the northerly (front lot line) and westerly property line (side lot line, generally) on the parcel located in the City of Grant (See Attachment A: Application & Narrative for Fence Detail). The proposed fence would be constructed on the property line, and there is no setback proposed based on the submitted drawing.



- Fences are permitted along front lot lines if less than 36” tall, but are not permitted within a public right-of-way. Therefore, a variance would be required to permit construction of any fence along the front lot line, based on the proposed location as identified on Attachment B.
- The portion of the fence considered to be on the side lot line is permitted to a maximum height of 6-feet. A variance from the 6-foot maximum would be required to permit the installation of an 8-foot fence in this location.

Review Criteria

Section 32-60 establishes the criteria for granting and review of variance requests. In addition to a site plan and development plans, the variance application process requires the Applicants to prepare a statement of reasons why the request is made describing the hardship (or practical difficulty) where a hardship is described as, “the proposed use of the property and associated structures in question cannot be established under the conditions allowed by this chapter or its amendments and no other reasonable alternate use exists; however, the plight of the landowner must be due to physical conditions unique to the land, structure or building involved and are not applicable to other lands, structures or buildings in the same zoning district....Economic considerations alone shall not constitute a hardship.”

The applicant has provided a brief narrative describing the practical difficulty of their property to construct an accessory building/detached garage which is provided in Attachment A: Application and Narrative.

Existing Site Conditions

As depicted on the survey, Parcel A is approximately 39.99 acres and is located in the City of Grant, and Parcel B is approximately 9.79 acres and is located in the City of Dellwood. The Applicants recently constructed a new home and accessory building on Parcel A. The new home and accessory building area accessed via a new driveway which connects north to 117th Street North (CSAH 7). There are existing wetlands on the subject property, generally located behind the new residence and on the southeasterly corner of the property.

It is staff’s understanding that the Applicant recently installed, or will install, the same style fence as requested in this Application along the easterly property line as permitted through a CUP granted by the City of Dellwood.

Dimensional Standards

The following site and zoning requirements are found in **Section 32-315 Fences**. A summary of the standards as they apply to the A-1 district, with a principal residential use, are provided for your review and consideration:

- Fences in Yards - outside of required yard setbacks:
 - No fences permitted in Public Right-of-Way
 - Fences over 6-feet require a building permit



- Fences located within the buildable area of a lot or eight feet or more from the rear lot line may be up to eight feet in height.
- Required Yards (setbacks):
 - Front Yard Setback: 150' from centerline
 - Side Yard Setback: 20'
 - Rear Yard Setback: 50'
- Fences located along Property Lines:
 - No fences permitted in Public Right-of-Way
 - Front Yard fences in required yards are permitted if less than 36"
 - Fences may be located on any side or rear lot line to a height of 4' above finished grade
 - Fences alongside and rear interior lot lines beginning at the rear building line of the principal structure shall be a maximum of six (6) feet in height

As depicted on the Certificate of Survey provided on Attachment B, and as indicated within the narrative, the Applicant is proposing to install the fence along the northerly and westerly property lines. It should be noted that the submitted drawing of the fence is not accurate with respect to the actual fence location since a highlighter is used to denote proposed locations (i.e. the location of the fence on the property to the south of the subject property cannot be verified without a surveyor field locating and determining exact location and then placing the fence on the survey). However, since the survey depicts the property lines and easements, and the narrative clearly states the intent to install the fence on the property lines, the drawing can be used for this analysis. Staff has separated this review into two parts; 1) The portion of fence that would be considered the front; and 2) the portion of the fence that would be the side.

- Proposed Fence on Front Property Line: As shown on the submitted drawing the new fence line would be installed along the property line adjacent to 117th Street North. It appears that the right-of-way associated with 117th Street North extends south of the property line and appears to be the roadway easement depicted by the dashed line. Therefore, the proposed fence line would be located within a public-right-of way, which per the ordinance is prohibited. Therefore, the request also includes a second variance from the ordinance to permit the construction of a fence in the public right-of-way. Additionally, the 'front' would be further defined as that portion of fence extending south approximately 960-feet from 117th Street North to the rear building line of the principal structure. This portion of fence line, per the ordinance is technically the front. The city's ordinance implies that fences on the front lot line are restricted to a height of no more than 4-feet, which can be inferred from section 32-315 subsection (b)(6).
- Proposed Side Yard Fence: The remaining approximately 320-feet of the westerly fenced property line would be considered the side lot line and would be restricted to a maximum height of 6-feet tall.
- The proposed application does not include any fencing of the rear property line as indicated on the submitted survey and in the narrative. The Applicant believes that the neighbor has installed similar fencing along this property line.



Analysis of Variance Request

Section 32-59 defines a hardship as the following: “Hardship means the proposed use of the property and associated structures in question cannot be established under the conditions allowed by this chapter or its amendments and no other reasonable alternate use exists; however, the plight of the landowner must be due to physical conditions unique to the land, structure or building involved and are not applicable to other lands, structures or buildings in the same zoning district; these unique conditions of the site cannot be caused or accepted by the landowner after the effective date of the ordinance from which this chapter is derived or its amendments. Economic considerations along shall not constitute a hardship.” To evaluate this request, this definition must be considered during the analysis to determine if the proposed variance(s) meet the threshold as provided within the definition. The following summary analysis of the Applicant’s narrative (Attachment A) is provided for the review and consideration by the Planning Commission:

- *The property currently is a working farm, and the Applicant would like to fence the property with an Agricultural fence to secure the site, and ensure safety.*

There are many “working” farms, horse board operations and similar agricultural and livestock uses in the City of Grant. Since this type of use is permitted, or conditionally permitted, this cannot be considered a unique condition to the site which is a required consideration in granting a variance. The desire to maintain the safety of the site is important; however, the city’s ordinances would permit the installation of an 8-foot agricultural fence provided it was located outside of the yard setbacks, along the front and side lot lines (i.e. fence outside of front yard setback at least 150-feet from the centerline of CSAH 7, and fence setback at least 20-feet from westerly property line). Therefore, given that there are options available to permit a fence up to 8-feet tall, it cannot meet the standard as established that “no other reasonable alternate use exists.”

- *The Applicant would like to continue the existing fence type/style to make it cohesive with his fence on easterly property line.*

The Applicant indicates in their narrative that they recently received approval to construct the same 8-foot tall fence style on the portion of the property located in the City of Dellwood. While staff can appreciate the desire to install the same fence type, it again fails to meet the City’s definition which requires, “these unique conditions of the site cannot be caused or accepted by the landowner” meaning that the issue cannot be self-created. In this case, the Applicant approached Dellwood first, and is now attempting to use that approval as a basis and justification for their variance application in Grant. Unfortunately, the recent approval in Dellwood cannot be reasonably used as justification in the City of Grant’s analysis of a variance because it is the same property owner/Applicant who must understand the rules and ordinances of each City in which the proposed project is located.



- *The Applicant has stated that adjacent properties (specifically the property to the south, which would be the subject property's rear property line) have the same style fence and they are just proposing to install the same fence for consistency.*

Staff cannot verify whether a fence of similar type was installed, nor do we know the height of the subject fence on the adjacent parcel since it is not a part of this application. Additionally, since a survey for the adjacent property is not a part of this Application review, it is impossible to know the precise location of the fence on the adjacent property and whether or not it meets the setback requirements that may have permitted the installation of an 8-foot fence on that property. Further, this cannot be used as justification for a variance by the very definition of a hardship/practical difficulty provided above, since that would negate the 'unique' circumstances that must be present to approve a variance.

- *The Applicant provided no justification to permit the installation of the fence in the public right-of-way on 117th Street North.*

The Applicant's narrative did not address the desire to install the fence along the front property line which would be located within the right-of-way easement for 117th Street North.

Summary

Based on the justification provided in the Applicant's narrative, there does not seem to be a hardship that can be established that is unique to the subject property. Staff does not believe there is adequate defense to grant a variance from the fence height standards, or location, since the Applicant could simply move the fence outside of the required yard setbacks and still construct the desired fence to the desired 8-foot height after obtaining a certificate of compliance and a building permit. If the Applicant strongly desires to have the fence on the property line, then they could reduce the height of the fence to 6-feet and again would simply need a certificate of compliance and possibly a building permit. Based on these two available alternatives, staff would not recommend granting a variance from the maximum fence height or fence location requirements.

Other Agency Review

If the Planning Commission disagrees with staff and recommends a variance for height and location, then the Application materials should be submitted to Washington County for their review, comment and approval. The proposed location of the fence on the front lot line appears to be located within the CSAH 7 right-of-way, which is a County Road and therefore they would need to approve of the proposed location and fence height.

Draft Findings



Staff has prepared the following draft findings denying the proposed variance(s) for your review and consideration:

- The requested variance application does not adequately demonstrate a unique natural or physical site condition that cannot be found on other similarly zoned and guided property in the City of Grant.
- The Applicant can install a fence on the subject property and there are several options available for such installation that do not require a variance.
- The Applicant did not provide a survey located fence plan, so it is not possible to confirm the location of fencing on adjacent property lines or to confirm whether the fence on the front lot line would be located within the public right-of-way.
- Installation of a fence within a public right-of-way has the potential to obstruct the maintenance and management of the right-of-way, and therefore may adversely impact public health and safety.

Action requested:

Staff is seeking a recommendation from the Planning Commission regarding the requested variance as described in the Applicant's narrative and in this staff report.

Attachments

Attachment A: Application and Applicant's Narrative

Attachment B: Certificate of Survey dated 5/10/2017



Application Date:	5/10/17
Fee: \$400	Escrow: \$3,000

Check # 1527 - 400.00
1528 - 3000.00

VARIANCE REQUEST

In certain cases a variance from the strict enforcement and adherence to the zoning ordinance may not be possible due to practical difficulties associated with a property. A practical difficulty means that the proposed use of the property and associated structures in question cannot be established under the conditions allowed by the zoning ordinance and that no other reasonable alternate use exists. The following application is provided for such circumstances and will be determined by the Board of Adjustment for the City of Grant.

PARCEL IDENTIFICATION NO (PIN): 06.030.21.14.0001		ZONING DISTRICT & COMP PLAN LAND USE:
LEGAL DESCRIPTION: Section 06 Township 030 Range		LOT SIZE: 40
PROJECT ADDRESS: 6990 117 th St N Grant MN 55110	OWNER: Name: Chuck Lucius Address: 30 Crescent Ln. City, State: N. Oaks MN 55127 Phone: 612-819-9761 Email: CLUCIUS@gradientfg.com	APPLICANT (IF DIFFERENT THAN OWNER):
BRIEF DESCRIPTION OF REQUEST: Installing an 8' Tall agricultural fence on my West + North property Lines		
EXISTING SITE CONDITIONS:		
APPLICABLE ZONING CODE SECTION(S): Please review the referenced code section for a detailed description of required submittal documents, and subsequent process. 1. Chapter 32, Sec. 32-60. Variances.		

Submittal Materials

The following materials must be submitted with your application in order to be considered complete. If you have any questions or concerns regarding the necessary materials please contact the City Planner.

AP - Applicant check list, CS - City Staff check list

AP	CS	MATERIALS
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Site Plan: All full scale plans shall be at a scale not smaller than 1" = 100' and include a north arrow</p> <ul style="list-style-type: none"> ▪ Property dimensions ▪ Area in acres and square feet ▪ Setbacks ▪ Location of existing and proposed buildings (including footprint, and dimensions to lot lines) ▪ Location of current and proposed curb cuts, driveways and access roads ▪ Sanitary sewer (septic) and water utility plans ▪ Location of well and septic systems on adjacent properties ▪ Location of wetlands and other natural features ▪ Existing and proposed parking (if applicable) ▪ Off-street loading areas (if applicable) ▪ Existing and proposed sidewalks and trails <p>COPIES: 1 plan at 22"x34", 12 plans at 11"x17" (half scale)</p>

Application for: **VARIANCE**
City of Grant

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Architectural/Building Plan (if Applicable): All full scale plans shall be at a scale not smaller than 1" = 100' and include a north arrow</p> <ul style="list-style-type: none"> ▪ Location of proposed buildings and their size including dimensions and total square footage ▪ Proposed floor plans ▪ Proposed elevations ▪ Description of building use <p>COPIES: 1 plan set 22"x34", 12 plan sets 11"x17" (half scale)</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Written Narrative: Describe your request and the practical difficulties that are present on the site and why a Variance is sought.</p> <p>COPIES: 15</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Statement acknowledging that you have contacted other governmental agencies such as Watershed Districts, County departments, State agencies, or others that may have jurisdiction over your project.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mailing labels with names and address of property owners within ¼ mile (1,320 feet). Contact Washington County to obtain list/labels.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Paid Application Fee: \$400
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Escrow Paid: \$3,000

MATERIALS THAT MAY BE REQUIRED UPON THE REQUEST OF THE CITY PLANNER

<input type="checkbox"/>	<input type="checkbox"/>	<p>Survey of the property: An official survey, by a licensed surveyor, must be submitted with the application. The survey shall be scalable and in an 11" x 17" format.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>Wetland Delineation: A wetland delineation may be necessary depending on the reason for the variance, and stated site constraints.</p>
<input type="checkbox"/>	<input type="checkbox"/>	Electronic copy of all submittal documents

This application must be signed by ALL owners of the subject property or an explanation given why this not the case.

We, the undersigned, have read and understand the above.

Charles E Lucian

Signature of Applicant

5/8/17

Date

Charles E Lucian

Signature of Owner (if different than applicant)

5/8/17

Date

City of Grant
Board of Adjustment
P.O. Box 577
Willernie, MN 55090

RE: Request for Variance relating to Fence and Fence Height

To the City of Grant and Planning Commission Members,

This letter is intended as a written narrative describing why a variance is sought as it relates to the building of a fence on my property located at 6990 117th street north ("Property") and why such fence is needed. Below please find my basis for applying for a variance as it relates to my proposed construction of an eight foot tall fence on my property and why such a variance should be allowed.

Appearance and Construction of the Eight (8) Foot fence.

- A) The fence that I plan to construct shall have at least 95% transparency through the structure so as to allow the passage of light, air, and wind. Further, the fence will be built so as to not obstruct the view of any individual or passing vehicle that would result in a dangerous traffic hazard.
- B) The face of the fence shall face the abutting property.
- C) The fence shall not be constructed upon a public right-of-way.
- D) The land has been surveyed by E.G. Rud who has placed markers so as to designate the position of the fence and ensure that the fence accurately follows the property line of the affected property.
- E) The fence shall not be of a chain-link nature.
- F) The fence shall not be barbed-wire or electrical.
- G) The fence will be professionally constructed and will be made from high-end materials so as to stay in line with the surrounding properties and the overall feel of the Dellwood community.

Practical Difficulties and Why the Construction of an Eight (8) Foot Fence is needed:

1. This letter is meant to formally request a variance so as to install an eight (8) foot tall agricultural-style fence on my Property. Safety is my primary concern. My Property is a working farm with large machinery located and used on it. Additionally, the Property contains large ponds that are not actively observed or watched. Having said that, I want the Property secure so that there is not potential for any child, pet or livestock to wonder onto the Property and get hurt on the Property due to the numerous potentially dangerous items and landscapes located on the Property. Based on the size of the Property, I cannot watch the totality of the land effectively to ensure that without the presence of the fence that a small child or individual doesn't enter the Property and face the threat of potential injury.

Also, I would like the ability to pen in horses and other animals on the Property so as to function in an agricultural manner. The presence of the

eight (8) foot tall fence would ensure that the animals housed on the Property would not be able to jump over the fence. Similarly, I also plan on growing crops on the Property. As the fence would be able to keep my animals within its bounds, the fence could likewise keep unwanted outside animals or trespassers off of my Property and ensure they do not destroy my crops.

Further, the fence will not be placed in any manner that would obstruct the view of motorists or create a safety hazard with regard to access to and from or on a public street.

As such, I believe that the placement, height, and design of the fence does not create a safety hazard to any individual, entity or animal.

2. The reason I selected the eight (8) foot tall agricultural-style fence is to match the exact size and style to what has already been installed on the Property. As stated prior, I would construct the fence in a high-end fashion to be in line with the Grant level of expectations and match the existing fence so as to not create an unappealing sight. Based on the fact that an eight (8) foot tall fence already exists on the Property, it is my belief that the continuance of an eight (8) foot tall fence on the remaining portions of the Property would not negatively affect adjoining properties or use and would in fact ensure the safety of all adjoining property owners and visitors to Grant.
3. Additionally, it should be noted that the City of Dellwood, which a portion of the Property lies as already approved the construction of the eight (8) foot tall fence. The portion under discussion herein would perfectly match that Dellwood portion of the fence

Thank you for hearing my request and know that this fence will be the best for the safety of the neighbors and the Property.

With regards,

A handwritten signature in cursive script that reads "Charles E. Lucius". The signature is written in black ink and is positioned above the printed name.

Charles E. Lucius



ECKBERG LAMMERS
MEMO

To: City of Grant
From: Kevin S. Sandstrom, City Attorney
Date: May 23, 2017
Re: Lanoux Open Meeting Law Complaint (01200-31051, doc # 51)

Issue:

At the council meeting on May 2, 2017, Larry Lanoux provided a formal written complaint asserting that the City's Planning Commission engaged in an Open Meeting Law ("OML") violation on March 16, 2017. Pursuant to the City's procedures, the City Attorneys' office investigated this complaint and provides this memo in response.

Facts:

On March 16, 2017, the City's Planning Commission (hereinafter "P.C.") held a duly noticed meeting and public hearing on the Farms of Grant subdivision. Mr. Lanoux's complaint alleges that following the adjournment of the meeting, four of the seven planning commission members (Robert Tufty, Jerry Helander, Jeff Schafer, and John Rog) engaged in an OML violation by discussion of city business after the close of the meeting. As evidence, Mr. Lanoux attaches a photograph to his complaint. The complaint also alleges Clerk Kim Points and Planner Jennifer Haskamp were involved in this violation. They are depicted in the photograph as well.

Investigation:

I investigated this matter by discussing the same with Kim Points, Jennifer Haskamp, John Rog, Robert Tufty, Jerry Helander, and Jeff Schafer. My investigation determined the following:

First, Mr. Lanoux is incorrect when he asserts that the photograph alone demonstrates an OML violation. The photograph shows Jerry Helander, Jon Rog, and Jeff Schaffer, who are only three members of a seven-member P.C.. The other persons pictured are Kenny Ronin (city videographer), Kim Points (City Administrator), and Jennifer Haskamp (City Planner). A quorum of the P.C. would constitute at least four members, so a quorum is not pictured in Mr. Lanoux's photograph. Mr. Lanoux asserts that Robert Tufty was involved in the claimed OML violation, but Mr. Tufty is not pictured. Even so, the mere fact that four or more members of the P.C. are all located in a room together does not alone constitute a violation of the OML.

In speaking to the aforesaid witnesses, all of them provided consistent recollections of the timeframe in question. The P.C. meeting had recently adjourned, and the City Staff and remaining P.C. members were generally packing up their things and preparing to leave the meeting space. As they did so, they were saying their goodbyes and having general conversations and causal "chit chat" about non-city business. Ms. Haskamp had some technical difficulties with her Power Point presentation during the meeting, and at the time the photograph

was taken by Mr. Lanoux, Ms. Haskamp had asked videographer Kenny Ronin for assistance with her computer. Although some portion of Ms. Haskamp's presentation was located on the screen, the focus of the efforts was solving her technical difficulties, rather than presenting official information to the P.C. members.

Mr. Schafer was saying goodbye to the city staff and happened to glance up at the screen at the time the photograph was taken, but he affirms that no discussion of city business was occurring at that time. Mr. Schafer confirms he was not involved in the conversation occurring between Jerry Helander and John Rog as shown on the left of the photograph.

Both John Rog and Jerry Helander confirm that their conversation as shown in the photograph involved casual conversation about non-city business, namely idle chit chat. Particularly, Mr. Rog was further introducing himself and welcoming Jerry Helander to the planning commission and getting to know him on a more personal level, given that it was Mr. Helander's first meeting as a recently appointed commissioner, and was Mr. Rog's first meeting as chairman of the P.C.

All of the witnesses confirm that the photograph was taken within several minutes of the meeting being adjourned, and in fact, Mr. Lanoux was present throughout the meeting and was also going in and out of the building during this timeframe after adjournment. It is believed Mr. Lanoux stepped outside the building to snap the photo through the window of the building, in an apparent attempt to insulate himself from his claimed assertion of an OML violation.

Law and Conclusion:

As was determined over 30 years ago and is frequently cited from the Minnesota Supreme Court, an OML violation occurs only when a quorum of the members of a governmental body are present AND official governmental business and information relevant to that governmental body is "discussed, decided or received" as a group. *Moberg v. Indep. Sch. Dist. No. 281*, 336 N.W.2d 510, 518 (Minn. 1983). Open meeting law does not apply to chance or social gatherings. *St. Cloud Newspapers, Inc. v. Dist. 742 Cmty. Sch.*, 332 N.W.2d 1, 7 (Minn. 1983).

Notably, the P.C. had: (1) just completed a duly noted open meeting and public hearing, (2) determined that their official business was concluded, and (3) decided to adjourn the meeting-- it would make little sense for the P.C. members to continue receiving official city information, discussing it, and/or deciding upon it, given that they had opted to adjourn their meeting. Thus the statements of the witnesses as collected during my investigation are consistent with expected conduct following the adjournment of a formal P.C. meeting, namely that merely casual conversations were occurring about items other than official city business.

My determination is that the post-adjournment casual conversations that occurred as depicted in the photograph attached to Mr. Lanoux's complaint are akin to a chance or social gathering, did NOT involve the discussion of official city business by a quorum of the P.C., and therefore, do NOT constitute a violation of the open meeting law.

It appears Mr. Lanoux's complaint is unfounded and may be dismissed. I do not expect any further action on this matter on the part of the City will be necessary.