

**CITY OF GRANT  
PLANNING COMMISSION MEETING**

Tuesday, October 17, 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: September 19, 2017
5. NEW BUSINESS
  - A. Consideration of Variance Application, Wetland Setbacks for Septic System, 6782 Jocelyn Road North
  - B. Consideration of Variance Application for Required Minimum Lot Frontage, 400 Block of Maple Street North
6. OLD BUSINESS
7. ADJOURN

# PLANNING COMMISSION MEETING MINUTES

## CITY OF GRANT

September 19, 2017

**Present:** John Rog, James Drost, Matt Fritze, Jeff Schafer, Jeff Geifer and Robert Tufty

**Absent:** Jerry Helander

**Staff Present:** City Planner, Jennifer Swanson; City Clerk, Kim Points

### 1. CALL TO ORDER

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

### 2. PLEDGE OF ALLEGIANCE

### 3. OATH OF OFFICE, MATT FRITZE

The Oath of Office was taken by Council appointee Matt Fritze.

### 4. APPROVAL OF AGENDA

Item 6A, Comprehensive Plan Update was moved to Item 7B.

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

### 5. APPROVAL OF MINUTES, July 18, 2017

MOTION by Commissioner Drost to approve the July 18, 2017 Minutes, as presented. Commissioner Tufty seconded the motion. MOTION carried unanimously with Commissioner Fritze abstaining.

### 6. OLD BUSINESS

- A. Application for Text Amendment to allow Community Solar Gardens in A1 and A2 Zoning Districts.** – City Planner Swanson advised at the meeting in July the Planning Commission considered the request of US Solar to amend the City's Zoning Ordinance to add Community Solar Gardens to the list of conditionally permitted uses in the A-1 and A-2 zoning districts. A duly noticed public hearing was held and closed, and the Planning Commission discussed the request. Generally, the Planning Commission was open to considering an amendment to the Zoning Ordinance but wanted more details spelled out in the proposed ordinance change to ensure that the

proposed use could be compatible with existing neighborhoods and the city's adopted Comprehensive Plan. Generally, the Planning Commission requested that the Applicant and staff work together to refine the draft ordinance to address/include the following:

- Include performance standards for Community Solar Gardens that would include limitations for:
- Lot Size/Area
- Access requirements
- Size of installations
- Include residential solar energy systems concurrently with the consideration of the request for community solar gardens.
- Include screening requirements
- Address removal/abandonment

After the July Planning Commission, Staff worked with the Applicant to develop a draft ordinance that would address the issues as identified during the meeting. The draft ordinance is attached to this staff report for your review and consideration. Staff would note that the Applicant has not provided any comment on the latest draft of the ordinance prepared and included within this packet prior to the staff report going out.

The applicant then distributed revisions of the draft to the Planning Commission.

City Planner Swanson reviewed the draft ordinance noting the performance standards and proposed changes from the applicant.

Staff is requesting the Planning Commission provide a recommendation to the City Council for consideration at their regular October meeting.

The Planning Commission reviewed the requested changes from the applicant to the language included on page 3 relating to performance standards #1, "shall be located on a parcel that is located on" The Planning Commission agreed with the change. Another requested change from the applicant related to performance #2 relating to the site and primary frontage.

City Planner Swanson clarified the proposed language noting it related to the only access to the site shall be from a state or county road especially during construction. The Planning Commission determined the language would not be revised per the applicants request.

The applicant requested a third language change relating to performance standard #e relating to screening. The applicant indicated his only requested change was “from adjacent residential structures and public rights-of-way”. The Planning Commission agreed with the requested change.

Chair Rog asked the applicant who benefits from this type of project.

The applicant came forward and provided the background again of community solar farms noting the power goes directly into the power grid. The benefit comes to subscribers in bill credits. US Solar works mostly with cities and schools. The City’s actual electric bill could be reduced 5-10%.

Chair Rog stated he does not believe community solar farms match the City’s Comprehensive Plan. It does not benefit Grant at all and the City really doesn’t understand the impact of this type of project. He stated he does not think they are appropriate for the City of Grant.

Ms. Joyce Welander (no address provided) stated the proposed location is at Manning and County Road 12 on a 64-acre parcel. She provided the background of her farm and noted the Comprehensive Plan calls for open space. She asked if the City would rather see houses there, provided them with a Grant history book and thanked them for considering the proposal asking for approval.

City Planner Swanson referred to Section C, Submission at time of initial application noting that all of those requirements are in addition to the requirements for a CUP. She advised all ordinances can be readdressed and or revised through the amendment process. Any changes do require a public hearing and ordinances are amended quite often.

MOTION by Commissioner Schaffer to recommend approval of the draft ordinance as amended. Commission Giefer seconded the motion. MOTION carried 5-1 with Chair Rog voting nay.

This item will appear on the October 3, 2017 City Council Meeting agenda.

## **7. NEW BUSINESS**

- A.** Comprehensive Plan Update – At the Planning Commission meeting in July staff provided a brief introduction of the 2040 Comprehensive Plan Update (2040 Plan) process that we will be working on over the next year. As presented in July, the City is required to update its Comprehensive Plan every 10 years per state statute for consistency with regional plans and systems as provided by the Metropolitan Council. To comply with this requirement, the Metropolitan Council prepared a 2015 System Statement that identifies which regional systems impact the City, and how the City



must plan for and address these systems with the 2040 Plan. For reference and information, the 2015 System Statement is attached to this memo.

The first step in the process is to understand what, if anything has changed in the community since the last plan was adopted in 2008. To assist with that analysis, staff is preparing a Background Report that will provide updated demographics, housing, economic and land use trends since 2008. Preliminary and draft information will be presented to the Planning Commission for discussion at the September 19<sup>th</sup> meeting, which will include:

- Current and projected population trends
- Current and projected household trends
- Existing household types
  - Affordability trends
  - Permits
  - Ownership rates
- Current and projected employment trends
- Regional trends for land uses, population and households
- Adopted 2030 Land Use Plan and current Acreages
- Natural Resources, including wetlands, lakes and streams

In addition to the background information, we will kick-off goal setting with discussion of a SWOT exercise (Strengths, Weaknesses, Opportunities and Threats) at the meeting.

City Planner Swanson stated at the next meeting work will be done on the goal statements and vision statements/.

## **8. ADJOURNMENT**

MOTION by Commissioner Schafer to adjourn the meeting at 8:30 p.m. Commissioner Tufty seconded the motion. Motion carried unanimously.

Respectfully submitted,

Kim Points

City Clerk

DRAFT

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



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

Application Date:	9/5/17
Fee: \$400	Escrow: \$3,000

check # 9481-3400  
9482-3000

## 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): 34.030.2112003		ZONING DISTRICT & COMP PLAN LAND USE: R1
LEGAL DESCRIPTION: * Attached *		LOT SIZE: 1.5 acres
PROJECT ADDRESS: 6782 Jocelyn Rd N Stillwater, MN 55082	OWNER: Name: Jeff & Cheryl Kargel Address: 6782 Jocelyn Rd N City, State: Stillwater, MN Phone: 651-210-6502/55082 Email: kargels@gmail.com	APPLICANT (IF DIFFERENT THAN OWNER): Same
BRIEF DESCRIPTION OF REQUEST: Variance for current set back for New septic: East side of property		
EXISTING SITE CONDITIONS: Single family home - only possible location for septic		
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><b>Site Plan:</b> 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"><li>Property dimensions</li><li>Area in acres and square feet</li><li>Setbacks</li><li>Location of existing and proposed buildings (including footprint, and dimensions to lot lines)</li><li>Location of current and proposed curb cuts, driveways and access roads</li><li>Sanitary sewer (septic) and water utility plans</li><li>Location of well and septic systems on adjacent properties</li><li>Location of wetlands and other natural features</li><li>Existing and proposed parking (if applicable)</li><li>Off-street loading areas (if applicable)</li><li>Existing and proposed sidewalks and trails</li></ul> <p>COPIES: 1 plan at 22"x34", 12 plans at 11"x17" (half scale)</p>

Application for: VARIANCE  
City of Grant

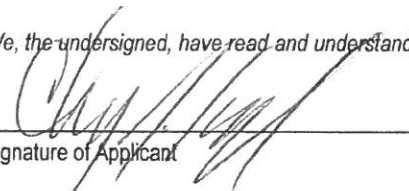
<input type="checkbox"/>	<input type="checkbox"/>	<b>Architectural/Building Plan (if Applicable):</b> All full scale plans shall be at a scale not smaller than 1" = 100' and include a north arrow <ul style="list-style-type: none"> <li>Location of proposed buildings and their size including dimensions and total square footage</li> <li>Proposed floor plans</li> <li>Proposed elevations</li> <li>Description of building use</li> </ul> COPIES: 1 plan set 22"x34", 12 plan sets 11"x17" (half scale)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Written Narrative:</b> Describe your request and the practical difficulties that are present on the site and why a Variance is sought. <i>email to city</i> COPIES: 15
<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. <i>Form to Washington - Labels to Kim</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Paid Application Fee: \$400 <i>pd 8.31.17 #9481</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Escrow Paid: \$3,000 <i>pd 8.31.17 #9482</i>

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

<input type="checkbox"/>	<input type="checkbox"/>	<b>Survey of the property:</b> 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"/>	<b>Wetland Delineation:</b> 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.

  
Signature of Applicant

*9.5.17*  
Date

Signature of Owner (if different than applicant)

Date

PT NW1/4-NE1/4 SD SEC 34 COM AT NE COR SD 1/4-1/4  
THN S ALG E LN SD 1/4-1/4 935FT TO SE COR  
SUNNYBROOK LAKE THN W ALG S LN SD LAKE SD S LN  
BEING PARL WITH & 935FT S OF N LN SD SEC 34 FOR  
33.0FT TO C/L N/S TWP RD WHICH IS POB THIS DESC  
THN CONT W ALG SD S LN OF SUNNYBROOK LAKE  
206.12FT THN S & PARL WITH SD E LN SD 1/4-1 /4  
317.0FT THN E & PARL WITH S LN SD LAKE 206.12FT TO  
SD C/L TWP RD THN N ALG SD C/L TWP RD 317.0FT TO  
POB SECTION 34 TOWNSHIP 030 RANGE 021

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**Administrator/Clerk**

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**From:** Cheryl Kargel [REDACTED]  
**Sent:** Thursday, August 31, 2017 10:32 AM  
**To:** Administrator/Clerk  
**Cc:** Jeffrey Kargel  
**Subject:** Variance

We are applying for a variance per the current ordinance set backs for installation of a new septic on the side of the yard. The set back has been mandated by the County. The City set back requirement is 20 ft. The County requirement is:

"The proposed location will require a wetland setback variance from the absorption width of the mound and tanks from the required 75' down to approximately 25' of the OHWL of the wetland."

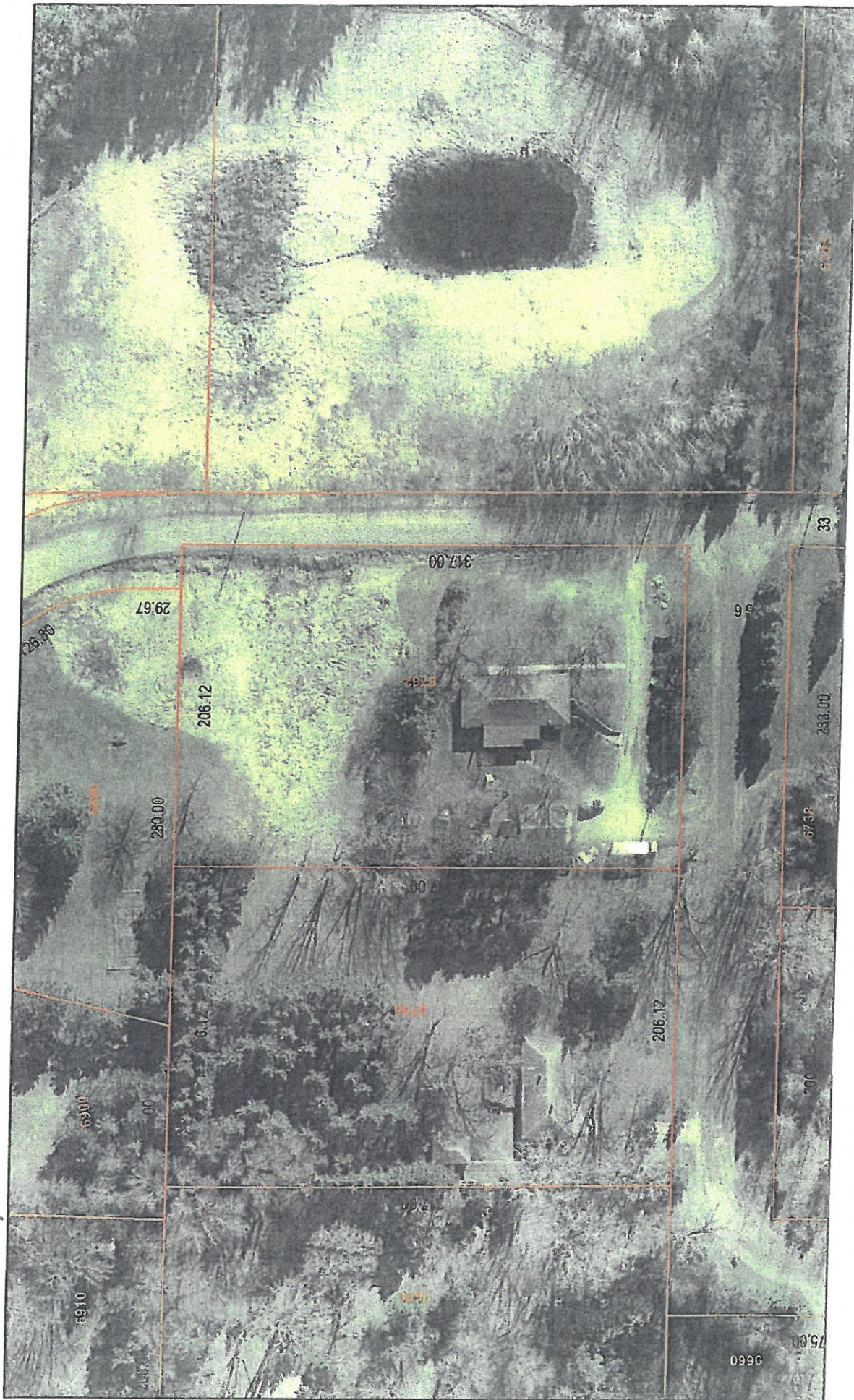
Thank you. If you need any other information please feel free to respond to this email or call me at 651/210-6502.

Cheryl Kargel



Virus-free. [www.avq.com](http://www.avq.com)





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 inaccuracies.



SUNNYBROOK  
LAKE

# CERTIFICATE OF SURVEY

SURVEY FOR SEPTIC SYSTEM

S 0°15'39" E  
29.67'

30

30

206.12'

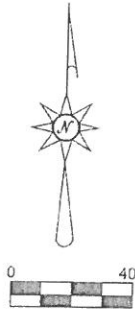
280.00'

N 89°45'13" W  
206.12'

N 89°45'13" W  
33.00'

SOUTHEAST CORNER  
SUNNYBROOK LAKE

EAST LINE OF THE NW1/4  
OF NE1/4, SEC. 34, T30, R21



WETLAND  
WATER SURFACE  
ELEVATION = 875.3

OLD SEPTIC  
SYSTEM

JOCELYN ROAD NORTH  
317.00'

GARAGE

1 STORY  
FULL BSM1  
RAMBLER  
LOWEST FL  
ELEV = 879.6

NEW 1500  
GALLONS  
PROPOSED MOUND DRAIN  
FIELD SEPTIC AREA

206.12'

S 89°45'13" E

206.12'

S 89°45'13" E

68 COURT NORTH

SOUTH LINE OF THE NW1/4  
OF NE1/4, SEC. 34, T30, R21

200.00'

N 89°48'16" W

233.00'

N 89°48'16" W

629.2

## PROPERTY DESCRIPTION

Part of the Northwest Quarter of the Northeast Quarter of Section 34, Township 30, Range 21, Washington County, Minnesota, described as follows: Commencing at the northeast corner of said Northwest Quarter of the Northeast Quarter; thence south along the east line of said Northwest Quarter of the Northeast Quarter 935 feet to the Southeast corner of Sunnybrook Lake, according to the recorded plat thereof; thence west along the south line of Sunnybrook Lake, said line being parallel with and 935 feet south of the north line of said Section 34, for 33.0 feet to the centerline of north-south township road which is the point of beginning of this description; thence continue west along said south line of Sunnybrook Lake, 206.12 feet; thence south and parallel with said east line of the Northwest Quarter of the Northeast Quarter, 317.0 feet; thence east and parallel with said south line of Sunnybrook Lake, 206.12 feet to said centerline of the township road; thence north along said centerline of township road 317.0 feet to the point of beginning.

SOUTHEAST CORNER OF THE  
NW1/4 OF NE1/4, SEC. 34, T30, R21

I HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

P J LAND SURVEYING, LLC

DATED: AUGUST 31, 2017

*Paul A. Johnson*  
PAUL A. JOHNSON  
LAND SURVEYOR, MN LIC. NO 10938

PREPARED FOR:  
JEFFREY AND CHERYL KARGEL  
JOCELYN ROAD NORTH  
STILLWATER, MN 55082  
651-210-6502

PREPARED BY:  
P J LAND SURVEYING, LLC  
12510 MCKUSICK RD. N.  
STILLWATER, MN 55082  
651-303-0025

FILE NAME		
CHERYL KARGEL_PT-NW-NE34_SUNNYBROOK LAKE.trv		
SCALE	DATE	DRAWN BY
40 F/In	8-31-2017	P A Johnson
JOB	REVISION	SHEET
17-730	1/1	1/1

This map drawn with TRAVERSE PC, Software





Jennifer Haskamp &lt;jhaskamp@swansonhaskamp.com&gt;

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**Kargel Variance - Septic**

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**City Clerk** <clerk@cityofgrant.us>

To: "jhaskamp@swansonhaskamp.com" &lt;jhaskamp@swansonhaskamp.com&gt;

Mon, Sep 25, 2017 at 8:15 AM

----- Original Message -----

**Subject:** RE: Kargel Variance - Septic**From:** Alex Pepin <Alex.Pepin@co.washington.mn.us>**Sent:** Monday, September 25, 2017, 7:29 AM**To:** 'City Clerk' <clerk@cityofgrant.us>**CC:** Gary Bruns <Gary.Bruns@co.washington.mn.us>, Chris LeClair <Chris.LeClair@co.washington.mn.us>

Good morning Kim,

I'll try to address the two concerns Jennifer brings up in her email below:

- The narrative does not explain why the septic system can't be located somewhere else on the property. So, we will need the 'narrative' updated to reflect their reasoning as to why the variance is requested.
  - The proposed location on the property for the system is the only location on the property that will accommodate a properly sized septic system and is also not located in a wetland or flood prone area. Everywhere else on the property above the flood area or not in a wetland is not big enough to have a septic system go there.
- Also, we need to get some correspondence from Washington County regarding the septic design/proposal and that it has been made and that the County thinks this is also the only acceptable location.
  - This would be the same as the above; the proposed location on the property for the system is the only location on the property that will accommodate a properly sized septic system and is also not located in a wetland or flood prone area. Everywhere else on the property above the flood area or not in a wetland is not big enough to have a septic system go there or is a disturbed surface (driveway, sidewalk, etc.).

If you have any additional questions just let me know. We are trying to work closely with the Kargel's on this one to assist them in getting the system put in this year still so anything we at the County can do to help that process just let me know. I'm cc'ing my supervisor and Chris just to keep the septic team in the loop on this one since we all have gotten questions on it at one time or another.

Have a great start to your week!

PLEASE NOTE AS OF AUGUST 3<sup>RD</sup> MY NEW PHONE NUMBER IS 651-275-7283 (OLD 651-430-6744)

Alex Pepin, MCE

Senior Environmental Specialist

Washington County Department of Public Health and Environment

19955 Forest Road North

Forest Lake, MN 55025

(651-275-7283 | ✉ alex.pepin@co.washington.mn.us



## STAFF REPORT

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

**Date:** October 10, 2017

**From:** Jennifer Haskamp

**RE:** Variance from wetland setbacks to  
install a replacement septic system  
at 6782 Jocelyn Road North

### Background

The Applicants and Owners ("Applicants"), Jeff and Cheryl Kargel, have requested a variance from wetland setbacks for installation of a new mound septic system on the property located at 6782 Jocelyn Road North. The existing septic system which serves the property has failed, and therefore the system must be replaced to safely serve the home. The Applicants have been working with Washington County to acquire a permit for installing the new system, and they were notified by the County that the location of the replacement system is within the City's required wetland setbacks and thus would need to obtain a variance from the city prior to being issued a permit for installation of the new system.

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

### Project Summary

Applicant & Owner: Jeff and Cheryl Kargel	Site Size: 1.5 Acres Location: 6782 Jocelyn Road North Existing Home: Constructed in 1966 Zoning & Land Use: R-1
Request: Variance from wetland setbacks and grading buffer to install a replacement subsurface sewage treatment system (ISTS) at the existing home	

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

- Request for variance from wetland setback requirements to allow for installation of a replacement septic system on the subject property.

The Applicants have stated that the existing sewage treatment system that served the home is failing (failed) and must be replaced. According to the Applicant's narrative the only location on site that can adequately support a replacement system is the proposed location which encroaches into both the sewage treatment setback from a wetland and the no-build wetland buffer.



## Review Criteria

City Code Sections 32-59 and 32-60 establish the criteria to review and approve variance requests. The variance application process requires the Applicants to prepare a statement of reasons why the request is made describing the hardship (or practical difficulty) describing how, “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’s statement can be found in Attachment A, and is also referenced within Washington County’s correspondence in Attachment C.

## Existing Site Conditions

The subject property is a corner lot located northeast of the 68<sup>th</sup> Court North and Jocelyn Road North intersection. The property is regular in shape, and can be accessed from both Jocelyn Road North and 68<sup>th</sup> Court North. The site is sparsely vegetated with trees primarily along property lines offering some buffering and privacy from adjacent homes and roadways. Based on the GIS and National Wetland Inventory (NWI) information approximately the northern half of the subject property is a wetland and the high buildable area is generally the southern half of the property. There is an existing principal structure which was constructed in 1966 and it is assumed that the failing septic system was installed in and around the time the principal structure was constructed. There is an existing detached garage located west of the principal structure, and there is a driveway/parking area that extends from the garage to the principal structure. The majority of the site, with the exception of the area east of the principal structure, appears to be altered or wetland area leaving only a small area of undisturbed land remaining on the lot.

## Variance Requests - Zoning Standards

The wetland setbacks are established in Chapter 12 of the City’s Code, which breaks down the applicable standards for wetland by type, unclassified and classified water bodies. The following description of the variance and standard is identified in the following table (See Attachment B for Certificate of Survey):

Standard	Required	Proposed	Variance	Description
Wetland	75'	20' +/-	55' +/-	There is one large wetland complex on the northern half of the site. The existing principal structure (home) is centered on the southern half of the property with an existing detached garage to the west of the home. The only area outside of wetland and flood prone areas, with relatively undisturbed land is to the east of the existing home. Any septic system in this area will encroach into



				the required setbacks.
Wetland Buffer	50'	20'	30'	The no-grade/no-touch buffer is measured from the wetland edge. Based on the proposed plans, the installation of the septic system will disturb the buffer area.

#### Lot Size/Constraints

The Applicants' lot was created in the 1960s and the existing home was constructed in 1966. At the time, the lot and home complied with the adopted lot standards. Since the 1970s lot size and area standards have changed and as a result the lot is now considered a legal non-conforming lot with respect to size, area and dimensions. Given that the existing lot area and dimensions are significantly smaller than those that regulate lots today, it would be impossible to site a replacement septic system on the property and meet all the current setback requirements. The lot is naturally constrained not only by natural features on the property (wetlands and hydric soils) but also by the non-conforming nature of the lot area and dimensions. Further, due to the location of the existing home, the detached accessory garage and the well which serves the residence the location that a septic system could be sited is further reduced. Staff believes the proposed location of the replacement system is reasonable and is properly located based upon topography and other natural site limiting factors, and that the variance requested has been minimized to the extent possible. Additionally, the Applicant must remedy the situation to comply with the standards for septic systems as identified by Washington County.

An email exchange with Alex Pepin from the Washington County Department of Public Health and Environment is provided in your packet which indicates that Mr. Pepin concluded that he proposed location for the new septic system is appropriate and would meet their standards. Mr. Pepin further states that "The proposed location on the property for the system is the only location on the property that will accommodate a properly sized septic system and is also not located in a wetland or flood prone area..." (Attachment C)

#### **Engineering Standards**

The City Engineer is reviewing the attached Certificate of Survey and submitted materials. Staff will provide a verbal update at the Planning Commission meeting and, if applicable, will bring any additional information to the Planning Commission meeting.

#### **Other Agency Review**

The site is located in the Valley Branch Watershed District, and it is the Applicant's responsibility to contact them to coordinate any application or permit which may be required from them to install the replacement septic system. As referenced previously, the Applicants must obtain a permit from the Washington County



Department of Public Health and Environment prior to installation of the system, as they are the permitting authority for new and replacement septic systems in the City.

### **Summary - Draft Findings and Conditions**

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

- The Applicants must replace the failing system to comply the standards of the Washington County Department of Public Health and Environment, and for the safety of their home.
- Replacement of the failing system is a health, safety, and welfare issue and must be completed to the satisfaction of Washington County to protect the current, and any future, home owners as well as any adjacent properties which could be affected if the failing system were to remain.
- The subject property is considered a legal non-conforming lot with respect to size, area and dimensions which constrains the buildable area on the site and limits the available locations to site a replacement septic system.
- A significant portion of the subject property contains a wetland and has flood prone soils which severely limits the available area to site the replacement system.

#### *Draft Conditions:*

- The Applicants shall be required to obtain the proper permits from the Washington County Department of Public Health and Environment prior to installation of the replacement system.
- The replacement system must be placed outside of all wetland/ponding areas on the site.
- The Applicants shall be required to obtain any necessary permits and/or approvals from the Valley Branch Watershed District prior to installation. A copy of any correspondence or permits shall be provided to the city prior to installation of the new system.

#### **Action requested:**

Staff is seeking a recommendation from the Planning Commission regarding the application. Staff recommends approval of the variance, and if the Planning Commission agrees, staff would request the Planning Commission make a recommendation to the City Council to approve the variance from wetland setbacks with draft conditions and findings as presented by staff.

#### *Attachments*

Attachment A: Application and Applicant's Narrative dated 9/5/2017

Attachment B: Certificate of Survey dated 8/31/2017

Attachment C: Email correspondence from Washington County 9/25/2017

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

## 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.

Check # 3186 - 3000  
3187 400

PARCEL IDENTIFICATION NO (PIN): LEGAL DESCRIPTION:		ZONING DISTRICT & COMP PLAN LAND USE:  LOT SIZE:
PROJECT ADDRESS:	OWNER: Name: Address: City, State: Phone: Email:	
BRIEF DESCRIPTION OF REQUEST:		APPLICANT (IF DIFFERENT THAN OWNER):
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><b>Site Plan:</b> 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"><li>Property dimensions</li><li>Area in acres and square feet</li><li>Setbacks</li><li>Location of existing and proposed buildings (including footprint, and dimensions to lot lines)</li><li>Location of current and proposed curb cuts, driveways and access roads</li><li>Sanitary sewer (septic) and water utility plans</li><li>Location of well and septic systems on adjacent properties</li><li>Location of wetlands and other natural features</li><li>Existing and proposed parking (if applicable)</li><li>Off-street loading areas (if applicable)</li><li>Existing and proposed sidewalks and trails</li></ul> <p>COPIES: 1 plan at 22"x34", 12 plans at 11"x17" (half scale)</p>

Application for: VARIANCE  
City of Grant

<input type="checkbox"/>	<input type="checkbox"/>	<b>Architectural/Building Plan (if Applicable):</b> 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"> <li>Location of proposed buildings and their size including dimensions and total square footage</li> <li>Proposed floor plans</li> <li>Proposed elevations</li> <li>Description of building use</li> </ul> COPIES: 1 plan set 22"x34", 12 plan sets 11"x17" (half scale)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Written Narrative:</b> Describe your request and the practical difficulties that are present on the site and why a Variance is sought. COPIES: 15
<input 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 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. <i>Awaiting response from county</i>
<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"/>	<b>Survey of the property:</b> 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"/>	<b>Wetland Delineation:</b> 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.

  
Signature of Applicant

*9/13/17*  
Date

\_\_\_\_\_  
Signature of Owner (if different than applicant)

\_\_\_\_\_  
Date

## **City of Grant Variance Request Application**

PIN: 21.030.21.32.0014 & 21.030.21.32.0008

Legal description: NE  $\frac{1}{4}$  of NW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 21, Township 30, Range 21 &  
SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 21, Township 30, Range 21

Zoning district and Comp Plan Land Use: A-2

Lot size: 4.76 acres (0014) & 5.01 acres (0008)

Project Address: 4XX Maple St. Grant, MN 55115

Owners/Applicants: Dane & Stefanie Hansen

22 Duck Pass Rd. North Oaks, MN 55127

651-341-3769

danechansendo@gmail.com

### **Brief Description of Request:**

We are applying for a variance request to waive the frontage standard for the southern plot, so that it can be developed as a legal, non-conforming lot to support a single-family residence.

Existing site conditions: The properties are completely undisturbed, with no improvements present. They are densely wooded.



RE: Request for variance for frontage exemption

This letter is intended as a written narrative regarding our application for a variance pertaining to parcel number: PID 21.030.21.32.0008 at 4XX Maple Street. We are applying for a variance in the Grant City code frontage requirements in order to sell the parcel separately from our adjacent, owned lot allowing it to hold a single family residence.

We purchased this property on the fall of 2016 as two separate plots. They each had their own legal description, and separate PID per Washington County records. When we purchased the land, we expected that the lots could be sold and built on, independently of each other. After further research, we realized that the southern lot did not meet the minimum requirements of current Grant City zoning and land use standards, due to lack of frontage. With this, we are applying for a variance in the frontage requirement of the southern lot, designating it as a legal, non-conforming lot. This will then give us the ability to sell the southern property to our good friends, while building a home on the northern property ourselves.

We believe that the southern lot qualifies as a legal, non-conforming lot under Grant Code 32-246, Sec (b)1, which states that an "Existing Lot Defined" is any lot that was of record with the county recorder prior to the adoption of the ordinance from which the chapter is defined. This would be prior to the creation of the Metropolitan Council in 1967, which was the basis of the current Grant minimum requirements and density regulations.

Through researching the history of these properties, we can show that the property line separating the 2 parcels has been present in Washington County survey records since at least 1938 (see attached historical survey.) We also have property sale records from 1952 and 1954 showing the sale of two parcels of land that include the properties we own, plus the 10 acre property to our east. At that time, the 20 acres were split into a northern 10 acres adjacent to Maple St, and 10 acres to the south, without road access.

In 1993, Thomas Greenwald, who owned both properties, applied to have the lots realigned so that both lots would have frontage on Maple St. This was approved,

and a new north/south property line was created. The eastern 10 acres, which contained the homestead, were converted to a single property. The western 10 acres (which we own) did not get combined by the county, and have remained as two separate properties as they sit today. This information shows that our two properties have been separate parcels (in one form or another) since well before the Metro Council was created, thus qualifying as "existing lots" that should not be held to the current regulations.

We also believe there are further benefits to approving our variance. First, since these properties are immediately adjacent to R-1 Zoning areas, this decision will stop any further development of this land, which fits with the goals of the Grant Comprehensive Plan. Second, this allows for utilization of a 5 acre property that would otherwise go unused due to lack of road access. The current tax value is nominal, and by allowing it to become a legal lot with a home in place, the tax value significantly increases. Finally, we feel that this is a very unique situation that is specific to our property. It is very unlikely that this variance will set any precedent that can be used by others to divide and develop their properties.

The two parcels have been recently surveyed, and a proposed public/private road has been included. This would give access to the southern lot without disturbing any other properties. Soil/septic testing is pending, but results are expected prior to the upcoming planning commission meeting. Thank you for reviewing our variance request. We do look forward to becoming residents of Grant Township in the near future.

Sincerely,

Dane and Stefanie Hansen

No delinquent taxes and transfer entered; Certificate  
of Real Estate Value ( ) filed ( ) not required  
Certificate of Real Estate Value No. \_\_\_\_\_  
MAY 05 1993, 19

R.H. STAFFORD

County Auditor

by

*Julie Rublecker*  
Deputy

STATE DEED TAX DUE HEREON: \$ 749.10

Date: April 15, 19 93

OFFICE OF  
COUNTY RECORDER  
WASHINGTON COUNTY  
FILED ON

MAY 18 12 50 PM '93

DOC. 741475

JOHN A. FRANZEN  
COUNTY RECORDER

BY *Julie Combsen*

(reserved for recording data)

FOR VALUABLE CONSIDERATION, Alice M. Ford, single

(marital status)

, Grantor (s),

hereby convey (s) and warrant (s) to Thomas V. Greenwald and Kim E. Greenwald  
tenants, real property in Washington County, Minnesota, described as follows:

The Northeast 1/4 of the Northwest 1/4 of the Southwest 1/4 of Section 21, Township  
30, Range 21, and the Southeast 1/4 of the Northwest 1/4 of the Southwest 1/4 of  
Section 21, Township 30, Range 21.

OFFICE OF COUNTY RECORDER  
WASHINGTON COUNTY, MN

WELL CERTIFICATE RECEIVED

(if more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions:

Building and zoning laws, ordinances, state and federal regulations; Restrictions  
relating to use or improvement of the property without effective forfeiture  
provisions; Reservation of any mineral rights by the State of Minnesota; Utility and  
drainage easements which do not interfere with existing improvements.

06-May-93 WASHINGTON COUNTY No. 5613  
Deed tax hereon of \$749.10 Paid  
MN Conservation Fund M.S. 473H \$5.00 Paid  
R.H. STAFFORD, Auditor-Treasurer by RM MULLENBACH

*Alice M. Ford*  
Alice M. Ford

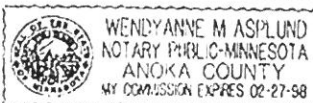
STATE OF MINNESOTA

COUNTY OF Ramsey } ss.

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of April, 19 93,  
by Alice M. Ford, single

, Grantor (s).

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)



*Wendy Anne M. Asplund*  
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

Tax Statements for the real property described in this instrument should  
be sent to (include name and address of Grantee):

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

First Security Title  
100 VILLAGE CENTER DRIVE  
NORTH OAKS, MN 55127

Loan No.

Grantees: Thomas V. Greenwald  
Kim E. Greenwald  
470 Maple Street  
Grant Township, MN 55115

93-04612  
21202536  
06458

186008

This Indenture, Made this 24th day of May, 1956,  
between John P. Wilzbacher and Rose M. Wilzbacher, husband and wife,

of the County of Washington and State of Minnesota, part 1st  
of the first part, and JAMES W. FORD and ALICE M. FORD, husband and wife,  
Washington and State of Minnesota, parties of the second part,

Witnesseth, That the said part 1st of the first part, in consideration of the sum of One Dollar and Other Good and Vaulable Consideration DOLLARS.  
to 1st in hand paid by the said parties of the second part, the receipt whereof is hereby acknowl-  
edged, do hereby Grant, Bargain, Sell, and Convey unto the said parties of the second part as joint  
tenants and not as tenants in common, their assigns, the survivor of said parties, and the heirs and as-  
signs of the survivor, Forever, all the tract or parcel of land lying and being in the County of  
Washington and State of Minnesota, described as follows, to-wit:

Southeast one-quarter (S.E.  $\frac{1}{4}$ ), of the Northwest one-quarter (N.W.  $\frac{1}{4}$ ),  
of the Southwest one-quarter (S.W.  $\frac{1}{4}$ ) of Section 21, Township 30,  
Range 21, according to the government survey thereof;



To Have and to Hold the Same, Together with all the hereditaments and appurtenances there-  
unto belonging or in anywise appertaining, to the said parties of the second part, their assigns, the sur-  
vivor of said parties, and the heirs and assigns of the survivor. Forever, the said parties of the second part  
taking as joint tenants and not as tenants in common.

And the said John P. Wilzbacher one of the  
part 1st of the first part, for himself, his heirs, executors and administrators do ss  
covenant with the said parties of the second part, their assigns, the survivor of said parties, and the heirs  
and assigns of the survivor, that he is well seized in fee of the lands and premises aforesaid and  
has a good right to sell and convey the same in manner and form aforesaid, and that the same are  
free from all incumbrances, -----

And the above bargained and granted lands and premises, in the quiet and peaceable possession of the  
said parties of the second part, their assigns, the survivor of said parties, and the heirs and assigns of the  
survivor, against all persons lawfully claiming or to claim the whole or any part thereof, subject to in-  
cumbrances, if any, hereinbefore mentioned, the said part 1st of the first part will Warrant and De-  
fend.

In Testimony Whereof, The said part 1st of the first part has ss hereunto set their  
hand ss the day and year first above written.

In Presence of  
Harriet Reeling  
W. H. G. J.

John P. Wilzbacher  
Rose M. Wilzbacher

State of Minnesota,

County of RAMSEY

On this 24th day of May, 1956, before me,  
 a Notary Public within and for said County, personally appeared  
 John P. Wilzbacher and Rose M. Wilzbacher, husband and wife,  
 to me known to be the person or persons described in, and who executed the foregoing instrument,  
 and acknowledged that they executed  
 the same as their own free act and deed.

*R. M. Vogel*  
 Notary Public, Ramsey County, Minn.

My commission expires

NOTE: The blank lines marked "See Note" are for use when the instrument is executed by an attorney in fact.

R. M. VOGEL  
 Notary Public, Ramsey County, Minn.  
 My Commission Expires July 2, 1959



Minnesota Form No. 5

Doc. No. 185008

WARRANTY DEED  
Individual to Joint Tenants

TO

Office of Register of Deeds,  
 State of Minnesota,

County of WASHINGTON

I hereby certify that the within Deed  
 was filed in this office for record on the  
 20th day of June,  
 1956, at 9:00 o'clock A.M.,  
 and was duly recorded in Book 200  
 of Deeds, page 575-576.

Register of Deeds.

By Deputy

Taxes for the year 1955 on the lands  
 described within, paid this 20th  
 day of January 1956.

County Treasurer.

By Deputy

Taxes paid and transfer entered this  
 20th day of June  
 1956.

County Auditor.

By Deputy  
 7-16-56

ST. PAUL STATE CO.

DUE 10

RECORDED



## State of Minnesota,

County of RamseyOn this 17<sup>th</sup> day of MAY, 1954, before me, a

Notary Public

Edna V. Nelson, a widow and unmarried

to me known to be the person described in, and who executed the foregoing instrument,

and acknowledged that she executed

(See Note) the same as her free act and deed

(See Note)

Notary Public Irving C. Christensen Ramsey County, Minn.My commission expires Feb. 14, 1961

NOTE: The blank lines marked "See Note" are for use when the instrument is executed by an attorney in fact.

IRVING C. CHRISTENSEN  
 Notary Public, Ramsey County, Minn.  
 My Commission Expires Feb. 14, 1961

Minnesota Form No. 1-1

Doc. No. 175952

## WARRANTY DEED

Individual to Joint Tenants

Office of Register of Deeds,  
 State of Minnesota,

County of WASHINGTON  
 I hereby certify that the within Deed  
 was filed in this office for record on the  
25<sup>th</sup> day of May  
 1954, at 9:00 o'clock A. M.  
 and was duly recorded in Book 189  
 of Deeds, page 87-88.

By Irving C. Christensen  
 Register of Deeds, Deputy

Taxes for the year 1953 on the lands  
 described within, paid this 25<sup>th</sup>  
 day of May, 1954  
Irving C. Christensen  
 County Treasurer.

By Ray A. Johnson Deputy  
 Taxes paid and Transfer entered this  
25<sup>th</sup> day of May, 1954

By Ray A. Johnson County Auditor.

By Ray A. Johnson Deputy  
 MINNESOTA DEEDS STAMPS PAID  
 Recording Fee \$1.50 DUE

175952

This Indenture, Made this 17th day of May, 1954,  
between Edna V. Nelson, a widow and unmarried

of the County of Ramsey and State of Minnesota, part Y  
of the first part, and James W. Ford and Alice M. Ford,  
husband and wife, of the County of  
Washington and State of Minnesota, parties of the second part,

WITNESSETH, That the said part Y of the first part, in consideration of the sum of  
one dollar and other valuable consideration DOLLARS,  
to her in hand paid by the said parties of the second part, the receipt whereof is hereby acknowl-  
edged, do as hereby Grant, Bargain, Sell, and Convey unto the said parties of the second part as joint  
tenants and not as tenants in common, their assigns, the survivor of said parties, and the heirs and as-  
signs of the survivor, Forever, all the tract or parcel of land lying and being in the County of  
Washington and State of Minnesota, described as follows, to-wit:

The Northeast Quarter of the Northwest Quarter of the  
Southwest quarter (N.E. 1/4 of N.W. 1/4 of S.W. 1/4),  
Section Twenty-one (21), Township Thirty (30), North of  
Range Twenty-one (21), West of the Fourth Principal  
Meridian and containing, according to the United States  
survey thereof, ten acres, more or less.

TO HAVE AND TO HOLD THE SAME, Together with all the hereditaments and appurtenances  
thereunto belonging or in anywise appertaining, to the said parties of the second part, their assigns, the  
survivor of said parties, and the heirs and assigns of the survivor, Forever, the said parties of the second  
part taking as joint tenants and not as tenants in common.

And the said

part Y of the first part, for herself, her heirs, executors and administrators do as  
covenant with the said parties of the second part, their assigns, the survivor of said parties, and the heirs  
and assigns of the survivor, that she is well seized in fee of the lands and premises aforesaid and  
has a good right to sell and convey the same in manner and form aforesaid, and that the same are  
free from all incumbrances,

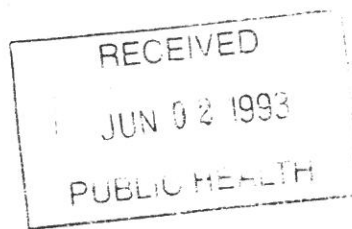
And the above bargained and granted lands and premises, in the quiet and peaceable possession of the  
said parties of the second part, their assigns, the survivor of said parties, and the heirs and assigns of the  
survivor, against all persons lawfully claiming or to claim the whole or any part thereof, subject to in-  
cumbrances, if any, hereinbefore mentioned, the said part Y of the first part will Warrant and  
Defend.

IN TESTIMONY WHEREOF, The said part Y of the first part has as hereunto set her  
hand the day and year first above written.

In Presence of

Edna V. Nelson

James W. Ford  
Alice M. Ford



Project No. \_\_\_\_\_

TOWN OF GRANT  
WASHINGTON COUNTY, MINNESOTA

APPLICATION FORM

\_\_\_\_ Comprehensive Plan Amendment      \_\_\_\_ Conditional Use Permit  
\_\_\_\_ Zoning District Amendment      \_\_\_\_ Special Use Permit  
\_\_\_\_ Text Amendment      \_\_\_\_ Subdivision  
\_\_\_\_ Variance      \_\_\_\_ Planned Unit Development  
\_\_\_\_ Certificate of Compliance      \_\_\_\_ Vacation of Street  
\_\_\_\_ Other      \_\_\_\_ Preliminary/Final Plat

Applicant: Thomas + Kim GREENWALD 653-8077  
(Name) (Phone)  
470 MAPLE ST. MAHOMET, MN  
(Address)

Fee Owner of Affected Property Thomas + Kim GREENWALD  
(Name)  
470 MAPLE ST. 653-8077  
(Address) (Phone)

Property location: (Legal Description)

the Northeast 1/4 of the North<sup>west</sup> 1/4 of the South<sup>west</sup> 1/4  
of Section 21 Township 30, Range 21, + the Southeast 1/4  
of the Northwest 1/4 of the 1/4 of Section 21, Township 30  
Range 21

Description and/or Reason for Request:

→ To divide the property into 2 10 Acre  
plots so we may build a home  
on the vacant 10 Acre section. So that  
both lots have frontage on Maple St  
→ to vacate the existing division +

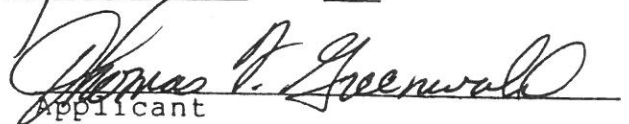


In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the ordinances of the Town of Grant. I understand that this application shall not be received or accepted by the Town until all data and information required by Resolution of the Board of Supervisors or ordinance has been provided to the Town.

I understand that I am responsible for and hereby agree to pay all statements received from the Town of Grant pertaining to administrative or processing expenses with regard to this application. Further, I agree to pay to the Town Clerk at the time of filing this application, a deposit to be specified by the Town Clerk for the purpose of paying all administrative expenses incurred by the Town in this matter.

I understand that upon completion of the Town action on this request, the Town Clerk shall forward a statement of fees incurred remitting any excess from the deposit held by the Town or billing for additional fees incurred over and above the deposit.

Dated this 27 day of MAY, 1993.

  
Applicant

I hereby certify that all data required under the ordinances of the Town of Grant pertaining to this application has been provided by the applicant and that the above application is hereby received and accepted by the Town of Grant this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Town Clerk



## STAFF REPORT

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

**From:** Jennifer Haskamp

**Date:** October 10, 2017

**RE:** Variance from lot frontage to establish a Lot as legal non-conforming and buildable for single family residence

### Background

The Owners and Applicants ("Applicants") own two adjacent parcels described on the attached Survey as Parcel A and Parcel B that are each approximately 5-acres in size. When the Applicants purchased the parcels in 2016 they believed they had purchased two buildable lots since each lot had a separate PID. At the time of purchase, it was the Applicants intent to construct their new home on the northerly parcel (Parcel A), and they were unsure whether they would retain or sell the southerly parcel (Parcel B).

Once the Applicants began planning their new home they found out that their friends were interested in purchasing the southerly parcel (Parcel B) and constructing a new home on the property. Given the circumstances the Applicants contacted the City to inquire what information and permits would be necessary to develop both lots with single family residences. During that conversation it was determined that a preapplication meeting would be helpful to discuss the process regarding both lots since Parcel B in its current configuration does not have frontage on a public road. Staff met with the Applicants for a preapplication meeting during which time it was determined that a variance from the lot frontage would be required in order for Parcel B to be determined a buildable lot.

The following review and analysis of the Applicants' requested variance is provided for your review and consideration.

### Public Hearing:

A duly noticed public hearing is scheduled for October 17, 2017 at 6:30 PM.

### Project Summary

Applicants & Owners: Dane and Stefanie Hansen	Site Size: 9.77 Acres Total (Parcel A: 4.76 Ac., Parcel B: 5.01 Ac.)
PIDs: 2103021320008, 2103021320014	Zoning & Land Use: A-2
Address: 4XX Maple Street	Description of Request: Variance from required frontage on



	Parcel B to allow for development with single family residential uses
--	---

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

- The city's current ordinances require all buildable lots to have a minimum of 300-feet of frontage on a public road, or 60-feet of frontage on a public cul-de-sac. Parcel B as shown on Attachment B does not have frontage on a public road and the Applicants are requesting a variance from this requirement to allow for Parcel B to be developed with a single-family residential structure independently from Parcel A.

### **Review Criteria**

City Code Sections 32-59 and 32-60 establish the criteria to review and approve variance requests. The variance application process requires the Applicants to prepare a statement of reasons why the request is made describing the hardship (or practical difficulty) and submit a site plan that clearly depicts the request.

In addition to consideration of the Variance standards, staff would recommend reviewing Section 32-246 Subsection (a) footnotes, as well as Section 32-246 Subsection (b)(1) and (b)(3).

### **Existing Site Conditions**

The subject properties consist of two parcels, as shown on Attachment B, Parcel A and Parcel B. Both lots are currently vacant and there are no structures or other improvements on the properties. Both lots are heavily vegetated with a couple small clearings. Per the National Wetland Inventory (NWI), and information contained on the Survey, there is a small wetland finger that runs along the southerly lot line between Parcel A and Parcel B. In its current configuration, Parcel A has approximately 330-feet of frontage on Maple Street which forms the lots northerly property line, and Parcel B has no frontage on a public roadway.

### **Variance Requests - Zoning Standards**

#### Dimensional Standards

To consider the Applicants' request there are several sections of the City's Code which must be considered and reviewed. The following table identifies the applicable dimensional standards and the existing conditions of Parcel A and Parcel B as shown on the Survey:

Dimensional Standard	Zoning – A2	Parcel A	Parcel B
Minimum Lot Size	5 Acres	4.76 Acres*	5.01 Acres*



Minimum Lot Depth	300'	627'	660'
Minimum Lot Width	300'	330'	330'
Minimum Frontage (improved public road)	300'	330'	0'

*\*Lot Size meets zoning ordinance per 32-243(c)(4) which would allow for adding the Right-of-Way previously dedicated to Maple Street and would result in Parcel A having approximately 5.02 Acres.*

As demonstrated on the table, both Parcel A and Parcel B meet the city's dimensional standards with the exception of the required frontage on Parcel B. Given the lack of frontage, staff has determined that a variance from this standard would be required to develop the lot independently of Parcel A. Section 32-246 Subsection (b) provides for "Additions and exception to the minimum area, height and other requirements provided the parcel can be established as an "existing lot". The following review of subsection (b) and its relationship to the subject variance request is provided for your review and consideration:

Per Washington County records both Parcel A and Parcel B have separate PIDs, so part of the evaluation that must be done is to determine whether the lot is an "existing lot" of record as defined by the City's Code and thus would provide. Section 32-246(b)(1) defines an "existing lot" as:

*For the purposes of this article, the term "existing lot" means a lot or parcel of land which was of record as a separate lot or parcel in the office of the county recorder or registrar of titles on or before the date of adoption of the ordinance from which this chapter is derived.*

Based on the information provided, and staff's review, Parcel B was a lot of record prior to the adoption of City Code section 32-246; however, subsection (2) must also be considered which states the following:

*Setback exemption.* Any such lot or parcel created in accordance with the city subdivision regulations and is at least 2.5 acres in size, shall be exempt from the requirements of section 32-248(d), pertaining to setbacks and shall be considered buildable if the lot or parcel can comply with the remaining requirements of this section.

There are a few items to note within this section; first Staff reviewed Ordinance 50 which was the basis from which this language was codified. Ordinance 50 was amended and subsequently adopted in 1983, and staff questioned the reference to Section 32-248(d) in the codified language because it seemed inaccurate. Review of Ordinance 50 suggested that in fact that reference is likely inaccurate and that the reference should have been to subsection (3) and (4) of this section. Regardless, it is codified with the language as provided and therefore we must review it against what has been codified. Secondly, the exception language does not address whether or not an Existing Lot is buildable if it does not have frontage, instead it is silent. Again, staff



reviewed the ordinance history to determine that Ordinance 50 first introduced the 'exception' language in 1983. This date is relevant, because it pre-dates the ordinance amendment that introduced required lot frontage which was not incorporated into the ordinance until 1997. The timing and sequence of amendments suggests that there may be an error in the intent of the language contained within the adopted code since it does not adequately address the frontage requirement at all, in yet it details the exceptions related to all of the other relevant lot dimensional standards.

### *Historical Parcel Analysis Relating to Variance Request*

The above ordinance history is important to consider in conjunction with the history of the Subject Parcels. First, since the ordinance is silent on frontage, it is staff's opinion that a variance from the lot frontage on Parcel B is necessary. However, to determine whether this situation is unique, the history of the Subject Parcels is relevant particularly as it relates to any previous subdivision, rearrangement or other configurations that might suggest that the previous and current owners had a reasonable expectation that both Parcels could be developed independently.

As provided within the Applicant's narrative (Attachment A) a northerly and southerly parcel boundary existed back to at least 1954 (See attached deeds) where the northerly and southerly parcels each contained approximately 10 acres. In 1993 the previous owner rearranged the parcels which created the current configuration of parcels that exists today (the Subject Parcels each with approximately 5-acres, and the easterly adjacent parcel containing approximately 10-acres). The previous owner's application stated that their intent was to rearrange the parcels to create frontage for a minimum of two 10-acre lots as stated on the application (see Attachment B). However, the application states "to vacate" the existing division, which is not the process, instead it is a lot combination and rearrangement. The County issued a review letter recommending that the rearrangement be granted, but it is still not clear if any discussion transpired regarding keeping the two parcels separate on the Subject Property. What was ultimately approved is unclear because the easterly parcel which is now 470 Maple Street was combined; but the Subject Parcels were not. Staff hypothesizes that one of two things occurred; 1) either an administrative error occurred and the lot combination of the Subject Parcels did not happen, or 2) the lot combination of the Subject Parcels was recommended, but was not a condition of approval, because there was no requirement that a lot have frontage at the time the request was made in 1993 (i.e. why would the owner combine the property and give up an entitlement if not required to do so?) Based on the available information, staff cannot determine exactly why the lot combination did not occur, so we are left to evaluate the merits of granting a variance from frontage for Parcel B.

### Utilities (Septic)

Both lots are currently vacant with no principal or accessory structures. The Applicant submitted preliminary soil borings/septic tests to demonstrate that both Parcel A and Parcel B contain adequate area to install an individual septic treatment system. *If the variance request is approved, staff would recommend including a*



*condition that a septic permit must be obtained from Washington County prior to the city issuing a building permit for the subject lot.*

#### Access

Generally, cities require a property or parcel to have frontage on a road (whether public or private) so that adequate access is available. Since no frontage requirements were in place prior to 1997 this meant that other means of access were necessary, such as creating private driveway easement agreements, private accessways, shared driveways etc. This situation was contemplated within the original language of Ordinance 50 which was largely carried over into Section 32-346 Access Drives and Access with some modifications. For purposes of considering this application, the following analysis and description is provided:

*Section 32-346 Access drives and access* subsections (f-i) should be considered with respect to this request understanding that Parcel B does not have frontage on a public road. First, all properties are required to have “direct physical access” to an existing public roadway. Subsection (f) *Additional Access* states, “In addition to the required direct physical access along the frontage of the lot or parcel to the approved existing public roadway, a lot or parcel may have private easement access drives to the lot over adjacent lots or parcels.”

The materials submitted with the application indicate that the Applicants would provide “direct physical access” from Maple Street to Parcel B running parallel to the easterly property line. However, it was not detailed in the application whether such access would involve a ‘shared access’ to the public roadway with a perpetual private driveway easement dedicated solely to Parcel B; or if two separate driveways were contemplated. Since neither lot is currently developed, this would need to be established to ensure appropriate access was available to both parcels. Additionally, it should be noted that if the requested variance is granted that shared driveways are not permitted (see subsection i). Further, *staff would recommend if the variance is granted that a condition be included that a dedicated, perpetual, driveway easement must be granted and that such instrument must be drafted by an attorney for review by the City’s attorney to ensure access to Parcel B is perpetual and adequately provided.*

#### Wetlands

As shown on the attached Survey, and as referenced within the existing conditions, there appears to be a wetland ‘finger’ that runs along the property line between Parcel A and Parcel B. The wetland was not formally delineated and therefore it is not known the true extents, or Type, of wetland. Based on the submitted survey there likely would be enough room for a driveway to run parallel to the easterly lot line of both Parcel A and Parcel B outside of the wetland, but to affirmatively confirm that the driveway would be outside of all wetlands a formal delineation would be necessary. *Staff would recommend adding a condition that a wetland delineation must be prepared and approved prior to issuance of any building permit on Parcel B. Further, all wetland permits, or wetland mitigation must be acquired prior to any building permit being issued for Parcel B.*



## Variance Analysis & Summary

To evaluate the proposed variance, the Planning Commission must consider the following definition of hardship (practical difficulty) which provides guidance on what to consider regarding the application:

*“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 alone shall not constitute a hardship.”*

The Applicant has provided a narrative to support their position that a variance from the lot frontage requirement should be granted (Attachment A). In addition to the narrative, staff offers the following considerations:

- *“...proposed use of the property and associated structures in question cannot be established under the conditions allowed by this chapter....and no other reasonable alternate use exists...”*

If a variance from the lot frontage is not granted to Parcel B then the property cannot be developed with a single-family residential use. There are no other uses that could be developed on the property, and it would likely remain as private open space either under the current owner or a new owner. The question that must be considered is whether Parcel B is an “existing lot”, and whether this situation is unique to the existing lot due to the ordinance history and codification process. Staff performed a cursory GIS review and there are only a handful of parcels that are currently vacant and do not have frontage on a public road. Further analysis of these properties would be necessary to determine the age of such parcels, but it is clear that very few parcels have the same condition as that which is described in this Application. It bears noting that there are several developed lots/properties without frontage and those properties likely developed prior to the 1997 ordinance that required frontage on a public road.

- *“...the plight of the landowner must be due to physical conditions unique to the land....and are not applicable to other lands...in the same zoning district”*

The landowner acquired both Parcel A and Parcel B in 2016 and did not create the current configuration. However, it is relevant to note that the Applicant did purchase the land knowing that Parcel B did not have frontage on Maple Street. The Planning Commission should discuss whether they believe the Applicants had a reasonable expectation that both lots should be able to be developed independently.





- *“...unique conditions cannot be caused...by the landowner”*

As stated previously, the Applicants did not create the lot lines or the existence of the separate PIDs. Further, while there was a rearrangement/subdivision process that occurred in 1993 it is not clear if an administrative error occurred, or if some other event occurred which resulted in Parcel A and Parcel B remaining as separate parcels. This series of events was not caused or created by the Applicant/landowner.

### **Engineering Standards**

The City Engineer has not reviewed the subject application since the application for a variance does not involve any proposed improvements. If the planning commission recommends approval of the variance, staff would recommend including a condition that all plans for grading, access and any improvements of either lot shall be subject to the review and approval of the City Engineer.

### **Other Agency Review**

The site is located in the Rice Creek Watershed District, and it is the Applicant's responsibility to contact them to coordinate any application or permit which may be required. Additionally, if the variance were to be recommended for approval, both lots would be required to obtain a septic permit from Washington County prior to any building permit being issued by the City.

### **Draft Findings & Conditions**

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

- The proposed variance will not set precedent since the lot is existing and pre-dates the adoption of ordinances that regulate frontage.
- The city's codified ordinance is unclear with regard to existing lots and the required frontage, and Parcel B is one of only a few parcels with the unique circumstances as laid out within the narrative and this staff report.
- The proposed variance is consistent with the comprehensive plan and does not alter the character of the neighborhood or community.
- Both Parcel A and Parcel B will be required to follow all other dimensional standards contained within the ordinance, and will be consistent with the adopted A-2 zoning district.
- The variance from frontage on Parcel B will not negatively impact the health, safety, and welfare of the community.





*Draft Conditions:*

- A septic permit shall be obtained from Washington County prior to a building permit being issued for Parcel A or Parcel B.
- Access to Parcel B shall be designed and shown on an updated survey. The driveway and access shall be reviewed and approved by the City Engineer.
- Access to Parcel B shall be perpetual, and such easement shall be drafted by the Applicant and submitted to the City Attorney for review and approval prior to any building permit being issued for Parcel B. The access shall comply with the City's ordinance standards for accesses and driveways.
- Any such easement, or other tool granting access, once approved by the City's Attorney must be recorded against both Parcel A and Parcel B at Washington County property records prior to any building permit being issued for Parcel B.
- The Applicant shall complete a wetland delineation, which must be approved prior to any building permit being issued for Parcel B.
- If any wetland fill or alteration is needed, appropriate mitigation and plans shall be subject to the review and approval of the City Engineer. Such mitigation plan shall be reviewed and approved prior to any work being performed on Parcel B.
- A grading permit, if applicable, shall be obtained from the City Engineer prior to any site work being completed.
- The Applicants shall be required to obtain any necessary permits and/or approvals from the Rice Creek Watershed District prior to installation. A copy of any correspondence or permits shall be provided to the city prior to installation of the new system.

**Action requested:**

Staff is seeking a recommendation from the Planning Commission regarding the application. Options regarding the requested variance include:

- Recommend approval of the variance with finding and conditions;
- Recommend denial of the variance with findings; or
- Table the action and request additional information from the Applicant.

*Attachments*

Attachment A: Application and Applicant's Narrative dated 9/13/2017

Attachment B: Certificate of Survey dated 2/15/2017