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PLANNING COMMISSION MEETING AGENDA  
REGULAR MEETING  
TUESDAY, JANUARY 17, 2017

**6:30 PM Regular Meeting**

1. Call to Order
2. Roll Call
3. Approval of Minutes:
  - a. November 15, 2016 Planning Commission Meeting
4. **PUBLIC HEARING:** Dean Voss (Applicant) and Linda Nelson (Owner) request that the City consider the following actions for the property located at 4586 Shady Beach Circle, Independence, MN (PID No. 02-118-24-21-0007):
  - a. A variance to allow a reduced front yard setback for the purpose of constructing a garage addition.
5. Ordinance Update Discussion.
  - a. Consider and prioritize ordinance amendments for 2017.
6. Open/Misc.
7. Adjourn.

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION  
TUESDAY NOVEMBER 15, 2016 – 6:30 P.M.

1. CALL TO ORDER

Pursuant to due call and notice thereof, a regular meeting of the Independence Planning Commission was called to order by Chair Phillips at 6:30 p.m.

2. ROLL CALL

PRESENT: Chair Phillips, Commissioners Olson, Gardner, Palmquist and Thompson

STAFF: City Planner Kaltsas, City Administrative Assistant Horner

ABSENT: None

VISITORS: Michael Kuka, Bonnie Kuka, Corey Oeffling, Mike Kuka, Sally & Jerry Simpson, Lynda Franklin, Brian Benson, and Jan Gardner.

3. APPROVAL OF MINUTES:

a. September 20, 2016 Planning Commission Meeting

b. October 18, 2016 Planning Commission Meeting

**Motion by Olson, to approve the minutes of the September 16, 2016 Planning Commission Meeting, second by Gardner. Ayes: Gardner, Olson, Thompson and Palmquist. Nays: None. Absent: None. Abstain: Phillips. Motion approved.**

**Motion by Gardner, to approve the minutes of the October 18, 2016 Planning Commission Meeting, second by Olson. Ayes: Gardner and Olson. Nays: None. Absent: None. Abstain: Phillips, Palmquist and Thompson. Motion approved.**

4. **PUBLIC HEARING:** Mike Kuka (Applicant/Owner) requests that the City consider the following actions for the properties located at 4405 County Road 92 N, Independence, MN (PID No.s 04-118-24-24-0002 and 04-118-24-31-0001):

- a. A minor subdivision to permit a lot line rearrangement which would shift the property line to encapsulate the existing accessory structure on the adjacent property.
- b. A conditional use permit to allow a commercial riding stable on the subject property. The stable will host rodeo and other similar horse related events within the existing agriculture accessory structure on the property.

The applicant is seeking a conditional use permit to allow a commercial riding stable and minor subdivision to allow a lot line rearrangement so that the accessory building is located on the property with the principle structure. In 2013, the applicant constructed a large riding arena and stable on the subject property without the requisite building and conditional use permits. The City was subsequently informed that the applicant was using the facility as a commercial riding stable. The City notified the applicant in spring of 2014 that use of the facility as a commercial riding stable was a conditional use in the AG-Agriculture zoning district. Following several meetings with the applicant, an application was submitted in the fall of 2014.

The applicant is seeking permission to utilize the accessory structure as a commercial riding stable. The applicant initially asked the City to allow a commercial riding stable and equestrian related events facility with potentially more occupants than the facility was designed to accommodate. The City informed the applicant that the type of construction and materials used in the building limited the ultimate occupancy of the facility to no more than 49 people. The primary deficiency was the fabric roof that was installed on the building. The applicant spent some time trying to have the roof manufacturer, fire department and building official grant an exception to the building code relating to the roof material and allow additional occupancy of the facility. The applicant has stated that they intend to replace the roof material with a fire rated material in the future. Until the roof is replaced, the occupancy for this structure will only allow up to 49 occupants to be within the structure at any one time.

The minor subdivision to allow the lot line rearrangement is necessary so that the accessory structure will be located on the same lot as the principle structure. The applicant is proposing to meet the minimum setbacks of 15 feet around the entire accessory building perimeter. The lot line rearrangement will bring the accessory building into compliance with the City's zoning regulations.

The applicant is requesting permission to board 25 horses on 80 acres. The City allows one (1) animal unit for the first 2 acres and one (1) additional animal unit for each additional acre. The property would clearly allow for 25 horses. They would need manure management.

The criteria for granting a conditional use permit are clearly delineated in the City's Zoning Ordinance (Section 520.11 subd. 1, a-i). A few of these are as follows:

- 1. The conditional use will not adversely affect the health, safety, morals and general welfare of occupants of surrounding lands.*
- 2. The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the proposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*

The subject property is located directly south of the Shrine Horse Facility which operates as a commercial riding stable. The relative size of the property, its access to County Road 92 and geographic seclusion help to mitigate potential issues related to operation of the proposed facility. The City will need to determine if the proposed CUP meets the requirements for granting a conditional use permit. In order to aid in the decision, the City has completed a detailed review of the proposed use and corresponding site related measures.

The City will need to make a determination relating to the number of bathrooms required based on the classification of the building. The applicant has submitted an architect's plan which indicates the proposed number, type and details for bathrooms in the building. The plans will need to be reviewed by the City's building official as a part of the building permit review.

Thompson asked about sound. Kaltsas stated they have a professional sound system that has been basically tested. With the right wind, there could be an issue. Some neighbors have expressed concern in the past. This is a long way from other structures but we do have time limits in our Nuisance Ordinance. Phillips asked about run off being that it's close to Lake Rebecca. Kaltsas said the Shrine has a lot more horses, and they couldn't do on-site spreading. They needed to haul it. This case has more acres and fewer horses, so no controls. Palmquist mentioned the 49 occupants because of the given roof. Kaltsas said if they fire rated their roof they would have to come back to the City for amendment to CUP.

The landscaping berm along 92 have been put in place, as has most of the landscaping. Thompson asked how we could require CUP on a different parcel than what the CUP is for. Kaltsas said they are not considered structures. The

CUP will run with this property, so when sold CUP goes away. Would lose entitlement on that property when principal structure is built.

### Public Hearing Open

Mike Kuka, 4405 County Rd 92 explained he has got his three kids involved so right now this is the easiest way. Kaltsas added that by creating one lot they would lose entitlement in Ag, max size for rural view lot is 10 acres, so this is a good way to keep the lot. Palmquist asked about the roof on the barn on the south side, and if it was available to the public. Kuka affirmed it is coming down.

### **Motion by Gardner to close the Public Hearing, second by Olson.**

### Public Hearing Closed

**Motion by Gardner to permit a lot line rearrangement. Second by Thompson. Ayes: Phillips, Palmquist, Gardner, and Olson. Nays: None. Absent: None. Abstain: None. Motion approved.**

**Motion by Gardner granting a condition use permit to allow a commercial riding stable on the subject property. Second by Palmquist. Ayes: Phillips, Palmquist, Gardner, and Olson. Nays: None. Absent: None. Abstain: None. Motion approved.**

**5. PUBLIC HEARING:** Corey Oeffling (Applicant/Owner) requests that the City consider the following actions for the property located at 5215 Sunset Lane (PID No. 01-118-24-31-0002) in Independence, MN:

- a. A variance to allow a reduced front yard setback. The setback reduction would permit the construction of a new attached garage and front porch.

Zoning: *Rural Residential (Shoreland Overlay)*

Comprehensive Plan: *Rural Residential*

Acreage: 2.87 acres

Impervious Surface Maximum: 25

The applicant would like to construct a new front porch and attached garage on the property. There is currently an existing home located on the property. The existing home has an attached garage that is located below the living area and accessed through the lower level. The applicant recently acquired the home from his father and would like to construct a new attached garage in a location and at an elevation that would allow access into the home at the main living level. The lot slopes from west to east in a manner that would make it difficult to construct an addition that could be accessed at the main living level grade. In order to accommodate the new garage, the applicant is seeking a variance to allow the reduction of the front and side yard setbacks. The requisite setbacks are as follows:

Front Yard Required: 85 feet from centerline of road.

Front Yard Proposed: 45 feet from centerline of road

**Variance: 40 feet**

Side Yard Required: 30 feet (existing home is located 21 feet from property line)

Side Yard Proposed: 16 feet

**Variance: 14 feet**

The applicant is proposing to use the property in a manner consistent with the Rural Residential

District. The property is wooded and positioned in a way that would reduce the impact of the proposed garage addition. The neighborhood surrounding this property has a wide array of property types with varying setbacks from the front and side yard setbacks. The applicants have attempted to locate the building in a manner that they feel would reduce or mitigate impacts to the surrounding properties. The character of the surrounding area is residential. The applicant is proposing to update the existing home with a new front porch. The applicant is also trying to construct a new garage that is at the same level as the main living area of the home. Currently the only access to the home from the garage is through the basement. The proposed variance would allow the expansion of a residential structure which is in keeping with the City's comprehensive plan.

Thompson asked if there were practical reasons this wouldn't work, such as snow removal. Kaltsas said a ditch should be in the right of way. Public Works doesn't have an issue with plowing the road curves and the structure gets further from the road. City should require a survey. Kaltsas noted the slope of the site, and his proposal is the most desirable. Palmquist asked why the setback is different for attached vs detached. Gardner said the set-back is non-conforming now. Kaltsas the applicant spoke with neighbors who did not oppose this.

#### Public Hearing Open

**Motion by Gardner to close the Public Hearing, second by Olson.**

#### Public Hearing Closed

Thompson felt we are close, but the road curves and no neighbors to the west he did not see a problem. Phillips felt he should have a survey, and Corey Oeffling (the applicant) said he would.

**Motion by Palmquist requesting a variance to allow a reduced front yard setback subject to staff recommendations. Second by Gardner. Ayes: Phillips, Palmquist, Thompson, Gardner, and Olson. Nays: None. Absent: None. Abstain: None. Motion approved.**

#### 6. Discussion on Planning Commission Appointments and Terms

Kaltsas said Olson had submitted his letter of resignation and noted the term policies needed to be updated. Kaltsas said the City has received three applications for Olson's position and the Council will be interviewing those candidates in December.

#### 7. Adjourn

**Motion by Olson, second by Gardner to adjourn the meeting at 7:20 p.m. Ayes. Phillips, Palmquist, Thompson, Gardner, and Olson. Nays: None. Absent: None. Abstain: None. Motion approved.**

Respectfully Submitted,

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Beth Horner  
Recording Secretary

## City of Independence

### ***Request for a Variance from the Front Yard Setback for the Property Located at 4586 Shady Beach Circle***

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<i>To:</i>	Planning Commission
<i>From:</i>	Mark Kaltsas, City Planner
<i>Meeting Date:</i>	January 17, 2017
<i>Applicant:</i>	Dean Voss
<i>Owner:</i>	Linda Nelson
<i>Location:</i>	4586 Shady Beach Circle

#### ***Request:***

Dean Voss (Applicant) and Linda Nelson (Owner) request that the City consider the following action for the property located at 4586 Shady Beach Circle (PID No.02-118-24-21-0007):

- a. A variance to allow a reduced front yard setback which would permit a home/garage addition.

#### ***Property/Site Information:***

The subject property is located at 4586 Shady Beach Circle. The property is a legal non-conforming property that does not meet all of the current lot and setback requirements. There is an existing home and two small sheds on the subject property.

Property Information: ***4586 Shady Beach Circle***  
Zoning: *Rural Residential (Shoreland Overlay)*  
Comprehensive Plan: *Rural Residential*  
Acreage: *0.34 acres (14,812 square feet)*  
Impervious Surface Maximum: *25% (3,703 square feet)*



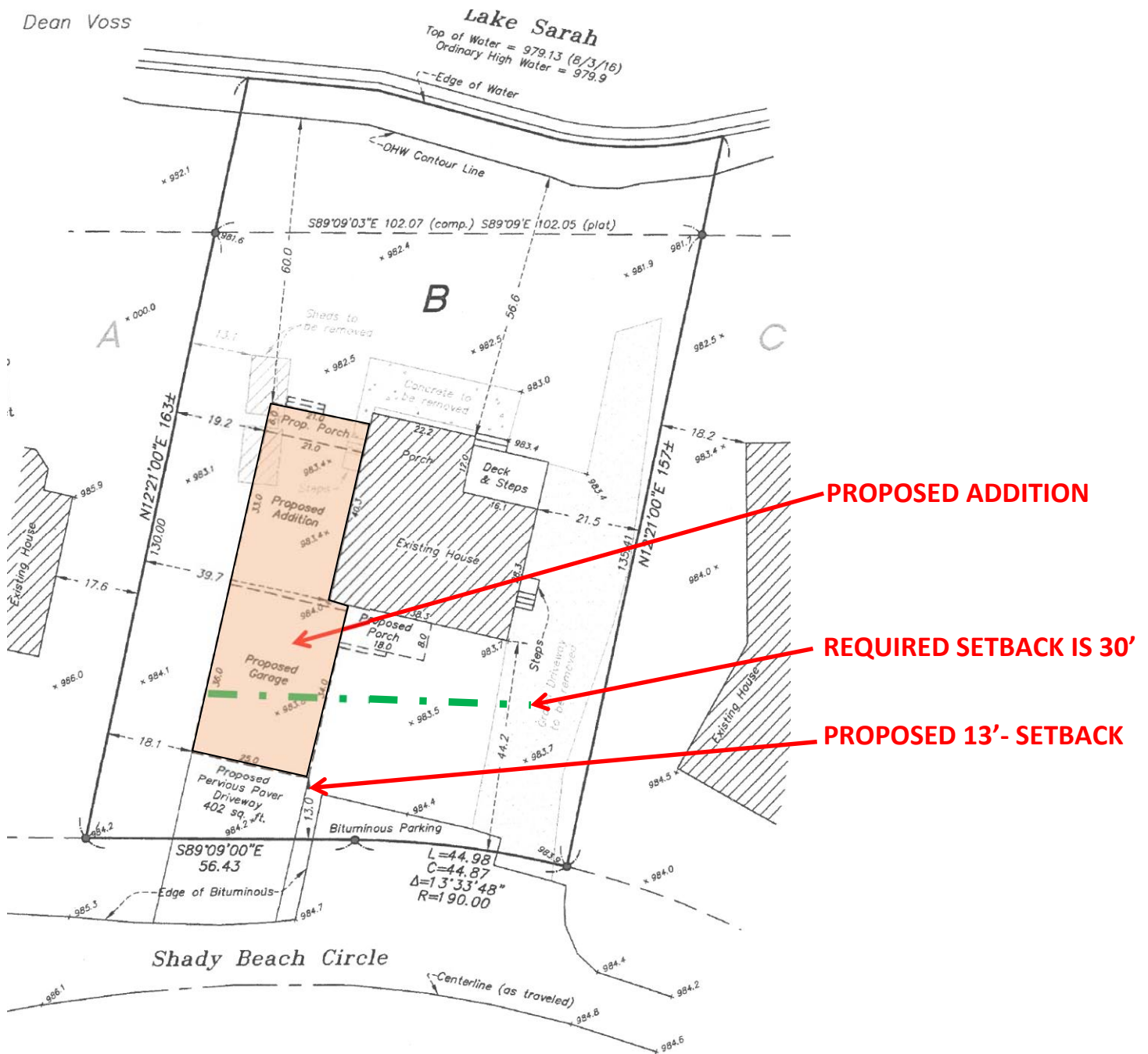
***Discussion:***

The applicant is seeking approval to construct an addition onto the existing home. The addition would include living space and a new garage. The applicant is proposing to meet applicable side yard setbacks, but would like to encroach into the required front yard setback. The proposed encroachment would require the City to grant a 17 foot variance to allow a front yard setback of 13 feet rather than the required 30 feet.

The subject property is a legal non-conforming lot of record. The City's current lot standards require a minimum of 1 acre for all properties in the Shoreland Overlay zoning district. The subject property is .34 acres in size. The existing home does not have a garage. There are two small sheds located on the property. The City has historically considered variances for properties in the Shoreland Overlay district that are substandard lots of record. The City already allows a considerable amount of relief from the requisite standards by ordinance. The City allows all requisite setbacks to be reduced by 40% for substandard lots of record. In this particular situation, the existing lot could accommodate an approximately 22 foot wide expansion without a variance. This width would be the minimum width of a typical two car garage.



Dean Voss



The subject property is considered a substandard lot of record in accordance with the City's Shoreland Ordinance Section 505.15.

*505.15. Substandard lots. Lots of record in the office of the county register of deeds or registrar of titles prior to December 1, 1982, which do not meet the requirements of this section 505, may be allowed as building sites provided:*



(a) such use is permitted in the zoning district;

(b) the lot of record is in separate ownership from abutting lands, and can meet or exceed 60% of the lot area and setback requirements of this section; and

(c) all requirements of section 705 of this code regarding individual sewage treatment systems are complied with.

Setbacks for properties located in the shoreland ordinance are as follows:

**Subd. 2. Lot standards.**

	<b>Unsewered Areas</b>			<b>Sewered Areas</b>		
	NE Waters	RD Waters	Tributary Streams	NE Waters	RD Waters	Tributary Streams
Lot Area	2.5 acres	2.5 acres	2.5 acres	1.0 acre	1.0 acre	1.0 acre
Water frontage and lot width at building line	200 ft	200 ft	200 ft	125 ft	100 ft	100 ft
Structure setback from ordinary high water mark	150 ft	100 ft	100 ft	150 ft	100 ft	100 ft
Structure setback from roads and highways	85 ft from centerline or 50 ft. from right-of-way, whichever is greater					
Structure height limitation	35 ft	35 ft	35 ft	35 ft	35 ft	35 ft
Maximum lot area covered by impervious surface	25%	25%	25%	25%	25%	25%
Sewage system setback from ordinary high water mark	150 ft	75 ft (RR) 150 ft (AG)	75 ft (RR) 150 ft (AG)	125 ft	75 ft	75 ft

Front Yard Setback:

Required: 85 feet from centerline or 50 feet from the ROW (@ 60% = 30 feet from right of way)

Proposed: 13 feet from the right of way

Side Yard Setback (as it relates to proposed addition):

Required: 30 feet (@ 60% = 18 feet)

Provided (West): 18'

In addition to the setback requirements, properties located in the shoreland district can have a maximum impervious surface coverage of 25%. This property would be permitted to have a maximum impervious surface coverage of 3,703 square feet. The applicant has prepared an analysis of the impervious surface area for this property. The existing and proposed impervious surface calculations are as follows:

<u>Existing Hardcover</u>	<u>(sq. ft.)</u>	<u>Proposed Hardcover</u>	<u>(sq. ft.)</u>
House	1,352	House	1,352
Deck & Steps	207	Deck & Steps	207
Bituminous Parking	233	Bituminous Parking	233
Concrete	378	Proposed Addition	698
Gravel Driveway	1,843	Proposed Garage	900
Shed	196	Proposed Porches	296
	<u>4,209</u>		<u>3,686</u>
 Lot Area	 14,812	 Lot Area	 14,812
Total Hardcover	28.4%	Total Hardcover	24.9%

The applicant is proposing to remove two existing sheds, a concrete patio area and the existing gravel driveway to reduce the impervious surface coverage area of the property (see diagram below).



The applicant is also proposing to construct a pervious paver driveway to access the garage addition. The City has not counted pervious pavers towards the total impervious surface area. With the proposed garage/house addition, the property would have a total impervious surface equaling 24.9% of the lot area.

There are several factors to consider relating to granting a variance. The City's ordinance has established criteria for consideration in granting a variance.

*520.21. Standards for granting variances. Subdivision 1. The City Council may grant a variance from the terms of this zoning code, including restrictions placed on nonconformities, in cases where: 1) the variance is in harmony with the general purposes and intent of this zoning code; 2) the variance is consistent with the comprehensive plan; and 3) the applicant establishes that there are practical difficulties in complying with the zoning code (Amended, Ord. 2011-08)*

*Subd. 2. An applicant for a variance must demonstrate that there are practical difficulties in complying with the zoning code. For such purposes, "practical difficulties" means:*

- (a) The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;*
- (b) the plight of the property owner is due to circumstances unique to the property not created by the landowner;*
- (c) the variance, if granted, will not alter the essential character of the locality.*

*Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. (Amended, Ord. 2011-08)*

*Subd. 3. The City Council shall not grant a variance to permit a use that is not allowed under the zoning code based on the zoning classification of the affected property. (Amended, Ord. 2011-08)*

*520.23. Conditions and restrictions. The board of adjustments may recommend and the City Council may impose conditions on a variance. Conditions must be directly related to and must bear a rough proportionality to the impact created by the variance. (Amended, Ord. 2011-08)*

Consideration of the criteria for granting a variance:

- a. Residential use of the property is consistent with the Rural Residential District. The applicants are seeking a variance that is generally consistent with similar variances granted for properties in this area.
- b. Each property in this area is non-conforming and typically requires relief from certain setbacks. The City will need to determine if the requested variance is unique to this property.

- c. The character of the surrounding area is residential. The proposed single family home is in keeping with the City's comprehensive plan.

There are several additional items that could be considered by the City:

1. Many of the surrounding properties have been granted relief from the requisite setback requirements due to the small size of the properties, unique lot layouts resulting from the historic nature of the structures on the properties and the change in nature of the homes from seasonal to permanent.
2. From the image below it can be seen that several properties in this neighborhood have reduced front yard setbacks. The setbacks range from approximately 10 feet to 20 feet from the right of way/property line. The applicant is seeking a 13 foot setback.
3. The requested variance would allow a standard size two garage to be located on the property. From the plans provided, it appears that the depth of the garage could be reduced to accommodate a greater setback from the right of way.
4. Due to the location of the property at the end of a cul-de-sac and its orientation on the curve of the road, the apparent impact on the "streetscape" will be somewhat minimized.

Ultimately the City will need to find that the aforementioned criteria for granting a variance have been met by the applicant.



***Public Comments:***

The City has not received any comments prior to the writing of this report.

***Recommendation:***

Staff is seeking a recommendation or direction from the Planning Commission pertaining to the request for a variance. Should the Planning Commission consider granting a variance, the following findings and conditions should be considered.

1. The proposed Variance request meets all applicable conditions and restrictions stated in Chapter V, Section 520.19, Procedures on variances, in the City of Independence Zoning Ordinance.
2. The total impervious surface coverage for this property will not exceed 25% of the total lot area. The applicant shall submit a detail of the proposed pervious paver driveway to the City for review and approval at the time an application for a building permit is submitted.



3. The applicant shall submit a drainage plan to the City at the time of building permit application. The drainage plan will be reviewed by the City to ensure that the proposed improvements do not adversely impact any of the surrounding properties relating to grading and drainage.
4. The Applicant shall pay for all costs associated with the City's review of the requested variance.
5. Any future improvements made to this property will need to be in compliance with all applicable standards relating to the Rural Residential and Shoreland Overlay zoning districts. No expansion of the home/ garage or impervious areas will be permitted without an additional variance request.

***Attachments:***

1. Application
2. Site Plan

## City of Independence

The Independence City Code was established to protect both current and future residents from the negative impacts of improper development and to ensure a positive future for the city. The land use application review is the mechanism that allows the city to examine proposed uses to ensure compatibility with the surrounding environment, natural or otherwise. It is important to understand that a proposed use may be acceptable in some circumstances, but unacceptable in others—all applications are viewed on a case-by-case basis.

☐ **Appeal**

☐ **Comprehensive Plan Amendment**

☐ **Concept Plan**

☐ **Conditional Use Permit**

☐ Residential  
☐ Commercial/Light Industrial  
☐ Telecommunications  
☐ Agriculture  
☐ Home Occupation  
☐ Non-Conforming Use  
☐ Guest/Bunk House  
☐ Institutional  
☐ CUP Amendment

☐ **Extension Request**

☐ **Final Plat**

☐ **Interim Use Permit**

☐ **Lot Consolidation**

☐ **Minor Subdivision (Survey)**

☐ Lot Subdivision  
☐ Lot Combination  
☐ Lot Line Rearrangement

☐ **Moving Buildings**

☐ **Preliminary Plat**

☐ **Rezoning**

☐ **Site Plan Review (Commercial)**

☐ **Vacation**

☒ **Variance**

☐ Subdivision Regulations  
☐ Zoning  
☒ Road Frontage

☐ **Zoning Text Amendment**

\*Please check all that apply

**Request:** Variance for 17'  
setback from right-of-way  
to accommodate shallow lot

**Site Address or Property Identification Number(s):**  
4585 Shady Beach Circle  
Independence MN

NOTE: Minnesota State Statute 15.99 requires local governments to review an application within 15 days of its submission to determine if an application is complete and/or if additional information is needed to adequately review the subject request. **To ensure an expedited review, applicants shall schedule a pre-application meeting with the City Planner/Administrator at least one week prior to submittal.** Most applications have a review period of 60 days, with the City's ability to extend an additional 60 days if necessary due to insufficient information or schedule.

**Office Use Only**

~~\$1500~~ \$500

Application Amount

\$1000

Escrow Paid

\_\_\_\_\_

Date Accepted by Planner

\_\_\_\_\_

City Planner

12/13/16

Date

9410

Application Check #

9410

Escrow Check #

Bruce

Accepted By



**\*\*\*Note:** All parties with a fee interest in the real estate must sign this application before the City will review for consideration!

**Applicant Information:**

Name: DEAN VOSS

Address: 4025 TOWNLINE RD

City, State, Zip: LORETTO MN 55357

Phone: 612-201-6934

Email: deanvossandsonsconst@gmail.com

Signature: Dean F. Voss

**Owner Information (if different than applicant)**

Name: Linda Nelson

Address: 4387 Braddock Avenue

City, State, Zip: Buffalo, Mn 55313

Phone: 763-464-0876

Email: lindynamianeapclisglass.com

Signature: Linda Nelson

**Checklist:** Please review the checklist that goes with the request(s) as all materials in the checklist unless waived by the City.

**Review Deadline and Timeline:** All applications must be received by the deadline according to the schedule attached hereto. Failure to submit by the date shown will result in a delay in the scheduling of the application review by Planning Commission and City Council.

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***Application for Planning Consideration Fee Statement***

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The City of Independence has set forth a fee schedule for the year 2014 by City Ordinance. However, projects of large scope that include two or more requests will be required to provide a larger deposit than the resolution sets forth as set by the City Administrator. The fees collected for land use projects are collected as deposits. All invoices associated with each land employ application will be billed to the applicant within 30 days upon receipt by the City for each project. The City of Independence often utilizes consulting firms to assist in the review of projects. The consultant and City rates are shown at the bottom of this form. By signing this form, the applicant recognizes that he/she is solely responsible for any and all fees associated with the land use application from the plan review stage to the construction monitoring stage through to the release of any financial guarantee for an approved project. If a project is denied by the City Council or withdrawn by the applicant, the fees associated for the project until such denial or withdrawal, remain the applicant's responsibility.

I UNDERSTAND THE FEE STATEMENT AND RESPONSIBILITIES ASSOCIATED WITH THIS LAND USE APPLICATION:

Applicant Signature: Dean F. Voss

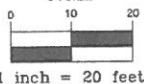
Date: 12-13-16

Owner Signature (if different): Linda Nelson

Date: 12-14-16

x 000.0 Existing Elevation

Lake Sarah  
Top of Water = 979.13 (8/3/16)  
Ordinary High Water = 979.9  
--Edge



12-6-16 (setback, hardcover)