

**CITY OF GRANT  
PLANNING COMMISSION MEETING**

Tuesday, December 19, 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: October 17, 2017
5. NEW BUSINESS
  - A. PUBLIC HEARING, Consideration of Variance Application, Wetland Setbacks for Septic System, 8635 Kimbro Avenue North
  - B. PUBLIC HEARING, Consideration of Revision to Frontage Requirements and Corrections to the Zoning Ordinance Regarding Lots of Record
6. OLD BUSINESS
7. ADJOURN

# PLANNING COMMISSION MEETING MINUTES CITY OF GRANT

October 17, 2017

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

**Absent:** Matt Fritze

**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. APPROVAL OF AGENDA**

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

**4. APPROVAL OF MINUTES, September 19, 2017**

MOTION by Commissioner Tufty to approve the September 19, 2017 Minutes, as presented. Commissioner Helander seconded the motion. MOTION carried unanimously with Commissioner Helander abstaining.

**5. NEW BUSINESS**

- A. Public Hearing, Consideration of Variance Application, Wetland Setbacks for Septic System, 6782 Jocelyn Road North** – City Planner Swanson advised 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.

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.

City Planner Swanson noted 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.

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.

City Planner Swanson advised 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.

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)

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.

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.

City Planner Swanson noted the following draft findings related to the hardship (practical difficulty) are provided for 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 system.
- A significant portion of the subject property contains a wetland and has flood prone soils which severely limits the available are 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.

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.

MOTION by Commissioner Schafer to open the public hearing at 6:46 p.m. Commissioner Tufty seconded the motion. MOTION carried unanimously.

MOTION by Commissioner Tufty to close the public hearing at 6:47 p.m. Commissioner Schafer seconded the motion. MOTION carried unanimously.

MOTION by Commissioner Tufty to recommend approval of the Variance Application, 6782 Jocelyn Road North, as presented. Commission Drost seconded the motion. MOTION carried unanimously.

This item will appear on the November 6, 2017 City Council Meeting agenda.

**B. PUBLIC HEARING, Consideration of Variance Application for Required Minimum Lot Frontage, 400 Block of Maple Street North** – City Planner Swanson advised 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.

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

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.

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).

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.

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:

<b>Dimensional Standard</b>	<b>Zoning – A2</b>	<b>Parcel A</b>	<b>Parcel B</b>
Minimum Lot Size	5 Acres	4.76 Acres*	5.01 Acres*
Minimum Lot Depth	300'	627'	660'
Minimum Lot Width	300'	330'	330'
<b>Minimum Frontage (improved public road)</b>	<b>300'</b>	<b>330'</b>	<b>0'</b>

*\*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.

City Planner Swanson stated 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.

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.***

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.***

City Planner Swanson stated that 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.***

City Planner Swanson advised 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.

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.

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.

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.

City Planner Swanson stated 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 more information from the applicant

MOTION by Commissioner Shafer to open the public hearing at 7:17 p.m. Commissioner Tufty seconded the motion. MOTION carried unanimously.

Mr. John Newman, 420 Maple Street, came forward and stated he understand the predicament but is concerned about creating neck lots and setting a precedent for neck lots within the City.

Mr. Tim Mathieson, 469 Maple Street, came forward and stated he has been a resident for forty years and is very concerned about the ten acre requirement. The back lot is landlocked but having two driveways makes the lots even smaller. He stated he would like to see the lots combined and one house.

Mr. Kyle Smith, 1180 Lawn Avenue, came forward and stated he has an empty lot behind him and is concerned about granting a variance for access. He stated he does not want to look at a house in is backyard and there are two smaller lots to the south that don't have houses either.

MOTION by Commissioner Tufty to close the public hearing at 7:25 p.m. Commissioner Schafer seconded the motion. MOTION carried unanimously.

Mr. Dane Hansen, Applicant, came forward and stated he purchased the land in 2016 and really had no plan. He knew it was two separate properties. After looking at it more closely he stated he thought there would be the possibility of building on the two lots. The hardship here is there is no frontage for a legal lot. The parcel is land locked but does meet the five acre minimum.

City Planner Swanson stated the minimum lot size in Grant is five acres and was put in place in 1997 with a ten acre density calculation. Five acre lots are allowed. From 1983 to 1997 the minimum lot size was 2.5 acres. This is very parcel specific and exceptions that exist have to meet the requirements today. This is a unique situation due to the frontage piece. The current ordinance does not talk about frontage. Commissioners should focus on the frontage piece has that is what the variance is for. If granted, a legal easement would be drafted to ensure the lot would always have access. It would be a perpetual easement.

MOTION by Commissioner Geifer to recommend denial of the Minimum Lot Frontage Variance, 400 Block of Maple Street North. Commissioner Tufty seconded the motion. MOTION failed with Commissioners Drost, Helander and Schafer voting nay.

This item will appear on the November 6, 2017 City Council meeting agenda.

**6. OLD BUSINESS**

There was no old business.

**7. ADJOURNMENT**

MOTION by Commissioner Tufty to adjourn the meeting at 7:58 p.m. Commissioner Schafer seconded the motion. Motion carried unanimously.

Respectfully submitted,

Kim Points  
City Clerk

DRAFT

CITY OF GRANT

Planning Commission Meeting

Public Hearing, October 17, 2017

NAME (please print)

ADDRESS (please print)

John Newman 420 MAPLE ST.

Tom Mathiesen 469 MAPLE ST

Kiah Smith 1180 LAWN AVE

Blank lined area for additional entries.



Application Date:	11/16/17
Fee: \$400	Escrow: \$3,000

*Pd Check # 2790*

## 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.

<b>PARCEL IDENTIFICATION NO (PIN):</b> 23.030.21,13,0007 <b>LEGAL DESCRIPTION:</b> SEE ATTACHED		<b>ZONING DISTRICT &amp; COMP PLAN LAND USE:</b> RI <b>LOT SIZE:</b> 1.25
<b>PROJECT ADDRESS:</b> SAME	<b>OWNER:</b> Name: RONALD T. GILLASPY Address: 8635 KIMBRO LN City, State: GRANT Phone: 651-439-9224 Email: GILLASPY@COMCAST.NET	<b>APPLICANT (IF DIFFERENT THAN OWNER):</b>
<b>BRIEF DESCRIPTION OF REQUEST:</b> VARIANCE FOR WETLAND 75' SETBACK		
<b>EXISTING SITE CONDITIONS:</b> RESIDENTIAL, WOODED ALSO OWN PARCEL 23.030.21,13,0008		
<b>APPLICABLE ZONING CODE SECTION(S):</b> <i>Please review the referenced code section for a detailed description of required submittal documents, and subsequent process.</i> 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"/>	<b>Site Plan:</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>▪ 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> COPIES: 1 plan at 22"x34", 12 plans at 11"x17" (half scale)

Application for: **VARIANCE**  
City of Grant

<input type="checkbox"/>	<input type="checkbox"/>	<p><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</p> <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> <p>COPIES: 1 plan set 22"x34", 12 plan sets 11"x17" (half scale)</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p><b>Written Narrative:</b> Describe your request and the practical difficulties that are present on the site and why a Variance is sought.</p> <p>COPIES: 15</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Statement acknowledging that you have contacted other governmental agencies such as Watershed Districts, County departments, State agencies, or others that may have jurisdiction over your project.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mailing labels with names and address of property owners within ¼ mile (1,320 feet). Contact Washington County to obtain list/labels.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Paid Application Fee: \$400
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Escrow Paid: \$3,000

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

<input type="checkbox"/>	<input type="checkbox"/>	<p><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.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p><b>Wetland Delineation:</b> A wetland delineation may be necessary depending on the reason for the variance, and stated site constraints.</p>
<input type="checkbox"/>	<input type="checkbox"/>	Electronic copy of all submittal documents

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

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

Ronald Thomas Milroy      11/16/17  
Signature of Applicant      Date

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

Parcel Number:	23.030.21.13.0007
Property Address:	8635 KIMBRO LN N GRANT, MN 55082-0000
Class:	RESIDENTIAL
Legal Description:	SUBDIVISIONNAME GLEN OAK TERRACE LOT 3 BLOCK 1 SUBDIVISIONCD 83275

November 16, 2017

To: Kim Points, Grant City Administrator/Clerk

From: Ronald T. Gillaspay

Subject: Written Narrative For Variance Request For  
Proposed Septic System at 8635 Kimbro Ln N.

The existing septic system at 8635 Kimbro Ln N, Grant, has failed with a broken lid. This existing system is now about 55 years old and needs to be replaced as soon as possible.

The proposed system requires a variance for setback from a pond. The proposed system, located in the only appropriate area on the property the designer could find, is 50' from the pond, short of the required 75' setback.

I have also communicated with Karen Kill of Brown's Creek Watershed District and sent her the site plan for the proposed system.

# *Ed Eklin Septic System Design*

2303 County Road F East • White Bear Lake, MN 55110

651-485-2300

zeklins@gmail.com

October 20, 2017

Tom Gillaspy  
8635 Kimbro Lane N  
Stillwater, MN 55082

Dear Tom:

At your request, a site evaluation was performed at the property located at 8635 Kimbro Lane N, Stillwater, MN., for a subsurface sewage treatment system.

The existing septic tank has collapsed and is an imminent health threat.

Because I propose that the sewage treatment system and septic tanks be placed no closer than 50 feet from a wetland, you will need to ask for a variance from the City of Grant. The setback from a wetland is 75 feet, which I could not accomplish. Since time is limited for installation because of winter, I suggest starting the variance process as soon as possible. You should speak to your city hall about this.

Many trees will need to be removed, leaving the stumps. The installer can decide which trees should be removed.

Installer; access may be difficult and a temporary driveway may need to be constructed.

I have designed a Type 1 sewage treatment system.

I am recommending a pressurized mound system.

For a 3-bedroom home, I recommend that the mound rock bed be 10 feet wide and 45 feet long, which is 450 square feet. There must be at least 12 inches of clean sand below the upslope edge of the rock bed.

I forbid the use of anything other than rock for the distribution media.

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MPCA License #3321

Certification #C3268

SEPTIC SYSTEM DESIGNS • PERCOLATION TESTS  
SOIL BORINGS • SUB-DIVISION PLANNING

The following materials will be needed for construction of the mound system:

The installer should calculate the sand, sandy berm material and top soil needed. A materials worksheet is included.

- Approximately 20 yards of drain field rock.
- Two-1,000 gallon Septic Tanks.
- An effluent filter with alarm. I recommend a high capacity filter such as a Polylok 525.
- A 1,000-gallon lift tank.
- A pump that will handle at least 34 gallons per minute with 18 feet of head.
- An alarm for the pump.
- There are to be three, 1.5 inch laterals, spaced 36 inches apart, with 1/4 inch perforations spaced 36 inches apart. The manifold can be at the end of the laterals.

A vegetative cover must be established over the treatment system as soon as possible and the area must be protected from erosion if needed, until the vegetation is established.

Pressurized laterals must have clean outs installed at the ends.

In winter, it is best to leave the snow on the treatment system and over the septic tanks uncompacted for better insulation to prevent freezing.

Footing or roof drains, chemically-treated hot tubs, pool water, paint, and other products containing hazardous chemicals must not discharge into the sewage treatment system.

Low-flow shower heads and toilets can cut down on water usage. Leaky faucets and toilets can add too much water to the treatment system and should be fixed promptly.

It is the homeowner's responsibility to get the septic tanks pumped in accordance with your local government's ordinances. A licensed maintainer (pumper) will be required to do this. Washington County requires pumping no less than once every 3 years.

This design must be reviewed by Washington County Public Health and a permit must be obtained before the installation of any part the subsurface sewage treatment system.

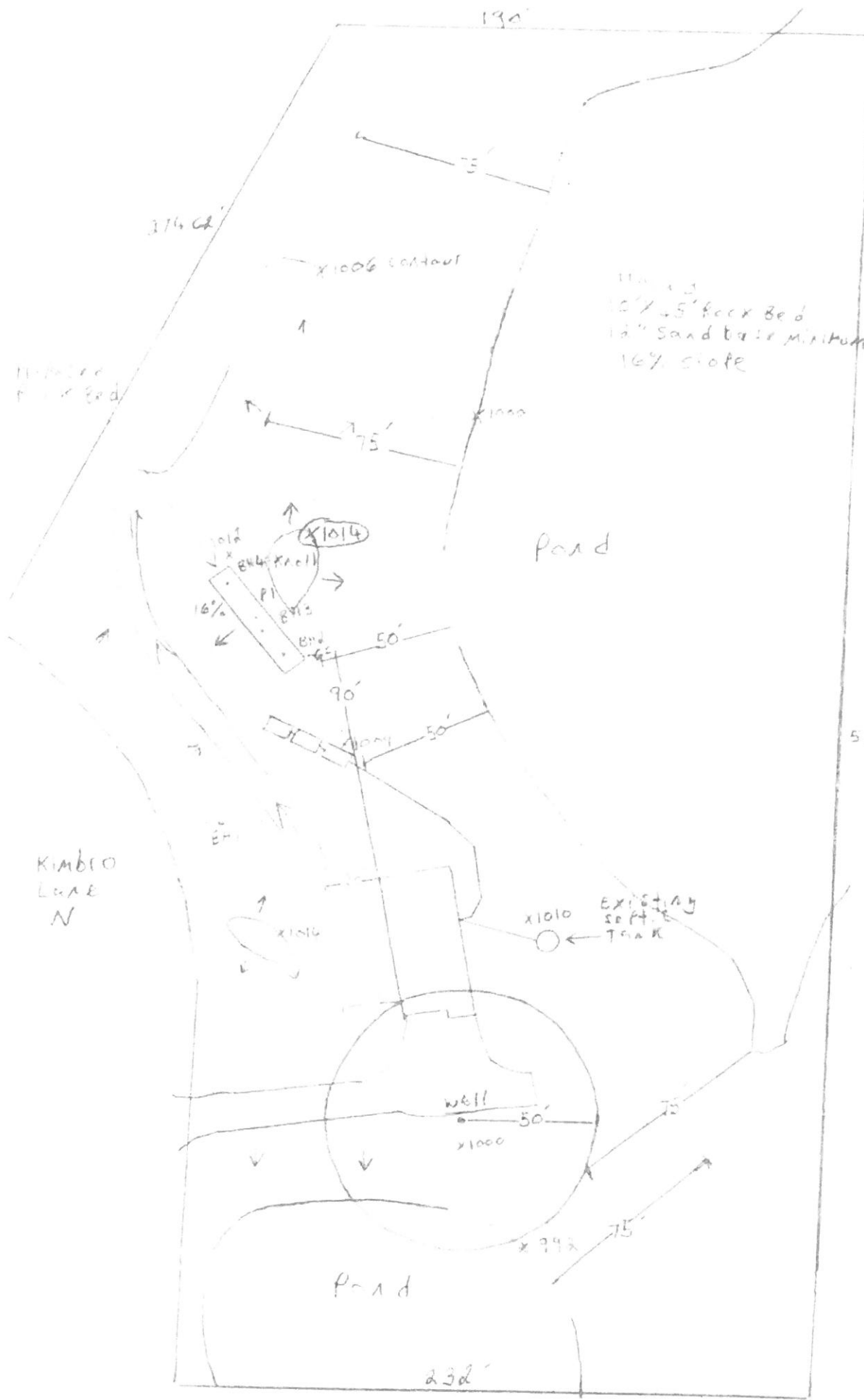
If you have any questions or concerns, please feel free to call me. I would be glad to help.

Sincerely,



Ed Ekin

Ton Gillisfy  
8635 Kimbro Lane  
Colony, MA  
Not A Survey  
1" = 50' ±



1006 contact

11.1.13  
10' x 45' Rock Bed  
12" Sand base minimum  
16% slope

Pond

537.54'

Kimbro Lane N

x1010 EXISTING  
50 FT. TANK

well  
x1000

Pond

232'





**STAFF REPORT**

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

**Date:** December 11, 2017

**From:** Jennifer Haskamp

**RE:** Variance from wetland setbacks to install a replacement septic system at 8635 Kimbro Lane North

**Background**

The Applicant and Owner (“Applicant”), Ronald Gillaspy, has requested a variance from wetland setbacks for installation of a new mound septic system on the property located at 8635 Kimbro Lane North. The existing septic system which serves the property has failed, and therefore the system must be replaced to safely serve the home. The Applicant has been working with a septic designer that identified the only suitable location on the lot given lot dimensions and presence of wetlands. The septic designer informed the Applicant that a variance from wetland setback would be needed from the City and that such application should be made as soon as possible given the failing system and season (winter).

A duly noticed public hearing has been published in the newspaper for December 19, 2017 at 6:30 PM, and individual property owners within ¼-mile were sent a letter informing them of the public hearing.

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

**Project Summary**

Applicant & Owner: Ronald T. Gillaspy	Site Size: 1.25 Acres, and vacant lot – 1.79 Acres (3.04 Acres Total) Location: 8635 Kimbro Lane North (also own, and part of application, 2303021130008) Existing Home: Constructed in 1963 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 which is supported by the Septic Designer’s memo contained within the Applicant’s submittal. According to the Applicant’s narrative the only location on site that the septic designer could find that would 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.

**Existing Site Conditions**

The subject property is located in the Glen Oak Terrace subdivision which was platted in the early 1960s. All of the lots within the subdivision range in size between approximately 1.0 and 3.0 acres, and are all oriented around a loop road (Kimbrow Lane). The subject parcel(s) are oriented to the northeast of the northerly curve of Kimbro Lane with primary frontage along the southerly boundary of the subject parcel(s). Per GIS records, the existing homestead is setback approximately 70’ from Kimbro Lane, and 17.5’ from the northerly property line. The lot containing the home is heavily vegetated and includes wetland and ponding areas south of the existing home and northeast of the home according to GIS records. The vacant lot north of the subject lot is currently vacant with no structures. The lot includes a large wetland complex covering the entire southeastern corner of the property and is heavily vegetated along the western edge of the property.

**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’	50’ +/-	25’ +/-	There is a large wetland and ponding area that is on both the subject lot and the adjacent vacant parcel where the proposed new septic system will be located. Given the extents of the wetland and ponding area, the only



				available location for a new septic system will encroach in the required wetland setback.
Wetland Buffer	50'	45'+/-	5-10' +/-	The no-grade/no-touch buffer is measured from the wetland edge. While the proposed system will be setback the full 50' from the estimated wetland edge, staff believes that the slope of the mound may encroach into the buffer, and some encroachment may also occur during construction. Staff provided an estimate of anticipated encroachment assuming normal construction activities.

Lot Size/Constraints

The Applicants' lot was created in the 1960s and the existing home was constructed in 1963. 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 even when considering the lot in conjunction with the adjacent parcel (Parcels considered collectively are 3.04 Acres). 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. 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 new standards for septic systems as identified by Washington County.

The Applicant did not provide correspondence from Washington County's Environmental Services staff; however, the Applicant's septic designer did identify why the proposed location is the only available area on the site to construct the new system. Staff will contact Washington County for their review/comment prior to the Planning Commission meeting, and if available will provide a verbal update to the planning commission at the meeting.

**Engineering Standards**

The Applicant has provided a copy of the soil borings and testing completed for design and installation of the new system. A copy of this information is available at the City Offices for review and consideration. The Applicant will submit this information to Washington County for review and approval since they are the permitting authority for the City for new septic systems.

**Other Agency Review**



The site is located in the Browns Creek Watershed District, and the Applicant indicated in their narrative that they have contacted them for their comment and review. It is the Applicant's responsibility to obtain any required BCWD permits prior to construction and installation of the new 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 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.
- For purposes of this variance, and for any considerations of the lot moving forward, both PIDs must be considered collectively, and the variance must be recorded against both properties. The lots may not be sold independently of each other given that the septic system serving the lot will now be located on the adjacent parcel.
- 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, Applicant's Narrative dated 11/16/2017
- Attachment B: Septic Designer's Letter and Site Plan dated October 20, 2017
- Attachment C: Aerial of both lots, Washington County GIS data



## MEMORANDUM

<b>To:</b> Planning Commission Members	<b>Date:</b> December 12, 2017
<b>CC:</b> Kim Points, City Administrator/Clerk	<b>RE:</b> Amend Chapter 32, Section 32-246 (b)
<b>From:</b> Jennifer Haskamp, City Planner	

### Background and Introduction

At the regular Planning Commission meeting in October, the Commission considered an application for a variance from the lot frontage requirements as stated within Chapter 32, Section 32-246. The Applicant's request fell under the provisions related to Existing Lots of Record contained within subsection (b). After consideration by the Planning Commission and a duly noticed public hearing, the Commission was deadlocked and did not reach consensus on the issue but passed along comments and considerations to the City Council to assist with their decision making.

In November, the City Council considered the application and determined that the Codified language contained within subsection (b) was not clear, and should have included a frontage exception for existing lots of record provided that other dimensional requirements stated within the ordinance could be met. Given that the codified language is not clear, the City Council directed City Staff to revise the language and bring it to the Planning Commission so that a public hearing could be held to consider the revisions. Staff understood the City Council's direction to include revisions to Section 32-246 (b) of the following:

- **Frontage** – The City Council generally agreed that the intent of subsection (b) was to include an exception for lot frontage provided that the existing lot of record in question could meet the other lot dimensional requirements of section 32-246 (i.e. is a minimum of 2.5 acres, has adequate area for a septic system, setbacks, etc.) Since the codified language is silent on frontage, the City Council directed staff to draft an amendment to the code language to include an exception for frontage.
- **Clean up references to subsections** – The codified language has errors in subsection b(2) and did not correctly codify the ordinance; this should be corrected.

**Public Hearing:** A duly noticed public hearing has been published in the newspaper for December 19, 2017 at 6:30 PM.



**Action Requested:** Staff has prepared the attached Draft Ordinance 2017-56 which amends Chapter 32 for your review, consideration, and recommendation to the City Council.

**CITY OF GRANT**  
**WASHINGTON COUNTY, MINNESOTA**  
**ORDINANCE 2017-56**

**An Ordinance Amending the Grant Code of Ordinances  
Amending Section 32-246 (b) Additions and exception to the minimum area,  
height and other requirements**

The City Council of the City of Grant, Washington County, Minnesota, does hereby ordain as follows:

**SECTION 1. AMENDMENT OF CHAPTER 32, ZONING, OF THE CITY'S CODE OF ORDINANCES.**

That City Code Chapter 32, Article I, Section 32-246 (b) "Additions and exception to the minimum area, height and other requirements", is hereby AMENDED to ADD the following identified as underlined, and AMENDED to DELETE as ~~striketrough~~ :

***(b) Additions and exception to the minimum area, height and other requirements.***

- (1) *Existing Lot defined.* For the purpose 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 ~~e~~Office of the ~~e~~County ~~r~~Recorder or ~~r~~Registrar of ~~t~~Titles on or before the date of adoption of the ordinance from which this chapter is derived.
- (2) *~~Setback~~Existing Lot of Record exemptions.* Any such lot or parcel created in accordance with the city subdivision regulations in effect at the time that such Lot was created, and that is at least 2.5 acres in size, shall be exempt from the requirements of ~~section 32-248(d)subsection (3)~~, pertaining to areasetbacks, lot width and lot frontage and shall be considered buildable if the lot or ~~o~~parcel can comply within the remaining requirements of this section and meet the minimum setback requirements as stated within Section 32-246 (a).
- (3) *Undersized lots.* If in a group of two or more contiguous lots or parcels of land owned or controlled by the same person, any individual lot or parcel does not meet the full width, frontage or area requirements of this article, such individual lot or parcel cannot be

considered as a separate parcel of land for purposes of sale or development, but must be combined with adjacent lots or parcels under the same ownership so that the combination of lots or parcels will equal one or more parcels of land each meeting the full lot width and area requirements of this article.

(4) – (9) No Changes proposed.

**SECTION 2. SEVERABILITY.**

In the event that a court of competent jurisdiction adjudges any part of this ordinance to be invalid, such judgment shall not affect any other provisions of this ordinance not specifically included within that judgment.

**SECTION 3. EFFECTIVE DATE.**

This ordinance takes effect upon its adoption and publication according to law.

WHEREUPON, a vote, being taken upon a motion by Council member \_\_\_\_\_ and seconded by Council member \_\_\_\_\_, the following upon roll call:

Voting AYE:

Voting NAY:

Whereupon said Ordinance was declared passed adopted this \_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Jeff Huber, Mayor

\_\_\_\_\_  
Attest: Kim Points, City Clerk