



**ITEM REPORT  
PLANNING AND ZONING COMMISSION**

Agenda Date: 7/11/2022  
Agenda Section: New Business

**TO:** Baxter Planning and Zoning Commission

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**FROM:** Matthew Gindele, City Planner

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**REQUEST:** PUBLIC HEARING. Variance to construct a home on a non-conforming lot for property located at 14548 Cedar Scenic Road (City file 23-25)

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**APPLICANT:** Craig MacDonald, 16755 Piper Lane, Brainerd, MN 56401  
RS, Residential Staging

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**ZONING:**

**1. Application Request**

The applicant is requesting the variance to allow a nonconforming lot to be considered a buildable lot for property located in the RS, Residential Staging district.

**2. Context**

Adjacent Land Use and Zoning

	Adjacent Land Use	Zoning
<b>North</b>	Single Family Residential Property	RS, Residential Staging
<b>East</b>	Single Family Residential Property	RS, Residential Staging
<b>South</b>	Vacant	R-1, Single Family Residential
<b>West</b>	Vacant	R-1, Single Family Residential

Characteristics of the Site

The subject property is 1.23 acres in size. It is located within the shoreland overlay district of Whipple Lake which also acts as flood plain. The property is partially open prairie and partially wooded with a mix of mature deciduous and coniferous trees and has little to no topography. No wetlands are present on the property.

**3. Analysis of Request**

Variance

The subject property is 1.23 acres in size and is zoned RS, Residential Staging which requires a minimum lot size of 10 acres. Seeing as how the lot is less than 10 acres it is considered a legally nonconforming lot of record. The applicant is proposing to construct a single-family home on the subject property. The "Nonconforming Lots" section of the zoning ordinance states that (among other things) a lot needs to be at least 70% of the minimum lot size for the zoning district in which it lies to be buildable without a variance. The subject property is less than 70% of the minimum lot size for the RS district thus the need for the variance.

The Code states that a vacant nonconforming lot may be allowed as a buildable lot provided that all the following conditions are met:

- 1) It is a lot of record;
- 2) The proposed structure will meet all setback requirements which currently apply to the lot and the lot is at least seventy percent (70%) of the required size and dimension of the applicable zoning district;
- 3) All other applicable requirements of this chapter are met;
- 4) The lot has adequate access as solely determined by the city; and
- 5) Said lot is not in the shore land overlay district.

### Findings

The subject property is an existing lot of record and is legally nonconforming. The applicant has submitted a basic site plan demonstrating the ability to construct a home that meets all applicable setback requirements, however, seeing as how the total lot area is 1.23 acres when the RS district minimum lot size is ten acres, the property is less than 70% of the required lot size thus the need for a variance. Other applicable requirements of the chapter will be enforced at time of building permit review. Legal access is provided to the subject property via Red Sequoia Drive. The subject property is within the shoreland overlay district of Whipple Lake; however, the shoreland district only requires a minimum lot size of 20,000 square feet which the subject property is well beyond. For this reason, staff has determined that the intent of the ordinance is being met.

The variance standards are established by Minnesota Statute §462.357, Subd. 6.2. The burden of proof is on the applicant to show that the variance standards have been met. Staff has reviewed the application for consistency with the variance standards, as follows:

- a) *That there are practical difficulties in complying with the Zoning Ordinance.*

There are practical difficulties in complying with the Zoning Ordinance. The ordinance requires a minimum lot size of ten acres. However, the existing lot is only 1.23 acres which is still plenty of space to construct a home. Additionally, the property is zoned as low density residential and is served with city water and sewer indicating that the property is intended to be rezoned to R-1, .

- b) *That the conditions upon which a petition for a variation is based are unique to the parcel of land for which the variance is sought and were not created by the landowner.*

The conditions are unique to the parcel of the land and were not created by the landowner. The subject property was created in 1996 by a previous owner. The 70 percent Code requirement is to ensure that properties have enough land to allow for reasonable development that meets code requirements. In this instance, the subject property is 1.23 acres, which has sufficient upland for the construction of a home to meet code requirements.

- c) *That the granting of the variation will not alter the essential character of the locality.*

The granting of this variance will not alter the essential character of the locality because the proposed residential use of the property matches the existing residential uses of adjacent properties.

- d) *The proposed variance would be in harmony with the general purposes and intent of the Ordinance.*

The variance would be in harmony with the general purposes and intent of the ordinance.

- e) *The variance is consistent with the Comprehensive Plan.*

The comprehensive plan and zoning ordinance identify this property as a low-density residential use which matches the proposed use.

#### **4. Recommendation**

Staff recommends approval of the variance, subject to the findings and conditions in the attached resolution.

#### **Attachments**

1. Draft resolution approving the Variance
2. Site Location Map
3. Site Plan
4. House Plans and Elevations