

TO: Planning Commission

FROM: Jerry Bohnsack

Meeting of May 9, 2023

**Variance Request 2023-002**

Applicant: Christopher Cullen

Legal Description: Lots 82 & 83 Fourth Addition to Breezy Point Estates

Address: TBD County Road 4, Breezy Point MN 56472

Property Identification Number (PIN): 10210849

Zoning: Original Neighborhood (R-3 unsewered)

Applicable Code: 153.033, 153.044, 153.045, 153.006(A)

Request:

Construct Dwelling and attached garage on consolidated lots 82 and 83. Parcel is 15,215 sq. ft. (20,000 sq. ft. is required lot size by ordinance) Preexisting lots qualify for less if at least 80% lot area (16,000). Requested Variance from 16,000 sq. ft. area Applicant is proposing on site septic.

Property:

The property is located SE corner of Aspen Lane and Birch Lane. Lots 82 & 83 have been consolidated to equal 15,315 sq. ft. Municipal sanitary sewer is currently located at Birch Lane and County Road 4 and / or Lakeshore Drive and Aspen Lane.

Zoning:

The property is currently Zoned Original Neighborhood (R-3 unsewered).

- Lot Size 20,000 sq. ft.
- ROW 35 feet
- Rear 35 feet
- Side 10 & 15 feet
- Impervious Coverage 25%
- Building Height 35 feet

***VARIANCE.*** A legally permitted deviation as provided in M.S. § 462.357, Subd 6, as it may be amended from time to time, from the provision of this chapter as deemed necessary by the Board of Adjustment when the strict interpretation of the ordinance would create practical difficulty and be impractical because of circumstances, relating to lot size, shape, topography or other characteristics of the property, and when the deviation from the ordinance with any attached conditions will still be in keeping with the spirit and intent of the ordinance. Variances cannot create a land use not permitted in a zone.

Variance Review:

- Variance Review §153.120 E 1-5

(E) Variances shall be decided within a reasonable time with considerations for the following:

- (1) The strict interpretation of the ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the land owner;
- (2) The deviation from the ordinance with any attached conditions will still be in keeping with the spirit and intent of the ordinance;
- (3) The land use created by the variance is permitted in the zoning district where the property is located;
- (4) The variance will not alter the essential character of the locality; and
- (5) The variance is not for economic reasons alone, but reasonable use of the property does not exist under the ordinance.

Note:

R-3 Zone (unsewered) Minimum Lot Size 20,000

153.006 Use of preexisting lots.

- A. Outside of shoreland, a preexisting lot of record shall be considered for a zoning permit without requiring a variance from lot size provided it has at least 80% of required lot area and lot width as defined by ordinance, all required zoning provisions can be met and sanitary provisions can be met and sanitary provisions for well and sewage disposal can be maintained.

153.006 A. Currently allows for deviation from minimum size lot 20,00 sq. ft. to 16,000 sq. ft.

Question: Should a further deviation be allowed through use of variance? If so, How much?

Question: If further deviations are to be allowed, might a better alternative be a revision to % in 153.06 A.

It should be noted that the city is currently undertaking a sewer expansion study. The Aspen Lane and Birch Lane area are areas for potential expansion.

Findings:

- 1) The applicant contends that the practical difficulty is \_\_\_\_\_
- 2) The proposed structure meets applicable setbacks.
- 3) Impervious coverage is proposed to be 17% +-
- 4) Site plan indicates a building envelope.
- 5) Proposed parcel is 76.5% of 16,000 sq. ft.

The following may be used to support denial of Variance.

The Planning Commission / Board of Adjustment finds that no practical difficulty exists.

Future expansion of municipal sewer in Aspen Lane and Birch Lane will be under consideration. Sewer expansion would negate necessity for Variance.

The Planning Commission / Board of Adjustment may use the following to support Approval of Variance:

- 1) The property preexists current subdivision and zoning regulations.
- 2) The impervious coverage does not exceed 25%.
- 3) The practical difficulty is \_\_\_\_\_.
- 4) Proposed structure conforms to setbacks.
- 5) The proposed use is a reasonable use and consistent with the neighboring properties.

If approved the following may be used to support Approval of the Variance:

- 1) Building permit to be obtained structure to conform to site plan submitted. Minnesota State Building Cod to Apply.
- 2) Other.