

# Memorandum

**To:** Chair Hansen and Members of the Planning Commission  
**From:** Daniel R. Buchholtz, MMC, Administrator, Clerk/Treasurer  
**Date:** February 18, 2021  
**Subject:** Variance – 8037 6<sup>th</sup> Street NE

## Background

Virginia Moucha, 8037 6<sup>th</sup> Street NE, has submitted an application for a variance from the five-foot rear yard for the placement of a shed in the rear yard.



The applicant is seeking a variance from the five-foot rear and side yard setback requirement for accessory uses, as set forth in Appendix E of the Spring Lake Park City Code.

The site is located just off 81<sup>st</sup> Avenue NE and 6<sup>th</sup> Street NE. The property is guided for low density residential in the 2040 Comprehensive Plan. The property is zoned R-1, Single Family Residential – allowed uses include single-family homes and duplexes.

Property records show that the house on the property was constructed in 1966.

The City’s current yard setback standards for the R-1 zoning district is as follows:

Dwelling, single family – front yard	35 feet
Dwelling, single family – rear yard	40 feet
Dwelling, single family – side yard	10 feet
Accessory uses, rear yard	5 feet
Accessory uses, side yard	5 feet

A shed is an accessory use to a single-family dwelling is part of the single-family dwelling and thus is subject to the 5-foot rear side yard setback. The existing slab is a legal non-conforming use as it is located within the 5-foot rear yard setback. There is no record of a variance on file for the existing structure.

Section §16.20.070 of the City of Spring Lake Park’s zoning code governs accessory buildings and Uses:

Detached accessory buildings. A detached accessory building shall not be located in any required or front or side yard setback.

A detached accessory building shall not be closer than eight feet to the principal building, except as otherwise provided in this title.

(E). Rear yard requirement for accessory buildings.

1. No single detached accessory building exceeding either one story or 12 feet in height shall occupy more than 30% of the area of any rear yard. Further, no detached accessory building shall be located within five feet of any rear lot line in an R-1 classification or within 15 feet of any rear lot line in an R-2 or R-3 classification.
2. The sum total of land occupied by all accessory building shall not exceed 40% of the area of the required rear yard, but in no case greater than 1,200 square feet.

### Variance

Section §16.60.040 of the City of Spring Lake Park’s zoning code outlines the criteria for considering variances:

“The City Council may grant a variance from the strict application of this title and impose conditions and safeguards on the variance so granted only in instances where their strict enforcement would cause practical difficulties in complying with the official control because of circumstances unique to the individual property under consideration, and may grant a variance only when it is demonstrated that such actions will be in harmony with the general purposes and intent of this title and when the variances are consistent with the Comprehensive Plan. “Practical difficulties” as used in connection with granting of a variance means that the property owner proposes to use the property in a reasonable manner not permitted by an official control, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties also includes, but is not limited to, direct sunlight for solar energy systems. A variance shall not be granted to allow a use that is not allowed in the zoning district involved.”

## Recommendations

Staff recommends that the Planning Commission deny the shed rear yard variance at 8037 6<sup>th</sup> Street NE with these findings:

1. The shed was installed without a Zoning Permit and/or an approved variance. Spring Lake Park Code Enforcement received a complaint about the shed, Code Enforcement went out to find the shed on the property line.
2. Requiring the shed to comply with the established setback does not cause practical difficulties for this property owner, since there are feasible options for essentially the same project that would not require a variance.
3. The Code establishes setbacks to provide light and air to all properties, to be applied equally across the various properties in this zoning district. The location of the shed could be adjusted without compromising the rear yard setback and therefore the requested variance is not in harmony with the general purposes and intent of the code.
4. The property can be reasonably used without the variance.
5. The property and accessory buildings are similar to many others in the neighborhood and in the city. There are no unique circumstances on this property that make it difficult to be built within the setback.

If you have any questions regarding this application, please don't hesitate to contact me at 763- 784-6491.





# CITY OF SPRING LAKE PARK ZONING PERMIT APPLICATION

1301 Eighty-First Avenue NE  
Spring Lake Park, MN 55432  
Fax: (763) 792-7257

*Applicant MUST sign & date before accepting*

1. Job Address: 8037 6th St. NE  
Spring Lake Park, Minnesota 55432

2. Owner: Virginia M. Moucha Email: ginimoucha@q.com  
Address: 8037 6th St. NE, Spring Lake Park, MN 55432 Phone No.: 763-717-3564

3. Contractor: Virginia Moucha License No. n/a  
Address: 8037 6th St. NE, Spring Lake, MN 55432 Email: ginimoucha@q.com  
Phone No: 763-717-3564 Cell Phone: 763-318-9570 Fax No: n/a

4. Architect or Engineer: License No:  
Address: Phone No.

5. Type of Work:  Fence  Shed (under 200 square feet)  
 Other Structures (under 200 square feet)  Driveway

Describe Work to be Done: Replaced existing shed (9.25' x 20') with new  
shed (10' x 20') on existing slab, which had a bumper on 3 sides of  
the slab.  
Materials, and labor of install is part of estimate + Survey \$1273.00

Estimated Value of Work: \$ 8525.66 Estimated Date of Completion: October 2026

IF CONSTRUCTION OR WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 180 DAYS AT ANY TIME AFTER WORK IS COMMENCED THE ZONING PERMIT SHALL BECOME NULL AND VOID.

I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS ZONING PERMIT APPLICATION AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. THE GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF ANY OTHER STATE OR LOCAL LAW REGULATING CONSTRUCTION OR THE PERFORMANCE OF CONSTRUCTION.

**ZONING PERMIT APPLICATION CHECKLIST:**

- Two (2) Site Plans or Surveys
- Two (2) Driveway details - type, thickness, and reinforcement
- Two (2) Proposed Elevation Plans (Sheds)
- Two (2) Fence details - type, heights, finish.

**FOR OFFICE USE ONLY:**

Date received: 2-2-21 Initials: JG

- Zoning
- County Health Dept.
- Fire Dept.
- Soil Report

Virginia M. Moucha 1/20/21  
Signature of Contractor or Authorized Agent Date

CK #1810 \$450.00  
(Variance \$150) (Escrow \$300)

8037 6th St.

# CERTIFICATE OF SURVEY

~for~ VIRGINIA MOUCHA  
 ~of~ 8037 6th Street N.E.  
 Spring Lake Park, Minnesota 55432  
 Lot 15, Block 1, FERNDALE ADDITION, Anoka County,  
 Minnesota.

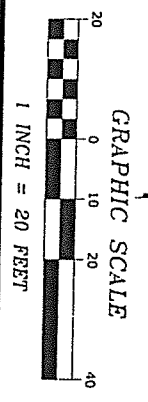
## NOTES

- Field survey was completed by E.G. Rud and Sons, Inc. on 11/11/20.
  - Bearings shown are on Anoka County datum.
  - Parcel ID Number: 02-30-24-31-0018.
  - Total Lot Area: 10,062.0 sq. ft. or 0.23 acres.
  - Property is Zoned: R-1 (Single Family Residential)
  - Building Setbacks are: 35' - Front Yard  
 5' - Side Yard (Accessory Uses)  
 5' - Rear Yard (Accessory Uses)
  - Maximum Allowed Lot Coverage (Buildings): 35%
  - Curb shots are taken at the top and back of curb.
- Survey was prepared without the benefit of title work. Additional easements, restrictions and/or encumbrances may exist other than those shown hereon. Survey subject to revision upon receipt of a current title commitment or an attorney's title opinion.

## LEGEND

- DENOTES IRON MONUMENT FOUND AS LABELED
- DENOTES IRON MONUMENT SET, MARKED RLS# 41578
- x 952.36 DENOTES EXISTING SPOT ELEVATION
- DENOTES WOOD FENCE
- DENOTES BITUMINOUS SURFACE
- DENOTES CONCRETE SURFACE
- DENOTES BUILDING SETBACK LINE

**E.G. RUD & SONS, INC.**  
 Professional Land Surveyors  
 6776 Lake Drive NE, Suite 110  
 Lino Lakes, MN 55014  
 Tel. (651) 381-4200 Fax (651) 381-4701  
 www.egrud.com

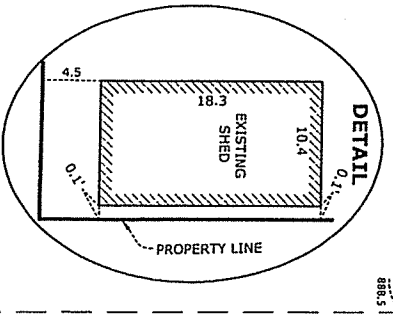
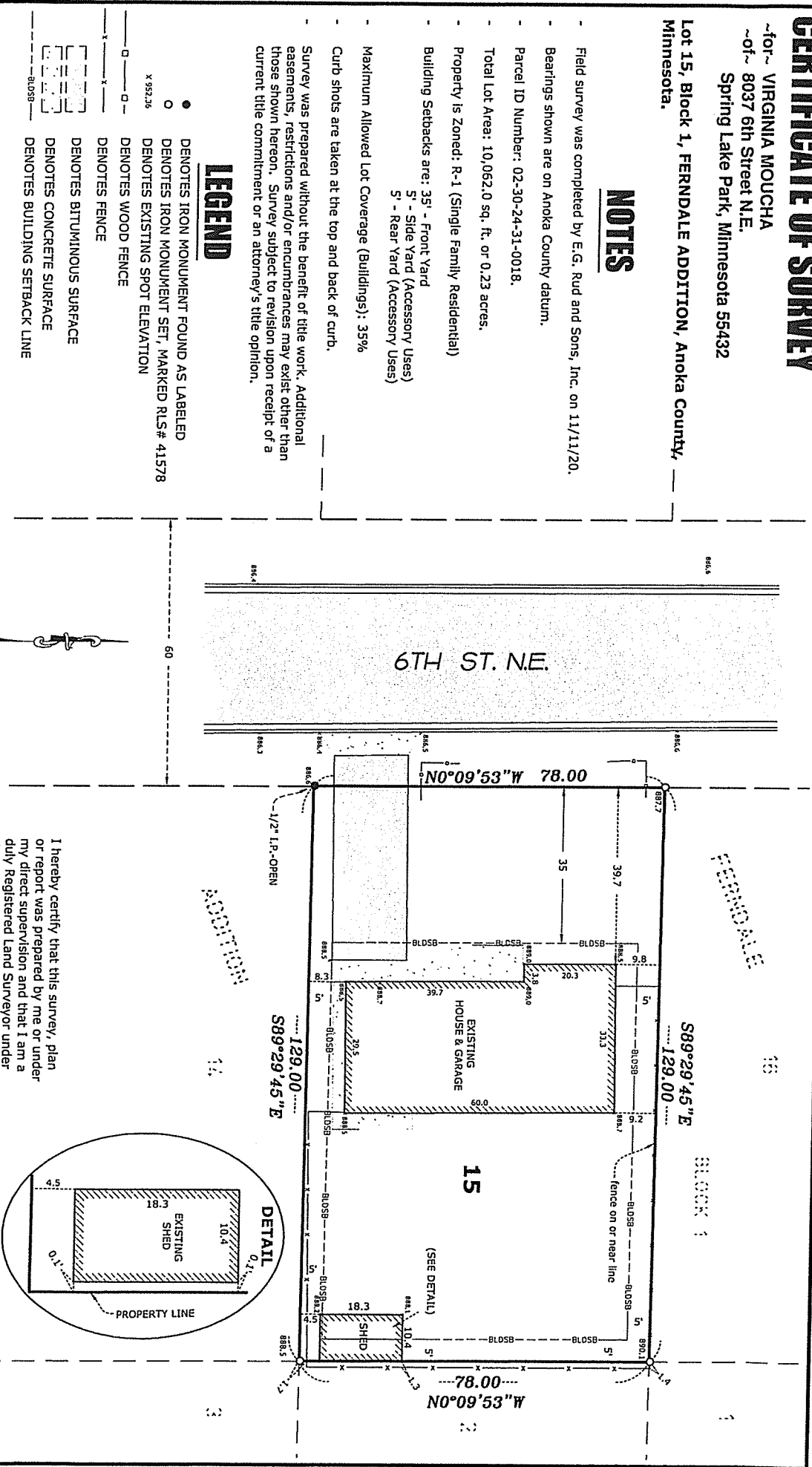


I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

*Jason E. Rud*  
 JASON E. RUD  
 Date: January 8, 2021 License No. 41578

NO.	DATE	DESCRIPTION	BY
1			
2			
3			

DRAWN BY: CIT JOB NO. 20.1361LS DATE: 1/08/21  
 CHECK BY: JER FIELD CREW: RW / SS



20.1361LS

Hi Jeff

Here is the zoning application for

8037 6th St. NE

Spring Lake Park, MN 55432

1. ~~The~~ Prior to shed installed, I had called asking if any permit was needed. I was told at the time, July 2020. No permit was needed.
2. I did not find out I needed the zoning permit until a neighbor complained. The shed is not on that neighbor's property.
3. Shed is located on the existing slab, it was a replacement for the one that was falling apart.

Can you please let me know next steps, such as a variance, etc.

Thank you

Virginia M. Muecke

Phone: 763-717-3564

**City of Spring Lake Park  
Variance Application**

A variance cannot be approved unless the Planning Commission and City Council find that the "practical difficulties" standard has been met. Please provide a response as to how/why your project will meet the following criteria. Use additional sheets if necessary and consult with the Zoning Administrator if you need clarification on the intent of any of the standards set below.

1. Applicant Information:

Name: Virginia Moucha

Telephone: 763-717-3564

Address: 8037 6th St. NE

Cell Phone: 763-318-9576

City/State/Zip: Spring Lake Park, MN 55432

E-mail: gini.moucha@qcom

2. Property Owner Information (if different from above):

Name: \_\_\_\_\_

Telephone: \_\_\_\_\_

Address: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

E-mail: \_\_\_\_\_

3. Project Location (Address and Legal Description): 8037 6th St. NE, Spring Lake Park, MN 55432

4. Present Use of Property: Residential Single Family,

5. Description of Project: Replacement of shed that was structurally falling apart. The new shed is used for storage, as the home has no basement and attic has ~~to~~ asbestos, which was installed prior to taking ownership.

6. Specify Section of the Ordinance from which variance is sought: \_\_\_\_\_

Zoning - non conforming build? too close to property line

7. Explain how you wish to vary from the applicable provisions of this Ordinance: Placement of shed onto existing cement slab, which provides ~~us~~ better usage of the yard. Was not aware the fence was about 5 feet into ~~me~~ neighbors property. Have been maintaining that section of land for 17 years.

8. Please attach a site plan or accurate survey as may be required by Ordinance.

9. **Practical Difficulties Test:** Please answer the following questions as they relate to your specific variance request.

a. In your opinion, is the variance in harmony with the purposes and intent of the Ordinance?

Yes  No Why or why not?

Existing cement slab is on property, but too close to the property line. So placing new shed onto same slab, should keep it in harmony as previous shed did for the last 17 years.



b. In your opinion, is the variance consistent with the Comprehensive Plan?

Yes  No Why or why not?

No changes to location of dwelling, driveway, sidewalk.  
Reuse of existing cement slab. Property will remain a single  
family dwelling with an upgraded storage shed

c. In your opinion, does the proposal put property to use in a reasonable manner?

Yes  No Why or why not?

Over all property will remain the same, just reusing  
existing slab. Since the dwelling is on a cement slab, there is  
no storage for yard tools, things use once a year, etc.

d. In your opinion, are there circumstances unique to the property? (physical characteristics of the property – i.e. sloping topography or other natural features like wetlands or trees)?

Yes  No Why or why not?

If shed is not placed on existing slab, the shed would need to take  
up more of the yard and tree would need to be taken down to  
accomodate shed location. Cement slab would remain.

e. In your opinion, will the variance maintain the essential character of the locality?

Yes  No Why or why not?

No changes to the dwelling, driveway, sidewalks. Placed shed  
on existing cement slab to use the space that previous shed used.

The Planning Commission must make an affirmative finding on all of the five criteria listed above in order to grant a variance. The applicant for a variance has the burden of proof to show that all of the criteria listed above have been satisfied.

The undersigned certifies that they are familiar with application fees and other associated costs and also with the procedural requirements of the City Code and other applicable ordinances.

Applicant Signature:

Virginia M. March

Date:

2/1/2021

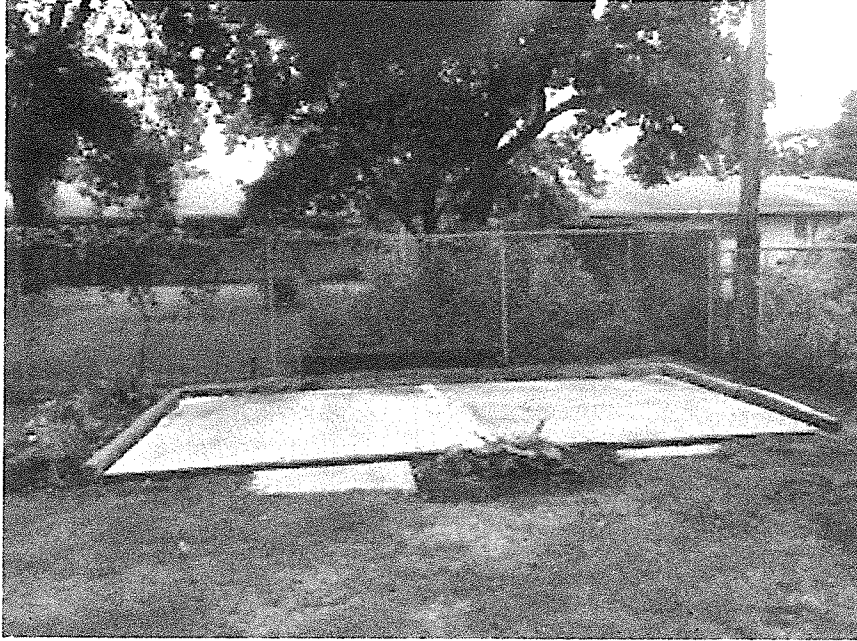
Fee Owner's (Property Owner) Signature:

Date:

\_\_\_\_\_

\_\_\_\_\_

Existing Slab (old shed had to be torn down as it was starting to fall apart)



~~Link~~  
Email sent with Zoning Permit provided property survey  
which was performed in November 2020.

CITY OF SPRING LAKE PARK

Cashier asystadmin  
At Front Counter

2/9/21 9:00am 131783

From: VIRGINIA MOUCHA  
8037 6TH ST NE  
SLP  
MN, 55432

CR Variance 150.00  
VIRGINIA  
MOUCHA

CR ESCROW (MISC) 300.00  
VIRGINIA  
MOUCHA

Receipt total 450.00

CK CK#11816 (JG) 450.00

Change Due 0.00

Thank you!