



CITY OF TONTITOWN PLANNING OFFICE

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Meeting: Dec, 18, 2023
Project: **GSP NWA**
Variations
Mark Latham, Planner

BOARD OF ZONING ADJUSTMENTS AGENDA ITEM

PH2,BOZA1

VARIANCE REQUEST

Parcel #: 830-37664--000

SUMMARY: The applicant is requesting a variance to allow a reduction of lot width minimum for 24 lots and a lot size minimum of 4 lots as part of the proposed GSP NWA LSD.

CURRENT ZONING: R-3 Residential; 3 units / Acre

CITY WARD: 3, Mike Washkowiak, Tim Burress

FLOODPLAIN: No

INFRASTRUCTURE SERVICE AREAS (not a guarantee of service availability):

Water: Tontitown Water

Electric: Ozarks Electric

Sewer/Septic: Tontitown Sewer

Phone: AT&T

Natural Gas: Black Hills Energy

Cable: Cox Communications

School District: Springdale

PROJECT SYNOPSIS:

The owners of the property, Northrock Holdings, LLC. desire to develop 37.8 acres of property in R-3 zone for single family residents.

The applicant is requesting two (2) Variations:

- **VARIANCE 1:** Proposed lots 4-12 (9) on the east side and lots 24-34 on the west side do not meet the minimum 80-foot width requirements.
The applicant is requesting a variance to allow lot width less than the min. required in the R3 Zoning District
- **VARIANCE 2:** Proposed lots of 55, 76, 79, and 100 do not meet 80 feet lot width or lot size.
The applicant is requesting a variance to allow these 4 lots less than 80 width and lot size less than 9600 sq. feet.

VARIANCE REQUEST 1:

Variance from Appendix B of the Zoning Code to allow lot widths less than the min. required in the R3 Zoning District

Section 153.262 Powers and Duties:

*(B) To authorize upon appeal, in specific cases, such variance from the terms of this zoning chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved. **A variance from the terms of these zoning regulations, shall not be granted by the Board of Zoning Adjustment unless and until:***

- (1) The applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.*

Applicant's Letter:

Due to the existing overhead electric line located along the eastern side of the property, the layout, of the subdivision had to be designed to accommodate. Alternative such as taking the OHE underground were explored but after coordination with electric provider it was determined that this line must remain overhead, and therefore is circumstances that is unique to this site that significantly impacts the layout and lot yield for the development.

In our opinion that due to the significant swath of land that was rendered virtually unusable due to OHE, there is justification for the deviance from the code.

Staff's Response: The applicant has ensured that all lots will meet the minimum lot sizes required in R3 zoning.

that literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations.

Staff Response: A large portion of this site could not be developed within the rules of the R3 zoning district if the minimum width of the lots is not waived.

that special conditions and circumstances do not result from the actions of the applicant.

Staff's Response: The applicant purchased an existing parcel of land. The shape and layout of the land is not a result of the applicant's actions.

and that granting the variance requested will not confer on the applicant any special privilege that is denied by the zoning regulations to other lands, structures, or buildings in the same district.

Staff's Response: Granting this waiver will not prevent the orderly subdivision or development of other land in the area. Owners of the property will be building their on homes forsale.

- (2) *No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.*

Staff Response: There are no nonconforming uses in the surrounding area.

- (3) *The Board of Zoning Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure.*

Staff Response: The lots are in conformance with the required lot size for this zoning district.

- (4) *The Board of Zoning Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

Staff Response: Granting this waiver will not prevent the orderly subdivision or development of other land in the area.

- (5) *In granting any variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations.*

Staff Response: No additional conditions are recommended at this time.

- (6) *Under no circumstances shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of these zoning regulations in the district involved, or any use expressly, or by implication, prohibited by the terms of these regulations in said district.*

Staff's Response: Granting this request will not allow a use that is not permissible by code.

STAFF RECOMMENDATION:

Staff recommends **APPROVAL** of the applicant's variance request to allow certain lots to be platted with less than the otherwise required minimum width in the R3 zoning district.

VARIANCE REQUEST 2:

Variance from Appendix B of the Zoning Code to allow a lot to have less than the min. required lot size in an R3 Zone.

Section 153.262 Powers and Duties:

*(B) To authorize upon appeal, in specific cases, such variance from the terms of this zoning chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved. **A variance from the terms of these zoning regulations. shall not be granted by the Board of Zoning Adjustment unless and until:***

- (1) The applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.*

Applicant's Letter:

Due to the existing overhead electric line located along the eastern side of the property, the layout, of the subdivision had to be designed to accommodate. Alternative such as taking the OHE underground were explored but after coordination with electric provider it was determined that this line must remain overhead, and therefore is circumstances that is unique to this site that significantly impacts the layout and lot yield for the development. The 4 lots were shifted to the northern end to be closer to commercial zoning of the adjacent property.

Staff's Response: It will not be possible to develop these 4 lots as a residential lot without the requested variance.

that literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations.

Staff's Response: A portion of this site would be inaccessible if this variance is not granted.

that special conditions and circumstances do not result from the actions of the applicant.

Staff's Response: The applicant purchased an existing parcel of land. The shape and layout of the land is not a result of the applicant's actions.

and that granting the variance requested will not confer on the applicant any special privilege that is denied by the zoning regulations to other lands, structures, or buildings in the same district.

Staff's Response: Granting this waiver will not prevent the orderly subdivision or development of other land in the area.

- (2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.*

Staff's Response: There are no nonconforming uses in the surrounding area.

- (3) *The Board of Zoning Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure.*

Staff's Response: These 4 lots are the only lots that is unable to meet the lot size requirements.

- (4) *The Board of Zoning Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

Staff's Response: As long as all conditions required by the Fire Marshal are met, granting this waiver will not be detrimental to the public health, safety, and welfare in the area.

- (5) *In granting any variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations.*

Staff's Response: Hydrants shall be spaced no more than 400 feet apart. The Fire Marshal specifically asked the developer to provide information showing that this lot will have adequate fire protection.

- (6) *Under no circumstances shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of these zoning regulations in the district involved, or any use expressly, or by implication, prohibited by the terms of these regulations in said district.*

Staff's Response: Granting this request will not allow a use that is not permissible by code.

STAFF RECOMMENDATION:

Staff recommends **APPROVAL** of the applicant's waiver request to allow lots 55,76,79, and 100 to be platted with less than the otherwise required minimum lot size in the R3 zoning district.