



CITY OF CHANHASSEN

PC DATE: February 2, 2021

CC DATE: February 22, 2021

REVIEW DEADLINE: March 1, 2021

CASE #: PC 2021-08

BY: MYW

PROPOSED MOTION:

“The Chanhassen Board of Appeals and Adjustments denies the requested 1,842 square foot accessory structure size variance and adopts the attached Findings of Facts and Decision.”

SUMMARY OF REQUEST:

The applicant is proposing to construct a 2,246-square foot detached garage, 1,382-square foot main floor, and an approximate 864-square foot second floor, and 76-square foot addition to facilitate adding a bathroom to an existing outbuilding. As the City Code limits all property's to a cumulative maximum of 1,000 square feet of accessory structures and the property has 1,384 square feet of existing accessory structures, a variance is necessary to add another garage and expand the existing outbuilding.

LOCATION: 10151 Great Plains Boulevard

APPLICANT: Ed Myslivecek
10151 Great Plains Boulevard
Chaska, MN 55318

PRESENT ZONING: “A2” – Agricultural Estate District

2040 LAND USE PLAN: Residential Low Density

ACREAGE: 4.37 acres **DENSITY:** NA

LEVEL OF CITY DISCRETION IN DECISION-MAKING:

The city's discretion in approving or denying a variance is limited to whether or not the proposed project meets the standards in the Zoning Ordinance for a variance. The city has a relatively high level of discretion with a variance because the applicant is seeking a deviation from established standards. This is a quasi-judicial decision.



Notice of this public hearing has been mailed to all property owners within 500 feet.

PROPOSAL/SUMMARY

The applicant is proposing a 76-square foot addition to add a bathroom on to an existing outbuilding, the farmhouse's old summer kitchen, and constructing a detached garage/workshop with a 1,382-square foot main floor and approximate 864-square feet of upper level storage.

As the property already has a 456-square foot summer kitchen, a 200-square foot garden shed, and a detached garage with a 728-square foot main level and 390-square feet of upper level storage, the applicant is requesting a 1,842-square foot accessory structure size variance. The applicant has stated that the intent of the variance is to add a restroom providing a more convenient bathroom location for themselves and visitors, and to facilitate the indoor storage of tractors and other equipment needed to maintain the nearly five acre site.

The applicant has stated that the design of their addition and garage will be more architecturally compatible with the character of their historic property than alternatives such as adding an attached garage, and that being able to store vehicles within a structure will be more aesthetically pleasing than continuing to store them on the driveway. They observe that the proposed addition and building would not be highly visible from neighboring properties, and that the owners of eleven of the eighteen properties within 500 feet of theirs have indicated their support for the requested variance. Finally, they have stated that they do not intend to use the summer kitchen as a dwelling unit or to utilize the proposed detached garage as part of a home occupation.

The applicant's property is a unique one in the city with a distinct historic style and elements that invoke the farm that used to be on the site. Staff fully supports maintaining the existing historical flavor of the property; however, the property is no longer a farm and variances should only be granted that are in keeping with its current use as a single-family residence. The city extended the 1,000-square foot accessory structure size limit to areas zoned Agricultural Estate District (A2) and Rural Residential District (RR) in recognition of the fact that these areas were by and large no longer being used for agricultural pursuits and that large outbuildings attracted businesses that were not permitted in these areas. While staff acknowledges that the applicant has stated that it is not his intent to utilize the outbuilding as part of his home repair business or to use the summer kitchen as a second dwelling, variances do not expire on the sale or transfer of property. Once these structures are built, it becomes very difficult for staff to control how future owners use or repurpose them. Historically, staff has not supported variance requests where experience has shown that granting the variance has the potential to create subsequent Code compliance and enforcement issues.

Additionally, staff does not believe that the applicant has demonstrated an inability to conduct similar improvements within the bounds of the City Code. The applicant has acknowledged that an attached garage could be added to the existing house and in theory an interior remodel could accommodate a bathroom within the existing footprint of the summer kitchen. The existing presence of a large detached garage and garden shed provide the property with a significant amount of storage space and reasonable use under the Zoning Code.

Finally, it is the intent of the City Code to phase out nonconformities. In this case, the removal of the property's barn once it was no longer being used as a farm, brought the property closer to the maximum accessory structure size limit. Granting a variance to add a new large outbuilding would not be in keeping with the city's goal of bringing nonconforming properties into line with current City Code, nor would it be compatible with the city's long-term plan for this area to develop as low density residential neighborhoods. For these reasons, staff is recommending denial of the variance requests.

APPLICABLE REGULATIONS

Chapter 1, Section 1-2, Rules of Construction and Definitions

Chapter 20, Article II, Division 3. Variances

Chapter 20, Article II, Division 4. Nonconforming Uses

Chapter 20, Article XII, "RSF" Single-Family Residential District

Section 20-615, Lot Requirements and Setbacks

Chapter 20, Article XXIII, Division 1. Generally

Section 20-904, Accessory Structures

Chapter 20, Article XXVIII, Bluff Protection

BACKGROUND

General History

County records indicate that the home was built in 1872.

In September of 2005, the city issued a building permit for the construction of a 1,118-square foot detached garage, 728-square foot main level and 390 square feet of second level storage.

In May of 2006, the city issued a building permit for the construction of a 270-square foot addition to the existing summer kitchen.

Several permits for interior work and maintenance are also on file with the city.

Note: Two large barns had been present on the property from when it was an agricultural use, the last of these barns, an approximate 1,728-square foot structure, was removed between 2005 and 2008.

Ordinance History

In April of 1991, Ordinance Number 145 was passed establishing a 1,000-square foot size limit for accessory structures within the RSF and R-4 zoning districts. This ordinance was passed in response to large detached garages being constructed and subsequently used to house home occupations.

In May of 2007, Ordinance Number 451 was passed extending the 1,000-square foot size limit to the A2, RR, and RLM districts. This ordinance was passed in response to large detached garages being constructed on formerly agricultural properties and subsequently being used to house home occupations.

SITE CONSTRAINTS

Zoning Overview

The property is zoned Agricultural Estate District and bluffs are present on the eastern and northern sections of the property. This zoning classification requires lots to be a minimum of two and one-half acres, have front and rear yard setbacks of 50 feet, side yard setbacks of 10 feet, and limits parcels to a maximum of 20 percent lot cover. Principal and accessory structures are limited to a maximum height of 35 feet. The total square footage for all accessory structures on a property is limited to a cumulative 1,000-square foot maximum. Structures must be setback 30 feet from the top, side, and toe of the bluff, and alteration of the land and vegetation within the bluff impact zone is heavily restricted.

The lot is 4.37 acres with approximately 10,000 square feet (5.25 percent) of lot cover. The existing house has a nonconforming 3-foot front yard setback. The property has a summer kitchen, shed, and detached garage which combine for 1,384 square feet of accessory structures, exceeding the city's 1,000-square foot maximum by 384 square feet. The house and other features appear to meet all other requirements of the City Code.

Bluff Creek Corridor

This property is not encumbered by the Bluff Creek Overlay District.

Bluff Protection

There are bluffs on the property. The city's Bluff Protection Ordinance requires structures to be setback 30 feet from the top, toe, and side of the bluff and prohibits the alteration to land or vegetation within the bluff impact zone, the area of the bluff and within 20 feet of the top of the bluff. Stairways, lifts, and landings are permitted in areas where they will not redirect water flow or increase drainage velocity so long as they do not exceed four feet in width and meet other design criteria. Limited topographic alterations, grading, and filling within the bluff impact zone is permitted through an earthwork permit, subject to standards designed to protect the integrity of the bluff.

No portion of the requested variance is expected to impact the bluff, and all proposed structures and addition will need to meet the requirements of the Bluff Protection Ordinance.

Floodplain Overlay

This property is not within a floodplain.

Shoreland Management

The property is not located within a Shoreland Protection District.

Wetland Protection

There is a basin which appears to show wetland characteristics; however, the city's Water Resources Coordinator has determined, based on aerial photos and soil characteristics, that this

area is a created wetland in an upland area. Given this determination, the wetland would be considered incidental and would not be governed by the Wetland Conservation Act.

No other areas exhibiting wetland characteristics are present on the property.

NEIGHBORHOOD

Great Plains Boulevard

This area of the city does not have access to municipal services and properties are zoned A2. The area features several uses with commercial or recreational characteristics, i.e. the garden center and golf courses; however, most of the properties have single-family homes on relatively large lots. Several large outbuildings are present within this neighborhood, and the city has historically had issues with individuals running businesses out of these buildings.

With the exception of the Halla Great Plains Addition to the northwest, which is guided for residential large lot and features one to three acre lots, all of the properties in this area are guided for residential low density. The city anticipates that once municipal services become available, the rest of this area will be developed into single-family neighborhoods with densities between 1.2 and 4 units per acre. These densities correspond with average lot sizes of between approximately 11,000 and 36,000 square feet, though the area's environmental features could lead to the use of cluster zoning resulting in neighborhoods with dedicated open space and smaller lot sizes.



Variances within 500 feet:

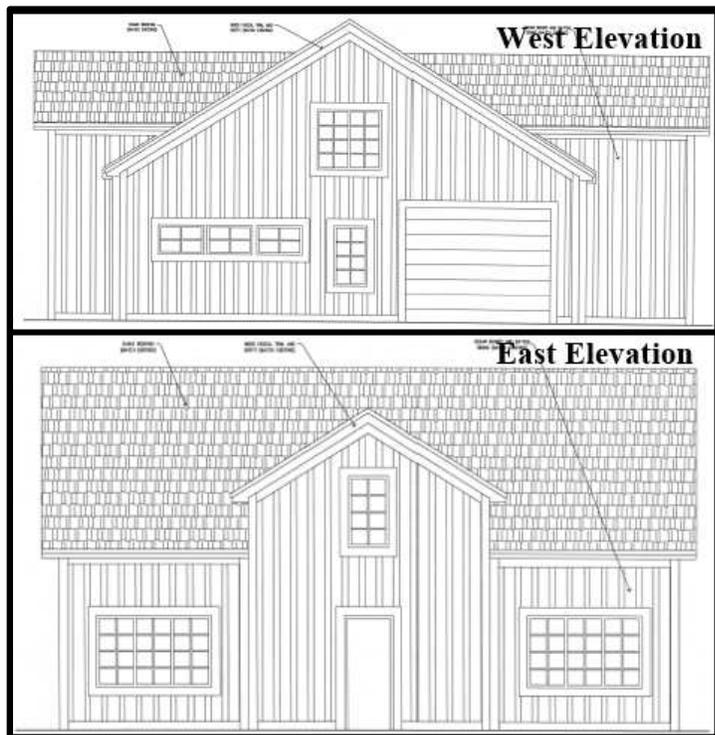
There are no known variances within 500 feet of the property.

ANALYSIS

Detached Garage/Workshop

The applicant is proposing constructing a detached accessory structure with a 1,382 square foot main floor and an approximate 864-square foot second floor storage area. The applicant describes the structure as a detached garage in the narrative and states that the intention of this

structure is to provide a covered location to store tractors and collector vehicles currently parked on the driveway. They have also stated that they do not intend to use the building as part of a construction business.



Examining the plans, staff is very concerned that this structure will be used either by the applicant or a future owner to conduct a home occupation. The structure is described as a workshop on the submitted elevation drawings and in staff's experience, structures oriented towards vehicle storage typically feature more than a single, centrally-oriented garage door. Since the applicant owns a home repair business that is registered to a residential property in another city, staff must note that if any portion of the business was conducted out of the requested detached accessory structure, even just office operations or storing materials before taking them out to a job site, the applicant would be in violation of the city's home occupation ordinance which prohibits the use of any garage or accessory buildings for any home occupation.

It has also been staff's experience that in cases where an applicant understands and intends to abide by the city's home occupation ordinance, they have little control over how the property is used by future landowners. Many times staff sees large lot properties with large detached accessory structures listed by realtors as perfect sites for landscaping or other businesses. Other times, staff finds out about the sale of these properties when neighbors call to complain about a new business. Due to the difficulties in proving how the interior of a building is being utilized, it is extremely time and labor intensive to follow up on these complaints and enforce the ordinance. For these reasons, a city-wide limit on accessory structure size was enacted in 2007.

In examining the applicant's property, staff notes that a detached garage with a 728-square foot footprint is already present on the property, as well as a 200-square foot garden shed. Staff believes that these two structures provide a reasonable amount of enclosed storage space for a single-family residence. While it is true that other properties in the area have larger detached garages, these were built before the current ordinance was passed, and the presence of nonconforming structures should not be used to justify granting a variance when a resident has reasonable use of their property. Additionally, as the applicant notes, they have the ability to add an attached garage to the house. While staff shares applicant's concerns about the impact that a garage addition could have upon the historic character of the property, the city does not have a historic preservation ordinance or similar statute that would limit their ability to modify the

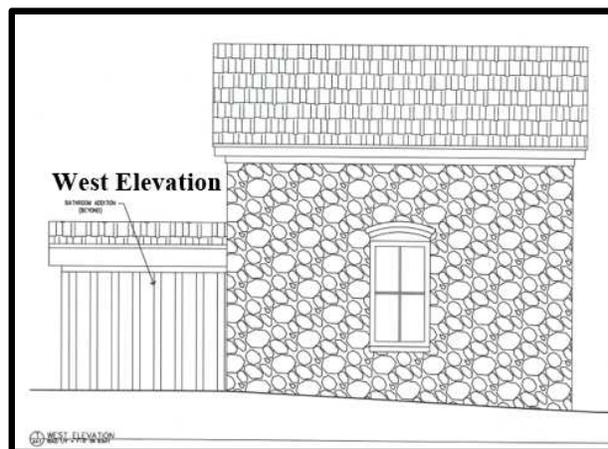
home. Staff believes that a thoughtfully designed attached garage could be compatible with the existing architecture. Variances should only be granted to provide relief from a practical difficulty caused by the property in question, and not to facilitate a preferred configuration.

Finally, the property already exceeds the accessory structure size limit, which means that it falls under the city's nonconforming use ordinance. Section 20-72(2) of this ordinance explicitly states that its intent is to "prevent the enlargement, expansion, intensification or extension of any nonconforming use, building or structure." Granting a variance to permit the property to increase its existing nonconformity with a new structure that in and of itself exceeds what is permitted by ordinance would not be in keeping with the intent of the City Code.

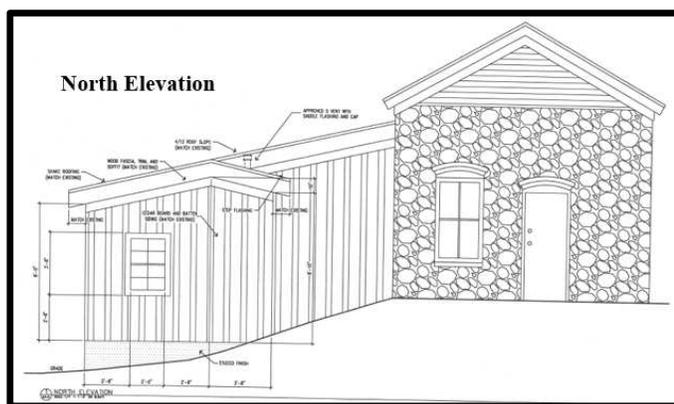
For these reasons, staff recommends that the Planning Commission deny the requested variance for the detached garage/workshop.

Summer Kitchen Bathroom

The applicant is proposing a 76-square foot addition to allow for the installation of a bathroom in the property's summer cottage. The applicant has stated that they need to construct the addition to allow for the creation of a basement under the bathroom to prevent pipes from freezing. They have indicated that their intent is just to have a more conveniently located restroom on the property and that they have no intention of converting the summer kitchen into a second dwelling unit.



The City Code allows for bathrooms to be placed in outbuildings; however, since this property is already over the 1,000-square foot accessory structure size limit, a variance is required to expand the footprint of the summer kitchen. Since the property's current amount of accessory structure square footage is nonconforming, the intent of the city's nonconforming use ordinance is relevant to this request. It is the goal of the city's nonconforming use ordinance to recognize existing uses and allow for their repair and maintenance, but also to prevent their expansion and encourage the elimination of nonconforming uses. Granting a variance to expand an existing nonconformity runs counter to the intent of the city's ordinances.



Staff also notes that most single-family residences do not have bathrooms located in outbuildings and that the inability to add a bathroom to a detached accessory structure would not be considered an inability to enjoy reasonable use of a property. Similarly, the applicant could likely install a similar amenity within the footprint of the existing structure without requesting a variance. While additional cost may be necessary to ensure that the pipes did not freeze, variances should be granted to provide relief from an inability to comply with the zoning code rather than to accommodate a preferred or less costly design.

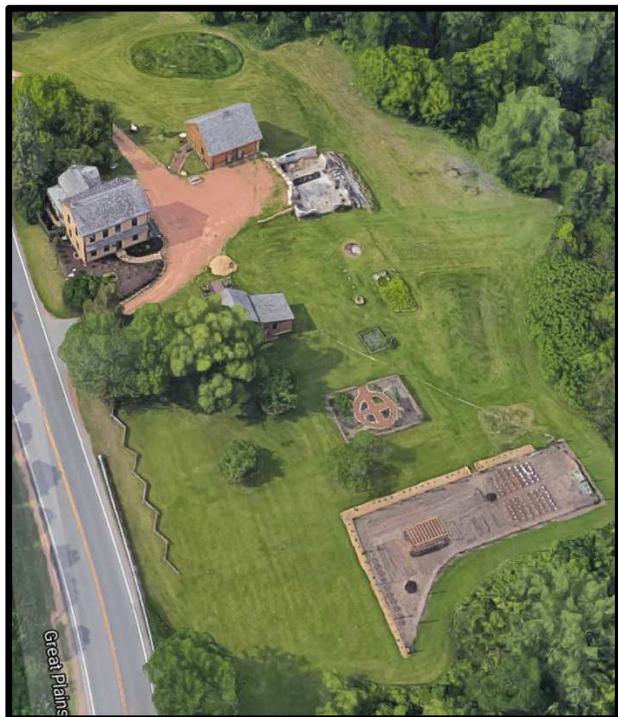
Finally, while staff acknowledges that the applicant has stated that they have no intention of using the summer kitchen as a second dwelling, staff is concerned that future property owners would use the summer kitchen as either a short- or long-term rental. With two rooms and a bathroom, the summer kitchen would lend itself to use as a tiny house for vacation rentals or, with additional updates, as a full-on second dwelling unit. Staff believes that granting this variance would create the potential for future violations of City Code.

For these reasons, staff recommends that the Planning Commission deny the requested variance.

Impact on Neighborhood

The southern portion of the Great Plains Boulevard corridor has a rural character with relatively large lots. Many of these lots feature single-family homes and a few parcels host businesses such as a garden center or golf courses. Historically, the applicant's property was a farm with multiple large outbuildings; however, the last barn was removed from the site between 2005 and 2008. Examining the surrounding area, staff observed that several nearby parcels have large outbuildings, though staff only identified one parcel with two large outbuildings. The applicant's proposal to have three outbuildings over 500 square feet in size is atypical for a residential property, and approving the variance would result in five buildings being located on the parcel; the home, two garages, the summer kitchen, and garden shed. This number of buildings is not typical for a single-family residence or for the surrounding area.

Staff agrees that the proposed addition to the summer cottage would likely not be visible from the road, though the detached garage would be, and also agrees that the location of the neighboring homes relative to the applicant's property means that they would not be impacted by the proposed detached garage or addition. It should also be noted that the applicant wrote to their neighbor's about the proposed project and that most expressed support for it.





While granting the requested variance to the present owner within the existing neighborhood context may not have a negative impact, these variances will create a property that lends itself to use for a home occupation and to the creation of a second dwelling unit. As the surrounding area develops into smaller lot single-family neighborhoods, the presence of a large detached garage/workshop will become increasingly undesirable and out of keeping with the area's character.

RECOMMENDATION

Staff recommends the Planning Commission, acting as the Board of Appeals and Adjustments, deny the requested 1,842-square foot accessory structure size variance and adopts the attached Findings of Facts and Decision.”

If the Planning Commission determines that the variance should be granted, staff recommends that the following motion and Conditions of Approval be adopted:

The Chanhassen Board of Appeals and Adjustments approves a 1,842-square foot accessory structure size variance, subject to the Conditions of Approval and adopts the attached Findings of Facts and Decision.

1. A septic compliance inspection is required prior to any variance or building permit being issued for this property. Any property with a septic system located within 1,000 feet of a lake, pond or flowage or 300 feet of a river or stream requires a compliance inspection. This property is within 1,000 feet of a pond and does not have a valid compliance inspection on file in the past three years.
2. A building and plumbing permit must be obtained before beginning any construction.
3. Building plans must provide sufficient information to verify that the proposed building meets all requirements of the Minnesota State Building Code; additional comments or requirements may be required after plan review.
4. No portion of the garage/workshop may be used to conduct or be as part of a home occupation.
5. A second dwelling unit may not be created within the summer kitchen.
6. The summer kitchen may not be rented.

7. The improvements must substantially conform to the plans dated December 30, 2020.

ATTACHMENTS

1. Findings of Fact and Decision (Denial)
2. Findings of Fact and Decision (Approval)
3. Variance Document (Approval)
4. Development Review Application
5. Description of Variance Request
6. Justification of Variance Request
7. Key
8. Photos and Elevations
9. Plan Sheets
10. Square Footages
11. Letters to Neighbors and Response
12. WRC Memo
13. Affidavit of Mailing