

CITY OF CHANHASSEN
CARVER AND HENNEPIN COUNTIES, MINNESOTA

**FINDINGS OF FACT
AND DECISION
(APPROVAL)**

IN RE:

Application of Ed Myslivecek for a variance exceeding the accessory structure size limit by adding a bathroom onto a summer kitchen and constructing a detached garage on a property zoned Agricultural Estate District (A2) - Planning Case 2021-08.

On February 2, 2021, the Chanhassen Planning Commission, acting as the Board of Appeals and Adjustments, met at its regularly scheduled meeting to consider the application. The Planning Commission conducted a public hearing on the proposed variance preceded by published and mailed notice. The Planning Commission heard testimony from all interested persons wishing to speak and voted 4-3 to deny the requested variance. As the motion was not passed by a ¾ majority, it serves as a recommendation to the City Council.

On February 22, 2021, the Chanhassen City Council met at its regularly scheduled meeting to consider the Planning Commissioner recommendation to deny the variance request and makes the following:

FINDINGS OF FACT

1. The property is currently zoned Agriculture Estate District (A2)
2. The property is guided in the Chanhassen Comprehensive Plan for Residential Low Density.
3. The legal description of the property is:

That part of the Southwest quarter of Section 25, Township 116, Range 23, Carver County, Minnesota, described as follows: Commencing at the Southeast corner of said Southwest quarter; thence on an assumed bearing of South 89 degrees 12 minutes 10 seconds West along the South line of said Southwest quarter a distance of 1538.77 feet; thence North 1 degree 01 minutes 11 seconds East a distance of 17.00 feet to the point of beginning; thence North 60 degrees 11 minutes 32 seconds East a distance of 289.79 feet; thence North 18 degrees 47 minutes 49 seconds East a distance of 417.75 feet; thence North 76 degrees 26 minutes 34 seconds West a distance of 591.83 feet to the centerline of State Highway No. 101; thence Southeasterly along said centerline a distance of 705.73 feet to the point of beginning.

4. Variance Findings – Section 20-58 of the City Code provides the following criteria for the granting of a variance:
 - a. Variances shall only be permitted when they are in harmony with the general purposes and intent of this Chapter and when the variances are consistent with the Comprehensive Plan.

Finding: Though the city does not have a historic preservation ordinance, the Comprehensive Plan states, “The city will continue to encourage the preservation, interpretation and active reuse of privately-owned historic buildings and structures, and will

work to protect such buildings and structures to the extent feasible during the development process.” The applicant’s property is a historic farmstead with the original farmhouse and summer kitchen preserving the unique architecture and character of the period. While the applicant could add an attached garage to the existing home, doing so would represent a departure from the site’s character. Similarly, the applicant could construct a larger garage by demolishing the existing outbuildings; however, doing so would result in the loss of the historically valuable summer kitchen. Granting a variance to enable a property owner to update their property in a manner that preserves its historic elements is consistent with the Comprehensive Plan.

While the city’s nonconforming use ordinance does seek to prevent the expansion of nonconforming structures, it is not intended to deny nonconforming properties the opportunity to conduct necessary and reasonable improvements. In this case, the nonconforming elements of the property cannot be eliminated without also damaging the historic value of the site. For this reason, it is appropriate to grant a variance allowing the applicant to expand the nonconforming elements of the property in the interest of historic preservation.

- b. When there are practical difficulties in complying with the zoning ordinance. "Practical difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by this Chapter. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

Finding: The parcel’s size requires multiple pieces of equipment to maintain and the applicant cannot store all of the required items along with their personal vehicles in the garage present on the property. Multiple similarly sized properties in the area have larger garages in order to address this need. The pre-existing structures and historic nature of the property make it impossible for the applicant to create the necessary detached storage space without a variance.

The City Code does not prohibit the installation of restrooms in outbuildings and other detached structures within the city have this amenity. In order to ensure that the bathroom’s plumbing does not freeze in the winter, a basement is required. The existing configuration of the summer kitchen means that an addition is the most viable way to add this amenity, and the pre-existing structures on the property mean that a variance is required to allow for the addition.

- c. That the purpose of the variation is not based upon economic considerations alone.

Finding: The variance request is not solely based upon economic considerations.

- d. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

Finding: The plight of the landowner is due to the historic nature of the parcel. The age and unique architectural elements of the home render the addition of an attached garage undesirable. Additionally, the property was already over its maximum accessory structure size limit when the applicant bought the parcel. Options ordinarily available under the Code,

such as demolishing existing structures, would require the destruction of valuable historic elements of the property such as the original summer kitchen.

- e. The variance, if granted, will not alter the essential character of the locality.

Finding: 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 and the last barn was removed from the site between 2005 and 2008. Examining the surrounding area, several nearby parcels also have large outbuildings. Granting the applicant a variance to construct a detached garage in the approximate location of the old barn would not alter the essential character of the locality.

Similarly, the proposed addition to the summer kitchen is relatively modest and it would not be readily visible from the road. Neither would the addition be visible from neighboring residences. Given the small scale and location of the proposed addition, it would not negatively impact the surrounding properties.

- f. Variances shall be granted for earth-sheltered construction as defined in Minnesota Statutes Section 216C.06, subdivision 14, when in harmony with this Chapter.

Finding: This does not apply to this request.

- 5. The planning report #2021-08, dated February 2, 2021, prepared by MacKenzie Young-Walters, is incorporated herein.

DECISION

“The Chanhassen City Council approves a 1,842-square foot accessory structure size variance, subject to the following conditions of approval:

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 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.

ADOPTED by the Chanhassen City Council this 22nd day of February, 2021.

CITY OF CHANHASSEN

BY: _____
Elise Ryan, Mayor

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