

CITY OF CHANHASSEN  
CARVER AND HENNEPIN COUNTIES, MINNESOTA

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

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 Board of Appeals and Adjustments 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:** The city extended its maximum accessory structure size limit to properties zoned A2 in 2007 due to the tendency for these buildings to be used to house contractors yards and landscaping business. The city determined that 1,000 square feet of accessory's structures provided sufficient storage space for single-family residences in all single-family residential districts. The applicant is proposing adding a garage/workshop significantly in excess of the 1,000 square foot limit on a property that already has over 1,000 square feet of detached accessory structures. The proposed structure is exactly the type of structure in exactly the

zoning district that Ordinance 451 was passed to prohibit. Granting the requested variance would not be in harmony with the purpose and intent of the zoning code.

Similarly, the city's nonconforming use ordinance states that its express purpose is to prevent the expansion of nonconforming buildings or structures and to encourage the elimination of nonconforming buildings and structures. Granting a variance to allow for the expansion of the nonconforming summer cottage and creation of a new, larger, detached garage runs contrary to the intent of this ordinance.

Finally, the city's Comprehensive Plan guides this area for residential low density development with densities of between 1.2-4 units per acre. The proposed outbuildings are not in keeping with and would not be compatible with the smaller lot residential neighborhoods envisioned for this area.

- 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 existing outbuildings on the property provide the applicant with a reasonable storage area for a single-family residence, and the applicant has options under the City Code for constructing additional garage space without a variance. Similarly, the City Code does not prohibit the applicant from installing a bathroom within the existing footprint of the summer kitchen, it merely prevents the expansion of the nonconforming structure to accommodate the improvement. Since substantially similar results could be accomplished without a variance, the applicant does not have a practical difficulty in complying with the zoning ordinance.

- 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 has been created by their design choices and not by any circumstance unique to the property. Additional storage and vehicle parking space could be created without a variance via an attached garage and a bathroom could be added to the outbuilding via an interior remodel rather than an addition, again without a variance.

- 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; 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 a garden shed. This number of buildings is not typical for a single-family residence or for the surrounding area.

That being said, granting the requested variances in and of themselves would not alter the essential character of the locality; however, these variances will create a property that lends itself to use for a home occupation and to the creation of a second dwelling unit. Use of the property in this manner would have a negative impact on the character of the locality.

- 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.

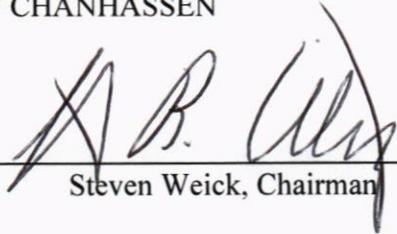
### DECISION

“The Chanhassen 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.”

**ADOPTED** by the Chanhassen Planning Commission this 2<sup>nd</sup> day of February, 2021.

CITY OF CHANHASSEN

BY: \_\_\_\_\_

  
Steven Weick, Chairman