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Mark Chapin
County Auditor and Treasurer



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CITY OF ORONO
RESOLUTION OF THE CITY COUNCIL

NO. 6731

**A RESOLUTION
APPROVING A VARIANCE FROM
MUNICIPAL ZONING CODE
SECTION 78-305**

FILE NO. #17-3900

WHEREAS, the property owner made application for a variance from the lot area requirements for the property located at **1090 Heritage Lane** and legally described as: **Lot 6, Block 1, Foxhill, Hennepin County, Minnesota** (hereinafter the "Property"); and

WHEREAS, the variance request is necessary to facilitate a boundary line adjustment between the Property and the adjacent property located at 1780 Shoreline Drive; the Property will not meet the 2.0 acre minimum lot size; and

WHEREAS, on February 21, 2017, after published and mailed notice in accordance with Minnesota Statutes and the City Code, the Planning Commission held a public hearing regarding the Property at which time all persons desiring to be heard concerning the application were given the opportunity to speak thereon; and

WHEREAS, on February 21, 2017, the Planning Commission recommended approval of the variance; and

WHEREAS, on March 13, 2017, the City Council reviewed the application and the recommendations of the Planning Commission and City staff;

NOW, THEREFORE, BE IT RESOLVED that the City Council of Orono, Minnesota hereby [approves/denies] the requested variance as described above based on one or more of the following findings of fact concerning the Property:

FINDINGS OF FACT:

1. This application was reviewed as Zoning File #17-3900. The analysis contained within staff memos and the exhibits attached to the aforesaid memos, all minutes from the above mentioned meetings, and any and all other materials distributed at these meetings are hereby incorporated by reference.
2. The Property is located in the LR-1A Lakeshore Residential Zoning District.
3. The Property contains 0.98 acres in area and has a defined lot width of 295 feet.



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4. The Property is within Tier 3 and hardcover is limited to 35% according to the Stormwater Quality Overlay District.
5. The following variance has been requested:
 - a. Lot area variance
6. In considering this application for variance, the Council has considered the advice and recommendation of the Planning Commission and the effect of the proposed variance upon the health, safety and welfare of the community, existing and anticipated traffic conditions, light and air, danger of fire, risk to the public safety, and the effect on values of property in the surrounding area.

ANALYSIS:

1. "Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance" The lot area variance requested is consistent with the general intent of the Ordinance. The size of the Property is generally consistent with the other properties in the Foxhill neighborhood. The variances are in harmony with the Ordinance.
2. "Variances shall only be permitted . . . when the variances are consistent with the comprehensive plan." The variance allows the redevelopment of the single family lot, this use is consistent with the comprehensive plan. The variance allows the nonconforming nature of the lot to decrease.
3. "Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. 'Practical difficulties,' as used in connection with the granting of a variance, means that:
 - a. *The property owner in question proposes to use the property in a reasonable manner, however, the proposed use is not permitted by the official controls.*
The owner wishes to develop the Property with a single family home in the future. The owner has requested a lot line adjustment via an administrative subdivision exception in order to increase the area of the lot by approximately 3,900 square feet. To qualify for the subdivision exemption the lot area variance must be granted.
 - b. *The plight of the landowner is due to circumstances unique to his property not created by the landowner.*
The owner did not create the substandard lot size.
 - c. *The variance, if granted, will not alter the essential character of the locality."*



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The proposed variance will not alter the character of the neighborhood as most of the Foxhill properties are similar in size.

4. "Economic considerations alone do not constitute practical difficulties." Economic considerations have not been a factor in the variance approval determination.
5. "Practical difficulties also include but are not limited to inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth-sheltered construction as defined in Minn. Stat. § 216C.06, subd. 2, when in harmony with Orono City Code Chapter 78." This condition is not applicable.
6. "The board or the council may not permit as a variance any use that is not permitted under Orono City Code Chapter 78 for property in the zone where the affected person's land is located." This condition is not applicable, as the use for a residence is an allowed use in the LR-1A District.
7. "The board or council may permit as a variance the temporary use of a one-family dwelling as a two-family dwelling." This condition is not applicable.
8. "The special conditions applying to the structure or land in question are peculiar to such property or immediately adjoining property." The nonconforming lot area of the Property is not uncommon in the surrounding neighborhood.
9. "The conditions do not apply generally to other land or structures in the district in which the land is located." The Property is generally consistent with the neighboring properties with respect to size.
10. "The granting of the application is necessary for the preservation and enjoyment of a substantial property right of the applicant." Staff finds this criterion to be met.
11. "The granting of the proposed variance will not in any way impair health, safety, comfort or morals, or in any other respect be contrary to the intent of this chapter." Granting the requested variance will not adversely impact health, safety, comfort, or morals; nor will it be contrary to the intent of the Code.
12. "The granting of such variance will not merely serve as a convenience to the applicant, but is necessary to alleviate demonstrable difficulty." The size of the Property coupled with the 2-acre district setbacks create practical difficulties affecting the Property; the variance is necessary and not merely serve as a convenience to the owner.



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CONCLUSIONS, ORDER AND CONDITIONS:

Based upon one or more of the above findings, the Orono City Council hereby grants a variance to Orono Municipal Zoning Code Section 78-305 to allow development of the Property with a lot area 42,688 square feet (0.98 acre) where 87,120 square feet (2.0 acres) is the minimum required, subject to the following conditions:

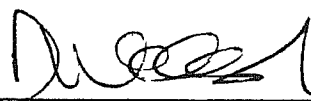
1. Council approval is based on the survey dated 01/10/17 by Gronberg & Associates, attached to this Resolution as **Exhibit A**. Any amendments to the plans which are not in conformity with City codes may require further Planning Commission and City Council review.
2. Authorities granted by this resolution run with the Property not with the property owner, but are permissive only and must be exercised by formally adjusting the common boundary line between the two parcels within one year of the date of Council approval, or the variance will expire on that date (March 13, 2018).
3. Violation of or non-compliance with any of the terms and conditions of this resolution shall constitute a violation of the zoning code, shall automatically terminate any authority granted herein, and shall be punishable as a misdemeanor.
4. This resolution will be recorded in the chain of title of the Property.

ADOPTED by the Orono City Council on this 13th day of March, 2017.

ATTEST:


Anna Carlson, City Clerk

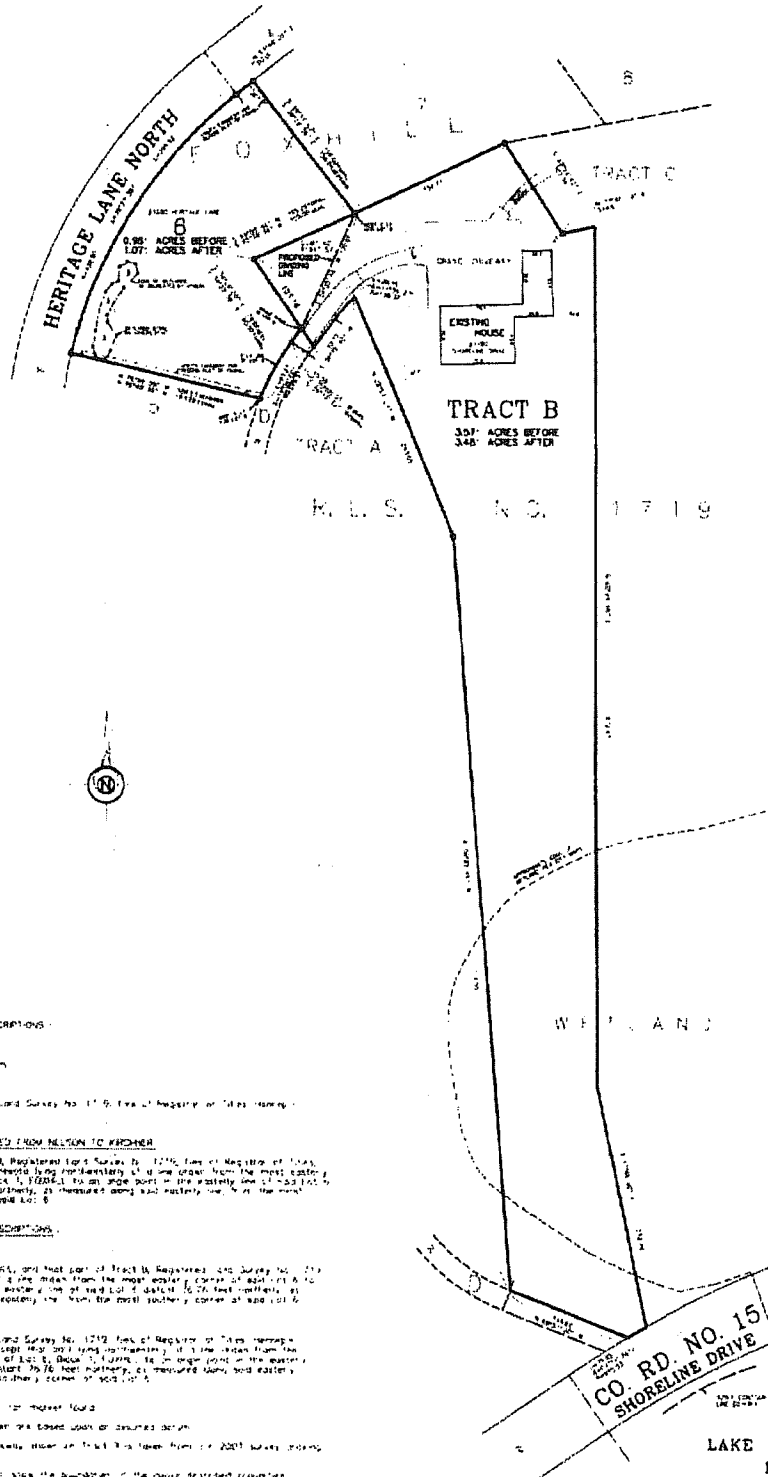
CITY OF ORONO:


Dennis Walsh, Mayor



RETURN TO:
Old Republic Title
400 Second Avenue South
Minneapolis, MN 55401
Attn: Marguerite Edholm
CHRIS RYDM 753752

PROPOSED LOT LINE REARRANGEMENT FOR
SCOTT KIRCHNER & ROBERT NELSON
 OF LOT 6, BLOCK 1, FOX HILL & TRACT B, R.L.S. NO. 1719
 HENNEPIN COUNTY, MINNESOTA



EXISTING LEGAL DESCRIPTIONS

KIRCHNER

Lot 6, Block 1, Fox Hill

NELSON

Tract B, Registered Land Survey No. 1719, Town of Register, Hennepin County, Minnesota

PANEL TO BE DELETED FROM NELSON TO KIRCHNER

That part of Tract B, Registered Land Survey No. 1719, Town of Register, Hennepin County, Minnesota, lying northeasterly of a line drawn from the most easterly corner of Lot 6, Block 1, Fox Hill, to an angle point in the westerly line of said Lot 6, distant 76.76 feet northerly, as measured along said westerly line, from the most southerly corner of said Lot 6.

PROPOSED LEGAL DESCRIPTIONS

KIRCHNER

Lot 6, Block 1, Fox Hill, and that part of Tract B, Registered Land Survey No. 1719, lying northeasterly of a line drawn from the most easterly corner of said Lot 6, to an angle point in the westerly line of said Lot 6, distant 76.76 feet northerly, as measured along said westerly line, from the most southerly corner of said Lot 6.

NELSON

Tract B, Registered Land Survey No. 1719, Town of Register, Hennepin County, Minnesota, except that part lying northeasterly of a line drawn from the most easterly corner of Lot 6, Block 1, Fox Hill, to an angle point in the westerly line of said Lot 6, distant 76.76 feet northerly, as measured along said westerly line, from the most southerly corner of said Lot 6.

©. Correlates to Tract B, 1719

Boundaries shown are based upon an assumed datum.

NOTE: House and driveway shown on Tract B, taken from a 2001 survey, existing.

This survey intends to show the boundaries of the parcel described hereon, the location of existing buildings and driveway on Tract B, and the proposed rearrangement of the boundary line thereon. It does not purport to show any other improvements or encroachments.