



CITY OF ORONO
RESOLUTION OF THE CITY COUNCIL
NO. **7116**

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

FILE NO. LA19-000101

WHEREAS, on December 17, 2020, Al Azad ("Applicant"), applied for a variance from the City Code for the property addressed 200 Bederwood Road and legally described as:

The North 2.00 feet of Lot 35, Auditor's Subdivision Number 203, Hennepin County, Minnesota. AND that part of Lot 37, Auditor's Subdivision Number 203, Hennepin County, Minnesota, lying southwesterly of a line drawn parallel with and distant 100 feet at right angles Southwesterly from the center line of the main track of Minnesota Western Railway, as monumented, and also lying easterly, southeasterly and easterly of a line described as follows:

Commencing at the Northwest corner of the Northeast Quarter of Section 5, Township 117, Range 23, Hennepin County, Minnesota; thence on an assumed bearing of South along the West line of said Northeast Quarter, a distance of 1465.86 feet; thence South 89 degrees 06 minutes 38 seconds East to the East line of the West 305.54 feet of said Northeast Quarter; thence North along said East line a distance of 66.00 feet to a point hereinafter referred to as "Point A"; thence continuing North along said East line a distance of 307.03 feet; thence South 66 degrees 06 minutes 50 seconds East a distance of 130.68 feet to the East line of the West 425.04 feet of said Northeast Quarter, said point also being the point of beginning of the line to be described; thence South along said East line of the West 425.04 feet of the Northeast Quarter a distance of 155.97 feet to a line which bears North 50 degrees 36 minutes 00 seconds East from said "Point A"; thence South 50 degrees 36 minutes 00 seconds West, along said line, a distance of 154.63 feet to said "Point A"; thence on a bearing of South a distance of 4.28 feet to the northwest corner of Lot 35, said Auditor's Subdivision Number 203, Hennepin County, Minnesota, and said line there terminating.

EXCEPT that part of said Lot 37, lying easterly and southerly of a line described as follows:

Commencing at southeasterly corner of the North 2.00 feet of said Lot 35; thence northerly along the northerly extension of the east line of said lot 35 to a line drawn parallel with and distant 166.00 feet at right angles northerly of the north line of Lot 34, Auditor's Subdivision Number 203, Hennepin County, Minnesota; thence easterly along said line to a line drawn parallel with and distant 100 feet at right angles Southwesterly from the center line of the main track of Minnesota Western Railway, as monumented, and said line there terminating.

Together with an easement for right of way over Lot 30 and the West 8 feet of Lot 35, Auditor's Subdivision No. 203, according to the recorded plat thereof, and situate in Hennepin County, Minnesota. (hereinafter the "Property");



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WHEREAS, the Applicant's variance application was from Orono Municipal Zoning Code Section 78-305 to allow for a reduced lot area, and

WHEREAS, on January 21, 2020, after published and mailed notice in accordance with Minnesota Statutes and the City Code, the Planning Commission held a public hearing, at which time all persons desiring to be heard concerning this application were given the opportunity to speak thereon; and

WHEREAS, on January 21, 2020, the Planning Commission recommended approval of the variance; and

WHEREAS, on February 10, 2020, the City Council reviewed the application and the recommendations of the Planning Commission and City staff; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of Orono, Minnesota hereby approves 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 #LA19-000101. 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 Zoning District.
3. The Property contains 1.3 acres in area and has a defined lot width of 311 feet.
4. The Property is within Tier 2 and hardcover is limited to 30 % according to the Stormwater Quality Overlay District.
5. Applicant has applied for the following variance:
 - a. Lot area
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.



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ANALYSIS:

1. The variance is in harmony with the general intent and purpose of the Ordinance. **The applicant is proposing to establish a driveway easement which will serve an existing lot of record. The lot area variance is in harmony with the intent of the ordinance considering the use of the lot.**
2. The variance is consistent with the comprehensive plan. **Allowing for access to a lot and creation of driveways easements are consistent with the comprehensive plan.**
3. The applicant establishes that there are practical difficulties.
 - a. The property owner proposes to use the property in a reasonable manner not permitted by the official controls; **The use of the lot for single family home will not change. This standard is met.**
 - b. There are circumstances unique to the property not created by the landowner; **The plight of the property owner is due to the existing nonconforming lot of record, which is not created by the land owner, and**
 - c. The variance will not alter the essential character of the locality. **The character of the neighborhood is not likely to be significantly altered from allowing the lot area variance.**

Additionally City Code 78-123 provides additional parameters within which a variance may be granted as follows:

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 single family home 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 size of the lot with in the LR-1A zoning district is unique and substandard. The actual lot size will not change but per the definition of lot area from the City Code driveway easement must be not count towards overall lot area. This situation is peculiar to this property.**
9. The conditions do not apply generally to other land or structures in the district in which the land is located. **The size of the lot and its locations as it pertains to the existing neighbor lot and within this zoning district is peculiar to the property.**



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10. The granting of the application is necessary for the preservation and enjoyment of a substantial property right of the applicant. **Granting this variance will preserve the property right of the applicant.**
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 of the requested variances would not impair health, safety, comfort or morals and would be in keeping with the intent of the zoning 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 property is unique in size for this zoning district. The applicant has stated the granting of the driveway easement is necessary to alleviate access challenges through the property.**

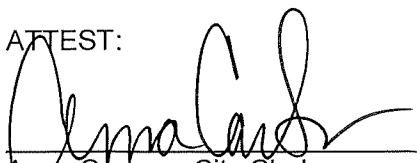
CONCLUSIONS, ORDER AND CONDITIONS:

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 a variance for lot area for the creation of a driveway easement, subject to the following conditions:

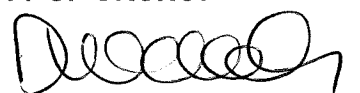
1. Council approval is based on the entire record, above Findings.
2. The approved project shall conform to the survey dated December 16, 2020 submitted by the Applicants and annotated by City staff, attached to this Resolution as **Exhibit A**.
3. Any amendments to the plans which are not in conformity with City codes may require further Planning Commission and City Council review.
4. Violation of or non-compliance with any of the terms and conditions of this resolution may result in the termination of any authority granted herein.

ADOPTED by the Orono City Council on this 24th day of February, 2020

ATTEST:


Anna Carlson, City Clerk

CITY OF ORONO:

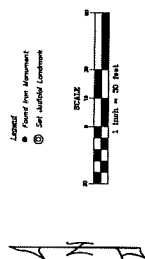

Dennis Walsh, Mayor



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Prepared for:
Alishah Azad

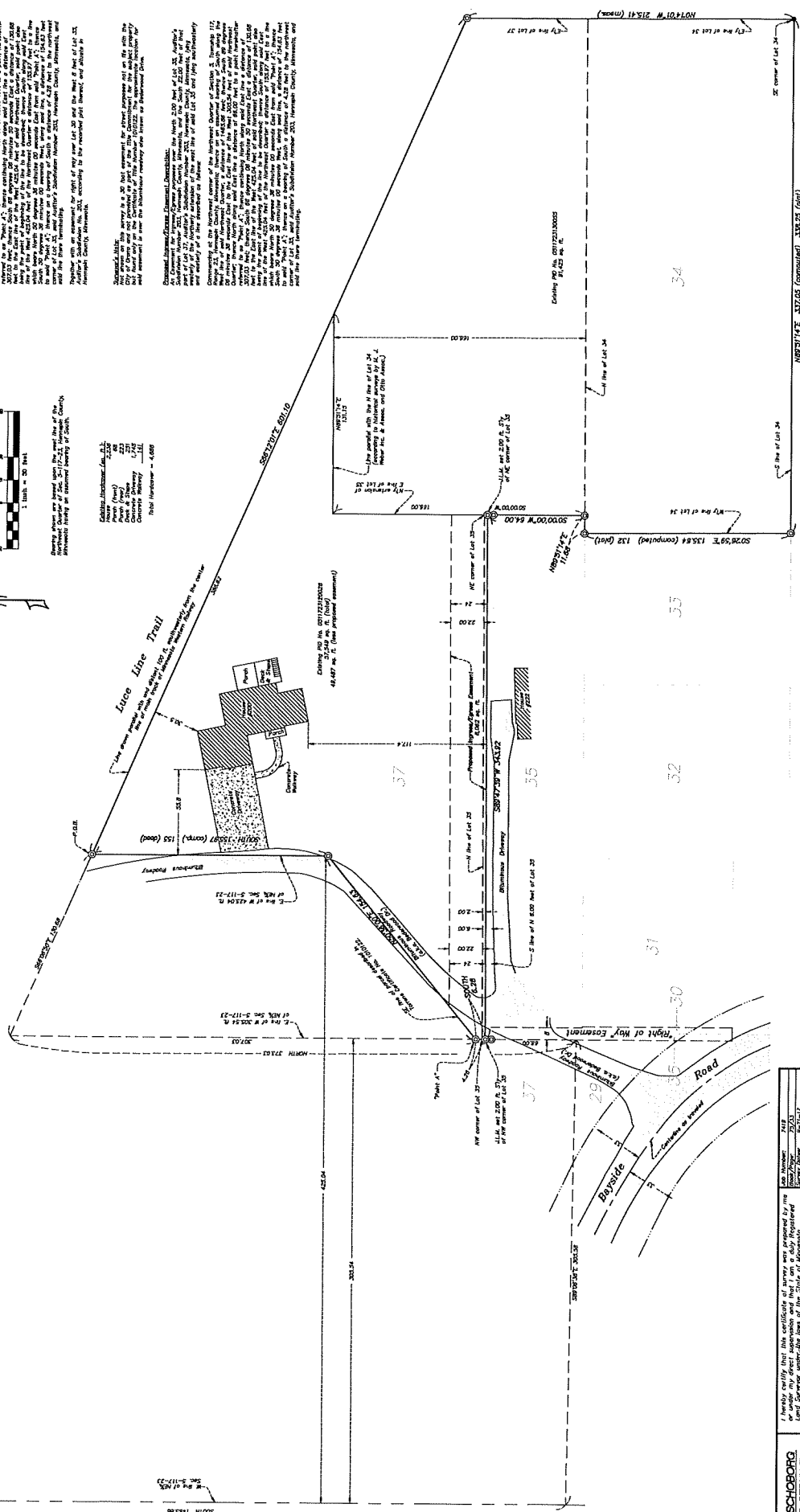


Boundary Description:
Lot 34 and the North 8.00 feet of Lot 35, Auditor's Subdivision Number 203, Hennepin County, Minnesota.

[illegible]

Shelton-Hickman (see p. 1)	2,250
Arch (front)	68
Arch (rear)	223
Arch de Stone	231
Norcross Driveaway	1,745
Norcross Walkway	141
Total Hancock	4,658

Surveyor's Note
Not shown on this survey is a 30 foot easement for street purposes not on file with the City of Orem and not provided as part of the Title Commitment for the subject property as found only on the Certificate of Title Number 1016122. The approximate location for said easement is over the bituminous roadway also known as Redwood Drive.

[illegible]

hereby certify that this certificate of survey was prepared by me under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

100 Number	7418
Test Paper	75/53
Survey Date	9-21-17
Drawing Name	apex.dwg
Drawn By	KJH
Notes	

Date: January 16, 2019 Registration No. 14700

A SCHOBORG
LAND SERVICES
INC.

U-872-5221
Schwartzland.com
8887 Oak Rd. 13 St.
Dubuque, IA 52001

