

**CITY OF CREDIT RIVER  
SCOTT COUNTY  
STATE OF MINNESOTA**

**RESOLUTION NO. 2023-13**

**A RESOLUTION DENYING A VARIANCE TO PERMIT AN ENCROACHMENT  
INTO THE SIDE YARD SETBACK TO CONSTRUCTION AN ACCESSORY  
BUILDING AT 21061 PRAIRIE HILLS LANE**

**WHEREAS**, the City of Credit River is a Minnesota Municipal Corporation, duly organized and authorized to conduct its affairs under the laws of the State of Minnesota; and

**WHEREAS**, Kenny Zak (the "Applicant") is the owner of certain real property located in the City of Credit River, State of Minnesota, legally described as follows:

Lot 9, Block 1, PRAIRIE HILLS ESTATES according to the plat thereof

(the "Subject Property"); and

**WHEREAS**, the Applicant has requested approval of a variance so as to allow the Applicant to construct an accessory structure in the side yard setback ; and

**WHEREAS**, the Planning Commission of the City did on April 14, 2023, conduct a public hearing in relation to the Applicant's request for a variance; and

**WHEREAS**, the Planning Commission of the City did on April 14, 2023 recommend denial of the variance to the City Council; and

**NOW, THEREFORE, BE IT RESOLVED**, the City Council has considered the proposed application for a variance and it makes the following *findings of fact*:

***Review Process***

1. Following appropriate published and mailed notice, a public hearing was held by the Planning Commission on April 14, 2023.
2. The Planning Commission, following receipt of public comments and deliberation on the proposed Application, recommended denial of the Application at their April 14, 2023 meeting.
3. These findings and resolutions are based upon the Staff Memo dated March 30, 2023, the applicant's narrative, building plans and survey, and all documents referenced in the Staff Memo, the recommendation of the City Planning Commission, and such additional information and documentation which is presented to the City Council on April 17, 2023 will be the subject of a separate list prepared by the City Planner following the April 17, 2023 meeting.

4. Ordinance Requirement: That the special conditions or circumstances do not result from the actions of the applicant.  
Finding: There are no special conditions or circumstances related to this property.
5. Ordinance Requirement: That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures, or buildings in the same district.  
Finding: If the variance is granted, this property owner would be receiving a privilege that other property owners do not receive. There are many properties that are much more difficult to construct on than this one, and all property owners must design their projects to meet the ordinance requirements despite how they or their predecessors originally constructed other features on their property.
6. Ordinance Requirement: The variance requested is the minimum variance which would alleviate the practical difficulty.  
Finding: No practical difficulty has been demonstrated other than the desire to place the garage of the size and shape that they want on the western side of the existing home. It has also not been shown how the garage could be moved to the east within that location at all to minimize the amount of variance required.
7. Ordinance Requirement: The variance would not be materially detrimental or will not essentially alter the character of the property in the same zoning district.  
Finding: The variance does alter the character of the property in the same zoning district as other property owners are not permitted to encroach within the setbacks.
8. Ordinance Requirement: Economic considerations alone do not constitute practical difficulties.  
Finding: No practical difficulties other than economic considerations have been identified. Placing the garage in the proposed location would minimize the extra cost of extending driveway to the east. It would also eliminate the need to make other modifications such as relocation of the well or retaining walls to the property to fit the garage on the west side.

**BE IT FURTHER RESOLVED**, the City Council makes the following findings relative to the practical difficulties standards:

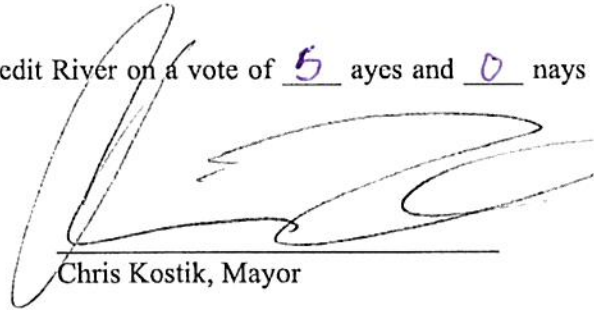
1. The proposed use is not a reasonable manner that is not permitted by the zoning ordinance. There are several options for the construction of an accessory building on the property that are in a different location or size or shape. All property owners must consider the specific circumstances of their property when designing the placement of all structures and features to ensure that they can do so in a way to meet ordinance requirements.
2. The plight of the landowner is not due to circumstances unique to the property not created by the landowner. The circumstances are due to the applicant's desire to

construct an accessory building of the size and shape that was proposed, and related to the placement of the home on the lot by previous property owners. The applicant has other options to consider for construction including different locations or different shapes and sizes of the building.

3. If granted, the variance would alter the essential character of the locality. The other properties in this neighborhood meet the setbacks with the location of their structures.
4. Economic considerations alone are the basis for the proposed variance. The applicant provided information regarding a desire to place the accessory building in a location that is more aesthetically pleasing, but also would reduce costs to them for construction as they would not need to move or remove other features on their property if allowed to construct in this location.

**NOW, THEREFORE, BE IT RESOLVED** the variance is hereby denied based on the findings recorded in this Resolution.

Adopted by the City Council of the City of Credit River on a vote of 5 ayes and 0 nays effective on the 17th day of April, 2023.



Chris Kostik, Mayor

Attested:



Karen Donovan, City Clerk