

**CITY OF CREDIT RIVER
SCOTT COUNTY, MINNESOTA
RESOLUTION NO. 2023-19**

**A RESOLUTION APPROVING A VARIANCE TO PERMIT A HOME TO BE
DEVELOPED ON A PROPERTY WITHOUT PLATTING AND THAT DOES NOT
CONTAIN THE MINIMUM FRONTAGE REQUIRED ON A PUBLIC ROAD**

WHEREAS, Glen and Alisha Perkins (the “Applicant”) submitted an application for a variance for certain real property located in the City of Credit River, legally described as follows:

That part of the South 429.00 feet of the SE 1/4 of Section 33, Township 114, Range 21, Scott County, Minnesota, described as follows: Beginning at a point on the South line of said SE 1/4 distant 568.50 feet West of the Southeast corner of said SE 1/4; thence West along said South line a distance of 609.75 feet; thence northerly parallel with the West line of said SE 1/4 of the SE 1/4 to the North line of said South 429.00 feet; thence East parallel with said South line to its intersection with a line bearing North (as measured at right angles) from the point of beginning; thence South along said line a distance of 429.00 feet to the point of beginning.

(the “Subject Property”); and

WHEREAS, the Planning Commission of the City did on June 15, 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 June 15, 2023 recommend approval 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 June 15, 2023.
2. The Planning Commission, following receipt of public comments and deliberation on the proposed Application, recommended approval of the Application at their June 15, 2023 meeting.

3. These findings and resolutions are based upon the Staff Memo dated June 29, 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 July 5, 2023 will be the subject of a separate list prepared by the City Planner following the July 5, 2023 meeting.

Subject Property Zoning

1. The property is currently zoned Rural Residential.
2. The Zoning Ordinance contains the following requirements for which a variance is being requested:
 - a. Section 35-3 (1.). Platting Required. No building shall be constructed on unplatted property, except for the addition of accessory structures or additions to existing buildings.
 - b. Section 35-3 (4.) Lot Width Minimum. One hundred fifty (150) feet shall be maintained at the front setback line and extending to the location of the principal structure. In addition, the lot must have one hundred feet of frontage on a road improved to current city standards.

BE IT FURTHER RESOLVED, the City Council makes the following findings relative to the standards contained in Section 2-3-1 of the City of Credit River's Zoning Ordinance:

1. Ordinance Requirement: Granting of the variance will not be in conflict with the Comprehensive Plan.
Finding: The Comprehensive Plan encourages the logical extension of roads and infrastructure. In this case, it is unknown if those extensions will be needed or warranted given the use of the properties as cellular towers.
2. Ordinance Requirement: Exceptional, unique, or extraordinary circumstances apply to the property which do not generally apply to other properties in the same zoning district or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since the enactment of this Ordinance have had no control.
Finding: The property is bordered on the east and north by Homeowner's Association property that cannot be developed as future lots and roads. The properties bordering the Subject Property that would be the ones that a road would extend into are cellular towers, the longer-term use of which is unknown. Preservation of right of way will secure the possibility of extension, but allowing this circumstance to occur without installing a road will result in less disruption to the area in the event that no extension is ever necessary.
3. Ordinance Requirement: The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
Finding: The conditions of the variance provide an alternative way to meet the intent of

the ordinance while not meeting the literal provisions. Requiring the extension of the road to ensure that this property has sufficient frontage would disrupt the area, move the cul-de-sac to a new location, and would not be needed if there is never any way to extend the road in the future to other properties. The proposal to preserve right of way secures future opportunities while providing the applicant with the ability to utilize their property in a manner similar to adjacent properties at this time.

4. Ordinance Requirement: That the special conditions or circumstances do not result from the actions of the applicant.

Finding: Neither the applicant nor their predecessors did nothing to cause the current situation.

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: The conditions of the variance provide an alternative way to meet the intent of the ordinance while not meeting the literal provisions in a unique situation where the future is less certain due to the future use of property used by cellular towers. There is no special privilege being granted to them that is being denied to others.

6. Ordinance Requirement: The variance requested is the minimum variance which would alleviate the practical difficulty.

Finding: This is the minimum variance, and conditions included within the variance mitigate for the loss of the immediate extension of the road.

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: Leaving the status quo with respect to the existing road configuration of Stonebridge Court is less disruptive to the neighborhood.

8. Ordinance Requirement: Economic considerations alone do not constitute practical difficulties.

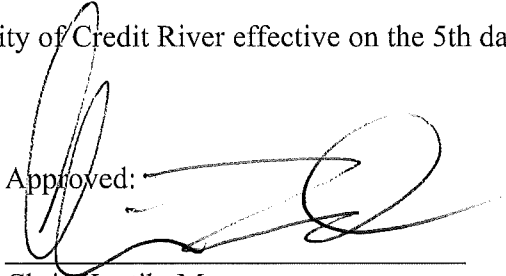
Finding: There were no economic considerations as the basis for the decision.

BE IT FURTHER RESOLVED, the Variances from the platting requirement and road frontage minimum are approved subject to the following conditions:

1. Right of way shall be reserved in an easement to the City for the future extension of Carrbridge Court in a location and width determined by the City Engineer.
2. The property owner shall pay to the City an amount equal to the estimated assessment other property owners paid for the 2021 street improvement.

3. The applicant shall enter into an overweight permit agreement acceptable to the City Attorney that addresses damage to City roads.
4. In order to access the proposed home, the owner shall submit an application for a driveway permit and enter into an encroachment agreement acceptable to the City. The applicant shall construct a driveway at their sole expense from the current terminus of Carrbridge Court. At such time as Carrbridge Court is extended, the driveway within the right-of-way shall be removed. Any changes required to the property owner's driveway to connect to the new road shall be installed at property owner's sole expense.
5. At such time that Carrbridge Court is extended, the Subject Property shall have only one driveway onto Carrbridge Court.
6. The property owners shall construct the stormwater improvements and driveway culvert as shown in the Certificate of Survey and Grading/Drainage Plan prepared by Jacobson Engineers and Surveyors dated June 28, 2023. A grading as-built survey showing how these features were constructed shall be provided to the City prior to the release of the NDPES escrow.
7. This variance shall expire one (1) year from the date of issuance if the variance is not utilized.

Adopted and approved by the City Council of the City of Credit River effective on the 5th day of July, 2023.

Approved: 

Chris Kostik, Mayor

Attested:



Karen Donovan, City Clerk