

### GENERAL INFORMATION

Applicant: Steve & Tina Jette

Property Owner: Jet-Bal, LLC

Purpose: To allow a 20-foot in lieu of 30-foot front yard setback requirement

Address: 1400 N State St

Parcel Number(s): 23.172.0010

Zoning: General Business (B-3), Shoreland Overlay District (SOD)

Surrounding Land Use: General Business (B-3)

Application Date: April 12, 2021

Review Date: May 4, 2021

### BACKGROUND

This conforming General Business (B-3) lot of record measures approximately 120 feet in width and 293 feet in depth. Located along a North State Street service road, surrounding lot uses are B-3. A restaurant exists on the lot, as well as a parking lot in the east and a patio in the east.

The applicant proposes to place a pergola over the patio to allow for some additional shade. The pergola would not have walls or a completely covered roof but would instead be designed so that a mix of sun and shade enters the patio. Because the proposed pergola is considered a structure and attached to the existing restaurant, it is subject to front yard requirements. The pergola is proposed to be placed 20 feet from the lot's front property line.

### POLICY CONSIDERATIONS

The Fairmont Comprehensive Plan guides the use of this neighborhood to be commercial. The parcel is zoned B-3, of which restaurants are permitted. The Zoning Code requires a 30-foot front yard setback in the district.

### REVIEW OF VARIANCE STANDARDS

**City Code Section 26-101** guides the Board of Zoning Appeals in how to review variance requests:

*No variance shall be granted to allow a use not permissible under the terms of this chapter. Variances shall only be permitted when they are in harmony with the general purposes and intent of this chapter and when the terms of the variance are consistent with the comprehensive plan. In granting a variance the board may prescribe appropriate conditions in conformity with this chapter. When such conditions are made part of the terms under which the variance is granted, violation of the conditions is a violation of this chapter. A variance shall not be granted by the board of appeals and adjustments, or by the city council on appeal, unless it conforms to the following standards.*

- (1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved that cause practical difficulties in complying with the requirements of this chapter and do not result from the actions of the petitioner. Economic considerations alone shall not constitute practical difficulties.**

Staff find that special conditions exist which are peculiar to the land and structure which create practical difficulties. The front of lot abuts a rarely-used public service road, of which the front yard setback is relative to. The road only services one other business.

- (2) Literal interpretation of the provisions of this chapter would deprive the petitioner of rights commonly enjoyed by other properties in the same district under the terms of this chapter and the granting of the variance will not alter the essential character of the locality.**

Staff find that, in this case, literal interpretation of the chapter would restrict a structural element that would only provide shade to a patio that is already permitted. The proposal would not otherwise impact surrounding land uses or the area's essential character. Relative to the proposed pergola, a structure here with walls and a closed roof may significantly impact the vision and open space that the chapter intends to maintain.

- (3) Granting the variance will not confer on the petitioner any special privilege that is denied by this chapter to other lands, structures, or buildings in the same area and the petitioner proposes to use the property in a reasonable manner.**

Because of the unique characteristics of the proposal, including the relatively small amount of traffic in front of the property and the structure's insignificant impact on vision and open space, staff find that the proposal is reasonable and does not confer a special privilege.

- (4) The proposed variance will not impair an adequate supply of air and light to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the city.**

Staff find that the proposal will not impair adequate supplies of air or light, diminish area property values, or otherwise impact the public interest.

### **RECOMMENDATION**

Staff recommend that the Board of Zoning Appeals consider the legal standards set forth by **Minnesota Statute 462.357(6)** when considering variance applications. This includes a three-factor practical difficulties test:

- 1) Reasonableness- does the landowner intend to use the property in a reasonable manner?**
- 2) Uniqueness- are there unique physical characteristics of the land, not personal preferences of the landowner, that creates the circumstance?**
- 3) Essential Character- will the resulting structure be out of scale, out of place or otherwise inconsistent with the surrounding area?**

Staff find that the property would be used in a reasonable manner. The proposal would only provide shade over land that is already used as a patio without impacting vision. The lot's front

yard setbacks are relative to a service road that is rarely used and the proposal will not be inconsistent with the essential character of the surrounding area.

Considering applicable statute and code, staff's findings support the request for a variance to allow a 20-foot in lieu of 30-foot front yard setback requirement.

*Respectfully submitted,*

*Peter M. Bode*

*Planner/Code Enforcement Technician*

**GENERAL INFORMATION**

Applicant: Monica Shelgren  
Property Owner: Sharon K. Jones Rev. Trust  
Purpose: To allow a 28.5 percent in lieu of 25.0 percent impervious surface requirement  
Address: 204 Lake St  
Parcel Number(s): 23.188.0240  
Zoning: Single Family Residential (R-1), Shoreland Overlay District (SOD)  
Surrounding Land Use: Single Family Residential (R-1)  
Application Date: April 15, 2021  
Review Date: May 4, 2021

**BACKGROUND**

This non-conforming Single Family Residential (R-1) lot of record measures approximately 50 feet in width and 152 feet in depth. Located along the southeastern shore of Budd Lake, the lot is adjacent to single family residential uses. On the lot exists a single-family home with an attached garage.

The applicant proposes to place an addition 24 feet by 17 feet to the southeast of the current structure. The addition would extend the current garage to accommodate contemporary vehicles and allow for a main floor laundry and bath. Additionally, the applicant proposes to remove the current driveway in the southwest and replace it with a driveway in the southeast. Several impervious surfaces on the property are proposed to be removed to manage the property’s overall coverage.

**POLICY CONSIDERATIONS**

The Fairmont Comprehensive Plan guides the use of the neighborhood as traditional residential. The parcel is zoned R-1, which is consistent with the plan and allows single-family homes.

The City’s Shoreland Management ordinance requires lakeshore lots cover a maximum of 25.0 percent of the lot with impervious surfaces, excluding one exempt driveway 22 feet in width to the garage. The proposal would reduce the property’s coverage from 30.8 percent to 28.5 percent. Staff assess that the lot’s nonconforming area of 7,443 square feet creates a practical difficulty in complying with the requirement. Therefore, we use a standard conforming lot size of 8,500 square feet to compare the proposal against. If the lot were a standard conforming lot, 24.9 percent of the lot would be covered by impervious surfaces with this proposal. Staff believe this standard is reasonable for purposes of protecting the community’s lakes, providing a fair alternative for the property owner, and satisfying Minnesota state standards and practices. These dynamics are detailed below.

<b>Proposal</b>	<b>Actual Lot</b>	<b>Standard Conforming Lot</b>
Lot size	7443 sqft	8500 sqft
Max coverage (25%)	1861 sqft	2125 sqft
Proposed coverage	2119 sqft	2119 sqft
Percent of lot	28.5 percent	24.9 percent

## REVIEW OF VARIANCE STANDARDS

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- (1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved that cause practical difficulties in complying with the requirements of this chapter and do not result from the actions of the petitioner. Economic considerations alone shall not constitute practical difficulties.**

Staff find that special conditions and circumstances exist. First, the lot is small and nonconforming at 7,443 square feet. Most lots along Fairmont's shoreline are at least 8,500 square feet. Second, the current structure's garage does not reasonably fit contemporary vehicles. Together, these conditions create practical difficulties in complying with the requirement.

- (2) Literal interpretation of the provisions of this chapter would deprive the petitioner of rights commonly enjoyed by other properties in the same district under the terms of this chapter and the granting of the variance will not alter the essential character of the locality.**

Staff find that literal interpretation of the provision would deprive the applicant of rights commonly enjoyed by lakeshore owners in the district. The proposal provides a garage and living space sized appropriately for the district and conditions and will not alter the essential character of the neighborhood.

- (3) Granting the variance will not confer on the petitioner any special privilege that is denied by this chapter to other lands, structures, or buildings in the same area and the petitioner proposes to use the property in a reasonable manner.**

Staff find that granting the variance will not confer upon the applicant special privileges. In 2018, the Board of Zoning Appeals granted a neighboring property owner a distance variance to place impervious surfaces at 24.9 percent.

The applicant proposes to use the property in a reasonable manner. The applicant has worked over a period of about two years with Engineering and Planning staff, as well as the Minnesota Department of Natural Resources (DNR) to develop a proposal that respects state standards intended to protect natural resources. In so doing, the applicant proposes to remove a number of existing impervious surface features from the property to reduce the overall coverage impact.

- (4) The proposed variance will not impair an adequate supply of air and light to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the city.**

Staff find that the proposal will not impair adequate supplies of air or light, diminish area property values, or otherwise impact the public interest.

### **RECOMMENDATION**

Staff recommend that the Board of Zoning Appeals consider the legal standards set forth by **Minnesota Statute 462.357(6)** when considering variance applications. This includes a three-factor practical difficulties test:

- 1) Reasonableness- does the landowner intend to use the property in a reasonable manner?**
- 2) Uniqueness- are there unique physical characteristics of the land, not personal preferences of the landowner, that creates the circumstance?**
- 3) Essential Character- will the resulting structure be out of scale, out of place or otherwise inconsistent with the surrounding area?**

The applicant intends to use the property in a reasonable manner. Using a fair standard of calculating coverage, the applicant proposes to remove impervious surfaces to accommodate a proposal that would provide a reasonable amount of living and garage space and, while using the driveway exemption, reduce overall coverage.

There are unique characteristics of the land which create the circumstance. These are the lot's small non-conforming size and the resulting current garage space which does not accommodate contemporary vehicles.

The proposal would not be out of scale or place, or be otherwise inconsistent with the surrounding area. The essential character of the neighborhood and lake would be maintained with this proposal.

Considering applicable statute and code, staff's findings support the request for a variance to allow a 28.5 percent in lieu of 25.0 percent impervious surface requirement.

*Respectfully submitted,*

*Peter M. Bode*

*Planner/Code Enforcement Technician*

**Attachment: DNR Comment**



Minnesota Department of Natural Resources

Southern Region

21371 State Hwy 15

New Ulm, MN 56073

April 29, 2021

Peter Bode

City of Fairmont

100 Downtown Plaza

Fairmont, MN 56031

Re: Comments on a pending variance application – Monica Shelgren at 204 Lake Street on Bud Lake - Martin County MN – PID 231880240 (variance for impervious surface coverage.

Dear Mr. Bode:

Thank you for sending me the Shelgren variance application package for review. Our follow-up phone conversation was also helpful to understand the proposal and the City's impervious area calculations. The proposal would result in an impervious surface coverage of approximately 28 percent (2,119 of 7,443 square feet) before using the city's driveway exemption and using a compliant lot area of 8,500 square feet to adjust the impervious surface down. The actual lot area of 7,443 square feet is considered legal, non conforming so the lot can be sold and maintained as a viable unit. The following comments are offered for your consideration:

The applicant and the City have worked to reduce the impervious surface as much as practical. The applicant also made a case for elderly access which is understandable. I also checked the neighboring lots and found these to be fully developed with unique ownership so combining lots is not an option to reduce the impervious surface coverage.

For these reasons the department is neutral on the variance request for impervious surface coverage. Efforts should be made to hold the impervious coverage to the amount proposed in this variance application. If you have questions please call me at 507-822-1559.

Sincerely,


A handwritten signature in black ink that reads 'Daniel Girolamo'.

Daniel Girolamo

Area Hydrologist

CC: Todd Kolander, EWR DNR

- Layer List Legend 
- Check Links:  
Property Search  
New Map
- Layers:  
Assessor  
 Parcel Labels  
 Lot Dimensions  
 Parcel Dimensions  
 Parcels   
 Lots  
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 Mobile-Homes  
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Sale Ratios  
 Land Value Per Tillable Acre  
 Land Value Per Unit  
 Land Value Per Deeded Acre  
 AgUse  
 Pictometry Sectors  
Transportation  
Planning & Zoning  
Electric Generation  
Transmission Lines  
Public Land Survey  
Natural Resources / Conservation  
Drainage



Parcel ID: 231880240  
Sec/Twp/Rng: --  
Property Address: 204 LAKE ST  
FAIRMONT

Alternate Id: n/a  
Class: 201 - RESIDENTIAL  
Acreage: n/a

Owner Address: JONES, SHARON  
204 LAKE ST  
FAIRMONT, MN 56031  
Note: n/a

District: FAIRMONT CTY-454  
Brief Tax Description: OAK BEACH Lot-001 Block-003  
(Note: Not to be used on legal documents)

Results:

Parcel ID - 231880240  
Address - 204 LAKE ST  
Owner - JONES, SHARON  
View: [Parcel Report](#) | [Soil Report](#) | [Pictometry Imagery](#)

Parcel ID - 386500050  
Address - 204 LAKE ST S  
Owner - CARTER, SHANE & JESSICA  
View: [Parcel Report](#) | [Soil Report](#) | [Pictometry Imagery](#)