
ALEXANDRIA TOWNSHIP

BOARD OF ADJUSTMENT

MEETING PACKET FOR
March 21, 2016



PRELIMINARY AGENDA
Alexandria Township Board of Adjustment
March 21, 2016
6:00 p.m. – Township Conference Room

Call to Order

Adopt Agenda

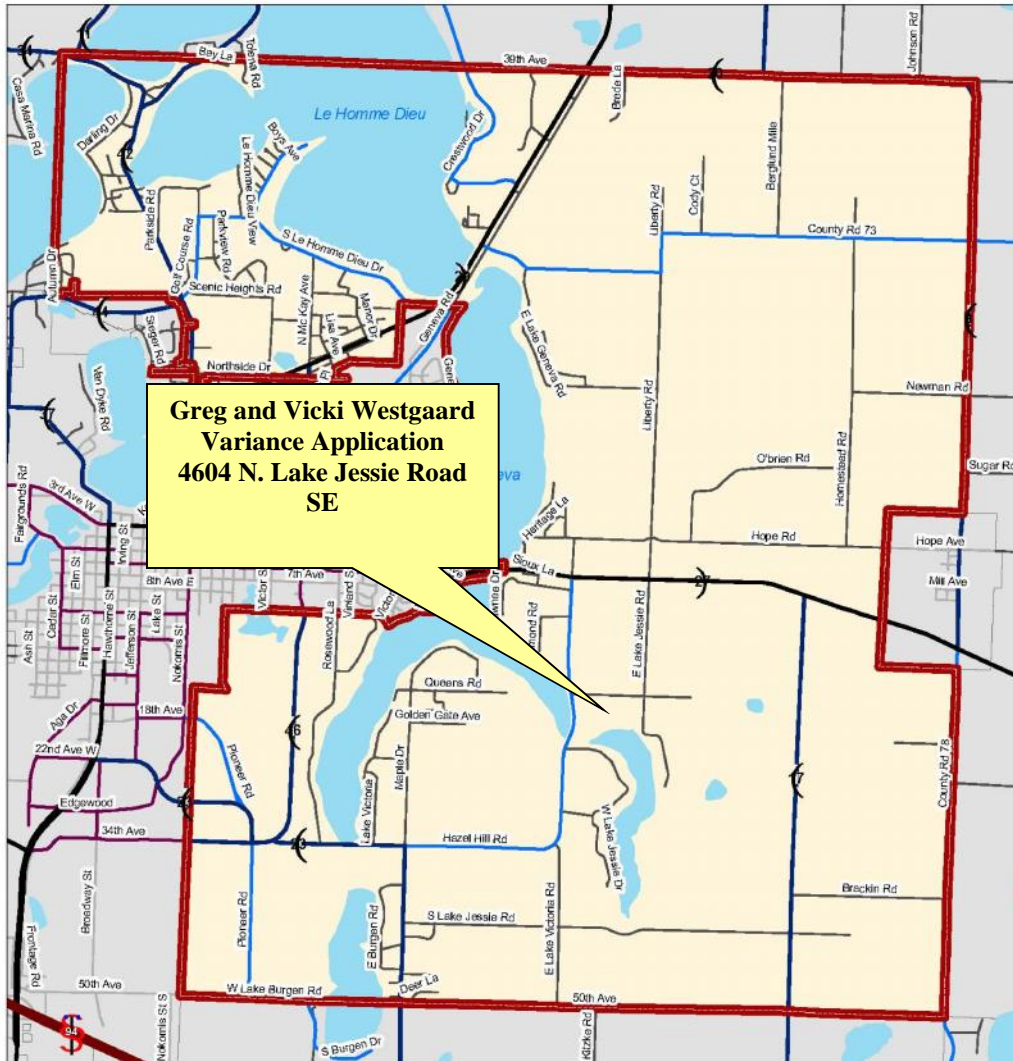
Public Hearing

1. Variance request for a subdivision creating two lots not meeting minimum width requirements at a public road in the Residential Shoreland District, Greg and Vicki Westgaard, applicants. Property is located at 4604 N. Lake Jessie Road. Property ID: 03-1873-000.

Adjournment

**NOTE: This is a preliminary agenda, subject to change at any time.

LOCATION MAP FOR
March 21, 2016
BOARD OF ADJUSTMENT
APPLICATIONS



The public hearing will be held on
March 21, 2016 beginning at 6:00 pm.

The public hearing will be held at the Township meeting room in the **lower level of 324 Broadway Street (NEW LOCATION)**, Alexandria.

STAFF REPORT

Application: Variance for a subdivision creating two lots not meeting minimum width requirements at a public road in the Residential Shoreland District.

Applicant: Greg and Vicki Westgaard

Agenda Item: 4(a)

Proposal: The application is a request to allow for the platting of land not meeting the minimum requirements for lot width along a public road. The property involved currently is over 3 acres in size and has about 546 feet of shoreline. However, its only public road frontage is a 16.5 foot strip of land that fronts North Lake Jessie Road. This 16.5 foot strip of land apparently contains permanent easements for two properties - Parcels 03-1872-000 (Fridgen) and 03-1874-000 (Krick). The applicant also owns a 49.5 ft strip of land with a separate parcel ID (03-1876-000) adjacent to the 16.5 ft strip - meaning there is a total of 66 ft of public road frontage when the two parcels are added together.

Essentially the same application was made by the same applicant in 2005 to Douglas County, who administered zoning in the Township at the time. That application was denied (with the Township Board at the time supporting a denial) due to the lack of a hardship being shown. However, the County has - as recently as 2015 - granted a variance to split a lot with similar facts as this application without platting (and thus not requiring the normal road frontage) under the condition that no further splits be allowed. The primary fact that was different in that case though was that the parcel already contained two homes and apparently had for many years.

- Location:**
 - Property Address: 4604 N. Lake Jessie Road SE
 - Sec/Twp/Range: 27-128-37
 - Legal Description: 3.95 AC IN SW PART OF G. LOT 3 & W 16.5' OF N 875.5' EX. .95 AC IN SW COR. AC 3.33
 - Parcel Number(s): 03-1873-000
- Zoning:** Urban Residential (UR) and Residential Shoreland (RS)
- Lot size:** About 3.33 acres
- Septic System Status:** There is an existing private sewer system serving the home on the property. The property is not located within the ALASD service district (it is located just east of the boundary) and private sewer systems would be allowed for the lots if approved.

Applicable Statutes/ Ordinances: The following portions of the Alexandria Township Zoning and Subdivision ordinances are relevant to the requested variance (other ordinances and policies may apply):

ALEXANDRIA TOWNSHIP COMPREHENSIVE PLAN

Goals & Policies - Land Use

Agriculture

- Alexandria Township will follow a policy of phased, orderly growth patterns that discourages costly and scattered development in productive agricultural areas and that allows for the efficient expansion of roads, sewer, and other public infrastructure.

Housing Development

- Alexandria Township will ensure that new residential developments are designed, constructed, and maintained to provide adequate stormwater controls that protect public safety and prevent damage to public and private property. The Township will explore the feasibility and effectiveness of both neighborhood and regional stormwater controls.
- Alexandria Township will ensure that all new roads constructed to serve residential housing – including roads within Planned Unit Developments – are of adequate width to ensure space for on-street parking and still maintain space for the safe passage of pedestrians, vehicles, and emergency service equipment.

Goals & Policies - Infrastructure & Public Services

- Alexandria Township will develop in an orderly manner that maximizes the use of existing infrastructure and services and provides new infrastructure and services in an efficient, well-planned manner.

SUBDIVISION ORDINANCE

Section 1. General Provisions

1.10 Variances.

1. **Board of Adjustment and Appeals.** The Alexandria Township Board of Adjustment and Appeals shall have the exclusive power to order the granting of variances from the terms of this Ordinance, including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of this ordinance, in cases when there are practical difficulties or particular hardships. With the application for a variance, the applicant has the burden of describing the hardship which exists that justifies the variance. Hardship in the granting means:
 - a. The property in question cannot be put to a reasonable use if used under the conditions allowed by this Ordinance.
 - b. The plight of the landowner is due to circumstances unique to his/her property not created by the landowner.

- c. The variance is proved necessary in order to secure for the applicant a right or rights that are enjoyed by other owner or owners in the same area.
 - d. The variance, if granted, will not alter the essential character of the locality.
 - e. No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do, nor for any other reason than a proved hardship. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this ordinance.
 - f. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.
2. **Conditions.** The Board of Adjustment and Appeals may impose conditions in granting a variance to insure compliance and to protect adjacent properties and the public interest.

Section 5. Subdivision Design Standards

5.1 General. The following principles, standards and requirements will be applied by the Township in evaluating proposed subdivisions. These are the minimum principles, standards and requirements for the promotion and protection of the public health, safety, morals, and general welfare and shall not preclude the Township from requiring stricter standards or requirements when the conditions merit:

- 2. **Comprehensive plan.** Proposed subdivisions shall be designed in recognition of the general policies included in the Alexandria Township Comprehensive Plan.
- 5. **Conformance to Applicable Rules and Regulations.** In addition to the requirements established in these regulations, all subdivision plats shall comply with the following laws, rules, and regulations unless a variance is granted:
 - a. Any applicable Township ordinance, engineering standards and all other applicable laws of the Township.
 - b. Any adopted official maps, public utilities plans, Public Capital Improvement Programs, or other adopted plans or programs of the Township.
 - c. All applicable statutory provisions.
 - d. The requirements and rules of the Minnesota Health Department, Minnesota Department of Natural Resources, the Minnesota Department of Transportation, the Minnesota Pollution Control Agency or other applicable state or federal agencies.

7. **Adequate Public Facilities.** No preliminary plat shall be approved unless the Township Board determines that public facilities will be adequate to support and service the area of the proposed subdivision. Public facilities shall include roads, electric utilities, telecommunications, stormwater, sanitary sewer (when located in any sanitary sewer district), gas or other energy service, or other public services necessary to serve the development as determined by the Township Board.

5.3 Lots.

1. **Access¹.** All lots shall front upon a public right-of-way and have access to an improved street or roadway, except as otherwise allowed in the Zoning Ordinance.
2. **Lot Arrangement.** The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing land use permits to build or constructing or placing structures or other improvements on all lots in compliance with the Zoning Ordinance and in providing driveway access to buildings on the lots from an approved public street.
11. **Reduced Lot Widths.** To allow reasonable flexibility in the design of lots within a subdivision, lot widths may be reduced at either a front or rear lot line (but not both) provided the following conditions are met:
 - a. The total number of lots in a subdivision does not exceed the total linear road feet serving the subdivision divided by the minimum lot width of the district where the subdivision is located. Lots designed and approved to be served by existing roads shall be calculated separately from lots to be served by newly constructed roads;
 - b. The minimum required lot width is met at 1) either the front or rear lot line and 2) at the midpoint of the lot depth or 300 feet from the front lot line, whichever is closer to the front lot line.
 - c. Each lot contains the minimum buildable area required by the Zoning Ordinance exclusive of any portion of the lot not meeting minimum width requirements.
 - d. The lot width is reduced to no less than 66 feet for lots larger than five-and-a-half (5.5) acres in size or for smaller lots where future resubdivision is anticipated or feasible, as determined by the County Board.
 - e. The lot width is reduced to no less than 50 feet for lots that are five-and-a-half (5.5) acres in size or less and where future resubdivision is not feasible, as determined by the County Board.

- 5.8 **Highways, Streets, and Alleys.** Proposed streets shall provide a safe, convenient, and functional system for vehicular, pedestrian, and bicycle

¹ Amended 7/2/2007

circulation; shall be properly related to the comprehensive plan; and shall be appropriate for the particular traffic characteristics of each proposed development.

2. **Design Standards.**

- a. **General.** These standards are meant to provide for streets of suitable location, width, and improvement to accommodate prospective traffic and afford satisfactory access for police, fire fighting, snow removal, sanitation, and road maintenance services and equipment, and to coordinate streets so as to create a convenient system and avoid undue hardships to adjoining properties.
- b. **Rights-of-Way Widths.** The minimum widths for each type of public street right-of-way shall be as follows:

Type of Street	Rights-of-Way Width
Local	66 feet

Additional rights-of-way or easements and roadway widths may be required by the Township to promote public safety and convenience when special conditions require it or to provide parking space in areas of intensive use. Right-of-way widths in excess of the standards designated in these regulations shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of three-to-one unless approved by the Township Engineer.

- j. **Private Streets.** Private streets shall not be approved nor shall public improvements be approved for any previously existing private street, except when specifically allowed in the Zoning Ordinance².

MINNESOTA STATUTES

462.358 (2013) OFFICIAL CONTROLS: SUBDIVISION REGULATION; DEDICATION.

Subd. 6. Variances.

Subdivision regulations may provide for a procedure for varying the regulations as they apply to specific properties where an unusual hardship on the land exists, but variances may be granted only upon the specific grounds set forth in the regulations. Unusual hardship includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.

² Amended 7/2/2007

Staff Findings: We propose the following findings for consideration by the Board of Adjustment (findings are broken out for each type of variance being requested):

1. Can the property in question be put to a reasonable use if used under the conditions allowed by this Ordinance?

Needs discussion. Without the variance, the landowner would be able to continue using the property as it is currently developed – with one residential dwelling. There are a number of other land uses that are also allowed within the Residential Shoreland zoning district as either permitted or conditional uses.

The applicant may have additional options as well, for establishing some form of public ownership or interest in the 66 ft strip of land leading down to the property such that there is at least 150 feet of “frontage” for at least one of the lots.

2. Is the plight of the landowner due to circumstances unique to the property not created by the landowner?

Needs discussion. The applicant appears to have purchased the property in its current configuration and as such would not have had control over that configuration. However, they are requesting the lot split, which would be a new circumstance over which they have control.

3. Is the variance necessary to secure a right or rights enjoyed by other owner(s) in the same area?

Needs discussion. There is one other property (PID 03-1874-000) at the south end of the 66 ft strip of land that is landlocked and served only by the driveway within the 66 ft strip. However, this application is different in that it is asking for the creation of a lot that does not already exist.

There are other properties within the Township that are served by non-public roads. Staff would likely need to conduct some extensive research to determine how and why these situations each came about. It is likely that many of them were created prior to County or Township zoning or subdivision requirements.

4. Will the variance, if granted, alter the essential character of the locality?

No. The addition of one residential lot would not have any significant change on the residential character of the area.

5. Are economic considerations the only reason the applicant cannot meet the strict requirements of the ordinance?

Needs discussion. The cost of building the existing private driveway up to Township standards for a public road would certainly be expensive when only one additional lot would be created and is a primary reason why it has not been proposed. However, even if a road were constructed, it would reduce the buildable area on the lots such that it would not appear possible to build a structure that would meet both the required road and lake setbacks.

6. Will the variance allow a use that is prohibited in the zoning district in which the subject property is located?

No. The use of the property will remain residential, which is a permitted use in the Urban Residential and Residential Shoreland zoning districts.

Board of Adjustment Direction: The Board of Adjustment can approve the request, deny the request, or table the request if additional information is needed. If the decision is for approval or denial, findings of fact should be cited.

Staff Comments:

1. The applicants applied for the same variance in November 2005 from Douglas County (prior to the date the Township began administering zoning). That request was denied and listed the following findings of fact:
 - a. The property in question could be put to reasonable use if the variance were not granted, as a dwelling would be allowed on the lot as it currently exists. In addition, the applicant could avoid the need for a variance by constructing a private roadway as part of a Planned Unit Development.
 - b. The plight of the landowner is due to their desire to create two nonconforming lots out of one existing nonconforming lot and could therefore be considered a self created hardship.
 - c. The variance is not proved necessary to secure for the applicant the right to use the property as neighboring properties are. The property could be used residentially, as is the primary use in the area.
 - d. The variance, if granted, will not alter the essential character of the locality. The primary use in the area is shoreline residential, as are the proposed structures.
 - e. The variance request does not appear to be for reasons other than to allow the sale or use of two lots instead of one.
 - f. The variance, if granted, will not create a use that is prohibited in the zoning district. Residential homes are a permitted use.
 - g. Private sewer systems would need to be installed to serve the two lots.
2. The Township ordinance does not allow for private roads – even within PUDs – as Douglas County does. This was one of the factors noted in the findings of fact above when the County denied the variance application (that the applicant had the option of creating a PUD with a private road).
3. At the time of the 2005 variance application, this property was not located within the ALASD boundaries. It was added to the ALASD service area in 2009 and would now be required to connect to ALASD sewer as part of a subdivision, unless a separate variance were granted allowing for it to not connect.

Staff Recommendation: Based on the criteria by which the ordinance requires review of variance requests to the Subdivision Ordinance, Staff would recommend the following:

1. Staff would generally recommend denial of a request to create a lot that would not have any road frontage, as it can lead to property and access to property disputes.
2. There are possibly other options for achieving the same outcome as the applicant desires, without a variance – although these would need to be explored in more detail. Such options might include:
 - a. A lot line adjustment given that there is technically a separate parcel of land for the west 49.5 feet of the 66 ft strip leading into the property.
 - b. Dedication of the full 66 ft strip as public right-of-way, but then determining if the Township can establish that they will not be expending any funds to construct a Township road and that the owner(s) are responsible for all maintenance as a private driveway.
 - c. Establishing the 66 ft strip as a cartway, with similar results and conditions as in b. above.

NOTE: Staff is not especially familiar with options b. and c. above and it would be recommended that the Township seek legal counsel and/or require the applicant to provide a legal opinion from their own attorney.

3. If the Township and applicant wish to explore the above options, Staff would recommend tabling of the application.
4. If the Township approves the variance, Staff would recommend that a condition be imposed that prohibits the further subdividing of land in a way that would create an additional site for a dwelling.

WESTGAARD WAY

N. LAKE JESSIE ROAD

PRELIMINARY PLAT OF: WESTGAARD WAY

OWNER: Greg & Vicki Westgaard
25396 1641/2 Street
Big Lake, MN 56309
Ph. 763-263-1940

Walden Current
1928 E. Lake Jessie Rd SE
Alexandria, MN 56308

SURVEYOR: Stoeckel Land Surveying
Curtis J. Stoeckel
P.O. Box 366
Alexandria, Mn. 56308
Phone 320-763-6855

LOCATION: Part of Government Lot 3, Section 27,
Township 128 North, Range 37 West.

TOTAL AREA TO BE PLATTED: 4.5 acres more or less.

EASEMENTS: Will be provided as needed.

ZONING: Shoreland-Recreational Development.

COVENANTS: There will be protective covenants.

WATER: Private and Individual.

SEWER: Private and individual. Buildable area is
outside ALASD and is not available to this site.

EXISTING CONDITIONS: Existing house and open
lakeshore.

PROPOSED USE: Single family residential. The
small sheds on Lot 1 and 2 will be moved to meet
building setbacks. Access to the Dana Krick
parcel will remain as is with an easement over
part of Lots 1 and 2 going north to N. Lake
Jessie Road.

VARIANCE: A variance is applied for, sub-standard
width.



SCALE - 1" = 100'

DARRIN BERG
(OWNER)

AREA MAP
(NO SCALE)

GOV. LOT 2 LAKE JESSIE MEADOWS
BLOCK ONE

GOV. LOT 3

SEC 27, T128N-R37W

WAYNE & DORIS FRIDGEN
(OWNER)

TIER ONE

WALDEN CURRENT
(OWNER)

DANA KRICK
(OWNER)

GREG WESTGAARD

LAKE JESSIE

B.M. - SPK IN 24' OAK
ELEV. 1363.34
OHW - LAKE JESSIE
1357.5' (1929 NGVD)
LAKE ELEV. (8-25-05)
1356.82

--- AREA BREAKDOWN ---	
BLOCK ONE	
LOT 1	87,312 SQ. FT.
LOT 2	109,642 SQ. FT.
TOTAL	196,954 SQ. FT.
	4.52 ACRES+/-

- SYMBOLS -**
- = IRON SURVEY MONUMENT FOUND
 - = 1/2" PIPE SET, MARKED PLS 13077
 - = WATER FLOW ARROWS

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

CURTIS J. STOECKEL
Date _____ Registration No. 13077

Prepared For:

GREG & VICKI WESTGAARD

STOECKEL SURVEYING
Minnesota Registered Land Surveyor
1206 3RD AVE. E, BOX 356, ALEXANDRIA, MN 56308
PH. 920-763-6855, FAX. 320-763-6341

DATE 8-26-2005

DR. DAG CK CLOSURE

FILE NO. 4508

27-128-37

Application # <u>2016-0009</u>	Date Application Rec'd <u>2/29/16</u>	Fee Collected \$ <u>400.00</u>
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(for office use only)

**ALEXANDRIA TOWNSHIP
VARIANCE APPLICATION**

Name of Applicant TRUST OF GREG + VICKI WESTGAARD Phone (612) 670-4756 (C)

Property Address (E911#) 4604 N. LAKE JESSIE RD, ALEXANDRIA, MN 56308

Mailing Address 25396 164th ST NW Local Phone (612) 325-9264 (C)
(if different than above) (if different than above)

City, State, Zip BIG LAKE, MN 55309

Applicant is:

Title Holder of Property (if other than applicant)

- Legal Owner
- Contract Buyer
- Option Holder
- Agent
- Other _____

(Name)

(Address)

(City, State, Zip)

Signature of Legal Owner, authorizing application (required) Gregory L. Westgaard / Vicki Westgaard
(By signing the owner is certifying that they have read and understood the instructions accompanying this application.)

Signature of Applicant (if different than owner): _____
(By signing the applicant is certifying that they have read and understood the instructions accompanying this application.)

Property ID # (9 digit # on Tax Statement) 03-1873-000

Full legal description of property involved in this request, including total acreage (required – attach separate sheet if necessary):

PLEASE SEE ENCLOSED PROPERTY TAX STATEMENT
ALSO SEE ENCLOSED PRELIMINARY PLAT

Zoning District SHR-REC-DEM Lake Name (if applicable) JESSIE

What are you proposing for the property? State nature of request in detail: SIMPLE SPLIT FOR THE PURPOSE OF BUILDING FUTURE RESIDENCE -

What changes (if any) are you proposing to make to this site?

Building: EVENTUAL RETIREMENT RESIDENCE (LOT 2)

Landscaping: TO BE DETERMINED

Parking/Signs: TO BE DETERMINED

Please complete all of the following questions:

1. Describe why you believe the granting of the variance request would be in harmony with the general purposes and intent of the Corinna Township Land Use and/or Subdivision Ordinance (available at www.alexandriatownship.org).

BECAUSE THE PROPOSED USE WILL BE IN COMPLIANCE WITH ALL APPLICABLE ZONING REQUIREMENTS AND ORDINANCES.

2. Describe why you believe the granting of the variance would be consistent with the Corinna Township Comprehensive Plan (Plan available at www.hometownplanning.com/alexandria-township.html).

BECAUSE THE EVENTUAL DWELLING WILL MEET ALL STANDARDS PUT FORTH AS DESCRIBED IN THE TOWNSHIP'S CURRENT PLAN, ALL SETBACKS AND SEPTIC MANDATES WILL BE FOLLOWED

3. Describe why you feel that your proposal is a reasonable use of the property.

BECAUSE IT IS WELL WITHIN LOT SIZE REQUIREMENTS AND WILL BE UTILIZED FOR RESIDENTIAL AND RECREATIONAL USE AS PRESCRIBED.

4. Describe what factors contributing to the need for a variance were not in your control. Address factors such as the lot size or shape, topography, location of existing buildings, sewer systems and wells, and any other factors you feel are relevant.

1) TOWNSHIP ROAD FRONTAGE ISSUE WAS CREATED LONG BEFORE THE LATEST COMPREHENSIVE PLAN WAS IMPLEMENTED
2) LOGISTICALLY UNABLE TO COMPLY WITH THE SEWER DISTRICT REQUIREMENT

5. Describe the character of the area and why your project will not substantially change the character of the neighborhood or be a detriment to nearby properties.

BECAUSE WE HAVE BEEN, AND WILL CONTINUE TO BE, GOOD STEWARDS OF THE SURROUNDING ENVIRONMENT. WE TAKE GREAT PRIDE IN HOME OWNERSHIP AND PLAN ON BUILDING A QUALITY STRUCTURE. PROBABLY ANOTHER MORTON STEEL BUILDING

6. Describe why it is not feasible for your project to meet the minimum requirements of the ordinance. What options did you explore that would minimize the variance necessary and why did you determine these were not feasible alternatives?

BECAUSE THERE IS NO WAY TO CREATE SUFFICIENT TOWNSHIP ROAD FRONTAGE. THE EXISTING PLAT WAS CREATED DECADES PRIOR TO THE NEW COMPREHENSIVE PLAN AND NOT CREATED BY US.

7. Discuss what impacts, if any, the requested variance may have on the environmental quality of the area. For any potential impacts, how do you intend to eliminate or minimize their effect?

BY FOLLOWING ALL REQUIREMENTS SET FORTH BY ALEXANDRIA TOWNSHIP, WE CAN NOT SEE ANY NEGATIVE IMPACTS ON THE SURROUNDING ENVIRONMENT.

8. Please include any other comments pertinent to this request.

WE ARE TRYING TO RETIRE UP HERE. THIS PROPERTY HAS BEEN IN THE FAMILY FOR THREE GENERATIONS. HOPING TO MAKE IT FOUR OR FIVE. BECAUSE OF THE LAND LOCKED NATURE IT IS A VERY UNIQUE SITUATION.



OURS: 03-1873-000
THEIRS: 03-1871-550

Date: 2/25/2015

T128N - R37W

West half of SE quarter of ALEXANDRIA TWP

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