



**TOWN OF BROCKWAY
COUNTY OF STEARNS
STATE OF MINNESOTA**

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REPORT AND FINDINGS – PESTA VARIANCE REQUEST

Subject: Review request for variance from the Township ordinance to allow a parcel of one acre within a R-5 Residential District.

Applicant/Owner: Glenn and Connie Pesta
8210 427th Street, Rice

Applicants Request:

Glenn and Connie Pesta are requesting a variance that would allow a split of one acre from their 15 acre parcel, recently rezoned by Stearns County from T-20 Transitional to R-5 Residential. County rezoning of the parcel to R-5 was partly in response to a recommendation from Brockway Township in April 2024 to approve the rezoning.

According to the Township land use ordinance, the minimum lot size requirement for the R-5 district is 2.5 acres. Only in the R-1 zoning district is a one-acre lot size allowed. Since a one acre split is not consistent with the ordinance, a public hearing is required with regard to the proposed variance.

The intent with the new lot is to transfer an available building entitlement and allow a family member to build a home. The applicant's preferred location for the new home site would be to place it on a new one acre parcel on the west side of the current parcel using a driveway access to 427th Street as shown in the attached sketch. Stearns County is asking for the dedication of 66 acres of right-of-way on 427th Street. The applicant states the remainder of the property will remain a 14-acre parcel with agricultural usage.

The conditions to be considered for approval of a variance are identified in Minnesota Statute, Section 462.357 (see applicable statutes, below). In accordance with State statutes, notice of the variance to include those within 500 feet of the property was provided.

A decision from Brockway Township is needed on whether to approve or deny the variance request and the Township findings with regard to the decision.

A certificate of survey for the subdivision of the 15-acre property will be prepared consistent with the Brockway Township decision regarding the variance and presented at a future meeting for review and final recommendation to Stearns County.

Background Information:

- Location and Parcel ID Information: PID #04.01919.0001, Section 12, Twp 126, Range 29 – currently consisting of 15 deeded acres.
- Zoning land use district: Residential District R-5

- Topography: Topography maps indicate that there is rise toward the north area of the parcel.
- Watershed District: The property is not located in any Watershed District.
- Wetlands: There do not appear to be any wetlands on the property.
- Restrictions: Staff is not aware of any unusual restrictions regarding these properties outside of normal Township and County zoning regulations.
- DWSMA: There are no Drinking Water Source Management Areas (DWSMA) areas identified on the subject property.
- Soils: Per Soil Survey, most of the property is identified as some form of prime farmland.

Applicable Statutes

Minnesota Statutes

462.357 OFFICIAL CONTROLS: ZONING ORDINANCE.

Subd. 6. Appeals and adjustments.

Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the zoning ordinance. The board of appeals and adjustments has the following powers with respect to the zoning ordinance:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.

(2) To hear requests for variances from the requirements of the zoning ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties 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 section 216C.06, subdivision 14, when in harmony with the ordinance. The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

Brockway Township Land Use and Zoning Ordinance

SECTION 9 PRIMARY DISTRICT PROVISIONS

That Section 9 of Stearns County Ordinance Number 439; or successor ordinance, is hereby adopted by reference except for the following.

9.9 Residential District R-1 (R-1 District)

That Section 9.9.8 B(1) is hereby added to read as follows:

The minimum lot size requirement shall be one acre.

All Other Land Use Districts. In all other land use districts, the minimum lot size requirements will be 2.5 acres.

Stearns County Land Use and Zoning Ordinance

9.7 Residential District R-5 (R-5 District)

9.7.1 Purpose

The purpose of this district is to provide somewhat limited residential development opportunity on land that is not highly valued farmland and is located in close proximity to lakeshore and municipal expansion areas. Land within this district is generally closer to a municipal growth area than land within the R-10 district. The R-5 district is a transitional district, and in order to minimize future land use conflicts, new animal feedlots shall be prohibited and in order to maintain the area’s rural characteristics, cluster developments shall be encouraged.

9.7.7 Residential Density Requirements

A. Density standard. Except as otherwise provided in Section 9.7.8 A or B of this Ordinance, only one (1) single family residential dwelling unit shall be allowed per five (5) acres.

Updated 2020 Stearns County Comprehensive Plan:

The “Future Land Use Map” in the updated Comprehensive Plan adopted by Stearns County in 2020 identifies the west portion of this parcel as within the “Agricultural/Rural” category and the east portion as within the “Concentrated Development” category.

Agricultural/Rural is designated for “agricultural uses and farmsteads related to the operations of the agricultural use at a maximum residential density of 1 unit per 40 acres or greater.”

The Plan goes on to specify:

Rural Residential: The Comprehensive Plan recognizes not all of these areas are well suited for agricultural activities given their soil types or natural features. Therefore, the property owner should also be given the flexibility to develop their land as long as it meets certain criteria that balances residential uses with adjacent land uses. Clustering development is encouraged to preserve existing natural resources (e.g., wetlands, prairie, woodlands, habitat corridors, and viewsheds) or large areas for agricultural uses. Lot sizes may vary; however, properties are required to maintain enough buildable land to accommodate the construction of permitted structures, including primary and secondary septic systems or community systems.

Concentrated Development is a future land use designation to capture residential developments that have occurred or for concentrated development near water bodies.

Site Visit:

Zoning Administrator Sandal drove past the site and viewed the property from the roadways.

Relationship to Brockway Comprehensive Plan:

Relevant Land Use Recommendations/Action Plans (see pg. 13):

- Township continues to protect agricultural zones within the Township to preserve the farming economies in the area.

Relevant Demographic and Employment Recommendations/Action Plans (see pg. 8):

- Proper land use planning and with the use of good management tools will help to protect the environment and groundwater sensitivity of the Township.

Staff Comments:

- With this variance request, Brockway Township is being asked to consider whether the variance is consistent with the Township Land Use Ordinance, the Stearns County Comprehensive Plan, and factors pertaining to the approval of variances from the Minnesota Statutes. The reasons for the Township's approval or denial of the variance request are to be included in the findings to be recorded.

Attached Documents:

- Aerial Photo of subject property
- Pesta Application for Variance
- Sketches of proposed one acre site
- Future Land Use Map for the area