

Applicant

Ray Phelps
10666 588th Ave
Mapleton, MN 56065

Request and Location

The applicant is requesting a variance to reduce the required setback to the centerline of a Township road from 65 feet to 40 feet for the purpose of constructing an attached garage. The property is zoned Agricultural and Shoreland and is located in the SW ¼ of the SE ¼ of Section 27, Mapleton Township.

Legal Description

The property is located in the SW ¼ of the SE ¼ of Section 27 Mapleton Township.

Zoning

The property is zoned Agricultural and Shoreland.

General Site Description, Site History, and Land Use Information

The property includes the applicant's home and farmstead. The site includes numerous out buildings and is the home of the family dairy operation.

Existing Land Use within 1/4 Mile

North: Crop land
South: An unnamed ditch and crop land
East: 588th Ave, a Township road and crop land
West: An unnamed ditch and crop land

Access No change in access points is proposed.

Surface Hydrology

The site slopes slightly to the south. The property is not located in Floodplain.

Township Review - At their April meeting, the Mapleton Township Board voted unanimously to allow the passage of this variance as long as all county requirements are met.

Environmental Health Review - See Attachment A-3

Applicable Sections of the County Land Use Ordinance

Sec. 24-113. Height, yard and lot area, width and depth regulations.

(b) *Front yard regulations.* There shall be a front yard setback in the A district of 130 feet from the centerline of all federal, state, county and county-state aid highways, except for divided highways which shall be 100 feet from the highway right-of-way line. There shall be a front yard setback of not less than 65 feet from the centerline of all other public rights-of-way and private roads. Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback from each road or highway abutting the corner lot. Accessory buildings are not allowed within the required front yard.

Sec. 24-47. Board of adjustment.

(d) *Powers and appeals.*

(1) *Powers.* The board of adjustment shall have power to grant a variance to any of the provisions of this chapter to the extent of the following and no further:

a. To vary or modify the strict application of any of the regulations or provisions contained in this chapter in cases in which there are practical difficulties or unnecessary hardships in the way of such strict applications; no variance or modification of the uses permitted within a district shall be allowed, except as otherwise provided in this chapter.

(e) *Findings required.* The board of adjustment shall not grant an appeal unless they find the following facts at the hearing where the applicant shall present a statement and evidence in such form as the board of adjustment may require:

(1) That there are special circumstances or conditions affecting the land, building or use referred to in the appeal that do not apply generally to other property in the same vicinity.

(2) That the granting of the application will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.

Applicant's Statement of Hardship

The applicants have indicated that they have lived in the home for a number of years without the convenience of an attached garage. Due to the layout of the home, the proposed location is the most logical location for an attached garage.

Opinions

Staff has developed the following opinions:

1. That due to the layout of the home and access to and from the home that there are special circumstances or conditions affecting the land, building or use referred to in the appeal that do not apply generally to other property in the same vicinity.

2. That the granting of the application will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.

Recommendations

Based upon the recommendation of the Township, Staff recommends **approval** of the request to reduce the required front yard setback from 65 feet to 40 feet for the purpose of constructing an attached garage, contingent upon the following conditions:

1. That a code complying septic system is constructed on site within the 2010 construction season.

2. That the applicants obtain a construction permit prior to the commencement of construction of the garage.

3. Must maintain a three (3) foot setback from well to any building or building overhang.

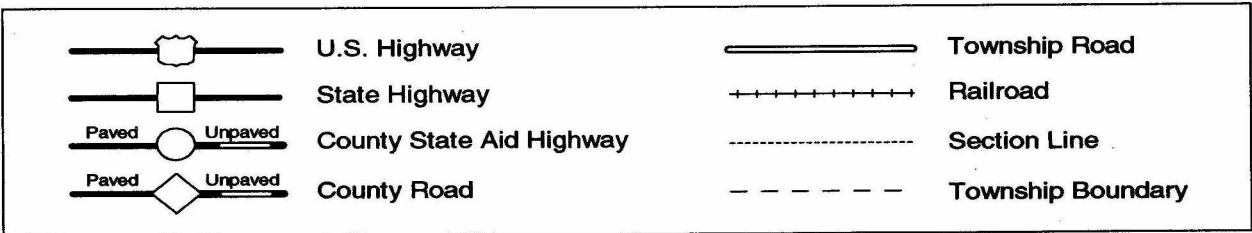
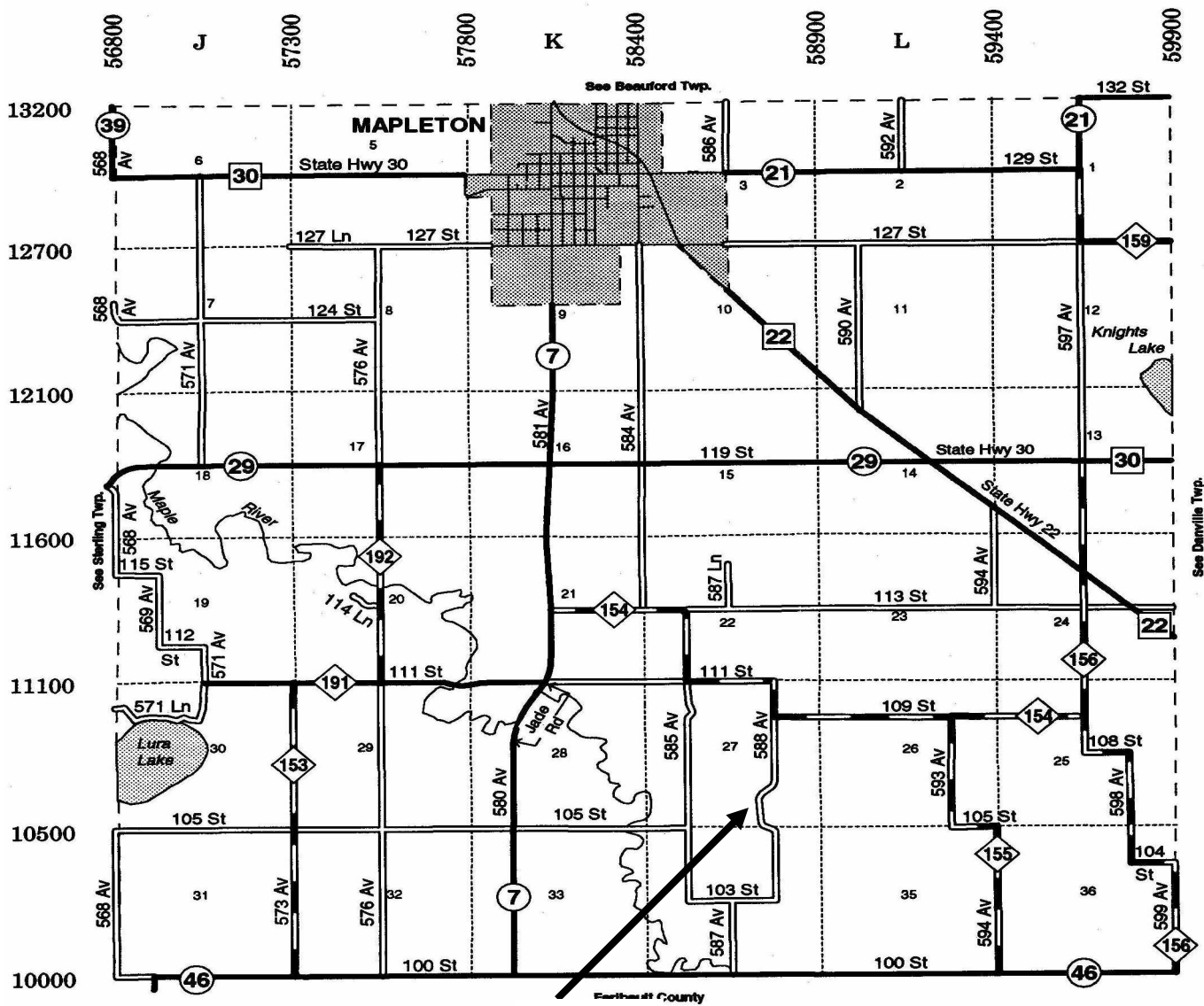
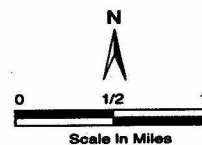
Attachments

- A-1 Site Location
- A-2 Site Map
- A-3 Environmental Health Comments
- A-4 Variance Checklist

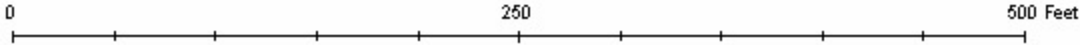
Attachment A-1
General Location Map

Mapleton

T 105 N - R 26 W



A-2 Site Map



**Blue Earth County Environmental Services Department
Land Use and Natural Resources Section
Post Office Box 3566
Mankato, Minnesota 56002-3566
Telephone: (507) 304-4381**

Environmental Health / Sanitarian Report

May 21, 2010

Environmental Health Comments/Questions

R44.24.27.400.001

Ray Phelps – Request for a variance to reduce the required setback to the centerline of a Township road from 65 feet to 40 feet for the purpose of constructing an attached garage. The property is zoned Agricultural and Shoreland and is located in the SW ¼ of the SE ¼ of Section 27, Mapleton Township.

General:

Septic System: This property is currently serviced by a septic system. The system was installed by Boenings on 1994. A compliance inspection is required with this variance request prior to the issuance of any permits. A system will be required to be installed if found to be non compliant.

Water Wells: There is one well servicing the property. There have been 2 wells sealed on this property. The well setback of three (3) feet away from any building or building overhang will need to be maintained on the new structure.

Wetlands: Upon review there appears to be wetlands on the property. They are primarily located along the drainage way on the property. This proposed construction is not located in any apparent wetlands.

Environmental Health Recommendation: Approval

Conditions for approval:

- 1. A compliance inspection is required with this variance request prior to the issuance of any permits.**
 - 2. Must maintain three (3) foot setback from well to any building or building overhang.**
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Blue Earth County Board of Adjustment

FINDINGS OF FACT SUPPORTING AN AREA VARIANCE

An area of variance may be granted only where the strict enforcement of county zoning controls will result in “practical difficulty”. A determination that a “practical difficult” exists is based upon the consideration of the following criteria as defined by the Minnesota Supreme Court in In re the Matter of the Decision of County of Otter Tail Board of Adjustment to Deny a Variance to Cyril Stadvold and Cynara Stadvold.

1. Is the Request a substantial variation from the intent of the zoning ordinance?
Why or why not?

2. Will the request have an adverse effect on government services? Why or why not?

3. Will the requested variance effect a substantial change in the character of the neighborhood or will it result in a substantial detriment to neighboring properties?
Why or why not?

4. Is there a feasible method to alleviate the practical difficulty without need of a variance? (Economic considerations play a role in the analysis under this factor)
Why or why not?

5. How did the practical difficulty occur? Did the landowner create the need for the variance? Explain.

6. In light of all of the above factors, would denying a variance serve the interests of justice? Why or why not?

IF ALL OF THE ANSWERS ARE “NO”, THE CRITERIA FOR GRANTING THE VARIANCE HAVE BEEN MET.