

Applicants

Harold and Susan Abbas
210 West Main Street
New Ulm, MN 56073

Request and Location

The applicants are requesting a variance to reduce the required side yard setback from 50 feet to 10 feet for the purpose of constructing a single family dwelling. The property is zoned Agricultural and is located in the NE ¼ of the NW ¼ of Section 20, Cambria Township.

Legal Description

The North 7 acres of the Northeast Quarter of the Northwest Quarter of Section 20, Township 109, Range 29.

Zoning

The property is zoned Agricultural.

General Site Description, Site History, and Land Use Information

The property is currently a vacant lot. Previously the site was occupied by a manufactured home which has since been removed. The building area that meets all setback requirements rests at the bottom of a steep wooded slope. The angle of the slope prevents the sun from hitting the driveway access to this area. As a result, the driveway remains ice-covered for the majority of the winter. The applicants have indicated that this area does provide the best view of the river valley. However, due to the driveway conditions of the winter and spring, they are asking for approval to build on a lower elevation, away from the slope, and closer to the property line.

Existing Land Use within 1/4 Mile

North: Crop land, Apple Road (Twp Road), and the Little Cottonwood River valley
Northeast: Crop land and two residences
South: Steep wooded hillside and a wooded ravine system
East: Wooded ravine system
West: Wooded ravine system and three residences

Access No change in access points is proposed.

Surface Hydrology

The site slopes to the north and northwest. The property is not located in Floodplain.

Township Review - At their May 11, 2010 meeting, the Cambria Township Board voted unanimously to allow the passage of this variance.

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.

(c) *Side yard regulations.* There shall be a side yard having a width of not less than 50 feet on each side of a building in the A district.

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 the access to the building area with the best view will be very difficult to use during the winter months due to the inability of the sun to melt the ice pack. The lower area will also provide better protection from northwest winds during the winter months.

Opinions

Staff has developed the following opinions:

1. That due to the layout of the lot and access routes to the possible building locations 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

Staff recommends **approval** of the request to reduce the required side yard setback from 50 feet to 10 feet for the purpose of constructing a single family dwelling, contingent upon the following conditions:

1. That the applicants obtain a construction permit prior to the commencement of construction.
2. A new system design must be submitted and approved prior to issuance of any building permits.
3. Must maintain a three (3) foot setback from the well to any building or building overhang.

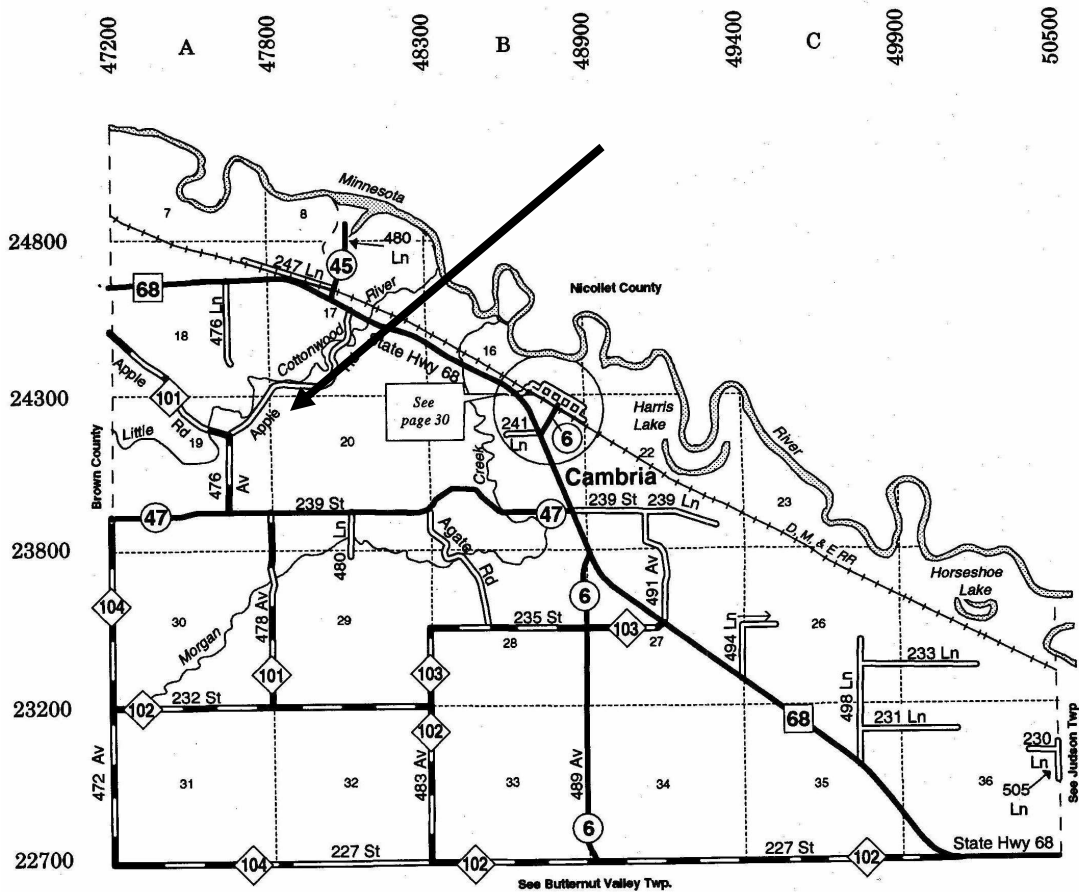
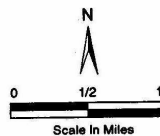
Attachments

- A-1 Site Location
- A-2 Site Map
- A-3 Environmental Health Comments
- A-4 Applicants Statement of Hardship
- A-5 Variance Checklist

Attachment A-1 General Location Map

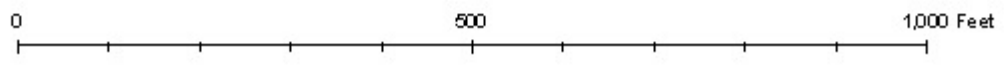
Cambria

T 109 N - R 29 W



	U.S. Highway		Township Road
	State Highway		Railroad
	County State Aid Highway		Section Line
	County Road		Township Boundary

A-2 General 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

R32.01.20.100.001

Harold Abbas – Request for a variance to reduce the required side yard setback from 50 feet to 10 feet for the purpose of constructing a single family dwelling. The property is zoned Agricultural and is located in the NE ¼ of the NW ¼ of Section 20, Cambria Township.

General: The change in setback does not appear to have any affect on the septic system, well, wetlands or any other environmental health items.

Septic System: This property was serviced by a septic system for the previous house. This system was excavated with the old house and transported to a demolition landfill near New Ulm according to the property owner. Jadd Seppmann and Sons has contacted our department for the design of the new system and the soil verification has been completed. This new system must be installed before any occupancy of the new house.

Water Wells: There is one well currently servicing the property. It is located between the house and the septic system location. The septic system is designed to meet the required well setbacks. The new sewer pipe will be required to be pressure tested. 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 no wetlands on the property in the area of the new house.

Environmental Health Recommendation: Approval

Conditions for approval:

- 1. A new system design must be submitted and approved prior to issuance of any building permits.**
 - 2. Must maintain three (3) foot setback from well to any building or building overhang.**
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A - 4

**Request for Variance for a new building site for
Harold and Susan Abbas.**

We are hoping that our request for variance can be granted so that we can enjoy our property with out having to fight the driveway.

Due to the incline of the Driveway, and the angle of the Sun in the winter, the ice and snow does not melt on the hill part of the driveway. It was always our dream to live up on the hill, but it was very difficult and became impossible after trying to keep the driveway clear in the winter Of 2009-2010.

The requested site is more sheltered and it will be easier to heat the house. The driveway will also be shorter and have less of an incline.

We are not getting any younger and if something would happen to Harold it would be difficult for Susan to stay up on the Hill.

Respectfully submitted,

A handwritten signature in cursive script that reads "Harold and Susan Abbas". The signature is written in dark ink and is positioned below the typed name.

Harold and Susan Abbas

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.