



CITY OF TONTITOWN PLANNING OFFICE

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Meeting: **January 24, 2023**
Project: **Sloan Crest Variance**
Planner: Mark Latham

AGENDA ITEM

PH 1/BOA 1 VARIANCE REQUEST

Parcel #: 830-37774-000

SUMMARY: The applicant is requesting a variance to allow the lot depth requirement to be varied for 3 lots on southside of the property.

CURRENT ZONING: R3-Residential, 3 units/acre

PROPOSED USE: Single-family residential

CITY WARD: 3-Mike Washkowiak and Tim Burress

INFRASTRUCTURE SERVICE AREAS (not a guarantee of service availability):

Water: Tontitown Water
Sewer: Individual Septic Systems
Road Access: Barrington Road
Electric: Ozarks Electric
Cable: Cox Communications
Phone: ATT
Natural Gas: Black Hills Energy
School District: Springdale

PROJECT SYNOPSIS:

The original Sloan Crest Variance for a reduction in the lot depth of 15 lots was denied by the Planning Commission but the subdivision and street waiver were approved by the Commission at the October 17, 2022 meeting. The applicant has revised their request and is now only requesting a variance for three (3) lots to have a reduced depth requirement (Lot numbers 23, 24, and 25).

Property zoned R3 is required by code to have the minimum lot dimensions of 80 feet in width, and 120 feet in depth. The three (3) lots with the requested variance are approximately 100 feet in width and 100 feet in depth.

Due to this redesign, the applicant will have a reduction of buildable lots from 30 to 28. This property is owned by McDonald Building Group, LLC.

Variance Request: Variance from Appendix B of the Zoning Code to allow lot depths less than the minimum required in the R3 Zoning District.

153.262 POWERS AND DUTIES. (as relating to variance requests)

(B) To authorize upon appeal, in specific cases, such variance from the terms of this zoning chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary hardship that would deprive the owner of any reasonable use of the land or building involved. A variance from the terms of these zoning regulations, shall not be granted by the Board of Zoning Adjustment unless and until:

(1) The applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district; that literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations; that special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by the zoning regulations to other lands, structures, or buildings in the same district.

STAFF ANALYSIS: Due to the size/shape of this parcel and the proposed width of the street right-of-way, the lots on south side (23, 24, and 25) are approximately 20 feet short of the requirement but meet minimum lot size.

STAFF RESPONSE: The applicant has ensured that the lots will meet minimum lot size required in R3 zoning. A small portion of this site could not be developed within the rules of the R3 zoning district if the minimum depth of the lots is not waived. The applicant purchased an existing parcel of land. The shape and layout of the land is not the result of the applicant's actions.

(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

STAFF RESPONSE: There are no conforming uses in the surrounding area.

(3) The Board of Zoning Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure.

STAFF RESPONSE: The lots are in conformance with the required lot size for this zoning district.

(4) The Board of Zoning Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these zoning regulations, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

STAFF RESPONSE: Granting this waiver will not prevent the orderly subdivision or development of land in the area.

(5) In granting any variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations.

STAFF RESPONSE: No additional conditions are recommended at this time.

(6) Under no circumstances shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of these zoning regulations in the district involved, or any use expressly, or by implication, prohibited by the terms of these regulations in said district.

STAFF RESPONSE: Granting this request will not allow a use that is not permissible by code and the impact of this variance request will be minimal to the surrounding area, existing utilities, and streets and fire.

NEIGHBOR COMMENTS: All neighboring properties within 200 feet of the property boundary were notified by certified mail of this project.

STAFF RECOMMENDATION: Staff finds the requested variance is to correct a unique hardship not caused by actions of the applicant. Therefore, staff recommends approval of the Sloan Crest Variance Request to allow 3 lots to be created with less lot depth requirement than current zoning requires.