



**TOWN OF BROCKWAY
COUNTY OF STEARNS
STATE OF MINNESOTA**
WWW.BROCKWAYTOWNSHIP.GOV/OFFICE.COM

**MINUTES OF THE BROCKWAY TOWNSHIP
PLANNING COMMISSION MEETING
April 15, 2024**

1. Call to Order: On the 15th day of April 2024 the Regular Planning Commission monthly meeting was called to order at 7:00 p.m. by Supervisor Fiedler.
2. Roll Call Taken: Commissioners present: Terry Pogatchnik, George Fiedler, Duane Douvier. Also present was Fred Sandal from Hometown Planning.
3. Additions or Deletions to the Agenda: There were no additions or deletions.
4. Approval of Planning Commission Meetings: Minutes were approved from March 18, 2024 on a motion by Supervisor Pogatchnik, seconded by Supervisor Douvier.

5. New Business:

- a. Supervisors reviewed a request for proposed rezoning of a 15 acre parcel owned by Glenn and Connie Pesta from T-20 Transition District to R-5 Residential District. With the rezoning, the property could be subdivided in the future for the use of available building entitlements. Zoning administrator Sandal said that Stearns County is seeking a recommendation from Brockway Township with regard to the rezoning request, to either approve or deny, and to give reasons in support the recommendation. Information was shared about the possible subdivision options being considered. Following discussion among the supervisors of the merits of the rezoning and how this would be consistent with the Stearns County Comprehensive Plan, action was taken.

Motion by Supervisor Pogatchnik, seconded by Supervisor Fiedler to recommend approval of the requested rezoning of PID 04.01919.0001 from T-20 to R-5, all in favor; motion carried.

- b. Supervisors reviewed a request for a proposed lot line adjustment involving two adjacent parcels that would split 0.17 acres from the larger parcel and attach it to the current 2.75 acre property owned by Eugene Warzecha and proposed for sale to Samuel Butler. Butler, the applicant, explained how the property line adjustment benefits both properties by removing an encroachment of a shed on the north property and providing structural setbacks consistent with the zoning ordinance.

Motion by Supervisor Pogatchnik, seconded by Supervisor Douvier to recommend approval of the requested administrative subdivision, all in favor; motion carried.

6. Old Business:

None

7. Adjournment:

A motion to adjourn the planning commission meeting was made at 7:13 pm, motion carried.

Submitted by:

Fred Sandal, Zoning Administrator
Brockway Township

George Fiedler, Chairman
Brockway Township



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George Fiedler, Chairman
Duane Douvier, Vice Chair, Supervisor
Terry Pogatchnik, Supervisor

Margaret Stang, Town Clerk
Susie Goodew, Appointed Treasurer
Fred Sandal, Zoning Administrator

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

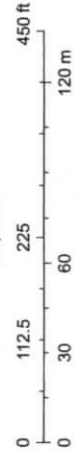
Pesta - Current Parcel



April 9, 2024

Parcels

1:1,634



Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, EPA

The information in the map is not suitable for legal, engineering, or surveying purposes.

**BROCKWAY TOWNSHIP
VARIANCE APPLICATION**

Name of Applicant Glenn E. + Connie A. Pesta Phone 320-333-3860

Property Address (E911#) 8120 427th St Rice MN 56367

Mailing Address _____ Email pestaconnie@gmail.com
(if different than above)

City, State, Zip Rice MN 56367

Applicant is: _____ Title Holder of Property *(if other than applicant)*
Legal Owner _____
Contract Buyer _____ (Name)
Option Holder _____
Agent _____ (Address)
Other _____
(City, State, Zip)

Property ID # (9 digit # on Tax Statement) 04.01919.0001

Full legal description of property involved in this request, including total acreage (required – attach separate sheet if necessary):
15 Acres 5660' of N1985.88' of E987'
of NW4 Tract SENW Section 12 Township 126 Range 029

Zoning District R5, Lake Name (if applicable) _____

*** By signing, the applicant or agent hereby makes application for a permit to construct as herein specified, agreeing to do all such work in strict accordance with all Alexandria Township and other applicable ordinances or federal and state laws. Applicant or agent agrees that site plan, sketches, and other attachments submitted herewith and which are approved by the Alexandria Township Zoning Administrator are true and accurate, and shall become part of the permit. Applicant or agent agrees that, in making said application for a permit, applicant grants permission to Alexandria Township's designated zoning or building inspection officials, at reasonable times during the application process and thereafter, to enter applicant's premises covered by said permit, to determine the feasibility of granting said permit or for compliance of that permit with any applicable township, state, or federal ordinances or statutes. Applicant or agent understands that it is applicant's sole responsibility to contact any other federal, state, county or local agencies to make sure applicant has complied with all relevant Municipal, State, Federal or other applicable laws concerning applicant's project described above**

| | |
|---|----------------------|
| Signature of Applicant*: <u>Connie A. Pesta</u> | Date: <u>6/24/24</u> |
| Signature of Title Holder*: <u>Connie A. Pesta</u> | Date: <u>6/24/24</u> |

What are you proposing for the property? State nature of request in detail(attach separate sheet if necessary):

We are requesting a Variance from the 2 1/2 acre minimum lot size to a 1 acre (one acre) lot. We would like to gift one acre to our son so that he can build a new home.

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

Building: For our son to build a home

Landscaping: _____

Parking/Signs: _____

Please complete all of the following questions to the best of your ability:

1. Describe why you believe the granting of the variance request would be in harmony with the general purposes and intent of the Brockway Township Land Use Ordinance (available at <https://brockwaytownship.govoffice.com/>).

I believe that splitting a one acre lot and leaving the remaining 14 acres in tact still takes in consideration the Townships Land Use Ordinance by staying rural and keeping the land's character in tact.

2. Describe why you believe the granting of the variance would be consistent with the Stearns County Comprehensive Plan.

I feel that the County's Comprehensive Plan encourages housing choices while also staying rural in character.

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

I feel that a ~~one~~ one acre lot would be appropriate for the home to be built on, rather than having two ~~separate~~ separate lots. (The home 1 acre lot and a 1 1/2 acre outlot)

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.

Stearns County is requiring a 66' driveway dedication and possibly a cul-de-sac or turn around dedication. To meet the 2 1/2 acre minimum, there would then need to be two lots. A one acre lot that would be built on one side of the driveway dedication and an outlot on the other side of the 1 1/2 acres in size.

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.

Our driveway currently has four ~~homes~~ homes on it. Three of the residents have their homes on the north side of the driveway. The placement of the new one acre lot/home would be built on the same side of the driveway and would be in line with the character of the neighborhood.

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?

As explained in question number four, to meet the 2 1/2 acre minimum we would either need to have 2 lots or one large lot of 2 1/2 acre, which would not be possible since we would need ~~to~~ to have a driveway dedication the length of the lot.

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?

We do not see any negative impacts of having a one acre lot size ~~instead of~~ instead of the two separate lots. The one acre lot will be large enough for the size home that will be built.

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

We would like to keep the remaining 14 acres in tact to maintain the rural character of our existing home.

We appreciate the Township's consideration on our request.

Thank you!

0.28 Acres
Right of Way

66

184

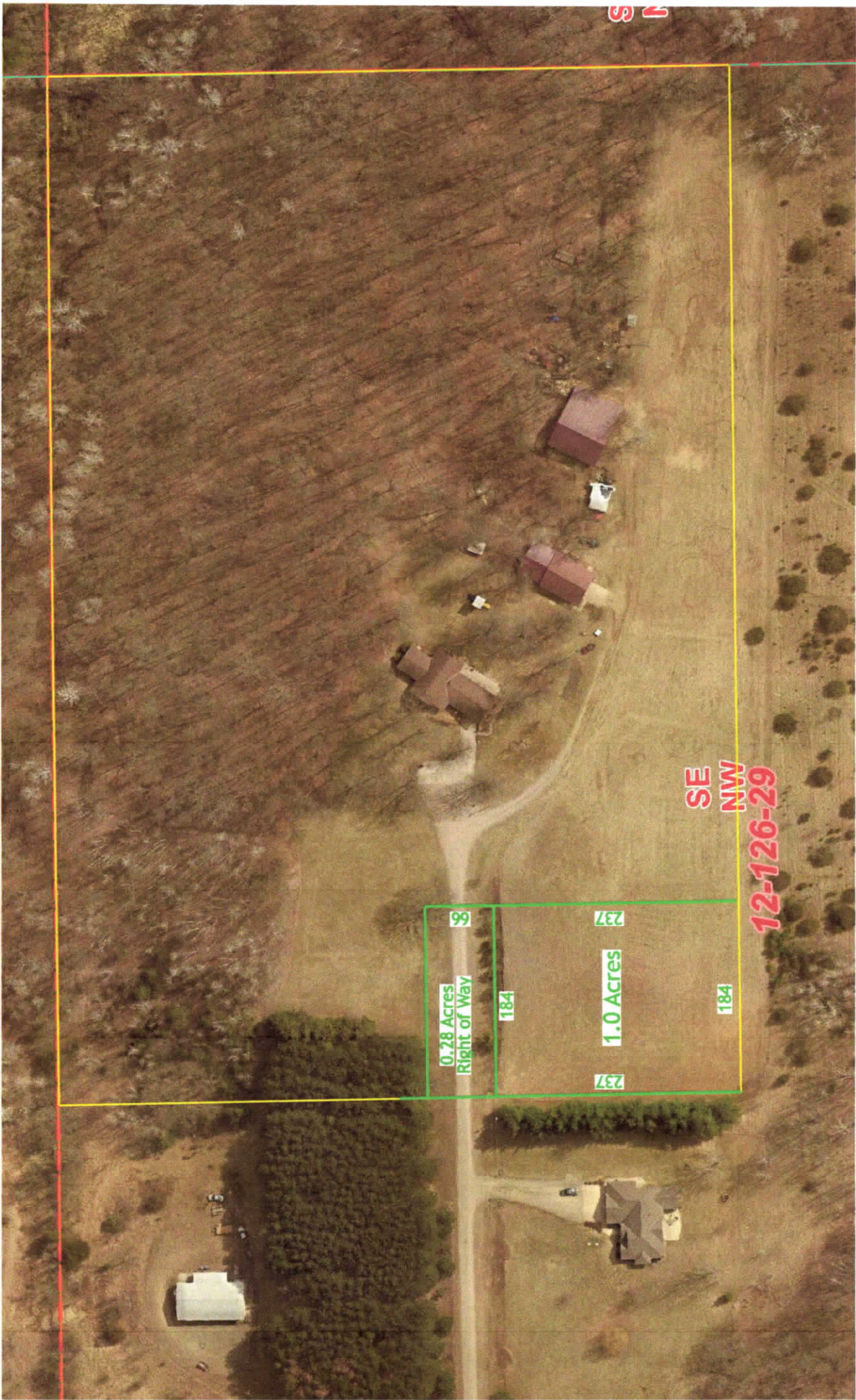
1.0 Acres

237

237

184

12-126-



SE NW

SE NW

12-126-29

0.28 Acres
Right of Way

96

184

237

1.0 Acres

237

184

County Future Land Use



April 10, 2024

- Parcels
- Future Land Use
- Natural Resources Overlay
- Transition Areas
- Concentrated Development
- Agriculture/Rural Areas

1:2,080

0 140 280 560 ft
0 80 160 m

Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, EPA