

City of Columbus
Public Hearing – Schwartz Variance Application (PC-16-107)
(Mike and Lisa Schwartz – applicants and owners)
March 2, 2016

The March 2, 2016 Public Hearing to receive testimony regarding the request for a variance to Section 7A-800.C.6 of the City Code to allow access for three lots not meeting the frontage requirements was called to order at 7:21 p.m. by Chair Garth Sternberg at the City Hall. Present were Commission members Jim Watson, Pam Wolowski, Jesse Preiner, and Jody Krebs; City Administrator Elizabeth Mursko, Planner Dean Johnson, and Recording Secretary Karen Boland.

Also in attendance were City Council members Denny Peterson and Bill Krebs; Jim Faulkner, Aaron Lindeman, Alyssa Reimers of SMJ International, Mike Schwartz, Kevin Dunaway, Curt Nelson, Steve Matthews, Kristina Matthews, Pat Preiner and Mary Preiner.

Sternberg: Now we have a Public Hearing and discussion on Schwartz variance request, pages 25-34. And, I'll ask Karen to read the notice as published.

Notice was read at this time by the recording secretary.

Sternberg: Thank you. And, at this time, if I could please get the applicants to come forward and state their name and address for the record.

Schwartz: Mike Schwartz, 7135 Camp Three Road, Columbus, Minnesota.

Sternberg: Thank you, sir. And if you can just give us a little background on what it is you're asking.

Schwartz: Well, we're just asking for a variance, so we don't have to have a driveway, the shared driveway that our lot is on now, improved. We bought the, originally bought the lot, we were told--there's two lots adjoining: one that goes on 189th, that joins 189th, and then ours is behind it. The one on 189th was supposed to have the driveway that goes out to 189th, and not intersect into the shared driveway. And I guess we also assumed that Jim Carey, who owns the property behind us, his house was going to use that, stop using that and go out to the road that's right adjacent to his house. So, when they, the people who bought the lot in front of ours, built their house, they came, they built it so that they go into the shared driveway, which kind of made us default or we have to, or the road has to be improved now, so, that's . . . we're just asking for a variance for that.

Sternberg: So you're the third home back there?

Schwartz: We would be the third home, yes.

Sternberg: So that would be the point where they're required to pave the road, improve the road.

Mursko: So, I'll give you a little bit of background. This property was a result of a minor subdivision done in the early 2000s, and, um, (referring to overhead) this is 189th, and this was the minor subdivision that was completed. This minor subdivision was done by leaps and bounds, and so it's not platted. And when, at that time—and I will tell you, this is the last minor subdivision we did, because it was very complicated. There was a land swap and there are some other things that went on in order to complete this minor subdivision. And the agreement was, um, at the time, we had a policy that said, 'We will only allow two houses off an unimproved roadway.' And so, in this particular case, um, the Careys, who now own this, constructed a driveway to their home, and, and then as, they used this as a driveway since that time. The roadway here—I'll just give you a little background here—this roadway here, while it's a public roadway and it serves two homes, there's an easement here for about 590 feet that's a private, a private easement. It's not a public roadway and it hasn't been dedicated as a public roadway. However, these two property owners do have permission to travel over that private easement in order to access their home. So, right now it's not a public right-of-way, and until someone got permission they would not be able to travel over that private easement without permission on their deed or from the person who owns that property. So, it was our understanding that when the property sold—and not that we're avoiding public roads; we like public improved roads, but it is a lot more maintenance, you know, in order to do that. So, in this particular case, it was our understanding that the person who bought this property would take their access off of 189th and then there would be still only two properties off the unimproved roadway. And that's basically how the assessments were set up too, when 189th was improved. However, when this person, um, came in and wanted to build, we told them that they needed to take their driveway off of 189th, and they challenged the City and said, 'No, we want to take our driveway off of this private drive.' And they wanted us to produce paperwork as to why they couldn't, and at the end of the day, um, we did not put a restrictive covenant on that property, and, in hindsight, that would have been the way I would've gone, because then it would have alleviated this process, and it would've created the intent that was—at least when we subdivided that property. So, we're in this situation today where we do have three properties looking to use this private drive as their access to their home. Mr. Schwartz is here today asking for a variance, because we did adopt an ordinance earlier this year that indicated that we will still only allow two houses off an unimproved roadway, and that's what he's asking for the variance from to allow three.

Krebs: Okay.

Sternberg: Any questions? No questions. At this time, if you want to take a seat, I'm going to open the hearing to the public. Thank you. Anyone here from the public that wants to speak on the matter? Anyone from the public?

Lindeman: Would this have an impact on the lot size requirements for that mini-subdivision?

Sternberg: If you could just come forward and state your name and address for the record?

Lindeman: Uh, Aaron Lindeman, 9204 189th Avenue.

Sternberg: Thank you. And then, uh, repeat your question.

Lindeman: So, would this have any impact on the lot size requirements for this, I guess, supposedly mini-subdivision?

Mursko: So, I'm not following your question. Are you . . . ?

Lindeman: Well, they're five-acre lots. I'm just saying, this wouldn't allow future, smaller lot sizes?

Mursko: No. When this was subdivided, these were two fives. I, I don't remember what, I don't remember what this actually comes out to. I want to say it's very close to a forty.

Lindeman: Yup.

Mursko: Um, as the remnant. But, to date, our requirement is still five acres. You can, uh, the newest ordinance allows you to have—let's say you're dividing land and it's ten acres—you can have a 2 ½-acre lot and a 7 ½-acre lot. But that's the only latitude that the Council has passed a new ordinance for. So it has to average out to five acres, but you can have a smaller and bigger lot. But the five-acre minimum is still the standard today. And, they're, no one is asking to subdivide land. Um, the ask is for not to have all the landowners on that road to improve the road. We looked at the cost and it's about \$150,000 to improve that road.

Lindeman: Okay. That was my question, just based on lot sizes.

Sternberg: Okay. Thank you. Anyone else from the public that wants to speak?

Matthews: Steve Matthews, 9246 189th Avenue. I think I'm the lot that may have caused this to be the issue. Uh, I just want a clarification. This variance he's asking for is so this road, the driveway is to not be paved. Is that correct?

Mursko: No, the variance is, the variance is from the requirement that we only allow two houses off an unimproved roadway. The variance is from that, saying, 'Will we allow three off the unimproved roadway?' It does not say that we will never improve that roadway if someone subdivides or there's another lot developed on that road.

Matthews: But based off what the previous gentleman just asked, five lot, five-acre minimum, well I guess it would—Careys sold theirs then that could . . .

Mursko: I was going to say, um . . .

Matthews: . . . potentially, potentially there could be . . .

Mursko: Yeah, there's potential of subdivision on the end of this road. I mean this property can be subdivided. I, I don't remember the mix of wetland to upland, but I'm sure there is an opportunity there if it were to be exercised.

Matthews: Okay. All right.

Sternberg: Thank you. Anyone else from the public? Okay, at this time I'm going to close the hearing with the right to reopen if it becomes necessary.

Hearing closed at 7:29 p.m.

Respectfully Submitted:

Karen Boland, Recording Secretary