

RESOLUTION NO: 24-58

**TOWN OF BALDWIN
COUNTY OF SHERBURNE, MINNESOTA**

**APPROVAL OF A VARIANCE
FOR PID 01-00031-1320**

WHEREAS, Steinbrecher Companies has submitted an application for variance to allow to allow installation of a Subsurface Sewage Treatment System (SSTS) for PID 01-00416-0080 that encroaches upon public right-of-way.

WHEREAS, the property is legally described as:

Lot 8 and that part of Lot 9, lying Northeasterly of a line drawn parallel with and 22 feet Northeasterly from the Southwesterly line of Lot 9, as measured at right angles thereto, Smith's Shore View Addition, according to the plat thereof on file and of record in the office of the County Recorder, Sherburne County, Minnesota.

WHEREAS, the property is guided for rural land uses by the Comprehensive Plan; and

WHEREAS, the property is zoned R1, General Rural District and is also located within the Shoreland Overlay District of Elk Lake; and

WHEREAS, the applicant is requesting a variance to allow installation of a new Subsurface Sewage Treatment System that encroaches into public right-of-way for Elk Lake Road; and

WHEREAS, the City Council must take into consideration the possible effects of the request with their judgment based upon (but not limited to) the criteria outlined in Section XX-6-3 of the Zoning Ordinance:

A. That the variance would be consistent with the comprehensive plan.

Finding: Continuation of the existing residential use upon the legal non-conforming lot is consistent with the Comprehensive plan.

B. That the variance would be in harmony with the general purposes and intent of this ordinance.

Finding: The proposed Subsurface Sewage Treatment System is to be located within the public right-of-way to provide for compliance with other applicable requirements.

C. That the plight of the landowner is due to circumstances unique to the property not created by the landowner.

Finding: The property was is legal non-conforming lot of record prior within insufficient area to allow for location of a Subsurface Sewage Treatment System entirely within the subject property.

D. That the purpose of the variance is not exclusively economic considerations.

Finding: The need for variance is due to the legal non-conforming area, width, and depth of the property that does not allow for location of a Subsurface Sewage Treatment System entirely within the subject property and not economic consideration.

- E. That the granting of the variance will not alter the essential character of the neighborhood in which the parcel of land is located.

Finding: The properties surrounding the subject site are similar in dimension to the subject site and developed with single family dwellings utilizing Subsurface Sewage Treatment Systems for sewage disposal. Approval of the variance will not alter the character of the area in which the subject site is located.

- F. That the requested variance is the minimum action required to remedy the practical difficulty.

Finding: The proposed location of the Subsurface Sewage Treatment System within the public right-of-way is minimized to the extent possible while complying with other applicable design requirements.

- G. The potential for the variance to impact natural resources such as surface water, groundwater, or wetlands; sites identified for rare biological species habitat; ecologically sensitive areas; or historically significant areas.

Finding: The proposed location of the Subsurface Sewage Treatment System will not cause impacts to natural resources.

- H. No variance shall be granted that would allow for a lesser degree of flood protection than required by this ordinance.

Finding: Approval of the variance will not allow for a lesser degree of flood protection.

- I. Variances shall not be approved for any use that is not allowed under this ordinance for property in the zoning district in which the parcel or lot is located.

Finding: The existing single family dwelling is an allowed use within the zoning district established for the subject site by the Zoning Ordinance.

WHEREAS, the Planning Commission considered the request at their meeting on 24 November 2024; based upon review of the application and evidence received, the Planning Commission voted to recommend that the City Council approve the request based on the aforementioned findings.

WHEREAS, the City Council considered the application at a public hearing held at their meeting on 16 December 2024 to consider the application, preceded by published and mailed notice; based upon review of the application and evidence received, the public hearing was closed.

WHEREAS, The planning report dated 11 December 2024 prepared by the City Planner, The Planning Company LLC, is incorporated herein.

NOW THEREFORE BE IT RESOLVED by the Baldwin City Council that based on the foregoing information and applicable ordinances, the variance application is **approved**, subject to the following conditions:

1. The property owner shall execute an encroachment agreement drafted by the City Attorney to

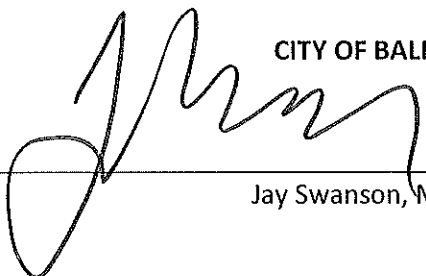
allow location of the SSTS drain field within public right-of-way, subject to approval of the City Council.

2. Installation of the SSTS shall be installed in accordance with Chapter 4 of the Building Ordinance subject to review and approval of the Building Official except as modified by the variance.

(Remainder of this page intentionally blank signatures to follow)

ADOPTED by the Baldwin City Council this 16th day of December, 2024.

MOTION BY: *Rvsh*
SECOND BY: *walker*
ALL IN FAVOR: *All*
THOSE OPPOSED: *None*


CITY OF BALDWIN
Jay Swanson, Mayor

ATTEST:


Joan Hienen, City Clerk/Treasurer