

**June 8, 2020**

**TO:** Chairperson Cauley, Planning Commission Members, & Administrator Meyer  
**FROM:** Cynthia Smith Strack, Community Development Director  
**SUBJECT:** Variance: Interior Side Setback – R-1 Low Density Single Family Residential District

**BACKGROUND**

The Planning Commission is to hold a public hearing and consider variances to setbacks required under Section 1105.05, Subd. 5(3) of the City Code.

Rick and Tanya Adamietz are the fee owners of residential property at 1017 Chestnut Court. The property is a corner lot at Chestnut Street South and Chestnut Court. If approved the variance would allow the establishment of a freestanding deck adjacent to an above ground swimming pool in the northeast corner of the property. Code requires a ten-foot setback; the Applicant’s propose a five-foot setback. The proposed deck would remain external to a five-foot drainage and utility easement.



Surrounding locale is single family residential. The variance application and site plan are attached hereto.

The Applicant represents:

- Variance is requested as a means of accommodating a freestanding deck adjacent to an above ground pool.
- The position of the structure and required setbacks for the corner lot provide limited options for placement of a swimming pool.
- The lot is unique in the small side yard size and angled property lines.
- The proposed pool will meet setback requirements included in Section 1107.05(3) of the code pertaining to placement of swimming pools at least ten feet from a side or rear lot line and at least six feet from the principal structure.

**REVIEW**

- Public notice of the requested variance has been published, posted, and mailed. As of the drafting of this memo no public comment for or against the request has been received.
- Required interior side yard setback in the R-1 District is ten feet, a five-foot setback is proposed.
- The proposed use is consistent with planned land use under Destination 2040 and existing zoning.
- Section 1103.05 of the Code establishes general and review criteria to be address during variance review as follows:

1. Variance must be in harmony with the general purposes and intent of the Code.
2. Variance must be consistent with the Comprehensive Plan.
3. Practical difficulties must exist, meaning:
  - a. The property is to be used in a reasonable manner which is not permitted by the Code;
  - b. The plight of the property owner is due to circumstances unique to the property and not created by the landowner; and,
  - c. The variance, if granted, will not alter the essential character of the locality.

#### Potential Findings

1. In favor of the request:
  - The proposed use of the property is consistent with both planned use and existing zoning.
  - The subject parcel is a corner lot on a cul-de-sac with a dwelling shifted toward the interior side yard.
  - Dwelling placement and lot shape limit options for placement of a proposed pool and access deck for the pool.
  - Decks and pools are typical residential attributes for single family dwellings which increase livability of dwelling.
  - The proposed variance is to a performance standard and not a property use.
2. In opposition to the request:
  - The property owner could eliminate a gravel parking pad and shift the proposed pool and deck to accommodate required setbacks. As such other options exist to conform with zoning requirements.
  - Other residential corner lots exist with similar dwelling placement, as such the conditions do not constitute circumstances that are unique to the property.

#### Review Comments

If the Planning Commission considers a favorable recommendation the following conditions are suggested:

1. The "Use" is limited to a detached deck at 1017 Chestnut Court.
2. The deck is placed as illustrated in the accompanying site plan.
3. A building permit is issued.
4. This approval shall expire one year after date of approval unless the Applicant has commenced construction of the deck.
5. This permit is subject to all applicable codes, regulations and ordinances, and violation thereof shall be grounds for revocation.

#### **ACTION**

The Planning Commission is to hold a public hearing and make a recommendation to the City Council pertaining to the variance requests.

#### **ATTACHMENTS**

- Application, survey and site plan.
- Resolution 20-006(A) recommending approval of interior side setback variance.
- Resolution 20-006(B) recommending denial of interior side setback variance.

Annex	CUP	Home Occ.	Interim Use	Move Building	Non - Conform	Plan Consid.	PUD	Variance
Driveway		Land Excavation	Land Fill		Rental	ROW		Sign



**City of Belle Plaine**  
 218 N. Meridian Street  
 P.O. Box 129  
 Belle Plaine, MN 56011

**Community Development Department**  
 Phone: 952-873-5553  
 Fax: 952-873-5509  
 www.belleplainemn.com

Fee: \$300.00 Single-family Dwellings / \$500.00 all other applicants

## VARIANCE REQUEST APPLICATION

<b>PROPERTY</b>	Address: <u>1017 S. Chestnut Ct</u>	Belle Plaine, MN	P.I.N:
Lot(s): <u>5</u>	Block(s): <u>1</u>	Subdivision: <u>Wildflower Ridge #3</u>	
Zoning: <u>R1</u>			

<b>APPLICANT</b>	<input checked="" type="checkbox"/> Owner	Name: <u>Rick + Tanya Adamietz</u>	Phone: <u>N/A</u>
Address: <u>1017 S. Chestnut Ct, Belle Plaine MN 56001</u>		Cell: <u>507-380-4075</u>	
E-mail: <u>adamietzr@frontiernet.net</u>		Fax: <u>N/A</u>	
<b>OWNER</b>		Name: <u>Rick + Tanya Adamietz</u>	Phone: <u>N/A</u>
Address: <u>1017 S. Chestnut Ct Belle Plaine MN 56011</u>		Cell: <u>507-380-4075</u>	
E-mail: <u>adamietzr@frontiernet.net</u>		Fax: <u>N/A</u>	

Variance is requested to: Build deck within upto 5 ft easement

<b>Ordinance in which variance is requested:</b>	Section Number: <u>1103.05</u>	Subdivision Number: <u>2</u>
Description: <u>Due to unique circumstances of the lot lines, limits the size of deck in this area.</u>		

In your opinion, is the variance consistent with the purpose and intent of the ordinance?  Yes  No  
 Explain: yes, it will be to continue residential use

In your opinion, is the variance consistent with the comprehensive plan?  Yes  No  
 Explain: yes still maintaining the side yard easement

In your opinion, does the proposal put property to use in a reasonable manner?  Yes  No  
 Explain: Allows for a small deck adjacent to an above ground pool

In your opinion, are there circumstances unique to the property?  Yes  No  
 Explain: Small side yard with angled property lines

In your opinion, will the variance maintain the essential character of the locality?  Yes  No  
 Explain: Proposed deck will not infringe on neighbors yard and will not affect any water drainage

**SUBMISSION OF APPLICATION MUST INCLUDE:**

- Attached site plan (to scale) depicting present and proposed improvements.

Within the time frame established by Minnesota Statutes section 15.99, following receipt of the completed application, the City Council shall render its decision granting or denying the variance. Such decision shall be accompanied by findings of fact and shall refer to any exhibits containing plans and specifications for the proposed variance. Such plans and specifications shall remain a part of the permanent records of the City Council. The findings of fact shall specify the reason or reasons for granting or denying the variance. The terms of relief granted shall be specifically set forth in a conclusion or statement separate from the findings of fact. In extenuating circumstances, extension of the sixty (60) days may be granted upon receipt of signed request from applicant.

An application for a variance shall be submitted to the Zoning Administrator. A nonrefundable application fee, established from time to time by the City Council to cover administrative costs and costs of the hearing, shall accompany each application. The application shall contain the following information, as well as such additional information as may be required by the Zoning Administrator:

- The applicant’s name and address.
- A site plan drawn to scale showing the property dimensions, existing and proposed buildings and other structures, existing and proposed grading, landscaping, easements and location of utilities, as applicable. The Zoning Administrator may require the applicant to obtain a certified survey at the time of application.
- The particular requirements of the Ordinance which prevent the proposed use or construction.
- The characteristics of the subject property which prevent compliance with the said requirements of the Ordinance.
- The minimum reduction of the requirements of the Ordinance which would be necessary to permit the proposed use or construction.
- The practical difficulty which would result if said particular requirements of this Ordinance were applied to the subject property.
- If the variance is part of an application for Commercial, Industrial, or Multiple-Family Residential Site Plan Approval, all of the submittal requirements for a Site Plan, Section 1103.07, shall also apply.

I certify that I am the applicant named herein; that I have familiarized myself with the rules and regulations with respect to preparing and filing this application that the foregoing statements and answers herein contained and the information on the attached maps or plot plans and any other documents submitted herewith are in all respects true and accurate to the best of my knowledge and behalf.

APPLICANT SIGNATURE: Taye Adams

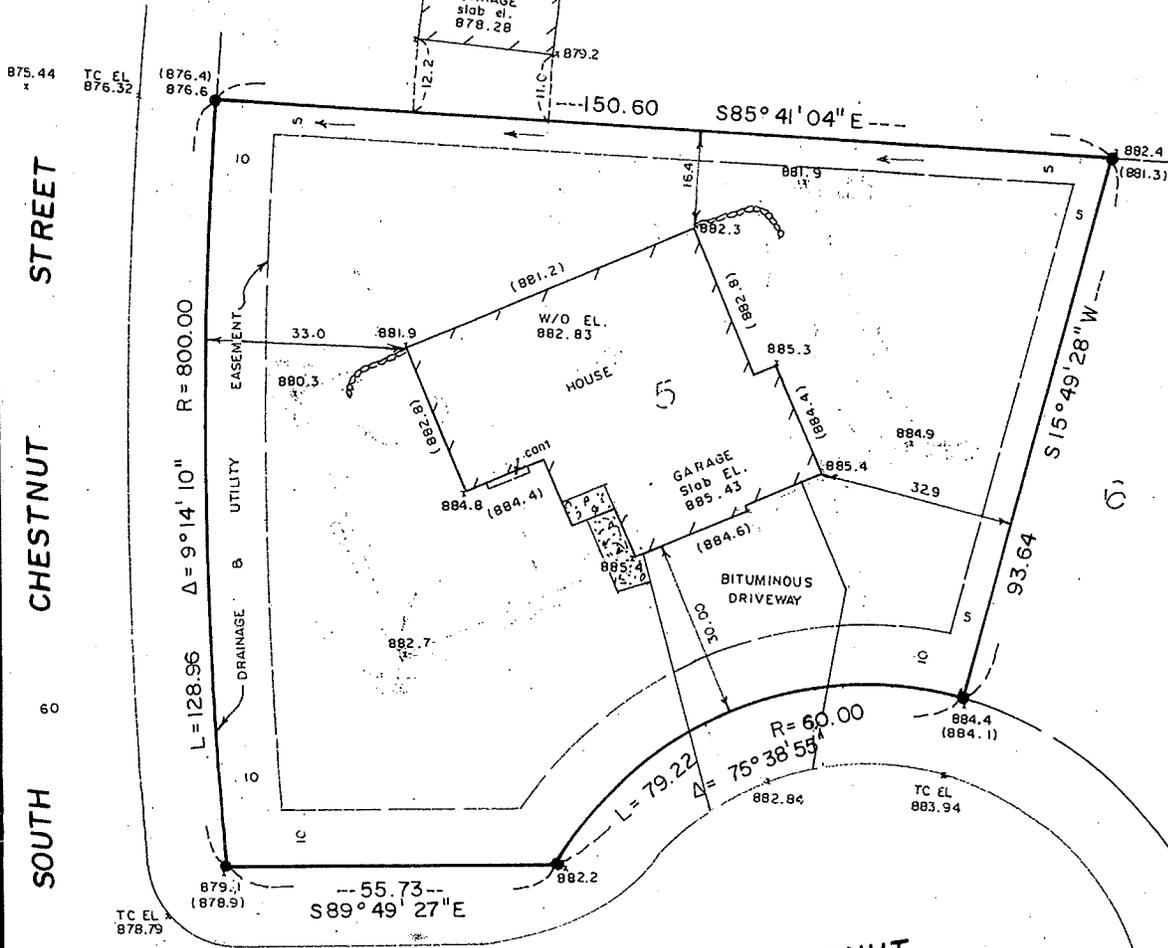
DATE: 5/20/2020

**OFFICE USE ONLY**

Zoning:	Application Fee:	Form of Payment:
		Date:
	<input type="checkbox"/> Site Plan	Transaction Number:
		Collected By:
Reviewed by Community Development Director	<input type="checkbox"/> Application Complete	Date:
Reviewed by Planning Commission	<input type="checkbox"/> Tabled <input type="checkbox"/> Approved <input type="checkbox"/> Denied	Date:
Reviewed by City Council	<input type="checkbox"/> Tabled <input type="checkbox"/> Approved <input type="checkbox"/> Denied	Date:

BUILDING PERMIT SURVEY PREPARED FOR:  
**SKYLINE HOMES**  
 1253 WOODDUCK TRAIL  
 SHAKOPEE, MN. 55379

**VALLEY SURVEYING CO., P.A.**  
 16670 FRANKLIN TRAIL SE  
 SUITE 230  
 PRIOR LAKE, MN 55372  
 (952) 447-2570



○ SAN. MH  
 RIM 877.79  
 INV. 867.03

○ SAN MH  
 RIM 884.08  
 INV. 873.40

**LEGAL DESCRIPTION:**

Lot 5, Block 1, WLDFLOWER RIDGE SUBDIVISION NO. 3, Scott County, Minnesota. Also showing the location of the proposed house as staked this 18th day of July 2005.

NOTES: Benchmark Elevation 879.55 T.N.H. at Lots 5 and 6 Block 2

- 883.5 ASBUILT  
 x Denotes existing grade elevation
- (884.6) Denotes proposed grade elevation
- Denotes proposed direction of finished surface drainage
- Set the proposed garage slab at elevation (884.80) / 885.43
- Set the proposed top of foundation at elevation (885.13)
- The lowest floor elevation will be (881.91) / 882.83

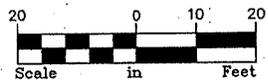
\*\*\*CONTRACTOR TO VERIFY HOUSE DIMENSIONS PRIOR TO CONSTRUCTION\*\*\*

REV. 7/21/05 TO SHOW ADDITIONAL SETBACK INFO.

I hereby certify that this building permit survey was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

*[Signature]*  
 Minnesota License No. 10187 or Minnesota License No. 42309

Dated this 20<sup>th</sup> of July 2005  
 FILE NO. 10155 BOOK 249 PAGE 10

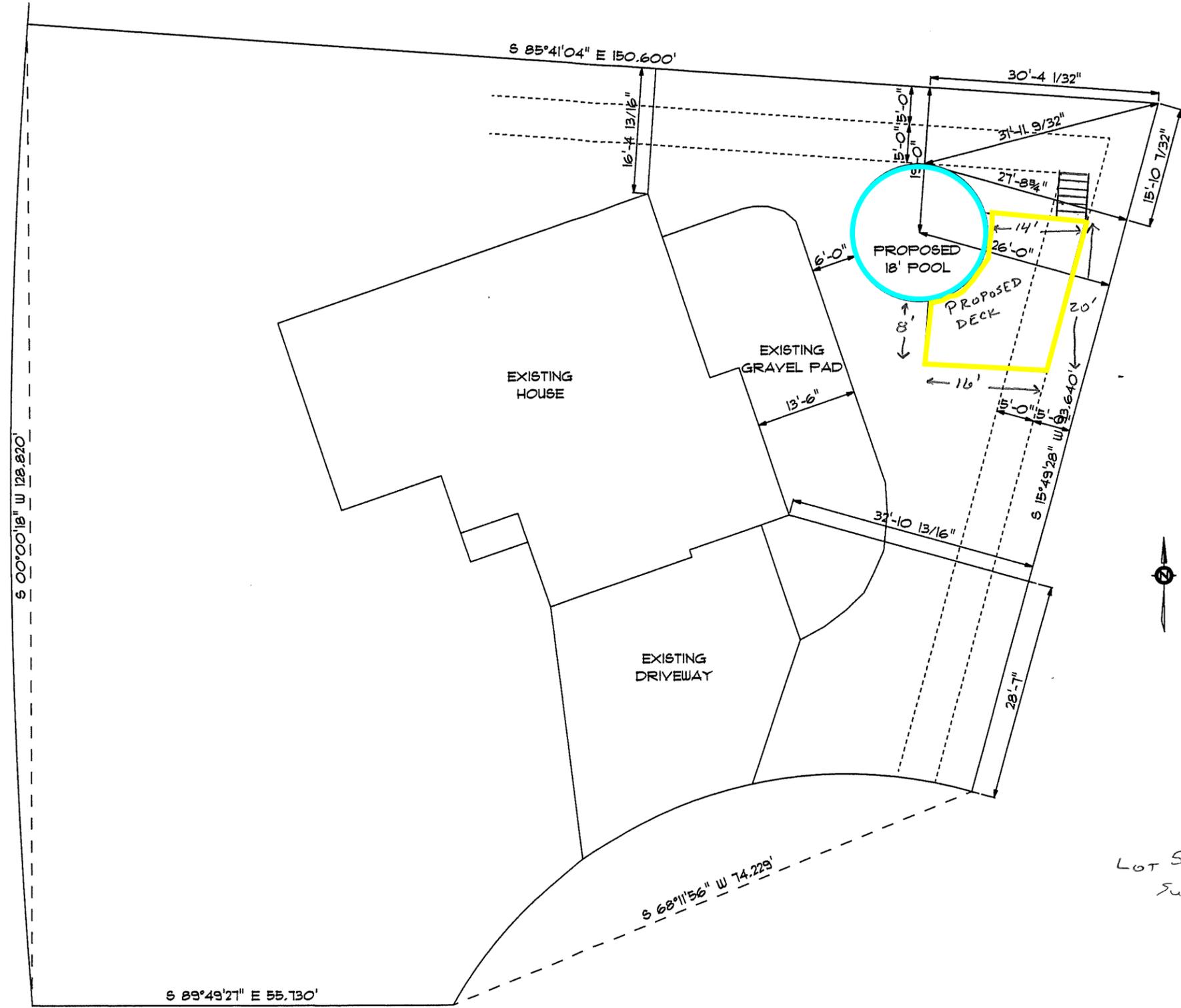


- DENOTES IRON MONUMENT FOUND
- DENOTES IRON MONUMENT SET AND MARKED BY MINNESOTA LICENSE NO.10183

REV. 11/30/05 TO SHOW ASBUILT INFO.

1/16" SCALE

RICK ADAMIETZ  
1017 S. CHESTNUT CT  
BELLE PLAINE, MN  
(507) 317-7427  
adamietz@frontiernet.net



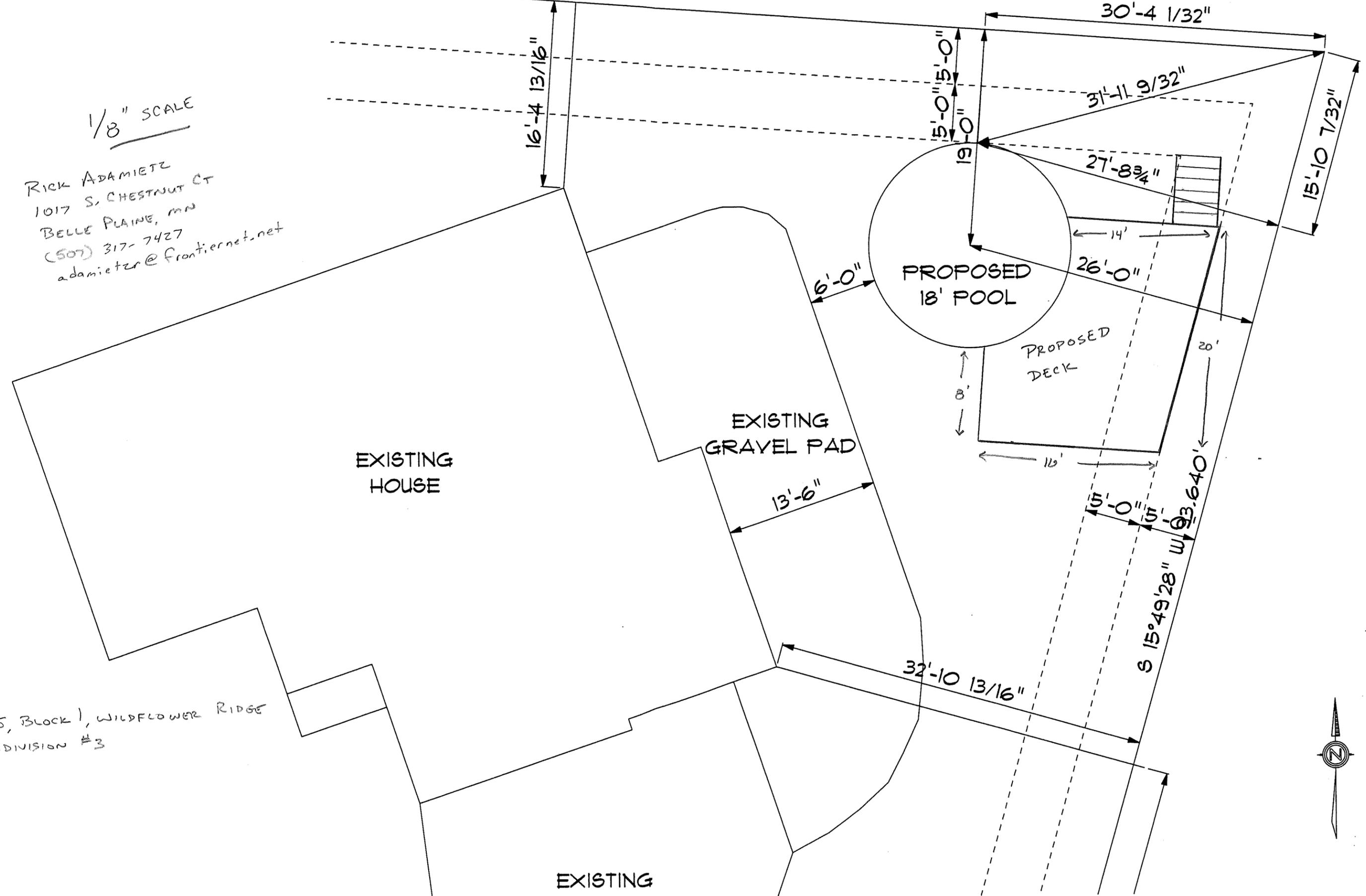
LOT 5 BLOCK 1, WILDFLOWER RIDGE  
SUBDIVISION #3

S 85°41'04" E 150.600'

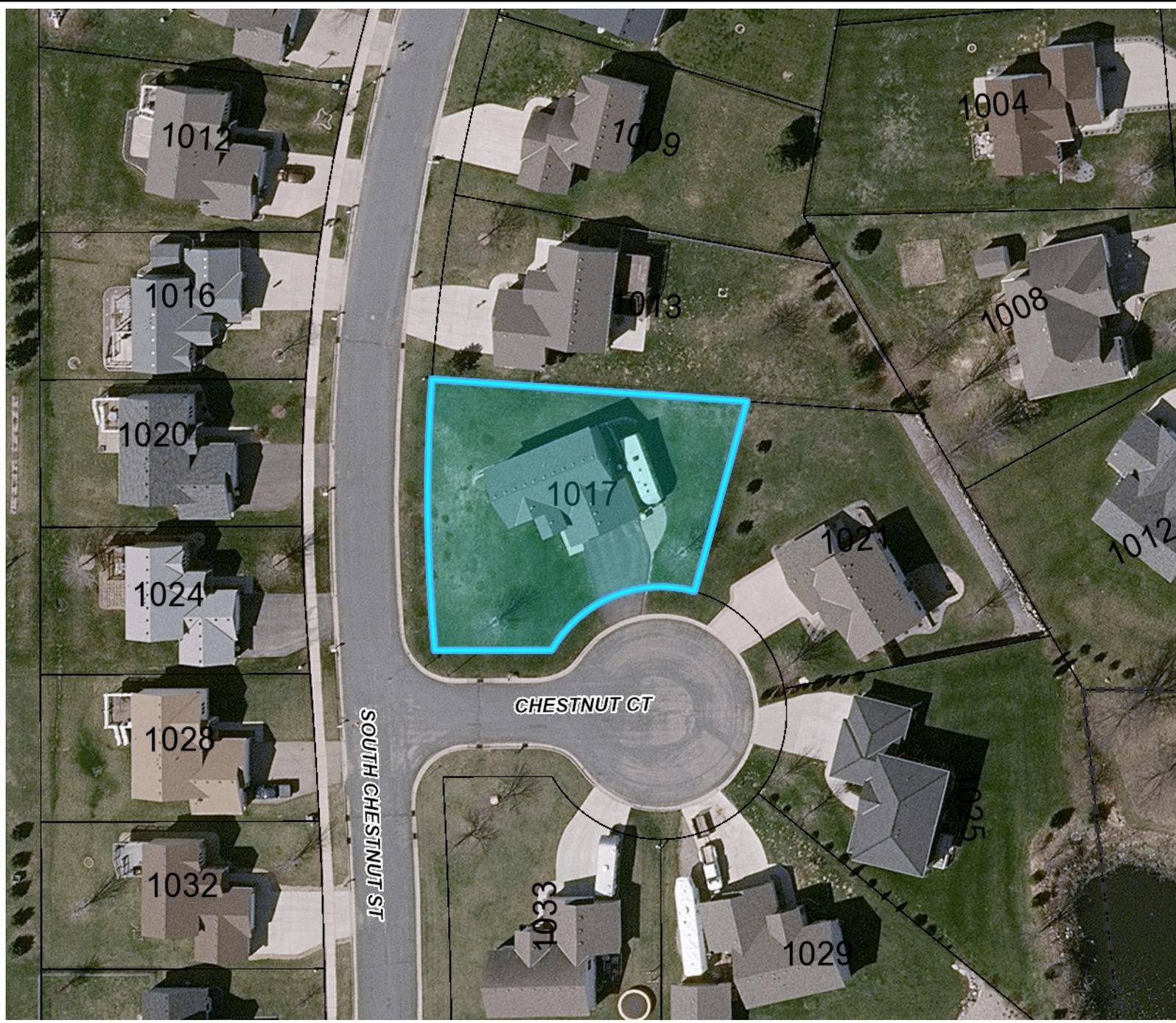
1/8" SCALE

RICK ADAMIETZ  
1017 S. CHESTNUT CT  
BELLE PLAINE, MN  
(507) 317-7427  
adamietz@frontiernet.net

LOT 5, BLOCK 1, WILDFLOWER RIDGE  
SUBDIVISION #3



EXISTING



**Legend**

-  City Limits
-  Parcels (3/27/2020)
-  Lot Lines

**1017 Chestnut Court**



**Disclaimer:**

This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, information, and data located in various city, county, and state offices, and other sources affecting the area shown, and is to be used for reference purposes only. The City of Belle Plaine is not responsible for any inaccuracies herein contained.



**BELLE PLAINE PLANNING COMMISSION  
RESOLUTION PZ-20-006(A)**

**RECOMMENDING THE CITY COUNCIL APPROVE A VARIANCE REDUCING INTERIOR SIDE  
SETBACK TO FIVE FEET TO ALLOW A DETACHED DECK AT 1017 CHESTNUT COURT**

WHEREAS, the City Code §1103.07 provides for the processing of variance requests; and,

WHEREAS, Rick and Tanya Adamietz, fee owners of the property addressed as 1017 Chestnut Court (the 'Applicants') have applied for a variance to Section 1105.05, Subd. 5(3)(b)(1) of the City Code which requires an interior side setback of ten feet in the R-1 Single Family Low Density Residential District; and,

WHEREAS, the subject property is legally defined as Lot 5, Block 1 Wildflower Ridge Subdivision No. 3, City of Belle Plaine, Scott County, Minnesota; property number 200770050; and,

WHEREAS, the Applicants represent:

1. Variance is requested as a means of accommodating a freestanding deck adjacent to an above ground pool.
2. The request is to allow an interior side yard setback of five-feet. The required interior side yard setback is ten-feet.
3. The position of the structure at 1017 Chestnut Court and required setbacks for the corner lot provide limited options for placement of a swimming pool.
4. The lot is unique in the small side yard size and angled property lines.
5. The proposed pool will meet setback requirements included in Section 1107.05(3) of the code pertaining to placement of swimming pools at least ten feet from a side or rear lot line and at least six feet from the principal structure.

WHEREAS, a public hearing was scheduled and held by the Planning Commission, the City's designated Planning Agency, on June 8, 2020 following duly published, posted, and mailed notice; and,

WHEREAS, the Planning Commission accepted public input and discussed the proposed variance; and,

WHEREAS, the Planning Commission finds:

1. The proposed use of the property is consistent with both planned use and existing zoning.
2. The subject parcel is a corner lot on a cul-de-sac with a dwelling shifted toward the interior side yard.
3. Dwelling placement and lot shape limit options for placement of a proposed pool and access deck for the pool.
4. Decks and pools are typical residential attributes for single family dwellings which increase livability of dwelling.
5. The proposed variance is to a performance standard and not a property use

NOW, THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF BELLE PLAINE, SCOTT COUNTY, MINNESOTA, THAT: It recommends the City Council approve variance from Section 1105.05, Subd. 5(3)(b)(1) to allow a minimum interior side yard setback of five feet for a property addressed as 1017 Chestnut Court, provided:

1. The "Use" is limited to a detached deck at 1017 Chestnut Court.
2. The deck is placed as illustrated in the accompanying site plan.
3. A building permit is issued.

4. This approval shall expire one year after date of approval unless the Applicant has commenced construction of the deck.
5. This permit is subject to all applicable codes, regulations and ordinances, and violation thereof shall be grounds for revocation.

The adoption of the foregoing resolution was duly moved by Commissioner \_\_\_\_\_ and seconded by Commissioner \_\_\_\_\_, and after full discussion thereof and upon a vote being taken thereon, the following Commissioners voted in favor thereof: \_\_\_\_\_.

and the following voted against the same: \_\_\_\_\_.

Whereupon said resolution was declared duly passed and adopted. Dated this 8<sup>th</sup> day of June, 2020.

\_\_\_\_\_  
Ashley Cauley  
Chairperson

\_\_\_\_\_  
Cynthia Smith Strack  
Community Development Director

**BELLE PLAINE PLANNING COMMISSION  
RESOLUTION PZ-20-006(B)**

**RECOMMENDING THE CITY COUNCIL DENY A VARIANCE REDUCING INTERIOR SIDE SETBACK  
TO FIVE FEET TO ALLOW A DETACHED DECK AT 1017 CHESTNUT COURT**

WHEREAS, the City Code §1103.07 provides for the processing of variance requests; and,

WHEREAS, Rick and Tanya Adamietz, fee owners of the property addressed as 1017 Chestnut Court (the 'Applicants') have applied for a variance to Section 1105.05, Subd. 5(3)(b)(1) of the City Code which requires an interior side setback of ten feet in the R-1 Single Family Low Density Residential District; and,

WHEREAS, the subject property is legally defined as Lot 5, Block 1 Wildflower Ridge Subdivision No. 3, City of Belle Plaine, Scott County, Minnesota; property number 200770050; and,

WHEREAS, the Applicants represent:

1. Variance is requested as a means of accommodating a freestanding deck adjacent to an above ground pool.
2. The request is to allow an interior side yard setback of five-feet. The required interior side yard setback is ten-feet.
3. The position of the structure at 1017 Chestnut Court and required setbacks for the corner lot provide limited options for placement of a swimming pool.
4. The lot is unique in the small side yard size and angled property lines.
5. The proposed pool will meet setback requirements included in Section 1107.05(3) of the code pertaining to placement of swimming pools at least ten feet from a side or rear lot line and at least six feet from the principal structure.

WHEREAS, a public hearing was scheduled and held by the Planning Commission, the City's designated Planning Agency, on June 8, 2020 following duly published, posted, and mailed notice; and,

WHEREAS, the Planning Commission accepted public input and discussed the proposed variance; and,

WHEREAS, the Planning Commission finds:

1. The property owner could eliminate a gravel parking pad and shift the proposed pool and deck to accommodate required setbacks. As such other options exist to conform with zoning requirements.
2. Other residential corner lots exist with similar dwelling placement, as such the conditions do not constitute circumstances that are unique to the property.

NOW, THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF BELLE PLAINE, SCOTT COUNTY, MINNESOTA, THAT: It recommends the City Council deny a variance from Section 1105.05, Subd. 5(3)(b)(1) to allow a minimum interior side yard setback of five feet for a property addressed as 1017 Chestnut Court.

The adoption of the foregoing resolution was duly moved by Commissioner \_\_\_\_\_ and seconded by Commissioner \_\_\_\_\_, and after full discussion thereof and upon a vote being taken thereon, the following Commissioners voted in favor thereof: \_\_\_\_\_.

and the following voted against the same: \_\_\_\_\_.

Whereupon said resolution was declared duly passed and adopted. Dated this 8<sup>th</sup> day of June, 2020.

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Ashley Cauley  
Chairperson

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Cynthia Smith Strack  
Community Development Director