**CITY COUNCIL MINUTEES**

**BOARD OF ADJUSTMENTS & APPEALS**

**VARIANCE REQUEST FOR CASSANDRA AND STEVEN BUSH**

**OCTOBER 3, 2023**

The City of Underwood Board of Adjustments & Appeals meeting was called to order at 6:00 p.m. Persons present were Anna Kiser, Jacob Schmid, Tim Hammes, Todd King. Absent was Rick Jacobson.

Guests were Cassandra Bush and Owen Bush.

All parties have been notified and notices have been posted and published.

Variance request pertains to Ordinance #63, Section 25-040, Part A Lot area (15,000 square feet) and Section 25-040, Part E Structure setback from ROW of other public roads (20 feet).

There were no public comments.

A motion by Hammes, second by King was approved to adopt Resolution #1023-1. Roll Call Vote:

Ayes: Kiser, Schmid, King, Hammes; Nays: None; Absent: Jacobson

**RESOLUTION # 1023-1**

**RESOLUTION ADOPTING FINDINGS OF FACT AND REASONS FOR APPROVAL FOR VARIANCE APPLICATION OF**

**CASSANDRA & STEVE BUSH AT 103 HIGHLAND AVENUE EAST**

**FACTS**

1. Cassandra & Steve Bush are the owners of a parcel of land located at 103 Highland Ave East, Underwood, Minnesota; and,

2. The subject property is legally described as found on Variance Application; and,

3. Cassandra and Steve Bush have applied to the City for a variance to build a handicap accessible ramp.

4. The proposal would vary from Ordinance 63, Section 25-040, Part A & E in that it would cover more ground that is allowed in the ordinance and structure setback from ROW is less than required.

5. Following a public hearing on the application, the Underwood Board of Adjustments & Appeals has recommended approval of the variance on October 3, 2023.

**APPLICABLE LAW**

 8. Minnesota Statue Section 462.357, subd. 6 provides:

a. Variances shall only be permitted (a) when they are in harmony with the general purposes and intent of the ordinance and (b) when the variances are consistent with the comprehensive plan.

b. 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 (a) the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; (b) the plight of the landowner is due to circumstances unique to the property not created by the landowner; (c) the variance, if granted, will not alter the essential character of the locality.

9. City Ordinance allows variances per Section 95-040

10. City Ordinance requires lot coverage of not more than 25% and setback no less than 20 feet from road right of way.

**CONCLUSIONS OF LAW**

11. The requested variance is in harmony with the purposes and intent of the ordinance because it gives the ability to make the home and property more handicap accessible.

12. The requested variance is consistent with the comprehensive plan because allow handicap daughter wheelchair access to her home

13. The property owner does propose to use the property in a reasonable manner because will give handicap daughter access to her home

14. There are unique circumstances to the property not created by the landowner because the home already covers the vast majority of the property. There is no way to make the home more accessible without a variance.

15. The variance will maintain the essential character of the locality because the structure will remain a single-family home.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustments and Appeals of the City of Underwood, Minnesota, that the application to issue a variance to allow Cassandra and Steve Bush to build a handicap accessible ramp so as to deviate from Ordinance #63, Section 25-040, Part A & E is hereby approved.

Adopted by the Board of Adjustments and Appeals, City of Underwood, County of Otter Tail, State of Minnesota, on this the 3rd day of October 2023.

Vote: Ayes: Kiser, Schmid, King, Hammes

Nays: None

 Abstain: None

 Absent: Jacobson

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Mayor Anna Kiser City Clerk Judy Everett