

Variance and Appeal Procedures

Purpose: Dakota County believes that the factors of countywide significance listed in this ordinance are paramount to ensuring safety and preserving mobility on the County road system. The variance conditions listed below, are provided not as a means to circumvent the County's Access Spacing Guidelines and Right of Way Dedication Requirements, but rather to clarify the actions taken by the Plat Commission when reviewing a variance request. The Plat Commission encourages that development proposals be submitted for review at the earliest possible opportunity as Concept Plans to avoid misunderstandings that often lead to variance requests.

Variance: In any case where, upon application to the Plat Commission, it appears by reason of exceptional circumstance that the enforcement of the County's Right of Way Dedication Requirements and Access Spacing Guidelines would cause unnecessary hardship, or that conformity with Plat Commission requirements would be unreasonable and impractical, or not feasible under the circumstances, or that a variance to the strict guidelines would benefit the operation of the County road system, the Plat Commission may recommend a variance be granted by the Dakota County Board of Commissioners upon such conditions as it may prescribe for management consistent with the general purposes and intent of the Dakota County Contiguous Plat Ordinance and all other applicable State and local regulations and law. A variance may constitute a deviation from the County's Access Spacing Guidelines or Right of Way Dedication Requirements or other considerations identified in the Dakota County Transportation Plan.

Variance Conditions: A variance may be recommended provided that: i) The conditions causing the hardship are unique to the property; ii) Granting of the variance shall not be contrary to public interest or damage the rights of other properties in the same area or district. Iii) Granting of the variance shall not be contrary to the policy and intent of the Ordinance or detrimental to the public health, safety, and welfare.

No variance shall be granted simply because there are no objections or solely for economic reasons

Variance Request: Unless otherwise provided, the Plat Commission shall review variance requests at its regularly scheduled meetings. The Plat Commission shall act on variances only when a written statement is received from the municipality requesting consideration of a variance. The written statement from the municipality shall describe the need for the variance and the unique hardship faced by the property. The applicant, designated representative, or a representative from the municipality shall attend the Plat Commission meeting and present the facts or conditions upon which the application for variance is based. The Plat Commission shall prepare a written decision, stating its reasons for the decision, and send it to the municipality within five (5) working days of its regularly scheduled meeting as described above. Recommended variances shall be incorporated into the Final Plat approval process. All variances are subject to final approval by the County Board.

Request for County Board of Commissioners Review: In the event that the Plat Commission imposes conditions for plat approval or recommends denial of the variance, the requesting local unit of government and/or sub-divider can appeal the recommended action to the Dakota County Physical Development Committee of the Whole. The Plat Commission shall prepare the agenda item for the Physical Development Committee of the Whole. The Physical Development Committee of the Whole shall review the proposed conditions or variance request and make a recommendation to the Board of Commissioners for final action.

Building Permits

No person, firm or corporation shall obtain a building permit from a municipality for construction in conformance with any subdivision plat or registered land survey plat, which is contiguous with any existing or proposed County road until the plat has been approved as to those factors which are of countywide significance by the Dakota County Board of Commissioners.

Enforcement

This ordinance shall be administered by the Dakota County Plat Commission.

In the event of a violation or a threatened violation of this ordinance, the Board of County Commissioners, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate violations or threatened violations and it shall be the duty of the County Attorney to carry out such action.

Any person, firm or corporation who shall violate or fail to comply with any of the provisions hereof, or who shall make any false statements or representation in any document required to be submitted under this ordinance, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed Seven Hundred Dollars (\$700.00) or by imprisonment not to exceed ninety (90) days or both.

Municipalities

The powers herein conferred upon the Dakota County Board of Commissioners by Laws of Minnesota, 1973, Chapter 416, codified as MN Statute 383D.65, shall be supplemental to and shall not set aside the jurisdiction over plats of subdivision now exercised by the governing bodies of the municipalities. In the event that the governing body of a municipality and the Board of County Commissioners fail to concurrently approve and adopt a subdivision or a registered land survey plat because of disagreement as to those factors which are of countywide significance, representatives of each respective authority shall meet to resolve these differences. However, if within fifteen (15) days of the time of presentation of these differences to the representatives of each respective authority such representatives are unable to resolve these differences, the decision of the Board of County Commissioners shall be final as to those factors which are of countywide significance. The Board of County Commissioners may extend the time for concurrent approval with respect to individual subdivision plats and registered land survey plats.