

D. Standards Applicable to all Variances. The findings of the Hearing Officer(s) or Plan Commission and the Board shall be based on data submitted pertaining to each standard in this section as it relates to the development. A variance shall be granted only if the applicant demonstrates: (Ord.4411 - 9/2/08)

1. That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located;

The subject premises consists of lot which is approximately 5 acres and rectangular in shape, but has a north-south dimension of along 108th Street of only 165 feet and a depth of 1,318 feet. Based upon the recently adopted Comprehensive Plan it is apparent that the E-1 Estate Residence Zoning Classification of the subject property was intended to be a holding category. The few variations requested are necessary due to the unique shape, topography and environmental constraints associated with of this property.

2. That the plight of the owner is due to unique circumstances;

The attributes of the subject property described above are not applicable to any other properties in the nearby area and the variations related to road improvements are temporary in nature.

3. That the variation, if granted, will not alter the essential character of the locality;

The variations granted will not alter the essential character of the area and will implement the Village's Comprehensive Plan.

4. That because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations were carried out;

The particular physical shape, topography and environmental features of the subject property create a hardship in designing a residential development that would implement the Comprehensive Plan recommendations for the subject property.

5. That the conditions upon which the petition for a variation is are based are unique to the property for which the variance is sought and are not applicable, generally, to other property;

There are no other properties in the surrounding area with characteristics similar to the subject property.

6. That the alleged difficulty or hardship is caused by these regulations and has not resulted from any act of the applicant or any other person presently having an interest in the property subsequent to the effective date hereof, whether or not in violation of any portion thereof;

The current lot dimensions and physical obstacles to development of the subject property were not the result of any act of the current property owner.

7. That the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located or otherwise be inconsistent with the Comprehensive Plan, any adopted overlay plan or these regulations;

Granting of the variations will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood and will implement the Comprehensive Plan as it relates both to land use and thoroughfare planning.

8. That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood;

The proposed plan will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood since there are only ten residences located on six lots, and no variations are requested for the residential lots.

9. That the variance granted is the minimum adjustment necessary for the reasonable use of the land;

The variances granted are the minimum adjustment necessary for the reasonable use of the land. There is only a temporary variation being requested for the road right-of-way and not for the roadway itself and the temporary cul-de-sac. The property would be very difficult to develop without variations for set back from the wetlands and without reducing the maintenance setback from the storm water detention area.

10. That aforesaid circumstances or conditions are such that the strict application of the provisions of this Section would deprive the applicant of any reasonable use of his or her land. Mere loss in value shall not justify a variance; there must be deprivation of all beneficial use of land.

The variations requested are not based upon an issue of loss of value. The variations are requested due to the physical limitations of the subject property preventing its development in

a manner consistent with the Comprehensive Plan and future development of the vacant areas to the south.