

Albany Township
Planning Commission
Extended Meeting
March 25, 2013
6:30 P.M.
Albany City Council Chambers

The March 25, 2013 extended meeting of the Albany Planning Commission was called to order at 6:30 P.M. by Chair Gary Bloch at the Albany City Hall Council Chambers. Members present Commissioners Gary Bloch, Ryan Pratt, and Michael Noll, Also, Supervisor Mary Rosen and Clerk Diane Noll attended.

The pledge of allegiance was recited

The only item on this evenings agenda is to make a recommendation to the Town Board to either approve or deny the variance request made by Joseph Schiffler to allow enlarging the 2 acre lots in Trestle Ridge 2 by 1 to 2 acres, utilizing outlot C.

Discussion of the Findings of Fact

The Findings of Fact were read and are attached to these minutes

A motion was made by Commissioner Noll to deny the request with the reasons stated in the findings of fact, seconded by Commissioner Pratt, motion carried.

Roll Call Vote.

Bloch- yes

Noll-yes

Pratt-yes.

A motion to adjourn was made by Chiar Bloch seconded by Comissioner Pratt, meeting adjourned at 6:43 P.M.

Respectfully Submitted,

Diane E Noll

Diane Noll, Township Clerk

Approved Minutes Signed: *Gary Bloch* June 11, 2013
Planning Commission Chair Date

**ALBANY TOWNSHIP
COUNTY OF STEARNS
STATE OF MINNESOTA**

RESOLUTION NO. _____

**RESOLUTION ADOPTING FINAL FINDINGS OF FACT AND
DENYING VARIANCE REQUEST FOR PROPERTY OWNED BY
JOSEPH & JANEL SCHIFFLER**

WHEREAS, applicants Joseph and Janel Schiffler, hereinafter “Applicants”, are the owners of certain real property located in Albany Township legally described as Outlot C as shown on the Plat of Trestle Ridge 2 as recorded in the Office of the Stearns County Recorder, hereinafter the “Subject Property”; and

WHEREAS, Albany Township Zoning Ordinance No. 5 an “Ordinance Allowing and Establishing Standards for Custer Housing” limits lot sizes within cluster housing developments to up to 2 acres. Specifically, Section 7.3.4 states:

1. Section 7.3.4 is hereby amended to read as follows:

7.3.4 Lot Area Requirements

- A. All residential lots within a cluster development shall meet the following lot area requirements within the designated primary zoning or any applicable overlay district:

District Lot Area	Lot Area
A-160, A-80, A-40	1.0 to 2.0 acres

WHEREAS, the platted lots within the Plat of Trestle Ridge 2 are subject to Section 7.3.4 of Township Zoning Ordinance No. 5; and

WHEREAS, Applicants have submitted an application for a variance to amend the subdivision agreement with Stearns County to allow “owners of Lots 1-7 of the Plat of Trestle Ridge 2 to purchase up to two acres of ‘Outlot C’ all of which will be non-buildable.” The stated purpose in the application for this request was “Market conditions have changed for the worse since platting Trestle Ridge 2 prospective lot buyers are asking for larger than two acre lots. Stearns County amended their ordinances already allowing larger lots in “cluster developments”; and

WHEREAS, pursuant to due call and notice thereof, the Albany Township Planning Commission conducted a public hearing on March 21, 2013 on the request by Joseph and Janel Schiffler, the property owners of the property legally described above, for a variance from Albany Township Zoning Ordinance No. 5, Section 7.3.4 to allow the existing numbered lots within the Plat of Trestle Ridge to exceed the two acre maximum lot area if Outlot C is subdivided in the future; and

WHEREAS, the public hearing notice was published and mailed per ordinance requirements and a public hearing was held on March 21, 2013 at 7:00 p.m. at the Albany City Hall, and public comment was heard by the Planning Commission in writing and in person; and

WHEREAS, a copy of the Public Hearing Notice, Copy of Albany Township Zoning Ordinance No. 5, Plat of Trestle Ridge 2, Application for Variance submitted by Joseph and Janel Schiffler, Declaration of Covenants, Conditions, Restrictions and Reservations for Trestle Ridge 2, email dated March 21, 2013 from Paul Eisenschenk; email dated March 22, 2013 from Brian Simon; and email dated March 22 from Paul Eisenschenk are incorporated herein by reference; and

WHEREAS, the Township Planning Commission made a recommendation to deny the requested variance to the Albany Township Board regarding the requested variance at its March 25, 2013 meeting.

NOW THEREFORE, be it resolved that the Town Board of Albany Township, Stearns County, makes the following findings of fact:

1. That the “practical difficulties” standard to approve a variance application has not been met:
 - a. The variance is not in harmony with the purposes and intent of the Albany Township Zoning Ordinance because it does not encourage open space for the enjoyment of the residents within a cluster development.
 - b. The variance is not consistent with the various goals, objectives and policies contained in the Albany Township Zoning Ordinance, the A-40 Zoning District, and the Township’s specific land use ordinances governing cluster developments. The proposed variance to allow lots that exceed two acres in size is contrary to these goals.
 - c. The plight of the property owner is not unique to this property as the lot size restrictions contained in Albany Township Zoning Ordinance No. 5, Section 7.3.4 apply to all cluster developments within the Township.
 - d. The Applicant has not demonstrated how Outlot C would be subdivided; the size of the proposed lots to be created; if such lots once created would in fact be transferred to an owner of Lots 1-7 of the Plat of Trestle Ridge 2; how such lots once created would gain access to a public road; that septic systems would not be impacted; how, if at all, the newly created lots would be combined with the existing lots; and how the newly created lots, if combined with the existing numbered lots, would remain non-buildable.
 - e. The applicant’s stated reason for requesting the variance appears to be for economic considerations alone and thus contrary to the requirements of Minn. Stat. §462.357, Subd. 6(2).
2. That the Applicants stated reason for the variance as contained in their application that “market conditions have changed for the worse since platting Trestle Ridge 2 prospective lot buyers are asking for larger than two acre lots” is insufficient reason for the granting of the variance.
3. That the variance is not necessary for the preservation and enjoyment of a substantial property right.
4. That the variance would be a detriment to adjacent property and will materially impair the intent and purpose of Albany Township Zoning Ordinance No. 5 an “Ordinance Allowing and Establishing Standards for Custer Housing” which in Section 7.3.4 limits lot sizes within cluster housing developments to up to 2 acres.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of Albany Township, Stearns County, after receiving and considering the above findings, the testimony from the public and Township staff regarding the proposed application for a variance, does hereby take the following

action:

1. The findings of fact stated above are hereby adopted and incorporated herein.
2. The variance requested by Joseph and Janel Schiffler from Albany Township Zoning Ordinance No. 5, Section 7.3.4 to allow the existing numbered lots within the Plat of Trestle Ridge 2 to exceed the two acre maximum lot area if Outlot C is subdivided in the future is hereby DENIED.

APPROVED AND ADOPTED BY THE ALBANY TOWNSHIP BOARD OF SUPERVISORS ON THE 25TH DAY OF MARCH 2013.

Tim Nierenhausen, Chairman

ATTEST:

Diane Noll, Clerk