

## Adopting Findings of Fact Land Use

### RESOLUTION NO. 05-21

**A RESOLUTION ADOPTING FINDINGS OF FACT AND REASONS FOR APPROVAL FOR VARIANCE APPLICATION OF Critz Properties, LLC AT Parcel #75-0021-000 located at 12309 Forada Beach Rd SE.**

#### **FACTS**

1. Chan Family is the current owner of a parcel of land located at 2309 Forada Beach Rd SE; Parcel #75-0124-000.
2. The subject property is legally described as Parcel #75-0124-000  
3.72 AC OF G.LOT 3 LYING E OF FORADA BCH  
ROAD, S OF ACCESS EASEMENT & N & E OF LOT  
1 BLK 1 '1ST ADDITION TO EBLEN'S BEACH' EX  
.04 AC TRIANGULAR TRACT. AC 4.49
3. Julie and Mitch Critz, Critz Properties, LLC., has applied to the City for a variance to divide existing 3.72 acre parcel into 13 separate lots as described to council with a submitted surveyed plat. Lots would be divided with 3 residential with sewer hookup along Forada Beach Rd SE and 10 lots with no sewer hookup or septic for storage and/or storage buildings. Access to 10 storage lots will be through easements. A restrictive covenant will be drafted and recorded against each of the developed parcels which will include provisions prohibiting residential construction on the 10 storage back lots, prohibition of installation of sewer or septic systems, and all new construction of accessory buildings/sheds will be subject to city ordinances. A property Owners Association will be formed to ensure compliance with and enforcement of the restrictive covenant.
4. The proposal would vary from (Ordinance Requirement) in that it would (Deviation Sought).
  - Article 4.01 (1) Accessory Buildings Request storage shed and/or garages be permissible on the 10 back lots.
  - Article 4.03 (1A) Required 100 feet width and 150 feet depth for developed lots. The request to divide existing 4.53 acre parcel into 13 lots which would not meet the 100 feet width but they all would meet the 10,000 SF requirement.
  - Article 9.06 The 10 back lots will not have city sewer access or the ability to install private septic systems. Purpose of back lots is for storage and storage structures only.
  - Article 9.08 Erosion control will remain as existing drainage.
  - Article 9.13 Request to subdivide the property using Certificate of Survey process for creating new parcels. Legal descriptions will be provided and recorded at the Douglas County Recorders office by owner.

5. Following a public hearing on the application, the Forada Planning Commission/Council has recommended (approval/denial) of the variance on (February 22, 2021).
6. The City Council of the City of Forada reviewed the requested variance at its Meeting of February 22, 2021 and approved via motion.

### **APPLICABLE LAW**

7. Minnesota Statute 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; and (c) the variance, if granted, will not alter the essential character of the locality.
8. City Ordinance requires 100 Feet width of developed lot and 150 feet depth. Requires new developments to have city sewer, roads, erosion control plan, and platting.

### **CONCLUSIONS OF LAW**

9. The requested variance is in harmony with the purposes and intent of the ordinance because all parcels still meet the 10,000 SF lot size.
10. The requested variance is consistent with the comprehensive plan because it provides more residential housing opportunities and will grow the residential tax base.
11. The property owner does propose to use the property in a reasonable manner as it helps the current landowners to improve the appearances of their property and to better comply with city regulations.
12. There are unique circumstances to the property is that the property will provide 3 residential lots and remaining sits back from the road making it a good location for storage and storage buildings.
13. The variance will maintain the essential character of the locality as it will maintain the character of the neighborhood that is consistent and in compliance with permitted uses in Residential Districts. There are some area property owners who have built an accessory

building, some with two stories, on their current lot and others who do not have the space to do so. This will allow others to do so as well, in keeping with a practice that is already in place.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORADA, MINNESOTA AS FOLLOWS:**

The application to issue a variance to allow Critz Properties, LLC. to divide Parcel #75-0124-000 so as to deviate from Ordinance 62A is hereby approved.

Passed by the City Council of Forada, Minnesota this 8<sup>th</sup> day of March, 2021.

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Mayor

Attested:

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City Clerk