

RECOMMENDED FINDINGS OF FACT RELATED TO A CERTIFICATE OF DESIGN COMPLIANCE FOR A NEW STRUCTURE LOCATED IN THE HIGHWAY GATEWAY OVERLAY DISTRICT AND A VARIANCE TO REDUCE THE FRONT YARD BUILDING SETBACK ON THE MADISON AVENUE SIDE OF THE PROPERTY FROM 15 FEET TO 0.92 FEET. THE SUBJECT PROPERTY IS DESCRIBED AS THE NORTH HALF OF LOT 9, AND LOT 10, AUDITORS PLAT 27 (830 NORTH BROAD STREET ETC.); BY REQUEST OF HABIB SADAKA.

The Planning Commission reviewed this matter and recommended the following findings of fact for the certificate of design compliance:

1. The proposed use conforms with the standards set forth in the B-1 Community Business District.
2. The proposal, when including the implementation of the required conditions, conforms to Mankato City Code section 10.48 Highway Gateway Overlay District.

The Planning Commission reviewed this matter and recommended the following findings of fact relative to the variance:

1. The applicant has established that conforming to the strict letter of the provisions of this chapter would create a unique and particular hardship because of the size of the existing lot, the existing topography of the site, and the desire to achieve the Urban Design Guidelines for the Madison Avenue corridor.
2. Unique and Particular Hardship. Unique and particular hardship is defined as the property is exceptional as compared to other property subject to the same provisions by reason of a unique physical condition, including the presence of an existing use or structure, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot. The hardship shall amount to more than a mere inconvenience to the owner and the hardship shall relate to the physical situation of the lot rather than the personal situation of the current owner of the lot. The applicant has demonstrated the existing physical conditions on the lot having a narrow width, the topography, and the desire to achieve the general site development guidelines for the Madison Avenue corridor by having the building define the corridor edges.
3. Not Self-Created. The unique physical condition and hardship is not the result of any action or inaction of the property owner or its predecessors in title. The unique physical condition shall have existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of this chapter. The current structure on the site does not appear to achieve the required setback, a variance was previously issued which allowed a decrease in the setback, and the width of the lot and topography have not been created by the applicant.
4. Denied Substantial Rights. The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other property subject to the same provisions. The current width of the lot, topography and in order to achieve the City's adopted design

standards of locating the building to define the corridor edge with all of the parking behind the structure, and in navigating the topography of the site achieving the desired provisions for this lot, is challenging.

5. Not Merely Special Privilege. The alleged hardship does not include the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision. The alleged hardship shall not include the inability of the property owner to realize a greater profit than if the variance were not granted.
6. No Other Remedy. There are no means other than the requested variance by which the alleged hardship can be avoided or remedied to a degree sufficient to permit a reasonable use of the lot. The development design strives to incorporate the urban design criteria, while navigating the existing site topography and width.
7. Variance Less Than Requested. There is no known variance that is less than or different from that requested, which would provide the applicant with the right to some relief but not to the relief requested.
8. Essential Character of the Area. The variance would not result in a development on the lot that:
 1. Would be detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity.
 2. Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity.
 3. Would substantially increase congestion in the public streets due to traffic or parking.
 4. Would unduly tax public utilities and facilities in the area.
 5. Would unduly increase the danger of flood or fire.
 6. Would endanger the public health or safety.
 7. Would not be in harmony with the general and specific purposes of this chapter and the comprehensive planning policies and objectives of the City.