

PUBLIC HEARING – VARIANCE

**Application:** Variance  
**Applicant:** City of Pequot Lakes  
**Agenda Item:** 3 (b)



**Background Information:** The applicant is requesting a Variance to exceed the maximum timeframe for temporary signage and to exceed the maximum amount of signage allowed. Applicant proposes to place six, two-sided feather shaped flags, not to exceed fifteen feet in height, along the eastern border of subject property.

The subject property is the former City Spray Irrigation Field located south of Derksen Road and the triangle shaped parcel turned back to the City by MN/DOT. The subject property is vacant and is being used for agricultural purposes as a corn field.

The subject property is owned by the City of Pequot Lakes and is being developed as the Heart of the Good Life Development (HOTGL). The subject property is 80+ acres in size. The Pequot Lakes Economic Development Commission is marketing the subject property for sale and plan to use the feather shaped flags as an advertising tool.

The City Code allows real estate “for sale” signs provided they do not exceed 9 square feet in size. Applicant states a 9 square foot sign is not adequate to market the 80+ acre site.

The City Code allows temporary signs, including banners, streamers and portable signs for special events, such as grand openings and promotions, provided they remain in place up to 14 days in any 90 day period. Applicant states 14 days in a 90 day period is not sufficient time to market the 80+ acre site.

Applicant has provided a map indicating proposed locations for the six, two-sided feather shaped flags. These locations are approximate locations as topography will determine exact placement. Once the subject property is platted and lots are being sold, it is the intent of the applicant to remove the flags from the sold lots and place them on remaining lots within the subject property to retain the messages on the flags.

The subject property is adjacent to municipal water and wastewater at the intersection of Derksen Road and Morehouse Drive.

The subject property is zoned Public, while the property to the north is zoned Commercial and Public, and is bounded on the east and south by State Highway 371 and the Paul Bunyan trail on the west.

**Applicable Regulations:**

**Section 17-5.15 PUBLIC (P)**

1. Purpose and Intent: To establish and maintain a land use district for existing public use of land or for land properly suited for public facilities, parks and open spaces and other locations for public or semipublic use.
2. Compatibility: Public zones are compatible with and can be established adjacent to every other zoning classification, and any property that meets the purpose and intent of this zoning classification may be zoned Public.
3. Lot, Use, and Density Requirements:

|  |       |
|--|-------|
| Lot width– feet, minimum                                   | 25    |
| Buildable lot area – square feet, minimum                  | 2,250 |
| Setback, right of way, City road- feet, minimum            | 1     |
| Setback, right of way, County or State road, feet, minimum | 10    |
| Setback, side yard – feet, minimum                         | 0     |

|  |     |
|--|-----|
| Setback, rear – feet, minimum                              | 10  |
| Setback, sign – feet, minimum                              | 1   |
| Setback, parking from building or lot line – feet, minimum | 0   |
| Setback, wetland – feet, minimum                           | 30  |
| Impervious Coverage with storm sewer available             | 90% |
| Impervious Coverage without storm sewer available          | 50% |
| Building height – feet, maximum                            | 25  |
| Building above highest groundwater level – feet, minimum   | 3   |

4. Performance Standards: The following performance standards apply to all development in this zone:

- A. General. All proposed development in the Public zone shall be reviewed by the Planning Commission, which will make recommendations to the City Council.
- B. Compatibility of Use. Use shall be compatible with the surrounding neighborhood. Uses shall not present noise, odor, light, or any other nuisances.
- C. Parking. To reduce the visual impacts and amount of surface parking, parking structure, shared parking, surface parking located behind or to the side of a building shall be encouraged whenever possible. Additionally, suitable trees and shrubs shall be planted between parking lots and all adjacent sidewalks, roads, lots, and buildings.
- D. Screening. All sites shall be landscaped to provide 50% screening of structures to adjacent residential parcels and 10% screening from the road or any non-residential parcel, to be established within 3 years. Percentages shall be determined by the amount of structure that can be seen during leaf-on conditions.
- E. Lighting. Lighting shall be downward directional and shall be compatible with the surrounding development. Signs approved with lights must be turned off at the close of business each day.
- F. Fences. Fences not exceeding 96 inches in height may be constructed. Under no circumstances shall a fence be constructed closer than 10 feet from the surface of a public road and in all cases not within the public right-of-way. Materials shall consist of usual fencing materials with posts and fence of metal, wood, concrete,

brick, or smooth wire. Barbed or electrified wire is prohibited, except where specific approval has been given by the Planning Commission.

- G. Vegetation Removal, Intensive. The submittal requirements and procedures contained in Section 5.4 "Forest Management (FM), Subparts 4b and 4c shall be met and followed.

### **Section 17-7.1 SIGNS**

3. Exempt Sign. The following signs can be erected without a permit:
- A. Temporary signs pertaining only to the construction, sale or rental of the premises are allowable provided they do not exceed 9 square feet in any zone and are removed within 30 days of the completion of construction, sale or rental.
  - B. Each parcel shall be allowed, for up to 14 days during any 90 day period, temporary signs, including banners, streamers and portable signs for special events, such as grand openings and promotions, provided they meet the following:
    - (1) The total cumulative area of all temporary signs shall not exceed one half of the area allowed for a permanent sign in said zoning district, as provided for in Section 7.1, Subdivision 5.
    - (2) No more than four (4) temporary signs shall be on display at a given time for each parcel, provided that the total area of the signs conforms to the provisions of subpart (1) contained herein.

### **Section 17-11.7 VARIANCES**

6. Variances shall be decided within the required time frame with consideration for the following:
- A. The applicant establishes that there are practical difficulties, as defined in this ordinance, in complying with the official control, and
  - B. The plight of the landowner is due to circumstances unique to the property not created by the landowner, and
  - C. The deviation from the Ordinance with any attached conditions will still be in harmony with the general purposes and

intent of the Ordinance and the Comprehensive Plan, and

D. The variance will not create a land use not allowed in the zone, and

E. The variance will not alter the essential character of the locality, and

F. The variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.

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**Staff Findings:** Staff provides the following Findings of Fact for consideration by the Planning Commission:

1. The subject property is located south of Derksen Road and is in the “Public” zone.
2. The property is vacant.
3. The applicant plans to develop and sell the subject property. The Pequot Lakes Economic Development Commission is marketing the subject property for sale and plan to use the feather shaped flags as an advertising tool.
4. The applicant proposes to place six, two-sided feather shaped flags, not to exceed fifteen feet in height, along the eastern border of the subject property.
5. The subject property is adjacent to municipal water and wastewater at the intersection of Derksen Road and Morehouse Drive.
6. The applicant has established that there are practical difficulties in complying with the Code. A 9 square foot “For Sale” sign is not adequate to market the 80+ acre site and a banner for 14 days in a 90 day period is not sufficient time to market the 80+ acre site.
7. The property owner proposes to use the property in a reasonable manner.
8. The deviation from the Code will still be in harmony with the general purposes and intent of the City Code and Comprehensive Plan. The Comprehensive Plan does not specifically address this request but allows for commercial development within the City.
9. The variance will not create a land use not permitted in the Public zone.
10. The variance will not alter the essential character of the locality as there are “For Sale” signs along State Highway 371.
11. The variance has not been made based on economic considerations.

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**Planning Commission Direction:** The Planning Commission can approve the Variance, deny the application, or table the request if additional information is needed. If the motion is for approval or denial, Findings of Fact should be cited.

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**Staff Recommendation:** We recommend that the variance request to exceed the maximum timeframe for temporary signage and to exceed the maximum amount of signage allowed be approved, based on the above findings and subject to the following conditions:

1. There shall be no more than six, temporary, two-sided feather shaped flags, not to exceed fifteen feet in height, along the eastern border of subject property.
  2. The temporary flags shall meet the one-foot setback from State Highway 371 for a sign.
  3. The temporary signage may be located on the subject property owned by the applicant as long as the property is for sale.
  4. The temporary signage may be placed in any location owned by the applicant so long as the standard signage setbacks are met.
  5. Any flags that become frayed, ripped or torn shall be immediately replaced or removed.
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# HOTGL FLAG LOCATIONS



Key:

-  Parcel Location
-  Proposed Flag Locations

APP # 19-57  
SF # \_\_\_\_\_  
Date 6-21-19  
(for office use only)

**CITY OF PEQUOT LAKES  
VARIANCE APPLICATION**

Name of Applicant City of Pequot Lakes Phone 218-568-5222

Address 4638 Main St. Email nmalecha@pequotlakes-mn.gov

City, State, Zip Pequot Lakes

Applicant is:

Title Holder of Property:

- Legal Owner
- Contract Buyer
- Option Holder
- Agent
- Other \_\_\_\_\_

\_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
(City, State, Zip)

Signature of Owner, authorizing application: Nancy Malecha  
(By signing the owner is certifying that they have read and understood the instructions accompanying this application.)

Signature of Applicant (if different than owner): \_\_\_\_\_  
(By signing the applicant is certifying that they have read and understood the instructions accompanying this application.)

Location of property involved in this request:  
Heart of the Good Life Development property, south of Derksen Road and the Pequot Lakes Business Park, 80+ acres.

Legal Description (if metes and bounds, attach sheet): \_\_\_\_\_

Parcel ID No. 29230520 & 29230528 Zoning District Public

State nature of request in detail: (What are you proposing for the property?)  
The placement of six feather flags in the Heart of the Good Life Development property to highlight this development opportunity to passing motorists. See attached map for flags placement and attached flags design. The flags will be double-sided.

What changes (if any) are you proposing to make to this site?

Building: \_\_\_\_\_

Landscaping: \_\_\_\_\_

Parking/Signs: Placement of six feather flags not to exceed 15' in height per flag.

Pursuant to the Pequot Lakes City Ordinance, Section 17-11.7, the applicant should be prepared at the public hearing to explain the practical difficulty in complying with the ordinance for the proposed variance. Practical Difficulties is described as: *The property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include but are not limited to, inadequate access to direct sunlight for solar energy systems.*

(1) What are the practical difficulties, or unique circumstances of the parcel size, shape, topography or other characteristics that make strict interpretation of the Ordinance impractical?

Real estate signs cannot exceed 9 square feet in size and this is not adequate to market the 80+ acre site. Banners are allowed for 14 days in a 90 day period which is not sufficient time to market the 80+ acre site.

(2) Are the conditions upon which the petition for a variation based unique to the parcel of land for which the variance is sought? If so, were the conditions created by the landowner?

The site is the former spray irrigation field and is 80+ acres in size. Its use for irrigation was suspended with the construction of the State Hwy 371 expressway. The conditions were not created by the landowner.

(3) If the variance is granted, will it alter the essential character of the locality? Explain.

The use of signs would be compatible with the existing neighborhood in that there are "for sale" signs along State Hwy 371.

(4) Is the variance request in harmony with the general purposed and intent of the Ordinance?

yes

(5) Does the need for a variance involve more than economic considerations? Explain.

yes. The proposed signage is compatible with the existing neighborhood.

(6) Is the variance request consistent with the Comprehensive Plan?

yes. The Comp Plan encourages diversity of commercial and industrial uses

(7) Describe character of the area and the existing patterns and uses of development in the area. How is this proposal consistent with those patterns and uses?

*Current character is agricultural; however, the City is marketing this development for recreational, commercial, and industrial opportunities and this request is consistent with this plan.*

(8) Describe the impact on the capacity of existing or planned community facilities (sewer, drainage, other). Describe if additional facilities will be required.

*Not applicable.*

(9) Describe the impact on the character of the neighborhood in which the property is located.

*No impact.*

(10) Describe the impact to traffic on roads and highways in the vicinity, and expected traffic generated by this application. Is there adequate parking available to accommodate the proposal?

*Not applicable.*

(11) Discuss any environmental limitations of the site or area.

*None.*

(12) Please include any other comments pertinent to this request.

*None.*

CITY OF PEQUOT LAKES  
BOARD OF ADJUSTMENT  
NOTICE OF PUBLIC HEARING FOR A  
VARIANCE  
TO EXCEED THE MAXIMUM TIMEFRAME FOR TEMPORARY SIGNAGE AND  
TO EXCEED THE MAXIMUM AMOUNT OF SIGNAGE ALLOWED  
IN THE PUBLIC ZONING CLASSIFICATION  
JULY 18, 2019  
6:00 P.M.  
AT  
CITY HALL  
4638 MAIN STREET

**TO WHOM IT MAY CONCERN:**

The following will be the subject of a public hearing on July 18, 2019, beginning at 6:00 p.m.

**Hearing:** Variance

**Applicants:** City of Pequot Lakes

**Property Description:** Property is located south of Derksen Road. Parcel ID are: 29230520 and 29230528.

**Purpose:** Application is for a Variance to exceed the maximum timeframe for temporary signage and to exceed the maximum amount of signage allowed in the Public zoning classification. Applicant proposes to place six, two-sided, feather shaped flags, not to exceed 15 feet in height along the eastern border of subject property for advertising purposes.

All interested persons are invited to attend these hearings and be heard or send written comments to City Hall. Copies of the permit, maps, drawings and staff report are available at City Hall at least one week prior to the hearing date. Copies of the Staff Report regarding these applications are available at City Hall or online at [www.pequotlakes-mn.gov](http://www.pequotlakes-mn.gov).

**Property Owners Please Note:** Notices relative to the above listed request are sent to all property owners within 350' of the applicant's property. Please share this information with your neighbors in the event that any property owner has been overlooked or is not contained in our records.

Dawn Bittner  
Zoning Specialist  
City of Pequot Lakes

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July 9, 2019

City of Pequot Lakes  
Attn: Nancy Malecha  
4638 Main Street  
Pequot Lakes, MN 56472

**Re: Variance Request**

Dear Ms. Malecha:

The City of Pequot Lakes has received your request for a Variance to exceed the maximum timeframe for temporary signage and to exceed the maximum amount of signage allowed in the Public district. We have determined that your application is complete and we have scheduled a public hearing for 6:00 PM on July 18, 2019 at City Hall. You are the second public hearing on the agenda.

The City prepares a Staff Report for the Planning Commission prior to the meeting. The report will discuss the pertinent ordinances and an evaluation and recommendation on your application. A copy of the report will be available at City Hall for you to read no later than a week before the meeting or you can read it online at [www.pequotlakes-mn.gov](http://www.pequotlakes-mn.gov).

If you have any questions or concerns, please do not hesitate to contact me at 218-568-6699.

Sincerely,

Dawn Bittner  
Zoning Specialist

C: Planning Commission