

Memorandum

To: Sunfish Lake Mayor Dan O'Leary and City Council Members

From: Lori Johnson, City Planner

Date: October 31, 2023

Re: Sunfish Lake – Planner's Report for the November 7th, 2023, City Council Meeting
WSB Project No. 021239-000

Planning Commission Meeting: There was a meeting on October 19th, 2023. There is no meeting scheduled for November.

October Planning Updates

1. 114 Salem Church Road: A permit was issued for the new home construction. All site inspections went well, and the project is underway.
2. 116 Salem Church Road: This item is on the agenda for November 7th and will be discussed at that time.
3. 415 Salem Church Road: An application has been received for major site plan approval for the construction of an inground pool at this address. The application has been deemed incomplete due to the lack of required information.
4. 389 Salem Church Road: Very preliminary conversations have occurred with contractors regarding a home remodeling project that may trigger major site plan approval at this address. As you know, this home was for sale, and I believe there is a purchase agreement on the property. This would not be a demolition of the home but there might be changes to the site to accommodate a new pool and/or garage.
5. 2058 Charlton Road: The owner of this property would like to install a split rail fence on site. I am awaiting the plans for the fence before determining the appropriate approval process that needs to be followed. Once I see the plans and the size, height, and location of the fence, I can direct the owner to the appropriate process.
6. Ordinance Updates: Several chapters have been redlined and the Mayor and I will be meeting to discuss the proposed ordinance changes.

Planning Memorandum

To: Sunfish Lake Mayor Dan O'Leary and City Council Members

From: Lori Johnson, City Planner

Date: November 7, 2023

Re: **116 Salem Church Road–Variance**
WSB Project No. 023565-000
SFL No. 05-2023

GENERAL INFORMATION

Applicant/Property Owner:	Andrew and Jill Johnson		
Project Location:	116 Salem Church Road – PID 384750001010		
Acreage:	3.58 acres		
Existing Land Use	Single-Family Residential		
Zoning:	Zoned R-1 within Shoreland Overlay District		
Surrounding Land Use / Zoning:	Surrounded by Single Family Homes/R-1 Zoning		
Comprehensive Plan:	The City of Sunfish Lake (2040) Comprehensive Plan guides this property for Rural Residential land use.		
Deadline for Agency	Application Date:	08-22-2023	
	Date Application was complete:	08-22-2023	
Action:	60 Days:	10-21-2023	
	Extension Letter Mailed:	10-10-2023	
	120 Days:	12-09-2023	
Attachments:	Location Map Narrative Site Plan		

CONSIDERATIONS RELATED TO THE REQUEST

1. Overview.

The applicants, Andrew and Jill Johnson, reside at 116 Salem Church Road. The property is accessed via the private drive known as Horseshoe Lane, which connects to Salem Church Road. The Johnson's would like to construct an addition onto their home which would violate the front yard building setback requirement of 100 feet that is established in the zoning ordinance.

The proposed addition would be setback 68 feet from the front property line, necessitating the need for a 32-foot front yard setback variance.

The Johnson's came to an open forum at a City Council meeting earlier this summer to determine if there was a way to establish support for this variance without going through the major site and building plan approval process that will be required prior to construction. The Johnson's did not want to spend money on plans unless they could be assured that a variance would be supported by the Planning Commission and City Council. The City Council directed them to work with staff on a variance application without providing all required plans for major site and building plan approval. If the City Council approve the requested variance, they would be able to submit a major site and building plan application consistent with an approved variance.

Variance Review Criteria

In considering all requests for a variance and in taking subsequent action, the Planning Commission and the Council shall make a finding of fact that the proposed action will not:

1. Impair an adequate supply of light and air to adjacent property.
2. Unreasonably increase the congestion in the public street.
3. Have the effect of allowing any district uses prohibited therein, permit a lesser degree of flood protection than the flood protection elevation for the particular area, or permit standards which are lower than those required by State law.
4. Increase the danger of fire or endanger the public safety.
5. Unreasonably diminish or impair established property values within the neighborhood, or in any way be contrary to the intent of this Title.
6. Violate the intent and purpose of the Comprehensive Plan.
7. Violate any of the terms or conditions of the items listed in the paragraph below.

Variances/Practical Difficulties

The applicant has provided a narrative that outlines reasoning in support of granting the 32-foot front yard setback variance. A variance from the terms of this Ordinance shall not be granted unless it can be demonstrated that:

1. Practical difficulties will result if the variance is denied due to the existence of special conditions and circumstances which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same district.

It is the conclusion of staff that there are no special circumstances regarding the land, structure or building involved in this variance request. This is a typical home when compared to others in Sunfish Lake.

- a. Special conditions may include exceptional topographic or water conditions or, in the case of an existing lot or parcel of record, narrowness, shallowness, insufficient area or shape of the property. *Again, there is nothing unique about the lot in question. It is a standard 3.58-acre parcel. The home exceeds setback locations on two sides of the property.*
- b. Practical difficulties caused by the special conditions and circumstances may not be solely economic in nature if a reasonable use of the property exists under the

terms of this Title. *The applicant wishes to pursue this variance because the interior layout of the home makes an addition more conducive towards the front yard of the home. If the interior of the home were remodeled, an addition could be located elsewhere on site (see red arrows drawn on site plan). While it is true that this would be a significant expense, the ordinance and state statutes indicate that economic considerations cannot be considered when determining whether or not to approve a variance.*

- c. *Special conditions and circumstances causing practical difficulties shall not be a result of lot size or building location when the lot qualifies as a buildable parcel. This parcel is buildable and all setbacks could be met if an addition were to be placed elsewhere on the lot.*
2. *Compliance with the requirements of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance or deny the applicant the ability to put the property in question to a reasonable use and the proposed variance permits the owner to use the property in a reasonable manner. It is true that other variances have been approved in the community within the last year for a garage addition; however, those variances were approved when it was clear that there was a practical difficulty involved. By approving a setback variance of this magnitude for living space a precedent would be set for allowing structures closer to the front property line within the community.*
3. *The special conditions and circumstances causing the practical difficulties do not result from the actions of the applicant. The homeowners purchased the home many years ago and they are now wanting to increase the livability of the home by adding more living space. The applicants are choosing to locate living space in such a manner that violates ordinance standards, and an addition could be located elsewhere on the property.*
4. *Granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district under the same conditions. The adjacent lot to the north was granted a front yard setback variance several years ago. In that case, a clear case for nonconforming lot size and unique lot size was made, and the same cannot be said about this lot. The lots in Sunfish Lake are relatively large and most properties are large enough to accommodate the 100-foot setback, and the home on this property also meets the 100-foot front yard setback. If a variance were to be granted for this home addition, the applicant would be granted special privileges that others do not have.*
5. *The request is not a use variance. This is not a use variance.*
6. *The variance requested is the minimum variance necessary to accomplish the intended purpose of the applicant. There really is no way to minimize the need for a variance in this case. The home is built right at the 100 foot-setback line. The applicant can eliminate the need for a variance by constructing the addition elsewhere on the property.*
7. *The request does not create an inconvenience to neighboring properties and uses. The request does not create an inconvenience for adjacent properties. If a variance were to be granted, the addition would be visible at some points on Horseshoe Lane, though there is vegetation on the east side of the property.*
8. *The variance requested is in harmony with the purpose and intent of the Ordinance. Granting the variance would not meet the intent of the ordinance as the intent of the ordinance is to keep structures from appearing too close to roadways and access drives. This addition would be significantly closer to the access road than other homes of similar size in the city.*

9. The variance requested is consistent with the Comprehensive Plan. *The comprehensive plan does not address setback requirements in the R-1 Zoning District; therefore, this request is neither consistent with or in conflict with the comprehensive plan.*
10. The variance requested will not alter the essential character of the locality. *This variance would have the potential to alter the essential character of the locality by allowing a home addition to be located closer to a front property line than other homes in the city. This would potentially have a visual impact on those using Horseshoe Lane, as well as it may have an impact on other new construction within the city with a new precedent set.*

The information provided in this staff report and on the proposed plans indicate that all above criteria have not been met for variance approval,

No written public comments have been received as of the date of the staff report publication.

Planning Commission: The Planning Commission met on October 19 after an on-site meeting. The Planning Commission reviewed the site and possible locations for the addition. There was discussion regarding the state statute on variances and the fact that economic reasons cannot be construed as practical difficulties. The Planning Commission voted (4-0) unanimously to deny the variance.

RECOMMENDATION

Based on the foregoing considerations and applicable ordinances, staff recommends denial of the 32-foot front yard setback variance for a new home addition subject to the following findings of fact and conditions of approval:

Findings of Fact:

1. The location of the subject property is as follows:
116 Salem Church Road
SUNFISH LAKE, MN 55118
2. The planning reports dated October 19, 2023, and November 7, 2023 and prepared by WSB are incorporated herein by reference.
3. The Applicants have submitted an application for a variance.
4. Requests for variances require Planning Commission review and City Council approval.
5. Notices for public hearings regarding requests on lots within the Shoreland Overlay district must be sent to the Department of Natural Resources. This lot is not within the Shoreland Overlay District.
6. The Sunfish Lake Planning Commission reviewed the applicant's request for a variance at the October 19, 2023 Planning Commission meeting.
7. Upon review of the planning report and application information, the Planning Commission found that the following findings support the Planning Commission's recommendation for denial of the 32-foot front yard setback variance and the finding that there are no practical difficulties associated with this request:

- a. There are no special circumstances regarding the land, structure or building involved in this variance request. This is a typical home when compared to others in Sunfish Lake.
- b. There is nothing unique about the lot in question. It is a standard 3.58-acre parcel. The home exceeds setback locations on two sides of the property.
- c. The applicant wishes to pursue this variance because the interior layout of the home makes an addition more conducive towards the front yard of the home. If the interior of the home were remodeled, an addition could be located elsewhere on site (see red arrows drawn on site plan). While it is true that this would be a significant expense, the ordinance and state statutes indicate that economic considerations cannot be used when determining whether or not to approve a variance.
- d. This parcel is buildable and all setbacks could be met if an addition were to be placed elsewhere on the lot.
- e. It is true that other variances have been approved in the community within the last year for a garage addition; however, those variances were approved when it was clear that there was a practical difficulty involved. By approving a setback variance of this magnitude for living space a precedent would be set for allowing structures closer to the front property line within the community.
- f. The homeowners purchased the home many years ago and they are now wanting to increase the livability of the home by adding more living space. The applicants are choosing to locate living space in such a manner that violates ordinance standards, and an addition could be located elsewhere on the property.
- g. The lots in Sunfish Lake are relatively large and most properties are large enough to accommodate the 100-foot setback, and the home on this property also meets the 100-foot front yard setback. If a variance were to be granted for this home addition, the applicant would be granted special privileges that others do not have.
- h. There really is no way to minimize the need for a variance in this case. The home is built right at the 100-foot setback line. The applicant can eliminate the need for a variance by constructing the addition elsewhere on the property.
- i. Granting the variance would not meet the intent of the ordinance as the intent of the ordinance is to keep structures from appearing too close to roadways and access drives. This addition would be significantly closer to the access road than other homes of similar size in the city.
- j. The comprehensive plan does not address setback requirements in the R-1 Zoning District; therefore, this request is neither consistent with or in conflict with the comprehensive plan.
- k. This variance would have the potential to alter the essential character of the locality by allowing a home addition to be located closer to a front property line than other homes in the city. This would potentially have a visual impact on those using Horseshoe Lane, as well as it may have an impact on other new construction within the city with a new precedent set.

**Please note, that if the City Council chooses to approve this variance, the City Council will need to include findings of fact in its motion of approval. The findings should support the notion that the City Council has determined that a practical difficulty does exist based on ordinance language regarding practical difficulties and variances.*

**CITY OF SUNFISH LAKE
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. 23-XX

**RESOLUTION DENYING A VARIANCE FOR THE PROPERTY AT 116 SALEM
CHURCH ROAD, SUNFISH LAKE, DAKOTA COUNTY, MINNESOTA.**

WHEREAS, Applicants and property owners Andrew and Jill Johnson, submitted an application for the approval of a 32-foot front yard building setback variance, Sunfish Lake, Dakota County, Minnesota, legally described as:

Lot 1, Block 1 Mullery Acres

WHEREAS, a request for a variance requires Planning Commission review and City Council approval; and

WHEREAS, City staff reviewed the application and outlined their review comments in planning reports dated October 19, 2023 and November 7, 2023, prepared by WSB; and

WHEREAS, the Sunfish Lake Planning Commission held a public hearing at their October 19, 2023 meeting and reviewed the variance application along with the referenced staff report; and

WHEREAS, upon hearing the staff presentations, applicant testimony, and public testimony, the Planning Commission closed the public hearing and recommend to the City Council denial of the variance on a vote of 4-0 vote; and

WHEREAS, the following findings support the Planning Commission recommendation for approval:

1. The location of the subject property is as follows:
116 Salem Church Road
SUNFISH LAKE, MN 55118
2. The planning reports dated October 19, 2023, and November 7, 2023 and prepared by WSB are incorporated herein by reference.
3. The Applicants/Owners have submitted an application for a variance.
4. Requests for variances require Planning Commission review and City Council approval.
5. Notices for public hearings regarding requests on lots within the Shoreland Overlay district must be sent to the Department of Natural Resources. This lot is not within the Shoreland Overlay District.
6. The Sunfish Lake Planning Commission reviewed the applicant's request for a variance at the October 19, 2023 Planning Commission meeting.

7. Upon review of the planning report and application information, the Planning Commission found that the following findings support the Planning Commission's recommendation for denial of the 32-foot front yard building setback variance and the finding that there are no practical difficulties associated with this request:
- a. There are no special circumstances regarding the land, structure or building involved in this variance request. This is a typical home when compared to others in Sunfish Lake.
 - b. There is nothing unique about the lot in question. It is a standard 3.58-acre parcel. The home exceeds setback locations on two sides of the property.
 - c. The applicant wishes to pursue this variance because the interior layout of the home makes an addition more conducive towards the front yard of the home. If the interior of the home were remodeled, an addition could be located elsewhere on site (see red arrows drawn on site plan). While it is true that this would be a significant expense, the ordinance and state statutes indicate that economic considerations cannot be considered when determining whether or not to approve a variance.
 - d. This parcel is buildable and all setbacks could be met if an addition were to be placed elsewhere on the lot.
 - e. It is true that other variances have been approved in the community within the last year for a garage addition; however, those variances were approved when it was clear that there was a practical difficulty involved. By approving a setback variance of this magnitude for living space a precedent would be set for allowing structures closer to the front property line within the community.
 - f. The homeowners purchased the home many years ago and they are now wanting to increase the livability of the home by adding more living space. The applicants are choosing to locate living space in such a manner that violates ordinance standards, and an addition could be located elsewhere on the property.
 - g. The lots in Sunfish Lake are relatively large and most properties are large enough to accommodate the 100-foot setback, and the home on this property also meets the 100-foot front yard setback. If a variance were to be granted for this home addition, the applicant would be granted special privileges that others do not have.
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 - j. The comprehensive plan does not address setback requirements in the R-1 Zoning District; therefore, this request is neither consistent with or in conflict with the comprehensive plan.
 - k. This variance would have the potential to alter the essential character of the locality by allowing a home addition to be located closer to a front property line

than other homes in the city. This would potentially have a visual impact on those using Horseshoe Lane, as well as it may have an impact on other new construction within the city with a new precedent set.

WHEREAS, the Sunfish Lake City Council considered the application for major site and building plan review at their meeting on November 7, 2023 and agrees with the findings of the Planning Commission.

NOW THEREFORE BE IT RESOLVED THAT the City Council of the City of Sunfish Lake hereby denies the 32-foot front yard building setback variance request.

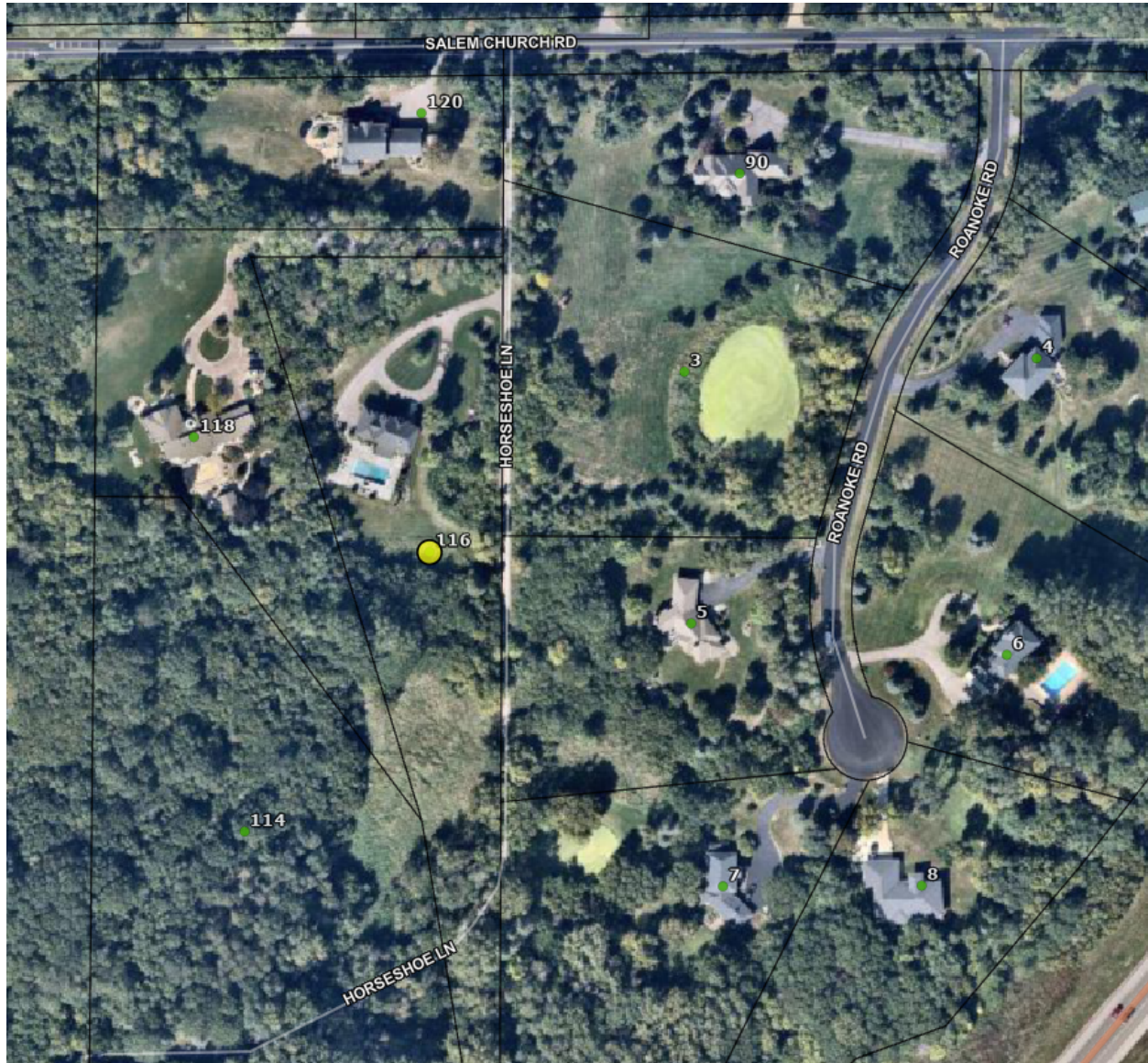
This resolution is adopted by the City Council of the City of Sunfish Lake this 7th day of November, 2023.

Dan O’Leary, Mayor

Attest:

Christy Wilcox, City Clerk

Location Map for 116 Salem Church Road



Andrew and Jill Johnson

116 Salem Church Rd

Sunfish Lake, MN 55118

August 16, 2023

Attn: Lori Johnson, City Planner

701 Xenia Ave. S. Suite 399

Minneapolis, MN 55416

Subject: Request for Variance – Property at 116 Salem Church Rd, Sunfish Lake, MN

To Whom It May Concern,

We are writing to formally request a variance for the property located at 116 Salem Church Rd in Sunfish Lake, MN. The purpose of this request is to seek permission for the expansion of our home, which is necessitated by a significant life change and does not create an inconvenience for any neighbors or their properties.

The reason for our request is rooted in the impending arrival of our third child. As our family grows, we find ourselves in need of additional space to ensure a comfortable and safe living environment for our children. The current layout of our home does not adequately accommodate the needs of a larger family, and we believe that expanding our home is the most practical solution.

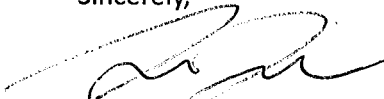
It is important to note that the proposed expansion has been carefully designed to ensure that it aligns with the existing aesthetic and character of the neighborhood. Our intention is to create an extension that seamlessly integrates with the architectural style of our home and the surrounding properties. We have consulted with architects and contractors to ensure that the proposed expansion will have minimal impact on the visual appeal of the neighborhood.

Furthermore, we have taken great care to assess the potential impact of the expansion on our neighbors. We have personally spoken with several neighboring property owners and have received their support and understanding regarding our plans. We believe that the proposed expansion will not create any inconvenience to our neighbors or their properties. In fact, several neighbors have expressed their excitement for our growing family and have indicated their approval of our request.

In conclusion, we request your consideration and approval of our variance request. We are confident that our proposed expansion will contribute positively to our family's well-being and the overall atmosphere of the Sunfish Lake community.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrew Johnson', with a long horizontal flourish extending to the right.

Andrew Johnson

A handwritten signature in black ink, appearing to read 'Jill Johnson', with a long horizontal flourish extending to the right.

Jill Johnson

Red arrows are pointing to potential locations for an addition to the home.

