

City of Menahga
Information Memorandum 17-014
Resolution No. 2017-017

Subject: Resolution No. 2017-017: Issuing a Variance from the Language in the Commercial Business District Restricting Auto Sales to North Country Motorsports

Agenda of: August 14, 2017

Council action: Adopted _____

Summary statement: Resolution No. 2017-017 adopts the Planning Commission's recommendation to grant a variance for North Country Motorsports.

A variance request was submitted by Trinity Junes, dba North Country Motorsports on July 17, 2017.

Mr. Junes purchased the property believing the zoning allowed auto sales. The property is in the commercial business district (C-B). CB does not allow vehicles sales under permitted uses and does not provide for a conditional use permit for that activity. The only option is a variance.

Mr. Junes indicated the property had previously been used for auto sales. In the past, the property had been used as an auto dealer and repair shop. However, that use ended many years ago. Menahga Municipal Code (MMC) 15.151.36 states that if the nonconformity or occupancy is discontinued for a period of more than one year, the use is no longer allowed (paraphrased).

On July 21, 2017, 23 public hearing notices were mailed to property owners within 300 feet of the property and the notice was advertised in the paper.

The Planning Commission held a meeting on August 3, 2017. During the meeting the Commission received information from Mr. Junes and reviewed the practical difficulties facing the property owner. Following Commission discussion, the Commission unanimously adopted Planning Commission Resolution 2017-001.

Attachments:

- Resolution No. 2017-017
- Planning Commission Information
- Planning Commission Resolution No. 2017-001
- Draft Planning Commission Minutes

Agenda Date: August 14, 2017

Action: Adopted

Vote: Unanimous

Yes:	No:
Ellingson Komulainen Lawrey McNeece Foss	

CITY OF MENAHGA, MINNESOTA

Resolution No. 2017-017

A Resolution of the Menahga City Council Issuing a Variance from the Language in the Commercial Business District Restricting Auto Sales to North Country Motorsports

WHEREAS, the City of Menahga received a complete variance request application from Trinity Junes, doing business as North Country Motorsports; and

WHEREAS, the application requests a variance from the language in Menahga Municipal Code (MMC) 15.151.18; and

WHEREAS, the property is zoned CB; and

WHEREAS, the City of Menahga Planning Commission adopted Planning Commission Resolution No. 2017-001, recommending the City Council approve the variance request from Trinity Junes; and

WHEREAS, MMC 15.151.53 provides the City Council with the authority to issue variances based on certain criteria; and

WHEREAS, the City Council determines the following:

1. The variance request is in harmony with the general purposes and intent of the MMC.
2. The variance request is consistent with the Comprehensive Plan and the stated objective to support development of future commercial businesses.
3. The property owner proposes to use the property in a reasonable manner not permitted by MMC 15.151.18.
4. The plight of the landowner is due to circumstances unique to the property not created by the landowners.
5. The variance will not alter the essential character of the locality as the property is zoned commercial.

NOW, THEREFORE BE IT RESOLVED by the City Council that the requested variance is issued to North Country Motorsports based on the following:

1. Sales of automobiles, motorcycles and ATVs
2. No storage of scrap materials outside of the building

Passed and approved by the City Council of the City of Menahga, Minnesota, fourteenth day of August, 2017.

Patrick Foss, Mayor

Janette M. Bower, Administrator



Public Notice

The City of Menahga Planning Commission will hold a public hearing during their special meeting on Thursday, August 3, 2017. The meeting will begin at 5 pm and will be held in the Menahga City Council Chambers, located at Menahga City Hall, 115 2nd St NE, Menahga, MN.

The purpose of the public hearing is to review and make a recommendation to the City Council concerning the variance application submitted by Trinity Junes, doing business as North Country Motorsports, located at 112 Aspen Avenue SE.

Mr. Junes' property is in the Commercial Business (CB) District. The application requests a variance from the CB language restricting auto sales, to permit the sale of automobiles, motorcycles, and ATVs on the property.

City of Menahga
"The Gateway to the Pines"

115 2nd Street NE
PO Box C
Menahga, MN 56464
218-564-4557
www.cityofmenahga.com



To: Planning Commission
From: Janette Bower, City Administrator *JJB*
Re: Variance Request
Date: August 1, 2017

A variance request was submitted by Trinity Junes, dba North Country Motorsports on July 17, 2017.

Mr. Junes purchased the property believing the zoning allowed auto sales. The property is in the commercial business district (C-B). CB does not allow vehicles sales under permitted uses and does not provide for a conditional use permit for that activity. The only option is a variance.

Mr. Junes indicated the property had previously been used for auto sales. In the past, the property had been used as an auto dealer and repair shop. However, that use ended many years ago. Menahga Municipal Code (MMC) 15.151.36 states that if the nonconformity or occupancy is discontinued for a period of more than one year, the use is no longer allowed (paraphrased).

On July 21, 2017, 23 public hearing notices were mailed to property owners within 300 feet of the property and the notice was advertised in the paper. I will forward responses as I receive them.

As part of the variance process, the Planning Commission makes a recommendation to the City Council via a resolution. When considering adoption of the resolution, the Planning Commission deliberates the following questions:

1. Is the variance request in harmony with the general purposes and intent of the MMC?
2. Is the variance request consistent with the Comprehensive Plan and the stated objective to support development of future commercial businesses?
3. Does the property owner propose to use the property in a reasonable manner not permitted by MMC 15.151.18?
4. Is the plight of the landowner due to circumstances unique to the property not created by the landowners?
5. Will the variance alter the essential character of the locality as the property is zoned commercial?

Based on the Commission's answers to the questions, the resolution is either adopted or it is failed. Either way, I then forward the Commission's recommendation to the Council. The Council then considers the matter. It is my intent to forward the recommendation to the Council for their August 14 meeting.

Attachments:

- Variance Application
- Variance Information
- Menahga Municipal Code 15.151.18 and 15.151.36
- Property Owner Notification
- Planning Commission Resolution No. 2017-01



City of Menahga
 115 2nd Street NE • PO Box C
 Menahga, MN 56464
 218-564-4557
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Variance Application
(\$150.00 Application Fee)

Application date: 7-17-2017

Applicant name: Trinity Jaymys Junys

Mailing address: 11317 State Hwy 67

City: Menahga **State:** MN **Zip:** 56464

Phone numbers: 218-255-3434

Email address: TrinityJaymys@live.com

Property address: 112 Aspen Ave SE Menahga, MN 56464

Parcel #: 173000160

Property size: 50 Width 140 Length 7000 Total square feet

What is the property's current use?: Vacant

The property is currently zoned:

- | | |
|---|--|
| <input type="checkbox"/> A-R, agricultural residential | <input type="checkbox"/> R-1, one-to four-family residence |
| <input type="checkbox"/> R-2, multiple-family residence | <input checked="" type="checkbox"/> C-B, central business |
| <input checked="" type="checkbox"/> C-1, commercial | <input type="checkbox"/> C-2, highway commercial |
| <input type="checkbox"/> I, industrial | <input type="checkbox"/> S-D, shoreland district |
| <input type="checkbox"/> M-H, manufactured home residence | |

Explain in detail the reason for your request:

Letter attached to application

Untitled

I "Trinity Jaymes Junes" am requesting permission from the city of Menahga, to allow sales of, Motorcycles, ATV's, and Auto's, at the property of

112 Aspen Ave SE Menahga, MN 56464

I recently purchased the property knowing that it has previously been licensed for commercial Auto sales. My understanding was that the property was still zoned for Commercial Auto sales use. That was my only reason, and use, for purchasing the property.

My plans for the property, and my buisness "North Country Motorsports are to display and sell a small volume of quality Motorcycles, ATV's, Snowmobiles, and Auto's in a organized, and highly professional manner.

I have lived in the city of Menahga, MN my whole life, and I would like to open my buisness, help, and keep the city of Menahga growing.

Thank you

Sincerely

Trinity Jaymes Junes



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Variance Information

What is a variance?

The Menahga Municipal Code allows for a variance from certain zoning requirements. A variance is described as:

VARIANCE. A modification or variation of the provisions of the chapter, as applied to a specific piece of property only under the circumstances provided for in § 151.53, except that modification in the allowable uses within a district shall not be considered a *VARIANCE*. (Menahga Municipal Code 151.03)

Menahga Municipal Code 151.53 Adjustments and Variances.

- (A) *Board of Appeals and Adjustments.* The City Council shall be the Board of Appeals and Adjustments for this city, and as provided by M.S. § 462.354, Subdivision 2 shall have the powers granted under M.S. § 462.357, Subdivision 6, as they may be amended from time to time.
- (B) *Variances.* Pursuant to M.S. § 462.357, Subdivision 6, as it may be amended from time to time, the City Council, acting as a Board of Appeals and Adjustments, may issue variance from the provisions of this zoning code. A variance is a modification or variation of the provisions of the zoning code as applied to a specific piece of property.
- (1) Variances shall only be permitted:
 - (a) When they are in harmony with the general purposes and intent of this section; and
 - (b) When the variances are consistent with the comprehensive plan.
 - (2) Variances may be granted when the applicant for the variance established that there are practical difficulties in complying with the zoning ordinance.
 - (3) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PRACTICAL DIFFICULTIES. As used in connection with the grant of a variance, means that:

1. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
 2. The plight of the landowner is due to circumstances unique to the property not created by the landowners; and
 3. The variance, if granted, will not alter the essential character of the 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.
- (4) Variances shall be granted for earth sheltered construction as defined in M.S. § 216C.06, Subdivision 14, when in harmony with the section. The Board of Appeals and Adjustments may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The Board may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The Board may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

What is the process to obtain a variance?

The first step is to submit an application to the City Administrator. Be sure to provide enough information in the application so the reason for your variance application can be clearly understood.

Is there a fee?

Yes. The fee for a variance request is \$150.00. The fee must be submitted with your application.

What happens after my variance request is submitted?

- The Administrator will forward the request to the Planning Commission within 30 days of receiving the application.
- The Planning Commission will schedule a meeting and hold a public hearing. Prior to the meeting, notice is sent to all property owners within 300 feet of the subject property. The owner's names are from the County tax records.
- After the Planning Commission meeting, the Administrator will forward the Commission's report to the City Council.
- The City Council, during one of their meetings, will address the variance application and may vote on the variance or refer it back to the Planning Commission for further consideration.
- When making their decision, the City Council will consider for the property's existing conditions, conservation of property values, and the direction of building development to the best advantage of the entire city.
- If the City Council approves the variance, the variance takes effect on the date set by the council.
- If the City Council does not approve the variance, the requested activity will not be permitted in the City.

Menahga Municipal Code
15.151.18 C-B, Central Business District
151.151.36 Nonconforming Structures and Uses

151.18 C-B, CENTRAL BUSINESS.

- (A) *Purpose.* The C-B district is intended for retail stores and offices which are mutually compatible and can benefit from and contribute to a compact shopping area serving the city and surrounding area.
- (B) *Permitted use.*
- (1) Antique shops;
 - (2) Apparel shops;
 - (3) Appliance stores;
 - (4) Art and school supplies;
 - (5) Art galleries;
 - (6) Art studios;
 - (7) Auction rooms;
 - (8) Auto accessory stores;
 - (9) Bakeries, provided the room or rooms containing the preparation and baking process shall not have a gross floor area in excess of 2,400 square feet;
 - (10) Barber parlors;
 - (11) Beauty parlors;
 - (12) Beverage stores;
 - (13) Bicycle sales, rental and repairs;
 - (14) Book and stationery stores;
 - (15) Camera and photo stores;
 - (16) Candy and ice cream stores;
 - (17) Carpet and rug stores;
 - (18) Catering establishments;
 - (19) Clothes pressing and tailoring shops;
 - (20) Clothing stores;
 - (21) Coin and philatelic stores;
 - (22) Decorating studios;
 - (23) Delicatessens;
 - (24) Department stores;
 - (25) Drug stores;
 - (26) Dry cleaning and laundry receiving and pick-up stations, excluding laundering and dry-cleaning processing stores;
 - (27) Dry goods or notions stores;
 - (28) Electrical appliance sales and service;
 - (29) Employment agencies;
 - (30) Fabric shops;
 - (31) Florist shops;
 - (32) Financial institutions;
 - (33) Foods, groceries, meats, fish, bakeries and delicatessens;
 - (34) Furniture stores;
 - (35) Furrier shops;
 - (36) Gift shops;
 - (37) Grocery, fruit, vegetable or meat stores;
 - (38) Hardware stores;
 - (39) Hobby shops;

- (40) Hotels;
- (41) Jewelry stores;
- (42) Leather goods and luggage shops;
- (43) Libraries;
- (44) Liquor stores or taverns;
- (45) Loan offices and finance companies;
- (46) Locksmith shops;
- (47) Medical and dental offices;
- (48) Mail order stores;
- (49) Millinery shops;
- (50) Music stores;
- (51) Newsstands;
- (52) Offices, professional;
- (53) Office supply stores;
- (54) Optical stores;
- (55) Orthopedic and medical appliance stores;
- (56) Paint and wallpaper stores;
- (57) Parking and garages, other than those accessory to a principal use for the parking and storage of private passenger automobiles only;
- (58) Personal apparel stores;
- (59) Pet shops;
- (60) Phonograph, record and sheet music stores;
- (61) Photography studios;
- (62) Physical culture and health services, reducing salons and masseurs;
- (63) Picture framing and picture stores;
- (64) Pipe and tobacco shops;
- (65) Post offices;
- (66) Plumbing sales stores;
- (67) Public utility service stores;
- (68) Radio and television sales and repair stores;
- (69) Record shops;
- (70) Rental agencies for the rental of clothing, appliances, automobiles, and household fixtures, furnishing and accessories;
- (71) Restaurants, excluding drive-ins;
- (72) Service stations;
- (73) Sewing machine sales and service shops;
- (74) Shoe and hat sales and repair shops;
- (75) Stationery shops;
- (76) Stock and brokerage firms;
- (77) Taxi stands;
- (78) Telephone booths;
- (79) Theaters, excluding drive-in;
- (80) Ticket agencies;
- (81) Tea, spice and condiment specialty shops;
- (82) Toy stores;
- (83) Travel bureaus and transportation ticket offices;
- (84) Variety, gift, notion and soft good stores; and
- (85) Vending machines, which are coin or card operated.
- (86) A single and/or two family dwelling be allowed above, behind, or below a commercial business, and the dwelling area must be directly accessible from outside the business/dwelling structure through an entrance dedicated solely to the dwelling. An

entrance which is only accessible through the business area of the structure does not qualify, nor does an entrance that is shared with the business area.

- (C) *Accessory uses.*
 - (1) Any accessory use, except signs, customarily incidental to the above are permitted uses; and
 - (2) Signs, as regulated in § 151.37.
- (D) *Height, yard and lot coverage regulations.*
 - (1) *Height regulations.* Same as R-2.
 - (2) *Lot coverage and yard regulation.* In the C-B district, there shall be no specific yard requirements or lot coverage requirements, except for off-street parking and loading, as regulated in the general regulations of this chapter.
- (E) *Additional regulations.*
 - (1) Lighting shall be directed away from public rights-of-way and residential districts.
 - (2) Any awning suspended from a building has to be less than two feet from the edge of the curb and at least eight feet from the ground grade line or the sidewalk, the owner of a structure is responsible for its safe construction and maintenance.
 - (3) Additional regulations are set forth in the §§ 151.35 through 151.38.
(Ord. passed 4-24-78; Am. Ord. 1108-2010, passed 11-8-10) Penalty, see § [10.99](#)

151.36 NONCONFORMING USES AND STRUCTURES.

- (A) Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair or maintenance, but if the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming use is destroyed by fire or other peril to the extent of greater than 50% of its market value, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. The use of land, if changed from a nonconforming use, shall be in conformity or close to conformity with the provisions of the specific district. A nonconforming use of land shall not be increased in land area.
- (B) (1) A lawful nonconforming use of a structure existing at the date of enactment of this chapter may be continued, and the use may be extended throughout the building or sold, rented or leased to another individual, individuals, firm or corporation provided no structural alterations, except those required by law, and no additions or enlargements are made to the buildings.
 - (2) Exceptions:
 - (a) Alterations may be made to a residential building containing nonconforming residential units when alterations will improve livability of the unit provided the number of dwelling units is not increased.
 - (b) Nothing in this chapter shall prevent the strengthening or restoration of a wall or structural member in a nonconforming building when the action is taken pursuant to a building permit.
- (C) The provisions of this section shall apply to any use that may become nonconforming due to a change in the classification of the district in which it is located as a result of rezoning from the effective date of the chapter making the change.
(Ord. passed 4-24-78) [Penalty, see § 10.99](#)

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July 21, 2017

Dear Property Owner,

The Menahga Planning Commission will hold a public hearing on Thursday, August 3, 2017. The purpose of the public hearing is to review the variance application submitted by Trinity Junes, doing business as North Country Motorsports. The property address is 112 Aspen Avenue SE Menahga, MN.

North Country Motorsports is located in the Commercial Business (CB) District. The CB district does not permit auto sales. If approved, the variance grants North Country Motorsports the ability to sell automobiles, motorcycles, and ATVs on the property.

The meeting will begin at 5 pm in the City Council Chambers located at 115 2nd St NE Menahga, Minnesota.

If you wish to comment on this issue, you may do so by attending the public meeting or by providing written comment to the Planning Commission by August 3. Written comments may be faxed to 564-4612 or emailed to jbower@cityofmenahga.com. Please call 564-4557 with questions.

Sincerely,

Janette M. Bower, MMC
City Administrator

For the following reason, I am ✓: In favor of Not in favor Have no objections
to be proposed variance:

Name: _____

Address: _____

Agenda Date:	August 3, 2017
Action:	Adopted
Vote:	Unanimous
Yes:	No:
Ellingson	
Karjala	
Kicker	
Murphy	
Olson	

CITY OF MENAHGA, MINNESOTA

Planning Commission Resolution No. 2017-001

A Resolution of the Menahga Planning Commission Recommending the Menahga City Council Approve a Variance Request to Allow Automobile, Motorcycle and ATV Sales on a Property (115 2nd St SE) Located in the Commercial Business District

The City of Menahga, Minnesota ordains:

WHEREAS, the City of Menahga received a complete variance request application from Trinity Junes, doing business as North Country Motorsports; and

WHEREAS, the application requests a variance from the language in the Commercial Business District, restricting auto sales; and

WHEREAS, the property is zoned CB; and

WHEREAS, on July 21, 2017, 23 public hearing notices were mailed to property owners within 300 feet of the property and published in the paper on July 26, 2017; and

WHEREAS, a variance request must be reviewed by the Planning Commission, with a recommendation to the City Council.

NOW, THEREFORE BE IT resolved by the Menahga Planning Commission that the Commission recommends City Council approval of the variance request and believes the variance suits the company's ability to operate a commercial business in Menahga.

Passed and approved this third day of August, 2017.

Liz Olson, Planning Commission Chair

Janette M. Bower, MMC, Administrator

City of Menahga
Planning Commission Minutes
Thursday, August 3, 2017

A. Call to Order

The Menahga Planning Commission held a meeting on Thursday, August 3, 2017. City Administrator Bower called the meeting to order at 5 pm.

B. Roll Call

Comprising a quorum of the council, the following members were present:

Liz Olson
Larry Murphy

Tim Ellingson
Sam Kicker

Larry Karjala

C. Commission Organization

Commission Member Kicker nominated Liz Olson to be the Chair. Commission Member Karjala seconded the nomination.

Commission Member Ellingson nominated himself to be the Chair.

The Commission agreed Liz Olson would serve as Chair and Tim Ellingson would serve as Vice Chair.

D. Public Hearing

1. Resolution No. 2017-001: Issuing a Variance from the Language in the Commercial Business District Restricting Auto Sales to North Country Motorsports

Planning Commission Chair Olson opened the public hearing. There being no one wishing to testify, the public hearing was closed.

City Administrator Bower:

- Expanded on the Commercial Business (C-B) zoning language and stated the language did not permit the issuance of a Conditional Permit to address the issue;
- Stated the property had been used as a car dealership but when the use ceased to exist, the grandfather rights terminated; and
- Reported she had not received any objections to the variance.

Trinity Junes, Variance applicant:

- Expanded on his business model;
- Stated he did not foresee any type of noise issues;
- Described the nature of the business and stated the motorcycles and ATVs would be showcased in a professional manner;
- Announced he carried insurance on the building which also contained provisions for hazardous materials;

- Explained there would not be any type of scrap materials outside of the building;
- Voiced his desire to work hard to maintain of a professional appearance; and
- Expanded on his history with ATVs and motorcycles.

Commission Chair Olson:

- Reported she had spoken with the owner of Ted's Hardware and with her employer, Menahga School District, and neither had any objections to the variance.

Commission Member Kicker:

- Inquired of Mr. Junes' plans for the exterior of the building; and
- Described Mr. Junes' personal property as pleasing and stated he expected the business to be the same.

Vice Chair Ellingson:

- Inquired of insurance coverages.

Planning Commission Members reviewed and answered the following questions pertaining to the variance request:

1. Is the variance request in harmony with the general purposes and intent of the MMC?
Commission answer: Yes
2. Is the variance request consistent with the Comprehensive Plan and the stated objective to support development of future commercial businesses?
Commission answer: Yes
3. Does the property owner propose to use the property in a reasonable manner not permitted by MMC 15.151.18?
Commission answer: Yes
4. Is the plight of the landowner due to circumstances unique to the property not created by the landowners?
Commission answer: Yes
5. Will the variance alter the essential character of the locality as the property is zoned commercial?
Commission answer: No

Main Motion: To adopt Planning Commission Resolution 2017-001

Moved by:	Ellingson
Seconded by:	Kicker
Action:	Motion carried by unanimous voice vote.
In favor:	Karjala, Kicker, Murphy, Ellingson, Olson
Opposed:	None

E. Commission Discussion Regarding Future Meeting and Business

The Commission discussed:

- Comprehensive Plan update;
- Rezoning;
- Zoning language updates;
- Training opportunities; and
- Meeting dates.

The Commission agreed to meet the third Thursday of every month.

F. Meeting Adjourned

Main Motion: To adjourn the meeting at 5:40 pm

Moved by:	Ellingson
Seconded by:	Karjala
Action:	Motion carried by unanimous voice vote.
In favor:	Karjala, Kicker, Murphy, Ellingson, Olson
Opposed:	None

Janette M. Bower, Administrator

Liz Olson, Chair

Draft