



Nathan Feltis CSAH 20 Access Denial Administrative Appeal 2024

As required by Section 4006.2 of the County's Administrative Enforcement and Appeals Procedure Ordinance, the Director of the Department of Public Works provides the following information related to this administrative appeal:

(1) Date, Time, and Place of Hearing

The hearing is set for **Wednesday, November 6, 2024, at 8:00 a.m.** at the Olmsted County Government Center, 151 4th Street Southeast, Rochester, Minnesota, 55904, Board Room/Council Chambers.

(2) Nature of the Applicant's Request

The Appellant, Nathan Feltis, submitted an application permit for access to Olmsted County's Highway Division, dated July 11, 2024, requesting to relocate a field access on County State Aid Highway (CSAH) 20 north of the intersection with MN Highway 30. The application was denied, and Olmsted County provided Appellant a letter detailing the reasons for the denial of the application, dated August 15, 2024.

(3) Characteristics of the Applicant's Property and Environs

The property involved is comprised of two 80-acre parcels (which were formerly one contiguous 160-acre parcel) located in the Northwest Quarter of Section 31, Township 105 North, Range 13 West, in Pleasant Grove Township, Olmsted County. They are located on the east side of CSAH 20 at the northeast corner of the intersection of CSAH 20 and MN Hwy 30. The "North 80" acre parcel (PID 53.31.22.086708) is owned by Jerry and Nancy Richter and the "South 80" acre parcel (PID 53.31.23.086709) is owned by Clifton and Lori Feltis.

The Appellant is not currently the owner of the property from which access to CSAH 20 is being sought and the current owners, Jerry and Nancy Richter, have not joined in his access application or his subsequent appeal of the denial of his

access request. Olmsted County Public Works understands, however, that Clifton and Lori Feltis and Jerry and Nancy Richter are aware of Appellant's access application and his appeal of the denial to the County and do not oppose it.

There are currently three accesses onto CSAH 20 from the "North 80" which are located approximately 75 feet (field access), 1,100 feet (farmstead access), and 1,260 feet (field access) south of 110th Street Southeast, a Township Road. There is currently no access to the "South 80" from CSAH 20. Clifton Feltis also owns the 160-acre parcel on the west side of CSAH 20 (PID 54.36.13.034459) directly across from the parcels in question.

(4) Relationship of the Request to the Intent of the Applicable Ordinance

The Olmsted County Access Management Ordinance Chapter 1300 is the applicable ordinance for this request. Several parts of the ordinance are being considered with this application.

Per Section 1303.01 of the Olmsted County Access Management Ordinance:

An access permit issued by the County Engineer shall be required whenever any construction, reconstruction, relocation or alteration of an access connection within the right-of-way of any county road is proposed, or where a change of use is proposed for a property with existing access connection(s) to a county road right-of-way. Alterations include the widening of an existing access or changes to an existing culvert including lengthening or replacement. A change in use is defined to include:

...

c) changing the boundaries of a parcel or group of parcels where the change will result in increasing the number of lots with frontage on a county road or a reduction in lot frontage below the minimum access connection spacing requirements of this ordinance. (emphasis added.)

Per Section 1304.01 of the Olmsted County Access Management Ordinance:

It is the intent of this ordinance for parcels abutting a county roadway to permit one access per parcel, with connections on lower classification roads, where practical, in the case of parcels with frontage on more than one road. Except where alternative access is impractical, it is the intent of the ordinance not to allow new private

connections to expressways or major arterial roadways and to eliminate existing non-conforming access. Access connections shall be located to provide adequate spacing between adjacent connections and adequate offset from connections across the roadway, considering both existing access connections and potential future connections needed to adequately serve future land uses in the vicinity of a proposed access connection. (emphasis added.)

The original 160-acre parcel on the east side of CSAH 20 was split in December of 2021 when Eileen Oeltjen, as Trustee for the Oeltjen Trust, conveyed the “South 80” to Clifton and Lori Feltis and the “North 80” to Jerry and Nancy Richter. Based on the Ordinance, an access application was required to be submitted to Olmsted County Public Works Department at the time of that split to review access from CSAH 20 to the property for compliance with the Ordinance. However, no application was submitted at that time. Had an application been submitted, the process would have provided for an access to the “South 80” and would have required the “North 80” to be brought into access compliance. The “North 80” is currently non-conforming because 1) there is more than one access serving the property from a county road, 2) access is available from 110th Street Southeast, a lower traffic road, and 3) current property access spacing is less than the minimum spacing allowed by the Ordinance.

The current access application submitted by Nathan Feltis is required by the Ordinance due to a proposed split of the “North 80” parcel. The County has denied that access request and Mr. Feltis has appealed that denial. It is the County’s understanding that Mr. Feltis has not yet sought formal approval of the proposed split from the Township and a decision on access is being requested prior to application for the split. Mr. Feltis has proposed to split the south 10-acres from the “North 80” with a new property line to be located just to the south of the current farmstead access. The purpose of this split is to separate the grain bins located near the south property line from the building site and utilize them in the Feltis farming operations.

(5) Recommended Findings and Actions

The Public Works Department recommends that the hearing officer adopt the following as part of the findings affirming the County’s denial of appellant’s access application:

1. The Appellant, Nathan Feltis, has provided no evidence that he actually owns either the “North 80” or the “South 80”, that he has an interest in either the “North 80” or the “South 80”, or that he has signed a purchase agreement

giving him the right to acquire either property or a portion of either property which abuts CSAH 20 if certain future conditions are met. Without such evidence, Appellant has no standing to pursue such an appeal and therefore the County's decision to deny his access application must be affirmed.

If Appellant does provide evidence that he either owns, has an interest in, or has a clear right to acquire title to all or a portion of the "North 80" and/or the "South 80" which abuts CSAH 20, then there is no longer an issue with standing and the appeal may proceed and be considered on its merits.

2. When the original 160-acre parcel on the east side of CSAH 20 was split into two 80-acre parcels in December 2021, increasing the number of parcels along a county road, Jerry and Nancy Richter as the new owners of the "North 80" and Clifton and Lori Feltis as the new owners of the "South 80" were required to submit access applications to the Olmsted County Public Works Department to review access to CSAH 20 for conformance with the requirements of the County's Access Management Ordinance. See Section 1303.01 c).
3. An access application was not submitted by Jerry and Nancy Richter for the "North 80" at the time of the December 2021 split and therefore no access permit to the "North 80" from CSAH 20 was issued by the County at that time.
4. An access application was not submitted by Clifton and Lori Feltis for the "South 80" at the time of the December 2021 split and therefore no access permit to the "South 80" from CSAH 20 was issued by the County at that time.
5. As a result, the "North 80" property was in violation of the requirements of Section 1303.01 c) of the Access Management Ordinance at the time the current access application was submitted and the subsequent appeal commenced. If the Appellant decides not to pursue the proposed split of the "North 80", leaving the current access points "as is" is not permitted as they remain in violation of the access spacing requirements of the Ordinance.
6. Based on the proposed split, the Appellant, Nathan Feltis, submitted an access application to move the southernmost access on the "North 80" parcel to the south approximately 35 feet to the boundary line dividing the "North 80" from the "South 80".
7. A review of the existing accesses to the "North 80" shows that there are currently three accesses serving that parcel. All those accesses are considered "non-conforming" under the Ordinance because only one access onto CSAH 20 is allowed.

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8. CSAH 20 is a secondary arterial roadway.
 9. The northernmost access to the “North 80” is non-conforming because it does not meet corner clearance standards set forth in Section 1304.04 of the Access Management Ordinance requiring the access to be set back at least 375 feet from the intersection with 110th Street Southeast to the north. The Access Management Ordinance also requires access to be located on the “lower functioning road” with less traffic, which in this case is 110th Street Southeast, a township road.
 10. The southern two accesses to the “North 80” are non-conforming because the spacing between them is approximately 150 feet. As such, the minimum spacing between accesses must be 660 feet or greater based on *Section 1304.03 Minimum Spacing of Access Connections* found in Table 2 of the Ordinance. Moving the access to the shared “North 80” and “South 80” property line will only increase the distance between the two accesses to 185 feet apart, significantly less than the 660-foot spacing requirement set forth in the Ordinance.
 11. The County proposed a solution to the access violation issues in a letter, dated August 15, 2024, sent to the Appellant. This letter included two options, either of which, if selected, would fully comply with the ordinance.
 12. Option No. 1 was to leave the farmstead access in the same location and make this access a shared access with the 10-acre parcel to the south that would be created if the proposed split was approved. The access could be widened if desired to better accommodate heavy farm vehicles if necessary. The benefit of this option is that the access would essentially operate in the same way that it has for years. Under this option, Appellant may choose to leave the driveway alignment outside of the right of way in its current location or construct a new alignment to access the grain bins. Appellant planned to construct a driveway access to the bins regardless of whether it was from the farmstead access or a new access following the “North 80” and “South 80” shared boundary.
 13. As part of Option 1, and in order to eliminate the existing non-conformities due to the failure to meet minimum spacing requirements and exceeding the number of permitted accesses, the County agreed to relocate the southernmost access to the “South 80” to an acceptable location that will comply with both the 660-foot minimum spacing requirement and the required corner clearance from the intersection of CSAH 20 and MN Highway 30.

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14. Since Appellant also owns a 160-acre parcel on the west side of CSAH 20 directly across from the land in question, Appellant was concerned Option 1 would not permit him to bring grain directly across CSAH 20 from the west side field to the east side field. Appellant asserted if the right of way access was relocated to the property line, the two accesses would have lined up making his grain hauling operations easier. While this is true, in reality, the County noted it is considered normal farming operations to haul grain out of a field during harvest and turn to travel down a public road to the final destination. The important factor is to provide safe access points that can accommodate the intended farm vehicles.
 15. The County also indicated to the Appellant that the field access on the west side of the road could be relocated to match up with the farmstead access. However, Appellant indicated this option was less desirable because of the possibility of moisture in the soil impacting the viability of the access was greater if the access to the field on the west side of CSAH 20 was moved to the north.
 16. Option No. 2, which the County would approve, would be to provide for an easement from the farmstead access through the 10-acre parcel to serve the "South 80." Option 2 is essentially the same as Option 1 except that the "South 80" would be accessed through the farmstead access in lieu of relocating the south access further to the south to meet the 660-foot spacing requirement.
 17. Olmsted County has also agreed to remove the northernmost access to the "North 80", but Jerry and Nancy Richter as the owners of the "North 80" would need to work with the Township on approvals for an access to 110th Street Southeast, a township road. The Richters have not submitted an access application seeking approval for this reconfiguration with a subsequent denial and appeal, and therefore the hearing officer has no basis to consider whether a county decision on such a request is authorized under the requirements of the Access Management Ordinance.

Benjamin Johnson
Director of Public Works/County Engineer
Dated: 10/24/2024