STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0733

John Schulz, et al.,
Respondents,

vs.

Town of Duluth,
Respondent,

Carol Danielson-Bille,
Appellant.

Filed February 14, 2022
Reversed
Johnson, Judge

St. Louis County District Court
File No. 69DU-CV-17-2438

William D. Paul, William D. Paul Law Office, Duluth, Minnesota (for respondents John Schulz, Rebecca Norine, and Jack Nelson)

Robert A. Alsop, Kennedy & Graven, Chartered, Minneapolis, Minnesota (for respondent Town of Duluth)

David M. Johnson, Trial Group North, Duluth, Minnesota (for appellant)

Considered and decided by Reilly, Presiding Judge; Johnson, Judge; and Larkin, Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

Carol Danielson-Bille owns property on the north shore of Lake Superior. She and her late husband twice sought zoning variances so that they could build a house on the property. Some of their neighbors opposed their applications for the variances. The town board denied the Billes' first variance application but later approved their second, revised application. After the objecting neighbors sought judicial review, the district court reversed the town board's grant of the second application on two grounds: that the town board was collaterally estopped from granting the second application after denying the first application and that the town board's decision is unreasonable, capricious, and arbitrary. We conclude that the common-law doctrine of collateral estoppel did not preclude the town board from considering the second variance application and that the town board's decision is not unreasonable, capricious, or arbitrary. Therefore, we reverse the district court and reinstate the decision of the town board.

FACTS

In 1992, Carol Danielson-Bille and Charles Bille (hereinafter the Billes) purchased two lots on the north shore of Lake Superior. The property is on the lake side of Lake Shore Drive, approximately 18 miles north of the city of Duluth and approximately 10 miles south of the city of Two Harbors. As the Billes were nearing retirement, they decided that they would like to build a house on the property.

In March 2017, the Billes submitted an application to the Town of Duluth planning commission for six variances from the town's zoning ordinance. The Billes sought

variances concerning the minimum lot area and width as well as the setback distances from the road, a side boundary line, an unclassified watercourse, and the vegetation line of Lake Superior. At a public hearing in late May 2017, the planning commission approved the application by a four-to-two vote.

Four of the Billes' neighbors—John Schulz, Rebecca Norine, Dan Watkins, and Jack Nelson—appealed the planning commission's decision to the town board. In late June 2017, at a public hearing, the town board denied the Billes' variance application by a three-to-two vote.

Charles Bille attended a town board meeting in July 2017 to express the Billes' interest in continuing to pursue their building plans. The chair of the town board told the Billes that they could seek judicial review of the June 2017 denial in district court or could submit another, revised variance application. The meeting minutes state, "Mr. Bille has the right to court and/or reapply for another variance."

The Billes later submitted a second variance application to the planning commission. The second application was different from the first in that the plans for the house were modified in response to the concerns raised by the planning commission and the town board. Specifically, the Billes reduced the height of the roof, eliminated a walk-out to the lake on the lower level, added a rock retaining wall with terracing, added a deck facing the lake, added a "turn-around area" to the driveway, and eliminated the need for a well on the property. In August 2017, the planning commission approved the Billes' second variance application by a four-to-three vote.

In September 2017, the neighbors appealed the planning commission's decision on the second application to the town board. At a public hearing, the town board approved the Billes' second variance application by a three-to-two vote. The town board's decision is reflected in a three-page document, which states the reasons for its decision.

In October 2017, three of the four objecting neighbors sought judicial review of the town board's decision in the St. Louis County District Court. The district court dismissed the Billes from the action on the ground that the neighbors did not timely commence the action against them, and the district court dismissed the action with respect to the town on the ground that the Billes are necessary and indispensable parties. This court affirmed. *See Schulz v. Town of Duluth*, 923 N.W.2d 703 (Minn. App. 2019) (subsequent history omitted). But the supreme court reversed and remanded, holding that the Billes must be added to the action pursuant to the second sentence of rule 19.01 of the rules of civil procedure. *Schulz v. Town of Duluth*, 936 N.W.2d 334, 340-42 (Minn. 2019). In February 2020, the chief justice assigned a judge of the Tenth Judicial District to the case. *See* Minn. Stat. § 2.724, subd. 1 (2020).

In December 2020, the neighbors and the town served and filed cross-motions for summary judgment. The Billes joined in the town's motion. Charles Bille passed away in January 2021. In April 2021, the district court filed a 42-page order in which it granted the neighbors' motion in substantial part, denied the town's and the Billes' motion in substantial part, and ordered entry of judgment in favor of the neighbors. The district court reasoned that the doctrine of collateral estoppel precluded the town board from considering the Billes' second variance application and, in the alternative, that the town board's

decision to grant the Billes' variance application is unreasonable, capricious, and arbitrary. Danielson-Bille appeals.

DECISION

A municipality may, by ordinance, regulate, among other things, "the location, height, width, bulk, type of foundation, number of stories, size of buildings and other structures, the percentage of lot which may be occupied, the size of yards and other open spaces, [and] the density and distribution of population." Minn. Stat. § 462.357, subd. 1 (2020). A municipality also may grant variances to its zoning ordinance. *Id.*, subd. 6(2). A town is authorized to adopt and enforce a zoning ordinance in the same manner as a city because each is within the definition of "municipality." *See* Minn. Stat. §§ 394.32, 394.33, subd. 2, 462.352, subd. 2, 462.357 (2020); *see also* Minn. Stat. §§ 366.10-.181 (2020).

The Town of Duluth has enacted both a comprehensive plan and an ordinance to regulate land use within the town. Town of Duluth, Minn., Comprehensive Land Use Plan (DCLUP) ch. 1 (2002); Town of Duluth, Minn., Zoning Ordinance No. 5 (DZO) art. XVII (2015). The town's ordinance allows the town to grant variances from the restrictions of its zoning ordinance. DZO art. X, § 3. The ordinance provides that variance applications initially are considered by the planning commission after a public hearing, *id.*, and that any aggrieved person may, within 15 days, appeal a final decision of the planning commission to the town board, DZO art. XIV, § 3.A.1. The town's ordinance does not expressly state whether a person may apply for a variance more than once.

Judicial review of a town's denial of a variance application is based on the following statute:

> Any person aggrieved by an ordinance, rule, regulation, decision or order of a governing body or board of adjustments and appeals acting pursuant to sections 462.351 to 462.364 may have such ordinance, rule, regulation, decision or order, reviewed by an appropriate remedy in the district court, subject to the provisions of this section.

Minn. Stat. § 462.361, subd. 1 (2020); *see also Schulz*, 936 N.W.2d at 338-40. A district court decision may be appealed to this court in the same manner as other civil actions. Minn. R. Civ. App. P. 103.03; *Krummenacher v. City of Minnetonka*, 783 N.W.2d 721, 725 (Minn. 2010). Consistent with section 462.361, subdivision 1, the town's ordinance provides that a final decision of the town board may, within 30 days, be appealed to the St. Louis County District Court. DZO art. XIV, § 3.E.4.

I. Collateral Estoppel

Danielson-Bille first argues that the district court erred by applying the doctrine of collateral estoppel and by concluding that the town board was precluded from considering the Billes' second variance application. Her first argument has four parts; she argues, in the alternative, that the doctrine of collateral estoppel does not apply as a matter of law, that the application of the doctrine would be contrary to public policy, that the application of the doctrine would work an injustice on her in the circumstances of this case, and that the first requirement of the doctrine is not satisfied because the first and second variance applications presented different issues.

Collateral estoppel, also called issue preclusion, "bars the relitigation of issues that are both identical to those issues already litigated by the parties in a prior action and necessary and essential to the resulting judgment." *State Farm Mut. Auto. Ins. Co. v.*

Lennartson, 872 N.W.2d 524, 534 (Minn. 2015) (quotation omitted). The doctrine may apply only if all of the following requirements are satisfied: (1) the issue on which relitigation is sought to be barred is identical to an issue in a prior adjudication; (2) there was a final judgment on the merits in the prior adjudication; (3) the party sought to be estopped either was a party in the prior adjudication or was in privity with a party; and (4) the party sought to be estopped was given a full and fair opportunity to be heard on the adjudicated issue in the prior adjudication. *Hauschildt v. Beckingham*, 686 N.W.2d 829, 837 (Minn. 2004).

The doctrine of collateral estoppel, however, is not "rigidly applied" and may be "qualified or rejected" if its application "would contravene an overriding public policy." *AFSCME Council 96 v. Arrowhead Reg'l Corr. Bd.*, 356 N.W.2d 295, 299 (Minn. 1984). In addition, collateral estoppel is "a flexible doctrine," and "the focus is on whether its application would work an injustice on the party against whom estoppel is urged." *Johnson v. Consolidated Freightways, Inc.*, 420 N.W.2d 608, 613-14 (Minn. 1988). This court generally applies a *de novo* standard of review to the question whether the collateral-estoppel doctrine precludes relitigation of an issue. *Hauschildt*, 686 N.W.2d at 837.

A. General Applicability

We begin by considering the first part of Danielson-Bille's argument, that the doctrine of collateral estoppel does not apply as a matter of law.

The doctrine of collateral estoppel typically is invoked to prevent relitigation in a judicial forum after a prior decision in a judicial forum. *See, e.g.*, *Lennartson*, 872 N.W.2d at 534-537; *Hauschildt*, 686 N.W.2d at 837-840; *see also Pope County Bd. of*

Commissioners v. Pryzmus, 682 N.W.2d 666, (Minn. App. 2004) (holding that landowner in zoning-enforcement action in district court was precluded from litigating issue of applicability of zoning ordinance due to prior decision of district court affirming denial of variance application), *rev. denied* (Minn. Sept. 29, 2004). The doctrine sometimes is applied in a judicial forum after a prior decision by an administrative agency or local governmental body acting in a quasi-judicial capacity. *See, e.g.*, *Villarreal v. Independent Sch. Dist. No. 659*, 520 N.W.2d 735, 738-39 (Minn. 1994) (holding that plaintiff in race-discrimination action was precluded from litigating issue of qualifications in district court due to prior decision of school board in teacher-termination hearing); *Graham v. Special Sch. Dist. No. 1*, 472 N.W.2d 114, 115-120 (Minn. 1991) (holding that plaintiff in defamation action was precluded from litigating issue of misconduct in district court due to prior decision of school board in teacher-termination hearing). Conversely, the doctrine also has been applied to a proceeding before a local governmental body acting in a quasi-judicial capacity after a prior decision in a judicial forum. *See, e.g.*, *Ellis v. Minneapolis Comm'n on Civil Rights*, 319 N.W.2d 702, 704 (Minn. 1982) (holding that complainant in race-discrimination matter was precluded from litigating issue of discrimination before municipal commission due to prior jury verdict in district court in unlawful-detainer action). In addition, this court has applied the doctrine to a proceeding before a state administrative agency after a prior decision by another state administrative agency. *Ress v. Abbott Northwestern Hosp., Inc.*, 438 N.W.2d 727, 729-731 (Minn. App. 1989) (holding that applicant for unemployment benefits was not precluded from litigating issue of

misconduct due to prior decision of board of nursing in professional-discipline proceeding), *rev'd on other grounds*, 448 N.W.2d 519 (Minn. 1989).

The parties agree that there is no precedential caselaw approving the application of the doctrine of collateral estoppel in the particular circumstances of this case: a proceeding before a town board on a zoning variance application after a prior decision by the same town board on a prior zoning variance application. We agree as well. Danielson-Bille contends that, in light of the absence of precedent, there is no legal authority for the district court's collateral-estoppel ruling and that this court should refrain from extending existing caselaw. In response, the neighbors contend that this court should apply the doctrine because Danielson-Bille has not demonstrated that it should *not* apply.

We question the premise apparently shared by all parties that it is appropriate to resolve their arguments in a categorical manner. In the cases cited above, the supreme court and this court typically have refrained from such reasoning and have discussed the applicability of the collateral-estoppel doctrine in case-specific ways. We are unable to discern any legal principle by which the supreme court has broadly held, as a matter of law, that the doctrine does not apply because of the subject matter of the case or the nature of the tribunals involved. Instead, the supreme court sometimes has relied on certain qualifying principles, which are the bases of Danielson-Bille's other arguments. *See Johnson*, 420 N.W.2d at 613-14 (stating that collateral estoppel is "flexible doctrine" that should not be applied if it "would work an injustice"); *AFSCME Council 96*, 356 N.W.2d at 299 (stating that collateral estoppel is not "rigidly applied" and may be "qualified or rejected" if it "would contravene an overriding public policy"). In *Johnson*, the supreme

court concluded that it "need not reach" the question whether, "as a matter of law," collateral estoppel may be based on a prior arbitration award because "the facts do not support estoppel in any event." 420 N.W.2d at 613. For similar reasons, we decline to resolve Danielson-Bille's argument by declaring broadly that the doctrine of collateral estoppel never may be applied to a town board's consideration of a zoning-variance application after its denial of a prior application.

B. Injustice Exception to Applicability

We proceed to consider Danielson-Bille's third contention, that the application of the doctrine of collateral estoppel would work an injustice on her in the circumstances of this case. She bases this contention primarily on the fact that, in July 2017, the town board expressly stated to Charles Bille that the Billes could either seek judicial review of the denial of their first variance application or submit a second, revised application. Danielson-Bille asserts that, in light of that express statement by the town board, it would be unjust for the district court and this court to change the rules after the fact by concluding that the town board should not have considered their second variance application.

Danielson-Bille's contention is supported by the applicable caselaw and the record. In *Johnson*, the supreme court stated that collateral estoppel is "a flexible doctrine" and that "the focus is on whether its application would work an injustice on the party against whom estoppel is urged." 420 N.W.2d at 613-14. In *Builder's Commonwealth, Inc. v. Department of Emp't & Econ. Devel.*, 814 N.W.2d 49 (Minn. App. 2012), this court applied *Johnson* by holding that the application of collateral estoppel would be unjust in that case because the legislature and this court previously had disapproved of the application of the

doctrine in similar circumstances. *Id.* at 55. The facts of this case present an even more compelling case for not applying the doctrine because the town board specifically informed the Billes that the town board *would* consider a second, revised variance application. Accordingly, the doctrine of collateral estoppel should not apply in this case to preclude the town board from considering the Billes' second variance application.

C. Requirement of Identical Issue

We next consider Danielson-Bille's fourth contention, that the neighbors have not satisfied the first requirement of the doctrine: that the issue on which relitigation is sought is identical to an issue in the prior adjudication. *See Hauschildt*, 686 N.W.2d at 837. The district court reasoned that there were only "slight" differences between the first and second variance applications but that those differences did not "sufficiently alter the underlying facts" and were therefore "insufficient to overcome collateral estoppel." Danielson-Bille contends that the second variance application presented a different issue than the first variance application because the Billes had made material changes to their building plans.

Danielson-Bille's contention is supported by the applicable caselaw and the record. In *Mach v. Wells Concrete Products Co.*, 866 N.W.2d 921 (Minn. 2015), the supreme court held that a person seeking workers'-compensation benefits would not be precluded by a prior decision of a workers'-compensation judge if his second claim was based on different facts. *Id.* at 927-28. The supreme court stated, "collateral estoppel does not apply to bar a claim for reimbursement of medical expenses for treatment received when an employee's medical condition has changed." *Id.* at 928.

In their second variance application, the Billes made changes by, among other things, reducing the height of the house's roof from 25 feet to 22 feet and otherwise reducing the scope of the building project. The Billes made those modifications in response to concerns expressed by both the planning commission and the town board. As a consequence of the Billes' modifications, the objecting neighbors had a better view of Lake Superior than they would have had if the Billes' first variance application had been granted. The town board responded to the Billes' modifications by granting the second application, which indicates that the town board believed that the differences between the two applications were meaningful. In light of the modifications, the first variance application and the second variance application did not present identical issues because the circumstances had changed. *See id*. Accordingly, the neighbors have not satisfied the first requirement of the doctrine of collateral estoppel.

Because we agree with Danielson-Bille's third and fourth contentions for reversal, we need not consider her second contention. We conclude that the district court erred by reasoning that the doctrine of collateral estoppel precluded the town board from considering the Billes' second variance application.

II. Grant of Variance Application

Danielson-Bille also argues that the district court erred by determining that the town board's decision to grant the second variance application is unreasonable, capricious, and arbitrary.

Since 2011, a municipality's consideration of a variance application has been governed by a statute that provides as follows:

> Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; 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 the locality. Economic considerations alone do not constitute practical difficulties. . . .

Minn. Stat. § 462.357, subd. 6(2) (2020); *see also* 2011 Minn. Laws ch. 19, § 2, at 107. The town's zoning ordinance incorporates the requirements of section 462.357, subdivision 6(2). DZO art. X, § 3.E.1.-3.E.3.

On an appeal from a district court's review of a municipality's zoning decision, this court reviews the municipality's decision "independent of the findings and conclusions of the district court." *Northwestern Coll. v. City of Arden Hills*, 281 N.W.2d 865, 868 (Minn. 1979); *see also C.R. Investments, Inc. v. Village of Shoreview*, 304 N.W.2d 320, 325 (Minn. 1981). In conducting our review, we recognize that "[m]unicipalities have 'broad discretionary power' in considering whether to grant or deny a variance." *Krummenacher*, 783 N.W.2d at 727 (quoting *VanLandschoot v. City of Mendota Heights*, 336 N.W.2d 503, 508 (Minn. 1983)). Accordingly, an appellate court should "review such decisions to determine whether the municipality was within its jurisdiction, was not mistaken as to the applicable law, and did not act arbitrarily, oppressively, or unreasonably, and to determine whether the evidence could reasonably support or justify the determination.'" *Id.* (quoting

In re Stadsvold, 754 N.W.2d 323, 332 (Minn. 2008)) (quotation omitted). The supreme court recently summarized judicial review of a municipality's land-use decision as follows:

> We will reverse a governing body's decision regarding a conditional use permit application if the governing body acted unreasonably, arbitrarily, or capriciously. *Schwardt v. Cnty. of Watonwan*, 656 N.W.2d 383, 386 (Minn. 2003). There are two steps in determining whether a city's denial was unreasonable, arbitrary, or capricious. First, we must determine if the reasons given by the city were legally sufficient. *C.R. Invs., Inc. v. Vill. of Shoreview*, 304 N.W.2d 320, 325 (Minn. 1981). Second, if the reasons given are legally sufficient, we must determine if the reasons had a factual basis in the record. *Id.*

RDNT, LLC v. City of Bloomington, 861 N.W.2d 71, 75-76 (Minn. 2015).

Furthermore, a court should set aside a municipality's zoning decision only in "those rare instances in which the . . . decision has no rational basis." *White Bear Docking & Storage, Inc. v. City of White Bear Lake*, 324 N.W.2d 174, 176 (Minn. 1982). "Even if [a municipality's zoning] decision is debatable, so long as there is a rational basis for what it does, the courts do not interfere." *Mendota Golf, LLP v. City of Mendota Heights*, 708 N.W.2d 162, 180 (Minn. 2006) (quotation omitted). Because we are obligated to look through the district court's decision and review the city's zoning decision independently, we do not apply a clear-error standard of review to the district court's decision. *Honn v. City of Coon Rapids*, 313 N.W.2d 409, 415 n.4 (Minn. 1981); *Northwestern Coll.*, 281 N.W.2d at 868 n.4.

In this case, the town board made written findings on each of the relevant issues and determined that all statutory requirements were satisfied. The district court determined that the town board's decision is erroneous with respect to four of the five statutory issues.

Danielson-Bille argues that the town board properly determined each of those four issues. In response, the neighbors argue that the district court correctly decided three of the four issues that were decided adversely to Danielson-Bille. We construe the neighbors' brief to challenge the factual bases of the town board's decision, not its legal bases. *See RDNT*, 861 N.W.2d at 75-76.

A. General Purpose and Intent of Ordinance

Danielson-Bille first contends that the town board properly made the following finding concerning the first issue in section 462.357, subdivision 6(2):

> The variances are in harmony with the general purposes and intent of the ordinance because they allow a home similar in size and shape to those surrounding it. This encourages an appropriate use of the property and maintains the rural residential nature area in a way that reasonably protects the natural resources of the area.

The purpose and intent of the town's zoning ordinance are expressly stated in article I of the ordinance. The purpose of the ordinance is

> to promote the health, safety, and general welfare of the community by dividing the Township into zones and regulating the uses of land and the placement of all structures, . . . to encourage the most appropriate uses of land in the Township, to encourage and maintain the community as rural and in balance with its many natural amenities, to protect its rich and diverse natural resources for future generations, and to provide a basis for a sustainable community.

DZO art. 1, § 3.B. The intent of the ordinance is "to establish comprehensive land use regulations for the Town of Duluth in accordance with the provisions of Minnesota Statutes Chapters 366 and 462." DZO art.1, § 3.A. Nothing in these statements of purpose and intent is necessarily inconsistent with the Billes' second variance application.

The neighbors contend that the town board's decision on this issue is erroneous because of the extent of the variances requested by the Billes. For example, the neighbors note that the Billes' property is only 0.3 acres in size, which is much less than the minimum buildable lot size of two acres. The neighbors make a similar argument concerning the extent of the Billes' requested setback variances.

The neighbors' argument is not focused on the general purposes of the town's zoning ordinance but, rather, on the specific restrictions in the zoning ordinance. In other words, the neighbors do not attempt to show that the Billes' second variance application would be inconsistent with "the health, safety, and general welfare of the community," would not "maintain the community as rural and in balance with its many natural amenities," or would not "protect its rich and diverse natural resources for future generations." *See* DZO art. 1, § 3.B.

Even if we consider the neighbors' arguments on their own terms, however, we would conclude that the argument fails because the Billes sought a variance to build a house on their 75-foot-wide property that would be similar to other homes in the surrounding area. The Billes presented evidence to the planning commission that there is a nearby lot that is only 40 feet wide with a structure on it. The Billes also presented evidence to the planning commission that there are five other nearby houses on lots of one acre or less with substandard setbacks. The planning commission approved a motion stating that the shoreline district "has been developed for many years in a quite dense fashion" and that the Billes' property is "in sync with lot sizes from previous developments." At the hearing before the town board, the Billes presented a map to show

that their proposed house would not be one of the largest houses on one of the smallest lots but, rather, would be typical of other houses in the surrounding area. In addition, the planning commission approved a motion stating that the Billes' plan "respects the existing view corridor" because of the height of their roofline and the fact that the house would be "tucked . . . into the trees on the west side of the property." At the hearing before the town board, the Billes presented a drawing to show that, because of existing trees on the property, the proposed house would block only a small amount of the existing view of Lake Superior from the highway. Charles Bille stated to the board that he was not aware of any other property in the area that offered as much of a view of the lake.

Thus, the town board had a sufficient factual basis to find that the Billes' variance application is in harmony with the general purpose and intent of the ordinance. *See RDNT*, 861 N.W.2d at 77, 79.

B. Comprehensive Plan

Danielson-Bille next contends that the town board properly made the following finding concerning the second issue in section 462.357, subdivision 6(2):

> The variances are consistent with the Comprehensive Land Use Plan because it permits housing consistent and similar to the neighboring residences, maintains the rural residential nature of the locality and is consistent with sustainable development in the north shore corridor of the Town.

The town's comprehensive plan states, in part, that "[f]uture land use, economic growth and community pride are all strongly tied to housing" and that housing "is a dominant presence on the community landscape and is a bedrock supporting a

community's health, wealth, and future vitality." DCLUP § 3.E. The comprehensive plan also states, "All new housing promotes the community's rural character and sustainable development practices." *Id.* § 4.A.

As noted above, the record shows that the town board received and considered evidence concerning other homes on similar properties in the surrounding area. In addition, the town board was presented with evidence that the Billes' plans for the exterior of the house were in conformance with the attributes of a rural residence, including tree coverage and a professionally maintained landscape design. The town board also received evidence that the Billes planned to live on the property year-round and to preserve and maintain its natural attributes. The Billes submitted to the town board a stormwater management plan that would prevent run-off into Lake Superior. This and other evidence is consistent with the comprehensive plan's goals of economic growth, community pride, maintaining a rural character, and encouraging sustainable development.

Thus, the town board had a sufficient factual basis to determine that the Billes' variance application is consistent with the comprehensive plan. *See RDNT*, 861 N.W.2d at 77, 79.

C. Practical Difficulties

Danielson-Bille contends that the town board properly found the existence of each of the three components of the definition of practical difficulties and, thus, properly found that Danielson-Bille would have practical difficulties in complying with the zoning ordinance without the requested variances.

1. Reasonable Manner Not Permitted by Ordinance

Danielson-Bille contends that the town board properly made the following finding concerning the first part of the definition of practical difficulties:

> The applicant sought to use the property in a reasonable use not permitted by the Ordinance. A residential home on that parcel is reasonable use of the property, much like many of the neighboring properties. The home proposed can only be built with the requested variances.

The neighbors do not present any argument that the town board erred in its finding on this issue. Thus, the town board had a sufficient factual basis to determine that the Billes proposed to use the property in a reasonable manner. *See RDNT*, 861 N.W.2d at 77, 79.

2. Plight of the Landowner

Danielson-Bille contends that the town board properly made the following finding concerning the second part of the definition of practical difficulties:

> The plight of the property owner is due to unique dimensions of the property, a non-conformity existing at the time the property was purchased by the applicant. For that reason, the plight of the landowner was not created by the landowner.

The town board's finding on this issue is supported by the record. The Billes' property was part of a 1930s subdivision that platted 100-foot-wide lots in the area. In 1958, a prior owner further subdivided the property into the 25-foot-wide and 50-foot-wide lots that were purchased by the Billes in 1992. Accordingly, the Billes did not create the unique dimensions of their property. The planning commission approved a motion stating that the Billes did not create their plight "because one of the requested setbacks is from the unclassified waterway, which is a drainage swale created by MNDOT [and] is a manmade

unclassified stream" and "because, at the time of the platting in the 1930s, the highway was in place and the lots were created there in Greenwood Cliffs sandwiched between the water and Highway 61."

The neighbors contend that the town board's finding on this issue is erroneous on the ground that the Billes knew or should have known before purchasing the 75-foot-wide property that it did not comply with the zoning ordinance, which, since 1951, has required a minimum buildable lot width of 200 feet. *See* DZO art. V, § 3 (Table 5.1). The neighbors' contention is inconsistent with our caselaw. This court has held that a property owner does not create his or her own "plight" by purchasing property with knowledge of its non-conforming status. *Myron v. City of Plymouth*, 562 N.W.2d 21, 22-23 (Minn. App. 1997), *aff'd*, 581 N.W.2d 815 (Minn. 1998), *overruled on other grounds by Wensmann Realty, Inc. v. City of Eagan*, 734 N.W.2d 623 (Minn. 2007). Rather, we expressly held in *Myron* that "actual or constructive knowledge of a zoning ordinance before a purchase of land is not a bar to granting a variance." *Id.* at 23.

Thus, the town board had a sufficient factual basis to determine that the Billes' plight is due to circumstances unique to the property and not created by them. *See RDNT*, 861 N.W.2d at 77, 79.

3. Essential Character of the Locality

Danielson-Bille also contends that the town board properly made the following finding concerning the third part of the definition of practical difficulties:

> The variances will not alter the essential character of the locality as there are similarly sized residences on small lots along the north shore corridor in the Town. The home

> proposed by the applicants will not substantially alter the view of the lake from the highway or the neighboring properties.

The district court determined that the town board's finding on this issue is reasonable. The neighbors do not present any argument that the town board erred in its finding on this issue. Thus, the town board had a sufficient factual basis to determine that the Billes' requested variance, if granted, would not alter the essential character of the locality. *See RDNT*, 861 N.W.2d at 77, 79.

D. Summary

Because the town board had a sufficient factual basis for each of the findings challenged by the neighbors, the town board did not act unreasonably, capriciously, or arbitrarily when it granted the Billes' second variance application. *See id*.

Before concluding, we reiterate that we are reviewing the decision of the town board, not the decision of the district court. *See Northwestern Coll.*, 281 N.W.2d at 868; *C.R. Investments, Inc.*, 304 N.W.2d at 325. Nonetheless, we note that our reversal of the district court's decision is generally attributable to the deference that we give to a municipality's zoning decision. As the supreme court has stated, the "scope of review is narrow." *Mendota Golf*, 708 N.W.2d at 180. A court should "uphold a city's land use decision unless the party challenging that decision establishes that the decision is unsupported by any rational basis related to promoting the public health, safety, morals, or general welfare." *Id.* (quotations omitted). "Even if the [municipality's] decision is debatable, so long as there is a rational basis for what it does, the courts do not interfere." *Id.* (quotations and alteration omitted). "A municipal decisionmaking body has a broad

discretionary power to [grant or] deny an application for variances." *VanLandschoot*, 336 N.W.2d at 508-09. "The fact that a court reviewing the action of a municipal body may have arrived at a different conclusion, had it been a member of the body, does not invalidate the judgment of the city officials if they acted in good faith and within the broad discretion accorded them by statutes and the relevant ordinances." *Id.* at 509. In this case, the district court did not give sufficient deference to the broad discretion of the town board in zoning matters.

In sum, we conclude that the town board's decision to grant the Billes' second variance application is not unreasonable, capricious, or arbitrary.

Reversed.