

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-2093**

Dustin A. Grzesik, et al.,
Appellants,

vs.

City of Pine Springs,
Respondent.

**Filed August 24, 2026
Affirmed
Ross, Judge**

Washington County District Court
File No. 82-CV-23-69

Chad D. Lemmons, Rebecca Duren, Kelly and Lemmons, P.A., St. Paul, Minnesota (for appellants)

Kevin S. Sandstrom, Eckberg Lammers, P.C., Oakdale, Minnesota (for respondent)

Considered and decided by Bentley, Presiding Judge; Ross, Judge; and Segal, Judge.*

NONPRECEDENTIAL OPINION

ROSS, Judge

A couple bought a residential parcel in one city (Grant) on the border of another city (Pine Springs), with two access drives, one terminating in Grant and the other terminating

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

in Pine Springs. The City of Pine Springs ordered the couple to cease accessing its road, relying on a Pine Springs ordinance, and erected a barrier on the road preventing vehicular access. The couple unsuccessfully petitioned the district court for a writ of mandamus ordering Pine Springs to remove the barrier. Because the district court correctly determined that the Pine Springs Zoning Code prohibits access from the couple's residence to the city's public road, we affirm.

FACTS

Dustin Grzesik and his wife, Joanne Sum-Ping (the Grzesiks), purchased a residential parcel in 2020 in the City of Grant near the border that separates Grant and the City of Pine Springs. The parcel has two drives, one accessing Ideal Avenue in Grant and the other running across other private property and accessing the 64th Street cul-de-sac in Pine Springs. The City of Pine Springs' authority to prohibit vehicular use of the 64th Street access point is the focus of this dispute.

The Grzesiks' drive reaches the 64th Street access point by crossing Outlot C, an undeveloped parcel in Pine Springs that the Grzesiks do not own. Outlot C is part of the Winmar Estates subdivision, and it is owned by several Winmar Estates residents. The previous owners of the Grzesik property occasionally but infrequently entered or exited it through the 64th Street access point. But the Grzesiks began using it frequently, prompting complaints by neighbors. The Pine Springs City Council discussed the controversy in meetings during which some members raised safety concerns.

Pine Springs wrote the Grzesiks in 2021, advising them that accessing their property by the 64th Street access point violated the city's zoning ordinances. Those ordinances

prohibited the creation of access drives without a permit from the city engineer, and they also prohibited public-road access to residential dwellings using private-property easements. The city ordered the Grzesiks to cease vehicular access to 64th Street. The Grzesiks refused to comply. The city then erected a barrier blocking the contested access point.

The Grzesiks petitioned the district court in January 2023 for a writ of mandamus ordering the city to remove the barrier. They contended that they held a prescriptive easement in the access drive. The district court denied the petition after a 2025 trial.

The trial included documentary and testimonial evidence. Susan Schultz, the wife of the late prior owner Paul Schultz, testified that her husband had purchased the property sometime in the 1970s and that they lived there together from 1987 until 2020, when they sold it to the Grzesiks. She testified that they used both access drives. She said that the Ideal Avenue drive was more difficult because it was steep and particularly troublesome during periods of inclement weather involving heavy rain or snow. But she acknowledged her signature on the U.S. mail receipt of a 1987 letter from the city ordering the Schultzes to cease use of the 64th Street access.

Grzesik testified that he and his wife began using the 64th Street access daily shortly after moving onto the property. He echoed the Schultz testimony about the difficulty of using the Ideal Avenue drive by comparison to the 64th Street drive, especially during inclement weather.

The former mayor of Pine Springs testified that before 1978 the development now known as the Winmar Estates subdivision consisted of “open fields and lands.” He testified

that the city's zoning ordinances, including those at issue in this dispute, were adopted in 1973 and remain unaltered. And he testified that the city never issued the prior owners a permit for the 64th Street access. Another city council member tasked with digitizing the city's ordinances testified corroboratively that the ordinances have remained unchanged.

The Pine Springs city planning consultant testified that the city's zoning code derived from the Washington County model zoning ordinances and that it was common for cities to regulate driveway access points. He gave multiple reasons for the restrictions generally and particularly regarding access over private-property easements, including safety concerns and aesthetics. He also testified that the Winmar Estates subdivision likewise required permits from the city for access drives and also did not allow driveways over outlots.

The district court concluded that the Grzesiks' use of the 64th Street access violated the Pine Springs Zoning Code, specifically sections 423.02 and 423.03, respectively prohibiting unpermitted driveway access and access to residential dwellings by private easement. It found that the city enacted the ordinances before any use of the 64th Street access from the Grzesik parcel and that the city's enforcement was not arbitrary or capricious. The district court also observed that the Winmar Estates covenants prohibited private driveways over Outlot C. It did not address the Grzesiks' assertion that they held a prescriptive easement over Outlot C to reach 64th Street.

The Grzesiks appeal.

DECISION

The Grzesiks offer several theories supporting their appeal. They contend first that the district court erred by failing to resolve their prescriptive-easement claim. They maintain too that the controlling zoning ordinances are either not enforceable against them or otherwise defective. And they assert that the city’s action was arbitrary and capricious. None of their arguments is convincing.

I

Whether the Grzesiks hold a prescriptive easement in the driveway over Outlot C to the connection to 64th Street is both beyond the scope of their mandamus petition and irrelevant to its disposition. The petition asks specifically that “the Court issue a Writ of Mandamus . . . compelling the City of Pine Springs to remove all barriers which interfere with the Petitioner’s access to 64th Street North.” And the prescriptive-easement issue is irrelevant to the petition’s disposition because the question of whether the Grzesiks have the legal right to bar the City of Pine Springs from barricading the driveway from accessing 64th Street does not depend on the separate issue of whether they have the legal right to traverse the driveway from their property to the 64th Street access point—their alleged private-roadway easement over Outlot C. A district court is not required “to expressly acknowledge and address every argument made.” *St. Jude Med., Inc. v. Carter*, 913 N.W.2d 678, 686 (Minn. 2018). The district court ruled that the Grzesiks’ use was prohibited under sections 423.02 and 423.03 of the Pine Springs Zoning Code. Section 423.02 prohibits unpermitted driveway access to city roads, and section 423.03 provides that “[a]ccess to any residential dwelling via private easement shall be prohibited.” Pine

Springs, Minn., Zoning Code §§ 423.02–.03 (2025). Both because the question of whether the Grzesiks hold a prescriptive easement over Outlot C is beyond the scope of their mandamus petition and because the question is irrelevant to the disposition of the petition, the district court did not err by not addressing whether they hold the alleged easement.

II

The district court correctly concluded that the Grzesiks’ access to their property by the driveway to 64th Street was prohibited by zoning ordinance. We review the district court’s application of the law *de novo*. *Dykes v. Sukup Mfg. Co.*, 781 N.W.2d 578, 581 (Minn. 2010). We see no error in the district court’s application of the Pine Springs Zoning Code to the circumstances here, and the Grzesiks do not identify any. By its plain terms, the ordinance clearly prohibits the Grzesiks’ access: “Access to any residential dwelling via private easement shall be prohibited.” Pine Springs, Minn., Zoning Code § 423.03. The Grzesiks’ parcel undisputedly includes a residential dwelling, and its connection to 64th Street is at the end of the alleged private easement over Outlot C. Under the ordinance, the access at issue therefore “shall be prohibited.” The district court’s corresponding legal conclusion is unassailable.

III

The Grzesiks argue that the city’s act of preventing them from accessing 64th Street deprived them of a different property right, specifically, the right of reasonably convenient access to a public street that abuts their property. We infer that they essentially argue that the city may not “achieve by zoning ordinance that which can be done only by eminent domain,” *SLS P’ship v. City of Apple Valley*, 511 N.W.2d 738, 742 (Minn. 1994), because

a municipality's right-of-access infringement can constitute a taking. *Johnson v. City of Plymouth*, 263 N.W.2d 603, 606 (Minn. 1978). The implied argument fails.

The argument fails because the Grzesiks hold no right of access to 64th Street. It is true that "property owners have a right of reasonably convenient and suitable access to a public street or highway which abuts their property." *Id.* at 605 (quotation omitted). But in a takings action, "[o]wners of property that *does not abut* the roadway have no claim to damages merely because the roadway design leaves them with an inconvenient or circuitous transportation route." *Oliver v. State by Comm'r of Transp.*, 760 N.W.2d 912, 916 (Minn. App. 2009) (emphasis added), *rev. granted* (Minn. Apr. 29, 2009) *and appeal dismissed* (Minn. Nov. 16, 2009). The Grzesiks hold no fee interest in the property that abuts 64th Street where their alleged easement terminates. And they therefore cannot assert the right described in *Johnson* as "property owners" seeking access to 64th Street.

We are not persuaded against this conclusion by the Grzesiks' attempt to recharacterize themselves as abutting property owners by asserting that their alleged prescriptive easement over Outlot C makes them an "owner" of abutting property entitling them to the right of access based on abutment to the street. The Grzesiks rely on *Oliver* for this notion, but the reliance is misplaced. We specifically declined to address that argument in *Oliver*, resolving the dispute on other grounds. *Id.* Aside from relying on *Oliver*, the Grzesiks offer no rationale for us to consider whether holding a mere easement to traverse a private lot affords the dominant estate the right of access to a public road that abuts the servient estate. There being only the assertion, but no reasoned or legally supported

argument, as to why the law extends in the manner the Grzesiks promote, we consider the assertion no further.

We add that the Grzesiks' property does have access to Ideal Avenue, the public roadway that abuts their parcel. After rejecting the Grzesiks' claim of right of access to 64th Street, the district court found that their parcel's access to Ideal Avenue is reasonably convenient:

Petitioners have no legal right to access 64th Street as the Street does not abut their Property. Ideal is the official street address of the Property because it is the public roadway that the Property abuts and fronts upon. Furthermore, Petitioners provided no evidence that the Ideal access was impassible at any time due to flooding and/or adverse weather conditions. Petitioners have not been "denied a right of access" by the City. No legal "right" exists regarding a secondary driveway created and maintained in contravention of the City Zoning Code.

The existence of reasonably convenient access to an abutting roadway is a question of fact. *Johnson*, 263 N.W.2d at 607. We have no basis to revisit that fact finding, but we observe that reasonable access is not considered infringed upon by inconvenience unless the inconvenience renders access "nearly impossible." *County of Anoka v. Esmailzadeh*, 498 N.W.2d 58, 61 (Minn. App. 1993), *rev. denied* (Minn. May 28, 1993). That the Grzesiks' access to Ideal Avenue is at most difficult renders any claim to the lack of convenient access unconvincing on appeal.

The Grzesiks allude to other, facially unpersuasive arguments. They charge that Pine Springs "has no authority to interfere with [their] property right of access to 64th Street" Here they seem to argue that they had acquired a prescriptive easement not only to the driveway over Outlot C but also to use the 64th Street access point adverse to

the city itself. But the argument falls to the well-settled premise that prescriptive easements cannot be acquired on public land. *See* Minn. Stat. § 541.01 (2024); *Fischer v. City of Sauk Rapids*, 325 N.W.2d 816, 818–19 (Minn. 1982) (applying the statutory limitation on adverse possession of public lands in Minnesota to municipalities); *Heuer v. County of Aitkin*, 645 N.W.2d 753, 757–58 (Minn. App. 2002) (applying the same statutory limitation to prescriptive easements). The Grzesiks have no easement of use of the contested access point.

Nor is the city estopped from enforcing its zoning code by virtue of its failure to aggressively enforce it sooner against either the Grzesiks or the prior owners. A plaintiff asserting estoppel against the government to prevent its enforcing of its zoning code must show, among other things, “some degree of malfeasance” beyond “simple inadvertence, mistake, or imperfect conduct.” *City of N. Oaks v. Sarpal*, 797 N.W.2d 18, 25 (Minn. 2011) (quotation omitted). A city may not be estopped from enforcing an ordinance even if the result is “harsh” and “the property owner relied to his detriment on prior city action.” *Mohler v. City of St. Louis Park*, 643 N.W.2d 623, 638 (Minn. App. 2002) (quotation omitted), *rev. denied* (Minn. July 16, 2002). The district court did not find the city’s tepid enforcement (or nonenforcement) of the restriction to have resulted from any malfeasance, and we see no record evidence supporting such a finding.

We also reject the Grzesiks’ contention that the district court erred in concluding that “the driveway claimed by the Petitioners cannot legally exist because it violates the [Winmar Estates] declaration of protective covenants.” The contention mischaracterizes the district court’s ruling. The district court did not base its decision on the Winmar Estates’

covenants. The rationale the district court provides for its decision in its conclusions of law is the city's authority to enforce its zoning code.

IV

The Grzesiks question the city's authority to either enforce or implement the zoning ordinances applied here—the ordinance that requires a Pine Springs permit for access onto a city road (Pine Springs, Minn., Zoning Code § 423.02) and the ordinance we have discussed, which prohibits “[a]ccess to any residential dwelling via private easement” (Pine Springs, Minn., Zoning Code § 423.03). The Grzesiks contend that Pine Springs could not regulate their access because their parcel sits in the City of Grant and “[o]nly the City of Grant can determine how many driveways the Petitioners have the right to use in accessing their home.” They add that “[t]he City of Pine Springs has no authority to prohibit a residential dwelling located in the City of Grant from using a private easement as means of access.” These arguments do not contest a city's authority to regulate land use within its borders. And that authority is what applies here, as the challenged Pine Springs ordinances regulate only access points, like the 64th Street access point at the end of the driveway on Outlot C, that are undisputedly within the jurisdiction of Pine Springs.

The Grzesiks also maintain more broadly that the city lacked statutory authority to enact any zoning ordinance that regulates driveway access to a public street. The operative statute provides otherwise:

For the purpose of promoting the public health, safety, morals, and general welfare, a municipality may by ordinance regulate on the earth's surface, in the air space above the surface, and in subsurface areas, 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, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, conservation of shorelands . . . flood control or other purposes, and may establish standards and procedures regulating such uses.

Minn. Stat. § 462.357, subd. 1 (2024). We review questions of statutory interpretation *de novo*. *Johnson v. Cook County*, 786 N.W.2d 291, 293 (Minn. 2010). The statute’s breadth is obvious. The authority to regulate driveway access is contemplated in the expansive statutory language allowing municipal regulation on “the uses of land for . . . residence, recreation . . . or other purposes.” Minn. Stat. § 462.357, subd. 1. The Grzesiks’ statutory-authority argument fails.

The Grzesiks also assert that state traffic law preempts the city’s zoning ordinance, citing *State v. Kuhlman*, which provides that “state law preempts the field of traffic law except for that which is expressly permitted by state statute.” 729 N.W.2d 577, 581 (Minn. 2007). We doubt that the city’s challenged ordinance regulating access points onto public roads from nonabutting private property is a “traffic law” preempted by statute as discussed in *Kuhlman*. *See id.*; *Johnson*, 263 N.W.2d at 607–08 (discussing public-roadway access restrictions as a power exercised by local authority). But we need not address the argument on the merits. Arguments raised for the first time in an appellant’s reply brief are not properly before us. *State v. Stockwell*, 770 N.W.2d 533, 541 (Minn. App. 2009), *rev. denied* (Minn. Oct. 28, 2009). The Grzesiks first mention preemption in their reply brief. We consider the argument no further.

V

The Grzesiks contend too that the city's ordinance and its enforcement action are arbitrary and capricious. They base this contention only on the property-right arguments already discussed. We independently review whether a zoning decision was reasonable or instead arbitrary and capricious without deference to the district court. *Mendota Golf, LLP v. City of Mendota Heights*, 708 N.W.2d 162, 179–80 (Minn. 2006). We narrowly review the city's zoning decision under a rational-basis standard, and we will uphold the 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.* at 180 (quotation omitted). The city's ordinance and its enforcement decision survive under this standard. The Grzesiks articulate no challenge to the decision that would render it “unsupported by any rational basis.” *Id.* Pine Springs maintains that the ordinance serves its objective to foster safety, coordinate land use, and prevent neighborhood conflicts, and its enforcement action was motivated at least partly by public-safety concerns. It elaborated through counsel at oral argument, offering by example that the ordinance tends to avert residential legal disputes between parcel owners about alleged prescriptive driveway easements over private property. And caselaw informs us that municipalities frequently become involved in, and necessarily incur litigation and management costs arising from, these sorts of private-easement disputes. The city's ordinance and its enforcement action easily pass muster under our rational-basis review.

Affirmed.