

CARVER COUNTY BOARD OF ADJUSTMENT
Regular Meeting June 4, 2025
Minutes

Members Present: Gerald Bruner, Amanda Gorra, Scott Selken, Jeff Thompson, Steve Washburn, Robin Bielefeldt, Andy Steinhagen

Members Absent: None

Members Late: None

Staff Present: Jason Mielke, Donovan Hart, Nancy Buckentine, Laura Jaunich

Pursuant to due call and published notice thereof, the June 4, 2025, meeting of the Carver County Board of Adjustment was called to order by Chairman Bruner at 7:00 p.m.

Chairman Bruner announced the roll call indicated seven members are present.

Agenda – Chairman Bruner asked if there were any additions or deletions to the agenda. Hearing none, he asked for a motion to approve the agenda. A motion was made by Steinhagen to approve the agenda as printed. Bielefeldt seconded the motion for approval. All voted aye. Motion carried.

Minutes – Chairman Bruner asked if there were any corrections to the minutes from the May 7, 2025, meeting. Hearing none, he asked for a motion to approve the minutes. A motion was made by Bielefeldt to approve the minutes of the May 7, 2025, meeting. Gorra seconded the motion for approval. All voted aye. Motion carried.

Public Hearing - File #PZ20250022 – Erik Loomis – Chairman Bruner called the public hearing to order at 7:01 p.m. to consider the application of Erik Loomis for a variance pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request to exceed maximum allowed personal storage space for the property. The property is in Section 7 of San Francisco Township.

The following were present: Erik Loomis

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant received May 6, 2025

Exhibit F – Staff Report addressed to the Board of Adjustment and San Francisco Town Board dated May 23, 2025, and all attachments.

Hart stated the applicant owns an approximate 20-acre parcel improved with a single-family dwelling with an attached garage. He is requesting to construct an approximate 54' x 100' accessory structure with a mezzanine level, which would increase the total personal storage on the property to approximately 8,306 square feet. The Zoning Code allows a maximum of 7,000 square feet of personal storage space on a parcel of this size. The applicant's letter states the structure will be used for storage of personal use equipment, a 5th wheel camper, trucks, cars, and motorcycles, and as a shop to repair and maintain such items. He noted the parcel size and

existing screening ensure the structure will not encroach on setbacks or alter drainage patterns. The site plan indicates all setback will be met and a second driveway access from Koepp Dr is proposed. Carver County Senior Environmentalist, Lori Brinkman, confirmed the approved septic system for the residence can accommodate a bathroom connection from the proposed shop. The design sketch for the residence includes a floor-drain holding tank, and a separate floor-drain holding tank design for which permits have already been issued. Tim Sundby, Carver County Water Resources Program Supervisor, reviewed the request and indicated that he had no comments regarding the proposal. The plight of the landowner is a result of circumstances created by the applicant. Each variance is evaluated on its own merit, uniqueness of the property and reasons provided by the applicant. Granting the variance would not conflict with the Comprehensive Plan, nor would it alter the character of the neighborhood, or negatively impact government services. It would not materially or adversely affect the health or safety of those residing or working in the adjacent area or be detrimental to the public welfare or injurious to nearby properties or improvements. The San Francisco Town Board reviewed the request at their May 12, 2025, meeting and unanimously recommended approval with the proposed conditions. Hart read the proposed conditions of the variance if the request is approved. If the Board of Adjustment determines that a practical difficulty has not been identified, and that approving the variances would not serve in the interest of justice, the Board of Adjustment would need to identify reasons to support the denial.

Chairman Bruner asked the applicant if he had any additional comments.

Erik Loomis, 14975 Koepp Dr, stated he had talked with two neighbors who signed letters of support for his request.

Scott Selken, speaking as San Francisco Town Board supervisor, confirmed the Board's unanimous vote for recommending approval of the request.

There was no one present from the public for comment on the request.

A motion was made by Steinhagen and seconded by Selken to close the public hearing. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 7:08 p.m.

Bielefeldt stated he visited the site and asked the applicant to identify the practical difficulty for needing the additional storage space.

Mr. Loomis stated he has a collection of items and wants to keep things stored indoors rather than have it be outside and spread around the property. He stated the second level mezzanine allows for a little more storage inside.

Bruner stated he also visited the site and would support the request.

A motion was made by Thompson to **approve and issue Order #PZ20250022** allowing variance to construct an accessory structure exceeding the maximum allowed personal storage square-footage on the property pursuant to Section 152.073 (A)(5) of the Carver County Code, for property legally described on the attached Exhibit "A". The board further orders approval with the following conditions:

1. The permit is subject to administrative review. The proposed structure shall be used solely by the occupant(s) of the residence for personal storage, hobbies, recreation, entertainment, family activities, and private maintenance and repair, as regulated by this Ordinance. Guest quarters and additional dwelling units are strictly prohibited. No products or services shall be sold for pay or other remuneration, except as permitted for a home occupation or as otherwise regulated by this Code.

2. The permittee shall obtain all required building permits prior to constructing the proposed structure. All work must conform to the submitted plans and comply with the approved variance. The proposed structure shall meet all required setbacks from property lines, the Subsurface Sewage Treatment System (SSTS) locations, and comply with Carver County Water Management Organization (CCWMO) standards and permitting requirements, if applicable.
3. No additional accessory structures or expansions shall be permitted beyond the approved 8,306 square feet, unless a new variance is reviewed and approved.

Steinhagen seconded the motion for approval of the request. Chairman Bruner called for a vote on the motion. Bruner, Gorra, Selken, Thompson, Washburn, and Steinhagen voted aye. Bielefeldt voted nay. Motion carried.

Public Hearing - File #PZ20250019 – Carson Erickson – Chairman Bruner called the public hearing to order at 7:11 p.m. to consider the application of Carson Erickson for a variance pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for reduced access separation from an intersection. The property is in Section 4 of Watertown Township.

The following were present: Carson Erickson

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant dated May 2, 2025

Exhibit F – Staff Report addressed to the Board of Adjustment and Watertown Town Board dated May 23, 2025, and all attachments.

Hart stated the applicant owns an approximate 12.18-acre parcel consisting of grasslands and wetlands and not structures at this time. The parcel has limited road frontage on Penn Av. The applicant is requesting a variance to construct a residential driveway access on Penn Av approximately 530 feet from the intersection with County Rd 27. The Zoning Code requires a minimum separation of 1/8 mile, or 660 feet. The parcel was established prior to 1974 as a 'lot of record' and was considered a conforming parcel. With the current access separation standards, the parcel is deemed legal non-conforming, due to inadequate frontage along Penn Av. The proposed access location is in line with the Carver County Public Works policy to access the parcel from the road with the lower functional classification. It is not within 100 feet of any other driveway on the same side of the road. The applicant's letter outlines the practical difficulty as *"being unique to the parcel being created prior to 1974 and before the current access separation rules were adopted. We have not made any changes to the property that would have triggered the need for a variance. We are reasonably requesting to utilize Penn Av to construct a driveway leading to the front of our proposed garage and home, and to avoid the added safety concerns associated with accessing the site from County Road 27."* The plight of the landowner stems from circumstances unique to the property and not of their own doing. On May 14, 2025, Drew Pflaumer, Transportation Planning Manager for Carver County Public Works, reviewed the variance request. In an email, he stated: *"We're happy to support the variance request as this is the most viable solution to keep the access off County Road 27."* Granting the variance would not conflict with the Comprehensive Plan, nor would it alter the character of the neighborhood, or negatively impact government services. It would not materially or adversely affect the health or safety of those residing or working in the adjacent area or be detrimental to the public welfare or injurious to nearby properties

or improvements. Granting of the variance is consistent with the general purpose and intent of the official control. The Watertown Town Board reviewed the request at their May 5, 2025, meeting and recommended approval of the request without any additional comments. Hart read the proposed conditions of the variance if the request is approved. If the Board of Adjustment determines that a practical difficulty has not been identified, and that approving the variances would not serve in the interest of justice, the Board of Adjustment would need to identify reasons to support the denial.

Carson Erickson, 37056 Lakeview Dr, Warroad, stated he received a signed permit from the Township to construct a residential driveway access.

Gerry Bruner, speaking as Watertown Town Board supervisor, confirmed the Town Board's discussion and unanimous support of the variance.

There was no one present from the public for comment on the request.

A motion was made by Thompson and seconded by Washburn to close the public hearing. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 7:17 p.m.

A motion was made by Steinhagen to **approve and issue Order #PZ20250019** allowing a variance for reduced access separation from an intersection pursuant to Section 152.036 (G)(1) of the Carver County Code, for property legally described on the attached Exhibit "A". The Board of Adjustment further orders approval with the following conditions:

1. The driveway location shall comply with all applicable standards of the local road authority, Watertown Township. All necessary permits must be obtained prior to commencing any work within the right-of-way. Construction shall be completed in accordance with the submitted site plans and the approved variance
2. If the driveway is constructed before issuance of a building permit for new residential construction, the applicant must submit, have reviewed, and receive approval for a separate Land Management Administrative Permit before beginning any driveway construction activities.
3. The centerline of the driveway shall maintain a minimum distance of 530 feet from the County Road 27 public right-of-way. Any encroachment closer than this distance will require an additional variance approval.

Thompson seconded the motion for approval. Chairman Bruner called for a vote on the motion. All voted aye. Motion carried.

Public Hearing - File #20250023 – James Kappel – Chairman Bruner called the public hearing to order at 7:18 p.m. to consider the application of James Kappel for a variance pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for reduced front yard setback and exceeding total structure height for a structure. The property is in Section 2 of San Francisco Township.

The following were present: Jim Kappel, Michael Davis, Delane Davis, Dan Ronayne, Brian Gennrich

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant dated May 7, 2025

Exhibit F – Staff Report addressed to the Board of Adjustment and Dahlgren Town Board dated May 23, 2025, and all attachments.

Hart stated the applicants own an approximate 1.5-acre parcel improved with a single-family house and a 12' x 16' accessory structure. He is seeking to construct an accessory structure approximately 38' x 52' with 12-foot sidewalls and a total structure height of approximately 19 feet. The proposed location of the structure would be approximately 15 feet from the right-of-way from the township road. He is proposing a second driveway to access the structure. The Zoning Code allows a maximum structure height of 17 feet on a parcel of this size and a minimum setback from the township road right-of-way of 35 feet. The proposed location does meet the minimum 15-foot setback from a side property line and the structure addition would not exceed the total personal storage allowed on the parcel. The applicant's letter states the structure would be used to shelter a 30-foot trailer, provide personal storage, recreation space, and support hobby-related use. The letter also outlines the variance requests, noting the pie-shaped lot has limited buildable area due to the septic system location, mature trees, a golf course easement and required setbacks on the west side. He also states a desire to reserve space for a future in-ground pool. The proposed north-south orientation is necessary to accommodate 30-foot trailer to access the new driveway to the cul-de-sac. The proposed location also preserves mature trees which offer aesthetic value and help protect both the house and proposed structure from stray golf balls. The added structure height is needed to accommodate the size of the garage door, a car lift and the ceiling clearance for planned storage uses. Hart used an aerial site plan to illustrate the property space limitations. Senior Environmentalist, Jacob McLain, reviewed the request and stated the certificate of compliance on the septic system is current and any plumbing in the accessory structure will require review and approval by Environmental Services. Abigail Ernst, Water Resource Program Analyst, reviewed the request and indicated she had no comments regarding the proposed structure. The plight of the landowner is primarily due to circumstances unique to the property, including the log configuration, irregular shape of the cul-de-sac, existing site improvements, and the presence of a golf course easement which occupies approximately 10 percent of the parcel. Granting the variance would not conflict with the intent of the Comprehensive Plan, nor would it alter the character of the surrounding neighborhood, or negatively impact government services. It would not materially or adversely affect the health or safety of individuals residing or working in the vicinity and would not be detrimental to the public welfare or injurious to adjacent properties or improvements. The Dahlgren Town Board reviewed the request at their May 12, 2025, meeting and recommended approval without any additional comments. Mr. Kappel's letter also notes the Town Board previously approved a driveway access to the cul-de-sac in 2019, although the driveway has not yet been constructed. Hart read the proposed conditions for consideration if the request is approved. If the Board of Adjustment determines that a practical difficulty has not been identified, and that approving the variances would not serve in the interest of justice, the Board of Adjustment would need to identify reasons to support the denial.

James Kappel, 7055 Sarah Dr, stated Mr. Hart's report was thorough and he had no additional comments.

Brian Gennrich, Dahlgren Township Supervisor, confirmed the Twp Board's unanimous recommendation for approval of the variance.

Chairman Bruner opened the public hearing for comments.

Robert Davis, 7125 Sarah Dr, expressed his concerns about the negative impact the proposed structure will have on his property. He stated the structure size will block their view of the golf course and impact the character of the neighborhood. He claimed the reduced setback from the cul-de-sac will impede the ability for the garbage

truck to turn around, or any other service hauler, such as propane and snow removal, as it is already a tight space. He also stated the structure will have an impact on the value of their house, as it was previously listed for sale and the view of the golf course was a main selling point. He stated other houses on the golf course have large, detached structures which do not impact the golf course view from their neighbors. Mr. Davis asked from what point the 15-foot setback is measured.

Mielke replied the 15-foot setback is from the property line. He indicated the distance on an aerial view of the property and stated it was also included with the packet materials.

Mr. Davis expounded on the 180-degree view from their house and stated some diseased ash trees have been removed from their property and the golf course, which allows for a better view, and felt the structure size will interfere with the aesthetics of the property and decrease their property value.

Mr. Kappel stated he had no response to the remarks.

Mr. Davis compared the size of the existing shed to the proposed shed and stated the proposed structure is significantly larger.

Mielke confirmed the variance request is to the total height of the structure and the reduced setback. The total square foot space of the proposed structure is within the allowed personal storage space for a parcel of that size.

Mr. Davis reiterated that he feels the structure will change the character of the neighborhood and it will adversely affect the adjacent property.

Mielke explained the ordinance language indicating the impact the variance itself would have on the character of the neighborhood. The accessory structure square footage meets all the guidelines for a property of this size. The variance is related to the additional 2 feet of height and the reduced setback from the property line.

Steinhagen asked if the setback would still be an issue if the cul-de-sac was a traditional circular shape, rather than the hammerhead design which encroaches onto their property.

Mielke stated this is unique because it is not the traditional shape of a cul-de-sac.

Hart estimated that could have an impact on that part of the variance, noting the distance and shape of the current hammerhead design.

A motion was made by Washburn and seconded by Bielefeldt to close the public hearing. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 7:34 p.m.

Thompson pointed out that the applicant could remove some trees south of the proposed building location and place the building further south to meet the front yard setback, which would have more of an impact to the neighbor's view of the golf course. He can understand the neighbor's concern, however, the overall square footage size of the structure meets the code requirements and having the structure placed closer to the cul-de-sac will have less of an impact to block the view.

Mr. Kappel agreed that moving the structure further south to meet the front yard setback would have more of an impact on the neighbor's view.

Bielefeldt visited the site and agreed that there is a practical difficulty unique to this property and this appears to

be the best location for the structure.

Washburn agreed with Bielefeldt's comments.

Bruner stated he visited the site and would hate to see any trees removed as they contribute to the beauty of the property.

Bielefeldt asked if the applicant agrees with the proposed conditions of the variance.

Mr. Kappel stated he agrees with the conditions.

A motion was made by Bielefeldt to **approve and issue Order #PZ20250023** allowing a variance for a reduced front yard setback and increased total structure height for an accessory structure pursuant to Sections 152.034 (D) and 152.073 (A)(2), for property legally described on the attached Exhibit "A". The Board of Adjustment further orders approval with the following conditions:

1. The permit is subject to administrative review. The proposed structure shall be used solely by the occupant(s) of the residence for personal storage, hobbies, recreation, entertainment, family uses, private maintenance and repair activities, and as otherwise regulated by this Ordinance. Guest quarters and/or additional dwelling units are strictly prohibited. No products or services shall be offered for sale for pay or similar remuneration except as permitted for a home occupation or as otherwise regulated by this Code.
2. The permittee shall obtain the appropriate building permit(s) prior to the construction of the proposed structure. All work shall be completed in accordance with the submitted plans and must comply with the approved variance and all applicable regulations. The structure shall meet all required setbacks from property lines, existing buildings, Subsurface Sewage Treatment System (SSTS) locations, and must comply with Carver County Water Management Organization (CCWMO) standards and permitting requirements.
3. Any work within the public right-of-way shall require the appropriate permitting from Dahlgren Township.
4. No additional accessory structures or expansions shall be permitted beyond the approved personal structure square footage without obtaining and receiving approval through a new variance.

Steinhagen seconded the motion for approval. Chairman Bruner called for a vote on the motion. All voted aye. Motion carried.

Public Hearing - File #PZ20250016 – Matt Dunn – Chairman Bruner called the public hearing to order at 7:38 p.m. to consider the application of Matt Dunn for a variance pursuant to Chapter 154 of the County Code. The purpose of the public hearing was to consider a request to exceed the total allowed signage for property. The property is in Section 9 of Dahlgren Township.

The following were present: Matt Dunn, Brian Gennrich

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant dated March 26, 2025

Exhibit F – Staff Report addressed to the Board of Adjustment and Dahlgren Town Board dated May 23, 2025, and all attachments.

Hart stated the applicant operates a seasonal attraction (Scream Town) on an approximate 189.42-acre parcel owned by SSP Holdings, LP. He is requesting a variance to exceed the allowable sign size on the property with a temporary, freestanding 10' x 16' (160 square feet) sign to more clearly identify the location of the attraction. The Carver County Sign Ordinance allows a maximum of 32 square feet of surface area per sign and 36 square feet maximum on any property. Scream Town has a Conditional Use Permit (PZ20230020) to operate on the property as a large-scale activity. Mr. Dunn has erected a compliance 32-square-foot sign near the driveway access, adjacent to Hwy 212. The proposed 160-square foot sign is requested to be displayed from the second weekend of September through the second weekend of November. The smaller 32-square foot sign would be removed during this period. The applicant's letter describes the following practical difficulties to justify the variance request:

- The speed limit on Hwy 212 was increased from 55 mph to 65 mph in 2022.
- Hwy reconstruction in 2022 increased the distance between approaching vehicles and the sign from approximately 50 feet to approximately 100-125 feet.
- Eastbound traffic approaches along sloped terrain, reducing sign visibility
- A decreased police presence has reduced visibility and awareness of the event entrance
- The reconfigured highway and addition of J-turns have created confusion leading to frequent wrong turns as reported by nearby resident.

The proposed sign would be mounted on a permanent wooded framework with a vinyl banner affixed during the seasonal display period and would be removed outside of the event season. The sign would be illuminated during the open period in accordance with the sign regulations. Hart used an aerial view of the property to indicate the proposed location of the signs outside of the road right-of-way. The staggered placement is to maximize visibility for eastbound traffic. The plight of the landowner is due to circumstances unique to the property and not created entirely by the landowner. The highway reconstruction has increased vehicle speeds and altered sightlines. A larger seasonal sign may enhance safety by reducing driver uncertainty. Granting the variance does not appear to conflict with the intent of the Comprehensive Plan and should not alter the character of the surrounding neighborhood. It should not materially or adversely affect the health or safety of person residing or working nearby or be detrimental to the public welfare of injurious to surrounding properties or improvements. A larger sign may improve driver safety by reducing confusion. While the request exceeds the square footage standards, the seasonal nature of the display, the location and its intent to improve public safety, suggest it aligns with the broader goal of maintaining a rural character without unduly distracting drivers. The Dahlgren Town Board reviewed the request at their April 14, 2025, meeting and recommended approval, stating: "Approve temporary sign improvement." Hart read the proposed conditions for consideration if the request is approved. If the Board of Adjustment determines that a practical difficulty has not been identified, and that approving the variances would not serve in the interest of justice, the Board of Adjustment would need to identify reasons to support the denial.

Matt Dunn, 4130 Juneau Ln N, stated this request centers around the highway reconstruction and changes from the past few years. He asked about the condition requiring the sign lighting being turned off at 10 PM and asked if that could be extended until after the closing time at 11 PM so it will be visible for parents coming to pick up kids from the event.

Brian Gennrich, Dahlgren Town Board supervisor, stated Mr. Dunn attended their meeting and the voted to recommend approval of the request.

There was no one present from the public for comment on the request.

A motion was made by Steinhagen and seconded by Thompson to close the public hearing. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 7:49 p.m.

Steinhagen asked about changing the condition referring to the sign lighting.

Hart stated this was not specifically stated in the request, but a time was proposed so it would not be a nuisance during late night hours. Hart stated it is true that there could be people attending the event who would need to get a ride and allowing the sign to remain lighted until the event closes may assist with drivers for pick up.

Thompson asked if the sign would be lit at all times or only during event hours of operation.

Mr. Dunn stated the sign lighting would only be on during the event hours of operation and would be turned off when the workers are leaving for the evening.

Bruner confirmed he had driven westward past the location and did not see the current sign. He stated a larger, lighted sign would help to locate the event entrance.

Gorra stated she lives west of the property and has seen confused drivers having difficult navigating the J-turns and making dangerous decisions on the road because they have missed the entrance to the event. She agreed that a larger, lighted sign would help driver safety.

Bielefeldt asked the applicant if the seasonal dates for placement of the sign will be adequate for the event season.

Mr. Dunn stated the specified dates allow for erecting the sign and being able to remove it within a reasonable timeframe surrounding the event.

Washburn asked if this request is a change to the current sign lighting.

Mr. Dunn explained the current lighting is a flood light run by a battery. He anticipated it could change to having 2 flood lights for better illumination of the larger sign, but it would not become anything much more than that.

Thompson made a motion to change the hour for sign lighting to be turned off no later than 11 PM. Steinhagen seconded that motion.

Mielke asked if the board also wanted to clarify that the sign will be lit only during event operating hours.

Thompson stated he would agree to include clarification that the sign be lit only on event operating days.

Washburn commented that it was difficult to determine exactly which sign would be lit and when and asked if this had been discussed as part of the application.

Mr. Dunn replied that they are not at the site outside of the days for operation so there would be no one there to connect the battery to light the sign. He stated they would only have the sign lit during event days of operation. He stated it would be helpful to extend the lighting hours until 11 PM.

Steinhagen agreed to his second of the amended motion. Chairman Bruner called for a vote on the motion. All voted aye. Motion carried.

A motion was made by Bielefeldt to **approve and issue Order #PZ20250016** allowing a variance for a temporary increase in individual sign square footage and total sign square footage on the parcel, pursuant to Section 154.20 of the Sign Ordinance, for property legally described on the attached Exhibit “A”. The Board of Adjustment further orders approval with the following conditions:

1. The permittee shall obtain the appropriate building permits prior to the construction of the proposed sign. All work shall be completed in accordance with the submitted plan. NOTE: Signage with internal illumination must be installed in accordance with the current electrical code, and a separate electrical permit must be obtained from the State prior to installation.
2. The seasonal sign measuring 10 feet by 16 feet (160 square feet), may be displayed only between the second weekend in September and the second weekend in November. Outside of this period, the 4-foot by 8-foot (32-square-foot) sign may remain in place at its approved 3-foot setback.
3. The framework for the seasonal sign may remain in place year-round; however, the vinyl banner and associated lighting must be removed immediately following the seasonal display period.
4. All lighting must be fully shielded and directed solely at the sign face. No light shall spill onto adjacent properties or public roadways. Lighting is allowed only during days of operation and must be turned off no later than 11:00 PM on each day of operation.
5. No additional signage or expansion of signage related to the primary use of the property shall be permitted without first obtaining all required building permits and/or variance approvals, if applicable.

Thompson seconded the motion for approval. Chairman Bruner called for a vote on the motion. All voted aye. Motion carried.

Public Hearing - File #PZ20250021 – Troy Williams – Chairman Bruner called the public hearing to order at 7:55 p.m. to consider the application of Troy Williams for a variance pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request parcel reconfiguration resulting in two non-conforming parcels. The property is in Section 35 of Waconia Township.

The following were present: Troy Williams, Scott Williams, Todd Williams, John Zimmerman, Lauren Williams-Kirsch, Adam Kirsch

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant dated May 1, 2025

Exhibit F – Staff Report addressed to the Board of Adjustment and Waconia Town Board dated May 27, 2025, and all attachments.

Mielke stated the Williams family owns an approximate 16.31-acre parcel of tillable farmland which currently contains no structures and has 1 building eligibility, which was transferred to the parcel in 2020. The applicant is requesting a variance to subdivide this parcel and create two non-conforming parcels. The existing 3.5-acre

Swiggum parcel would acquire an approximate 8.1-acres, and the remaining 8.2-acres of tillable land would retain the building eligibility for another family member to construct a house. Each of the parcels would be less than 20 acres in size and include more than the maximum of 2 acres of prime ag soils permitted in newly created residential lots. Mielke explained a parcel of 20-acres, or more is considered an agricultural parcel, and when a parcel is less than 20 acres, additional criteria are considered as this is a residential parcel. One of the criteria in a residential parcel is that no more than 2 acres of prime ag soils shall be included in a new residential lot. The 16-acre parcel received a variance in 2019 allowing the subdivision of the existing building site from the remaining tillable acreage. The variance was necessary because the remnant 16.3-acre parcel was a parcel less than 20 acres in size, considered an agricultural parcel because it had no building eligibility. A building eligibility was transferred to the 16.3-acre parcel in 2020, making the site buildable (residential lot) but still considered legal non-conforming due to exceeding the prime ag soil standard. This request is to subdivide the 16.3-acre parcel and add land to an existing, conforming, residential parcel (Swiggum parcel), making it non-conforming by exceeding the maximum 2 acres of prime ag soils, and creating another non-conforming residential parcel, approximately 8.3-acres in size, also exceeding the maximum of 2 acres of prime ag soils. The applicant's letter indicates the 2019 variance allowed for the subdivision for family member, the Swiggum's, and the remnant 16.1-acre parcel has now been granted a building eligibility, making it buildable. The applicant is proposing to subdivide the 16.5-acre parcel, approximately half of which would be added to the existing Swiggum parcel, and the remaining 8+-acre parcel would become a residential parcel to be sold to another family member to construct a house. In these configurations, both the Swiggum parcel and the vacant 8+-acre parcel would be non-conforming due to the amount of prime ag soils included in each parcel. The applicant has received a letter of support for this variance from three adjacent landowners. The plight of the landowner arises from a self-created condition. The 16.5-acre parcel is currently buildable due to the previous variance in 2019 and the transfer of a building eligibility in 2020. The transfer of the building eligibility to the 16.5-acre parcel made it more conforming than it had previously been. The proposed subdivision is not in harmony with the general purpose and intent of the Comprehensive Plan. The Comprehensive Plan aims to preserve prime ag soil and prevent residential development on high-quality farmland. This proposal would fragment tillable land and reduce its agricultural utility, conflicting with the Plan's intent for residential, combination, and agricultural lots. It also contradicts the intent to preserve larger, contiguous agricultural parcels viable for farming operations and to promote larger remnant acreages for future city growth needs. Granting this subdivision would reduce the parcel formability and is inconsistent with the stated purpose of the Subdivision Code. Mielke used an aerial photo of the area to illustrate other residential parcels in the area, which were created prior to the Zoning Code. The applicant has not demonstrated a land-related practical difficulty requiring the subdivision. The current parcel is buildable and usable under existing regulations. Granting the variance would not adversely affect public health or safety or be detrimental to public welfare of neighboring properties. The Waconia Town Board reviewed the request at their April 28, 2025, meeting and recommended approval with the following comments:

- *"Approve variance for allowing a building site on more than 2 acres of prime ag."*
- *"Building eligibility will go on 8.2-acre parcel."*
- *If 8.1-acre parcel is not transferred to Scott Swiggum. There needs to be access to this property."*
- *Feedlot permit is revoked"*
- *Approval of subdivision does not exceed allowable building density sites (1/40)."*

Mielke noted if the variance is approved, the previous variance (PZ20190013) would be terminated and the current variance would supersede any prior approvals. He read the proposed conditions for consideration if the variance is approved. If the Board of Adjustment determines that a practical difficulty has not been identified, and that approving the variances would not serve in the interest of justice, the Board of Adjustment would need to identify reasons to support the denial.

Troy Williams, 9075 Island View Rd, commented on the need for septic compliance, stating the Swiggum house was recently constructed and has a new septic system.

Mielke clarified soil borings would be required on the proposed 8.2-acre parcel for a primary and an alternate septic site prior to residential construction. If this was done when the building eligibility was transferred to the 16.5-acre parcel, then Environmental Services would need to confirm that the borings are on the proposed new 8.2-acre parcel and are still valid, or if new borings would be required.

Mr. Williams stated at the time of the building eligibility transfer, there was no requirement for soil borings.

Mielke confirmed the reduction in size of the 16.5-acre parcel would require soil borings as a new residential lot.

John Zimmermann, Waconia Town Board supervisor, clarified the recommendation of the request by the Waconia Town Board reading the following statement, *"There seems to be some confusion about the recommendations for the William subdivision request. The Township approved the variance which allows for more than 2 acres of prime ag soils to be included in the subdivision, on the condition that no further concessions need to be made by the County. If there are other allowances of considerations that the County needs to address in order to grant the subdivision, then Waconia Township rescinds its approval of the variance."*

No one from the public was present to comment on the request.

Mr. Williams stated he was not clear with Mr. Zimmermann's recent statement from the Township. He stated the township recommended approval of the request with the understanding that one 8+-acre parcel would be attached to the Swiggum parcel and the building eligibility would remain with the vacant 8+-acre parcel. He confirmed the feedlot was rescinded at the time of the previous variance for the 16.5-acre parcel, so that consideration should be satisfied. The subdivision will also not violate the 1 per 40 requirements on the parcels.

Mielke asked Mr. Zimmermann to clarify the listed points along with the recommendation.

Mr. Zimmermann stated if there were any additional considerations the County would have to change to make the request allowable, then the Township would rescind their recommendation for approval. He stated they approved the variance for the 2 acres.

Mielke explained the subdivision requires the 8.1-acre parcel to be combined with the Swiggum parcel because it cannot be a 'stand-alone' parcel. In doing that, it makes the Swiggum conforming parcel a non-conforming parcel because of the addition of more than 2 acres of prime ag soils. The remaining 8.1-acre parcel with the building eligibility would also create a non-conforming lot because it would have more than 2 acres of prime soils in a new residential lot. He confirmed there is no feedlot status on the parcel, the building eligibility will not exceed the 1 per 40 status and the building eligibility will be attached to the 8.2-acre parcel. He noted the statement about 'approving a variance allowing a building site on more than 2 acres of prime ag was confusing because that is what the variance request is based on.

Mr. Zimmermann stated that was not clear at the Township meeting.

Mielke stated the applicant's request has been for the proposed configuration which creates two non-conforming parcels because they both exceed the 2 acres of prime ag soils.

Washburn asked for clarification about the 8.1-acre parcel.

Mielke stated the 8.1-acre parcel has no road frontage and could not be a stand-alone parcel. It must be combined with the Swiggum parcel or another adjacent parcel. Mielke used an aerial photo to illustrate the mapping indicating the prime ag soil configurations.

A motion was made by Bielefeldt and seconded by Gorra to close the public hearing. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 8:17 p.m.

Bielefeldt was on the Board for the 2019 variance request for this parcel and recalled the discussion about conditions allowing a parcel of less than 20 acres and maintaining the agricultural status of the parcel. He asked the applicant to identify a land-related practical difficulty for this variance request.

Mr. Williams stated the agricultural land could all be removed from production with a house constructed on the entire 16.5-acre parcel because of the building eligibility transfer. And he recognized that financial consideration is not a valid reason for a variance, however, their intent is to retain the land within the family, as another family member would be purchasing the proposed 8+-acre parcel with the building eligibility and the Swiggum's, also family members, would purchase and add the other 8+-acres to their existing lot. He stated he and his two brothers own the property and could continue to rent it and keep it in production, but they would like to see their kids purchase the land for their use. He acknowledged the property could be listed and sold and they would receive the money for the lot, but they prefer to have family members have and use the land.

Thompson asked if this parcel is within the active growth area for the City of Waconia or identified as such in the Comprehensive Plan.

Mielke stated the City of Waconia does not have the area south of 102nd St identified as a growth area in the 2040 Comprehensive Plan and maybe not likely to be in the 2050 Plan with the growth activity that is taking place on the easterly side of the city with recently annexed land. Much of those decisions are made surrounding availability of sewer capacity. He did not know if Mr. Williams has been in contact with the city for this information, but it seems unlikely that they would pursue anything south of 102nd St and west of Hwy 284 considering the current activity toward the east on County Rd 10.

Steinhagen recognized the property is within about a half mile of the city limits of Waconia, but not in their targeted next phase for development.

Washburn asked if this property is outside of the orderly annexation area of Waconia.

Mielke responded and showed an aerial map of Waconia and surrounding areas identified as future growth areas demonstrating the area south of 102nd St is not included.

Washburn stated other requests have been made in the past for families to subdivide a building site and retain the ag land within the family. The transfer of a building eligibility adds a different dynamic to the situation. He understands the intent to keep the property within the family, but stated this request is directly in conflict with Comprehensive Plan and the preservation of agricultural land. He does not recognize a practical difficulty with the request that was not created by the landowner and cannot support the variance.

Mr. Williams asked if the land was deeded into a 'land trust', could it create more affordable housing.

Mielke replied, property ownership does not regulate the density options. The land would not qualify for any additional density options because it was not a parcel of 40 acres or more. He explained each township chooses the density options they want to acknowledge for development in their township. This parcel consists entirely of tillable land and does not have any 'amenity' (trees, lakes, conservation area, etc.) to qualify for development.

Washburn asked if there was a maximum size for a house to be constructed on a parcel.

Mielke stated there is no maximum house size regulations in the ordinance. He explained larger parcels may require additional permits from other agencies because of the size of disturbed area.

Washburn commented that a larger structure could accommodate more than one family.

Mielke clarified that only single-family dwellings having one set of utilities, one address, one septic system are allowed in the Ag Zoning District. Multiple families can live under one roof in a structure; however, it cannot consist of multi-family dwelling units. He gave an example of ‘add-on’ living space that has been utilized for elderly parents or additional family members considered as a single-family dwelling.

Mr. Williams asked if the lot size would accommodate any size accessory structure.

Mielke explained the regulations surrounding property size and personal storage space. A 16.5-acre parcel would be allowed up to 7,000 square feet of personal storage space. Since the parcel is not 20 acres or more in size, it does not qualify for any agricultural structures.

Bruner echoed Washburn’s previous comments that the request is in direct conflict of the Comp Plan and the preservation of larger ag parcels. He stated he could not support the request.

A motion was made by Bielefeldt to **deny** the request by Troy Williams and issue the **Denial Order #PZ20250021** for a variance to exceed the prime agricultural land standard by creating two new residential-sized lots, pursuant to Section 152.033(F) of the Carver County Zoning Code, for the properties legally described in the attached Exhibit “A,”. The request constitutes a self-created circumstance and is inconsistent with Zoning Code standards and the goals of the Comprehensive Plan, which prioritize the preservation of productive tillable land and the prevention of acreage fragmentation into parcels smaller than 20 acres. **The previously granted variance (PZ20190013) remains in effect.** Washburn seconded the motion.

Chairman Bruner called for a vote on the motion. Bruner, Gorra, Selken, Washburn, and Bielefeldt voted aye. Thompson and Steinhagen voted nay. Motion carried to deny the request.

Public Hearing - File #20250026 – Charles Levine – Chairman Bruner called the public hearing to order at 8:32 p.m. to consider the application of Charles for a variance pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for a cannabis business in shoreland on a parcel in the Agriculture Preserve program. The property is in Section 27 of Laketown Township.

The following were present: Charles Levine, Pete Parris, Kari Klein, April Klein, Jeffrey Klein,

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant dated May 4, 2025

Exhibit F – Staff Report addressed to the Board of Adjustment and Laketown Town Board dated May 23, 2025, and all attachments.

Exhibit G – Email from Jeffrey Klein dated June 4, 2025

Exhibit H – Email from Steve Hilk dated June 4, 2025

Mielke stated the applicant owns and resides on an approximate 178.2-acre parcel improved with a single-family dwelling, several accessory structures and agricultural buildings, as well as a structure used for manufacturing hemp cannabinoid and ingredient manufacturing. The applicant is requesting a variance to allow operation of a cannabis microbusiness on land located within the Shoreland Overlay District and is also enrolled in the Metropolitan Agricultural Preserve program (Ag Preserve), which strictly limits non-agricultural business uses. Mielke explained the criteria surrounding the Ag Preserve program and noted the land has been under this covenant since 2009. The Ag Preserve program offered a ‘protection’ for large tracts of land from premature development. Enrollment into the program was strictly voluntary on the part of the property owner and would run for a minimum of eight years. Mr. Levine re-enrolled the property into the program in 2017, as he was operating a hemp cultivation and processing business, made legal by the 2018 Farm Bill. Following that change in Federal regulations, the business was recognized as a farming activity. However, the Carver County Zoning Code prohibits Conditional or Interim Use permits for businesses on land enrolled in the Ag Preserve program. Mr. Levine asserts that this *regulation “places our long-standing, compliant business at risk of being shut down simply due to a regulatory technicality, not because of any physical incompatibility or land-use conflict.”*

The cannabis ordinance is new to the County following recently passed legislation and restricts cannabis businesses from operating in a shoreland area. Mielke produced an aerial photo of the property showing the current building and operational area of Mr. Levine’s cannabis business within the shoreland area. If the variances are approved, the applicant would proceed with applying to the Planning Commission for an Interim Use Permit to operate a cannabis microbusiness on the property. The applicant is proposing to expand the operation in two directions, adding a milling room and walk-in freezer and a secure front entry. The State Office of Cannabis Management also has strict regulations concerning lighting, fencing of the 1-acre growing area, and security with which Mr. Levine must comply. The applicant identifies a practical difficulty in relocating the business outside the shoreland area or to land not enrolled in the Ag Preserve program, stating, *“The practical difficulty stems from the fact that the site has already been developed as a specialized agricultural manufacturing facility. We have made significant investments in equipment, security, infrastructure, and regulatory compliance based on the longstanding assumption that cannabis would be regulated similarly to hemp. The terms of the current ordinance, if applied rigidly, would create unnecessary and disproportionate economic harm to our farm without protecting any broader land use interest.”* Mielke stated timing of things and changes to State and local rules are unique circumstances surrounding this request, namely, that the County Zoning Code pertaining to cannabis businesses was not adopted prior to the deadline for Mr. Levine to re-enroll into the Ag Preserve program and the work he is currently doing was allowed under the 2018 Farm Bill. As a proposed solution to the Ag Preserve program, Mr. Levine states, *“Once the Ag Preserve ceases in 7 years, Levine Farms, LLC, would not be allowed to re-enroll into the program after the recorded expiration date of May 17, 2032.”* Mielke also stated information was included with this packet to offer a better understanding of the business operation, however, the details for hours of operation, growing area, security fencing, etc. will be a part of the Interim Use Permit process through the Planning Commission, if the variances are granted. If/when he has the local approval and permits, he will still need to finish the application process with the State. Senior Environmentalist, Jacob McLain, reviewed the request and commented, “We would require a compliance inspection on the holding tank that services the processing lab, since it is located in Shoreland, and they are adding on to the building.” Tim Sundby, Water Resources Supervisor, reviewed the application materials and stated the area disturbance appears to be less than one acre in size, so a stormwater permit is not required. The plight of the landowner is a result of circumstances created by prior language passed through the State Legislature under the 2018 Farm Bill. Granting the variance does not appear to conflict with the intent of the comprehensive Plan or County Ordinances and is not expected to alter the character of the neighborhood. It is not anticipated to materially or adversely affect the health or safety of persons residing or working adjacent to the property, nor should it be detrimental to the public welfare or injurious to property or improvements in the surrounding area. The Laketown Town board reviewed the application at their May 12, 2025, meeting and recommended approval with the following comments: *“The Board*

supports the applicant's ability to expand the existing hemp operation (Manufacturing and cultivation) by adding one acre of cannabis cultivation on their 178-acre property. The applicant is currently in the licensing process under the new State of Minnesota Cannabis rules. The Board supports the proposed plan." The Board's vote was unanimous. Mielke read the proposed conditions for consideration if the request is approved. If the Board of Adjustment determines that a practical difficulty has not been identified, and that approving the variances would not serve in the interest of justice, the Board of Adjustment would need to identify reasons to support the denial.

Charles Levine, 8420 County Rd 10 E, stated they have been operating at this site in compliance with the rules since 2018. He stated the new rules and requirements from the newly established OCM through the State are making the variance necessary for them to continue.

Pete Parris, Laketown Township supervisor, stated they have had many discussions with Mr. Levine concerning his operation. He has been straightforward with sharing information concerning his business and no residents have offered complaints about it. He confirmed the Board's unanimous vote to recommend approval of the request.

Jeffrey Klein, 8780 County Rd 10 E, expressed his concern for the odor associated with outdoor growing of cannabis. He said he can smell the hemp which is already being grown and stated cannabis is 10-times more potent for odor. He felt a cannabis operation will also increase the desire for theft of the product and the possibility of people crossing his land to access the fields. He stated the proposed lighting of the property and area will be a bullseye for anyone to easily find the growing area. He stated he is opposed to granting the request.

Bielefeldt asked if Mr. Klein has had issues in the past of people trespassing onto his property.

Mr. Klein stated he has had calls from neighbors letting him know there have been people on his land looking at a horizon of things parked in a tree line. He stated another neighbor along County Rd 10 had items stolen from his property. He claimed County Rd 10 offers quick and easy access into and out of Waconia. He reiterated his concerns with odors, theft and lighting.

Mr. Levine responded by saying there were times he has had to ask Mr. Klein to get off his property. He was unsure about the odor issue, since he has never had a complaint from any other neighbors since he has been operating. He stated access to his property is only one road in and out and the buildings are tucked away quite a distance from the road that most people are not aware that there are buildings there. The level of security required by the State for these businesses is complex with access gained by key fob and recorded in a matrix system. He stated the lights will not be on all night because it is motion-sensor lighting.

Mr. Klein validated his concerns stating that any address can be found using technology and figured people from anywhere will be able to find cannabis growing locations if they want to. He is convinced that the lighting will create a bullseye for anyone trying to find the property.

Bruner stated he visited the property and stated there are fences across the driveway for safety. He also stated that theft can take place on properties anywhere and stated one cannot be afraid to operate a business because of that possibility.

Mr. Klein continued to stress his concern with the theft of cannabis and people trying to access the property from other directions.

Mr. Levine stated he has been operating for 8 years and has not experienced anyone trying to break into the current operation. He also stated that they do not advertise the address of the farm and was certain that the information is also vaulted and not made public through OCM for security reasons.

Kari Klein, 8815 County Rd 10 E, stated she has no concerns for Mr. Levine's business. She and her children have visited the property many times and will continue to be friends and neighbors regardless of the product that he is growing. She stated she understands what he is striving for and has no concerns or issues with his operation. He appears to be following the rules to get the appropriate licensing.

April Klein, 8820 Klein Dr, stated she has lived adjacent to Mr. Levine for 7 years and feels he conducts his business professionally and has very clearly communicated his intentions for his business operation. She and her husband have no issues with the business and would support the request.

A motion was made by Steinhagen and seconded by Bielefeldt to close the public hearing. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 9:03 p.m.

Gorra asked for clarification on this request, if it involves two separate issues.

Mielke replied it is correct that multiple topics can be addressed in one variance request. This request involves the issue with the Ag Preserve covenant on the property and the existing production building located within the Shoreland Overlay district.

Ms. Gorra also confirmed that changes in two related issues with timing of re-enrollment into the Ag Preserve program and creation of a new cannabis ordinance relating to the shoreland issue have taken place recently.

Mielke confirmed that to be correct. The cannabis ordinance was created in 2024 due to changes in legislation legalizing cannabis uses in the State. The County chose to require cannabis uses to be Interim Use Permits to have the permit be issued to a specific person or a defined sunset date and not run on the land like a Conditional Use Permit.

Bielefeldt stated he visited the site and had difficulty locating the property. He stated it appears Mr. Levine runs an effective operation, and he has no issues with the request.

Washburn stated he can identify a practical difficulty with the timing and uncertainty associated with the legalization of cannabis uses and timing for the creation of an ordinance.

Bruner spoke in favor of a small business operator trying to follow the rules to conduct a successful business.

Washburn asked if there is a retail component or consumer activity being made as a part of this request.

Mielke replied, those details will be addressed as a part of the Interim Use Permit process and the application to the Planning Commission.

Hart commented that the retail component of cannabis businesses within Carver County is only allowed in the Rural Service Districts of Carver County. A retail operation would not be allowed from the subject property.

A motion was made by Bielefeldt to **approve and issue Order #PZ20250026** allowing a variance for to allow a Cannabis Microbusiness operational area in the Shoreland Overlay District and on land enrolled in the Agricultural Preserve program pursuant to Sections 152.079 (A)(3) & (C)(10)(b) of the County Code for property

legally described on the attached Exhibit “A”. The Board of Adjustment further orders approval with the following conditions:

1. An Interim Use Permit (IUP) application for a Cannabis Microbusiness shall be submitted, reviewed, and approved. If the County Board denies the IUP application, the variance shall become null and void. The Cannabis Microbusiness and the property must comply with all other applicable requirements of the Carver County Zoning Code and the Minnesota State Building Code.
2. If the future IUP application is approved, the operational area shall not encroach upon any required setbacks within the Shoreland Overlay District.
3. Upon expiration of the current Agricultural Preserve program enrollment on May 17, 2032, the property shall not be re-enrolled in the program while the Cannabis Microbusiness or any other Home/Farm-based business operates on the site.
4. No additional Home/Farm-based commercial activities shall be conducted on the property.

Selken seconded the motion for approval. Chairman Bruner called for a vote on the motion. All voted aye. Motion carried.

Public Hearing - File #20250024 – Paul Wenner – Chairman Bruner called the public hearing to order at 9:14 p.m. to consider the application of Paul Wenner for a variance pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for adaptive reuse of an existing non-conformity. The property is in Section 16 of Young America Township.

The following were present: Paul Wenner, Virgil Vollbrecht, Ron Trick

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant dated May 9, 2025

Exhibit F – Staff Report addressed to the Board of Adjustment and Young America Town Board dated May 27, 2025, and all attachments.

Exhibit G – email from Dimler dated May 28, 2025

Exhibit H – email from Rick Ziegler dated May 30, 2025

Mielke stated the applicant owns an approximate 6.57-acre property improved with a previous truck stop building (former gas station/convenience store and café), which has been converted into a commercial facility used for farm-related business and contractor’s yard operations. The site also features a large paved and gravel parking area. The business activities were previously approved by variance in 2017, allowing for the adaptive reuse of a non-conforming use. The applicant is requesting the continued and expanded use of the property for business purposes with the construction of new buildings for sales, service, storage as well as expansion of the outdoor equipment display and parking areas. Mielke used an aerial photo of the property to illustrate the property and proposed areas for expanded uses. He also explained the Board of Adjustment is the authority on a non-conforming request. There is no application reviewed by the Planning Commission for a CUP or IUP. He stated this property is unique in the fact that it does have a septic system from a prior use without a house on the property.

Due to compacted soils and a pre-existing septic system, establishing a residence may not be feasible. The applicant is working toward compliance and on the property and compliance of the existing system and preserving a secondary site are considerations. The property has been in continuous commercial use since the 1960's. The applicant purchased the property as a tax forfeiture parcel in 2016 with the intent to operate an equipment sale, rental and service business, along with a seasonal landscaping and tree care operation. The applicant's narrative dated May 9, 2025, outlines the proposed operation details and describes how the property would be used. Accompanying site plans also depict the proposed improvements (construction of a new building, expanded parking and display areas, and stormwater drainage features on both ends of the property.) The applicant intends to place fill material across much of the site to maximize useable space. Future plans show a second accessory structure and a full build-out plan. The full build-out plan may require review and permits from other departments to plan for appropriate management of the property. The proposed hours of operation would continue as Monday through Friday, 7:30 AM – 6:00 PM and Saturdays from 8:00 AM – 1:00 PM from spring-fall, and Monday through Friday, 8:00 AM – 5:00 PM in winter. Occasional appointments may occur outside these hours. The workforce includes approximately eight full-time and three part-time employees for the equipment business, as well as two additional employees for the landscaping operations. The proposed structure in this Phase 2 development is approximately 100' x 160' with service bays and retail space to consolidate operations indoors. The future plans include a second structure to expand storage and repair capabilities. Anticipated vehicle trips per day are up to 50 during peak season and approximately 20 daily trips in winter. The applicant has been in contact with MnDOT concerning the two access points for the property and upgrading them to 'J-turns' with the Hwy 212 reconstruction project. Existing buildings will remain in use until the new building is completed which would allow him to consolidate both business operations and conduct more indoor service work year-round. The applicant's request to bring fill onto the property to maximize useable area will increase impervious surface and has triggered compliance with the WMO for stormwater management and erosion sediment control. Much activity is taking place on the property to divide the stormwater review into two Phases, the east side information is nearing submission and the new proposed impervious surface to direct waterflow to the west side of the property. Improvements are being made to the site and language is included to preserve an area without hauled fill for an alternate septic site location for future use. Proposed signage must comply with the sign ordinance of the Zoning Code. Carver County Septic Inspector, Lori Brinkman, commented on the septic system on the site and noted due to expiration of the SSTS compliance, all SSTS components must be inspected by a licensed SSTS inspector, and it is required that an SSTS design which includes a drainfield be completed and submitted by a licensed SSTS designer and installed for wastewater treatment. Paul Moline, Deputy Division Director of Public Services and Manager of the Carver County Water Management Organization, reviewed the application materials and provided comments concerning additional impervious surfaces and requirements for stormwater permits for the site. The plight of the landowner is due to circumstances unique to the property and not entirely created by the landowner. The applicant is pursuing a business plan that seeks to redevelop and utilize the non-conforming property in a way that provides commercial services to Carver County and surrounding communities. Granting the variance would not be in conflict with the intent of the Comprehensive Plan and would not alter the character of the neighborhood or negatively impact government services. The Young America Town Board reviewed the request at their May 15, 2025, meeting and recommended approval. They further stated, "*Township approves variance as presented plus use of Wells Av ditch.*" Mielke read the proposed conditions for consideration if the variance is approved. He expanded on the condition concerning cargo containers stored on the property for sale or rental and suggested a maximum number allowed be identified. If the Board of Adjustment determines that a practical difficulty has not been identified, and that approving the variances would not serve in the interest of justice, the Board of Adjustment would need to identify reasons to support the denial.

Paul Wenner, 17550 Hwy 212, stated he understands there are rules governing the proposed changes and he intends to comply with them. He stated his property is unique with the adaptive reuse of a non-conformity and he hopes the expansion will provide a service to the surrounding community.

Ron Trick, Young America Town Board supervisor, stated Mr. Wenner appeared at the past two meetings. He stated the only concern for the township was that the stormwater pond along Wells Av to the west of the property is not filled in and remains open for the water to flow northward off the property. He confirmed the Board's unanimous vote for approval of the request.

Mr. Wenner asked for conversation on the cap for shipping containers, noting that he had never discussed a maximum number allowed on the property with anyone. He stated that at times their container depot will call with an offer of a good price for a quantity amount, and they do get stacked on the property until they are dispersed. He would like to be able to have more than six as a maximum amount. He asked if there is a state statute limiting the maximum of nine commercial vehicles on the property. And he stated a concern about language restricting sales of semi-trucks or trailers which he also had not discussed with anyone.

Mielke responded the language concerning no sales of semi-trucks or trailers was taken from the 2017 variance and carried forward as there was no mention of it in this request. Mielke explained the reference to a maximum of nine commercial vehicles as part of the landscaping operation is related to a conditional use permit for a contractor's yard section of the Zoning Code.

Mr. Wenner stated there are a number of delivery trucks for the Hwy 212 Equipment business operation.

Mielke clarified the nine commercial vehicles relates to the tree-trimming business and not the non-conforming sales/service/repair adaptive reuse operation of the Hwy 212 Equipment.

Mr. Wenner pointed out the written condition also referred to the Hwy 212 Equipment business.

Thompson asked if the language concerning vehicles for the Hwy 212 Equipment could be removed entirely.

Mielke replied, it would be preferred to have some type of statement referring to the number of vehicles because it would identify a quantity that can be managed and enforced in case of non-compliance.

Chairman Bruner asked Mr. Wenner how many business vehicles are associated with the Hwy 212 Equipment business or how many he would actually have or need.

Mr. Wenner stated maybe upward of 15 to 20 would be reasonable with anticipated business expansion.

A motion was made by Bielefeldt and seconded by Washburn to close the public hearing. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 9:50 p.m.

Washburn asked for more detailed information concerning the water patterns and drainage on the property.

Paul Moline, Public Services Division Deputy Director and CCWMO Manager, stated they have been working with Mr. Wenner for over a year on the drainage issue. It started with a wetland violation in 2023 and has carried on since then. Most recently, it was decided to concentrate on the east side and the impervious surface that has already been added as Phase 1. He noted this is not a reference to the same Phase 1 as in the packet materials. He used an aerial photo to illustrate the proposed plan which includes a treatment swale for water leaving northward from the site. This would also accommodate a portion of the parking area or a new building in the future. A Phase 2 plan for drainage on the west side is still being determined. The runoff would go into a filtration-type swale which would need to be correctly sized. Currently the proposal is to use the ditch running along the township road, but not all the figures for water quantity have been calculated at this time, which is why

this has been proposed as a Phase 2 project.

Washburn what the Phase 1 swale might look like.

Mr. Moline stated they had sent the comment letter in early May and are waiting for all of the responses. He estimated it might be 15 – 20 feet long and 10 feet wide with rock underneath and a drain tile to allow the water time to settle before it leaves the property toward the wetland.

Washburn asked if this would accommodate the runoff from the entire east side.

Mr. Moline stated water in the front would go to a riprap spillway and would wrap along the property line heading northward. He stated they are working with the impervious surface added since 2002, explaining that much of the impervious surface was already there. Some of the requirements are for the impervious area that has been added in the past few years with additional parking and staging areas and proposed future impervious surfaces with parking and building space.

Washburn stated he was concerned with the useable space and the specific applications and where the landscaping materials and debris would be located and how it impacts the drainage patterns.

Mr. Wenner stated the landscaping business is very limited with only two employees, and they haul very little materials back to the property. He indicated a location where there is landscaping material kept inside bunker blocks.

Thompson asked the applicant to discuss the items of concern he mentioned earlier: the number of storage containers, the selling of semi-trucks/trailers, and the number of trucks for the sales and rental business.

Mr. Wenner also mentioned the illustration of a designated area to be preserved for septic use which he was not aware of or had no conversation about. He referenced the illustration with the location of the current septic tanks and drainfield and stated it was suggested to rope off the area to deter any equipment from driving on that area. Currently, the drainfield area is not being used as the septic system was redone in 2017 to a holding tank system after he purchased the property. He stated the proposed area is much too large considering the limited size of the property and their need for space.

Mielke stated the area was identified to be preserved along with the existing tank locations after conversations with Environment Services, so that it is not being driven on or used for any other activity. He noted that hauling fill onto the property is fine, but having an area designated to be preserved for a future septic site is good planning. It is unknown if the site will be able to continue to use only holding tanks as it grows and becomes more successful. This is always the situation with rural land because there are no city sewer services.

Mr. Wenner asked if there are setback requirements for a septic system from a property line.

Mr. Mielke stated there is and stated it might be 10-feet from a property line. He stated that if fill is hauled within that area, it is no longer suitable for a septic system, so being proactive by preserving a designated location is preferred.

Bielefeldt offered a proposal to increase the maximum number of cargo containers to ten and a maximum number of commercial vehicles for the Hwy 212 Equipment business to 20.

Thompson stated he would prefer there be no limit on the number of vehicles for the Hwy 212 Equipment, stating that even with a number listed, it is difficult to enforce.

Washburn stated he would like to see a site plan that identifies specifically where things will be constructed or moved to and how this will phase out the water treatment plan and hauling fill on the property. He surmised it would be better for the applicant and everyone to understand what the constraints will be.

Bruner stated he agreed with Thompson about enforcing a number of commercial vehicles but was going on the applicant's suggestion of 20.

Mr. Wenner confirmed 20 should be sufficient as there would likely not be enough space for many more than that.

A motion was made by Bielefeldt to amend the listed conditions #3 and #5 to increase the maximum number of cargo containers to 10 and the maximum number of commercial vehicles for Hwy 212 Equipment to 20. Washburn offered a friendly amendment to the motion for the changes to include striking the prohibition of sales of semi-trucks and trailers. Bielefeldt agreed to the friendly amendment and restated his motion. Washburn seconded the amended motion. Chairman Bruner called for a vote on the motion. All voted aye. Motion to amend the board considerations as suggested carried.

Moline clarified information concerning Washburn's comments about the site plan. He stated the stormwater permit is still being reviewed and worked on and has not yet been issued for any future work, beyond what they have termed their Phase 1 of this project. He stated that the site plan approved tonight will be changed in reference to the stormwater requirements and final approval. The site plan was for reference to the operational area and uses.

Washburn identified the useable area of the property from the Master Plan illustration #6 as a main portion of the center of the property and the new operational area on the south side of the property.

Mr. Wenner stated he would also prefer to use the identified 'future operational area' on the north side of the property.

Mr. Washburn clarified that this would include the area designated to be preserved for future septic use.

Mr. Wenner stated that was his conversation with Environmental Services that the preserved area is too large. He stated there is a drainfield and holding tanks. It is a system that works and does not have a pump in the system.

Bielefeldt stated if the need for a septic system would arise, another variance would be necessary.

Steinhagen rebutted stating that if fill is hauled on that location, a septic system cannot be installed on filled ground. The staff is trying to preserve an area of virgin ground to be used for a replacement septic system in the future.

Washburn stated a preserved area would also offer more flexibility for a future land use. It might appear more limiting right now, but it could be a benefit in the future.

Bruner agreed with those statements.

Steinhagen stated he has seen how much fill has already been placed and stated that preserving the identified area for a future septic system should be done, unless there is another area of the same size on the property that would work.

Mr. Wenner asked if the size could be reduced. He felt this was excessive for a septic system.

Mielke identified the current septic drain field area and explained how filling could negatively impact installation of a future replacement system.

Mr. Wenner argued that the existing system was constructed on filled soils.

Mielke read the proposed condition #6 and confirmed how the proposed area was identified.

Steinhagen confirmed this board is trying to preserve an identified site that appears to be suitable for a future septic site. If another site is located or additional land is added to the property that would be suitable, then a future amendment can be made to the plan.

A motion was made by Bielefeldt to **approve and issue Order #PZ20250024** allowing a variance to expand upon the adaptive reuse of an existing non-conformity (Similar to a Farm-Related Business and Contractor's Yard) pursuant to Section 152.009, 152.079, and 152.213 of the Carver County Zoning Code for property legally described on the attached Exhibit "A". The Board of Adjustment further orders approval with the following conditions:

1. The previous Variance #PZ201700421 (recorded as Doc. No. A649846) would be terminated upon final approval (and recording) of the new Variance #PZ20250024. Therefore, Variance #PZ20250024 would supersede any prior approvals.
2. The permitted activities are subject to administrative review. This order allows for an adaptive reuse of the property on the approximate 6.50 acres. A change in ownership, operations or operator shall be cause for the permit to be reviewed by Land Management for a determination as to whether an application for an amendment or other action is required. Prospective owners and/or operators are strongly encouraged to contact Land Management as early as possible in the planning process.
3. The Permittee shall conduct all activities in accordance with the submitted operational plan (narrative), site plans, and supporting documentation dated May 9, 2025. These materials are considered binding components of this Order. No expansion of business activities - including additional sales, services, or new buildings beyond the structure west of the current sales and repair building - shall occur without an approved amendment to this Order.
4. Items offered for sale, rental, etc. shall be associated with farm-related activities, landscaping projects, and construction activities. A maximum of ten (10) cargo containers may be offered for sale or rental. Cargo containers currently used for storage purposes on the property must be removed following the construction and issuance of a Certificate of Occupancy of the new accessory structure.
5. All structures associated with business activities must comply with the Carver County Zoning Code and State Building Code. Remodeling of existing structure is not permitted without prior review by the Carver County Building Official and approval of appropriate permits. Construction of any new structure intended for business shall only proceed after issuance of all required building permits. No personal storage structures are allowed on the commercial property.

6. In addition to sale or rental items, a maximum of nine (9) landscaping-related commercial business vehicles (e.g., trucks, dump trucks) and twenty (20) Highway 212-related business vehicles (e.g., trucks, semi-trucks) may be stored on the site. Outdoor storage shall be located to minimize visual impact from public roads, and all business-related vehicles, equipment, and supplies must be placed in an organized and orderly manner within the approved operational area.
7. Due to expiration of SSTS compliance, all SSTS components must be inspected by a licensed SSTS inspector, and an SSTS design that includes a drainfield be completed by a licensed SSTS designer and installed for wastewater treatment. Portions of the previous septic system may be used if they are found to meet MPCA and Carver County SSTS compliance requirements. No fill material may be placed over existing SSTS tanks or drainfield areas. To preserve future commercial expansion capacity, the area north and west of the existing SSTS components shall remain free of fill placement.
8. The permitted activity is subject to all applicable MnDOT standards regarding access and right-of-way use. Appropriate MnDOT permits must be obtained before any work commences within the road right-of-way or prior to the start of construction activities.
9. All grading and filling activities must comply with the CCWMO Rules and the Wetland Conservation Act (WCA), as applicable. All site improvements shall conform to Chapter 153 – Water Resource Management. Stormwater management review and approvals are required prior to the issuance of any construction or building permits. No grading and or filling activity may occur across the property line on the DNR property or within the SSTS preservation area.
10. A vegetative cover must be maintained on all areas outside the operational plan, including steep slopes along the perimeter of the property. The permittee is responsible for maintaining all ground cover—such as trees, grasses, weeds, and native vegetation, the duration of the operation.
11. The permitted activity shall remain in full compliance with applicable County and State regulations, including:
 - Chapter 50 – Solid Waste Management
 - Chapter 51 – Hazardous Water Management
 - Chapter 52 – Subsurface Sewage Treatment Systems
 - Chapter 152 – Zoning Code
 - Chapter 153 – Water Resource Management
 - Chapter 154 – Sign Regulations
 - MN Wetland Conservation Act
 - Minnesota State Building Code
12. The Permittee must obtain and maintain a Non-Generator Certificate or, if applicable, a Hazardous Waste Generator License through the Environmental Services (E.S.) Department.
13. The Permittee shall submit a valid Certificate of Workers' Compensation Insurance and/or appropriate affidavit to the Land Management Department, annually.

Gorra seconded the motion for approval. Chairman Bruner called for a vote on the motion. All voted aye. Motion carried.

Adjournment

A motion was made by Thomason and seconded by Gorra to adjourn. All voted aye. The meeting was adjourned at 10:14 p.m.