

CARVER COUNTY BOARD OF ADJUSTMENT
Regular Meeting July 2, 2025
Minutes

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

Members Absent: None

Members Late: Robin Bielefeldt, (7:05 p.m.)

Staff Present: Jason Mielke, Jacob McLain

Pursuant to due call and published notice thereof, the July 2, 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. Gorra seconded the motion for approval. All voted aye. Motion carried.

Minutes – Chairman Bruner asked if there were any corrections to the minutes from the June 4, 2025, meeting. Hearing none, he asked for a motion to approve the minutes. A motion was made by Washburn to approve the minutes of the June 4, 2025, meeting. Selken seconded the motion for approval. All voted aye. Motion carried.

Public Hearing - File #PZ20250032 – Marcia Brand – Chairman Bruner called the public hearing to order at 7:02 p.m. to consider the application of Marcia Brand for a variance pursuant to Chapter 52 of the County Code. The purpose of the public hearing was to consider a request for reduced setbacks to a bluff, property line and structure for a Type IV Mound system on the property. The property is in Section 7 of Laketown Township.

The following were present: Marcia Brand, Bob Billiet, Pete Parris

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 June 10, 2025

Exhibit F – Staff Report addressed to the Board of Adjustment and San Francisco Town Board dated June 24, 2025, and all attachments.

Jacob McLain, Senior Environmentalist, stated the applicant owns an approximate 0.96-acre parcel in Government Lot 2 in Section 7 of Laketown Township. The property is improved with a single-family dwelling and detached garage and is located adjacent to the shoreline of Lake Waconia. McLain clarified the variance request is for reduced setbacks from a bluff, property line and structure for the installation of a Type IV mound septic system with UV treatment and less than 3 feet of separation. The proposed system would consist of a 500-

gallon holding tank/1000-gallon pump tank (2 compartment tank), 600-gallon MultiFlow, 500-gallon dosing tank and 145 lineal feet of pressurized trenches. The proposed trenches would be placed approximately 15 feet from a bluff and approximately 5 feet from a structure and property line. The tanks would be installed approximately 5 feet from a structure and the east property line. The required minimum setbacks are 50 feet from a bluff and 10 feet from a structure and property line. The ordinance also allows installation of Type IV systems except for those that do not reduce the required minimum 3-foot separation to the periodically saturated soil. Ms. Brand purchased the property with the existing house and detached garage and occupies the residence. The current septic system was installed in 1982 to service a new house. Now, over 40 years old, the system no longer complies with County and State requirements and must be replaced. The owner's letter describes a practical difficulty exists based on the limited size of the property, and the required setbacks to a bluff, property lines, and structures. Due to the setbacks, there is insufficient space to install a new septic system and meet the required setbacks. Approval of the proposed variances (pressurized trenches approximately 15 feet from a bluff, tanks approximately 5 feet from a structure and approximately 5 feet from the property line) would allow for installation of a new system in compliance with State and Local rules. The submitted site plan illustrates the proposed location for the septic system with the proposed setbacks to the bluff, structure and property line. No comments were received from MnDNR at the time of this report. Granting the variance would not conflict with the intent of the Comprehensive Plan and/or County Ordinances and would not alter the character of the neighborhood. It would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property and would not be materially detrimental to the public welfare of injurious to property or improvements adjacent to the properties. The Laketown Town Board reviewed the request at their June 23, 2025, meeting and recommended approval of the request, expressing support for the licensed septic contractor's design and the County's approval under the SSTS program. McLain 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.

Marcia Brand, 7150 County Rd 155, had no additional comments and stated she agrees with the proposed conditions.

Pete Parris, Laketown Town Board supervisor, confirmed the Township's unanimous recommendation for 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 7:11 p.m.

Bielefeldt stated he visited the site and talked with the applicant and couldn't see any other way to propose a replacement system on the property.

A motion was made by Thompson to **approve and issue Order #PZ2025032** allowing variances to reduce SSTS setback to a bluff, property line, and structure for the installation of a type IV system with UV treatment and less than 3' of separation pursuant to Section 52.021 (L) & 52.022 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 SSTS shall be located according to the final design approved by Carver County Environmental Services.
2. The new septic system shall not encroach any closer to the bluff, structure, and property line than as approved as part of this variance application (Approx. 15 feet from the bluff, and 5 feet from a structure and east property line).

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

Public Hearing - File #PZ20250030 – Gary & Donna Schmitt – Chairman Bruner called the public hearing to order at 7:11 p.m. to consider the application of Gary & Donna Schmitt for a variance pursuant to Chapter 52 of the County Code. The purpose of the public hearing was to consider a request for reduced setback to the OHWL of a protected watercourse. The property is in Section 19 of Laketown Township.

The following were present: Gary Schmitt, Donna Schmitt, Pete Parris, Doug Elliot, Carolyn Elliot

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 12, 2025

Exhibit F – Staff Report addressed to the Board of Adjustment and Laketown Town Board dated June 24, 2025, and all attachments.

McLain stated the applicants own an approximate 2.28-acre parcel improved with a single-family dwelling with attached garage. They are requesting a variance to install new Type III septic system approximately 33 feet from the Ordinary High Water Level (OHWL) of a MnDNR Protected watercourse. The required setback for a septic system from the OHWL of a MnDNR protected water course is 75 feet. The applicants purchased the property in 1977 and built the existing residence. A compliance inspection was conducted on the system on July 11, 2022, as required for a pending building permit. The compliance inspection determined the system to be non-compliant and identified it as failing to protect groundwater (FTPGW) as it does not meet the requirement of 3-feet of vertical separation for sewage treatment. Septic systems that are FTPGW carry a 3-year timeline for upgrade or replacement. A septic escrow was obtained to allow for the building permits to be issued. The owner's letter describes a practical difficulty due to the limited size of the property and the required setbacks to the OHWL. There is insufficient space to install a septic system and meet the required setbacks from the creek. McLain noted a modification to the staff report information stating the primary and alternate site locations have been changed at the request of the owner. The alternate site will be located to the west of the house, (currently identified as site 1 on the plan) and the new primary site will be located to the northeast of the house, identified as identified on the map. The primary site will have an approximate 65-foot setback from the OHWL of the creek, while the alternate site would carry the 33-foot setback. The variance request will still include the 33-foot setback of the alternate site location for future use of the property, as well as a 10-foot variance for the new primary location. The new primary septic location meets the setback requirements from property lines, structures and wells. No comments were received from the MnDNR at the time of this report. On July 1, 2025, a comment was received from a neighbor about possible setbacks from a property line. McLain spoke to the designer to adjust the location westerly about 5 to 8 feet to meet the property line setback. The new approved design will place the soil treatment

area in a location that will allow it to function properly. Granting the variances would not conflict with the intent of the Comprehensive Plan and/or County Ordinances and would not alter the character of the neighborhood. It would not materially adversely affect the health or welfare of persons residing or working in the area adjacent to the property or be materially detrimental to the public welfare or injurious to property or improvements. The Laketown Town Board reviewed the request and recommended approval at their May 12, 2025, meeting. McLain 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.

Gary Schmitt, 9335 Lynn Wood Rd, had no additional comments about the report.

Pete Parris, Laketown Township supervisor, confirmed the Township's unanimous vote of recommendation for approval of the proposed request as presented.

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

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 7:21 p.m.

Bielefeldt asked if the variance as presented in the staff report would apply to both the primary and alternate sites.

McLain explained the original design had identified the location west of the house as the primary site and the property owner would prefer that the originally identified alternate site to the north of the house be the one to be used now and retain the site west of the house for the alternate location. Each site would require a variance for reduced setback from the OWHL of the creek, so it is recognized in this application to apply to the alternate site in the future.

Bruner stated he visited the site and the proposed septic locations appear to be reasonable.

A motion was made by Bielefeldt to **approve and issue Order #PZ20250030** allowing a variance to reduce the SSTS setback to the OHWL of a DNR protected watercourse pursuant to Section 52.022 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 SSTS shall be located according to the final design approved by Carver County Environmental Services.
- 2 The new septic system, and future alternate site shall not encroach any closer to the ordinary high-water level than as approved as part of this variance application (approx. 65 feet for the primary site, and 33 feet for the alternate site from the OHWL of a MnDNR Protected Watercourse).

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

Public Hearing - File #20250031 – Dale Gestach – Chairman Bruner called the public hearing to order at 7:24 p.m. to consider the application of Dale Gestach for a variance pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for to declare a non-conforming shoreland parcel lot as a buildable property. The property is in Section 21 of Laketown Township.

The following were present: Dale Gestach, Jodi Gestach, Randy Kubes, Pete Parris, John Doherty, Doug Elliot, Carolyn Elliot

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 June 2, 2025

Exhibit F – Staff Report addressed to the Board of Adjustment and Laketown Town Board dated June 24, 2025, and all attachments.

Mielke stated the applicant owns an approximate 1.4-acre parcel which was created in 1967 (prior to the establishment of any County zoning ordinance) as a lot in the Laketown Shores platted development. It is improved with an accessory structure. Mielke stated Mr. Kubes is listed as the applicant and is assisting Mr. Gestach who would like to sell the subject parcel and the adjacent parcel where he resides. The variance request is to allocate a building eligibility on the subject property to allow for construction of a house upon the sale of the lot. The house would be on a non-conforming lot which has not been previously developed and has been in common ownership with the adjacent property to the south for most of its history. A determination has been requested to confirm that a building eligibility exists pursuant to Section 152.135(B)(1) of the Zoning Code. The parcel was created prior to any zoning code regulations and the current regulations for lots in the Shoreland Overlay District make it non-conforming because it does not meet the required minimum lot width (200 feet) and total size (2 acres). A lot of record with separate ownership would have been allotted a building eligibility. The Shoreland regulations are drafted from the DNR's model ordinance concerning shoreland overlay areas, which requires two adjacent parcels with common ownership to be combined into one lot. The applicant's letter describes the parcel history and that the parcels had been in separate ownership, were purchased separately and at different times, and over time are now in the same ownership as two non-conforming parcels. Mielke explained that when a parcel is purchased or sold, there is no notification of a change in ownership when it involves the entire parcel. The applicant's letter also references a value for the lot at \$235,000, which Mr. Gestach interpreted as an indication that the lot was a buildable site. Mielke stated before the lot could be deemed buildable, soil borings would be required to prove there would be suitable sites for primary and alternate septic locations. The owner has had soil borings completed, which were verified by Environmental Services, and indicated there is enough separation to install installation of a conforming septic system. The soil boring locations were identified to also allow for a driveway location if the variance is approved, so access would meet the minimum separation distance from an adjacent driveway (north and south). Mielke reiterated the circumstances surrounding the history of the parcel ownership and ordinance regulations and the need for a variance to determine whether the subject parcel has a building eligibility. Comments were not received from the DNR or the Minnehaha Creek Watershed District. Granting the variance is not in harmony with the general purpose and intent of the official control, which aims to prevent over-development of non-conforming lots in the shoreland area to reduce the amount of impervious surface surrounding a body of water. This request would not result in a substantial change to the character of the neighborhood or conflict with the intent of the Comprehensive Plan. It would not negatively impact government services or materially or adversely affect the health or safety of individuals residing or working in the adjacent area nor would it be detrimental to public welfare or injurious to surrounding properties or improvements. The Laketown Town Board reviewed the request and recommended approval at their June 9, 2025, meeting. 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 variance would not serve in the interest of justice, the Board of Adjustment would need to identify reasons to support the denial.

Randy Kubes, realtor for property owner Dale Gestach, gave a more detailed timeline of the property ownership and the changes and increase in value of the lot. He stated that Mr. Gestach is now planning to move and sell both the house and the adjacent lot as separate parcels, using the proceeds to purchase another property.

Pete Parris, Laketown Township Supervisor, confirmed the Township Board's unanimous recommendation for approval of the variance. He stated that the township has always considered each lot as a buildable site when reviewing and allocating their assessments with the most recent involving the Pierson Lake Drive overlay project.

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

A motion was made by Gorra 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 7:44 p.m.

Gorra stated this is a good example of a practical difficulty which was not created by the landowner. The property was purchased prior to the shoreland regulations for parcel combination were established. She is in favor to support the request.

Bielefeldt stated he visited the site and talked with the neighbors about the request. He was questioning whether the board would be hearing requests from other residents whose situation also involves owning adjacent lots.

Mielke clarified that each variance is based on circumstances specifically relating to each individual request. He stated a future request would be unique with the property history and ownership and would need to be determined based on the facts presented.

Steinhagen felt this would not be precedent setting. He identified the situation being unique because the landowner most likely would not be aware of the requirement for parcels in common ownership to be combined unless there was a triggering event. He had purchased each lot separately, not knowing about the ordinance language until now when he wants to sell the property. He is in support of the request.

Washburn questioned the applicant's aerial view (site plan) of the property and questioned the proposed driveway access location.

Mielke explained the applicant's aerial view was submitted with the application and shows a proposed driveway access in the location soil boings were completed. The proposed driveway access would not meet the access separation requirement from the neighboring south driveway access. Knowing the parcel may have compacted soils toward the back of the lot, the septic designer worked with Environmental Services to establish suitable sites for the primary and alternate locations in the front of the lot. The driveway could not be located in the same area as the future SSTS location; therefore, the access would need to be established along the northern edge of the vacant lot in order to meet the required separation distance to avoid the need for another variance.

Mr. Kubes stated that the driveway separation is noted as a condition for approval of the request and they intend to comply with that requirement.

Bruner stated he visited the site and noted the changes to the ordinance language after the lots were purchased was certainly nothing created by the landowner and he is in support of the request.

A motion was made by Steinhagen to **approve and issue Order #PZ20250031** 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.

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

Public Hearing - File #PZ20250028 – Greg Wickenhauser – Chairman Bruner called the public hearing to order at 7:52 p.m. to consider the application of Greg Wickenhauser for a variance pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for reduced lot width for a residential lot in shoreland. The property is in Section 3 of Benton Township.

The following were present: Greg Wickenhauser, Chuck Wickenhauser,

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 20, 2025

Exhibit F – Staff Report addressed to the Board of Adjustment and Benton Town Board dated June 24, 2025, and all attachments.

Mielke stated the applicant owns an approximate 79.9-acre parcel improved with a residence, multiple agricultural building and land used for crop production. He would like to subdivide and create a new 2.1-acre parcel which would include the existing house and have reduced road frontage for a lot in the shoreland overlay district. The minimum lot width in shoreland is 200 feet and the proposed lot is approximately 150 feet wide. The applicant’s letter describes a practical difficulty of locating a proposed parcel size that would meet the required building setbacks. The site plan illustrates the proposed 2.1-acre parcel consisting of the existing house and two accessory

structures. Carver County Senior Environmentalist, Lori Brinkman, reviewed the application and stated a compliance inspection will be needed on the existing septic system and an alternate site must also be identified and preserved. The soil borings for an alternate site have been submitted to and approved by Carver County for an alternate septic site. At the time of this report, no comments had been received from the MnDNR. The plight of the landowner stems from circumstances unique to the property and not caused by the landowner. While the proposed lot size is adequate, the required lot width would place the westerly line uncomfortably close to multiple agricultural buildings. Granting the variance would not conflict with the intent of the Comprehensive Plan or the Zoning Code. The proposed parcel would retain reasonable access to a public road and the remnant parcel would remain conforming. This request would not result in a substantial change to the character of the neighborhood, nor would it negatively impact government services. It would not materially or adversely affect the health or safety of person residing or working adjacent to the subject property or be materially detrimental to the public welfare or injurious to property or improvements in the surrounding area. Granting the variance is in harmony with the general purpose and intent of the official control. The Benton Town Board reviewed and unanimously recommended approval of the request at their June 12, 2025, meeting. 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 variance would not serve in the interest of justice, the Board of Adjustment would need to identify reasons to support the denial.

Greg Wickenhauser, 11425 110th St, had no additional comments to add to the report.

Chairman Bruner asked if he had read, understands, and agrees with the proposed condition of the request.

Mr. Wickenhauser replied he did.

Andy Steinhagen, speaking as Benton Town Board supervisor, stated the board was surprised to learn the property was in a shoreland district. He confirmed township's unanimous recommendation for support of the request as it is a good proposal considering the location of all the other buildings.

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

A motion was made by Steinhagen 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 8:05 p.m.

Washburn stated it was difficult to recognize or identify the shoreland area and agreed this is a reasonable request. He would support the request.

A motion was made by Bielefeldt to **approve and issue Order #PZ20250028** allowing a variance to reduced lot width for a parcel within the Shoreland Overlay District, pursuant to Section 152.033 (D)(5)(a) of the Carver County Zoning Code, for the property legally described on the attached Exhibit "A". The Board of Adjustment further orders approval with the following condition:

1. A Minor Subdivision application shall be submitted and approved prior to the recording of any deed(s). The parcels shall be subdivided in accordance with the County Zoning Code requirements including but not limited to, a completed Minor Subdivision application, a survey, SSTS compliance, and an alternate SSTS location identified.

Bielefeldt 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 Bielefeldt and seconded by Steinhagen to adjourn. All voted aye. The meeting was adjourned at 8:08 p.m.