

CARVER COUNTY BOARD OF ADJUSTMENT

Regular Meeting – **Wednesday, November 2, 2022**
Commissioners' Meeting Room
2nd Floor Human Services Bldg
Government Center – Chaska

AGENDA

7:00 p.m.

1. Approve minutes of October 5, 2022 meeting
Pages 1-1 through 1-5
2. **File #20220044**- Public hearing on request by Larry Davis for a variance.
(Reduced Setback & Expand Non-Conforming Structure)
Watertown Township Pages 2-1 through 2-16
Issue Order #PZ20220044 – Larry Davis
3. **File #20220040**- Public hearing on request by Randall Stender for a variance.
(Reduced Road Frontage & Width/Depth Ratio)
Hollywood Township Pages 3-1 through 3-10
Issue Order #PZ20220040 – Randall Stender
4. **File #20220045**- Public hearing on request by Charles Youngbird for a variance.
(Accessory Structure-Exceed Personal Storage Space)
Laketown Township Pages 4-1 through 4-13
Issue Order #PZ20220045 – Charles Youngbird

Other Business

CARVER COUNTY BOARD OF ADJUSTMENT
Regular Meeting October 5, 2022
Minutes

Members Present: Gerald Bruner, Robin Bielefeldt, Frank Mendez, Virgil Stender, Amanda Gorra,

Members Absent: Joe Polunc

Members Late: None

Staff Present: Donovan Hart, Christina Neel, Matt Steele

Pursuant to due call and published notice thereof, the October 5, 2022, 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 five members are present and acknowledged

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 Bielefeldt 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 September 7, 2022, meeting. A motion was made by Bielefeldt to approve the minutes of the September 7, 2022, meeting as written. Stender seconded the motion for approval. All voted aye. Motion carried.

Public Hearing - File #20220039 – Evan Carlson – Chairman Bruner called the public hearing to order at 7:01 p.m. to consider the application of Evan Carlson pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for reduced setback to the property line for a new feedlot pursuant to Chapter 54 of the County Code. The property is in Section 29 of Laketown Township.

The following were present: Evan Carlson, Rick Carlson, Mary Ellen Timmers, 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 dated August 19, 2022

Exhibit F – Staff Report addressed to the Board of Adjustment and Laketown Town Board dated September 26, 2022, and all attachments

Steele stated the applicant owns an approximate 20-acre parcel consisting of crop production land, pasture ground, and a small, wooded area. The applicant is requesting to establish a new feedlot of 10 animal

units or more approximately 178 feet from the south property line. Chapter 54 of the County Code requires new feedlots of 10 animal units or more be located a minimum of 200 feet from any property line. The applicant acquired the property in 2021 and constructed a partial confinement barn and an open lot for his llama operation. The current operation consists of 33 llamas totaling 9.9 animal units. Mr. Carlson would like to increase the number of llamas to up to 50 on the property to effectively graze the pasture areas. The proposed increase would require registration as a new feedlot. The applicant described a practical difficulty based on the location of the open lot area. He stated the only party affected by the feedlot is the County, as the feedlot meets the required setback distance to a residence. Kristen Larson, Water Resources Program Specialist with Carver County, conducted a wetland review of the property and did not identify any wetlands or special protection area where setbacks would apply for a new feedlot. The applicant has submitted a feedlot registration form to be processed by the County Feedlot Officer if the variance request is approved. Granting the variance would not conflict with the Comp Plan, County Ordinances or alter the character of the neighborhood. Laketown Town Board reviewed the request and recommended approval at their August 22, 2022, meeting, to increase the number of llamas to up to 50. Steele read the proposed conditions for approval if the request is approved. If the request is denied, the Board of Adjustment would need to state and identify the reasons supporting the denial.

Mr. Carlson had no additional comments to make and stated he agrees with the proposed conditions of the variance.

Pete Parris, Laketown Town Board supervisor, stated the board is familiar with the Carlson llama operation and feels it is an asset to the Township as well as the County. He acknowledged the Board's support and recommendation for approval.

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 7:08 p.m.

Bielefeldt stated he had visited the site and asked if there are any intentions to increase the size of the existing shelter to accommodate the additional animals.

Mr. Carlson stated he is not intending to make any changes to the current structure.

Bruner stated he had also visited the property and was amazed with the docile nature of the llamas.

A motion was made by Bielefeldt to **approve and issue Order PZ20220039** allowing for reduced setback to a property line for a new feedlot pursuant to Section 54.46 (C)(1) of the Carver County Zoning Code on property legally described on the attached Exhibit "A", with the following conditions:

1. The feedlot shall not exceed a maximum of 50 llamas (15 animal units), as recommended by the Laketown Town Board.
2. The applicant must operate and maintain any short-term manure stockpile such that manure is removed from the site and land applied in accordance with Minn. Rules [7020.2225](#), within one year of the date when the stockpile was initially established pursuant to Minn. Rules 7020.2125 (A). A vegetative cover must be established on the site for at least one full growing season prior to reuse as a short-term stockpiling site.

3. Pursuant to Minn. Rules 7020.2125 (C), manure stockpile sites must not be located within 300 feet of flow distance and at least 50 feet horizontal distance, to waters of the state, sinkholes, rock outcroppings, open tile intakes, and any uncultivated wetlands which are not seeded to annual farm crops or crop rotations involving perennial grasses or forages.
4. Parcel #07-029-0620 is separate from the Interim Use Permit (IUP #PZ20200003) issued on March 3, 2020, to parcel 07-029-0900 and may not be included in operations of the agri-tourism and educational large scale activity (Carlson's Lovable Llamas).
5. All feedlot activities shall be done in accordance with the submitted site plan(s). The new feedlot shall not encroach any closer to the road right-of-way line than is approved as part of this permit application (Approx. 22 feet from the south property line).

The motion for approval was seconded by Mendez. Chairman Bruner called for a vote on the motion. All voted aye. Motion carried.

Public Hearing - File #20220037 – Charles Mooty – Chairman Bruner called the public hearing to order at 7:11 p.m. to consider the application of Charles Mooty pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for expanding a non-conforming structure and reduced setbacks from front yard and side yard pursuant to Chapter 152 of the County Code. The property is in Section 22 of Laketown Township.

The following were present: Charles Mooty, 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 dated September 13, 2022

Exhibit F – Staff Report addressed to the Board of Adjustment and Laketown Town Board dated September 27, 2022, and all attachments

Hart explained the applicant owns an approximate .78-acre parcel improved with a house and three small outbuildings. The applicant's request is to increase the size of a non-conforming structure and reduce setbacks to the front and side yards. The proposed house addition would consist of a pump room, bedroom and office expansion, and an additional bathroom and shower. The addition would result in a reduced front yard setback to 62 feet and a reduced side yard setback to 7 feet. The required minimum setbacks for front and side yards are 68 feet and 15 feet. The property received an after-the-fact variance allowing for a bedroom addition with a 7.8-foot setback from the easterly property line. In 2018, a variance to replace the cabin with a house approximately 67 feet from the OHW and approximately 7.8 feet from the easterly property line was approved, however, this variance expired after one year because no action was taken. Hart spoke about the proposed house addition, citing the space designated as an office had originally been designed and could have been a legal bedroom. He

noted the statement from the Township Board that the house should be identified as a 3-bedroom house with an office. The granting of the variance is in harmony with the general purpose and intent of the Comprehensive Plan and would not alter the character of the neighborhood, nor would government services be negatively impacted if proper modifications were made to the office space to not increase the SSTS load on the 201 system. The neighborhood is comprised of residences with a variety of non-conformities. This request would not cause a substantial change in character of the neighborhood or result in a detriment to neighboring properties. Many neighboring properties have reduced front yard and side yard setbacks. Granting the variance would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property. Letters were received from both adjacent property owners expressing their support of the request. Minnehaha Creek Watershed District reviewed the proposed request and offered no comments. The request was also sent to the DNR and no comments were received. The Laketown Town Board reviewed the variance request for the side yard setback at their August 22, 2022, meeting and recommended approval. The reduced front yard setback request was reviewed at their September 26, 2022, meeting and was recommended for approval *“contingent upon the designated office space comply with Carver County Zoning Code for offices and that this home is recorded as 3 bedroom with 1 office.”*. Hart read the proposed conditions for consideration if the Board determined that a practical difficulty has been identified. If the Board determines that a practical difficulty has not been identified, the Board must state their reasons to support the denial.

Mr. Mooty stated they changed their original plan for the office so it could not be considered a legal bedroom and vowed it would be used as an office.

Peter Parris, Laketown Town Board supervisor, stated there was much discussion concerning the house addition and the design of the office space. It was resolved satisfactorily that the area will be used as an office to help keep the 201-system intact. He stated the Town Board was satisfied with the revised design and recommended approval of the request.

A motion was made by Mendez and seconded by Stender 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 for clarification on the plans for the house addition.

Hart explained the change was relating to the distance of the reduced front and side yard setbacks. He had misunderstood that the proposed setback was remaining the same as the request from 2013, but he was encouraged to request a reduced setback of 7 feet to accommodate the proposed building addition.

Bruner stated he visited the site and spoke to the neighbor who was in favor of the variance.

Mr. Mooty stated this cabin has been in the family for 28 years and as the family has grown, they wanted to add a bathroom to accommodate their use and enjoyment of the property. The use of the cabin is seasonal.

A motion was made by Mendez to **approve and issue Order PZ20220037** for reduced front yard and side yard setbacks pursuant to Sections 152.034 (D) and expanding a non-conforming structure pursuant to Section 152.135 of the Carver County Zoning Code with the following conditions:

1. All construction activities shall be done in accordance with the submitted site plan and shall obtain all necessary building permit approvals. The new construction shall not encroach any closer to the centerline of the road than approved (Approx. 62 feet from the center of Abbywood Lane) as part of this permit application. Additionally, the new construction shall not encroach any closer to the east property line than approved (Approx. 7 feet). All work shall be done in accordance with the submitted and approved building permit plans.
2. Prior to the issuance of a building permit, the property owners shall have the east property line of the subject parcel identified and marked by a licensed surveyor to ensure the proposed structure does not encroach closer than 7 feet from the east property line.
3. The new construction shall not increase the number of bedrooms beyond the current number (3).
4. The Permittee shall obtain the appropriate SSTs permits and comply with the Laketown Township septic ordinance standards prior to the issuance of any new construction building permit(s).
5. The Permittee shall obtain any necessary permits from the Minnehaha Creek Watershed District, if applicable.
6. No additional expansions within the required setback(s) shall be permitted without obtaining all necessary building permits and/or variances, if applicable.

The motion for approval was seconded by Stender. Chairman Bruner called for a vote on the motion. All voted aye. Motion carried.

Adjournment

Having completed the agenda items and seeing no other business, a motion was made by Bielefeldt and seconded by Mendez to adjourn. All voted aye. The meeting was adjourned at 7:25 p.m.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

October 24, 2022

TO: Carver County Board of Adjustment & Watertown Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (Expand a Non-conforming Structure, Reduced Front Yard Setback)

FILE #: PZ20220044

APPLICANT: Larry & Cheryl Davis

PROPERTY OWNER: Larry & Cheryl Davis

SITE ADDRESS: 4215 County Road 10, Watertown Township, 55388

VARIANCE TYPE: Expand a Non-Conforming Structure & Reduced Front Yard Setback

PURSUANT TO: County Code Sections 152.009, 152.135 (C), and 152.034

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 10-021-0800

BACKGROUND:

1. Mr. and Mrs. Davis own an approximate 4.60-acre parcel located in part of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) of Section 21, Watertown Township. The parcel is improved with a single-family dwelling and a detached accessory structure. The property is located in the Agricultural Zoning District, the Shoreland Overlay District (Swede Lake), and the CCWMO (Crow River Watershed).
2. The applicants request a variance to reduce the required front yard setback from the center of a Minor Arterial Road (County Road 10) in a Shoreland Overlay District from 125 feet to approximately 85 feet. The variance would accommodate additions to the existing single-family dwelling which sit approximately 85 feet from the center of the road. The reduction of the required setback and the addition onto a non-conforming structure would constitute the expansion of a legal non-conforming use; therefore, a variance has been requested.
3. On April 7, 2021, the Board of Adjustment issued Order #PZ20210018 to reduce the required front yard setback and allow the expansion of a non-conforming structure at this address. However, following that approval the applicant did not apply for a building permit and no work was completed. The Zoning Code mandates that "if the work, as permitted by the variance, is not completed within one year after the granting of the variance, then the variance shall become null and void." The applicant has submitted the same application request again for the Board's consideration.

LEGAL BACKGROUND:

§ 152.009 NON-CONFORMING USES AND STRUCTURES.

- (A) Any structure or use of a structure or use of land lawfully existing upon the effective date of this chapter may be continued at the size and in the manner of operation existing upon the date, notwithstanding the certain classes pursuant to M.S. § 394.36, except as hereinafter specified.

§ 152.135 NONCONFORMITIES.

- (C) Additions/expansions to nonconforming structures. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback and other requirements of § 152.034. Any deviation from these requirements must be authorized by a variance.

§ 152.034 SETBACKS.

Front Setbacks		The front setback shall be required from any public road or private road serving the function of a public road. Front setbacks are measured from the center of the road. R-O-W shall be the typical planned right-of-way.		
<i>Future Functional Class of Road as Shown in Roadway Systems Plan Figure 4.13</i>	<i>Setback from Centerline</i>	<i>Reduced Setback*</i>	<i>R-O-W</i>	<i>Reduced R-O-W</i>
Minor arterial in Shoreland District	125	Right-of-way plus 50 ft.	150	110

* Provision for reduction of front setback: The front setback may be reduced by the Department to the value shown, provided the applicant demonstrates need; and the responsible road authority submits a statement certifying that the reduction will not impair any planned widening, relocation, repair, upgrading, construction or similar activity.

BOARD OF ADJUSTMENT

§ 152.210 CREATION.

The Board of Adjustment is hereby established and invested with the authority as is hereinafter provided and as provided by M.S. §§ 394.21 through 394.37, as they may be amended from time to time.

(Ord. 47, passed 7-23-02; Am. Ord. 97-2021, passed 7-20-21)

§ 152.215 VARIANCES.

(D) *Grounds for variance.* The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall be granted in accordance with M.S. Chapter 394, as it may be amended from time to time, in cases where the applicant establishes that there is a practical difficulty in the way of carrying out the strict letter of any official control.

(1) A variance shall only be permitted when the following can be found as fact:

- (a) The variance is in harmony with the general purpose and intent of the official control.
- (b) The variance is consistent with the intent of the comprehensive plan.

(2) In addition, a variance may be granted when the applicant establishes a practical difficulty in complying with the official control. A practical difficulty is established when the following items are found as fact:

- (a) The property owner proposes to use the property in a reasonable manner not permitted by an official control.
- (b) The plight of the landowner is due to circumstances unique to the property, not created by the landowner.
- (c) The variance will not alter the essential character of the locality.
- (d) The practical difficulty includes more than economic considerations alone.

(F) Other provisions related to variances.

- (1) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.
- (2) Inadequate access to direct sunlight for solar energy systems is considered a practical difficulty.
- (3) Variances shall be granted for earth shelter construction as defined in MN State Statute section 216C.06, subdivision 14, when in harmony with the official controls.
- (4) The board of adjustment may impose conditions on the granting of any variance pursuant to subsection 152.216 (B).
- (5) Granting of the variance shall not have the effect of violating a state or federal rule or law.
- (6) *Floodplain standards.* A variance issued to property within the Floodplain Overlay District must meet the requirements set forth in §§ 152.143 through 152.156.
- (7) *Shoreland Overlay District.* A variance issued to property within the Shoreland Overlay District must meet the requirements set forth in §§ 152.108 and 152.135.

(8) That the granting of the variance will not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.
(Ord. 47, passed 7-23-02; Am. Ord. 70-2010, passed 1-25-11; Am. Ord. 80-2015, passed 6-16-15; Am. Ord. 88-2018, passed 11-20-18; Am. Ord. 97-2021, passed 7-20-21)

STAFF ANALYSIS:

1. The applicants propose to construct an addition to the existing house. The first component of the expansion, consisting of four bedrooms and additional living space, measures approximately 32' x 40' and would extend from the north side of the house. The second component of the addition would be porch and foyer extending from the west side of the house. The proposed expansion on the west side of the house would encroach approximately 8 feet further into the existing front setback from the center of County Road 10.
2. The applicant's letter (dated October 5, 2022) describes a practical difficulty in that the current house was constructed in approximately 1972, prior to the enactment of the Zoning Code. When the Zoning Code was enacted and current setbacks were adopted, the structure became a legal non-conforming structure as it did not meet the required 125-foot setback from the center of the road. Legal non-conforming structures are permitted and can be maintained on their original footprint; however, cannot be expanded within the Shoreland Overlay District without the issuance of a variance.
3. The applicant is proposing to use the property in a reasonable manner, not permitted by an official control. The property has been developed for the past 50 years. The applicant has stated that his son and grandchildren are purchasing the property. The family of the applicant's son is too large for the existing structure, so an addition is needed. The northern end of the living space addition would be approximately three feet further from the road than the existing structure. The encroachment into the setback would be for a 19' x 8' enclosed porch. The purpose of the porch is to provide a heated and cooled place for the applicant's grandchildren to wait for the school bus. Expanding an existing structure to accommodate the needs of the future residents appears to be a reasonable use of the property, not permitted by an official control.
4. The plight of the landowner is due to circumstances unique to the property, not created by the landowner. This property was originally developed in 1972. At the time when the structure was constructed, a setback requirement of 125 feet from the center of the roadway (County Road 10) may not have been required. The location of the existing house in relation to the alignment of County Road 10 represents a unique set of circumstances not created by the landowner.
5. The granting of the variance is in harmony with the general purpose and intent of the official control. The official control in this request is the required setback from the center of the road and the regulations related to legal non-conforming structures. The intent of these regulations is to limit the expansion of structure that existed prior to the County adopting a Zoning Code. Because a legal non-conforming structure existed before the County had setback requirements, the expansion of that structure may negatively impact the future roadway expansions. In this instance, the majority of the future expansion would be further away from the center of County Road 10 than the existing structure. Although it does not meet the specific standards, it appears to meet the intent of the regulations.
6. The granting of the variance would not conflict with the intent of the Comprehensive Plan. The 2040 Comprehensive Plan is silent on the expansion of existing non-conforming residential structures. However, County Policy LU-27 discusses moderate cost housing and states that the County will adopt no official controls which prevent the construction of low and moderate cost housing. If the proposed variance were to be denied, the applicants may have to build an addition that meets his family's need in a different location which may substantially increase the cost of the project. Expanding an existing non-conforming structure represents a moderate cost housing option and therefore appears to not conflict with the intent of the Comprehensive Plan.

7. The neighborhood is comprised of agricultural uses and residential development. The request would not cause a substantial change in the character of the neighborhood, nor would it have a negative impact on government services.
8. The granting of the variance would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicants and would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
9. On October 11, 2022, this request was reviewed by Lori Brinkman, Senior Environmentalist for Carver County, who stated in an email that "Larry Davis has submitted a SSTS permit application and design for expansion of the home. An alternate SSTS location has been submitted and verified. The current septic system must be expanded to accommodate the number of bedrooms identified in the building permit application submitted to Carver County Land Management."
10. On October 11, 2022, this request was re-reviewed by Angie Stenson, Senior Transportation Planner for Carver County. Ms. Stenson stated that the Public Works staff had reviewed the request and were in support of the reduced setback. Ms. Stenson gave the following justifications for their support:
 - a. *The proposed setback would maintain enough space to meet future highway right of way needs.*
 - b. *If future expansion were needed, the proposed setback would still allow for the addition of a trail, or curb and gutter to be incorporated.*
 - c. *Consideration was given to the proposal being an expansion of an existing structure versus a new structure and an inability to consider alternate location options.*
11. The variance application materials were sent to Taylor Huinker of the DNR, who responded by email on October 11, 2022, that she had no comments.
12. At the Watertown Town Board meeting on October 3, 2022, the Town Board recommended approval of the variance "adding addition on north side of house."

BOARD CONSIDERATION:

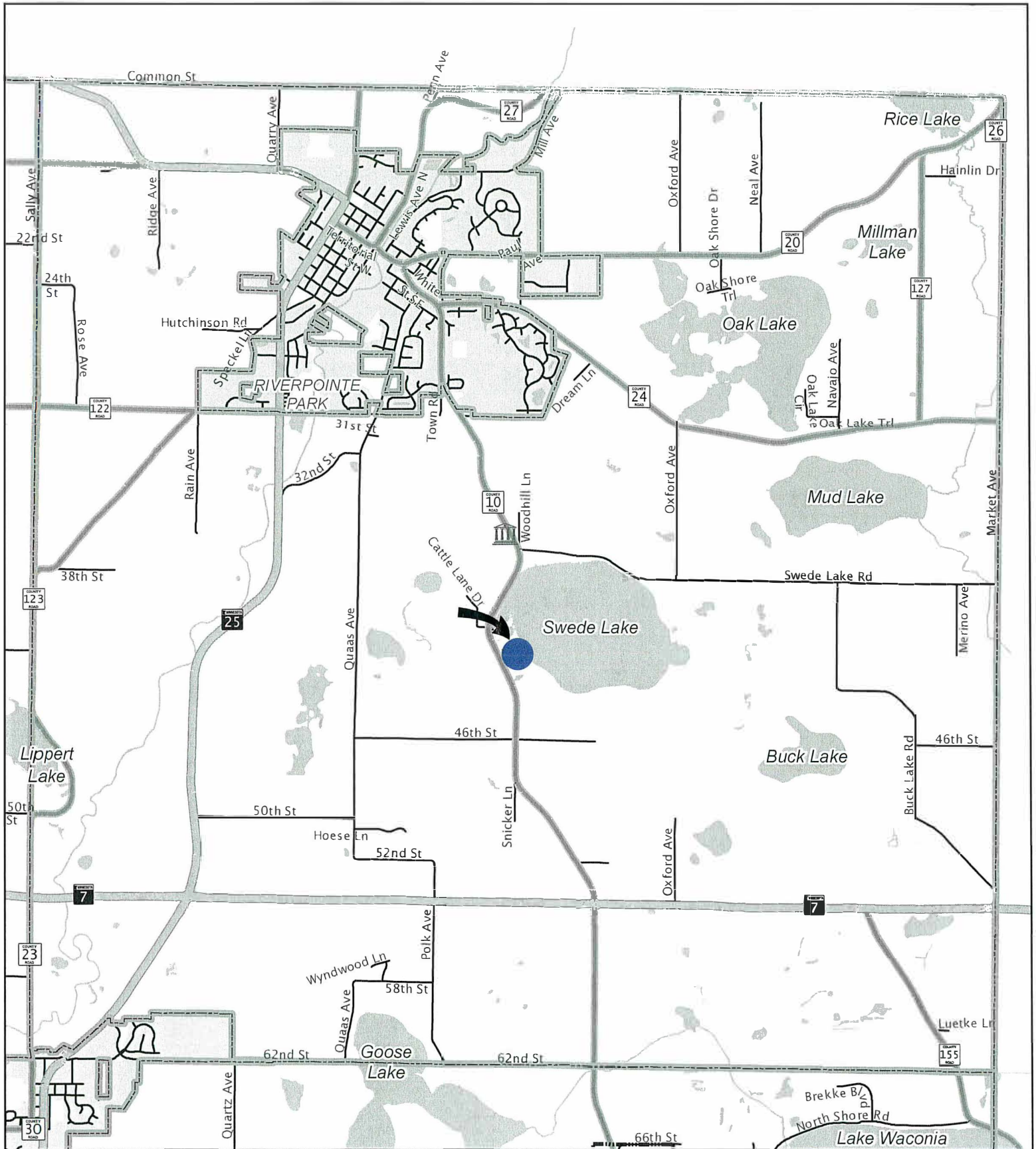
If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance to expand a legal non-conforming structure and reduced front yard setback, pursuant to 152.009, 152.135 (C), and 152.0349 of the Carver County Zoning code, would serve in the interest of justice, the following condition should be attached to the approved variance:

1. Prior to commencing any construction related activities on-site, the permittee shall obtain the appropriate building permit(s) and shall not encroach any closer than 85 feet from the center of County Road 10.
2. Prior to the issuance of a Building Permit, the landowner/contractor shall obtain the appropriate SSTS (septic system) approval(s) and submit all required documentation.

OR

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.

WATERTOWN TOWNSHIP



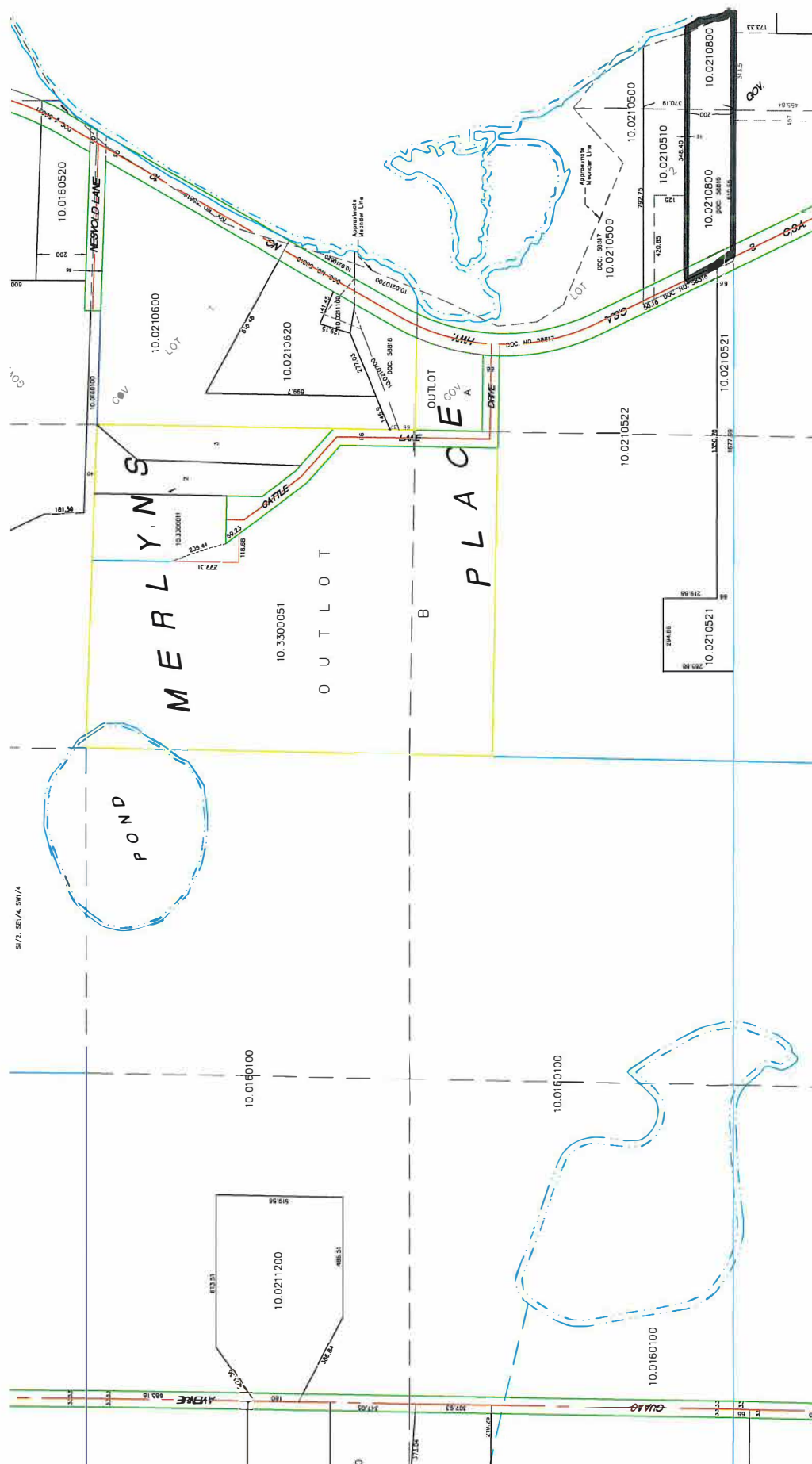
This map was created using Carver County's Geographic Information Systems (GIS). It is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible for any inaccuracies contained herein.



Map Created by Carver County GIS

THIS IS NOT A LEGALLY RECORDED PLAT.
THIS MAP IS A COMPILATION OF RECORDS
AS THEY APPEAR IN THE CARVER COUNTY
OFFICES AND OTHER SOURCES. THIS MAP
IS ONLY TO BE USED FOR REFERENCE
PURPOSES. THE COUNTY AND ITS AGENTS
ARE NOT RESPONSIBLE FOR ANY
INACCURACIES CONTAINED THEREIN.

N 1/2 SEC. 21, T.117, R.25



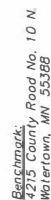
We are asking for a Variance to add on addition to our existing home and to close in the front stoop area which has a full foundation under it that would more useful to the home as a front entry and add some Curb appeal to the front of the home

We were told that the existing home is to close to Co Rd 10 N which was built in the 60's the addition will be move a little further back We told that Set backs have changed over the years but we hope that does not prevent us from adding on to our home use and Value

Larry T. Davis

10/5/22

Prepared for:
LD Homes

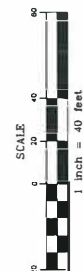


Boundary Description (supplied by client)

Boundary Description (supplied by client)
That part of Government Lot 2, Section 21, and that part of Government Lot 5, Section 22, both in Township 117 North, Range 25 West of the 5th Principal Meridian, Carver County, Minnesota, described as follows:

Beginning of the east quarter corner of acid Section 21; thence west along the east and west corners of Section 21 a distance of 510.50 feet, thence west along the corner of Road No. 10, thence northerly intersecting to the right 64 degrees, 15 minutes, 30 seconds along said center line a distance of 222.08 feet to its intersection with a line 200 feet north of and measured at right angles to and parallel with the east and west quarter line of Section 21; thence northerly along said parallel line a distance of 110.0 feet to the southwesterly shore line of Swede Lake, thence easterly along said shore line a distance of 100.0 feet to the corner of said acid Section 21; thence easterly along said center line of Section 22 to the point of beginning, EXCEPT the north 10.00 feet thereof.

Subject to a highway easement per Doc No. 55388.
Subject to any and all easements of record.



- Legend**
- Found Iron Monument
 - Set Iron Monument (LS 14700)
 - ⊙ Cost Iron Monument

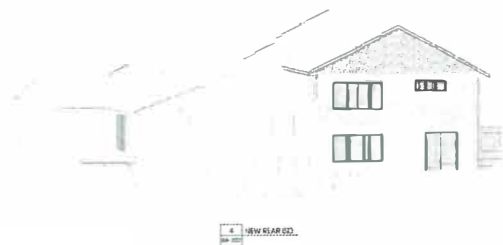
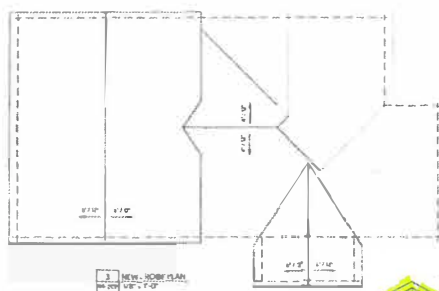
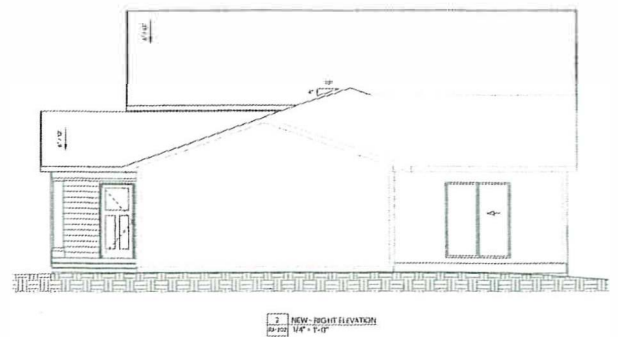
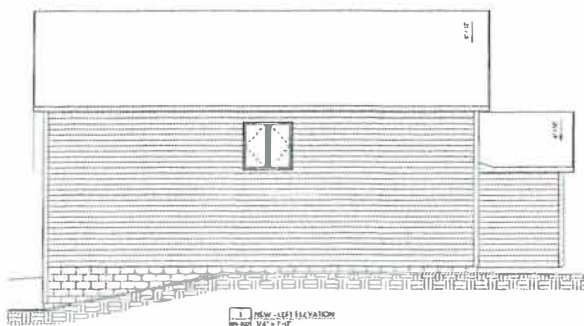
Bearings based on assumed datum.

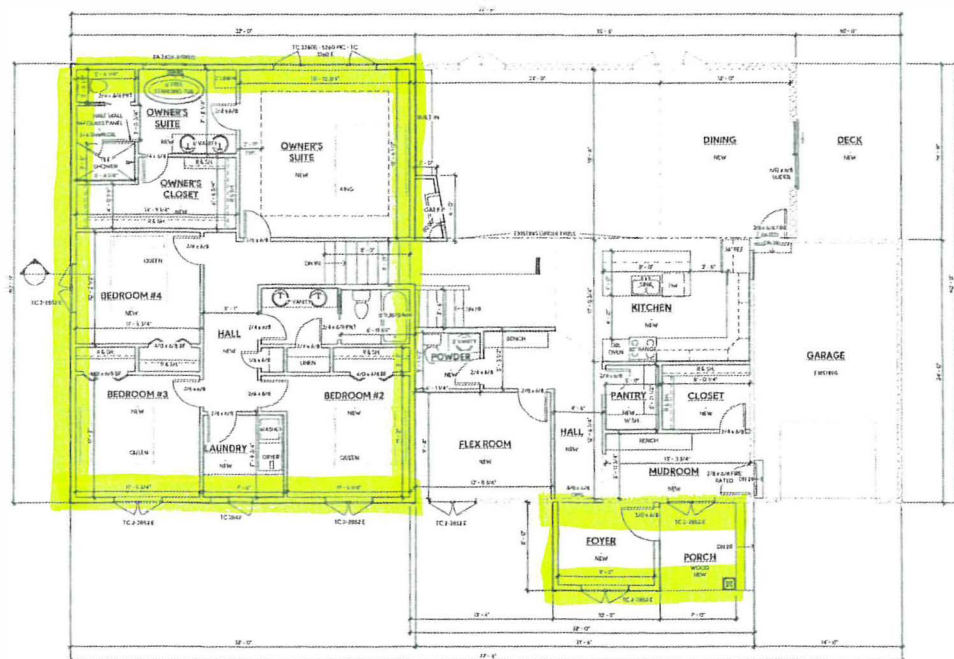
I hereby certify that this certificate of survey was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

**SCHOBORG
LAND SERVICES
INC.**

763-972-3221
Schaborgland.com
8997 Co. Rd 13 SE
Delano, MN 55328

Date: November 25, 2020 Registration No. 14700





1 NEW - MAIN FLOOR PLAN
A-10 1/4" = 1'-0"



Township Presentation & Recommendation Form

PARCEL # 01-021-0800	Permit # P2 20220044	
Owner's Name: Larry T Davis	Owner's Mailing Address: 12270 Cattle Lane Dr	
City: Watertown	Owner State: MN	Owner Zip: 55388
Applicant (if other than owner):	Site Address: 4215 Co Rd 10 N Watertown MN 55388	

Type of Request: ☐ CUP ☐ IUP ☐ Preliminary Plat ☐ Final Plat ☐ Variance ☐ Appeal	
Description of Request: Building variations	
Date of County Public Hearing: 11/2/22	Date of Township Meeting: 10/3/22

Actions:

Township Action Taken: ☒ Recommends approval and use of the Township Road (if applicable) with the following comments: ☐ Recommends denial for the following reasons: ☐ No recommendation, but will comment on the request at the Planning Commission or Board of Adjustment hearing:	
adding addition on north side of home	

****Important:** I understand that I must appear at the Town Board meeting to present my request and obtain their recommendation prior to appearing before the County Planning Commission or Board of Adjustment.

Signature of Applicant <i>Larry T. Davis</i>	Date 10/3/22
Signature of Township Official <i>Scott House</i>	Date 10-3-22

Document Number: **A722743**

Filed and/or Recorded on
Apr 15, 2021 3:56 PM

Office of the County Recorder/Registrar of Titles
Carver County, Minnesota
Kaaren Lewis, County Recorder

Deputy DL	Pkg ID: 7298272
Document Recording Fees	\$ 0.00

Document Total	\$ 0.00
-----------------------	----------------

Requesting Party: CARVER COUNTY LAND MANAGEMENT
Pages: 5

This cover page has been added to this document by Carver County Land Records
and is now an official part of this recorded document



COUNTY OF CARVER
State of Minnesota

FILE #: PZ20210018

PROPERTY OWNERS / APPLICANTS: Larry & Cheryl Davis

SITE ADDRESS: 4215 County Road 10, 55388

VARIANCE TYPE: Expand a Non-Conforming Structure & Reduced Front Yard Setback

PURSUANT TO: County Code Sections 152.009, 152.119 (B)(1), and 152.034

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 10-021-0800

Drafted by: Land Management

Return to: Land Management

BOARD OF ADJUSTMENT
FINDINGS OF FACT AND ORDER

A public hearing was held via WebEx communication on this matter on April 7, 2020, by the Carver County Board of Adjustment. Upon the evidence presented at said hearing by the applicant and other persons named and all the files, records, and proceedings herein, the Board makes the following:

FINDINGS OF FACT

1. Mr. and Mrs. Davis own an approximate 4.60-acre parcel located in part of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) of Section 21, Watertown Township. The parcel is improved with a single-family dwelling and a detached accessory structure. The property is located in the Agricultural Zoning District, the Shoreland Overlay District of Swede Lake, and the CCWMO (Crow River Watershed).
2. The applicants are requesting a variance to reduce the required front yard setback from the center of a Minor Arterial Road (County Road 10) in a Shoreland Overlay District from 125 feet to approximately 85 feet. The variance would accommodate an addition to the existing single-family dwelling which sets approximately 85 feet from the center of the road. The reduction of the required setback and the addition onto a non-conforming structure would constitute the expansion of a legal non-conforming use; therefore, a variance has been requested pursuant to the Carver County Zoning Code – Sections 152.009, 152.119 (B)1, and 152.034.
3. The applicants are proposing to construct an addition to the existing house. The first component of the expansion would be approximately 32' x 40' and would extend from the north side of the house. The second component of the addition would be approximately 19' x 8' and would extend from the west side of the house. The proposed expansions on the west side of the house would encroach approximately 8 feet further into the existing setback from the center of County Road 10. The proposed northern addition would help reconfigure the interior of the house and would consist of six bedrooms, and additional living space. The western expansion would be to create an enclosed porch.

4. The applicant's letter (dated: 3/12/210) describes a practical difficulty in that the current house was constructed in approximately 1972, prior to the enactment of the Zoning Code. When the Zoning Code was enacted and current setbacks were adopted, the structure became a legal non-conforming structure as it did not meet the required 125-foot setback from the center of the road. Legal non-conforming structures are permitted and can be maintained on their original footprint but, cannot be expanded within the Shoreland Overlay District without the issuance of a variance.
5. The granting of the variance is in harmony with the general purpose and intent of the official control. The official control in this request is the required setback from the center of the road and the regulations related to legal non-conforming structures. The intent of these regulations is to limit the expansion of structure that existed prior to the County adopting a Zoning Code. Because a legal non-conforming structure existed before the County had setback requirements, the expansion of that structure may negatively impact the future roadway expansions. In this instance, the majority of the future expansion would be further away from the center of County Road 10 than the existing structure. Although it does not meet the specific standards, it appears to meet the intent of the regulations.
6. The granting of the variance would not conflict with the intent of the Comprehensive Plan. The 2040 Comprehensive Plan is silent on the expansion of existing non-conforming residential structures. However, County Policy LU-27 discusses moderate cost housing and states that the County will adopt no official controls which prevent the construction of low and moderate cost housing. If the proposed variance were to be denied, the applicant's son may have to build a house that meets his family's need in a different location which may substantially increase the cost of the project. Expanding an existing non-conforming structure represents a moderate cost housing option and therefore appears to not conflict with the intent of the Comprehensive Plan.
7. The applicant is proposing to use the property in a reasonable manner, not permitted by an official control. The property has been developed for the past 50 years. The applicant has stated that his son and grandchildren are purchasing the property. The family of the applicants' son is too large for the existing structure, so an addition is needed. The northern end of the living space addition would be approximately three feet further from the road than the existing structure. The encroachment into the setback would be for a 19' x 8' enclosed porch. The purpose of the porch is to provide a heated and cooled place for the applicant's grandchildren to wait for the school bus. Expanding an existing structure to accommodate the needs of the future residents appears to be a reasonable use of the property, not permitted by an official control.
8. The plight of the landowner is due to circumstances unique to the property, not created by the landowner. This property was originally developed in 1972. At the time when the structure was constructed, a setback requirement of 125 feet from the center of the roadway (County Road 10) may not have been required. The location of the existing house in relation to the alignment of County Road 10 represents a unique set of circumstances not created by the landowner.
9. The neighborhood is comprised of agricultural uses and residential lake shore development. The request would not cause a substantial change in the character of the neighborhood, nor would it have a negative impact on government services.
10. The granting of the variance would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicants and would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
11. On March 15, 2021, this request was reviewed by Joe Enfield, Senior Environmentalist for Carver County. Mr. Enfield stated that the subject parcel has a current Certificate of Compliance. However, if the future expansion of the dwelling includes more bedrooms than what currently exist, the SSTS may need to be upgraded and an alternate drainfield location identified.

12. On March 25, 2021, this request was reviewed by Angie Stenson, Senior Transportation Planner for Carver County. Ms. Stenson stated that the Public Works staff had reviewed the request and were in support of the reduced setback. Ms. Stenson gave the following justifications for their support:
- The proposed setback would maintain enough space to meet future highway right of way needs.
 - If future expansion were needed, the proposed setback would still allow for the addition of a trail, or curb and gutter to be incorporated.
 - Consideration was given to the proposal being an expansion of an existing structure versus a new structure and an inability to consider alternate location options.
13. The Watertown Town Board reviewed and unanimously recommended approval of the request during their April 5, 2021, Town Board meeting. The Town Board did not ask for any conditions to be attached to their recommendation.
14. The Board has considered all the factors required by Section 152.215 of the Carver County Code and finds that the grounds for a variance are hereby satisfied.

ORDER # PZ20210018

IT IS HEREBY ORDERED: That the application of Larry & Cheryl Davis for a variance to expand a legal non-conforming structure and reduce the required front yard setback, pursuant to Sections 152.009, 152.119 (B)1, and 152.034 of the Carver County Code, for property legally described on the attached Exhibit "A", is hereby approved with the following conditions:

- Prior to commencing any construction related activities on-site, the permittee shall obtain the appropriate building permit(s) and shall not encroach any closer than 85 feet from the center of County Road 10.
- Prior to the issuance of a Building Permit, the landowner/contractor shall obtain the appropriate SSTs (septic system) approval(s) and submit all required documentation.

DocuSigned by:

Gerald Bruner

3258CA84227243A

Gerald Bruner, Chairman

Carver County Board of Adjustment

4/14/2021 | 5:16:40 AM PDT

Date

IF ANY WORK OR ACTION, AS PERMITTED BY THIS ORDER IS NOT COMPLETED WITHIN ONE YEAR OF THE ISSUANCE OF THIS ORDER, THEN THIS ORDER SHALL BECOME NULL AND VOID UNLESS AN EXTENSION OF TIME IN WHICH TO COMPLETE THE WORK IS GRANTED BY THE BOARD OF ADJUSTMENT.

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 10-021-0800

File# PZ20220044

APPLICANT/OWNER: Larry Davis & Cheryl N Davis

* * * * *

That part of Government Lot 2, Section 21, and that part of Government Lot 5, Section 22, both in Township 117 North, Range 25 West of the 5th Principal Meridian, Carver County, Minnesota, described as follows: Beginning at the east quarter corner of said Section 21; thence west along the east and west quarter line of Section 21, a distance of 610.55 feet to the center line of County road No. 10; thence northwesterly deflecting to the right 64 degrees 15 minutes 30 seconds along said center line, a distance of 222.08 feet to its intersection with a line 200 feet north of and measured at right angles to and parallel with the east and west quarter line of said Section 21; thence easterly along said parallel line, a distance of 1,103 feet to the southwesterly shore line of Swede Lake; thence southeasterly along said shoreline to its intersection with the east and west center line of said Section 22; thence westerly along said center line of Section 22 to the point of beginning, EXCEPT the north 10.00 feet thereof.

DRAFTED BY: Carver County Land Management Department

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

October 24, 2022

TO: Carver County Board of Adjustment & Watertown Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (Reduced Road Frontage, Reduced Width-to-Depth Ratio)

FILE #: PZ20220040
APPLICANT: Randall Stender
PROPERTY OWNERS: Randall Stender, Cynthia Engle, and Terence Stender
SITE ADDRESS: 3080 Yale Ave., Hollywood Township, 55395
VARIANCE TYPE: Reduced Road Frontage & Reduced Width/Depth Ratio
PURSUANT TO: Carver County Zoning Code: Section 152.033 (D) (1-2 and 4)
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 06-018-0200

BACKGROUND:

1. Ronald Stender, recently deceased, owns an approximate 80-acre parcel located in the East Half of the Northeast (E½ of NE¼) of Section 18, Hollywood Township. The parcel consists of an existing farmstead, several agricultural related structures, and crop production land. The parcel is located in the Agricultural Zoning District and CCWMO (Crow River Watershed).
2. The applicant is requesting a variance that would allow for the minor subdivision of the parcel into two approximately equal-sized parcels (i.e. north 40 acres and south 40 acres). The current parcel configuration has approximately 2,600 feet of road frontage on 36th Street and Yale Avenue in the northeast corner of the parcel. However, as proposed the southern approximate 40-acre parcel would only have an approximate 66 feet road frontage along Yale Avenue. The proposed parcel as described would not meet the required 264 feet of road frontage standards or width to depth requirements; therefore, a variance has been requested.

LEGAL BACKGROUND:

§ 152.033 LOT REQUIREMENTS.

(D) Road frontage, lot width and depth.

- (1) Road frontage. All new lots shall have frontage on a public road or be attached to an adjacent parcel having the required road frontage; minimum road frontage is 125 feet.
- (2) Minimum width. One hundred twenty-five feet with 125 feet of frontage on a public road existing at the time of application or the minimum width required to maintain width to depth ratio, whichever is greater. The minimum width must be maintained for the entire depth of the lot except where the lot is located on a cul-de-sac.
- (3) Minimum lot depth. One hundred twenty-five feet.
- (4) Width to depth ratio. Depth of the lot shall not exceed five times the width. Road frontage of 500 feet or more will support a lot of any depth.

(Ord. 47, passed 7-23-02; Am. Ord. 70-2010, passed 1-25-11; Am. Ord. 97-2021, passed 7-20-21)

BOARD OF ADJUSTMENT

§ 152.210 CREATION.

The Board of Adjustment is hereby established and invested with the authority as is hereinafter provided and as provided by M.S. §§ 394.21 through 394.37, as they may be amended from time to time.
(Ord. 47, passed 7-23-02; Am. Ord. 97-2021, passed 7-20-21)

§ 152.215 VARIANCES.

- (D) *Grounds for variance.* The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall be granted in accordance with M.S. Chapter 394, as it may be amended from time to time, in cases where the applicant establishes that there is a practical difficulty in the way of carrying out the strict letter of any official control.
- (1) A variance shall only be permitted when the following can be found as fact:
 - (a) The variance is in harmony with the general purpose and intent of the official control.
 - (b) The variance is consistent with the intent of the comprehensive plan.
 - (2) In addition, a variance may be granted when the applicant establishes a practical difficulty in complying with the official control. A practical difficulty is established when the following items are found as fact:
 - (a) The property owner proposes to use the property in a reasonable manner not permitted by an official control.
 - (b) The plight of the landowner is due to circumstances unique to the property, not created by the landowner.
 - (c) The variance will not alter the essential character of the locality.
 - (d) The practical difficulty includes more than economic considerations alone.
- (F) Other provisions related to variances.
- (1) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.
 - (2) Inadequate access to direct sunlight for solar energy systems is considered a practical difficulty.
 - (3) Variances shall be granted for earth shelter construction as defined in MN State Statute section 216C.06, subdivision 14, when in harmony with the official controls.
 - (4) The board of adjustment may impose conditions on the granting of any variance pursuant to subsection 152.216 (B).
 - (5) Granting of the variance shall not have the effect of violating a state or federal rule or law.
 - (6) *Floodplain standards.* A variance issued to property within the Floodplain Overlay District must meet the requirements set forth in §§ 152.143 through 152.156.
 - (7) *Shoreland Overlay District.* A variance issued to property within the Shoreland Overlay District must meet the requirements set forth in §§ 152.108 and 152.135.
 - (8) That the granting of the variance will not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.
- (Ord. 47, passed 7-23-02; Am. Ord. 70-2010, passed 1-25-11; Am. Ord. 80-2015, passed 6-16-15; Am. Ord. 88-2018, passed 11-20-18; Am. Ord. 97-2021, passed 7-20-21)

STAFF ANALYSIS:

1. The County Code typically requires the platting process (Major Subdivision) to be completed for any subdivision request that does not meet the criteria for the Minor Subdivision as follows: the subdivision must meet the frontage and width to depth ratio requirement on an existing road.
2. The applicant, who is Mr. Ronald Stender's son, seeks to split the subject parcel roughly into two halves, though the proposed southern parcel, which is "land only" and would contain no building eligibility, would be a minimum of 40 acres in size in order to remain a qualifying parcel to be enrolled in the County's Agricultural Preserve program.
3. The Zoning Code requires a minimum of 125 feet of road frontage on a public road for any new lot and the minimum width required to maintain the width to depth ratio (depth to be no more than five times the width). Currently, Yale Avenue extends only about half the depth of the lot and then angles eastward, thus depriving the southern portion of any road access.

4. The applicant's narrative (dated October 4, 2022) describes how the southern portion of the property has been accessible from a neighboring driveway for "nearly one hundred years." The proposed parcel, shown in a figure dated September 13, 2022, is configured to have a 66-foot wide public road frontage onto Yale Avenue. The narrative explains that the public frontage would "ensure that it (the proposed parcel) will have its own field approach and keep it from ever becoming landlocked in the event the current land is classified as something other than agricultural land." The narrative also describes the practical difficulty: "The current 80-acre parcel only has public road access north of 32nd Street, which was the situation when Ronald Stender purchased the land." The applicant states that this request "will keep this parcel in agricultural preserve as it was always intended to be."
5. To comply with septic standards, last spring Mr. Stender contracted with an installer to replace the SSTS system servicing the homestead on the subject property. Lori Brinkman, Senior Environmentalist in the Environmental Services Division, inspected the newly-installed tanks and soil treatment area. The installation was found compliant with rough-in inspection standards. Final inspection is delayed while the installer waits for the corn to be harvested from the nearby field so that black dirt can be spread over the installation to cover the system. Then the electrical system can be connected and final inspection conducted.
6. The plight of the landowner is due to circumstances unique to the property, not created by the landowner. When Yale Avenue was constructed, it did not extend the full depth of the 80-acre parcel. The applicant is proposing to use the property in a reasonable manner, not permitted by an official control. The applicant seeks to have the new parcel remain in agricultural production.
7. The granting of the variance would not conflict with the intent of the Comprehensive Plan nor the Carver County Zoning Code. The proposed parcel would continue to have reasonable access to a public road and the remnant parcel (i.e. the homestead with farm field) would remain a conforming parcel.
8. The neighborhood is comprised of agricultural uses and residences, and the request would not cause a substantial change in the character of the neighborhood, nor would it have a negative impact on government services.
9. The granting of the variance would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicants and would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
10. The granting of the variance is in harmony with the general purpose and intent of the official control. The official control in this request is the width to depth regulations and road frontage standards. The intent of these regulations is to prohibit the development of parcels that do not have adequate frontage to accommodate future needs and to prohibit the creation of a parcel configuration which would not meet the future SSTS needs of a location. The 66-foot wide dimension for the road frontage is to allow adequate space for a road right-of-way, if at some point in the future the zoning changed and the owner wanted to plat the land. Although it does not meet the specific standards, it appears to meet the intent of the regulations.
11. The Hollywood Town Board reviewed and recommended approval of the request during their September 12, 2022, Town Board meeting "as long as property stays Ag Preserve including allowing the variance as needed of current Strader driveway so land cannot be landlocked."

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance for reduced road frontage and width/depth ratio pursuant to Section 152.033 (D) of the Carver County Zoning Code, would serve in the interest of justice, the following conditions should be attached to the approved variance:

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 and SSTS compliance.

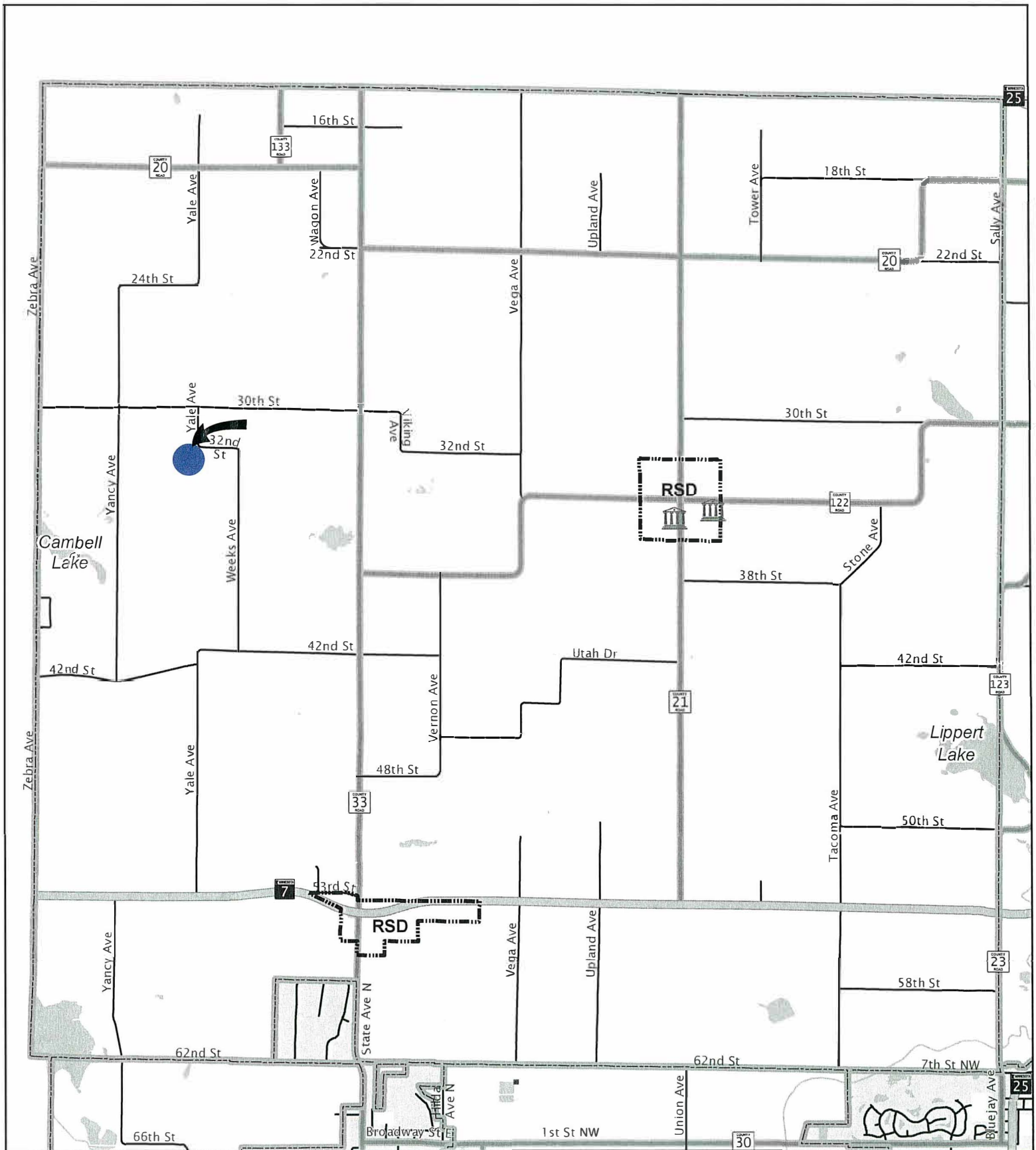
2. The proposed parcel shall contain a minimum of 40 acres in order to remain eligible to be in the Agricultural Preserve program.

NOTE: The Board of Adjustment may consider it necessary to protect the public health, safety and welfare; therefore, imposing additional conditions on granting the variance. Any conditions should bear a rough proportionality to the impact created by the variance.

OR

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.

HOLLYWOOD TOWNSHIP



This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible for any inaccuracies contained herein.

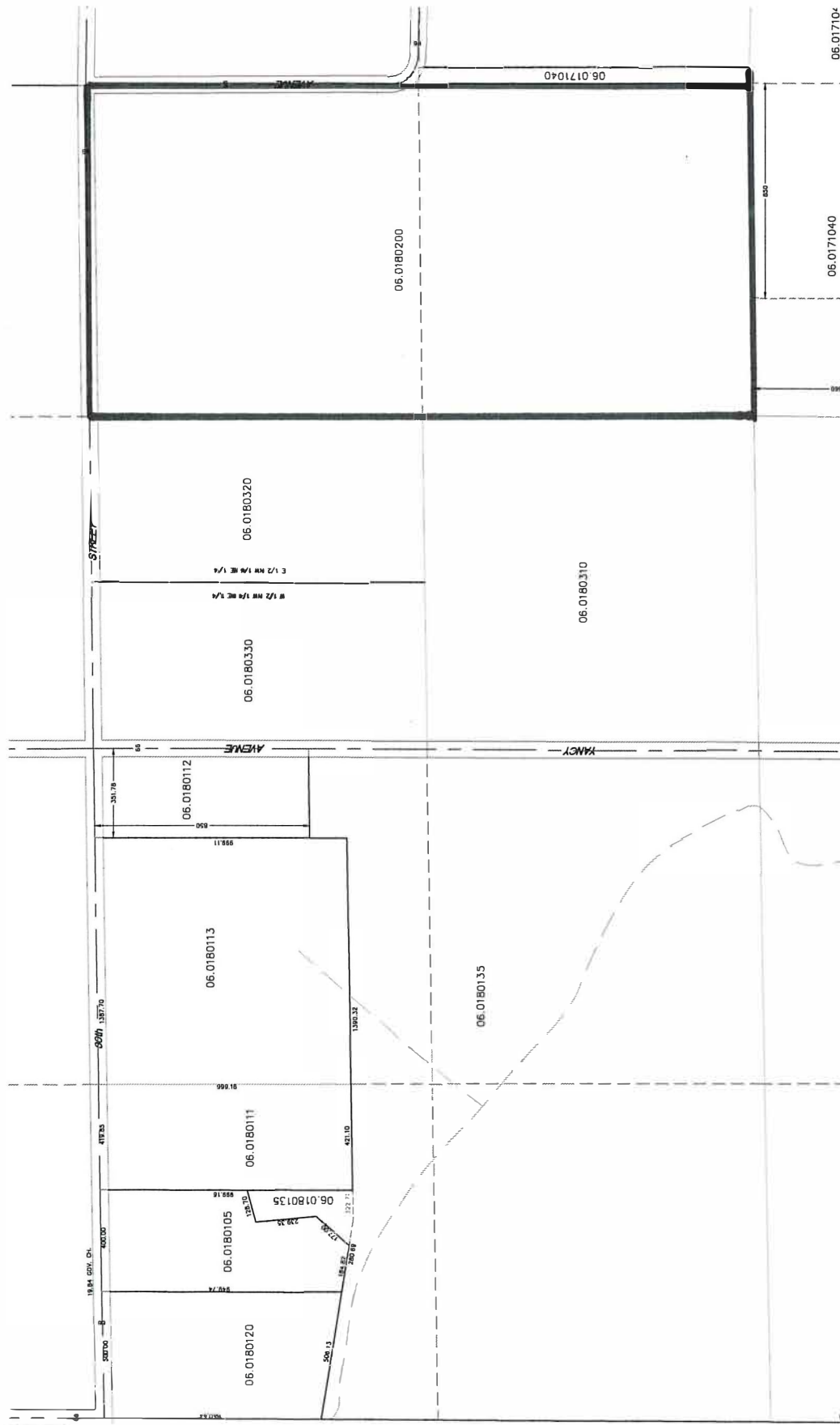
0 1 2 Miles



Map Created by Carver County GIS

N 1/2 SEC. 18, T.117, R.26

THIS IS NOT A LEGAL INSTRUMENT. IT IS A COMPILATION OF RECORDS OF THE PUBLIC RECORDS OF THE COUNTY OF CARVER, MINNESOTA, AND OTHER SOURCES. THE COMPILER HAS MADE A REASONABLE ATTEMPT TO VERIFY THE ACCURACY OF THE INFORMATION CONTAINED HEREIN, BUT THE USER OF THIS MAP IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS. THE USER OF THIS MAP IS ADVISED THAT THE INFORMATION CONTAINED HEREIN IS NOT A LEGAL INSTRUMENT.



Surveying & Mapping Office
Carver County Gov. Center
800 East Fourth Street
Chaska MN 55318
May 27, 2025

October 4, 2022

To Whom It May Concern:
PARCEL # 060180200

We the family of Ronald Stender are proposing to create a new 40-acre parcel. This new parcel is located at 3080 Yale Avenue, Hollywood Township, Minnesota.

This 40-acre agricultural new parcel with variance request has, from the beginning for nearly one hundred years, been accessible from a neighboring driveway. This parcel shall remain accessible from that driveway as long as it is classified as agricultural land approved by Hollywood Township on September 12, 2022.

This new parcel and 66-foot public road frontage variance request is to ensure that it will have its own field approach and keep from ever becoming landlocked in the event the current land is classified as something other than agricultural land.

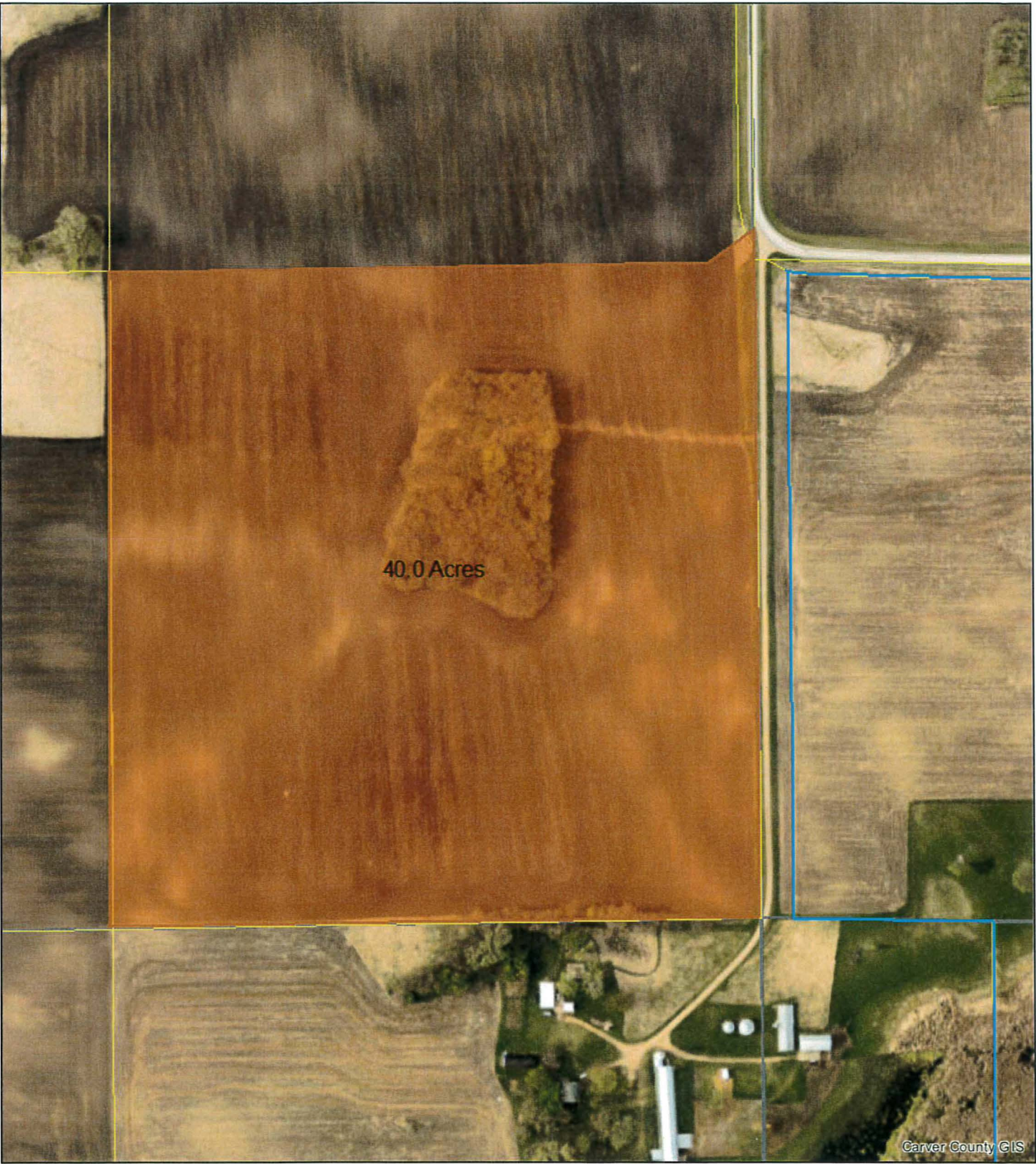
The current 80-acre parcel only has public road access north of 32nd street, which was the situation when Ronald Stender purchased the land.

Upon approval, this new 40-acre parcel with 66-foot public road variance request will keep this parcel in agricultural preserve as it was always intended to be.

Respectfully submitted,

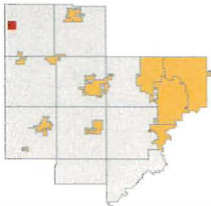
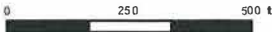
The Family of Ronald Stender

STENDER PROPOSED PARCEL



Date: 9/13/2022

This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible for any inaccuracies contained herein.





Township Presentation & Recommendation Form

PARCEL #	06018 0200	Permit #	PZ20220040
Owner's Name:	RONALD STENDER	Owner's Mailing Address:	3080 YALE AVE.
City:	WINSTED	Owner State:	MN
		Owner Zip:	55395-1044
Applicant (if other than owner):	RAPAL STENDER	Site Address:	3080 YALE AVE.

Type of Request:	☐ CUP	☐ IUP	☐ Preliminary Plat	☐ Final Plat	☒ Variance	☐ Appeal
Description of Request:						
CREATE NEW PARCEL WITH 66' OF PUBLIC ROAD FRONTAGE						
Date of County Public Hearing:	NOV 2, 2022	Date of Township Meeting:	SEPT 12, 2022			

Actions:

Township Action Taken:

- ☒ Recommends approval and use of the Township Road (if applicable) with the following comments:
- ☐ Recommends denial for the following reasons:
- ☐ No recommendation, but will comment on the request at the Planning Commission or Board of Adjustment hearing:

Motion was made and approved, MSC. to approve as long as property stay Ag Preserve including allowing the Variance as needed of current Strader driveway so land cannot become landlocked.

****Important:** I understand that I must appear at the Town Board meeting to present my request and obtain their recommendation prior to appearing before the County Planning Commission or Board of Adjustment.

Karl R. Sch

Signature of Applicant

Date 9-12-22

Ron Kossulker

Date 9.12.22

Signature of Township Official

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 06-018-0200

File# PZ20220040

APPLICANT: Randall R Stender

OWNERS: Randall R Stender & LuAnn M Stender

Cynthia G Engle & Patrick A Engle

Terence L Stender & Susan A Stender

*** * * * ***

The West Half of the Northeast Quarter (W1/2 of NE1/4) of Section 18, Township 117 North, Range 26 West, containing 80 acres of land, more or less, according to the Government Survey thereof.

DRAFTED BY: Carver County Land Management Department

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

October 24, 2022

TO: Carver County Board of Adjustment & Laketown Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (Additional Personal Storage Square Footage)

FILE #: PZ20220045

APPLICANT: Gregg Machemehl of Ram Buildings, Inc

PROPERTY OWNER: Charles and Margaret YoungBird

SITE ADDRESS: 10780 County Road 43, Chaska, MN 55318

VARIANCE TYPE: Personal Storage Square Footage

PURSUANT TO: County Code Section 152.073 (A)(5)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 07-035-1220

BACKGROUND:

1. Charles and Margaret YoungBird own a parcel of an approximate 30.79 acres located in the Northwest Quarter (NW¼) of the Southwest Quarter (SW¼) and the Southwest Quarter (SW¼) of the Northwest Quarter (NW¼) of Section 35, Laketown Township. The partially wooded lot contains two ponds, both deep and shallow marshland, and seasonally flooded basins. The property has been improved with a single-family home, attached garage, and an existing detached pole shed measuring 58' x 100' (5,800 square feet). The property is located in the Agricultural Zoning District, the Transition Area Overlay District (City of Victoria), and the CCWMO (West Chaska Creek Watershed).
2. The applicant, Gregg Machemehl, from RAM Buildings Inc. is requesting a variance to exceed the total allowable personal storage square footage area on the subject property. The proposed building would be 40' x 96' with a 10' x 40' open lean on one side, and a 10' x 96' lean on the opposite side (overall size of 5,200 square feet) and would result in a total of 9,200 square feet of total personal storage area on the parcel. The request would exceed the permitted personal storage square-footage by 2,200 square feet for a parcel of this size; therefore, a variance has been requested to § 152.073 (A)(5) of the Zoning Code.
3. Previously, applicant requests for accessory structures exceeding the allowable square-footage area pursuant to the Zoning Ordinance were processed as Conditional Use Permits (CUP's) and were reviewed by the Carver County Planning Commission. As part of the recent Zoning Code update process in 2021, which followed the enactment of the 2040 Comprehensive Plan, these types of requests were re-categorized as a variance. As a variance application, it is now reviewed by the Board of Adjustment with the application evaluated using the "grounds for variance" criteria found in § 152.215 (D) & (F).

LEGAL BACKGROUND:

§ 152.073 PERMITTED ACCESSORY USES AND STRUCTURES.

Within the agriculture district the following uses shall be permitted uses and/or accessory uses [Note—Certification of zoning compliance is required for any structure subject to the State Building Code and any structure or land use specifically requiring an administrative permit, certificate of zoning compliance, conditional use permit or any other type of certification by the Department. The Department may provide certification of zoning compliance for those structures and/or land uses that do not typically require certification when requested by a landowner for his or her own property.]:

- (A) Accessory storage structures including sheds, attached and detached garages, detached porches, detached recreational buildings and detached hobby structures: These structures shall be used only by the occupants of the residence for personal storage, hobbies, recreation, entertainment, family uses, private maintenance and repair activities, and for the keeping of animals and appurtenant equipment and supplies, and as otherwise regulated by this chapter. Guest quarters and/or additional dwelling units are strictly prohibited. No products or services shall be offered for sale or pay or similar remuneration except as permitted for a home occupation or as otherwise regulated by this chapter. The following standards apply unless a conditional use permit was issued prior to August 1, 2021, or a variance has been issued allowing for additional square footage.
- (5) Parcels greater than ten acres – a total of 7,000 square feet of area is permitted in a combination of a garage and accessory structures.
 - (6) Existing agricultural structures are not included in the area calculations for the total square footage of accessory structures unless the agricultural buildings (such as a machine shed) are suitable for use as garages or residential accessory structures.
 - (7) The area calculation for an attached garage shall be made using the outside dimensions (footprint or foundation) of the structure only. The area calculation for a detached structure shall include the gross area for all levels of the building.
 - (8) Each residential parcel in the County shall be given a personal storage credit of 624 square feet to represent a standard (24' x 26') 2-car garage. This credit shall not be included in the calculation for personal storage.

BOARD OF ADJUSTMENT

§ 152.210 CREATION.

The Board of Adjustment is hereby established and invested with the authority as is hereinafter provided and as provided by M.S. §§ 394.21 through 394.37, as they may be amended from time to time.

(Ord. 47, passed 7-23-02; Am. Ord. 97-2021, passed 7-20-21)

§ 152.215 VARIANCES.

(D) *Grounds for variance.* The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall be granted in accordance with M.S. Chapter 394, as it may be amended from time to time, in cases where the applicant establishes that there is a practical difficulty in the way of carrying out the strict letter of any official control.

- (1) A variance shall only be permitted when the following can be found as fact:
 - (a) The variance is in harmony with the general purpose and intent of the official control.
 - (b) The variance is consistent with the intent of the comprehensive plan.
- (2) In addition, a variance may be granted when the applicant establishes a practical difficulty in complying with the official control. A practical difficulty is established when the following items are found as fact:
 - (a) The property owner proposes to use the property in a reasonable manner not permitted by an official control.
 - (b) The plight of the landowner is due to circumstances unique to the property, not created by the landowner.
 - (c) The variance will not alter the essential character of the locality.
 - (d) The practical difficulty includes more than economic considerations alone.

(F) Other provisions related to variances.

- (1) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.
- (2) Inadequate access to direct sunlight for solar energy systems is considered a practical difficulty.
- (3) Variances shall be granted for earth shelter construction as defined in MN State Statute section 216C.06, subdivision 14, when in harmony with the official controls.
- (4) The board of adjustment may impose conditions on the granting of any variance pursuant to subsection 152.216 (B).
- (5) Granting of the variance shall not have the effect of violating a state or federal rule or law.
- (6) *Floodplain standards.* A variance issued to property within the Floodplain Overlay District must meet the requirements set forth in §§ 152.143 through 152.156.

- (7) Shoreland Overlay District. A variance issued to property within the Shoreland Overlay District must meet the requirements set forth in §§ 152.108 and 152.135.
- (8) That the granting of the variance will not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.
- (Ord. 47, passed 7-23-02; Am. Ord. 70-2010, passed 1-25-11; Am. Ord. 80-2015, passed 6-16-15; Am. Ord. 88-2018, passed 11-20-18; Am. Ord. 97-2021, passed 7-20-21)

STAFF ANALYSIS:

1. As shown on the attached site map (dated: October 18, 2022) the current total accessory square-footage on the property is approximately 6,387 square feet. This includes the attached garage (587 square feet) and detached pole shed (58' x 100' = 5,800 square feet). Given that the Zoning Code allows a credit for attached garage space up to 624 square feet, the total amount of existing accessory storage square-footage is 5,800. The Zoning Code allows a parcel of this size a total of 7,000 square feet of personal storage area to be permitted in a combination of garage and accessory structure(s). The property owners are proposing to remove the two open air lean-to additions (1,800 square feet) of the older existing accessory structure to reduce the size of that existing structure to 4,000 square feet. The proposed 40' x 96' (3,840 square-foot) accessory structure would increase the amount of personal storage square footage to 9,200 square feet; or approximately 2,200 square feet more than the Zoning Code allows without a variance on a property of this size.
2. The applicant's letter (dated October 4, 2022) states that the YoungBirds are currently storing equipment under the lean-tos of the existing building and wish to put their equipment inside a new building to better protect those items. The additional square-footage for also help remove them from view of people entering the property from the county road and from view of the neighboring property owners. The proposed building would also contain a bathroom and a space for a groomer to groom the YoungBirds' animals. The vehicles and equipment to be stored in the new building would be for personal use only, as the owners do not wish to conduct any commercial activity from the property. The applicant's letter stated the vehicles and equipment storage on site would be used for both pleasure and for agricultural purposes. The letter states: "The 30+ acres of land has opportunities to raise vegetables and crops that would be used and consumed by family and friends."
3. The proposed structure would be located west of the existing shed in a location that would meet all required setbacks to property lines and wetlands on site.
4. The plight of the landowner is due to circumstances created by the landowner. When the applicant requested information regarding a building permit, staff informed the applicant that any proposed accessory structure size exceeding the standards pursuant to the Zoning Code would require approval of a variance. The standard established in the Zoning Code is 7,000 square feet maximum for allowable personal storage square footage of any property size over 10 acres; however, each variance application request is based on its own merit and reasons.
5. The granting of the variance would not conflict with the intent of the Comprehensive Plan's Fundamental Land Use Goal to "Maintain the County's unique and rural agricultural character." The proposed building would not alter the character of the neighborhood, nor would government services be negatively impacted by the additional storage structure.
6. The granting of the variance would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicants and would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.

7. On October 18, 2022, this request was reviewed by Kristen Larson, Water Resources Program Specialist with Carver County Water Management Organization (CCWMO). Stormwater management, wetland buffers, site stabilization requirements, and Best Management Practices (BMP's) are typically reviewed as part of any site improvements pursuant to Chapter 153 of the County Code (Water Management Rules). The overall area of disturbance and the proposed structure area may trigger additional permit requirements by the CCWMO. If required, all CCWMO related permits and conditions shall be met prior to the issuance of any future building permits or beginning any excavation activity. Ms. Larson's initial comments include the following:
 - A. Redundant silt fence would be required around the wetland.
 - B. Topsoil should be stockpiled for later respread.
 - C. 6 inches of topsoil is required in disturbed areas that will remain pervious.
 - D. Location of topsoil stockpile must be shown on the site plan.
 - E. If material will be exported from the site, the location and estimated amount should be provided so staff can determine if additional permits are needed.
 - F. If excess material will be spread onsite, it must be spread in an upland area and the location must be shown on the site plan.
 - G. Information on permanent vegetation establishment for disturbed areas must be provided (e.g. seed, sod, etc.).
8. On October 18, 2022, this request was reviewed by Jacob McLain, Senior Environmentalist with Carver County Environmental Services. He stated an As-Built or documentation of a septic system prior to the issuance of a building permit for the storage building would be needed.
9. The Laketown Town Board reviewed and recommended approval of the request during their October 24, 2022, Town Board meeting. The Town Board did not request any conditions along with their recommendation.

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance to exceed the personal storage square-footage on the property pursuant to Section 152.073 (A)(5) of the Carver County Zoning Code, would serve in the interest of justice, the following condition should be considered and attached to the approved variance:

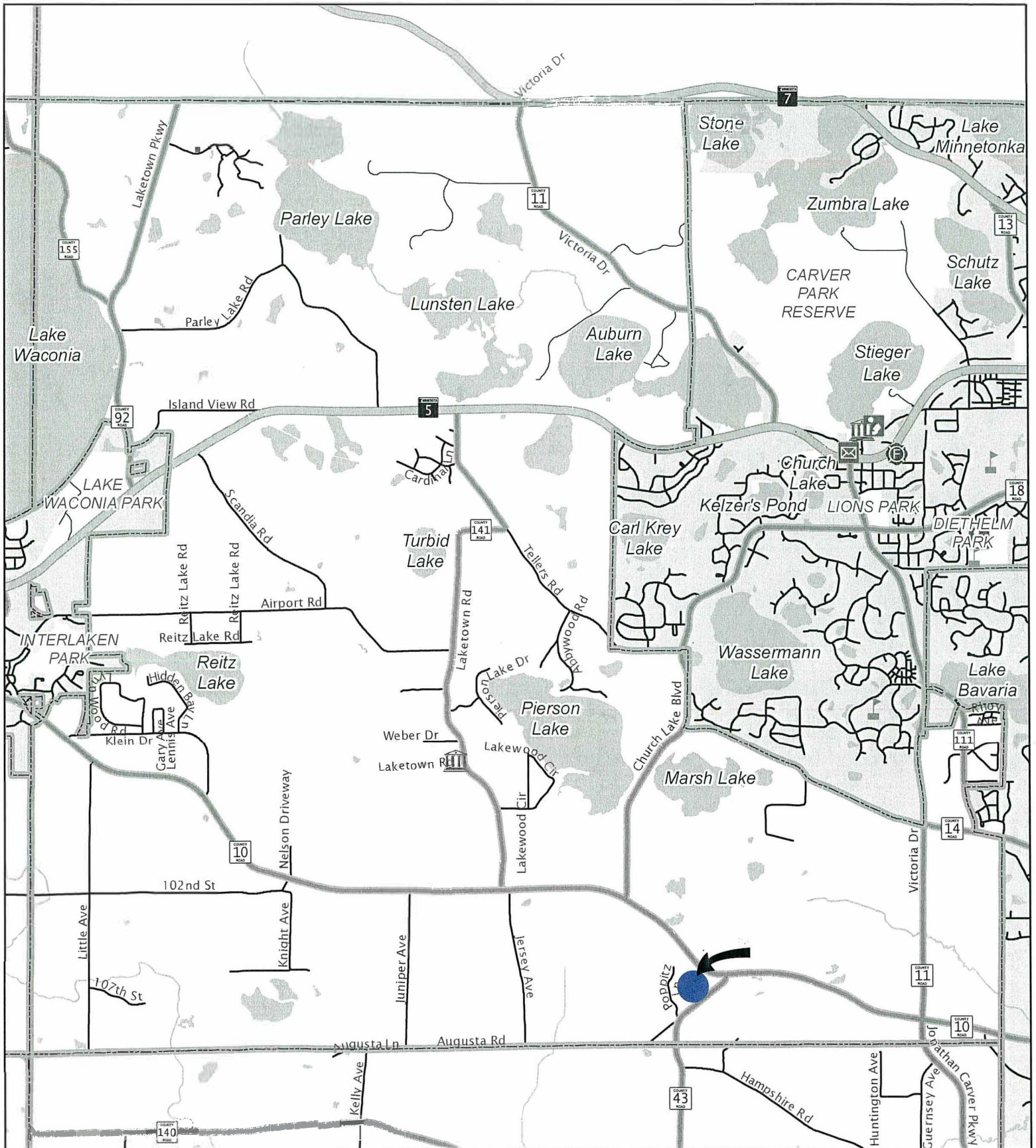
1. The permit is subject to administrative review. The proposed structure shall be used only by the occupant(s) of the residence for personal storage, hobbies, recreation, entertainment, family uses, private maintenance and repair activities, and as otherwise regulated by this Ordinance. Guest quarters 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 done in accordance with the submitted plan and shall comply with the approved variance and plans. The proposed structure shall comply with all required setbacks from property lines, SSTS location, and wetlands.
3. No building expansions or additional accessory structures shall be permitted without obtaining all necessary building permits and/or variance.

NOTE: The Board of Adjustment may consider it necessary to protect the public health, safety and welfare; therefore, imposing additional conditions on granting the variance. Any conditions should bear a rough proportionality to the impact created by the variance.

OR

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.

LAKETOWN TOWNSHIP



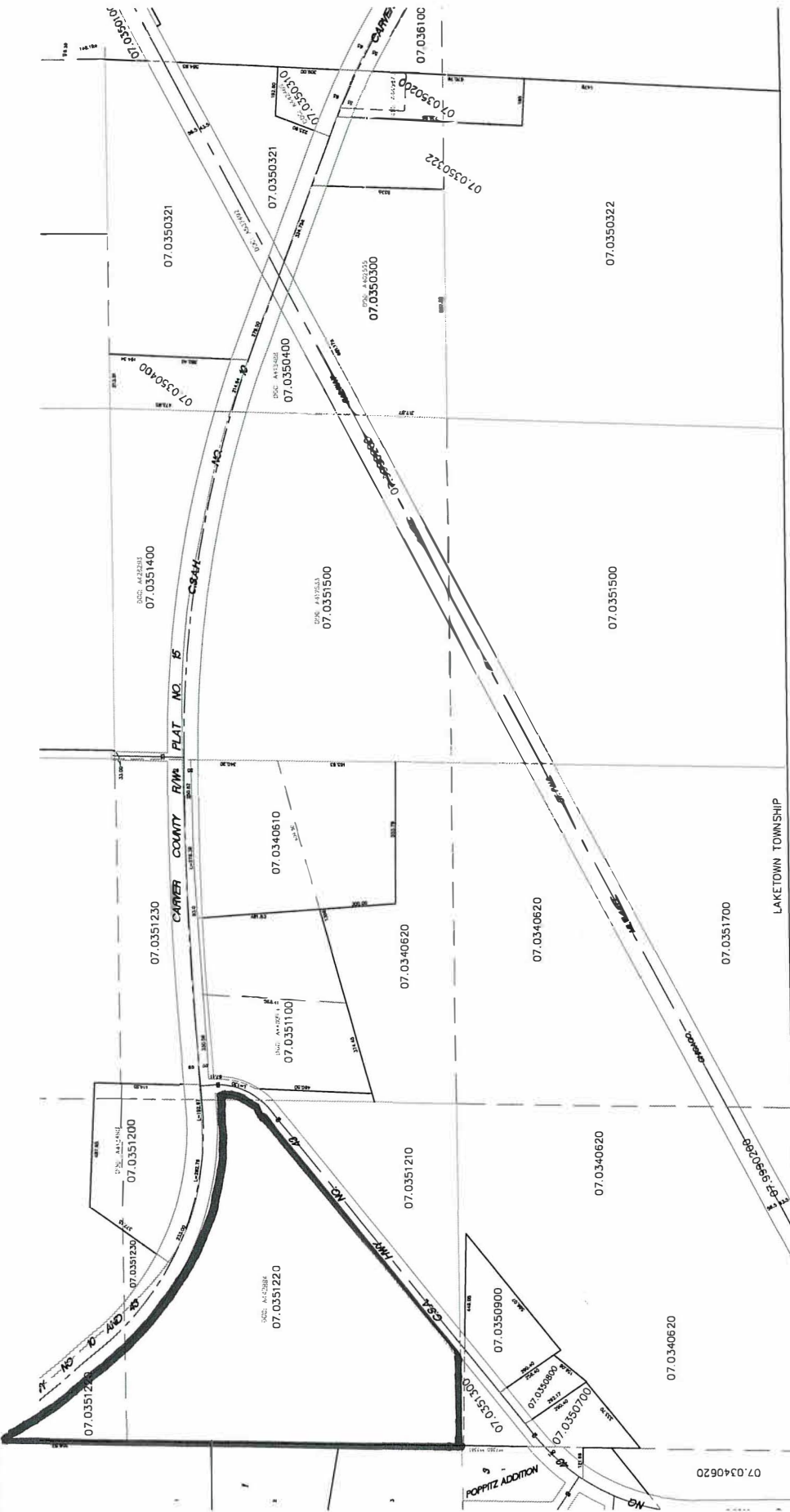
This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible for any inaccuracies contained herein.



Map Created by Carver County GIS

S 1/2 SEC. 35, T.116, R.24

THIS IS NOT A LEGALLY RECORDED PLAT.
 THIS MAP IS FOR INFORMATION ONLY.
 AS THIS MAP APPEARS IN THE CARVER COUNTY
 RECORDS, IT IS NOT TO BE USED FOR REFERENCE
 IN ANY COURT OF LAW. THE SURVEYING
 ENGINEERS AND MAPPING OFFICE
 ARE NOT RESPONSIBLE FOR ANY
 INACCURACIES CONTAINED THEREIN.



October 4, 2022

I am submitting this letter on behalf of the Youngbirds for variance to build over 7000 sf on their 30+ acres of property. Please let me know if you have any questions or need any more information. Thanks!

-Gregg Machemehl

Property Owners:

Maggie and Charlie Youngbird
10780 County Road 43
Chaska, MN 55318

Existing Shed ---58' x 100' = 5800 sf
If we take the wings off -1800 sf
New total existing = 4000 sf

Attached garage is 23'-6"x 25' = 587 sf (under the 624 sf)

New Proposed Building:

40' x 96' = 3840 sf
+10' x 40' open lean = 400 sf
+ 10' x 96' open lean = 960 sf
Total new proposed = 5200 sf

The Youngbirds would like to build a 5200 sf building. They plan to remove the wings off the existing building to reduce its sf by 1800 sf.

The goal is to have more storage for the equipment that they currently own or are planning to purchase within 1 year. Currently they are storing equipment under the wings of the existing building and desire to put existing equipment inside a new building to better protect those items and remove them from view of people entering their property from the highway, and from view of their neighbors.

The building would also provide the opportunity to have a bathroom for the area away from the home, as well as a grooming room for a groomer to groom their 9 animals.

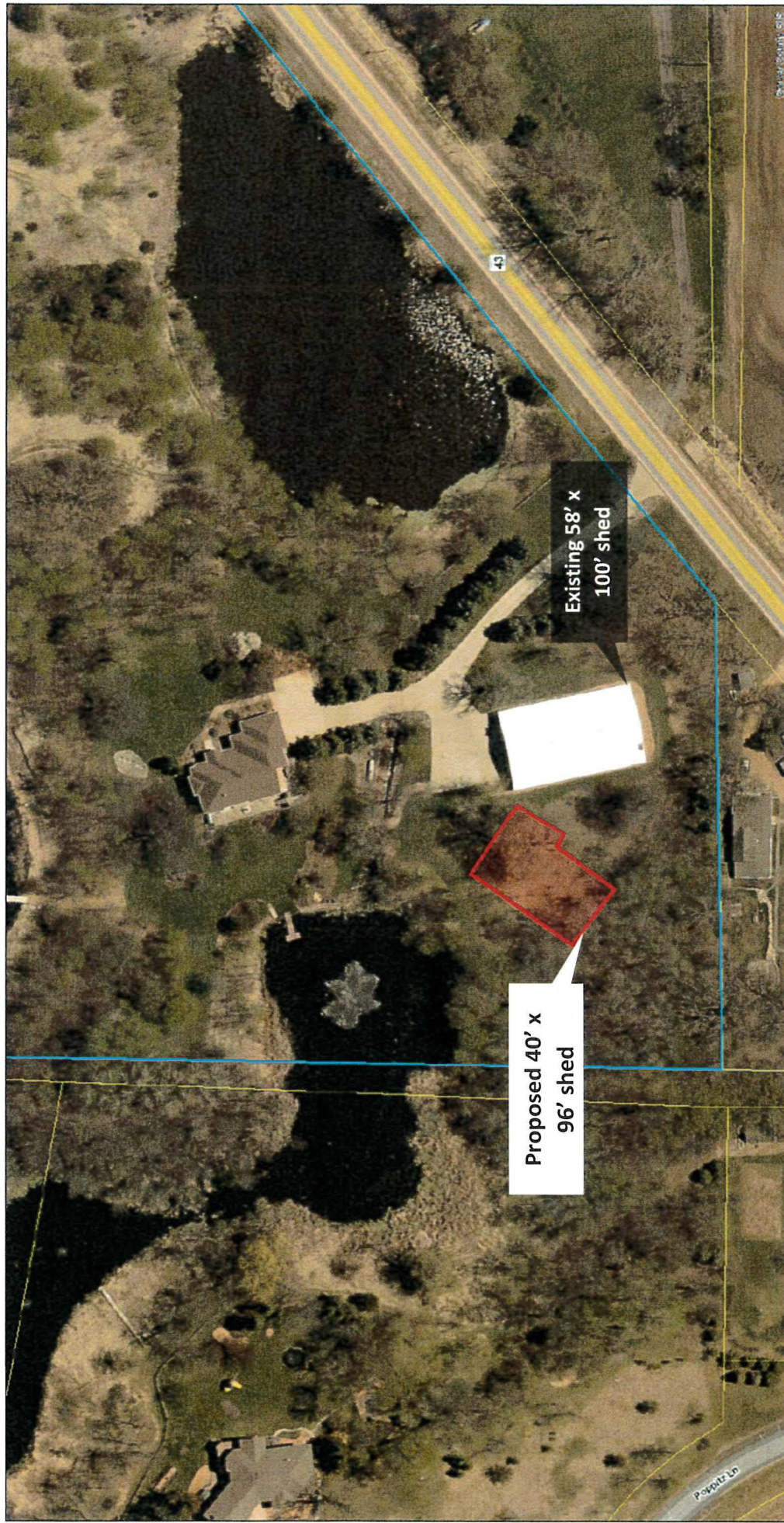
The vehicles and equipment will be used for both pleasure and for agricultural purposes. The 30+ acres of land has the opportunity to raise vegetable and crops that will be used and consumed by family and friends (NO Commercial Operation).

Current list of equipment and vehicles owned by the Youngbird Family to be stored:

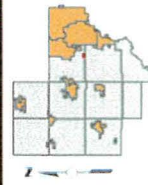
- 5 vehicles—(cars and trucks)
- 2-24' boats
- 12' sailboat and trailer
- 2 Kayaks
- 4 Person Paddleboat
- 2 snowmobiles with trailer
- 4 open sided trailers
- 2 -6' plows
- Walk behind snow blower
- Winter Storage of pond fountains
- Gun Safe
- Bobcat and Bobcat trailer
- 18' Enclosed trailer
- Tractor
- No Till Drill Seeder
- Field Disc
- Fertilizer Sprayer
- Pull behind brush hog cutter
- 2-4 wheelers
- 2-Side by side 4 wheelers



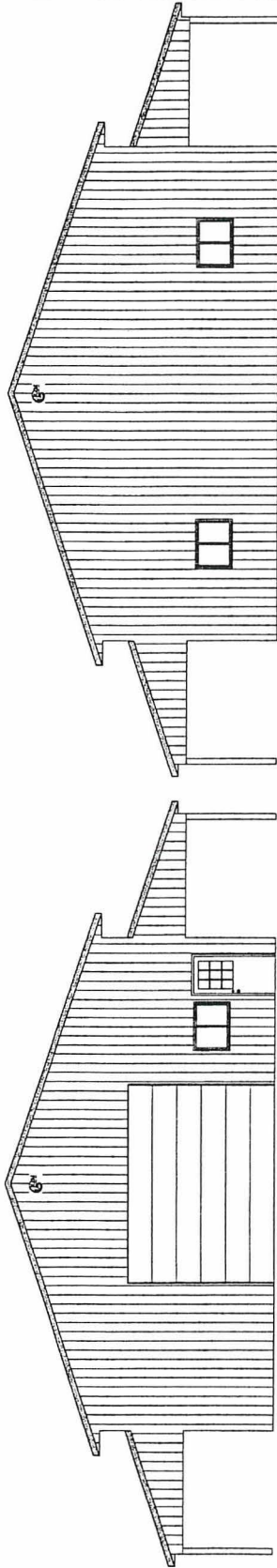
Gregg Machemehl
RAM Buildings, Inc.
592 Industrial Drive
Winsted, MN 55395
320-485-2844
320-894-8166 (Cell)
320-485-3625 (Fax)
www.rambuildings.com



Date: 10/18/2022
 This map was created using Carver County's Geographic Information System (GIS). It is a compilation of information and data from various City, County, State, and Federal sources. This map is not a warranty or representation of any kind. Carver County is not responsible for any inaccuracies contained herein.

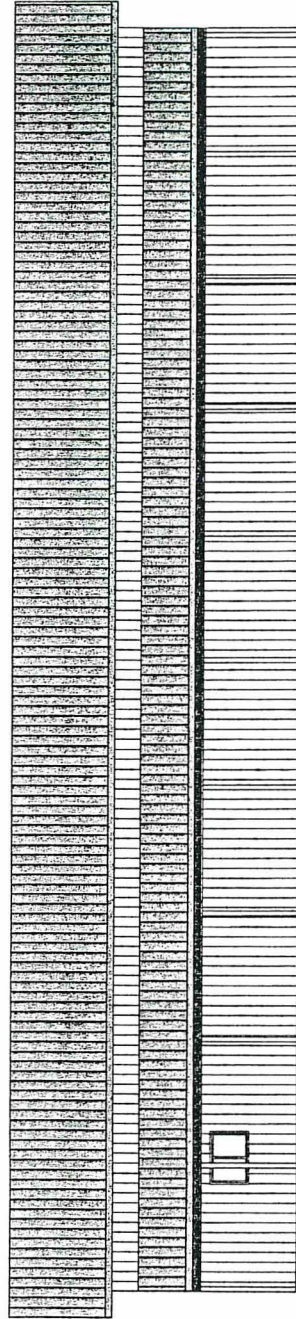


DRAWN BY: JEFFREY B. DATE: 8/16/2022 SHEET: 1 OF 4		PROJECT NAME: MAGGIE & CHARLIE YOUNGBIRD PROJECT NUMBER: (22-410) BUILDING DESCRIPTION: 40'-0" X 96'-0" X 14'-0" DESIGN NUMBER: P22172		582 Industrial Drive Winnetka, Minnesota 55395 320-485-2844 320-485-2825 www.rambuildings.com Contractor License Number: 201719376	
--	--	---	--	---	--

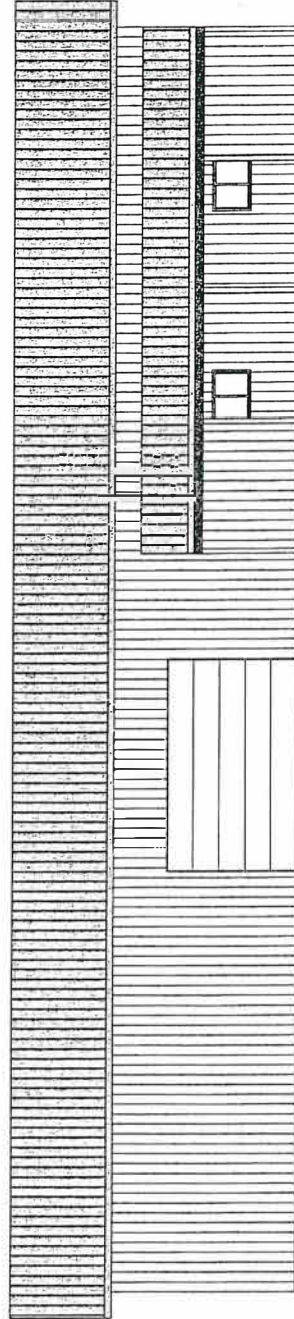


ENDWALL 2

ENDWALL 1

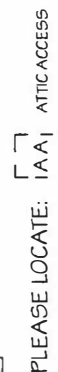


SIDEWALL 1



SIDEWALL 2

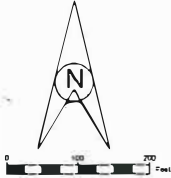
© All drawings and content copyright RAM Buildings Inc.
 Call RAM Buildings Inc. to obtain copies of this plan.
 Unauthorized reproduction of these plans is a violation of federal law.



© All drawings and content copyright RAM Buildings Inc.
Call RAM Buildings Inc. to obtain copies of this plan.
Unauthorized reproduction of these plans is a violation of federal law.

YOUNG BIRD

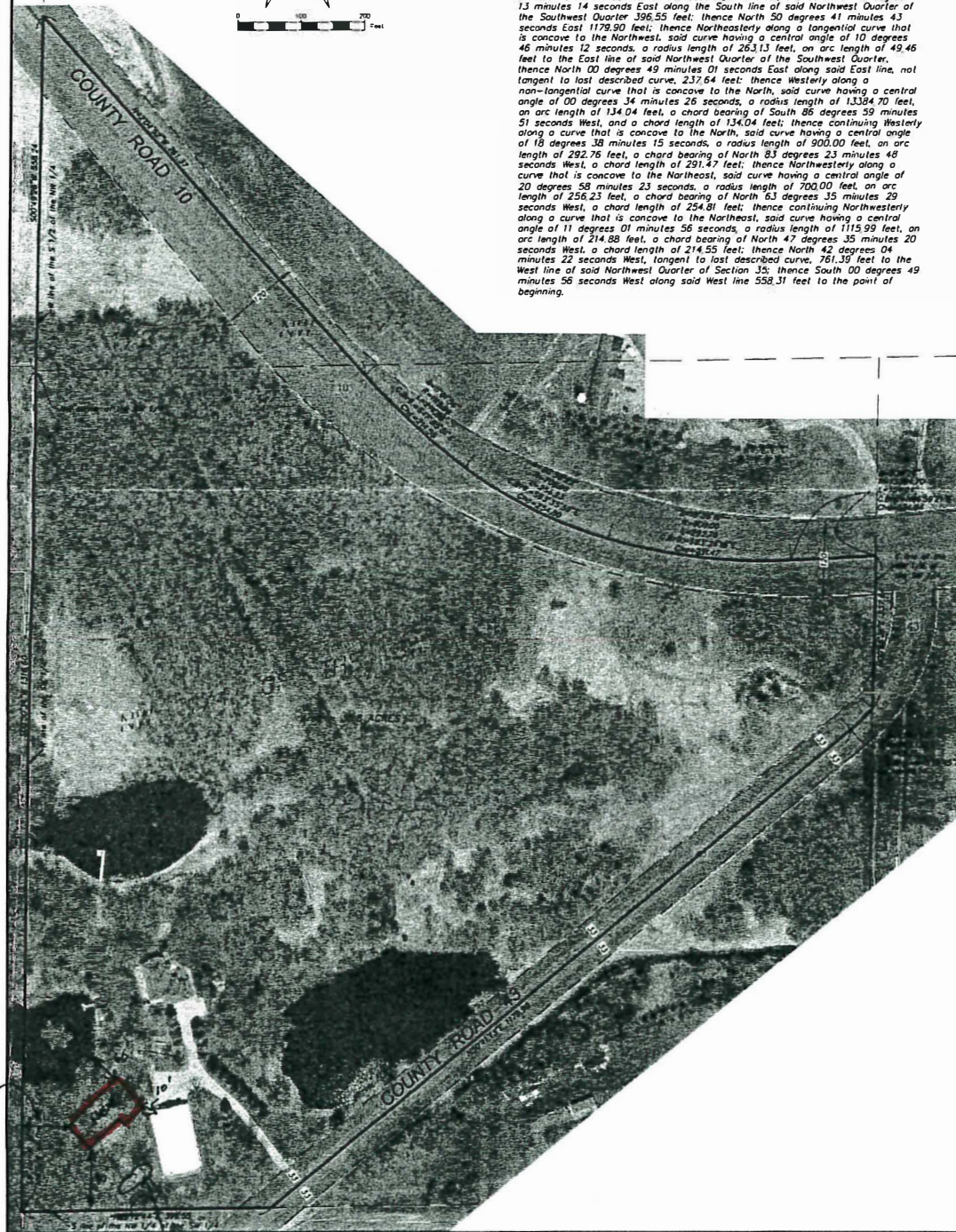
Property Exhibit



PROPERTY DESCRIPTION:

Part of the Northwest Quarter of the Southwest Quarter and part of the South Half of the Northwest Quarter, all being part of Section 35, Township 116, Range 24, Carver County, Minnesota, described as follows:

Beginning at the Northwest corner of said Southwest Quarter of Section 35, thence on a bearing of South 00 degrees 51 minutes 03 seconds West along the West line of said Southwest Quarter 1316.60 feet to the Southwest corner of said Northwest Quarter of the Southwest Quarter, thence North 89 degrees 13 minutes 14 seconds East along the South line of said Northwest Quarter of the Southwest Quarter 396.55 feet; thence North 50 degrees 41 minutes 43 seconds East 1179.90 feet; thence Northeastly along a tangential curve that is concave to the Northwest, said curve having a central angle of 10 degrees 46 minutes 12 seconds, a radius length of 263.13 feet, on an arc length of 49.46 feet to the East line of said Northwest Quarter of the Southwest Quarter, thence North 00 degrees 49 minutes 01 seconds East along said East line, not tangent to last described curve, 237.64 feet; thence West along a non-tangential curve that is concave to the North, said curve having a central angle of 00 degrees 34 minutes 26 seconds, a radius length of 13394.70 feet, on an arc length of 134.04 feet, a chord bearing of South 86 degrees 59 minutes 51 seconds West, and a chord length of 134.04 feet; thence continuing West along a curve that is concave to the North, said curve having a central angle of 18 degrees 38 minutes 15 seconds, a radius length of 900.00 feet, on an arc length of 292.76 feet, a chord bearing of North 83 degrees 23 minutes 48 seconds West, and a chord length of 291.47 feet; thence Northwestly along a curve that is concave to the Northeast, said curve having a central angle of 20 degrees 58 minutes 23 seconds, a radius length of 700.00 feet, on an arc length of 256.23 feet, a chord bearing of North 63 degrees 35 minutes 29 seconds West, a chord length of 254.91 feet; thence continuing Northwestly along a curve that is concave to the Northeast, said curve having a central angle of 11 degrees 01 minutes 56 seconds, a radius length of 1115.99 feet, on an arc length of 214.88 feet, a chord bearing of North 47 degrees 35 minutes 20 seconds West, a chord length of 214.55 feet; thence North 42 degrees 04 minutes 22 seconds West, tangent to last described curve, 761.39 feet to the West line of said Northwest Quarter of Section 35; thence South 00 degrees 49 minutes 56 seconds West along said West line 558.31 feet to the point of beginning.



denotes iron monument found
 denotes 12 inch by 14 inch iron pipe
 set and marked by License #40062

Project No. 22-0411

www.ottoassociates.com
 9 West Division Street
 Building NW 55513
 Fairport, MN 56005
 Fax: (763) 952-3522



RAM Buildings, Inc.

Requested By: **RAM Buildings, Inc.**

Date: **9-6-22**

Drawn By: **T.R.K.**

Scale: **1"=100'**

Checked By: **P.E.O.**

Property Exhibit on part of the NW 1/4 of the SW 1/4 and part of the S 1/2 of the NW 1/4 of Sec. 35, T. 116, R. 24, Carver County, Minnesota

Revised:

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 07-035-1220

File# PZ20220045

**APPLICANT/OWNER: Charles YoungBird &
Margaret Joanne YoungBird**

* * * * *

Part of the Northwest Quarter of the Southwest Quarter and part of the South Half of the Northwest Quarter, all being part of Section 35, Township 116, Range 24, Carver County, Minnesota, described as follows: Beginning at the Northwest corner of said Southwest Quarter of Section 35, thence on a bearing of South 00 degrees 51 minutes 03 seconds West along the West line of said Southwest Quarter, 1,316.60 feet to the Southwest corner of said Northwest Quarter of the Southwest Quarter; thence North 89 degrees 13 minutes 14 seconds East along the South line of said Northwest Quarter of the Southwest Quarter, 396.55 feet, thence North 50 degrees 41 minutes 43 seconds East, 1,179.90 feet; thence Northeasterly along a tangential curve that is concave of the Northwest, a said curve having a central angle of 10 degrees 46 minutes 12 seconds, a radius length of 263.13 feet, an arc length of 49.46 feet, to the East line of said Northwest Quarter of the Southwest Quarter; thence North 00 degrees 49 minutes 01 seconds East along said East line, not tangent to last described curve, 237.64 feet; thence Westerly along a non-tangential curve that is concave to the North, said curve having a central angle of 00 degrees 34 minutes 26 seconds, a radius length of 13,384.70 feet, an arc length of 134.04 feet, a chord bearing of South 86 degrees 59 minutes 51 seconds West, and a chord length of 134.04 feet; thence continuing Westerly along a curve that is concave to the North, said curve having a central angle of 18 degrees 38 minutes 15 seconds, a radius length of 900.00 feet, an arc length of 292.76 feet, a chord bearing of North 83 degrees 23 minutes 48 seconds West, a chord length of 291.47 feet; thence Northwesterly along a curve that is concave to the Northeast, said curve having a central angle of 20 degrees 58 minutes 23 seconds, a radius length of 700.00 feet, an arc length of 256.23 feet, a chord bearing of North 63 degrees 35 minutes 29 seconds West, a chord length of 254.81 feet; thence continuing Northwesterly along a curve that is concave to the Northeast, said curve having a central angle of 11 degrees 01 minutes 56 seconds, a radius length of 1,115.99 feet, an arc length of 214.88 feet, a chord bearing of North 47 degrees 35 minutes 20 seconds West, a chord length of 214.55 feet; thence North 42 degrees 04 minutes 22 seconds West, tangent to last described curve, 761.39 feet to the West line of said Northwest Quarter of Section 35; thence South 00 degrees 49 minutes 56 seconds West along said West line 558.31 feet to the point of beginning.

DRAFTED BY: Carver County Land Management Department