

CARVER COUNTY BOARD OF ADJUSTMENT

Regular Meeting – **Wednesday, October 4, 2023**

Commissioners' Meeting Room

2nd Floor Human Services Bldg

Government Center – Chaska

AGENDA

7:00 p.m.

1. Approve minutes of September 6, 2023 meeting
Pages 1-1 through 1-4
2. **File #20230030**- Public hearing on request by Ryan Seifert for a variance.
(Accessory Structure)
Dahlgren Township Pages 2-1 through 2-10
Issue Order #PZ20230030 – Ryan Seifert
3. **File #20230034**- Public hearing on request by Richard Hasse for a variance.
(Accessory Structure)
Camden Township Pages 3-1 through 3-10
Issue Order #PZ20230034 – Richard Hasse
4. **File #20230037**- Public hearing on request by Thomas & Krystal Swartzter for a variance.
(Accessory Structure)
Waconia Township Pages 4-1 through 4-10
Issue Order #PZ20230037 – Thomas & Krystal Swartzter
5. **File #20230036**- Public hearing on request by Nick Kubasch for a variance.
(Reduced Road Frontage & Width/Depth Ratio)
Hollywood Township Pages 5-1 through 5-11
Issue Order #PZ20230036 – Nick Kubasch
6. **File #20230035**- Public hearing on request by David & Phyllis Johnson for a variance.
(Reduced Road Frontage & Width/Depth Ratio)
Young America Township Pages 6-1 through 6-10
Issue Order #PZ20230035 – David & Phyllis Johnson
7. **File #20230033**- Public hearing on request by James & Molly Odegaard for a variance.
(Reduced Setback-Structure from Road)
San Francisco Township Pages 7-1 through 7-10
Issue Order #PZ20230033 – James & Molly Odegaard

CARVER COUNTY BOARD OF ADJUSTMENT
Regular Meeting September 6, 2023
Minutes

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

Members Absent: None

Members Late: Robin Bielefeldt (7:01 p.m.)

Staff Present: Donovan Hart, Christina Neel

Pursuant to due call and published notice thereof, the September 6, 2023, 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 all seven board 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 Wakefield to approve the agenda as printed. Bielefeldt seconded the motion for approval. All voted aye. Motion carried.

Minutes – Chairman Bruner asked if there were any corrections to the minutes from the August 2, 2023, meeting. A motion was made by Gorra to approve the minutes of the August 2, 2023, meeting as written. Selken seconded the motion for approval. All voted aye. Motion carried.

Public Hearing - File #20230032 – Joanne Rademacher – Chairman Bruner called the public hearing to order at 7:01 p.m. to consider the application of Joanne Rademacher for a variance pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for reduced setback for a structure from the road pursuant to Chapter 152 of the County Code. The property is in Section 36 of Hollywood Township.

The following were present: Joanne Rademacher, Barry Rademacher

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 7, 2023

Exhibit F – Staff Report addressed to the Board of Adjustment and Hollywood Town Board dated August 23, 2023, and all attachments

Neel stated the applicant has a life estate interest in an approximate 0.58-acre parcel improved with a single-family dwelling and a detached garage. The applicant is requesting a variance which would allow her to apply for building permits to construct an attached garage on the subject property. The proposed attached garage would not meet the required 68-foot setback from the center of 58th St. The existing detached garage was considered a legal non-conforming structure which did not meet the required side

yard setback. In March of 2023, the detached garage collapsed in a winter storm and was deemed unrepairable. The applicant is requesting to replace this structure with an attached garage for easier access during inclement weather. The proposed 1½ stall attached garage is 20' x 24' in size and the closest point of the garage would be approximately 55 feet from the center of 58th St, resulting in a 13-foot variance. The applicant's letter describes a practical difficulty in finding a location that would meet all the required setbacks. Ms. Rademacher stated she has lived at the property for over 50 years and would like to remain at the property as long as she is able. An attached garage would allow her to move safely without having to navigate on icy or snow-covered sidewalks. On August 17th, this request was reviewed by Jacob McLain, Carver County Senior Environmentalist, who stated the County has accurate SSTS tank and drainfield records for the property and the project meets all required SSTS setbacks. Granting this variance is in harmony with the general purpose and intent of the official control and would not cause a substantial change in the character of the neighborhood or conflict with the intent of the Comprehensive Plan. The Hollywood Town Board reviewed the request at their August 14, 2023, meeting and recommended approval without additional conditions. Neel read the proposed conditions for consideration if the request is approved. If the Board determines that a practical difficulty has not been identified, the reasons supporting denial must be identified and stated.

Ms. Rademacher stated Mr. Bruner had visited the property and felt the location was suitable.

Mark Meuffels, Hollywood Township Supervisor, confirmed the Township's recommendation for approval of the request, stating the proposed attached garage appears to be in a better location on the property than the former detached structure.

No one from the public had any comments about this request.

Ms. Rademacher also stated an attached garage would offer her more safety and security as she would be able to access the house directly from the garage without having to walk outside.

A motion was made by Bielefeldt and seconded by Wakefield to close the public hearing. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 7:07 p.m.

Gorra stated she realized the practical difficulty in meeting setbacks with the limited parcel size and would support the request.

Wakefield echoed that response and recognized the safety and security in having an attached garage.

Thompson and Bielefeldt also agreed with the practical difficulty and are supportive of the request.

Bruner stated he visited the site and felt the attached garage will be a good fit on the property.

A motion was made by Gorra to **approve and issue Order PZ20230032** for a variance allowing the construction of an attached garage with a reduced front setback pursuant to Section 152.034 (D) of the Carver County Zoning Code, for property legally described on the attached Exhibit "A", is hereby **approved** with the following conditions:

1. The permittee shall obtain the appropriate building permits and septic permit(s) prior to the construction of the new attached garage, if applicable. An erosion/sediment control plan shall also be prepared, submitted, and implemented in accordance with the CCWMO Water Rules (Chapter 153) as part of the building permit application process.

2. All construction activities shall be done in accordance with the submitted site plan dated August 1, 2023. The new garage location shall not encroach any closer to the centerline of 58th Street than approved (i.e. 55± feet) as part of this permit application.
3. No additional expansions shall be permitted without obtaining all necessary building permits and/or variances.

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

Public Hearing - File #20230031 – Ronald & Louise Blauert – Chairman Bruner called the public hearing to order at 7:10 p.m. to consider the application of Ronald & Louise for a variance pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for reduced road frontage and width/depth ratio pursuant to Chapter 152 of the County Code. The property is in Section 11 of Hollywood Township.

The following were present: Ronald Blauert, Louise Blauert

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 July 24, 2023

Exhibit F – Staff Report addressed to the Board of Adjustment and Hollywood Town Board dated August 23, 2023, and all attachments

Hart stated the applicants have a life estate interest in a 38.48-acre parcel which is improved with a single-family dwelling, several agriculture buildings, and farmland. The applicants are requesting a variance to subdivide the building site from the agricultural land, resulting in the remnant parcel (ag land) having reduced road frontage and not meeting the required 1:5 width to depth ratio. The applicants' letter states they are no longer able to live in the house and would like to parcel off the building site from the cropland to better manage the property. The request was reviewed by Jacob McLain, Carver County Senior Environmentalist, who stated the septic system was installed in 2021/22 with a valid Certificate of Compliance until 08/18/2027. Identification of an alternate SSTS site was completed on 07/18/2023 and he had no additional comments. The plight of the landowner is due to circumstances unique to the property and not created by the landowner. The conforming parcel would appear to have enough road frontage to support the subdivision, however, the location of the agricultural buildings do not permit a residential lot size that includes all of the accessory structures and meets the minimum structure setbacks. Hart used an aerial view of the property to illustrate the proposed subdivision. The applicant is proposing to use the property in a reasonable manner and in harmony with the general purpose and intent of the official control. Granting the variance does not appear to be in conflict with the intent of the Comprehensive Plan and would not alter the character of the neighborhood or have a negative impact on government services or adversely affect the health or safety of persons residing or working in the area adjacent to the property. The Hollywood Town Board reviewed the request at their July 10, 2023, meeting and recommended approval without any additional comments. Hart read the proposed conditions for consideration if the request is approved. If the Board finds that a

practical difficulty has not been identified, the reasons supporting denial must be identified and stated.

Louise Blauert, 15555 County Rd 20, stated they want to move from the property to be closer to their sons and they felt this was a reasonable request to subdivide and sell the building and retain the agricultural land.

Mark Meuffels, Hollywood Town Board Chairman, confirmed the Township's recommendation for approval. They realize the parcel is long and narrow and the person(s) renting the ag land will continue to use the field access on the easterly side of the building site.

There were no comments from the public concerning this request.

Bielefeldt made a motion to close the public hearing. Gorra seconded the motion. Chairman Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 7:19 p.m.

Gorra agreed that the plight of the landowner is due to circumstances unique to the parcel and is supportive of the proposed subdivision request.

Bielefeldt agreed with that statement.

Bruner visited the property and echoed the same justifications because of the parcel depth.

A motion was made by Bielefeldt to **approve and issue Order PZ20230031** for a variance to subdivide the building site from the agricultural land, resulting in the remnant parcel (ag land) having reduced road frontage and not meeting the required 1:5 width to depth ratio pursuant to Sections 152.033 (D)(1) & (4) of the Carver County Zoning Code, for property legally described on the attached Exhibit "A" with the following conditions:

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 by not limited to, a completed Minor Subdivision Application, Survey, and SSTS Compliance.

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

Adjournment

Having no other business to discuss, a motion was made by Bielefeldt and seconded by Wakefield to adjourn. All voted aye. The meeting was adjourned at 7:21 p.m.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

September 21, 2023

TO: Carver County Board of Adjustment & Dahlgren Town Board

FROM: The Land Management Department

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

FILE #: PZ20230030

APPLICANT: Ryan Seifert

PROPERTY OWNER: Ryan J. Seifert

SITE ADDRESS: 5330 Glens Rd, Chaska, MN 55318

VARIANCE TYPE: Personal Storage Square Footage

PURSUANT TO: County Code Section 152.073 (A)(4)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 04-125-0020

BACKGROUND:

1. Ryan Seifert owns an approximate 7.25-acre parcel located in the East Half (E½) of the Northwest Quarter (NW¼), Dahlgren Township. The property, platted as Lot 2, Block 1 in the Glens Addition subdivision, has been improved with a single-family home and a 40' x 78' accessory building. The property is located in the Agricultural Zoning District, Transition Area Overlay District for the City of Carver, and the Carver County Water Management Organization (CCWMO) – West Chaska Creek Watershed.
2. Mr. Seifert is requesting a variance to exceed the total allowable personal storage square footage on the subject property. The proposed building would be 50 feet x 100 feet (5,000 square feet), and with the existing 40 feet x 78 feet (3,120 square-foot) detached accessory structure and 256 square feet of attached garage space (above the 624 square-foot credit), the total personal storage square footage on the parcel would be a total of 8,376 square feet. The request would exceed the permitted personal storage square-footage by 3,376 square feet for a parcel of this size; therefore, a variance has been requested pursuant to Section 152.073 (A)(4) of the Carver County Zoning Code.
3. Previously, applicant requests for accessory structures exceeding the allowable square-footage area pursuant to the Zoning Code were processed as Conditional Use Permits (CUP's) and were reviewed by the Carver County Planning Commission. As part of the 2021 Zoning Code updates, 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 Section 152.215 (D) & (F) of the Zoning Code.

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.
- (4) Parcels greater than five acres and less than or equal to ten acres – a total of 5,000 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. The submitted site plan (dated: August 17, 2023) identifies the location of the structures that contain current personal storage square-footage on the property, totaling approximately 4,000 square feet. This includes a pole shed (40' x 78' = 3,120 square feet) and an attached garage of 880 square feet. Given that the Zoning Code allows a credit for attached garage space up to 624 square feet, the total amount of existing personal storage square-footage is 3,376. The Zoning Code allows a parcel of this size a total of 5,000 square feet of personal storage area to be permitted in a combination of attached garage and accessory structure(s). The proposed 50' x 100' (5,000 square-foot) accessory structure would increase the amount of personal storage square footage to 8,376 square feet; or approximately 3,376 square feet more than the Zoning Code allows without a variance on a property of this size.
2. The applicants' letter (dated August 23, 2023) states the proposed accessory structure would shelter a boat and two trailers, as well as contain a sport court in half of the building. The narrative also elaborates on the need and practical difficulty associated with achieving the desired space with a house addition. *"With the lack of gym space in the city it is hard to find a place to train and would like to have a space for them to practice. I am unable to add it to the existing home, as the only spot that works is where my septic system is located. This would get too costly to move."* Further, Mr. Seifert notes: *"This building will be used for personal use only and will not be used for commercial reasons."*
3. The proposed structure would be constructed in the northeast corner of the property in a location that would meet all required setbacks to property lines and the property's septic system. Regarding location, the narrative states: *"The area of my property that the shed will be located in has tree cover on two sides of it and is also blocked by a large hill that is located on my property."*
4. After reviewing the application, Kristen Larson, Water Resources Program Specialist with the CCWMO, wrote in an email dated September 14, 2023:
 - *Based on the information submitted, the work is below CCWMO permit thresholds and a permit will not be required from the WMO.*
 - *The applicant should be advised that once cumulative impervious added to the site after 2002 reaches an acre or more, a stormwater permit from the CCWMO and stormwater treatment will be required.*
 - o *Impervious Amounts:*
 - **2002 and earlier impervious:** *Approximately 0.5 acres of impervious were added to the site prior to 2002. This amount of impervious is exempt from treatment requirements because it was created prior to CCWMO rules.*
 - **Post 2002 impervious:** *Approximately 0.3 acres have been added to the site since 2002. The addition of the 5,000 square ft shed will put the impervious added to the site since 2002 at about 0.42 acres.*
5. Since the subject property is in Transition Area Overlay District for the City of Carver, Erin Smith, the Community Development Director for the City of Carver reviewed the application and reported in an email dated September 14, 2023, that she had no comments.

6. The plight of the landowner is due to circumstances created by the landowner. The applicant purchased the property in 2017 and the lot acreage only provides a limited amount of personal storage space. The standard established in the Zoning Code is a maximum of 5,000 square feet for allowable personal storage square footage for parcels greater than five acres and less than or equal to ten acres. However, each variance application request is based on its own merit, property uniqueness, and reasons described by the applicant.
7. 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.
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 it would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
9. The Dahlgren Town Board reviewed and recommended approval of the request during their August 14, 2023, Town Board meeting. The Board did not have any additional comments or conditions.

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)(4) 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:

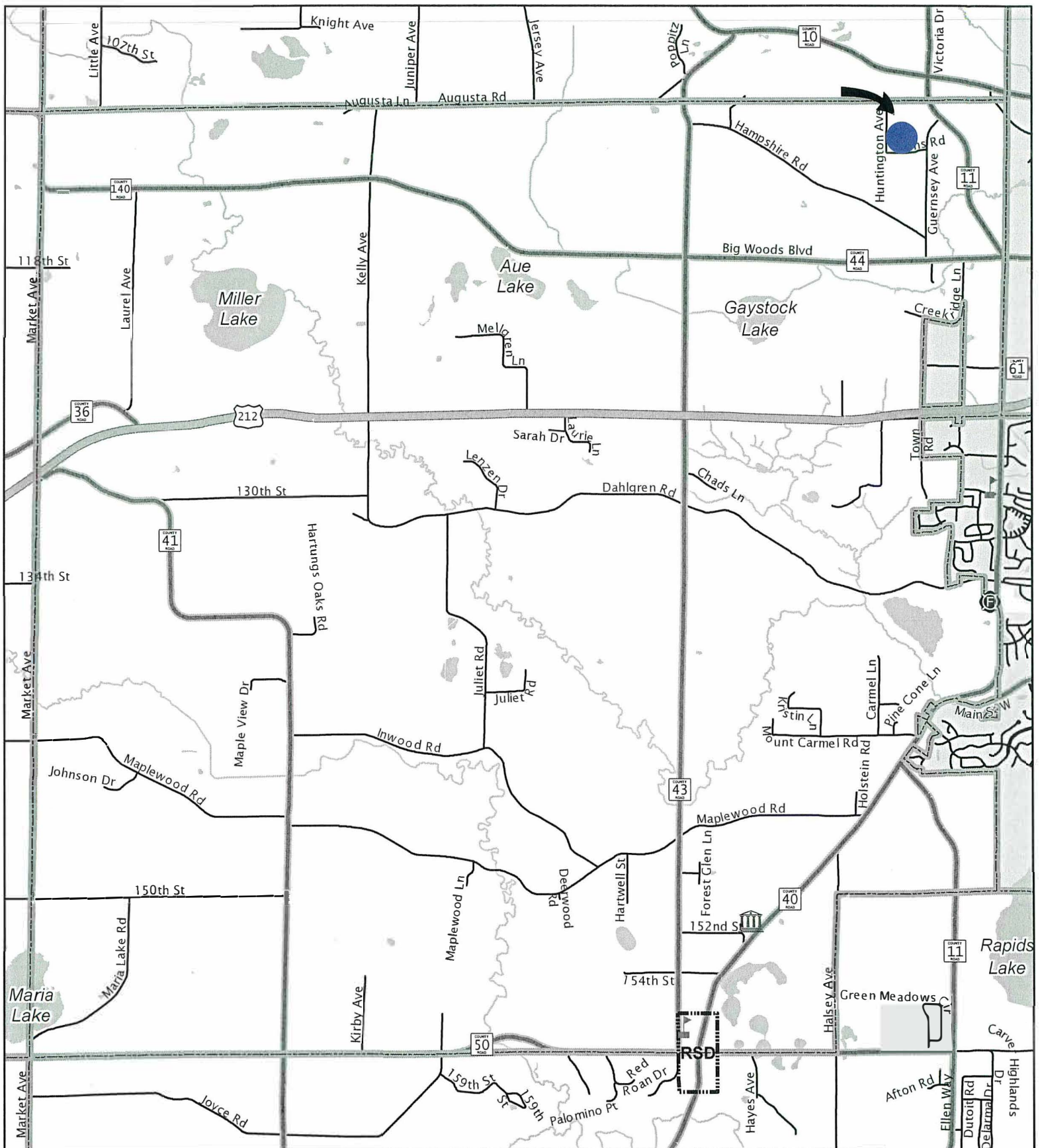
1. The permit is subject to administrative review. The proposed structure shall be used only by the occupant(s) of the residence for personal storage, hobbies, recreation, entertainment, family uses, private maintenance and repair activities, and as otherwise regulated by this Ordinance. Guest quarters 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, existing buildings, and Subsurface Sewage Treatment System (SSTS) locations.
3. No additional accessory structures or additions shall be allowed, based on the total personal structure square footage currently allowed on the property, without the approval and issuance of a new 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.

DAHLGREN TOWNSHIP



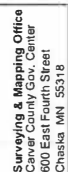
This map was created using Carver County's Geographic Information Systems (GIS). It is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible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

0 1 2 Miles



Map Created by Carver County GIS

THIS IS NOT A LEGALLY RECORDED PLAT
THIS MAP IS A COMPILED OF RECORDS
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PURPOSES. THE COUNTY AND ITS AGENTS
ARE NOT RESPONSIBLE FOR ANY
MISAPPREHENSIONS CONTAINED THEREIN.



8/23/23

Board of Adjustment,

I am requesting a variance to go over the 5000 sq ft rule of shed space on my property located at 5330 Glen Rd Chaska. I currently have 256 sq ft of attached garage (over 624 sq ft) and a 3,120 sq ft detached shed for a total of 3,376 sq ft of calculated space. I am requesting to put up an additional 50'x100' pole shed on the northeast corner of my property to increase my total storage amount to 8,376 ft. This is a variance request to go 3,376 over the allowable 5,000.

I am looking to add this space to store my boat and 2 trailers that current sit on that area of my property. I also have 2 young sons that are involved in athletics and want to construct a sport court in half of the building. With the lack of gym space in the city it is hard to find a place to train and would like to have a space for them to practice. I am unable to add it to the existing home, as the only spot that works is where my septic system is located. This would get too costly to move.

This building will be used for personal use only and will not be used for commercial reasons. Also, the area of my property that the shed will be located in has tree cover on 2 sides of it and is also blocked by a large hill that is located on my property.

I have attached plans and a survey of my property showing the location of the existing home and current out building along with the proposed location of the new building.

Thank you for your consideration in the matter and please let me know if there is any more information that you need from me at this time.

Thanks,

Ryan Seifert

Surveyors Certificate

Site Plan Survey For:

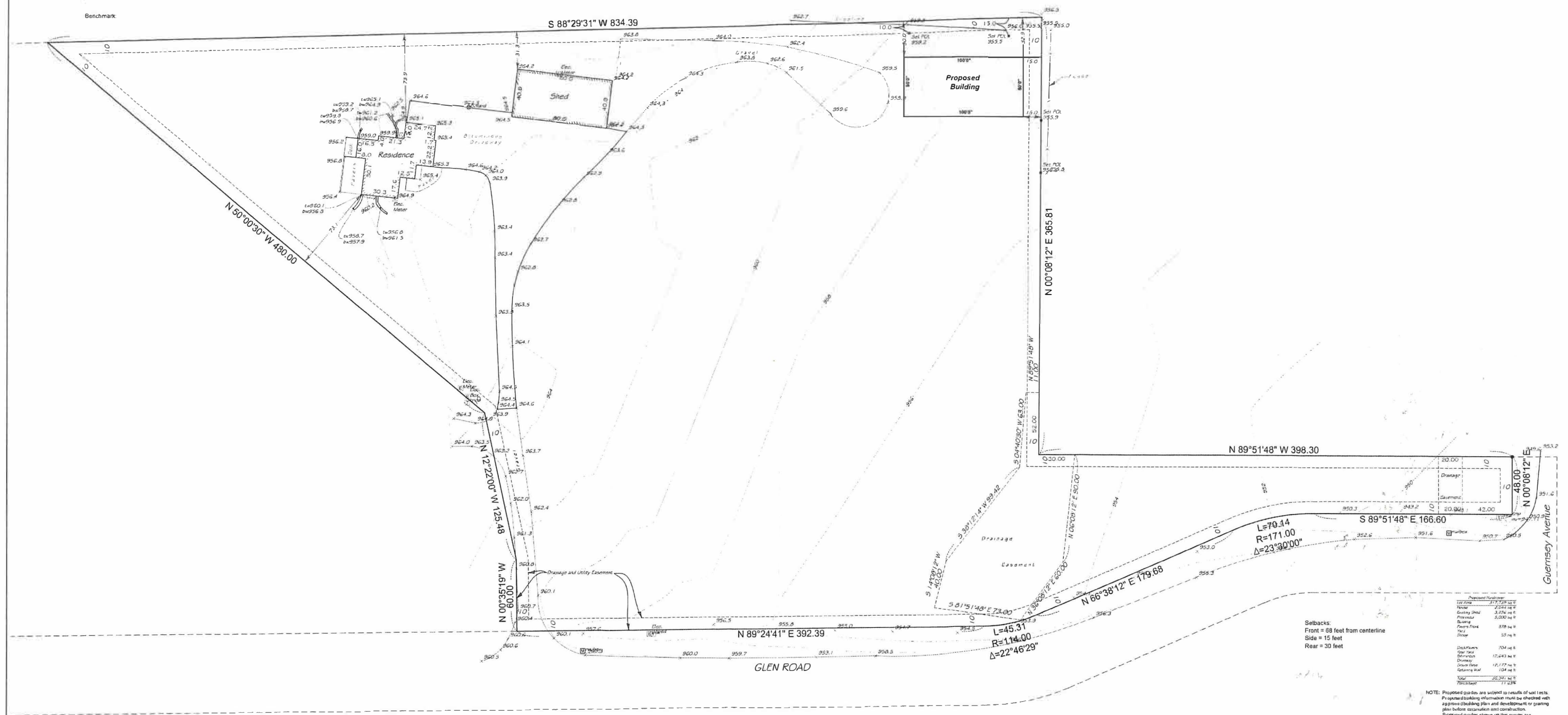
CYCLONE CONSTRUCTION

Property located in Section
1, Township 11S, Range 24,
Carver County, Minnesota

- Denotes Found Iron Monument
- Denotes Iron Monument
- Denotes Wood Hub Set for excavation only
- Denotes Existing Contours
- - - - - Denotes Proposed Contours
- Denotes Existing Elevation
- Denotes Proposed Elevation
- Denotes Surface Drainage

Basis for
bearing is
assumed

Benchmark



Setbacks:
Front = 33 feet from centerline
Side = 15 feet
Rear = 30 feet

Percent Runoff	
100' x 100'	1.75%
200' x 200'	2.54%
300' x 300'	3.32%
400' x 400'	4.09%
500' x 500'	4.86%
600' x 600'	5.63%
700' x 700'	6.40%
800' x 800'	7.17%
900' x 900'	7.94%
1000' x 1000'	8.71%
1100' x 1100'	9.48%
1200' x 1200'	10.25%
1300' x 1300'	11.02%
1400' x 1400'	11.79%
1500' x 1500'	12.56%
1600' x 1600'	13.33%
1700' x 1700'	14.10%
1800' x 1800'	14.87%
1900' x 1900'	15.64%
2000' x 2000'	16.41%

NOTE: Proposed grades are subject to results of soil tests.
If proposed building information must be checked with
approved building plan and development or grading
plan before excavation and construction.
Proposed grades shown on this survey are
representations of proposed contours from the
drainage, grading and/or development plans.
NOTE: The relationship between proposed floor
elevations to be verified by builder.
NOTE: The only easements shown are from plats of
record or information provided by client.

Legal Description Lot 2, Block 1, GLENS ADDITION Carver County, Minnesota	Project No. 90440 F.B.No. - Address: 5130 Glen Road Chaska, MN	Scale: 1" = 40' Drawn By: JS	I certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota. Surveyed this 25th day of July 2023.
DEMARC LAND SURVEYING & ENGINEERING 7501 73rd Avenue North Minneapolis, Minnesota 55428 (763) 560-3003 demarc@demarc.com			Signed: Gregory R. Prash Gregory R. Prash, Minn. Reg. No. 24992

August 17, 2023



Township Presentation & Recommendation Form

PARCEL # <u>04.125.0020</u>	Permit # <u>PZ 2023 0030</u>	
Owner's Name: <u>Ryan Seifert</u>	Owner's Mailing Address: <u>5330 Glen Rd</u>	
City: <u>Chaska</u>	Owner State: <u>MN</u>	Owner Zip: <u>55318</u>
Applicant (if other than owner): 	Site Address: <u>5330 Glen Rd</u>	

Type of Request:	☐ CUP	☐ IUP	☐ Preliminary Plat	☐ Final Plat	☒ Variance	☐ Appeal
Description of Request: <u>Requests variance to build a 50x100 outbuilding for storage</u>						
Date of County Public Hearing:	<u>9/6/23</u>	Date of Township Meeting:	<u>8/14/23</u>			

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:

****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]

Date

Signature of Applicant

[Signature]

Date 8-14-23

Signature of Township Official

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 04-125-0020

File# PZ20230030

APPLICANT/OWNER: Ryan J Seifert

* * * * *

Lot 2, Block 1, Glen's Addition, Carver County, Minnesota.

DRAFTED BY: Carver County Land Management Department

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

September 21, 2023

TO: Carver County Board of Adjustment & Camden Town Board

FROM: The Land Management Department

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

FILE #: PZ20230034

APPLICANT: Richard Haase

PROPERTY OWNERS: Richard Hasse & Karri Hasse

SITE ADDRESS: 10680 Yale Avenue, Norwood Young America, MN 55397

VARIANCE TYPE: Personal Storage Square Footage

PURSUANT TO: County Code Section 152.073 (A)(4)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 02-031-0210

BACKGROUND:

1. Richard and Karri Hasse own an approximate 5.05-acre parcel located in the Northeast Quarter (NE¼), of the Southeast Quarter (SE¼) of Section 31, Camden Township. The property has been improved with a single-family home built in 1884, an existing "hoop" machine shed, old dairy barn, and a grainary structure. There is an additional shed (approximately 24 feet x 24 feet) that is to be demolished later this year. The property is located in the Agricultural Zoning District and the Carver County Water Management Organization (CCWMO) – Crow River Watershed.
2. Mr. Hasse is requesting a variance to exceed the total allowable personal storage square footage on the subject property. The proposed building would be 32 feet x 48 feet (1,536 square feet), to replace a structure lost to storm damage. With the existing 4,000 square-foot "hoop" machine shed and existing 1,050 square-foot grainary shed, the total personal storage square footage on the parcel would be a total of 6,586 square feet. The existing dairy barn is not being included in the personal storage square-footage due to the nature of the use. The request would exceed the permitted personal storage square-footage by 1,586 square feet for a parcel of this size; therefore, a variance has been requested pursuant to Section 152.073 (A)(4) of the Carver County Zoning Code.
3. Previously, applicant requests for accessory structures exceeding the allowable square-footage area pursuant to the Zoning Code were processed as Conditional Use Permits (CUP's) and were reviewed by the Carver County Planning Commission. As part of the 2021 Zoning Code updates, 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 Section 152.215 (D) & (F) of the Zoning Code.

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.
- (4) Parcels greater than five acres and less than or equal to ten acres – a total of 5,000 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. The submitted site plan (dated: August 23, 2023) identifies the location of the structures that contain current personal storage square-footage on the property, totaling approximately 5,050 square feet. This includes the “hoop” machine shed (40 feet x 100 feet = 4,000 square feet), the grainary shed to the north measuring 35 feet x 30 feet (1,050 square feet). The site plan also shows the location of a shed that fell during a winter storm in early 2023, and a shed that it is to be demolished later this year. The Zoning Code allows a parcel of this size a total of 5,000 square feet of personal storage area to be permitted in a combination of attached garage and accessory structure(s). The proposed 32-foot x 48-foot (1,536 square-foot) accessory structure would increase the amount of personal storage square footage to 6,586 square feet; or approximately 1,586 square feet more than the Zoning Code allows without a variance on a property of this size.
2. The applicants’ letter (dated September 5, 2023) states the proposed accessory structure would contain items that were in the shed that was damaged by a storm: tractors, a horse trailer, lawn care equipment, and some farm-related equipment that Mr. Hasse is currently storing off-site. The narrative also elaborates on the need and practical difficulty associated with the property’s size and shape. *“Our lot is unique shaped and addition additional acreage would take cropland out of production. We are utilizing the space we already have and demoing the building that can no longer be used.”* He stated that they are hoping to store all equipment indoors on the property for security and protection from the elements.
3. The proposed structure would be constructed near the middle of the property in a location that would meet all required setbacks to property lines and the property’s approved replacement septic system. The location was chosen to be close to the other structures, especially the animal barn and to have access to the existing driveway.
4. On September 15, 2023, Jacob McLain, Senior Environmentalist with Carver County Environmental Services, reviewed the application materials and confirmed that a replacement Subsurface Sewage Treatment System (SSTS) design has been submitted, reviewed, and approved by the Department. Environmental Services sees no concerns with the proposed location of the accessory structure.
5. The plight of the landowner is due to circumstances created by the landowner. The applicant purchased the property in 1991 and the lot acreage only provides a limited amount of personal storage space. The current parcel configuration was subdivided from the surrounding farmland in 1988 to include the building site and 5.05 acres. The standard established in the Zoning Code is 5,000 square feet maximum for allowable personal storage square footage for parcels greater than five acres and less than or equal to ten acres. However, each variance application request is based on its own merit, property uniqueness, and reasons described by the applicant.
6. 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.

7. 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 it would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
8. The Camden Town Board reviewed and recommended approval of the request during their September 14, 2023, Town Board meeting. The Board did not have any additional comments or conditions.

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)(4) 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:

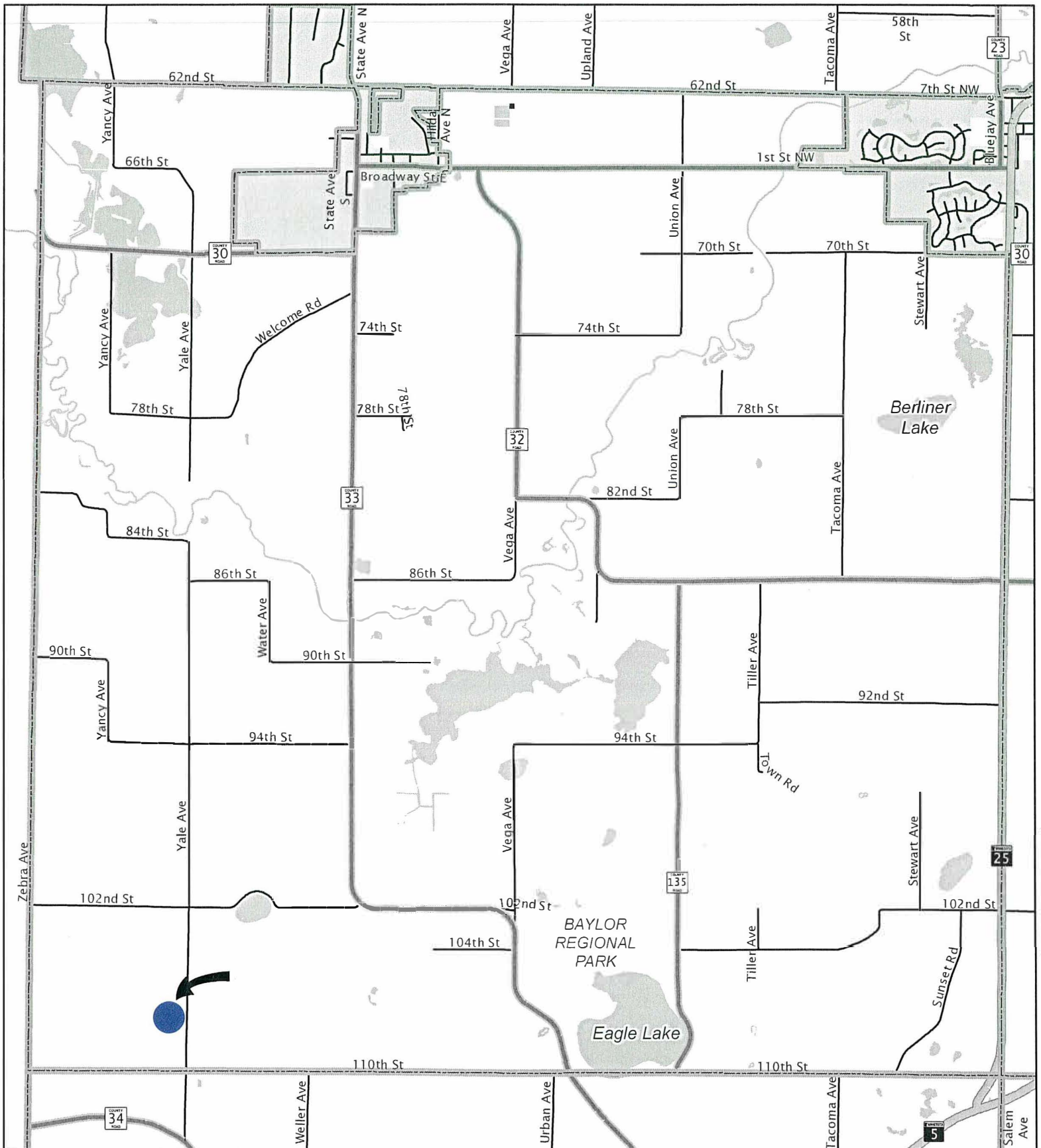
1. The permit is subject to administrative review. The proposed structure shall be used only by the occupant(s) of the residence for personal storage, hobbies, recreation, entertainment, family uses, private maintenance and repair activities, and as otherwise regulated by this Ordinance. Guest quarters 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, existing buildings, and Subsurface Sewage Treatment System (SSTS) locations.
3. No additional accessory structures or additions shall be allowed, based on the total personal structure square footage currently allowed on the property, without the approval and issuance of a new 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.

CAMDEN 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. 31, T.116, R.26



Surveying & Mapping Office
Carver County Gov. Center
600 East Fourth Street
Chaska MN 55318

9/5/23

Dear Camden Township and Carver County Board of Adjustment:

We are writing the letter to request approval for a building variance to replace the loss of one of our storage sheds because of storm damage. The shed that we lost was 26' x 45'=1,170 sq feet. The variance request is to construct a 32' x 48'=1,536 sq ft storage shed. Our lot size is 5.05 acres which only allows for 5,000 sq ft of storage. We currently have a building 35' x 30'= 1,050 sq ft, and a hoop building 40' x 100' = 4,000 sq ft. The proposed total square footage is 6,586 square feet. The Carver County Zoning Code allows up to 5,000 square feet of personal storage for a parcel of this size (larger than 5 acres, but less than 10). The request is for a variance of 1,586 square feet of storage.

Our lot is unique shaped and adding additional acreage would take cropland out of production. We are utilizing the space we already have and demoing the building that has the storm damage and can no longer be used.

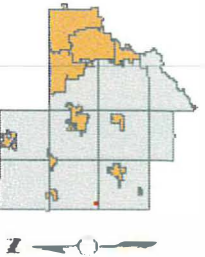
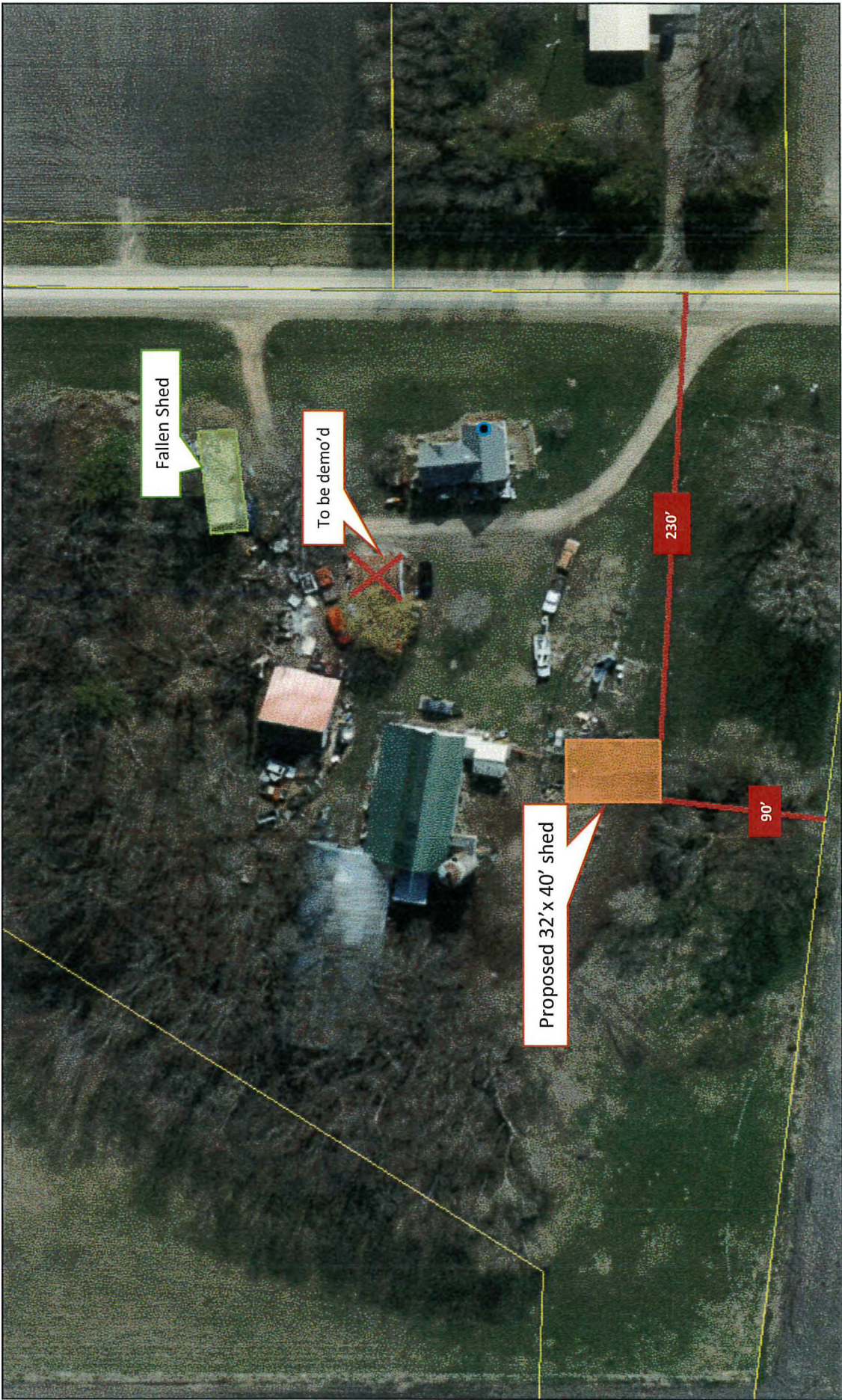
We will be using this building to store the items that were in the shed that has the storm damage, tractors, a horse trailer, lawn care equipment, and other farm related equipment, some of which are currently stored off the property.

With approval we will be able to store all our equipment and trailers inside and on our property.

Thank you,

Richard and Karri Hasse
10680 Yale Ave
Norwood Young America, MN. 55397
(952) 913-1284
richardhasse@hotmail.com

HASSE SHED



Date: 9/21/2023
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CARVER
COUNTY

Township Presentation & Recommendation Form

PARCEL # 02-031-0210

Permit # PZ20230034

Owner's Name:
Richard Hasse

Owner's Mailing Address:
10680 Yale Ave

City:
Young America

Owner State:
Minnesota

Owner Zip:
55397

Applicant (if other than owner):

Site Address:

Type of Request: ☐ CUP ☐ IUP ☐ Preliminary Plat ☐ Final Plat ☒ Variance ☐ Appeal

Description of Request:

Addional personal storage square footage

Date of County Public Hearing: 10-4-23

Date of Township Meeting: 9-14-23

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:

****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.

Richard Hasse
Signature of Applicant

Date 9-14-23

William Deane
Signature of Township Official

Date 9-14-23

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 02-031-0210

File# PZ20230034

APPLICANTS/OWNERS: Richard W Hasse & Karri L Hasse

* * * * *

That part of the Northeast Quarter of the Southeast Quarter of Section 31, Township 116, Range 26, Carver County, Minnesota, described as follows: Commencing at the Northeast corner of said Northeast Quarter of the Southeast Quarter; thence on an assumed bearing of South 00 degrees 00 minutes 00 seconds West along the east line of said Northeast Quarter of the Southeast Quarter, a distance of 241.71 feet to the point of beginning; thence North 90 degrees 00 minutes 00 seconds West, a distance of 313.69 feet; thence South 31 degrees 58 minutes 00 seconds West, a distance of 348.43 feet; thence North 88 degrees 17 minutes 00 seconds West, a distance of 274.84 feet; thence South 01 degrees 43 minutes 00 seconds West, a distance of 90.00 feet; thence South 83 degrees 17 minutes 00 seconds East, a distance of 780.93 feet to the east line of said Northeast Quarter of the Southeast Quarter; thence North 00 degrees 00 minutes 00 seconds East along said east line, a distance of 468.66 feet to the point of beginning.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

September 21, 2023

TO: Carver County Board of Adjustment & Waconia Town Board

FROM: The Land Management Department

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

FILE #: PZ20230037

APPLICANTS: Tom & Krystal Swartzter

PROPERTY OWNERS: Thomas Swartzter & Krystal Swartzter

SITE ADDRESS: 10970 Polk Ave, Cologne, MN 55322

VARIANCE TYPE: Personal Storage Square Footage

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

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 09-033-1800

BACKGROUND:

1. Tom & Krystal Swartzter own an approximate 16-acre parcel located in the Southeast Quarter (SE¼) of the Southwest Quarter (SW¼) of Section 33, Waconia Township. The property is currently improved with the construction of a single-family home and contains tilled acreage. The property is located in the Agricultural Zoning District and the Carver County Water Management Organization (CCWMO) – Carver Creek Watershed.
2. The Swartzters are requesting a variance to exceed the total allowable personal storage square footage on the subject property. The proposed building would be 60 feet x 120 feet (7,200 square feet) and with 980 square feet of attached garage space (above the 624 square-foot credit), the total personal storage square footage on the parcel would be a total of 8,180 square feet. The request would exceed the permitted personal storage square-footage by about 1,180 square feet for a parcel of this size; therefore, a variance has been requested pursuant to Section 152.073 (A)(5) of the Carver County Zoning Code.
3. Previously, applicant requests for accessory structures exceeding the allowable square-footage area pursuant to the Zoning Code were processed as Conditional Use Permits (CUP's) and were reviewed by the Carver County Planning Commission. As part of the 2021 Zoning Code updates, 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 Section 152.215 (D) & (F) of the Zoning Code.

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. The Certificate of Survey (dated: July 6, 2023) identifies the location of the dwelling under construction and the proposed shed. The proposed shed is 60 feet x 120 feet in size and the home includes a 1,604-square foot attached garage for a total of 8,804 current and proposed personal storage square footage. Given that the Zoning Code allows a credit for attached garage space up to 624 square feet, the total amount of attached garage personal storage square-footage under construction is 980. 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 attached garage and accessory structure(s). The proposed 7,200-square foot accessory structure would increase the amount of personal storage square footage to 8,180 square feet; or approximately 1,200 square feet more than the Zoning Code allows without a variance on a property of this size.
2. The applicants' letter (dated September 8, 2023) states the proposed accessory structure would shelter "*personal property for recreational use, and personal use items needed to maintain the property.*" Regarding the use, Mr. Swartzner's narrative states: "*I do not intend to rent any space nor run any business operations in the space.*"
3. The proposed structure would be constructed in the southwest corner of the property in a location that would meet all required setbacks to property lines and the property's septic system.
4. Lori Brinkman, Carver County Senior Environmentalist – Subsurface Sewage Treatment Systems (SSTS), reviewed the application materials and in an email dated September 14, 2023, noted: "*The holding tank and household SSTS were constructed with connection to the shop in mind.*"
5. Kristen Larson, Carver County Water Resources Program Analyst, with the CCWMO, reviewed the materials and in an email dated September 13, 2023, commented:
 - *Based on the amount of impervious/hard surface proposed on the site, a stormwater permit from the CCWMO will be required. A stormwater permit is required when 1.0 acres or more of new impervious surface is created on the site. Submitted information shows that 1.14 acres of impervious are proposed to be added to the site.*
 - *A stormwater permit requires best management practices to treat stormwater runoff from impervious surfaces on the site to improve water quality, control the rate of discharge, and control volume. Example best management practices include ponds, filtration swales, rain gardens, etc.*
 - *Additional information is available on the county's website here: [Permits | Carver County, MN](#) (carvercountymn.gov)*
 - *If you have questions, please contact Kristen Larson (klarson@co.carver.mn.us; 952.361.1824) or Tim Sundby (tsundbv@co.carver.mn.us; 952.361.1816)*
6. The plight of the landowner is due to circumstances created by the landowner. The applicant purchased the property, previously almost entirely tilled land, in 2021 and the lot acreage only provides a limited amount of personal storage space. The standard established in the Zoning Code is 7,000 square feet maximum for allowable personal storage square footage for parcels greater than ten acres. However, each variance application request is based on its own merit, property uniqueness, and reasons described by the applicant.

7. 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.
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 it would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
9. The Waconia Town Board reviewed and recommended approval of the request during their August 28, 2023, Town Board meeting. The Board did not have any additional comments or conditions.

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:

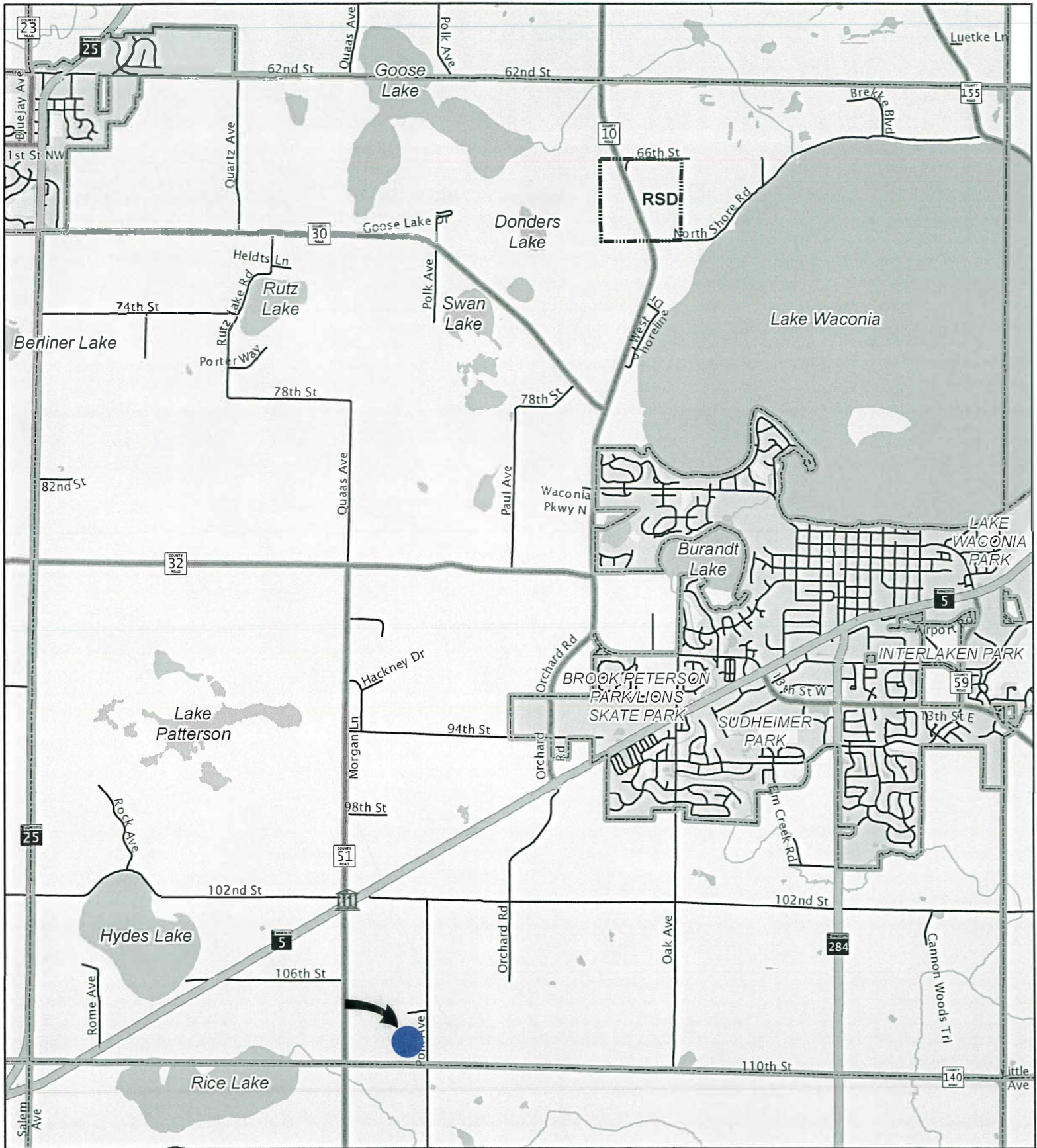
1. The permit is subject to administrative review. The proposed structure shall be used only by the occupant(s) of the residence for personal storage, hobbies, recreation, entertainment, family uses, private maintenance and repair activities, and as otherwise regulated by this Ordinance. Guest quarters 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, existing buildings, Subsurface Sewage Treatment System (SSTS) locations, and CCWMO standards and required permitting.
3. No additional accessory structures or additions shall be allowed, based on the total personal structure square footage currently allowed on the property, without the approval and issuance of a new 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.

WACONIA TOWNSHIP



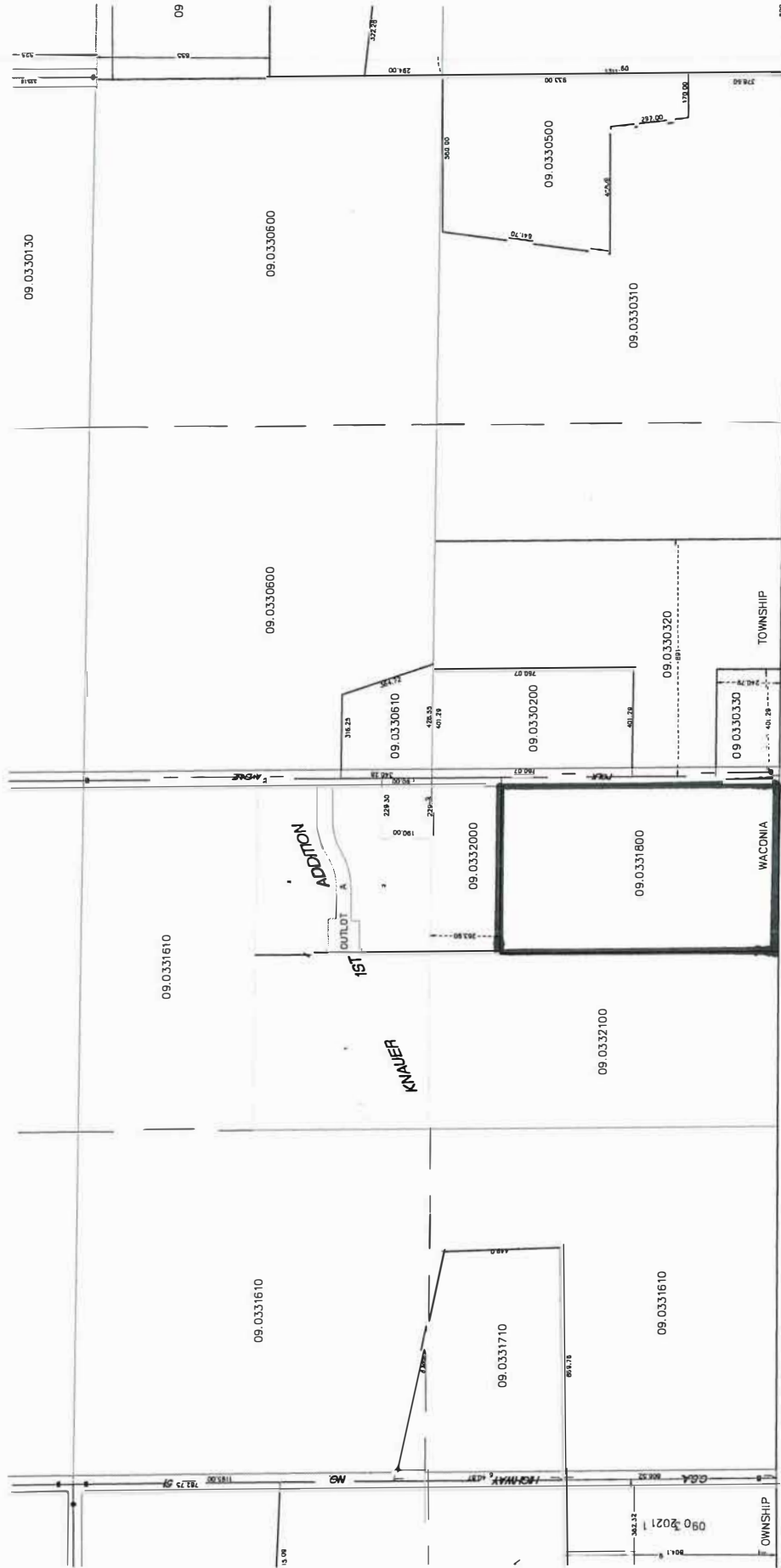
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Map Created by Carver County GIS

THIS IS NOT A LEGALLY RECORDED PLAT.
 IT IS A PRELIMINARY PLAT FOR INFORMATIONAL PURPOSES ONLY.
 AS SUCH, IT DOES NOT CONSTITUTE A LEGALLY RECORDED PLAT.
 IT IS THE POLICY OF THE CARVER COUNTY ENGINEERING DEPARTMENT
 TO PROVIDE THIS INFORMATION TO THE PUBLIC FOR INFORMATIONAL
 PURPOSES. THE COUNTY AND ITS AGENTS
 MAKE NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED,
 INCLUDING BUT NOT LIMITED TO, THE ACCURACY OF THE INFORMATION
 CONTAINED HEREIN.

S 1/2 SEC. 33, T.116, R.25





September 8, 2023

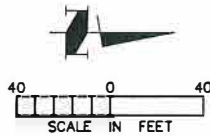
10970 Polk Ave
Cologne, MN 55322

Dear Recipient:

I am seeking an approximately 1200 sq ft variance on my 17-acre property on Polk Ave in Waconia Township to construct a 60' x 120' shed. I am intending to store personal property for recreational use, and personal use items needed to maintain the property. I do not intend to rent any space nor run any business operations in the space.

Sincerely,

Tom Swartzner



Legal Description:

The East Half of the Southeast Quarter
of the Southwest Quarter, except for the
North 263.90 feet thereof, of Section 33,
Township 116, Range 25, Carver County

BUILDING SETBACKS PER CLIENT.
68 FEET FROM CL OF POLK AVE
SIDE: 15 FEET
REAR: 30 FEET

(1001.70) = FINISHED GARAGE FLOOR ELEVATION
(1002.03) = TOP OF FOUNDATION ELEVATION
(993.36) = BASEMENT FLOOR ELEVATION

CONTOURS PER LIDAR

LOT AREA : 696,196 SQ. FT.
HOUSE AREA : 3,881 SQ. FT.
DECK AREA : 617 SQ. FT.
PORCH AREA : 250 SQ. FT.
SHED AREA : 7,200 SQ. FT.
DRIVEWAY AREA : 37,534 SQ. FT.
SIDEWALK AREA : 76 SQ. FT.

- LEGEND**
- DENOTES EXISTING ELEVATION
 - (○○○.○) DENOTES PROPOSED ELEVATION
 - .○ DENOTES AS BUILT ELEVATION
 - DENOTES DIRECTION OF SURFACE DRAINAGE
 - DENOTES IRON MONUMENT FOUND
 - DENOTES IRON MONUMENT SET
 - DENOTES WOOD HUB
 - ⊙ DENOTES NAIL
 - ⊠ DENOTES EXISTING UTILITY BOX
 - ⊞ DENOTES EXISTING POWER POLE
 - ⊟ DENOTES EXISTING LIGHT POLE
 - ⊠ DENOTES EXISTING STORM MANHOLE
 - ⊠ DENOTES EXISTING CATCH BASIN
 - △ DENOTES EXISTING F.E.S.
 - ⊞ DENOTES EXISTING HYDRANT
 - ⊞ DENOTES EXISTING SERVICE OR CLEANGUT
 - ⊞ DENOTES EXISTING SANITARY MANHOLE
 - ⊞ DENOTES EXISTING CONSERVATION POST
 - ⊞ DENOTES EXISTING WET LAND BUFFER POST
 - ⊞ DENOTES EXISTING TREE
 - ⊞ DENOTES EXISTING RETAINING WALL
 - ⊞ DENOTES PROPOSED RETAINING WALL
 - ⊞ DENOTES EXISTING TREELINE
 - ⊞ DENOTES EXISTING FENCE

1. No specific soils investigation has been performed on this tract by the surveyor. The suitability of the soils to support the specific house is not the responsibility of the surveyor.
2. No title information was provided for this survey. This survey does not purport to show all easements of record.
3. See architectural plans for final building dimensions.

PROBE ENGINEERING
CONSULTING ENGINEERS,
PLANNERS AND LAND SURVEYORS
COMPANY, INC.
1000 EAST 148th ST., STE. 240, BURNSVILLE, MN 55337 PH (952)432-3000

I hereby certify that this is a true and correct representation of a tract as shown and described hereon. As prepared by me or under my direct supervision and that I am a duly licensed Land Surveyor under the laws of the State of Minnesota.
Russell P. Damlo
RUSSELL P. DAMLO Minn. Reg. No. 19086 Date 3-28-2023

REVISIONS:
7-8-2023 ADDED HOUSE STAKE INFORMATION
5-1-2023 ADDED SEPTIC SITES
4-26-2023 REVISED DRIVEWAY
4-17-23 ADDED EXISTING FIELD INFORMATION

CERTIFICATE OF SURVEY

PREPARED FOR:
KRYSTAL SWARTZER

PROJECT NO. 18138.00
ADDRESS:
BUYERS:



Township Presentation & Recommendation Form

PARCEL #	09.033.1800	Permit #	PZ 2023 0037
Owner's Name:	Owner's Mailing Address:		
TOM & KRISTAL SWARTZER	1025 RIVER ROCK DR		
City:	Owner State:	Owner Zip:	
CARVER	MN	55315	
Applicant (if other than owner):	Site Address:		
	10070 POLK AVE, COLOGNE, MN 55322		

Type of Request:	☐ CUP	☐ IUP	☐ Preliminary Plat	☐ Final Plat	☒ Variance	☐ Appeal
Description of Request:						
TO BUILD A 60' X 120' SHED FOR PERSONAL USE ONLY						

Date of County Public Hearing:	9/18/23	Date of Township Meeting:	10/4/23
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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:

****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.

Tam Swartz

Signature of Applicant

Date

Date

8-28-23

Signature of Township Official

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 09-033-1800

File# PZ20230037

APPLICANTS/OWNERS: Thomas Swartzter & Krystal Swartzter

*** * * * ***

The East Half of the Southeast Quarter of the Southwest Quarter, Section 33, Township 116,
Range 25, EXCEPT the North 263.90 feet thereof, Carver County, Minnesota.

DRAFTED BY: Carver County Land Management Department

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

September 21, 2023

TO: Carver County Board of Adjustment & Hollywood Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (Road Frontage and Width/Depth Ratio)

FILE #: PZ20230036

APPLICANT: Nicholas J. Kubasch

PROPERTY OWNERS: Gary J. Kubasch, Travis W. Kubasch, and Jason R. Kubasch

SITE ADDRESS: 18030 Hwy. 7, New Germany, MN 55367

VARIANCE TYPE: Reduced Road Frontage and Width-to-Depth Ratio

PURSUANT TO: County Code Sections 152.033 (D) (1) & (4)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCELS #: 06-029-1210

BACKGROUND:

1. Gary, Travis, and Jason Kubasch are the owners of an approximate 106.23-acre parcel located in the East Half (E½) of the Southwest Quarter (SW¼) & West Half (W½) of the Northwest Quarter (NW¼) of the Southeast Quarter (SE¼) & South Half (S½) of the Southeast Quarter (SE¼) of the Northwest Quarter (N¼) of Section 29, Hollywood Township. The property consists of tilled land, pasture and some wetlands. The property is located in the Agricultural Zoning District and the Carver County Water Management Organization (CCWMO) - Crow River watershed. The applicant Nicholas Kubasch resides at the longtime homestead for the agricultural parcel. The homestead parcel (PID 06-029-1200) consists of two dwellings and multiple agricultural buildings and accessory structures. The property was issued CUP #9027 in 1993 declaring the approximate 13.7-acre parcel a farm for zoning purposes. The second residence is a mobile home which is planned to be removed.
2. The applicant is requesting a variance that would allow for a Minor Subdivision to expand the homestead parcel by about 19.7 acres into the adjacent agricultural parcel. The proposed homestead parcel's dimensions would be conforming; however, the remnant agricultural parcel would only have approximately 235 feet of road frontage, thus possessing inadequate public road frontage (approximately 265 feet less than required) along with an excessive width-to-depth ratio. Therefore, a variance has been requested pursuant to Sections 152.033 (D) (1) & (4) of the Carver County Zoning Code.

LEGAL BACKGROUND:

§ 152.033 LOT REQUIREMENTS.

- (A) *Generally.* A new lot shall not be created unless it conforms to all of the following requirements. Any action that changes the size, configuration, or shape of a lot is considered to be creating a new lot. The only exception is where changes are being made to correct discrepancies in a legal description or to recognize actual occupation.
- (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 of a specified lot 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) be completed for any subdivision request that does not meet the criteria for the minor subdivision as follows: the subdivision must meet the frontage requirement on an existing road; and the subdivision would not require the construction of any public improvements or new road. The approval of the variance would negate the major subdivision requirement.
2. The applicant is proposing to expand the size of the homestead parcel and reduce the size of the agricultural parcel pursuant to a site plan dated September 4, 2023. The homestead parcel, proposed to be a total size of approximately 33.5 acres, with about 8 acres of tilled land and the rest consisting of pasture and wetlands. The resulting approximate 86.4-acre agricultural parcel would consist almost entirely of land in active agricultural production and some pasture land along Hwy 7. There is an existing field access for the remnant agricultural parcel. The dimension of road frontage for the proposed agricultural parcel does not meet the minimum 500-foot standard for a lot of this depth (about 3,300'), nor does it supply the required width to depth ratio. The homestead parcel with the home would be a legal conforming parcel and would meet all applicable County Zoning Code requirements.
3. The applicant's letter dated September 4, 2023, states their reasons for the homestead parcel expansion: *"1) We want to square up the property, 2) We want a buffer around our home, 3) This property has been in the family for 123 years. I am the 5th generation and my son is 6th generation to be raised on the farm, and we want to keep as much of that history as we can, 4) We want this additional property to continue use as hay crop and for the potential use as pasture in the future."* Addressing the evaluation criteria, Nicholas' letter notes:
"Granting us this variance is not going to affect the integrity of the current property. This will still be an agricultural piece of land, with no intent of development. Ideally, we would have preferred to purchase all the land the western border of this parcel; however, we knew that the buyer of the northern section of this parcel (most of the tillable) would need access to his land. Therefore, we reduced that amount we are purchasing in order to grant him adequate access."
4. Lori Brinkman, Carver County Senior Environmentalist – Subsurface Sewage Treatment Systems (SSTS), reviewed the variance request and reported in an email (dated September 8, 2023): *"If the mobile structure is removed, the 2-bedroom mound (mobile structure SSTS) could be preserved for future use and be considered the alternate location provided it passes a compliance inspection and soil borings show that it can be expanded into a 4 bedroom mound to match the house sizing. The septic tanks associated with that mound would have to be abandoned when the mobile home is demolished or removed."* If the variance is obtained, the minor subdivision review requires that the septic information be submitted for review and approval.
5. The subject properties are located on Hwy. 7 where MNDOT is the road authority. Variance application materials were sent to MNDOT for review. No review comments were received at the time this staff report was written.
6. The plight of the landowner is due to circumstances created by the landowner to expand the homestead lot. However, each variance application request is based on its own merit, property uniqueness, and reasons described by the applicant. As confirmed in his narrative, the applicant seeks to use the land in reasonable manner for which it has been used for decades.
7. The applicant is proposing to use the property in harmony with the general purpose and intent of the official control. The official control in this matter is to ensure adequate access is provided for the agricultural parcel. Although the proposal does not meet the road frontage standard, expanding the parcel on which dwellings and accompanying accessory structures are located, with only a marginal reduction of acreage from the agricultural parcel, appears to be a reasonable request and meets the lot configuration standards for the homestead parcel, as well as the intent of the regulations.
8. The granting of the variance does not appear to be in conflict with the intent of the Comprehensive Plan and would not alter the character of the neighborhood. No Building Eligibilities would be attached to the agricultural parcel.

9. The neighborhood is comprised of agricultural uses, scattered residences, open fields, and tree lines. 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. The Hollywood Town Board reviewed the request and recommended approval at their September 11, 2023, Town Board meeting without the addition of further conditions.

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 excessive width/depth ratio on the property would serve in the interest of justice, the following condition should be attached to the approved variance:

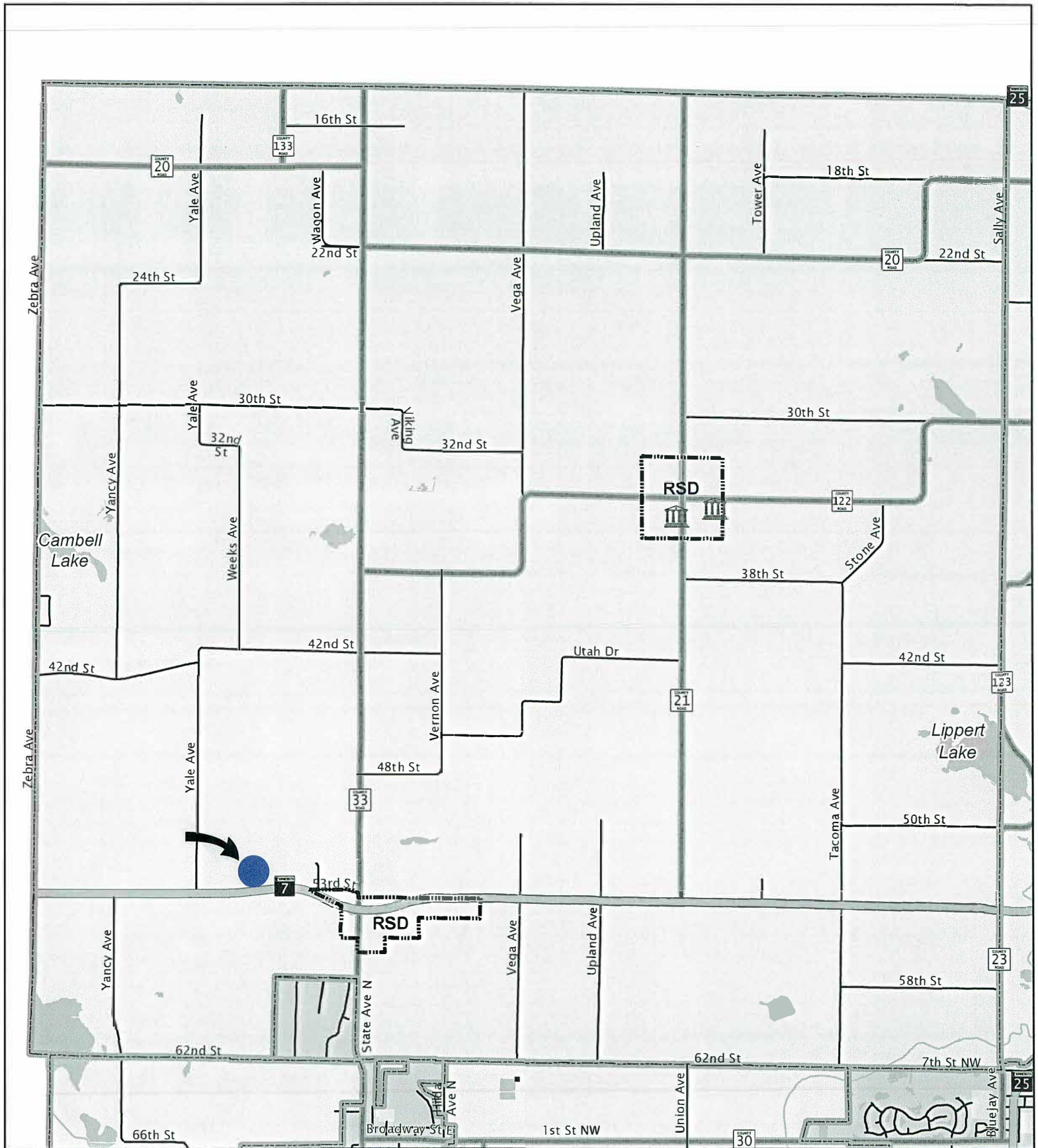
1. A Minor Subdivision application shall be submitted and approved prior to the recording of any deed(s). The parcels shall be subdivided in accordance with the County Zoning Code requirements including by not limited to, a completed Minor Subdivision Application, Survey, and SSTS Compliance.
2. The subject properties shall comply with MNDOT access requirements and obtain access permit(s), if necessary.

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

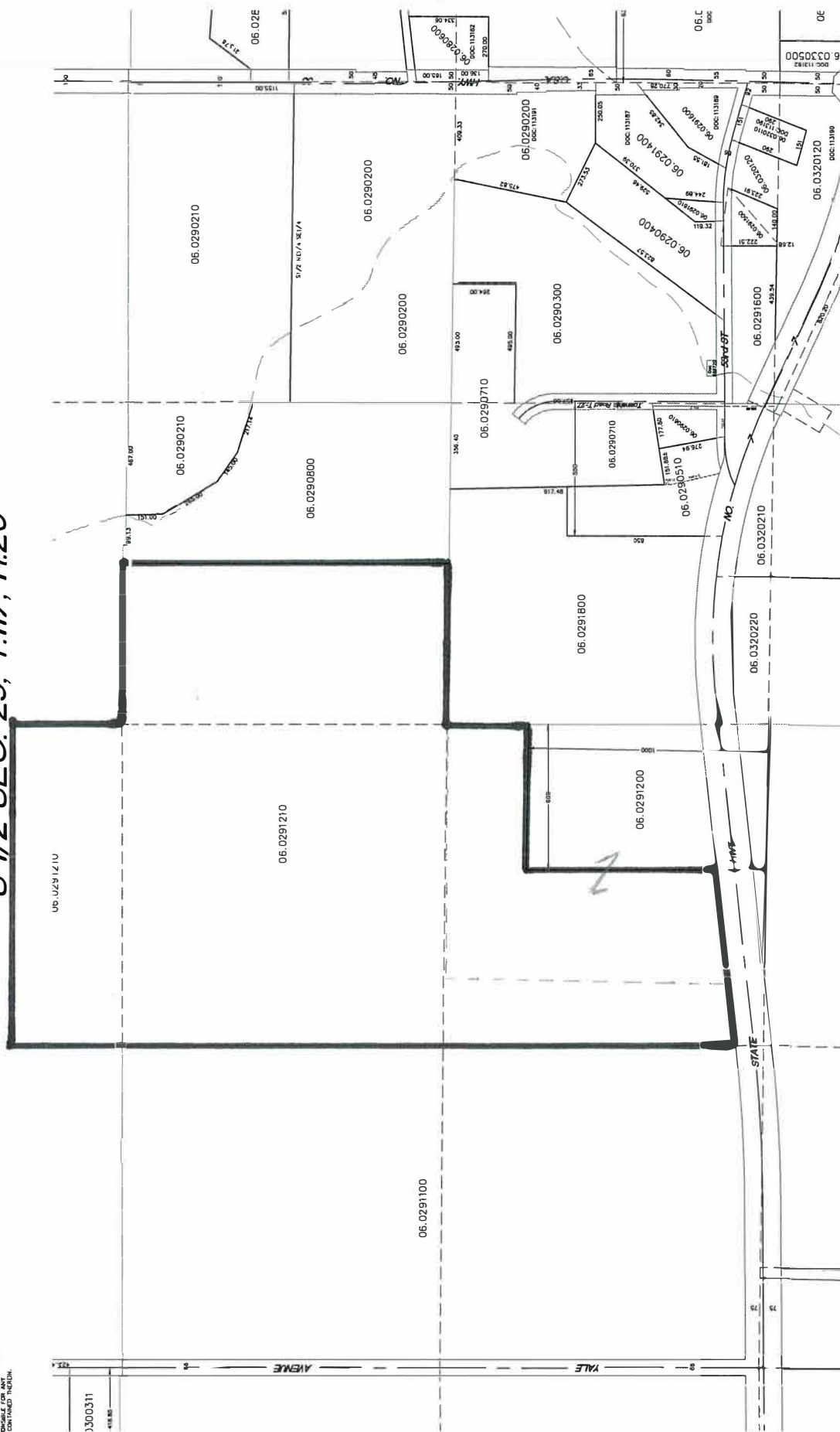


This map was created using Carver County's Geographic Information Systems (GIS). It is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible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



Map Created by Carver County GIS

S 1/2 SEC. 29, T.117, R.26



Surveying & Mapping Office
Carver County Gov. Center
600 East Fourth Street
Chaska MN 55318

JUL 27 2002

September 4, 2023

Dear Carver County Board of Adjustment,

We are writing to request a variance for parcel # 060291210, located in New Germany MN, Hollywood Township. The section of zoning code that we are requesting a variance on is 152.033 Lot Requirements parts 2 & 4. We are requesting that the 500' required for width to depth ratio is reduced to 235' in this instance.

Gary, Travis, & Jason Kubasch are the current owners of this parcel. They are selling approximately 107 acres. I am the son/nephew of these three and will be buying the 13 acre homestead (not included in the 107) from Gary & Lori (parents). My wife and I are buying an additional 19+/- acres from Gary/Travis/Jason. We are purchasing the additional acreage for several reasons: 1) we want to square up the property, 2) we want a buffer around our home, 3) this property has been in the family for 123 years. I am 5th generation and my son is 6th generation to be raised on the farm, and we want to keep as much of that history as we can, 4) we want this additional property to continue use as hay crop and for the potential use as pasture in the future.

Granting us this variance is not going to affect the integrity of the current property. This will still be an agricultural piece of land, with no intent of development. Ideally we would have preferred to purchase all the land to the western border of this parcel; however, we knew that the buyer of the northern section of this parcel (most of the tillable) would need access to his land. Therefore, we reduced the amount we are purchasing in order to grant him adequate access. The purchaser of this other portion, agreed and has no issue with the 235' that we are requesting a variance for.

Thank you for your consideration on this request,

Nick & Alissa Kubasch

SE 1/4 of the NW 1/4



Kubasch Farm
Section 29, T117N-R26W
Parcel 060291210

Sept. 4, 2023

NE 1/4 of the SW 1/4

Proposed Residual Parcel
88.5± Acres

NW 1/4 of the SE 1/4

Proposed Expansion
of Building Site
19.8± Acres

235'

500'

235'

235±

SE 1/4 of the SW 1/4

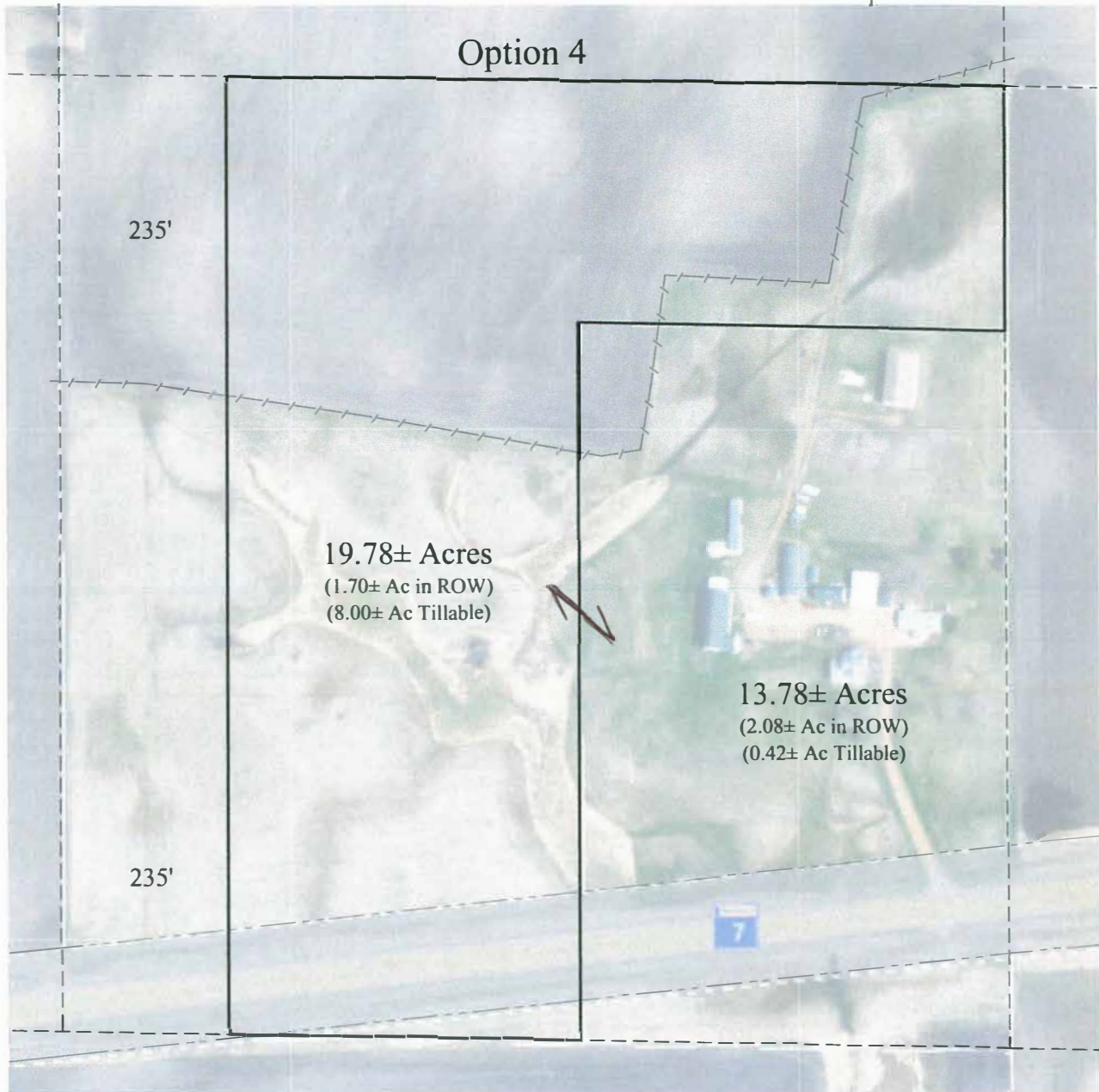
Existing Building Site
13.8± Acres

State Highway 7

491±

600±

Sept. 4, 2023



CARVER
COUNTY

Township Presentation & Recommendation Form

PARCEL # <u>060291210</u>	Permit # <u>P2023036</u>
Owner's Name: <u>Gary Travis & Jason Kubasch</u>	Owner's Mailing Address: <u>2251 105th St</u>
City: <u>Lester Prairie</u>	Owner State: <u>MN</u> Owner Zip: <u>55354</u>
Applicant (if other than owner): <u>Nicholas Kubasch</u>	Site Address: <u>18030 Hwy 7, New Germany MN 55367</u>

Type of Request: ☐ CUP ☐ IUP ☐ Preliminary Plat ☐ Final Plat ☒ Variance ☐ Appeal
Description of Request: Attached
Date of County Public Hearing: <u>Oct. 4, 2023</u> Date of Township Meeting: <u>Sept 11, 2023</u>

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:

****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]
Signature of Applicant

[Signature]
Signature of Township Official

Date 9/4/2023

Date 9/11/23

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 06-029-1210

File# PZ20230036

**APPLICANTS/OWNERS: Gary J Kubasch, Travis W Kubasch &
Jason R Kubasch**

*** * * * ***

The East Half of the Southwest Quarter and the South 20 acres of the Southeast Quarter of the Northwest Quarter, EXCEPTING THEREFROM the East 600 feet of the South 1000 feet of the said East Half of the Southwest Quarter of Section 29, AND the West Half of the Northwest Quarter of the Southeast Quarter all in Section 29, Township 117 North of Range 26 West. And also subject to easement for Highway 7 across the South 20 acres in the Southeast Quarter of the Southwest Quarter of Section 29, Township 117, Range 26, as shown on easement Book 43 of Deeds Page 408.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

September 21, 2023

TO: Carver County Board of Adjustment & Young America Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (Road Frontage, Width/Depth Ratio, Township Cartway Extension)

FILE #: PZ20230035

APPLICANTS: David and Phyllis Johnson

PROPERTY OWNERS: David R. Johnson & Phyllis E. Johnson (Revocable Trust)

SITE ADDRESS: 15585 114th Street, Norwood Young America, MN 55397

VARIANCE TYPE: Reduced Road Frontage and Width-to-Depth Ratio, Township Cartway (road) Extension

PURSUANT TO: County Code Sections 152.033 (D)(1) & (4)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCELS #: 11-002-0600

BACKGROUND:

1. David and Phyllis Johnson are the owners and residents of an approximate 80-acre parcel located in the East Half (E½) of the Southwest Quarter (SW¼) of Section 2, Young America Township. The property consists of a single-family dwelling, several accessory structures, an un-named DNR-protected watercourse, and some wetlands. The property is located in the Agricultural Zoning District, Shoreland Overlay District, and the Carver County Water Management Organization (CCWMO) - Crow River watershed.
2. The applicants are requesting a variance that would allow for a Minor Subdivision to create a residential lot. Lacking adequate road frontage and having significant lot depth, the dimensions of the proposed parcels would not be conforming. As a partial remedy, the applicant has proposed a dedicated township cartway extension to provide road frontage and access for both lots. The proposed residential parcel would have approximately 344 feet of road frontage and the remnant parcel with the existing dwelling would have approximately 175 feet, possessing an excessive width-to-depth ratio. Therefore, a variance has been requested pursuant to Sections 152.033 (D) (1) & (4) of the Carver County Zoning Code.

LEGAL BACKGROUND:

§ 152.033 LOT REQUIREMENTS.

- (A) *Generally.* A new lot shall not be created unless it conforms to all of the following requirements. Any action that changes the size, configuration, or shape of a lot is considered to be creating a new lot. The only exception is where changes are being made to correct discrepancies in a legal description or to recognize actual occupation.
- (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 of a specified lot 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) be completed for any subdivision request that does not meet the criteria for the minor subdivision as follows: the subdivision must meet the frontage requirement on an existing road; and the subdivision would not require the construction of any public improvements or new road. The approval of the variance would negate the major subdivision requirement.

2. Mr. and Mrs. Johnson are proposing to split off an approximate 10-acre residential parcel (with 1 building eligibility) on the northern portion of their currently 80-acre lot, as shown in the site plan dated September 6, 2023. The site would consist of wooded areas and some tillable acreage which would not contain more than 2 acres of prime agricultural soils in active production (conforming parcel). The remnant parcel with the existing house, accessory buildings, wooded area, wetlands, and large portion of tillable production acreage would consist of approximately 70 acres. The site plan shows an area of about 454 feet x 66 feet that the Johnsons propose to dedicate to Young American Township in order to provide road frontage and access to the proposed and remnant parcels. The dedicated right-of-way extension would not need to be upgraded to current township road standards but would be privately maintained until such time as the Township agrees to maintain the extended access.
3. The proposed residential lot would have approximately 344 feet of frontage on the dedicated town cartway and the remnant parcel with the existing house would have approximately 175 feet. With the proposed cartway extension the proposed residential lot would have adequate road frontage and allowable width-to-depth ratio; however, the remnant parcel with the house would not have adequate road frontage and permissible width-to-depth ratio.
4. The applicant's letter dated September 7, 2023, describes the circumstances of the variance request. If approved the Johnsons would sell the proposed residential parcel to their grandson. The practical difficulty with subdividing the property exists due to the fact the applicants have limited road frontage off a dead-end road which doesn't allow the ability to create conforming parcels. The town road dedication would solve the issue of limited road frontage. *"The property has always been served by minimal road frontage and the building eligibility could not be used without a variance."*
5. The request was reviewed by Lori Brinkman, Senior Environmentalist for Carver County Environmental Services. She commented in an email dated September 14, 2023: *"The existing building site's SSTS system is compliant with a new mound in 2021. The remaining parcel will be greater than 20 acres. The new lot requires primary and alternate septic locations."* If the variance is obtained, septic information would be required for the minor subdivision application.
6. Taylor Huinker, DNR Area Hydrologist reviewed the application, and in an email dated September 13, 2023, reported that she had no comments.
7. The plight of the landowner is not due to circumstances created by the landowner. The parcel was created with only a short dead-end road to provide access, a situation not entirely uncommon with town roads where it was seen as unnecessary for the town to construct roads that extended beyond what was needed for simple access to the properties. The Johnsons in their narrative note that the "1 per 40" building eligibility (granted to the property in 1974) could not be used on the property without the requested variances.
8. The applicant is proposing to use the property in harmony with the general purpose and intent of the official control. The official control in this matter is to ensure adequate access is provided to parcels. The proposed parcels would continue to have reasonable access to a public road. The proposed township road easement would be an improvement to the parcel with the existing house (i.e., increasing road frontage).
9. The granting of the variance does not appear to be in conflict with the intent of the Comprehensive Plan and would not alter the character of the neighborhood. There are several parcels in the immediate area that were created with limited road frontage.
10. The neighborhood is comprised of agricultural uses, scattered residences, open fields, woods, and wetlands. The request should not be considered a substantial variation from the requirements of the County Code because the existing parcel already has limited road frontage, and the proposed approximate 66-foot x 454-foot easement appears to be reasonable. The request would not cause a substantial change in the character of the neighborhood, nor would it have a negative impact on government services.
11. 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.

12. The Hollywood Town Board reviewed the request and recommended approval at their September 12, 2023, Town Board meeting with the following condition: "Driveway will be public use with private maintenance. Township approved this at 9/12/23 meeting – all in favor."

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 excessive width/depth ratio on the property pursuant to Section 152.033 (D)(1) & (4) would serve in the interest of justice, the following condition should be attached to the approved variance:

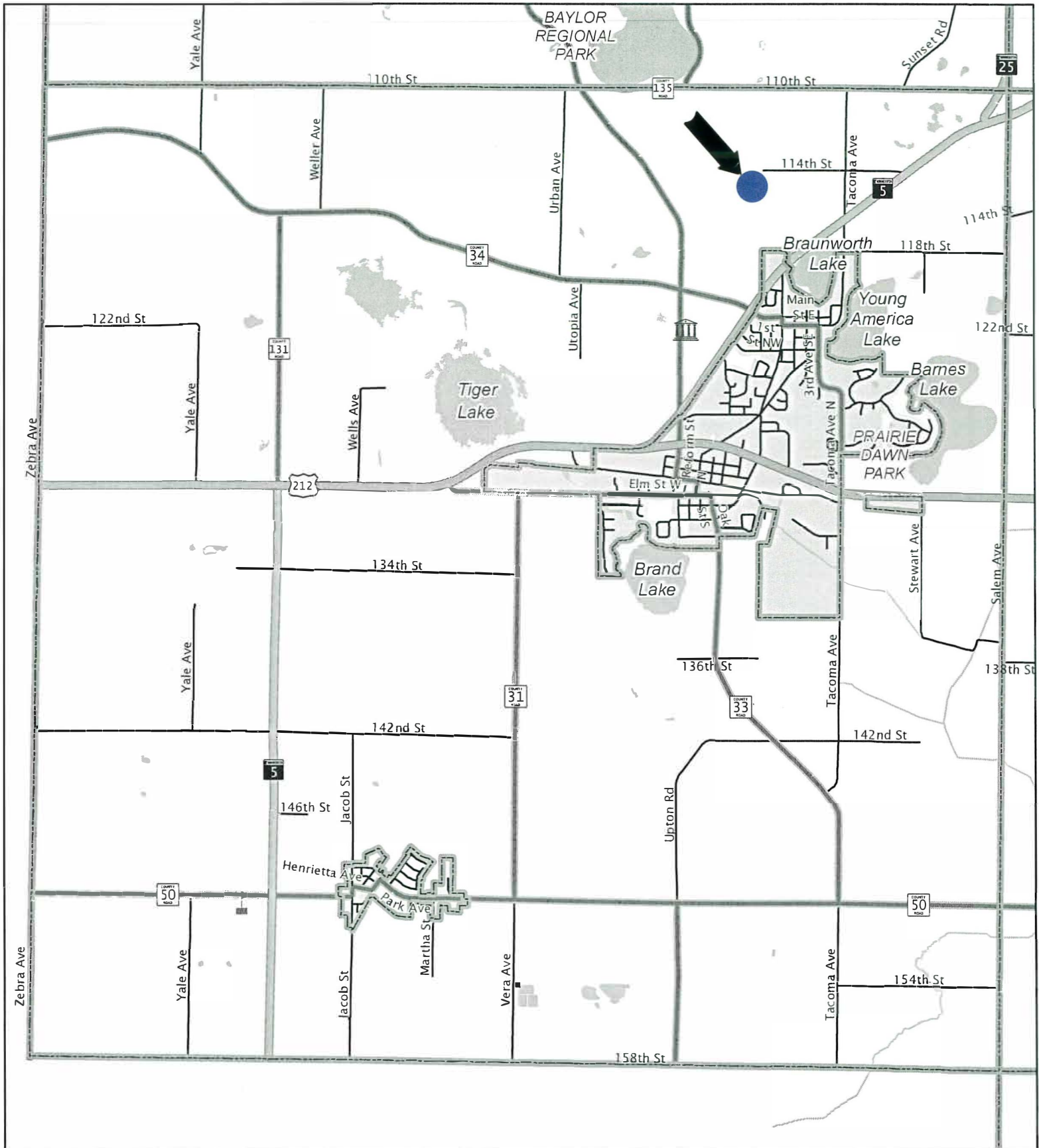
1. A Minor Subdivision application shall be submitted and approved prior to the recording of any deed(s). The parcels shall be subdivided in accordance with the County Zoning Code requirements including by not limited to, a completed Minor Subdivision Application, Survey, SSTS Compliance, and road easement description.
2. Prior to the Minor Subdivision approval, the township road easement (or deed) shall be dedicated to Young America Township, and recorded at the County Recorder's Office, providing for a minimum of 66 feet x 454 feet. The dedication as a right-of-way extension of the township cartway would be pursuant to the approved site plan, providing frontage to all parcels. The extension shall be reviewed and approved by the Young America Town Board and Carver County, prior to recording. The township cartway extension shall be privately maintained, pursuant to Young America Town Board requirements.

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.

YOUNG AMERICA TOWNSHIP



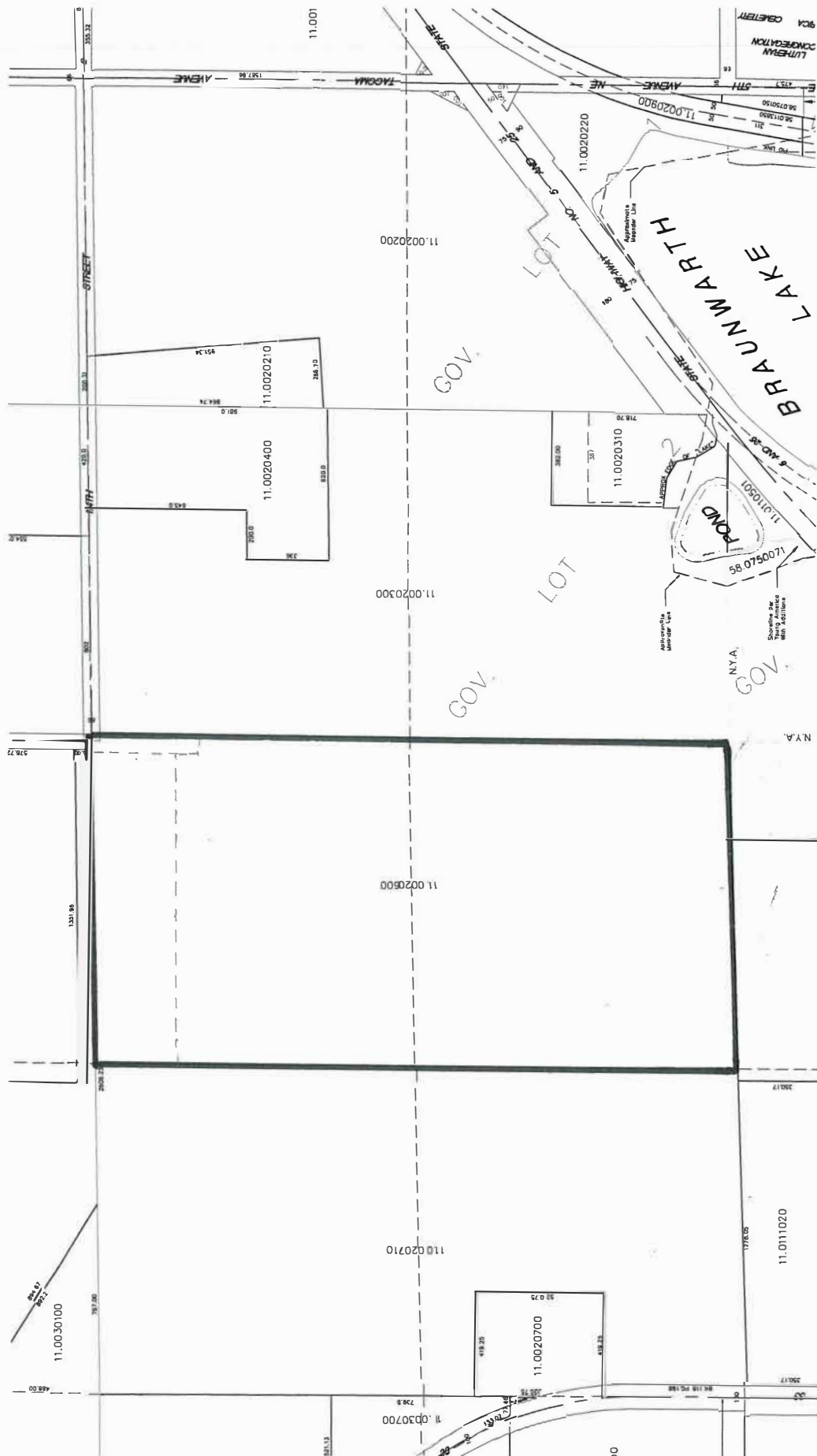
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Map Created by Carver County GIS

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 THIS MAP IS A COMBINATION OF RECORDS
 OFFICES AND OTHER SOURCES. THE MAP
 PURPOSES, THE COUNTY AND ITS AGENTS
 INCORPORATES CONTAINED THEREIN.

S 1/2 SEC. 2, T.115, R.26



September 7, 2023

This letter is regarding a variance request on the property owned by David and Phyllis Johnson and is located 15585 114th street, Young America, Mn 55397.

David and Phyllis are selling to our grandson a lot of approximating 10.1 acres subject to the county's approval of this variance request.

A variance is needed because the property is on a dead end road and more road frontage is needed. The dedication of a area approximately 454 feet by 66 feet to the Township would provide road frontage for the new parcel and maintain access to original homestead with remaining 69 acres, The property has always been served by minimal road frontage and the building eligibility could not be used with out a variance.

We have enclosed an aerial photo. The survey for the lot and road extension would be completed after the variance.

Thank you

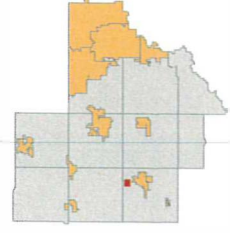
David and Phyllis Johnson

JOHNSON VARIANCE REQUEST



Date: 9/6/2023

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CARVER
COUNTY

Township Presentation & Recommendation Form

PARCEL #	110020600		Permit #	220230035	
Owner's Name:	David & Phyllis Johnson		Owner's Mailing Address:	15585 114 th Street	
City:	Young America		Owner State:	MN	Owner Zip:
Applicant (if other than owner):			Site Address:	55397	

Type of Request: ☐ CUP ☐ IUP ☐ Preliminary Plat ☐ Final Plat ☒ Variance ☐ Appeal

Description of Request:

See attached Letter dated 9/7/2023

Date of County Public Hearing: 10-4-23 Date of Township Meeting: 9-12-23

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:

Driveway will be public use with private maintenance
Township approved this at 9/12/23 meeting - all in favor

****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	Date
David Johnson & Phyllis Johnson	09/07/2023
Signature of Township Official	Date
Bradley Shroyer	9/12/23

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 11-002-0600

File# A20230035

**APPLICANTS/OWNERS: David R Johnson Revocable Trust &
Phyllis E Johnson Revocable Trust**

*** * * * ***

The East Half of the Southwest Quarter (E1/2 of SW1/4) of Section 2, Township 115 North,
Range 26 West, Carver County, Minnesota, containing 80 acres, more or less, according to the
Government Survey thereof. Subject to easements and restrictions of record.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Land Management Department

September 21, 2023

TO: Carver County Board of Adjustment & San Francisco Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (Reduced Setback to Minor Connector Road)

FILE #: PZ20230033

APPLICANTS: James and Molly Odegaard

PROPERTY OWNERS: James S. Odegaard and Molly C. Odegaard

SITE ADDRESS: 17775 County Road 40, Carver, MN 55315

VARIANCE TYPE: Reduced Structure Setback to Minor Connector Road

PURSUANT TO: Carver County Code: Section 152.034 (D)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 08-855-0040

BACKGROUND:

1. James Odegaard and his daughter Molly Odegaard own an approximate 3.88-acre parcel located in the Southwest Quarter (SW¼) of the Northwest Quarter (NW¼) of Section 17, San Francisco Township. The property, platted as Lot 1, Block 3 of San Francisco Acres, is vacant with one building eligibility available. The parcel is located in the Residential Cluster District, Shoreland Overlay District (Scott Lake), and the Carver County Water Management Organization (CCWMO) – Bevens Creek watershed. There is one delineated wetland on site near the middle of the property, and an existing driveway access.
2. The Odegards are requesting a variance which would allow them to apply for building permits to construct a new home on the subject property. The proposed single-family home would not meet the required 125-foot Minor Connector Road (within the Shoreland Overlay District) front yard setback from the centerline of County Road 50 (approximately 105 feet). Therefore, a reduced structure front yard setback has been requested pursuant to Section 152.034 (D) of the Carver County Zoning Code.

LEGAL BACKGROUND:

§ 152.034 SETBACKS.

(D) Table of setback requirements.

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.
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<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 Road in Shoreland District (Minor Connector Future Road Classification)	125	Right of Way +50 ft.	150	110

(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. James Odegaard and Molly Odegaard purchased the property in December 2022. This property was platted as part of the San Francisco Acres plat in 1999, per the Residential Cluster regulations that existed at the time. The proposed home and attached garage would be approximately 105' from the centerline of County Road 40. At the time of plat approval, the front yard setback was established at a reduced distance which allowed for a greater building envelop.

2. Section 152.034 of the County Zoning Code requires a 125-foot front yard setback from the centerline of a Minor Arterial Road (Future Classification: Minor Connector Road in the Shoreland District to a structure). The applicant's proposal consists of constructing a new home with an attached garage on the northeast end of the property. The closest point of the home would be approximately 105 feet from the centerline of County Road 40; therefore, reflecting an approximate 20-foot variance.
3. The applicants' letter (dated August 28, 2023) describes the practical difficulty in finding a location for the house that would meet all setbacks on the triangular lot. They explain that there are two oak trees that are over 100 years old that they wish to preserve, which prevent the home from meeting the front yard setback requirement. Additionally, the pocket wetland limits the building area, as it takes up a large portion of the unwooded acreage on site.
4. The provided site plan, dated August 28, 2023, shows the location and dimensions of the proposed single-family home with attached garage. Based on the limited space and unique lot shape, the property owners and their builder have proposed a plan which minimizes impacts to all setbacks and maintains the character of the neighborhood. The proposed location would utilize the existing driveway access and meet all other setbacks.
5. On September 13, 2023, Kristen Larson, Carver County Water Resources Program Analyst with the CCWMO, reviewed the application materials. She stated that the applicants will need to include the delineated wetland, with a 20-foot buffer, on the site plan for the home building permit. Additionally, either an erosion/sediment control permit or a stormwater permit will be needed, depending on the amount of impervious surface and disturbed area.
6. This request was reviewed by Taylor Huinker, DNR Area Hydrologist, on September 13, 2023. Ms. Huinker stated that the DNR does not foresee any issues with the proposed home location.
7. On September 15, 2023, Jacob McLain, Senior Environmentalist for Carver County Environmental Services, reviewed the request. He stated that the County has not received any SSTS plans for the property yet but encourages the applicants to have a site map drawn up to ensure the primary and alternate SSTS sites can meet all required setbacks.
8. The subject properties are located on County Road 40 in which Carver County Public Works is the road authority. Jack Johanson, Transportation Planner, stated "Public Works has reviewed the variance request for a setback reduction and is in support of approval. There appears to be no conflict with upcoming roadway projects along County Road 40 at this location that would be reason to deny."
9. 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 front yard setback section of the County Zoning Code. Although this request does not meet the specific standards, it appears to meet the intent of the regulations.
10. The neighborhood is comprised of agricultural land, residential homes & activities. There are similarly situated structures on other properties in the immediate area. This request would not cause a substantial change in the character of the neighborhood.
11. The granting of the variance would not conflict with the intent of the Comprehensive Plan, nor will government services be negatively impacted by the location of the structure with the proposed reduced setback.
12. 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.
13. The San Francisco Town Board has reviewed and recommended approval of the request during their August 21, 2023, Town Board meeting, stating "recommend approval with the approval of County and Highway Department".

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance for reduced front yard setback on the property pursuant to Section 152.034 (D) of the Carver County Zoning Code, would serve in the interest of justice, the following conditions should be attached to the approved variance:

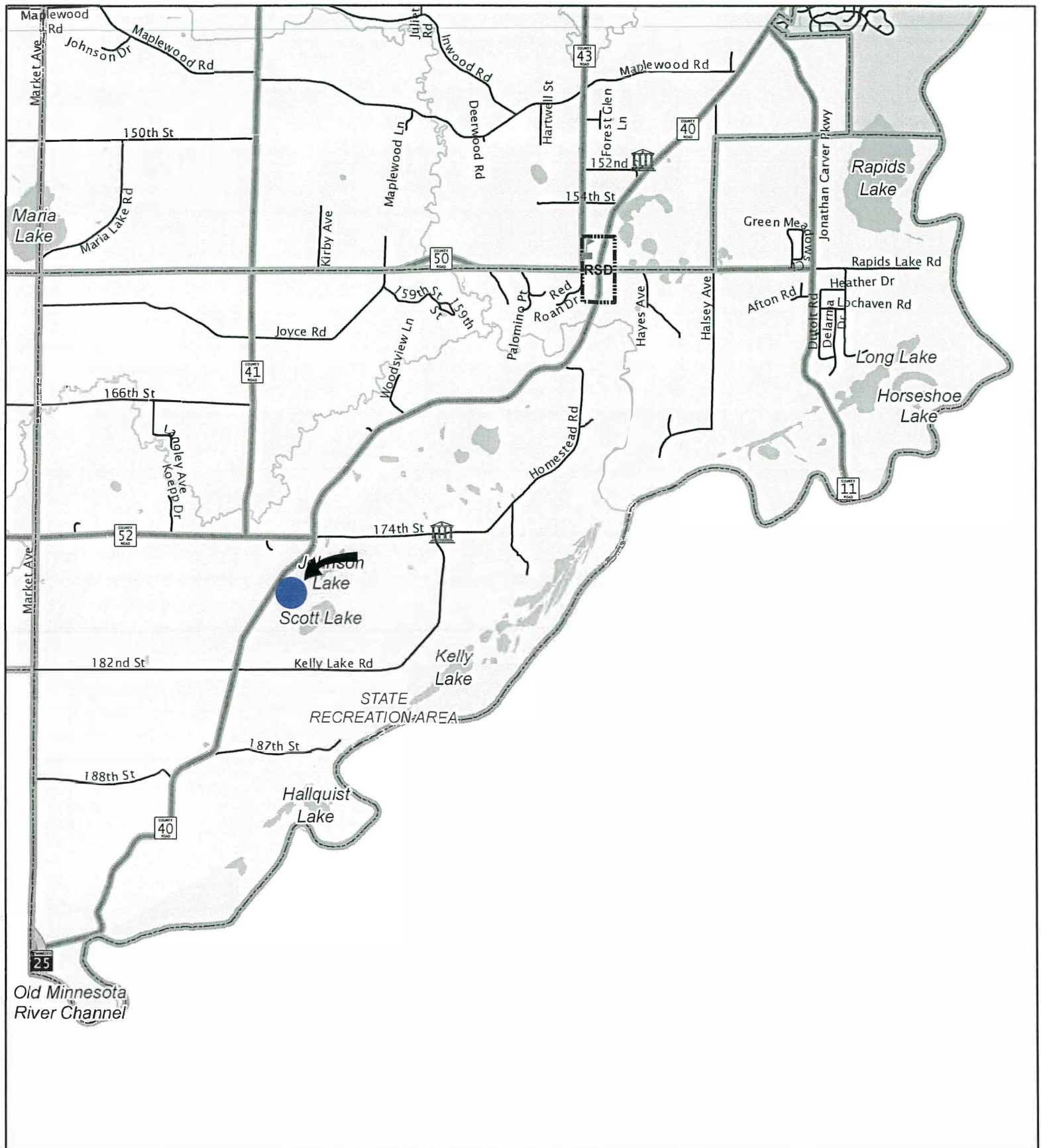
1. The permittee shall obtain the appropriate building permits and septic permit(s) prior to the construction of the single-family home, if applicable. An erosion/sediment control plan or stormwater plan shall also be prepared, submitted, and implemented in accordance with the CCWMO Water Rules (Chapter 153) as part of the building permit application process.
2. All construction activities shall be done in accordance with the submitted site plan dated August 28, 2023. Any portion of the home/garage shall not encroach any closer to the centerline of County Road 40 than approved (i.e. 105± feet) as part of this permit application.
3. No additional expansions shall be permitted without obtaining all necessary building permits and/or variances.

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.

SAN FRANCISCO TOWNSHIP

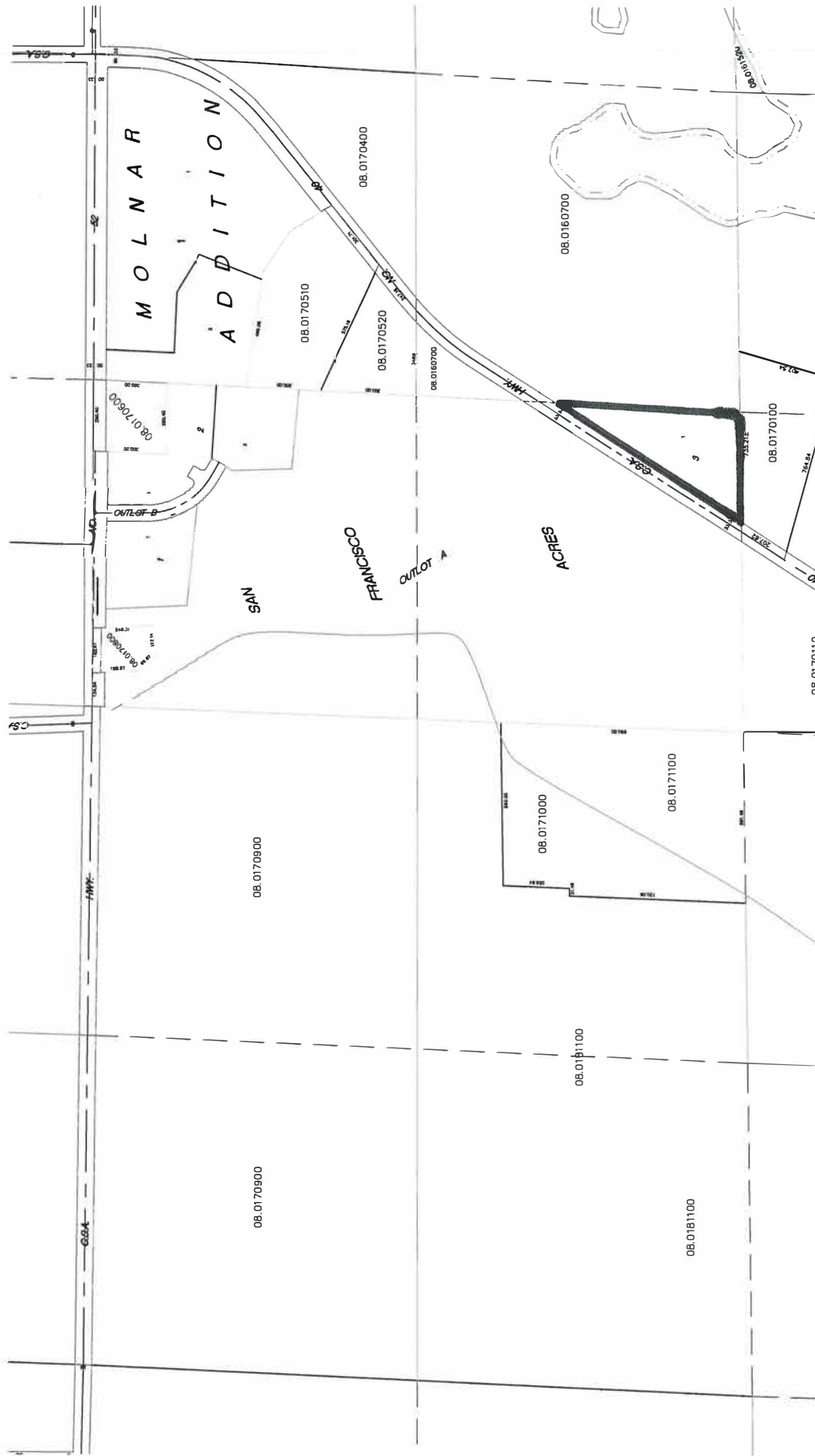


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August 28, 2023

Board of Adjustment

We are requesting a Variance of 20 feet for a reduced setback for minor arterial in Shoreland District. The parcel number is 08.8550040 and the site address is: 17775 County Road 40 Carver, MN 55315.

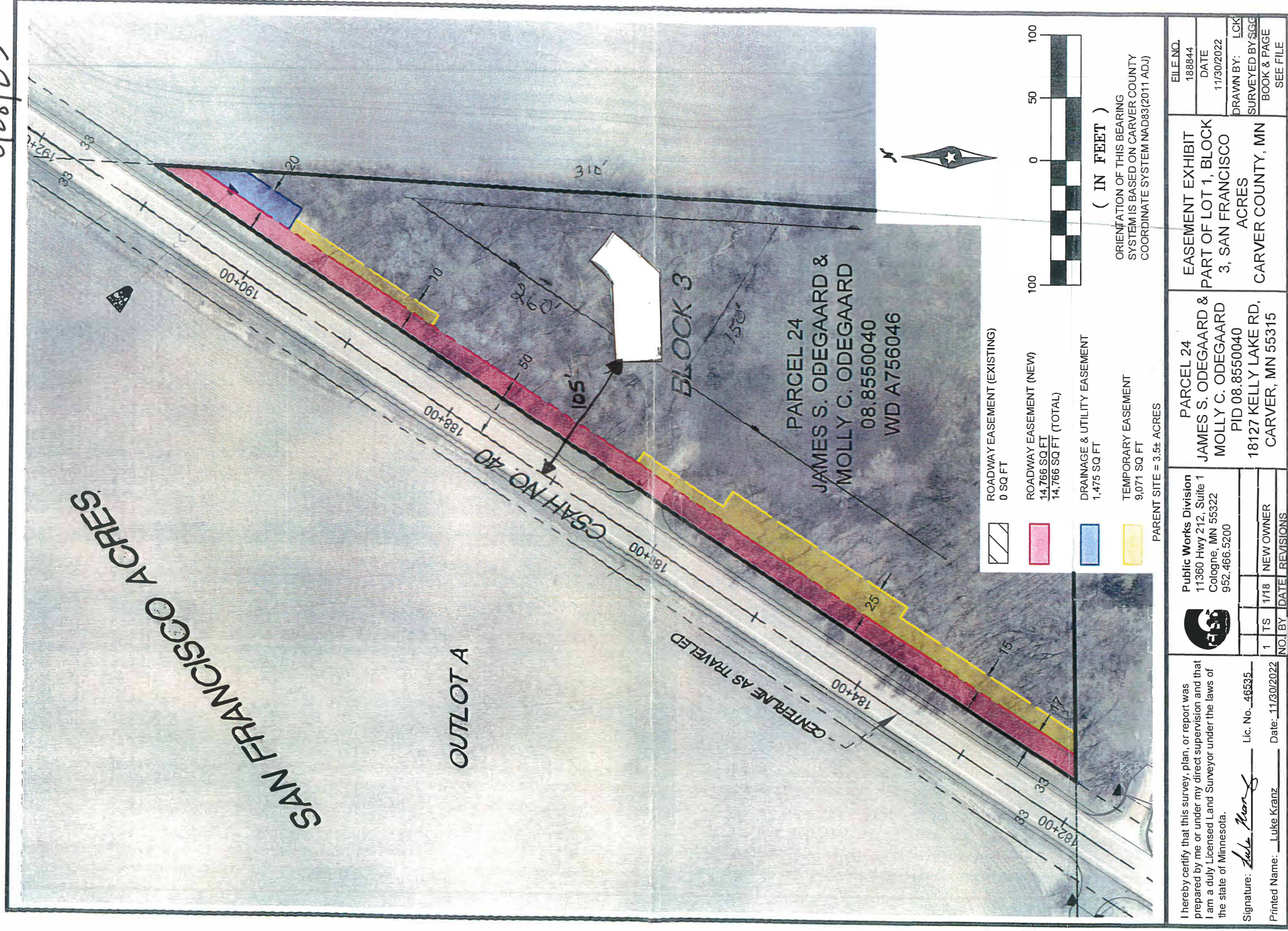
Currently there is a 125 foot setback. We are requesting a 105 foot setback. There are 2-100 year old plus oak trees. To preserve these 2 oak trees and help with orientation of our new home is the reason we are requesting a reduced setback of 20 feet.

Thank you,

James and Molly Odegaard

The image shows two handwritten signatures in black ink. The top signature is 'James Odegaard' written in a cursive, flowing style. Below it is a second signature, which appears to be 'Molly Odegaard', also in a cursive style. The signatures are positioned to the left of the printed name 'James and Molly Odegaard'.

8/28/23





Township Presentation & Recommendation Form

PARCEL #	088530040	Permit #	P22023 0033
Owner's Name:	James & Molly Odegard		
Owner's Mailing Address:	18127 Kelly Lake Road		
City:	Owner State:	Owner Zip:	
Carver	MN	55315	
Applicant (if other than owner):	Site Address:		
	17775 CH. RD. 40, Carver, MN 55315		

Type of Request:	☐ CUP	☐ IUP	☐ Preliminary Plat	☐ Final Plat	☒ Variance	☐ Appeal
Description of Request:						
We are requesting a reduced setback for minor Arterial in Shoreland District. Currently 125' setback. Requesting 105'.						
Date of County Public Hearing:		Date of Township Meeting:	August 21, 2023			

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:

Recommend Approval with Approval by County and Highway Dep

****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: Jim Odegard, UNP

Signature of Township Official: Larry Smith

Date: 8-17-2023

Date: 8-21-2023

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 08-855-0040

File# PZ20230033

APPLICANTS:/OWNERS: James S Odegaard & Molly C Odegaard

*** * * * ***

Lot 1, Block 3, San Francisco Acres, Carver County, Minnesota.