

CARVER COUNTY BOARD OF ADJUSTMENT

Regular Meeting – **Wednesday, September 7, 2022**
Commissioners' Meeting Room
2nd Floor Human Services Bldg
Government Center – Chaska

AGENDA

7:00 p.m.

1. Approve minutes of August 3, 2022 meeting
Pages 1-1 through 1-9
2. **File #2022003**- Public hearing on request by Richard Shelly, representing Matthew Hawkinson & Brianne Wawrzyniak for a variance.
(Reduced Setback – Structure from OHW of Recreational Development Lake)
Laketown Township Pages 2-1 through 2-11
Issue Order #PZ20220036 – Matthew Hawkinson & Brianne Wawrzyniak

Other Business

CARVER COUNTY BOARD OF ADJUSTMENT
Regular Meeting August 3, 2022
Minutes

Members Present: Gerald Bruner, Joe Polunc, Kellen Schmidt, Amanda Gorra, Virgil Stender, Frank Mendez

Members Absent: Robin Bielefeldt

Members Late: None

Staff Present: Jason Mielke, Matt Steele, Donovan Hart, Jacob McLain

Pursuant to due call and published notice thereof, the August 3, 2022, meeting of the Carver County Board of Adjustment was called to order by Chairman Bruner at 7:00 p.m.

Chairman Bruner announced the roll call indicated six members present and Robin Bielefeldt is absent.

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

Minutes – Chairman Bruner asked if there were any corrections to the minutes from the July 6, 2022, meeting. A motion was made by Schmidt to approve the minutes of the July 6, 2022, meeting as written. Mendez seconded the motion for approval. All voted aye. Motion carried.

Public Hearing - File # 20220033 – Suz Stiyr – Chairman Bruner called the public hearing to order at 7:01 p.m. to consider the application of Suz Stiyr pursuant to Chapter 54 of the County Code. The purpose of the public hearing was to consider a request for reduced setbacks to property lines for a new feedlot pursuant to Chapter 54 of the County Code. The property is in Section 13 of Benton Township.

The following were present: Suz Stiyr, Dan Pinnerud, Andy Steinhagen

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 7, 2022

Exhibit F – Staff Report addressed to the Board of Adjustment and Benton Town Board dated July 25, 2022, and all attachments

Steele stated the applicant owns an approximate 20-acre parcel improved with an existing farmstead consisting of a house, a hay storage shed, 2 barns, and an indoor and outdoor riding arena. The applicant is requesting a variance to allow her to register and operate a new feedlot of 10 animal units or

more, approximately 110 feet from the north property line, 9 feet from the south property line and 14 feet from the east property line. Chapter 54 of the County Code requires new feedlots of 10 animal units or more to be located a minimum distance of 200 feet from any property line. The applicant and her husband purchased the property in 2014 to reside in the existing residence and utilize the property for horse boarding and other equine purposes. The property had existing feedlot components within 200 feet of existing property lines at that time. The applicant would like to expand the operation to include 3 personal horses and 10 boarding horses, for a total of 13 animal units, which requires registration as a feedlot. The existing operation consists of 11 horses, 10 of which are boarded on site. The applicant's letter describes a practical difficulty based on the existing location of the feedlot components. Paddocks 1, 2, and 3 and the existing barn (Barn B) identified on the site map cannot reasonably be moved or modified to comply with the minimum required setbacks. Manure is removed daily from the arenas, barns and paddocks. It is stockpiled, composted, and transferred to neighboring farmers to fertilize their cropland. The Carver County Planning and Water Management Department reviewed the property on July 12, 2022, and did not identify any wetlands classified as Type III or greater, or a special protection area, where setbacks would apply for a new feedlot. Staff received 8 letters in support of the request and 1 letter of opposition. Granting the variance would not conflict with the intent of the Comprehensive Plan and/or County Ordinances and would not alter the character of the neighborhood, nor would it materially adversely affect the health or safety of persons residing or working in the area adjacent to the property. The Benton Town Board reviewed the request at their July 14, 2022, meeting and recommend approval without any additional conditions. Steele read the proposed conditions for consideration if the variance is approved and explained that if a practical difficulty has not been identified and the request is denied, then reasons for denial must be stated.

Ms. Stiery stated she was not aware of any information about a feedlot or CUP or anything else when they purchased the property. She stated they knew the prior owners had operated a horse boarding facility and they wanted to do the same. All of the facilities on the property have remained the same and they are intending to operate according to the rules and regulations.

Chairman Bruner asked if the applicant has read and agrees with the proposed conditions.

Ms. Stiery responded she has read and agrees with them.

Andy Steinhagen, Benton Township Supervisor, confirmed the applicants' attendance at their July 14th meeting and the board unanimously recommended approval of the request. He stated the property is maintained better than the prior owners and commended them for improving water drainage, erosion, and runoff from the property.

A motion was made by Stender and seconded by Gorra to close the public hearing. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 7:11 p.m.

Gorra asked if the CUP issued in 2002 pertained only to the riding arena or if it included other components.

Ms. Stiery was uncertain on the specifics of that CUP, but it mentioned both the riding arena and horse boarding.

Hart clarified the prior owners applied for and received a CUP for a public horse boarding facility in 2002. After realizing the cost considerations, they decided not to board horses, and amended their CUP for a private riding arena.

Bruner stated he visited the site and would support the request. He noted a letter of support and one of opposition which were sent from persons with the same last name. He asked if they were from the same household.

Ms. Stiyyer explained the letter of support was submitted by a son and the letter of opposition was from his elderly mother. Ms. Stiyyer visited the neighbors to discuss her proposal and request, but chose not to visit the elderly mother, since she had recently been hospitalized and did not want to confuse or upset her. She presumed that the opposition may be reflective of actions of the previous owners and their activities on the property.

A motion was made by Mendez to **approve and issue Order PZ20220033** allowing a new feedlot within 200 feet of existing property lines, pursuant to Section 54.46(C)(1) of the Carver County Feedlot Ordinance on property legally described on the attached Exhibit "A", with the following conditions:

1. The current Conditional Use Permit (CUP #PZ20020076) shall be amended for an Equestrian Facility - Public Use pursuant to Section 152.079(C)(5), for a commercial horse boarding and a riding facility.
2. The feedlot shall not exceed 29.99 animal units unless a variance is obtained to allow for a new feedlot of 30 animal units or more within 1,000 feet of a residence.
3. The applicant shall submit a feedlot registration form to be processed by the County Feedlot Officer if the request is approved.
4. The applicant must operate and maintain the short-term manure stockpile such that manure is removed from the site and land applied in accordance with Minn. Rules 7020.2225, within one year of the date when the stockpile was initially established pursuant to Minn. Rules 7020.2125 (A). A vegetative cover must be established on the site for at least one full growing season prior to reuse as a short-term stockpiling site.
5. Pursuant to Minn. Rules 7020.2125 (C), the manure stockpile site must not be located within 300 feet of flow distance and at least 50 feet horizontal distance, to waters of the state, sinkholes, rock outcroppings, open tile intakes, and any uncultivated wetlands which are not seeded to annual farm crops or crop rotations involving perennial grasses or forages.
6. All feedlot activities shall be done in accordance with the submitted site plan(s). The new feedlot shall not encroach any closer to property lines than as approved as part of this permit application (Approx. 110 feet from the north, 9 feet from the south, and 14 feet from the east).

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

Public Hearing - File # 20220032 –Jason and Kimberly Thaemert – Chairman Bruner called the public hearing to order at 7:12 p.m. to consider the application of Jason and Kimberly Thaemert pursuant to Chapter 52 of the County Code. The purpose of the public hearing was to consider a request a reduced setback for a structure to a septic tank pursuant to Chapter 52 of the County Code. The property is in Section 7 of San Francisco Township.

The following were present: Jason Thaemert, Kimberly Thaemert, Larry Schmidt

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 8, 2022

Exhibit F – Staff Report addressed to the Board of Adjustment and San Francisco Town Board dated July 25, 2022, and all attachments

McLain stated the applicants own a 2.61-acre parcel improved with a house, attached garage, and outbuilding. They are requesting a variance to construct a 4-season porch approximately 8 feet from an existing septic tank. Chapter 52 of the Carver County Code requires a minimum setback of 10 feet from a structure to a new or existing septic tank. The applicants would like to replace a 16’ x 16’ deck with a 16’ x 16’ 4-season porch and a new deck on the west side of the house. Their letter states the footings for the new 4-season porch would be placed approximately 8 feet from the existing septic tank due to the location of the existing footings. The existing footings would remain in place and not be removed. On July 12, 2022, a Sewage Tank Integrity Assessment Form was completed indicating compliance for the existing septic tanks. The current residence was constructed in 1994 with the tanks in close proximity of the house. This issue was not the result of the current owners. On July 30, 2022, a letter was received from Halling Engineering stating the new footings would not be harmful to the existing septic system and care must be taken to not damage the existing sewage tanks when constructing the new addition. And, to the best of their ability, runoff from the new addition would be directed away from the septic system. A letter was received from a neighbor in support of the request. Granting of the variance would not conflict with the intent of the Comprehensive Plan and/or County Ordinances and would not alter the character of the neighborhood, nor would it materially, adversely affect the health or safety of persons residing or working in the adjacent area. The San Francisco Town Board reviewed the request at their July 18, 2022, meeting and unanimously recommended approval of the request without additional considerations. McLain read the proposed conditions for consideration if the request is approved, and explained if a practical difficulty was not identified, then reasons must be clearly stated to support denial.

Mr. Thaemert stated the person who drew the prints for their addition may have misunderstood from where the distance to the tank is measured, which caused the setback issue. He stated without the additional 2 feet, the 4-season would not fit well with the house and would create difficulty with the patio door. Mr. Thaemert stated only 1 post for the footing would be within the 10-foot setback area.

Larry Schmidt, San Francisco Township supervisor, confirmed their unanimous support for recommendation of the request.

A motion was made by Schmidt to close the public hearing. Gorra seconded the motion. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 7:21 p.m.

Schmidt stated he visited the site and felt the applicants do have a practical difficulty with trying to construct the proposed addition to the house. He is in support of the variance request.

Bruner stated he had also visited the site and would support the variance.

A motion was made by Stender to **approve and issue Order PZ20220032** to reduce SSTS setback to a structure pursuant to Section 52.022 of the Carver County Code on property legally described on the attached Exhibit “A”, with the following conditions:

1. All necessary building permits shall be obtained prior to construction of the 4-season porch and deck.
2. The SSTS tanks shall be protected from construction equipment and construction activities during the deck construction process.
3. Access to the tanks (manholes to the surface) should be maintained to allow proper maintenance and inspection of the septic system.

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

Public Hearing - File # 20220034 –David Stuessi – Chairman Bruner called the public hearing to order at 7:23 p.m. to consider the application of David Stuessi pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for reduced setbacks for a structure from the road and a side property line pursuant to Chapter 152 of the County Code. The property is in Section 22 of Laketown Township.

The following were present: David Stuessi, Pete Parris

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant received July 11, 2022

Exhibit F – Staff Report addressed to the Board of Adjustment and Laketown Town Board dated July 25, 2022, and all attachments

Mielke stated the applicant owns an approximate .58-acre parcel improved with a single-family residence, a detached accessory structure, a sport court and septic system. He is requesting a multi-component variance for reduced setbacks from the local road and also the side property line to allow

construction of a future detached garage. The required minimum setback from the road is 68 feet and 15 feet from the side property line. They are requesting to place the detached garage approximately 28 feet from the centerline of Abbywood Rd (40-foot variance) and approximately 5 feet from the east side property line (10-foot variance). There is currently no garage on the property. Many of the neighboring parcels have had variances to allow for accessory structures. A variance for a standard size detached garage is reasonable considering the small parcel size and would not alter the character of the neighborhood. The plight of the landowner is due to circumstances unique to the property, not created by the landowner. Granting the variance would not materially, adversely affect the health or safety of persons residing or working in the adjacent area and would not be materially detrimental to the public welfare of injurious to property or improvements in the adjacent area. On July 25, 2022, Lori Brinkman, Carver County Senior Environmentalist, stated there are no SSTS concerns on the subject property. The applicant will be required to contact Minnehaha Creek Watershed District to determine if a permit is necessary from that agency for placement of the structure. On July 12, 2022, the request was reviewed by Laketown Town Board who recommended approval without additional comments or concerns. Mielke read the proposed conditions for consideration if the request is approved and explained if a practical difficulty has not been identified, then reasons must be stated supporting denial of the request.

Mr. Stuessi stated the information was very thorough and had no additional comments. He asked for clarification about contacting the Minnehaha Creek Watershed District.

Mielke stated that this parcel falls under the jurisdiction of the Minnehaha Creek Watershed District and he should contact them to find out if they require any permit associated with construction of the detached garage. The actual building permit is issued through Carver County.

Chairman Bruner asked if the applicant had read and agrees with the proposed conditions.

Mr. Stuessi stated he has read and agrees with the proposed conditions.

Pete Parris, Laketown Township Supervisor, confirmed the Township voted unanimously to approve the variance request and also noted a letter was received from the neighbor to the east, who would be closest to the structure, in support of the request. He also verified many of the lots have received similar variances for structures and that all of the sewage systems are connected to the municipal 201 system.

A motion was made by Stender to close the public hearing. Mendez seconded the motion. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 7:33 p.m.

Schmidt stated because of the lot size, many of these parcels need variances for accessory structures. He feels keeping items stored inside a structure is an improvement to any property.

A motion was made by Mendez to **approve and issue Order PZ20220034** for a reduced front yard setback and reduced side yard setback pursuant to Section 152.034 (D) of the Carver County Zoning Code on property legally described on the attached Exhibit "A", with the following conditions:

1. All construction activities shall be done in accordance with the submitted site plan and shall obtain the appropriate building permit(s). The new construction shall not encroach any closer to the centerline of the road than approved (28 feet from the center of Abbywood Lane) as part of this

permit application. Additionally, the new construction shall not encroach any closer to the east property line than approved (5 feet). All work shall be done in accordance with the submitted and approved building permit plans.

2. Prior to the issuance of a building permit, the property owners shall have the east property line of the subject parcel identified and marked by a licensed surveyor to ensure the proposed structure does not encroach closer than 5 feet from the east property line.
3. Prior to the issuance of a building permit, the property owners shall locate the buried electrical line for the sewer system and determine if it needs to be relocated to accommodate the future garage.
4. No additional expansions within the required setback(s) shall be permitted without obtaining all necessary building permits and/or variances, if applicable.

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

Public Hearing - File # 20220030 –Ronald Hoese – Chairman Bruner called the public hearing to order at 7:36 p.m. to consider the application of Ronald Hoese pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for a minor subdivision with reduced road frontage and width to depth ratio pursuant to Chapter 152 of the County Code. The property is in Section 28 of Watertown Township.

The following were present: Ronald Hoese, Bob Jax

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 November 19, 2021

Exhibit F – Staff Report addressed to the Board of Adjustment and Watertown Town Board dated July 25, 2022, and all attachments

Hart explained the applicant would like to subdivide the existing building site as a residential lot. The proposed 3.05-acre lot would have approximately 33 feet of road frontage from Snicker Ln and would not meet the required minimum width to depth ratio of the Carver County Code. He used an aerial photo to illustrate the property and proposed subdivision. The property was an existing agricultural homestead, however, the house and some of the agricultural buildings have been removed. The remnant parcel would remain tillable crop production land with no building eligibility. The proposed subdivision would create approximately 108 feet of road frontage for the new residential parcel. The County Code requires a minimum of 125 feet of road frontage for a new parcel and a width to depth ratio of 1:5. The proposed site was reviewed by Carver County Environmental Services personnel who determined the septic system sites were compliant with County SSTS standards. The plight of the landowner is due to

circumstances unique to the property, not created by the landowner. Granting the variance would not conflict with the intent of the comprehensive Plan or the County Zoning Code. The neighborhood is comprised of agricultural uses and residences and would not cause a substantial change in the character of the neighborhood, nor have a negative impact on government services. It would not materially, adversely affect the health or safety of person residing or working in the adjacent area and would not be materially detrimental to the public welfare of injurious to property or improvement in the adjacent area. The Watertown Town Board reviewed and recommended approval of the request at their July 5, 2022, meeting. Previously, at the Mar 1, 2021, Town Board meeting, Mr. Hoese had requested an extension of Snicker Ln, which the Town Board then approved by motion, which included “the owner funding 2 loads of gravel, and necessary fill to be delivered by the Township for a Township equipment turnaround at the end of the proposed extension.” Hart read the proposed conditions for consideration if the request is approved and explained if a practical difficulty has not been identified, then reasons must be stated supporting denial of the request.

Mr. Hoese had no comments to add concerning the request.

Chairman Bruner asked the applicant if he had read and agreed with the proposed conditions.

Mr. Hoese replied he had read them and agrees with them.

Gerald Bruner, Watertown Township Supervisor, confirmed the Town Board heard the request and unanimously agreed to recommend approval of the request.

Robert Jax, 12050 Hwy 7, asked how the agricultural equipment will enter and exit the tillable parcel.

Mr. Hoese explained that the tillable parcel will retain a 60-foot width along the northern edge of the parcel from Snicker Ln, so that access will be from Snicker Ln to the field. Mr. Hoese has no intention of trying to access the field from Hwy 7.

A motion was made by Schmidt to close the public hearing. Stender seconded the motion. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 7:45 p.m.

Mendez asked for clarification on the extension construction or easement, as one was noted in the previous Town Board meeting of March 1, 2021, and the conditions refer to construction of an easement area to township standards.

Chairman Bruner explained that Mr. Hoese is giving the Township more area than required by constructing the easement for the equipment operator to use as a turnaround.

Mielke stated the variance is to create the residential lot with reduced road frontage. The next phase of that process will be a minor subdivision, which will include an easement dedicated to the Township, which is shown on the survey. Condition #3 refers to the easement area being constructed to township standards.

A motion was made by Stender to **approve and issue Order PZ20220030** to reduce the required width of public road frontage and reduced width-to-depth ratio to create a new residential parcel without platting pursuant to Section 152.033 (D) of the Carver County Zoning Code on 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 but not limited to, a completed Minor Subdivision application, a survey and SSTS compliance and road easement description.
2. Prior to the Minor Subdivision completion, the township road easement (or deed) shall be dedicated to Watertown Township, and recorded at the County Recorder’s Office, providing for a minimum of 33 feet x 125 feet. The dedication as a right-of-way easement of the township road shall be reviewed and approved by Watertown Township and Carver County, prior to recording. The easement area shall be privately maintained until such time as the Watertown Town Board takes over maintenance responsibilities.
3. The Township Road easement (i.e. driveway and turnaround) shall be constructed to Township standards.
4. Prior to commencing any construction related activities on-site, the owner shall obtain the appropriate building and demolition permit(s).

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

Other Business

Schmidt expressed thanks to Mielke and the Land Management staff stating he has heard many good comments from people who were very satisfied with their interaction. He encouraged the team to continue doing a good job. Mendez echoed the same thanks to the staff.

Adjournment

Having completed the agenda items and seeing no other business, a motion was made by Schmidt and seconded by Stender to adjourn. All voted aye. The meeting was adjourned at 7:50p.m.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Land Management Department

August 26, 2022

TO: Carver County Board of Adjustment & Laketown Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (Reduced OHW Setback to Recreational Development Lake).

FILE #: PZ20220036

APPLICANT: Richard Shelly

OWNERS: Matthew Hawkinson and Brianne Wawrzyniak

SITE ADDRESS: 6975 Parley Lake Lane Waconia, MN 55387

VARIANCE TYPE: Reduced Structure Setback from OHW

PURSUANT TO: Carver County Code: Section 152.009 (A)(J)(L); 152.034 (D)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 07-800-0030

BACKGROUND:

1. Matthew Hawkinson and Brianne Wawrzyniak own an approximate 4.81-acre residential lakeshore parcel located in the South Half (S½) of the South Half (S½) of Section 5 and the North Half (N½) of the North Half (N½) of Section 8, Laketown Township. The property is homesteaded and improved with a house with detached garage and other personal storage outbuildings. The property is located within the Agricultural Zoning District, Shoreland Overlay District (Parley Lake), and the Minnehaha Creek Watershed.
2. The applicant, Richard Shelly – hired project manager, is requesting a variance that would allow for the construction of a home addition that would not meet the required Ordinary High Water (OHW) 100-foot setback standard of a Department of Natural Resources (DNR) Protected Recreational Development Lake (Parley Lake); therefore, a reduced structure setback (approximately 60 feet) to the Ordinary High Water Level (OHW) has been requested pursuant to Section 152.034 (D) of the Carver County Zoning Code.

LEGAL BACKGROUND:

§ 152.009 NON-CONFORMING USES AND STRUCTURES.

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

- (1) *Certain classes of property.* This division applies to homestead and non-homestead residential real estate and seasonal residential real estate occupied for recreational purposes. Except as otherwise provided by law, a nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an official control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion. If the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50% of its estimated market value, as indicated in the records of the County Assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises must be a conforming use or occupancy. If a nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50% of its estimated market value, as indicated in the records of the County Assessor at the time of the damage, the Board may impose

reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the Shoreland District with less than 50% of the required setback from the water is destroyed by fire or other peril to greater than 50% of its estimated market value, as indicated in the records of the County Assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

- (J) Alterations may be made to a building containing lawful, nonconforming residential units when they will improve the livability thereof, provided they will not increase the number of dwelling units. The bulk of the building may be increased if the Department rules that the increase in bulk will not intensify the non-conformity.
- (L) A structure existing on the date of the adoption of this chapter that intrudes upon a required setback may be expanded provided a variance is approved, and the expansion does not decrease the distance between the structure and the applicable lot line.

§ 152.034 SETBACKS.

(D) *Table of setback requirements.*

<i>Setbacks from Ordinary High Water Level in Shoreland District</i>	<i>Setback Required for Structures</i>	<i>Setback Required for SSTS</i>
Recreational Development Lake	100	as required by <u>Chapter 52</u>

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

STAFF ANALYSIS:

1. Section 152.009 of the County Zoning Code addresses non-conforming uses and structures, and states, “*Any structure or use of a structure, or use of land lawfully existing upon the effective date of this chapter may be continued at the size and in the manner of operation existing upon the date*” and further references that a nonconformity, “*may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion.*” There are other sections of the Zoning Code which address the ability to expand on the legal non-conformity through the approval of a variance. The existing house in its current location was constructed in 1950, prior to any Zoning Code regulations being enforced by the County.
2. Section 152.034 of the County Zoning Code requires the nearest corner of any structure, in all zoning districts, to meet or exceed a 100-foot setback from a Recreational Development Lake. Approval of this request would allow the applicant to apply for a building permit to construct a home addition to the rear (non-lakeside) of the house, with an approximate 60’ setback to the OHW of Parley Lake. The established OHW for Parley Lake is 930.6 ft, pursuant to the MN DNR.
3. The applicants’ letter (dated: 8/15/22) describes a practical difficulty in locating the addition in an area that is not within the required Shoreland setback. They explain that any corner of the home is already within the 100’ shoreline setback and that a rear addition will provide the additional bedrooms for a growing family, while not increasing a nonconformity nor further reducing the setback to the lake. The shape of the property itself, the location of house, and the lake boundary make positioning the proposed structure in a manner that conforms with required setbacks impossible without a variance. The applicant is requesting to reduce the setback from 100’ to approximately 60’ (a variance of 40’). The applicants stated that they wanted the proposed addition to take into account the aesthetics, character of the area, and to minimize encroachment to the lake.
4. Plans show the addition would increase approximately 1,078 square feet, for two bedrooms, and one full bathroom, one half-bathroom, and an office. The addition adds approximately 14 feet to the rear of the home. The closest point of the proposed addition is 60’ from the OHW of Parley Lake. The closest corner on the lakeside portion of the existing home is 48 feet from the OHW of Parley Lake.

5. The property owners applied for and received Subsurface Sewage Treatment System (SSTS) replacement permit for a new system sized for 5 bedrooms. They received a Certificate of Compliance on July 20, 2022; therefore, the Expiration of Compliance is April 12, 2027. The Carver County Environmental Services Department has all SSTS documentation on record for this property.
6. 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 100-foot shoreland setback. Although this request does not meet the specific standards, it appears to meet the intent of the regulations.
7. The granting of the variance would not conflict with the intent of the Comprehensive Plan, would not alter the character of the neighborhood, nor would government services be negatively impacted by addition to the rear of the home.
8. The neighborhood is comprised of agricultural and residential activities, as well as some areas of wetland and dense vegetation. This request would not cause a substantial change in the character of the neighborhood.
9. The granting of the variance would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicants and would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
10. This request was sent to Minnesota Department of Natural Resources (MnDNR) for review. At time of staff report, no comments or concerns have been received.
11. The Laketown Town Board has reviewed and recommended approval of the request during their August 5, 2022, Town Board meeting. The township comments included the following:
 - “The existing home is located within the current setback for a recreational lake (47 feet to 64 feet).”
 - “This addition will be on the back side of the current house, not extending toward the lake any more than the current home.”
 - “No closer encroachment to lake is permitted.”

BOARD CONSIDERATION:

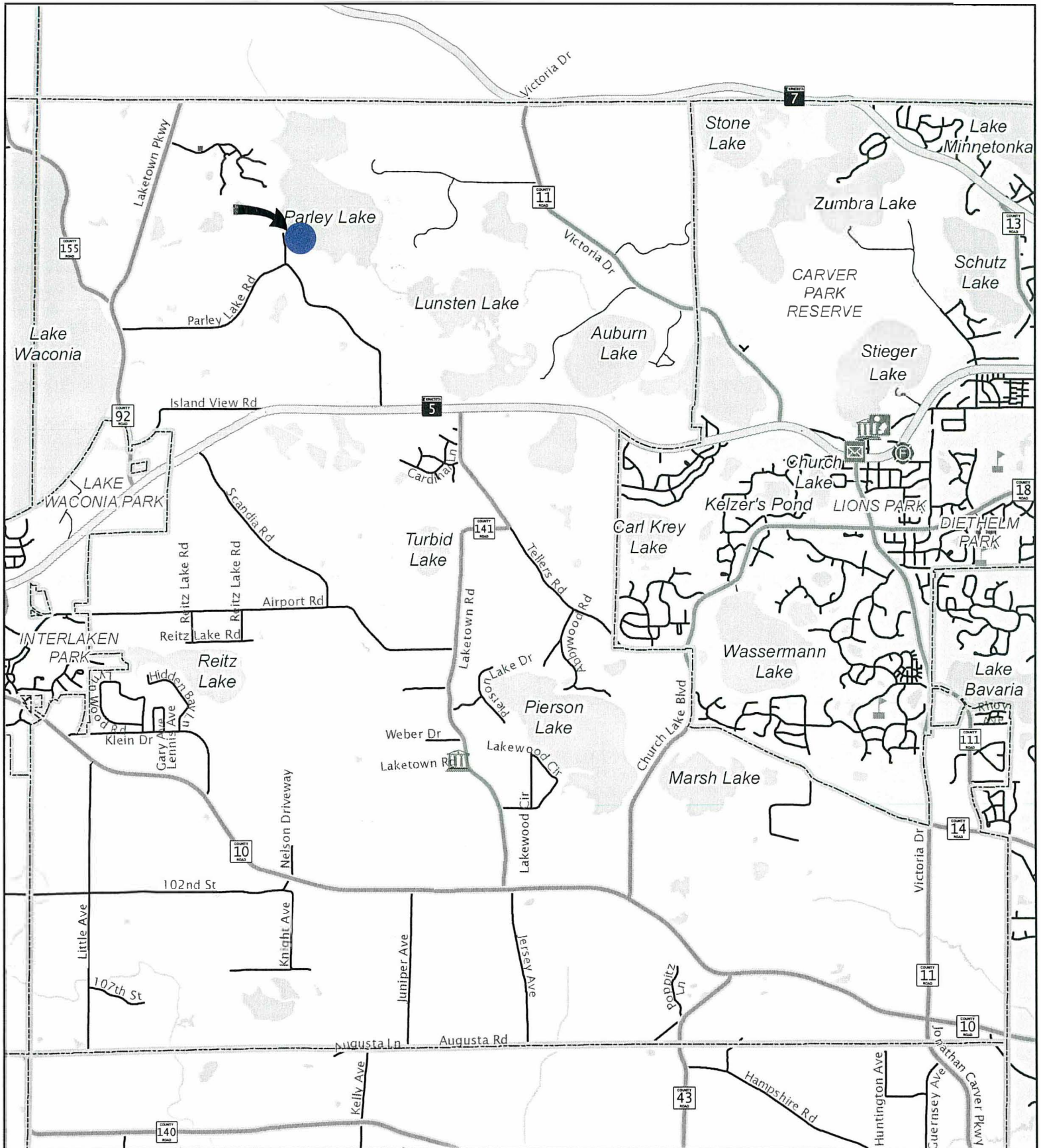
If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance for a reduced shoreland setback pursuant to Sections 152.034 (D) of the Carver County Zoning Code, would serve in the interest of justice, the following conditions should be attached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

1. The permittee shall obtain the appropriate building permit(s) prior to the construction of the proposed addition. All work shall be done in accordance with the submitted and approved building permit plans.
2. All construction activities shall be done in accordance with the submitted site plan(s). The new construction shall not encroach any closer to the OHW of Parley Lake than approved (i.e. 60± feet) as part of this permit application.
3. No additional expansions shall be permitted without obtaining all necessary building permits and/or Variances.

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.

LAKETOWN TOWNSHIP



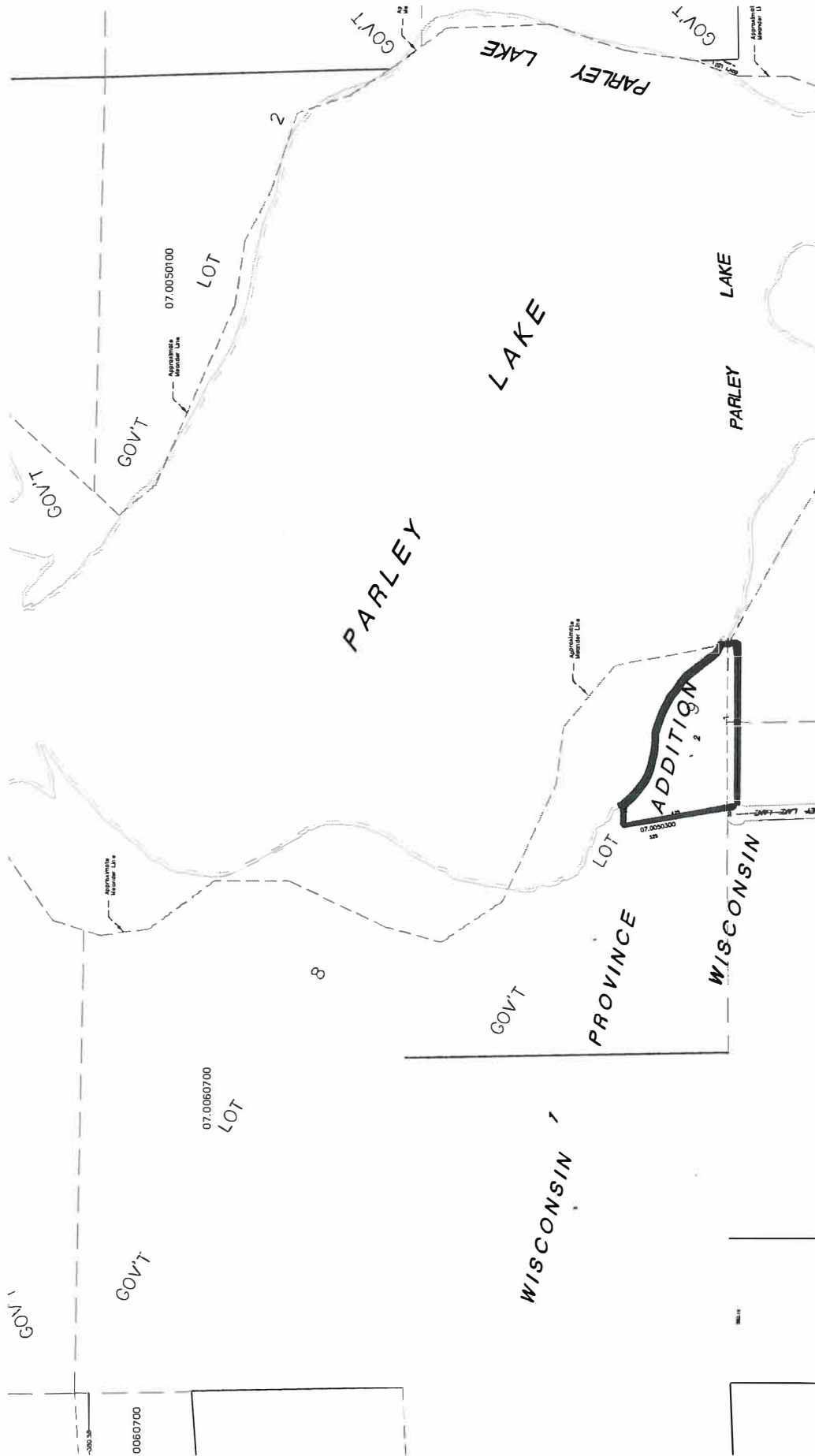
This map was created using Carver County's Geographic Information Systems (GIS); it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible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



Map Created by Carver County GIS

THIS IS NOT A LEGALLY RECORDED PART
AS THEY APPEAR IN THE CARVER COUNTY
RECORDS. THIS MAP IS FOR INFORMATION
ONLY AND IS NOT TO BE USED FOR
LEGAL PURPOSES. THE SURVEYOR
AND NOT RESPONSIBLE FOR ANY
MISUNDERSTANDINGS CONTAINED THEREIN.

S 1/2 SEC. 5, T.116, R.24



Surveying & Mapping Office
Carver County Gov. Center
600 East Fourth Street
Chaska MN 55318
May 27, 2002

8/15/22

Too whom it may concern:

I am requesting a variance to build an addition within the lake setback minimums at 6975 Parley Lake Lane, Waconia, MN 55387. We are on Parley Lake, which is listed as a Recreational Development Lake and has a 100' setback requirement for code 152.034 Sub Section D.

The home was built in 1993 and was originally built within the 100' setback, so any additions made to this home will fall within the 100 setback requirements. We took this into account when designing a project that would meet our needs and have the least impact on the setback requirement. The addition takes this into account based on the chosen location of the addition.

The driving factor for the addition is that our 3 bedroom home does not currently meet the needs of our family of 5. We find ourselves short 1-2 bedrooms everyday and as our family grows and ages we need additional space to meet these changes.

Details of Home and Addition:

1. Our home currently is a 2300 Sqft 3 bedroom 3 bath home.
2. Proposed Addition will add 1078 Sqft.
3. The new proposed square footage will be 3378 and will become a 5 bedroom 4 bath home which will bring our home up to the standard of many homes in this area and around the lake.
4. The proposed addition will push the rear of the home back 14'.
5. The existing home layout does not provide other alternatives for additions off to the side or front of the home. The proposed addition takes in to account aesthetics, construction cost, and to minimize encroachment toward the lake.

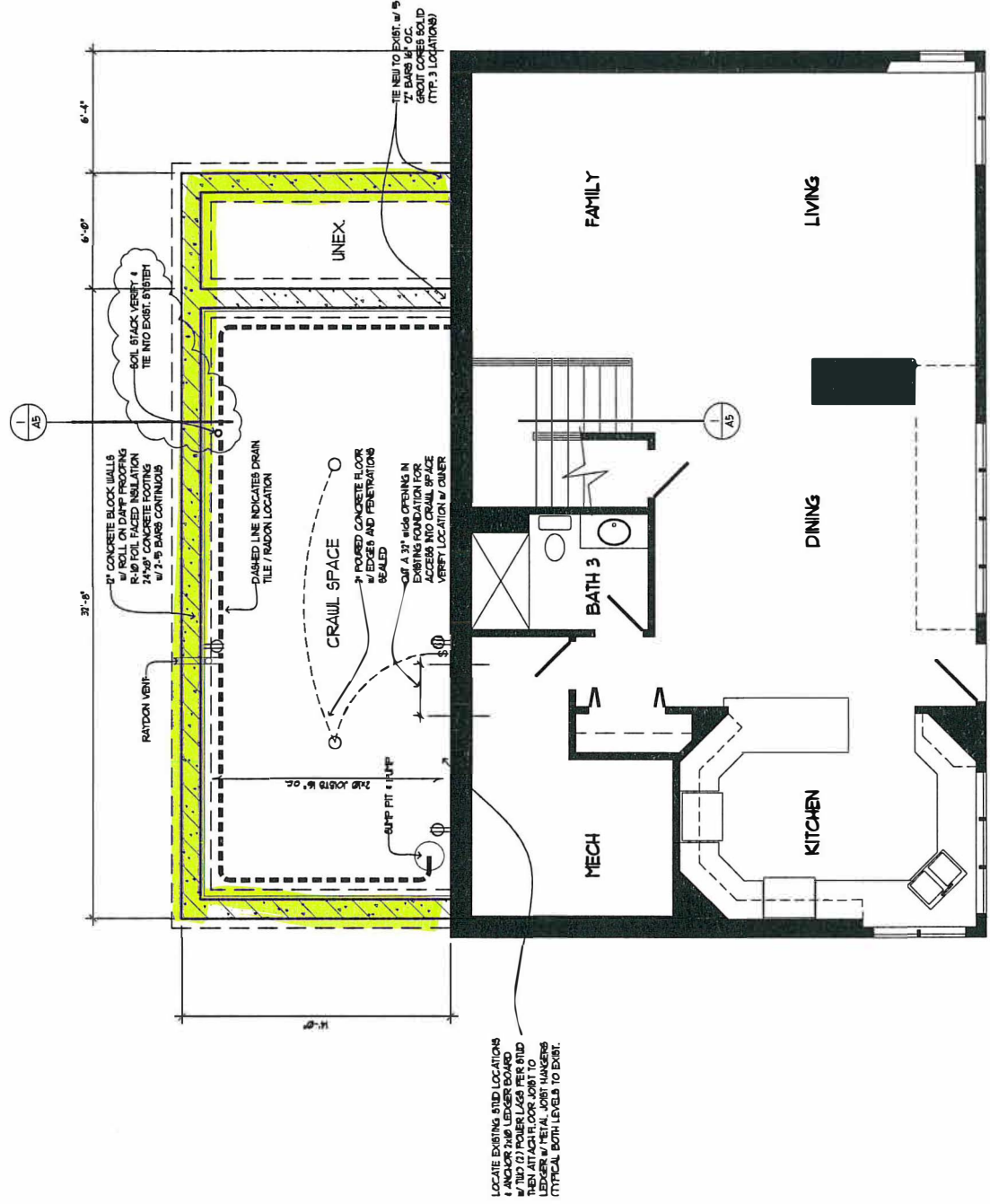
Thank you for reviewing our request for a variance. Please let us know if you have any further questions. Feel free to contact Bri Wawrzyniak @ 612-968-3060 or our contract BJ Shelly (Auden) @ 952-836-4332.

Thank you,

DocuSigned by:

23AC8E2D5F424D9...

Gregory A. Luske - Designer
Pittsburgh, Minnesota 55106
The plan and the design information herein
are the property of Gregory A. Luske and
shall remain confidential. All
rights reserved.
Name and address of owner to be
indicated on this plan.
Consent to sign if stated otherwise
shall be a condition of any and all
work to be done by the engineer and any
other person.



FOUNDATION PLAN

0' 1' 2' 3' 4' 5' 6'

SCALE 1/4" = 1'-0"

2

~ Lake side ~



0' 1' 2' 4' 8

SCALE $\frac{1}{4}$ " = 1'-0"

4A

SHEET

Wawrzyniak Residence

6975 PARLEY LAKE LANE, WACONIA, MINNESOTA

Gregory A. Haden - Designer
Internships, Internals, 99336

DATE _____

07-26-20
01-31-20



Lakeview
**Township Presentation
 &
 Recommendation Form**

PARCEL # <u>07-800-0030</u>	Permit # <u>071022003.6</u>
Owner's Name: <u>Matt & Betsy Wawrzyniak</u>	Owner's Mailing Address: <u>6975 Parley Lake</u>
City: <u>Waconia</u>	Owner State: <u>MN</u> Owner Zip: <u>55387</u>
Applicant (if other than owner): <u>Bob Snelly, Aiken Residence</u>	Site Address: <u>6975 Parley Lake</u>
Type of Request: ☐ CUP ☐ IUP ☐ Preliminary Plat ☐ Final Plat ☒ Variance ☐ Appeal Description of Request: 	
Date of County Public Hearing: <u>9/7/22</u>	Date of Township Meeting: <u>8-5-2022</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:

the existing home is located within the current setback.
 for a recreational lake (47'-64' back from lake only)
 this addition will be on the back side of the current house,
 not extending toward the lake any further than current
 home. NO closer encroachment to lake is permitted.

****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.

	Date
Signature of Applicant <u>[Signature]</u>	Date <u>5-8-2022</u>
Signature of Township Official	

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 07-800-0030

File# PZ20220036

**APPLICANT/OWNER: Matthew Robert Hawkinson
& Brianne Marie Wawrzyniak**

*** * * * ***

Lot 1, Block 2, Wisconsin Province Addition