

CARVER COUNTY BOARD OF ADJUSTMENT

Regular Meeting – **Wednesday, August 2, 2023**
Commissioners' Meeting Room
2nd Floor Human Services Bldg
Government Center – Chaska

AGENDA

7:00 p.m.

1. Approve minutes of June 7, 2023 meeting

Pages 1-1 through 1-5
2. **File #20230029**- Public hearing on request by Paul Kellermann for a variance.
(Reduced Road Setback)
Camden Township Pages 2-1 through 2-10
Issue Order #PZ20230029 – Paul Kellermann
3. **File #20230018**- Public hearing on request by Alex Young for a variance.
(Reduced Access Separation)
Laketown Township Pages 3-1 through 3-12
Issue Order #PZ20230018 – Terrain Holdings, LLC
4. **File #20230028**- Public hearing on request by Laura Zimmerman & Douglas Pritchard for a variance.
(Reduced setbacks to existing residences, Parcel Size, & Non-Homestead)
Waconia Township Pages 4-1 through 4-56
Issue Order #PZ20230028 –Laura Zimmerman

Other Business

CARVER COUNTY BOARD OF ADJUSTMENT
Regular Meeting June 7, 2023
Minutes

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

Members Absent: None

Members Late: None

Staff Present: Jason Mielke, Donovan Hart, Christina Neel

Pursuant to due call and published notice thereof, the June 7, 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 members are present. He acknowledged Steve Washburn as the newly appointed member filling the vacancy of Chad Reisner.

Mr. Washburn introduced himself and stated he grew up in Hector, Mn, and has lived in Watertown since 1999. He is looking forward to serving on this board.

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

Minutes – Chairman Bruner asked if there were any corrections to the minutes from the May 3, 2023, meeting. A motion was made by Bielefeldt to approve the minutes of the May 3, 2023, meeting as written. Wakefield seconded the motion for approval. All voted aye. Motion carried.

Public Hearing - File #20230023 – Kurt & Molly Ohnsorg – Chairman Bruner called the public hearing to order at 7:02 p.m. to consider the application of Kurt & Molly Ohnsorg for a variance pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for exceeding the total personal storage space pursuant to Chapter 152 of the County Code. The property is in Section 2 of San Francisco Township.

The following were present: Kurt Ohnsorg, Molly Ohnsorg

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant dated May 1, 2023

Exhibit F – Staff Report addressed to the Board of Adjustment and San Francisco Town Board dated May 26, 2023, and all attachments

Neel stated the applicants own an approximate 5.71-acre parcel improved with a single-family dwelling, pool house, and other accessory buildings. She used an aerial photo of the parcel to illustrate the structures and noted the current total personal storage space on the property is 2,634 square feet. The applicants are proposing to construct a 40' x 80' structure which would increase the total personal storage space to 5,834 square feet. The Zoning Code allows a total of 5,000 square feet of personal storage space on a parcel of this size. The applicants' letter states they currently do not have enough storage space to adequately store all their personal items within an enclosed building. They take great pride in keeping their property well-maintained and having their belongings stored inside allows for increased security. They also explained that the current structures do not have doors tall enough to accommodate their enclosed trailer, camper, and truck with a topper. Their family participates in motorcycle racing and camping, and it is essential to keep their vehicles safely stored indoors. The proposed structure would be located to the north of the existing shed and would meet all required setbacks to property lines and the septic system. The granting of the variance would not conflict with the intent of the Comprehensive Plan, nor would it alter the character of the neighborhood, or negatively impact government services. The San Francisco Town Board reviewed the request at their May 15, 2023, meeting and unanimously recommended approval. Neel read the proposed conditions for consideration if the request is approved. If the Board of Adjustment determines that a practical difficulty has not been identified, and that approving the variance would not serve in the interest of justice, the reasons to support the denial need to be stated.

Molly Ohnsorg, 6185 Co Rd 50, had signatures from 5 neighbors, whose properties abut theirs or are in direct view of the proposed shed, stating they are in support of the variance. She handed copies to each of the Board members.

Andy Olson, San Francisco Township Supervisor, confirmed the Township's unanimous vote to recommend approval of the variance request without any other comments or conditions.

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

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

Bielefeldt asked the applicants to identify any circumstances unique to this property or a need for the variance not created by the applicants to support granting the variance.

Mrs. Ohnsorg stated they purchased the property in 2019, and while the existing buildings are helpful for storage, they are not constructed to entirely able to fulfill their storage needs. The proposed structure would help to increase the security of their items and enhance the property to suit their growing family needs.

Bruner stated he visited the site and felt the proposed site is the best location for the structure. He is in support of the request.

Thompson stated he drove onto the property and saw it was well-maintained and stated the proposed structure would be a nice addition to the property.

Bielefeldt stated he did not feel the applicants had identified a practical difficulty unique to the property and not created by the homeowner.

A motion was made by Gorra to **approve and issue Order PZ20230023** for a variance to exceed the personal storage square-footage by 834 square feet on the property pursuant to Section 152.073 (A)(4) of the Carver County Zoning Code, for property legally described on the attached Exhibit "A", with the following conditions:

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.

The motion for approval was seconded by Thompson. Chairman Bruner called for a vote on the motion. Gorra, Thompson, Bruner, Selken, Washburn, and Wakefield voted aye. Bielefeldt voted nay. Motion carried.

Public Hearing - File #20230019 – Joe White of B H Aggregates, Inc – Chairman Bruner called the public hearing to order at 7:11 p.m. to consider the application of Joe White of B.H. Aggregate Services, Inc., representing Robert & Jenifer Weerts and Jean F Beuning Revocable Trust, for a variance pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for excavation within 50 feet of a property line pursuant to Chapter 152 of the County Code. The property is in Section 28 of Hollywood Township.

The following were present: Joe White, Corinne Allen, Jay Clough, Jean Beuning

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 April 4, 2023

Exhibit F – Staff Report addressed to the Board of Adjustment and Watertown Town Board dated May 26, 2023, and all attachments

Hart stated this request involves two parcels, one with a current mining site and the other with a proposed mining site. The 84.9-acre southerly parcel consists of an active gravel pit, agricultural production land, a wooded area, wetlands, and a pond created from an ongoing mining project. The

northerly parcel is improved with a single-family dwelling, several accessory structure, with one of the structures containing a commercial dog kennel, and dog run areas. The applicant, Joe White, is requesting expansion of the existing mining operation to include mining on the adjoining northerly parcel. To have a single continuous area of excavation, he is requesting permission to mine within the required 50-foot mining setback of the shared property line. The submitted site plan indicates an approximate 5.5-acre mining area and a stockpiling area, which complies with the required 500-foot setback from adjacent residential structures existing at the time of the application. There are wetlands on the property and a wetland delineation on the northern parcel was approved in August 2022. The site plan indicates all mining operations will meet the required 30-foot wetland setback. If the variance request is approved, the applicant will pursue application of an IUP with the Planning Commission at their June meeting. If the variance request is denied, the existing CUP for the current mining operation will remain in existence. Jack Johansen, Carver County Transportation Planner, reviewed the application and stated Public Works would review the access from County Rd 33 along with the IUP application. Jacob McLain, Carver County Senior Environmentalist, stated the site plan for the IUP would need to include an alternative SSTS site for the Beuning (northerly) parcel. The plight of the landowner is created by the landowner, as the applicant is seeking to extract aggregate resources on the neighboring parcel using an existing truck access and haul route. The ability to mine within the 50-foot setback of the property line enables additional aggregate materials to be mined from the Beuning property. These resources would otherwise not be accessible, requiring access through the Beuning property because of the high volume of traffic generated by the commercial dog kennel operation. The Comprehensive Plan states a land use goal to “maintain the ability to access aggregate resources while meeting other land use and natural resource goals.” After the proposed mining activities are completed, a valued natural amenity, the lake, will be enlarged to benefit natural habitats. The granting of the variance would not conflict with the intent of the Comprehensive Plan or alter the character of the neighborhood, nor would government services be negatively impacted. It would not materially, adversely affect the health or safety of persons working or residing in the area or be materially detrimental to the public welfare or injurious to property or improvements in the area. The Hollywood Town Board reviewed the recommended approval of the request at their May 8, 2023, meeting with the following comment, “Variance is approved as long as County has approved.” Hart read the proposed conditions for consideration if the variance request is approved. If the Board determines that a practical difficulty has not been identified, and that approving the variance would not serve in the interest of justice, then the reasons to support denial must be stated.

Joe White stated there has been a gravel mine on the southerly property for a number of years that they would like to expand and mine aggregate materials from the adjacent northerly property with the result of creating one lake when the extraction is completed, rather than having two and not being able to mine the area because of the property line setback requirement. He estimated the aggregate reserve between the two properties within the setback is about 60,000 cubic yards which could be mined and used.

Jean Beuning, 5120 Vega Av, stated the existing mine has been there for approximately 12 years and she would like to have this continue onto her property to create a larger lake and give her the opportunity to utilize the area for dog walks and to enhance her property.

No one was present representing the Hollywood Town Board for comments.

There were no comments from the public concerning this request.

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

Bielefeldt stated he visited the site and asked the applicant to identify circumstances unique to the property not caused by the homeowner to support granting the variance.

Mr. White stated the gravel exists in that location which is out of anyone's control. It is a natural resource that has value when mined and most of this aggregate product has been used on Carver County projects.

Bruner stated he visited the site and does not have any issues with the request.

Thompson stated he viewed the site and was feels the aggregate resource is valuable and seeing that there was not a large crowd opposing the application, he would support the variance request.

Selken agreed that you have to mine gravel where the gravel exists, and as long as the property owners agree to the project, it makes sense to mine the available aggregate resources.

Mielke reminded everyone present that the variance request related only to the request for the reduced setback to the property lines to allow the continuous mining onto the northerly property. The actual Interim Use Permit and discussion of the operational plan and scope of the project would take place later in the month with the Planning Commission, who would make a recommendation to the County Board.

Bielefeldt stated the circumstances of the variance request were created by the property owner and he would not be supporting the variance request.

A motion was made by Thompson to **approve and issue Order PZ20230019** for a variance to reduce the property line setback for mining activity pursuant to Section 152.082 (C)(1)(b)2(iv) of the Carver County Zoning Code, for property legally described on the attached Exhibit "A", is hereby approved with the following conditions:

1. The applicant must obtain an Interim Use Permit (IUP) issued by the Carver County Board of Commissioners to conduct mining activities within the mining setback areas that are the subject of the variance request. All work shall be done in accordance with the approved permit. If the applicant fails to obtain an IUP, then the approved variance shall be null and void. The absence of a variance does not impact the mining activities allowed by PZ20070059.
2. Mining activities within the mining setback areas shall only be conducted in excavation areas identified in the site plan dated May 23, 2023, or any revised site plan approved as part of the IUP request.

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

Adjournment

A motion was made by Bielefeldt and seconded by Thompson to adjourn. All voted aye. The meeting was adjourned at 7:27 p.m.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Land Management Department

July 24, 2023

TO: Carver County Board of Adjustment & Camden Town Board
FROM: The Land Management Department
SUBJECT: Application for a Variance (Reduced Setback to Major Collector Road)

FILE #: PZ20230029
APPLICANT: Paul Kellermann
OWNER: Paul Kellermann
SITE ADDRESS: 14485 County Road 32 Mayer, MN 55360
VARIANCE TYPE: Reduced Structure Setback to Major Collector Road
PURSUANT TO: Carver County Code: Section 152.034 (D)
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 02-024-0700

BACKGROUND:

1. Paul Kellermann owns an approximate 75-acre parcel located in the North Half (N½) of the Northeast Quarter (NE¼) of Section 24, Camden Township. The property is improved with a house that was built in 1902, several agricultural outbuildings. The parcel is located in the Agricultural Zoning District, the Agricultural Preserve Program, and the Carver County Water Management Organization (CCWMO) – Crow River watershed).
2. Mr. Kellermann is requesting a variance which would allow him to apply for building permits to move the existing home and construct an attached two-car garage on the subject property. The proposed attached garage would not meet the required 95-foot (Major Collector Road) front yard setback from the centerline of County Road 32. 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>
Major Collector Road not in Shoreland District	95	75	120	100

(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. Paul Kellermann purchased the property in 2017; however, the building site has in existence prior to 1974. Based on when the home was constructed (1902), the house is considered to be a legal non-conforming structure pursuant to the Carver County Zoning Code. The current house location is approximately 55' feet from the centerline of County Road 32. Although the home is being moved to a location that does meet the required setback, any additions or attached structures must meet the Carver County Zoning Code standards or be successful in obtaining the necessary variance(s) for any reduced setback(s).

2. Section 152.034 of the County Zoning Code requires a 95-foot front yard setback from the centerline of a minor connector road to a structure. The applicant's proposal consists of pouring a new foundation, moving the home to that new foundation, as well as constructing an attached garage onto the north side of the current house. The proposed 2-stall garage is approximately 24' x 24' (576 square feet). The closest point of the garage would be approximately 75 feet from the centerline of County Road 32; therefore, reflecting an approximate 20-foot variance.
3. The applicants' letter (dated July 7, 2023) describes the practical difficulty in locating a location for the new foundation that meets setbacks and would not be too close to existing storage structures (to the south) that are still usable. While the home can be located in an area outside of the required 95-foot road setback, the applicants could not place an attached garage to the south, without risking being too close to the pole barn for appropriate access.
4. The provided site plan dated July 7, 2023, shows the existing location of the farmhouse as well as the future location and proposed attached garage. Based on the limited clear areas near the existing home site, the property owners have proposed a plan which minimizes impacts to all setbacks and limits number of trees to be removed and reduces necessary grading but maintains the character of the farm site. The site plan also indicates two small storage sheds that are to be demolished prior to constructing the new home foundation.
5. On July 13, 2023, this request was reviewed by Jacob McLain, Senior Environmentalist for Carver County Environmental Services. He stated that this project would be required to comply with all Subsurface Sewage Treatment System (SSTS) standards (i.e. obtain county approval). The applicant indicated in an email that the existing tank and drainfield were installed in the 1960s and the entire septic system will be replaced when the home is moved. McLain explained that the applicant would need to submit a design plan, which would be reviewed prior to the issuance of a building permit. The design plan needs to meet requirements of MN Rule 7080-7083 and Chapter 52 of the Carver County Code of Ordinances.
6. On July 21, 2023, Kristen Larson, CCWMO Water Resource Program Specialist, reviewed the variance request and indicated she did not have specific concerns with the request. However, she did provide the following comments: *"An erosion and sediment control plan (perimeter control and other appropriate erosion and sediment control BMPs) should be included in the information submitted as part of the building permits. Planning and Water Management and SWCD review of the erosion and sediment plan can occur as part of the building permit review process."*
7. On July 20, 2023, this request was reviewed by Jack Johansen, Transportation Planner for Carver County Public Works, who stated *"Public Works has reviewed the variance request for a setback reduction and is in support. There appears to be no conflicts with potential future projects along County Road 32 and accommodating this request results in the structure being located farther away from County Road 32 than its current location."*
8. 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 as well as the non-conformity sections of the County Zoning Code. Although this request does not meet the specific standards, it appears to meet the intent of the regulations, as the existing house structure is considered a legal non-conformity
9. The neighborhood is comprised of agricultural land, residential homes & activities, as well as some areas of dense vegetation. 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.
10. The granting of the variance would not conflict with the intent of the Comprehensive Plan, nor will government services be negatively impacted by the relocation of the structure.
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 Camden Town Board has reviewed and recommended approval of the request during their July 13, 2023, Town Board meeting, without additional conditions.

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 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:

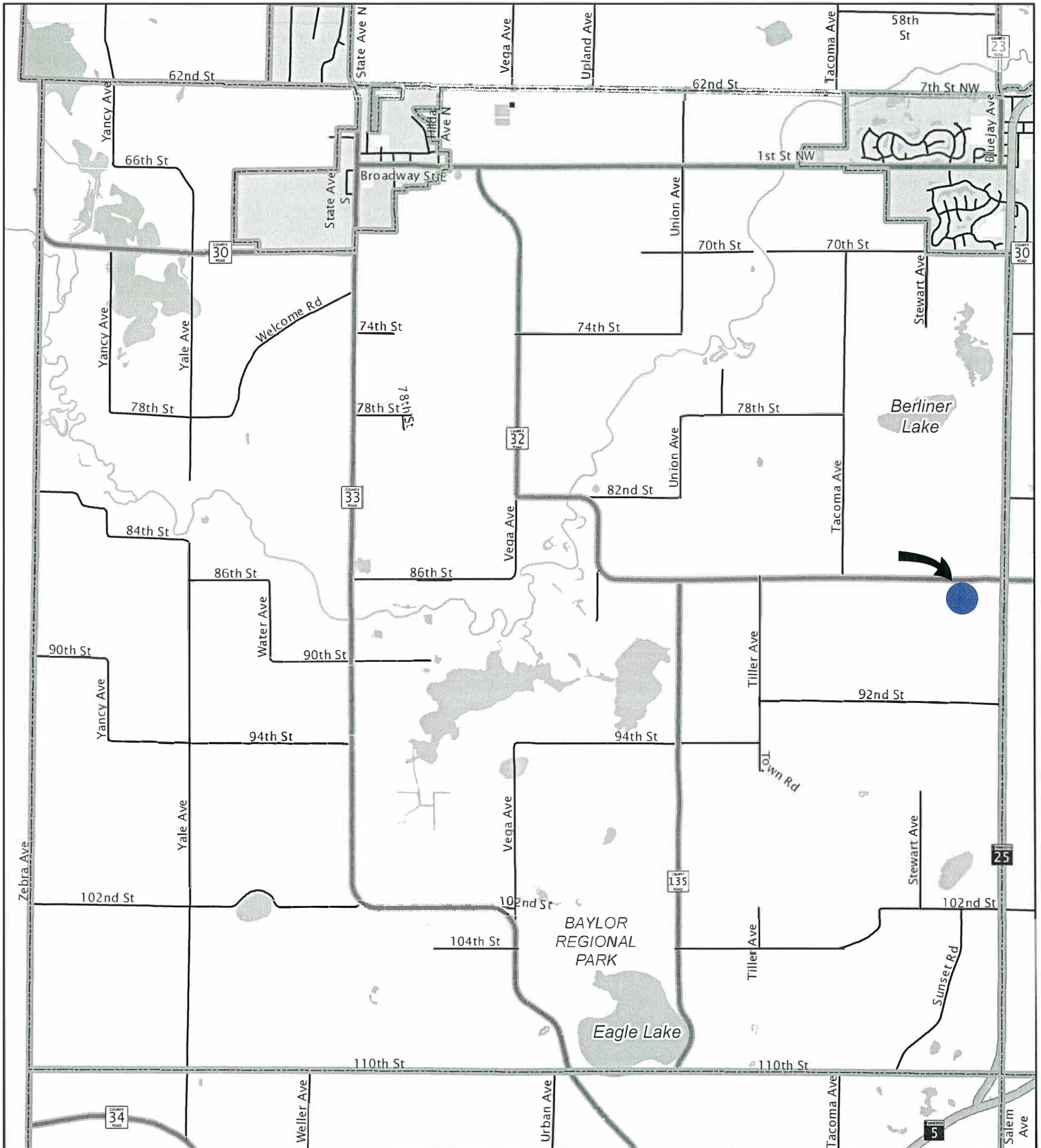
1. The permittee shall obtain the appropriate demo/building permits and septic permit(s) prior to the construction of the new foundation and moving of the residential house. A grading plan and erosion/sediment control plan shall also be prepared, submitted and implemented in accordance with the CCWMO 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 July 7, 2023. The new home location shall not encroach any closer to the centerline of County Road 32 than approved (i.e. 75± feet) as part of this permit application.
3. The foundation construction and home moving project would be required to comply with all Subsurface Sewage Treatment System (SSTS) standards (i.e. obtain County approval). The SSTS design plan would be reviewed once submitted to the Carver County Environmental Services staff to verify all requirements of MN Rule 7080-7083 and Chapter 52 of the Carver County Code of Ordinances.
4. 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.

CAMDEN TOWNSHIP

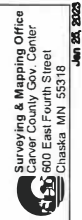


This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible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



Map Created by Carver County GIS

N 1/2 SEC. 24, T.116, R.26



Purpose of this variance request

Paul and Brittany Kellermann, owners of the property at 14485 County Road 32, Mayer MN are requesting a variance of the 95' setback on County Road 32 in order to and move the house onto a new foundation south and west away from the road, then attach a 24'x 24' 2-stall garage. The setback we are requesting is 75'.

The house, built in 1901, currently sits 55' from the centerline of County Road 32. Due to the current building site setup, moving the house to the required 95' setback with an attached garage would place the house about 10' from the existing 40'x88' pole shed. This close proximity would make it difficult to dig a new foundation and to move the house. Moving the house this close to the pole shed would also give us limited views from the south side of the house and limited accessibility for any building maintenance or repairs.

Thank you for considering this request.

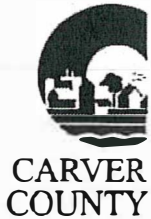
Paul and Brittany Kellermann

7-7-23

KELLERMANN HOME MOVE + GARAGE



DATE: 7/24/2023
 This map was created using data from the City of Everett, Washington, and the Snohomish County, Washington, Geographic Information Systems (GIS) and is not a representation of information and data from the City of Everett, Washington, and the Snohomish County, Washington, and is not intended to be used for any purpose other than informational purposes. The City of Everett, Washington, and the Snohomish County, Washington, are not responsible for any inaccuracies contained in this map.



Township Presentation & Recommendation Form

PARCEL # 020240700	Permit # PZ20230029
Owner's Name: Paul Kellermann	Owner's Mailing Address: 14485 County Rd 32
City: Mayer	Owner State: MN Owner Zip: 55360
Applicant (if other than owner):	Site Address: 14485 County Rd 32 Mayer MN 55360

Type of Request: ☐ CUP ☐ IUP ☐ Preliminary Plat ☐ Final Plat ☒ Variance ☐ Appeal	
Description of Request: Reduce setback from 95' to 75' for house move and added garage at 14485 County Rd 32 Mayer MN See attached letter and photo for additional information.	
Date of County Public Hearing: 8/2/2023	Date of Township Meeting: 8/2/2023

7/13/2023 PK 7/1/2023

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:	

****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.

Paul Kellermann

Date 7/7/2023

Signature of Applicant

William K Devere

Date 7-13-23

Signature of Township Official

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 02-024-0700

File# PZ20230029

APPLICANT/OWNER: Paul Alan Kellermann

* * * * *

The North Half of the Northeast Quarter (N½ of NE¼) of Section 24, Township 116 North, Range 26 West, EXCEPTING THEREFROM the following described land, to-wit: That part of the North Half of the Northeast Quarter (N½ of NE¼) of Section 24, Township 116 North, Range 26 West described as follows: Beginning at the northeast corner of said North Half of the Northeast Quarter of Section 24, Township 116, Range 26; thence running West along the north line of said Section 24, a distance of 340.00 feet; thence running South parallel to the east line of said Section 24, a distance of 641.00 feet; thence running East on a line parallel to the north line of said Section 24, a distance of 340.00 feet to the east line of said Section 24; thence running North along the east line of said Section 24, a distance of 641.00 feet to the point of beginning.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

July 24, 2023

TO: Carver County Board of Adjustment & Laketown Town Board

FROM: The Land Management Department

SUBJECT: Variance application to construct driveway with reduced access separation from intersection

FILE #: PZ20230018
APPLICANT: Alex Young
OWNER: Terrain Holdings, LLC
SITE ADDRESS: 9501 Lakewood Circle, Chaska MN
VARIANCE TYPE: Reduced Access Separation - Intersection
PURSUANT TO: Carver County Zoning Code: Section 152.036 (G)(1)
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 07-028-0700

BACKGROUND:

1. Terrain Holdings, LLC owns an approximate 64.14-acre parcel located in the East Half (E½) of the Northeast Quarter (NE¼) of Section 28, Laketown Township. The parcel consists almost entirely of crop production land with lake shoreline. The property is mostly unimproved (vacant land with a storage structure and dock for lake access) with two Building Eligibilities (one 1 per 40 and one transferred building eligibility). The parcel is located in the Agricultural Zoning District, Shoreland Overlay District of Piersons Lake, the Minnehaha Creek Watershed (MCWD) and Carver County Water Management Organization (CCWMO) – Carver Creek Watershed. The property is registered in the Agricultural Preserve program.
2. The current parcel has frontage on both Laketown Road (County Road 141) and Lakewood Circle. The applicant, Alex Young, is requesting a variance that would allow for the construction of a driveway with a reduced access separation from the intersection of a County Road and a Township Road. A variance, if obtained, would allow the applicant to apply for an Administrative Permit to construct a driveway to access a future home site and accessory building.

LEGAL BACKGROUND:

§ 152.036 ACCESS REQUIREMENTS.

- (A) Relation to road authority. Nothing in this chapter shall abrogate the ability of a road authority to approve, deny, or require modification of an access, require a permit for an access, develop and impose standards and conditions for an access. Approval by the Department of an access pursuant to this chapter shall not constitute approval by the road authority nor shall approval by the Department require that the road authority approve the access.
- (B) Number of accesses limited. With the exception of field access drives, any principal use of land requiring access to a public road shall be limited to a single access connection. All parcels shall be limited to a single access, unless through the conditional, interim, or accessory use permitting process an additional access is supported by the operational plan and/or site plan, it is approved by the road authority, and it meets the standards of this chapter
- (G) In addition to the required minimum lot area and dimensions contained in this chapter, all corner lots shall be of adequate dimension to accommodate corner clearances specified below. When a private access is requested near the intersection of two roads the following shall apply:

- (1) For a County Road and Township Road, access on the Township Road shall be at least 1/8 mile (660 ft.) from the intersection of the County Road and shall not be located within any turn lane serving the County Road intersection.

- (5) Accesses shall not be located within any turn lane or bypass lane.

(Ord. 47, passed 7-23-02; Am. Ord. 58-2007, passed 3-27-07; Am. Ord. 80-2015, passed 6-16-15)

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 subject property was created via a minor subdivision in 2018, as a conforming property with 64.14 acres. At the time, it contained a small cabin which is considered an accessory building at this time. In 2021, an additional Building Eligibility was transferred to the property; therefore, two eligibilities are available for the site.

2. The Carver County Zoning Code requires the centerline of a driveway to an intersection of a County Road and a Township Road to be at least 1/8 mile (660 feet). The applicant is requesting an access location which would be approximately 550 feet east of the intersection of Laketown Road and Lakewood Circle, reflecting a 110' variance. The submitted site plans (dated June 20, 2023) shows the proposed gravel driveway location as well as the location of a future agricultural building. The site plan also shows construction limit areas to help prevent erosion and impacts to the land currently in production.
3. In a letter dated June 30, 2023, the applicant details the request and the need for the driveway location to be closer to the intersection of Lakewood Circle and Laketown Circle than what is permitted by the Zoning Code. He states that Lakewood Circle is a highly traveled road due to the Minnesota Department of Natural Resources (MNDNR) public access to Piersons Lake as well as the 15 existing residential homes, and traffic speeds increase as travelers head east, away from the intersection. The combination of better sightlines and lower vehicle speeds closer to the intersection would allow for easier and safer access to the future home site at the proposed driveway location. The second difficulty described is associated stormwater runoff due to steep slopes on the eastern and southeasterly property edges. The requested driveway location would allow for additional space for stormwater management ponds and ditches, as recommended by the Minnehaha Creek Watershed District. The applicant explains that preventing water runoff would protect neighboring properties as well.
4. The plight of the landowner is due to circumstances unique to the property, not created by the landowner. The configuration of the subject property and existing topography of the area have created a practical difficulty in finding a driveway location that is far enough from the intersection, but still provides safe sightlines for vehicles traveling on Lakewood Circle. The applicant is proposing to use the property in a reasonable manner, not permitted by an official control.
5. The granting of the variance would not conflict with the intent of the Comprehensive Plan nor the Carver County Zoning Code. The proposed parcel would have reasonable access to a public road and is otherwise a conforming parcel.
6. The neighborhood is comprised of agricultural uses and residences and a variety of lot sizes. The request would not cause a substantial change in the character of the neighborhood, nor would it have a negative impact on government services.
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 would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
8. 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 access separation to an intersection of a township road and a county road. The intent of these regulations is to ensure enough space to accommodate a turn lane if future planning needs require one. Although it does not meet the specific standards, it appears to meet the intent of the regulations.
9. On July 19, 2023, this request was reviewed by Abigail Ernst, Permitting Technician at the Minnehaha Creek Watershed District, who stated the applicant has applied for a permit with the MCWD and it is currently under review. The project triggers the MCWD erosion control rule, stormwater management rule, and wetland protection rule. She states, "*we are currently working with the applicant to assess stormwater treatment options while balancing the need for useable farmland*".
10. On July 20, 2023, this request was reviewed by Jack Johansen, Transportation Planner at Carver County Public Works. He stated "*a staff member from Public Works was present at the June 12th on-site meeting with Township Officials & Staff, the applicant, and Land Management Staff. The demonstrated safety concerns with the topography's impact on sight lines and concerns relating to the stormwater runoff to the adjacent residential development appear to warrant the allowance of a driveway at 550 feet from the County Road 141 intersection, rather than the minimum 660 feet. The rationale behind the 660 feet is to accommodate turn lanes for future planning needs, and a reduction of this setback would still allow for a future turn lane at this site if at one point necessary.*"

11. The applicant met with members of the Laketown Town Board, Carver County Public Works, and Land Management staff onsite on June 8, 2023, prior to applying for the variance request. The Laketown Town Board reviewed and recommended approval of the request without additional conditions during their June 12, 2023, Town Board meeting.

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance for reduced access separation from an intersection pursuant to Section 152.036 (G)(1) of the Carver County Zoning Code would serve in the interest of justice, the following conditions should be attached to the approved variance:

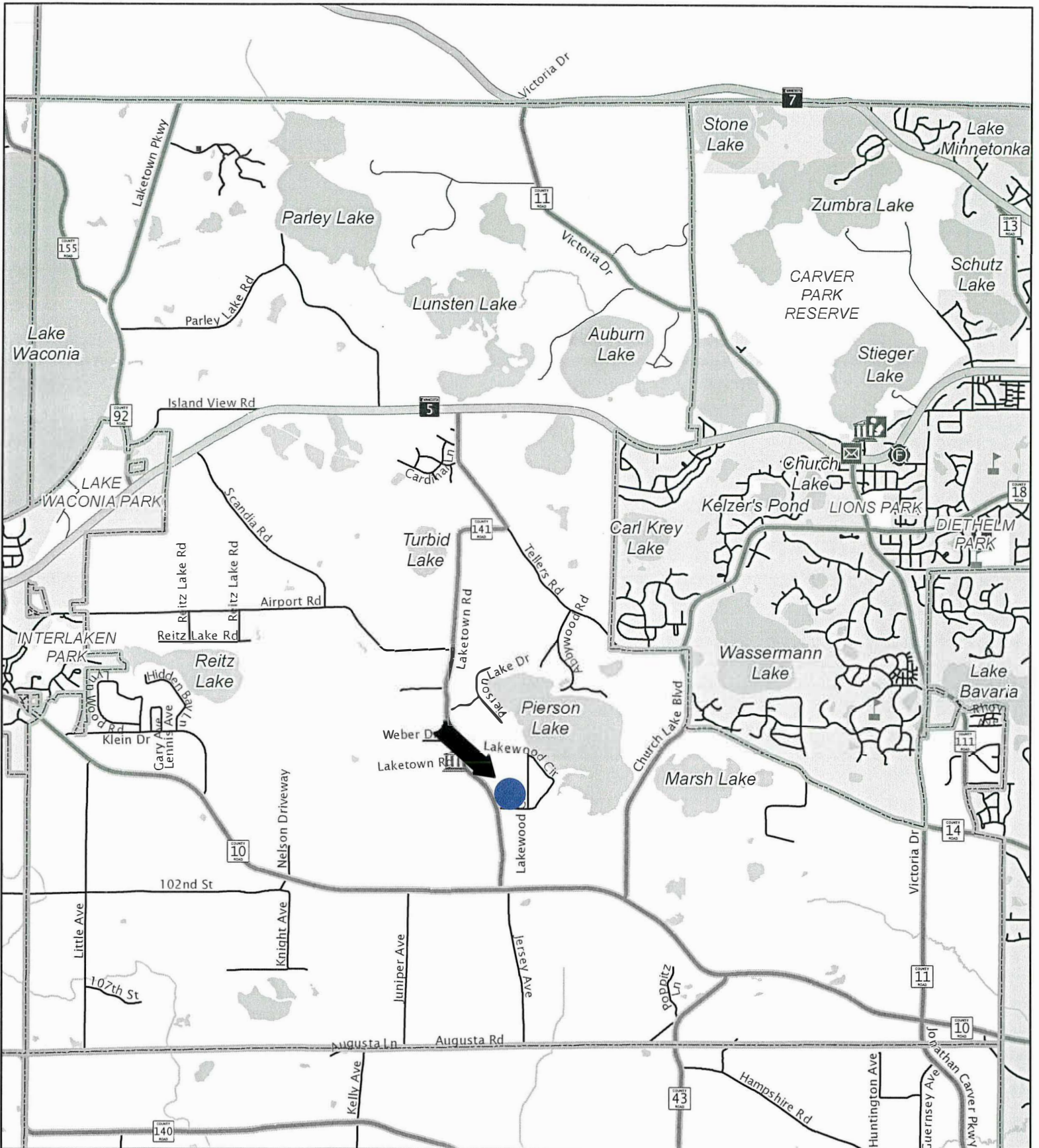
1. The driveway location shall be subject to the local road authority (Laketown Township) standards pertaining to road access. The appropriate permit(s) shall be obtained before any work commences within the right-of-way. All work shall be done in accordance with the submitted site plans and shall comply with the approved variance.
2. The centerline of the future driveway shall not encroach any closer than 550' from the center of the intersection, without an additional variance.
3. The applicant shall provide approval documents from the Minnehaha Creek Watershed District related to erosion control, stormwater management and wetland protection prior to the issuance of the driveway permit.

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.

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

N 1/2 SEC. 28, T.116, R.24



June 30th, 2023

Board of Adjustment
Attn: Jason Mielke
Land Use Manager
Government Center, Admin Bldg.
600 Ease 4th Street
Chaska, MN 55318-2101

Re: Variance Request, Distance from Laketown Road, 9501 Lakewood Circle

Dear Mr. Mielke,

My name is Alex Young, and we own 9501 Lakewood Circle, which is a 60-acre agricultural property on the northeast corner of Laketown Road and Lakewood Circle. Last spring, we submitted a driveway application for residential access permit to the County for access off Laketown Road and were denied due to nonconformance with Public Works Access Policy. Subsequently, we applied for a departure request which was also denied by Public Works. After exhausting attempts for access off Laketown Road, we submitted to Laketown Township for an access permit off Lakewood Circle, 550' east of Laketown road due to multiple practical difficulties that occur at 660', specifically sightlines for safety and topography challenges. The Township approved the request on 5/8/2023 and copied the County on the approval. The County requested a meeting on site to review the request and discuss the application. The onsite meeting occurred on 6/8/2023. We decided to move forward with the variance review process through the Board of Adjustment and spent time over the last few weeks preparing the application and updated drawings to accompany the attached submittal.

The first practical difficulty is sightline safety. Attached to the application is a topography map. As you can see from the plan and as we observed in our meeting, at 660' east of Laketown Road, the driveway would intersect Lakewood Circle down the slope from the high or flat point of the property. As you move east from 550' the view from both directions becomes more difficult. This becomes increasingly more dangerous because a major purpose of travel on the road is the DNR public access to Pierson Lake. People travel at a very high rate of speed and as they travel east on Lakewood Circle the speeds increase. With driveway access at 550', not only are they traveling at a lower rate of speed than at the 660' mark, also and as noted above, the visibility is much better to avoid any incidents at 550'.

The second practical difficulty is topography and associated stormwater runoff. Attached to the application is a topographical map of the property which highlights the steep slopes along the eastern and southeastern edges of the property along Lakewood Circle. Both the prior owner and I worked with the Carver County Water and Soil department regarding water runoff and erosion along these property lines. As you can see by the aerial, hayed drainage areas between tilled areas have been constructed and maintained as well as a 50' hay buffer along the road to help with these issues. It is because of these alterations that we are now able to keep erosion to a minimum. At 660' the driveway would be placed, and grading would occur in the sloped area. The requested 550' is the very eastern edge of the flat portion of the property. Adding a driveway at 660' with ditches and a non-pervious roadbed will most certainly cause a setback to the erosion problems that we have been successfully able to improve, especially considering how a driveway would need to traverse the slope to lessen the grade of the incline. The stormwater from the eastern half of our property flows directly across the neighboring

properties and into Pierson Lake. The western portion of our property flows west, under Laketown road by way of several wetlands prior to entering a creek that heads further west.

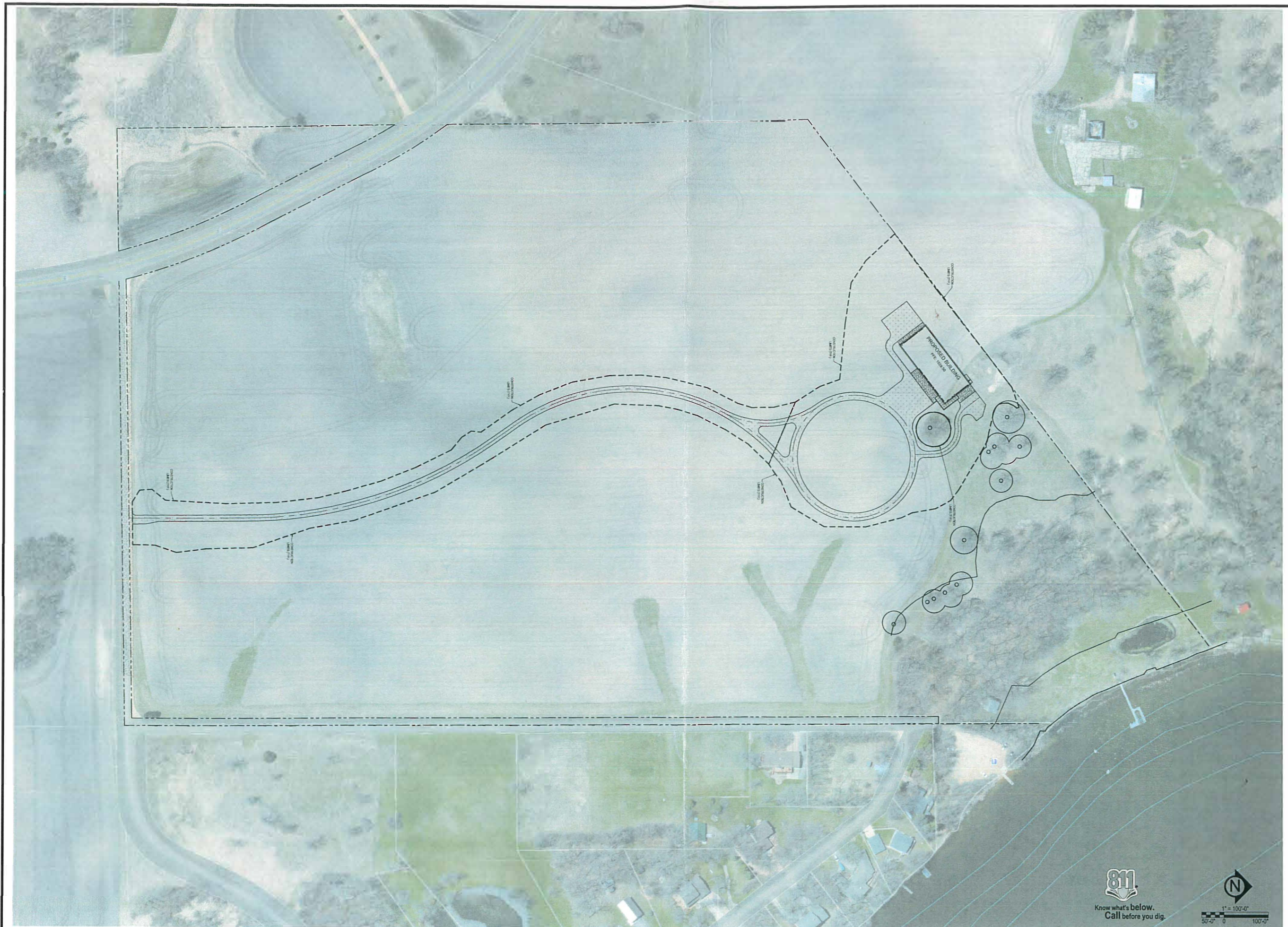
We feel that considering the practical difficulties described above, the best approach is to intersect our driveway at 550' east of Laketown Road on Lakewood Circle. This is significantly more manageable and has far fewer safety and stormwater runoff impacts.

I can be reached at 612-749-6464 or ayoung@mspcommercial.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alex Young', with a stylized, cursive script.

Alex Young



AG. BUILDING

9501 LAKEWOOD CIRCLE, LAKETOWN TOWNSHIP, MN 55318

TERRAIN HOLDINGS
CENTER DRIVE, SUITE 130, EAGA

TERRAIN HOLDINGS
1215 TOWN CENTER DRIVE, SUITE 130, EAGAN, MN 55123

ISSUE/SUBMITTAL SUMMARY

[illegible]

DRAWN BY:KT REVIEWED BY: DK
PROJECT NUMBER: 22425

REVISION SUMMARY

[illegible]

OVERALL SITE PLAN

C2.0
COPYRIGHT CMC GROUP INC.
3-9



Township Presentation & Recommendation Form

PARCEL #	07.0280700	Permit #	PZ.2023 0018
Owner's Name:	Terrain Holdings, LLC		
Owner's Mailing Address:			
City:		Owner State:	Owner Zip:
Applicant (if other than owner):	Alex Young		
Site Address:	Laketown Circle		

Type of Request:	☐ CUP	☐ IUP	☐ Preliminary Plat	☐ Final Plat	☒ Variance	☐ Appeal
Description of Request:						
Date of County Public Hearing:				Date of Township Meeting:		
8/2/2023				06.12.2023		

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:
Laketown Township Board of Supervisors pre-approved this recommendation for variance request following an on-site meeting along Lakewood Circle, involving the applicant and representatives of Carver County. The Board has also waived an additional requirement for Mr. Young to present this request in person at another Board meeting. On June 12, 2023, the Board passed the following motion in support of Mr. Young's request: "To provide Board recommendation in support of variance to allow access centered at 550 feet to mitigate drainage issues and improve site lines. Township also waives property owner attendance at and additional Township meeting in conjunction with the application for variance with Carver County" (Passed unanimously)

****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: 6-19-2023
Signature of Applicant	
	Date: 07.05.2023
Signature of Township Official	

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 07-028-0700

File# PZ20230018

APPLICANT/OWNER: Terrain Holdings, LLC

Alex Young, Chief Manager

* * * * *

The Southeast Quarter of the Northeast Quarter of Section 28, Township 116, Range 24, Carver County, Minnesota, together with all that part of Government Lot Number 1 in said Section 28, which lies southerly of the following described line: Commencing at the northwest corner of said Northeast Quarter of Section 28; thence on an assumed bearing of North 88 degrees 21 minutes 53 seconds East along the North line of said Northeast Quarter 1382.72 feet to the West line of said Government Lot Number 1; thence South 00 degrees 56 minutes 31 seconds East along said West line 1138.58 feet to the point of beginning of said line to be described; thence North 52 degrees 37 minutes 47 seconds East along said line 1507.7 feet, more or less, to the water's edge of Pierson Lake and said line there terminating.

This tract contains 64.14 acres of land, more or less, and is subject to any and all easements of record.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

July 24, 2023

TO: Carver County Board of Adjustment & Waconia Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (Commercial Kennel Setbacks, Reduced Lot Size, Homestead Requirement)

FILE #: PZ20230028

APPLICANT: Laura Zimmerman and Douglas Pritchard

PROPERTY OWNER: GLE LLC

SITE ADDRESS: 13950 Hwy 5 NYA, MN 55397

VARIANCE TYPE: Commercial Kennel Setbacks, Reduced Lot Size, Homestead Requirement

PURSUANT TO: County Code Section 152.079 (A)(1) & (5); (C)(4)(a)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 09-510-0080

BACKGROUND:

1. Laura Zimmerman and Douglas Pritchard currently operate a commercial kennel (Carver Canines) from a property in the City of Cologne. They are seeking to relocate the business to a property owned by GLE LLC in Waconia Township. The property is an approximate 3.55-acre parcel located in the Southwest Quarter (SW¼) of the Southeast Quarter (SE¼) of Section 31, Waconia Township. The parcel is improved with an existing commercial building of approximately 11,400 square feet and a parking lot. As a veterinary clinic and feed store the property was granted Conditional Use Permit PZ20020009 for a farm-related business. The property is part of the Hydes Lake Shores Subdivision (Lot 1, Block 2) Plat from 1994, and is located in the Agricultural Zoning District, Shoreland Overlay District (Rice Lake) and the Carver County Water Management Organization (CCWMO) - Carver Creek watershed.
2. The applicants, Laura Zimmerman and Doug Pritchard, are requesting variances from the zoning code which would allow them to apply for a Conditional Use Permit (CUP) to operate a commercial dog kennel. The proposed commercial kennel would operate from a 3.5-acre parcel (where 5 acres is the minimum), on a property without a single-family dwelling for the owner to occupy and homestead, located within the 1,000-foot setback from a neighboring residence (approximately 420 feet), and within ½-mile of 12 neighboring residences (where 9 is the maximum number), as required by the Zoning Code; therefore, variances have been requested pursuant to Sections 152.079 (A)(1), (A)(5) and (C)(4)(a) of the Zoning Code.

LEGAL BACKGROUND:

§ 152.079 CONDITIONAL USES-ACTIVITIES CENTERED AROUND A HOME OR A HOME/FARM COMBINATION.

(A) Minimum criteria for issuance of permit:

- (1) Minimum five acre lot size; unless another size is specified under a particular provision;
- (2) Sewage can be managed in accordance with Chapter 52 of this code of ordinances;
- (3) Land shall not be enrolled in the AG preserve program;
- (4) The activity shall be located on a hard surfaced (blacktop or concrete) road unless written approval for location on a township road is given by the affected township or townships. The town board may condition its approval of access to a gravel road on agreements with the applicant regarding dust control, maintenance, or similar issues. The terms of the agreement shall be such that the agreement is in force so long as the permit is in effect;

- (5) There is a single-family home on the parcel occupied as a homestead by a principal of the activity; or a single-family home will be constructed or homesteaded before the CUP for the activity is issued;
- (6) The scale and operational characteristics of the proposed activity shall be such that it can be operated on the proposed site and within the current levels of support services and infrastructure. Activities that will have service needs—traffic capacity or roads, waste disposal or management, fire or police protection, sewage disposal—that will exceed those available in the area should locate in municipalities where the services are available.

(C) Activities.

- (4) Commercial kennels under the following conditions:
 - (a) The facility is 1,000 feet from any residence except that of the owner and a minimum of ½-mile from ten or more homes existing prior to application for a permit under this provision;
 - (b) An appropriate manure and waste treatment system shall be provided for the kennel operation;
 - (c) Confinement and shelter is provided through the use of fences and structures.

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.

(E) *In consideration of an after-the-fact variance request, and in addition to the criteria listed in § 152.215(D), the Board of Adjustment shall take into consideration and weigh the following:*

- (1) Whether or not the applicant acted in good faith or attempted to comply with this chapter.
- (2) Whether a substantial investment of money has been made.
- (3) Whether the construction is fully completed.
- (4) Whether there are similar structures or similarly situated structures in the area.
- (5) Whether the benefit to the county is outweighed by the burden on the applicant, if the applicant is required to comply with this chapter.

(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 requires the property must be over 5 acres in size for a home or farm-centered business, contain a single-family home for the owner to occupy and homestead, a minimum setback of 1,000 feet of the business' operational area to the nearest residence and within a ½ mile of a maximum of 9 residences, except that of the owner. If approved, Ms. Zimmerman would be allowed to apply for a commercial kennel CUP on a lot under 5 acres in size, on a property without a single-family residence for the owner to homestead, within 1,000 feet of a neighboring residence, and within a ½ mile of more than 9 residences not on the subject property.
2. The existing CUP for the property (#PZ20020009), which permitted a veterinary clinic and feed supply store as a farm-related business, allowed for a business with 5 full-time and 3 part-time employees and a total of 59.5 operating hours per week. The owner was a veterinarian who conducted house calls for his patients. The CUP was issued under Ordinance 32S, Section 3.0305. The standards for a farm-related business at that time did not include a minimum lot size requirement. The zoning code did require a residence to be occupied and homesteaded by the business owner, but it was a relatively new requirement. The CUP subsection included this exception for businesses that became non-conforming with the adoption of Ordinance 32S: "Permitted operations, existing on March 21, 2000, shall not be restricted by this provision..." Hence, the 2002 CUP did not require the owner to live on the property. The veterinary clinic and feed store was originally permitted by CUP #8219, issued in 1990. In 1997, Variance #10632 was issued to allow for the construction of a 48 square foot sign for the business.
3. The applicants' letter (dated June 26, 2023) describes the requested variances and presents reasons for the Board to grant them. The narrative notes that a previous CUP issued to the property, implying "the Board of Commissioners already made a finding with respect to the lot size in the 2002 Order." The narrative mentions that the property size was created by a 1994 plat that was not initiated by the applicants, thus a pre-existing condition. The narrative asserts that since the "current buildings will physically remain as they have been for the past 21 years," then the lot-size variance will not alter the essential character of the locality. Jim King, CFO of WellHaven Pet Health that currently leases the property, stated: "[t]his place was clearly built with boarding and overnight kenneling in mind. It has much larger boarding spaces than the rest of our clinics and is set away from dense populated areas which lends to boarding. Wellhaven does not kennel dogs overnight but believes that the former owner did." The narrative states that there is no additional adjacent land for purchase to increase the size of the lot.

The narrative addresses the homesteaded owner requirement, stating: "Requiring a single-family house on the Property would materially contradict the findings and ruling set forth in the 2002 Order." The letter states the absence of single-family house will not alter the essential character of the locality and "building a house would involve substantial disruption to Applicant's business plan and require a change to the Applicant's personal living situation." Furthermore, in relation to the proximity of one neighboring home built in 1993 within 1,000 feet of the proposed kennel, the narrative notes that the subject property's use of "housing of small domestic type pets/animals" allowed by the 1990 CUP, predates the construction of the house, implying that the veterinary clinic and supply store qualifies for protection as a nonconforming use and structure as found in Section 159.009 of the zoning code. Similarly, the narrative states that the houses in one half-mile proximity "are due to circumstances unique to the Property, a situation not created by the Applicant. The buildings and primary usage of the facility to house small domestic type pets/animals, predates all but four of the affected uses as well as the enactment of the current Zoning Code." The narrative repeats the assertion that the subject property's "buildings were lawfully existing when the Zoning Code was enacted, such that they qualify as permitted nonconforming uses and structures under section 152.009." Finally, the narrative notes the Waconia

Township Board recommendation of approval and the letter of support from the Karen Hallquist, City of Norwood Young America's Economic and Community Development Director.

4. The narrative describes the proposed use and operating standards. The applicants propose "a canine daycare and boarding facility. The facility will operate 24/7. Proposed business hours are: 7:00AM – 7:00PM Monday through Friday. 7:00AM – 6:00PM Saturday and Sunday." The estimated average number of customers is about 25 per day, with 10 customers on the site at peak times. Carver Canines proposes a total of 17 employees, plus two owners at this facility, with a maximum of 5 staff during the largest shift. One staff member will work overnight. "Carver Canine will staff 24/7 for quality care and safety reasons." The proposed maximum number of boarded dogs is 50, with an estimated daily range from 20 to 50 dogs. Fenced outdoor play areas are proposed at the rear and front of the building. "For better management and to minimize noise, Applicant will divide the dogs into 3 groups. Small dogs will use the current fenced in area. Large dogs will be outside in the back, split into two areas based on the number of dogs and the general situation."
5. The submitted survey (dated July 6, 2023) shows the existing property improvements, which include the approximately 11,400 square foot building, a parking area with both asphalt and gravel surfaces, and driveways leading to Hwy. 25 and Rome Avenue. The survey also shows two proposed fences, enclosing an approximate 6,800-square foot area, which the narrative identifies as outside dog-run areas. There is no proposed expansion of the existing building. The applicants also submitted a Property Exhibit (dated July 6, 2023) which shows the area surrounding the subject property with dimensions from the proposed kennel operational area to neighboring residences.
6. The narrative asserts that the applicant's proposed use "as a commercial kennel is reasonable as a permitted farm-related use." Also, the narrative maintains "It is [a] specifically permitted farm-related use under the Zoning Code." However, the text of the zoning code does not support this assertion. In 152.079 (C)(2)(b) the zoning code lists specific standards for farm-related businesses:

"The following specific standard must be met: the business is 70% farm-related under one or more of the following criteria:

- 1. The business provides a repair or maintenance service for equipment unique and necessary to agricultural operations;*
- 2. The business produces a product or involves a process that utilizes locally grown or produced commodities; or*
- 3. The business involves sales and/or purchasing of products of the local agricultural economy or of goods unique and necessary to agricultural operations.*

Although dogs are a frequent presence on farms, the domestic pet is not a necessary product or service of agricultural operations which would qualify dog boarding as a farm-related business as defined by the zoning code. Commercial kennels are allowed under a separate sub-section, 152.079 (C)(4).

7. One of the main assertions of the applicants' narrative is that the 23-year old existence of the veterinary clinic and supply feed store grant the proposed commercial kennel the status of a nonconforming use. However, the previous business and existing structure was permitted by a CUP issued by the County, not through any nonconforming status. Any new business, even if it was a farm-related business, would have to be issued a new CUP to operate. The protections provided in the zoning code under section 152.009 for nonconforming uses only apply to "Any structure or use of a structure, or use of land lawfully existing upon the effective date of this chapter [current zoning code adopted in 2002] may be continued at the size and in the manner of operation existing upon the date..." The proposed kennel use is expanding the use of the building significantly so that the "manner of operation" is changing. Firstly, the zoning code recognizes a distinct separation between a farm-related business and a commercial kennel. Secondly, the previous CUP allowed for 8 total employees, 59.5 operating hours per week, and a capacity for 12 boarded animals. In comparison the proposed Carver Canine operation is for 19 total employees, 82 operating hours per week, a capacity for 50 boarded dogs, and regular overnight employee occupancy of the building. The previous CUP was for "treating and housing of small domestic type pets/animals and selling pet and livestock fees as well as animal health supplies." The overnight stays for pets were incidental to the veterinary business, which also had the retail component, so the vet clinic/feed store and dog boarding facility are fundamentally different uses, with a greatly expanded proposed use.

8. The granting of the variance would be in conflict with the intent of the Comprehensive Plan. The Comprehensive Plan's County Policy LU-19 recognizes that certain non-agricultural / non-residential uses are appropriate and even essential in the rural area. "These uses fall into three categories. essential services; large scale land uses that require a location in the Agricultural Policy Area because of a unique need for land or location; and small scale business activities centered around a residential or residential/farmstead use of a property." A commercial kennel, without an accompanying owner-occupied residence, does not appear to fall into any of the three land use exceptions identified in the Comprehensive Plan. Moreover, the Comprehensive Plan states:

"It is not the intent of this policy to prove an alternate location for uses that belong in the urban area. For example, operators of some activities are attracted to the low land costs, usually lower taxes, lower initial infrastructure costs, and less stringent development standards in the agricultural district, even though their use is not appropriate within the context of the area. Extreme caution must be exercised in permitting additional uses in the rural area, since one major facility or a series of small uses permitted over the years can have a significant cumulative and adverse effect on the area."

It appears that a business that relies on frequent daily visits for dog drop-offs/pickups and a significant amount of staffing, when the previous veterinary clinic could not remain in business due to a staffing shortage, would be more suitably located within an urban area with a more proximate customer and employee base.

9. The granting of the variance is not in harmony with the general purpose and intent of the official control. The official controls pertaining to the request is the separation distance of 1,000 feet from the operational area to any residence not on the same property and a maximum number of residences within a half-mile radius, as well as a minimum lot size. These standards involve physical distances that enforce a buffer area around a commercial kennel for the reason that this type of land use creates noise that is atypical to an agricultural area. In the Carver County zoning code, there is no other land use, not even gravel mining, that imposes such stringent setback requirements. The intent of these regulations is to lessen the potential for negative impacts from activities or sounds associated with commercial kennels to nearby residentially developed areas.
10. The variance request is also at odds with the intent of the zoning code to have home-based businesses. The requirement for business owners to reside within a dwelling on the property in which the business operates was established by County Board action in 2000. The Planning Commission resolution (dated February 15, 2000) which recommended approval of the owner-homesteading requirement stated: "It is important that commercial type uses in the Agricultural Zoning District be home-based to prevent uncontrolled growth and to promote compatibility within neighborhoods throughout the County. Also, it is essential that the Zoning Code conform to the Comprehensive Plan."
11. The neighborhood is comprised of large agricultural uses, home-based commercial uses, a community solar garden, and several small acreage residences. This request would not cause a substantial change in the physical character of the neighborhood, nor would it have a negative impact on government services.
12. The granting of the variance would not materially or adversely affect the safety of persons residing or working in the area adjacent to the property. However, the granting of the variance may create an adverse impact to nearby neighbors due to the number and consistent overnight boarding of dogs. The previous veterinary clinic/feed store business may have produced similar daily traffic numbers accessing the business from Hwy. 5, which is traveled on average by about 5,800 vehicles per day, but the outside exercise areas, proposed to be increased from about 480 square feet to about 6,800 square feet, would significantly increase the outside areas for dogs and their length of time outdoors. This would allow a greater number of dogs to be outside with a greater probability that barking would impact neighbors' quiet enjoyment of their properties.
13. If the variance is approved, the applicants would be required to apply for a Commercial Kennel CUP pursuant to the Zoning Code on a lot under 5 acres in size, on a property without a single-family residence for the owner to homestead, within 1,000 feet of a neighboring residence, and within a ½ mile of more than 9 residences not on the subject property. The site plan of the kennel operation would be reviewed by the Planning Commission as part of a CUP request. The conditions of the CUP would address the specific requirements for the project. If the CUP is denied, the variance would be considered null and void.

14. Land Management staff received letters of support for the variance from Jazzlen and Zachary Newell (dated July 18, 2023), Jodene Diedrich (dated July 18, 2023), and Karen Halquist, City of NYA (dated May 1, 2023). Letters opposing the request were received from Shannon & Mike Lovich (dated July 15, 2023) and Gail Voller (July 17, 2023).
15. This application was reviewed by Jacob McLain of Carver County Environmental Services and in an email dated July 24, 2023, stated: "Per Carver County Zoning Code 152.122, before any permit or variance is issued for a property with an SSTs located in shoreland area a compliance inspection must be completed. If the variance requests are approved and there is a CUP application, we will have to look at the design flow for the new operation to see if it meets the current design capacity of the septic system."
16. MN DNR and MN Department of Transportation reviewed the variance application and in emails (both dated July 16, 2023) stated that they had no comments.
17. The Waconia Town Board has reviewed the variance requests and recommended approval at their June 12, 2023, Town Board meeting. The Town Board did not ask for any conditions to be attached to their recommendation.

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance to operate a commercial kennel from a 3.5-acre parcel, on a property without a single-family dwelling for the owner to occupy and homestead, located within the 1,000-foot setback from a neighboring residence (approximately 420 feet), and within ½-mile of 12 neighboring residences (where 9 is the maximum number), as required by the Zoning Code would serve in the interest of justice, the following condition should be attached to the approved variance:

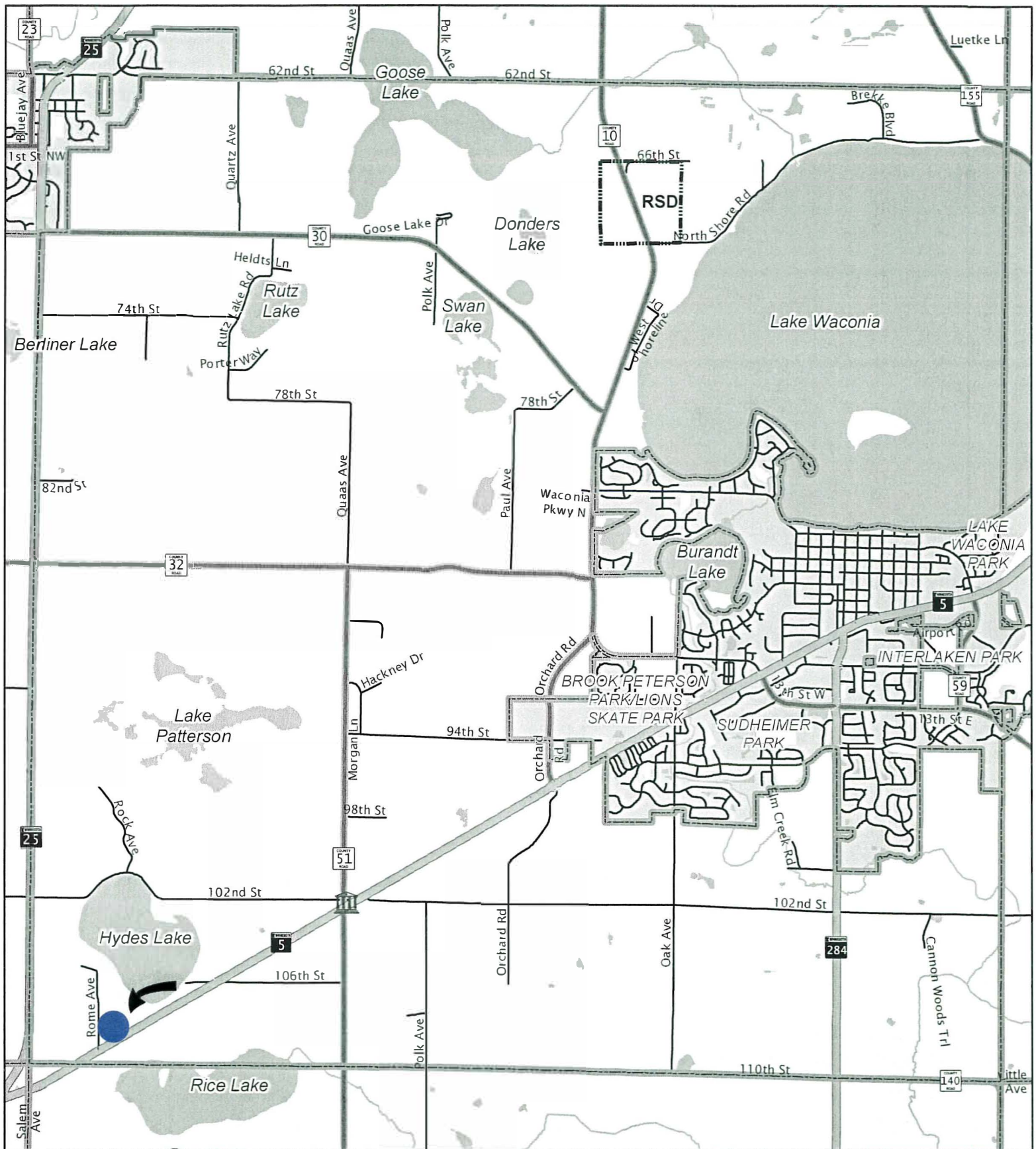
1. Prior to the commencement of the proposed Commercial Kennel business operation, the permittee shall obtain the required Conditional Use Permit and applicable building permit(s). All work shall be done in accordance with the submitted plan. The business activity shall meet all other requirements of the Carver County Zoning Code and other Carver County Code of Ordinances, if applicable. If the Conditional Use Permit request were to be denied by the County Board, this variance request shall be considered null and void.
2. If the future CUP application is approved, the approved operational area shall not be located closer than 420' from the neighboring residence.

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.

WACONIA TOWNSHIP

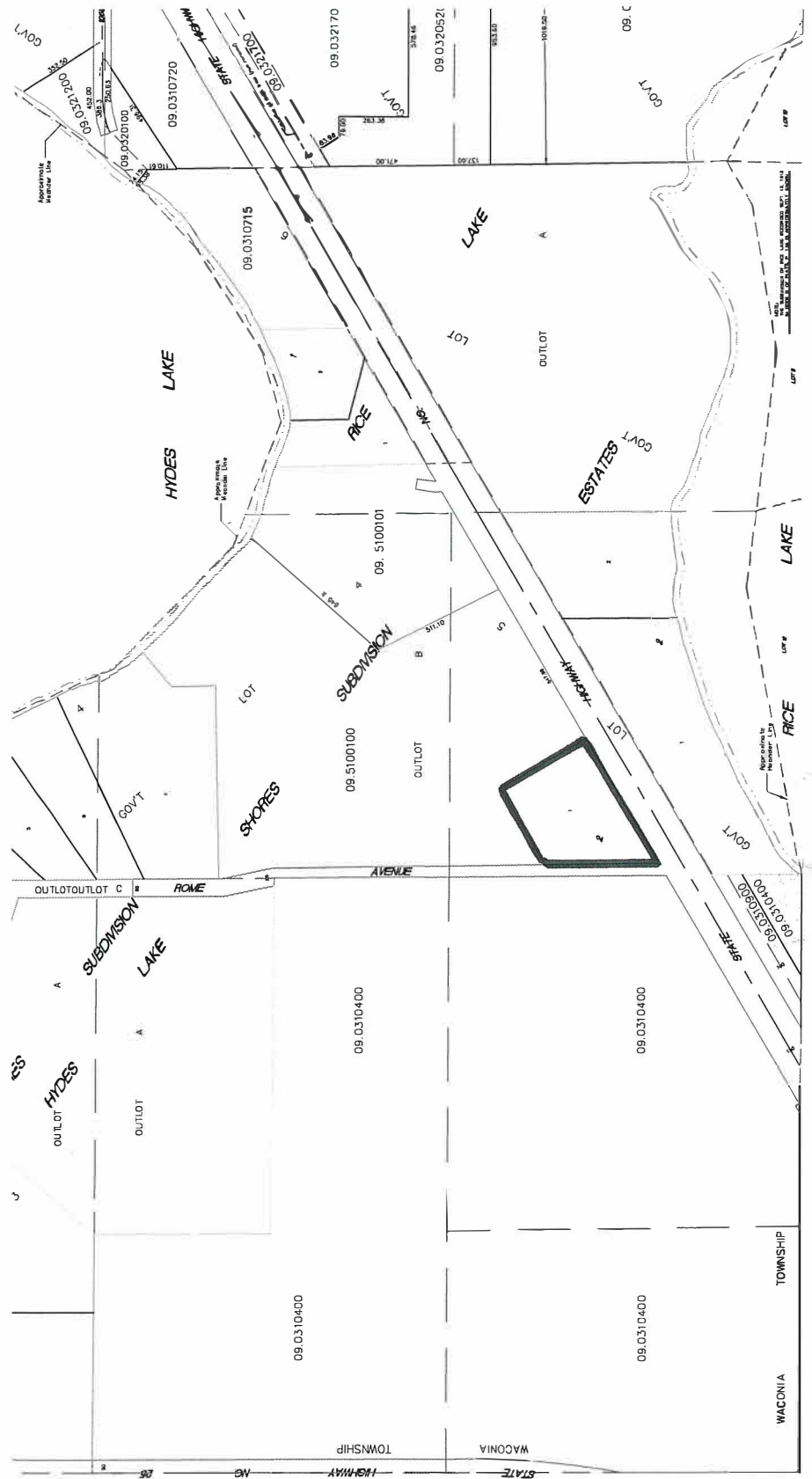


This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible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



Map Created by Carver County GIS

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2253 Naples Avenue
Cologne, MN 55322

July 17, 2023

Carver County Board of Adjustment
600 E 4th St.
Chaska, MN 55318

Re: Request for Variances for 13950 Highway 5, Norwood Young America 55397

Dear Members of the Carver County Board of Adjustment,

Applicant Carver Canines LLC respectfully requests that the Carver County Board of Adjustment grant variances to Carver County Zoning Code section 152.079 (conditional uses—activities centered around a home or a home/farm combination) to allow the property located at 13950 Highway 5, Norwood Young America 55397 (the “Property”) to be used as a commercial kennel following issuance of the required conditional use permit. More specifically, Applicant seeks variances from four of the requirements set forth in Zoning Code § 152.079: (1) the minimum lot size; (2) the requirement of the described single-family home; (3) the requirement that the kennel be

located 1,000 feet from any residence other than the owner's; and (4) the requirement that the kennel be located at least one-half mile from ten or more existing homes.

The Board of Adjustment has power to grant variances when, among other things, compliance with the requirements of the Zoning Code presents a "practical difficulty" for the applicant. See Zoning Code § 159.215(D).

As discussed below, given the physical attributes of the Property and its land-use history, a variance is warranted, and a conditional use permit should be issued.

Background of the Property

The Property at 13950 Highway 5, Norwood Young America 55397, consists of 3.55 acres and is legally described as Block 2, Lot 1, Hydes Lake Shores, tax parcel number 09.5100080. The Property is located in the Agricultural Zoning District, the Carver Creek Watershed and the Rice Lake Shoreland Overlay District (Natural Environment Lake). According to Findings of the Carver County Board of Commissioners in 2002, the parcel for the Property was created in 1994. The property is improved with a commercial building, which was originally about 7800 square feet and later expanded. (See **Exhibit 1**—County Board Order PZ20020009, dated June 3, 2002, Findings of Fact 1, 2. (hereinafter "2002 Order").)

On December 27, 1990, the Board of Commissioners issued Conditional Use Permit #8219 allowing a farm-related business. The permit allowed Dr. Ralph Molnau to construct a commercial building and operate the Countryside Veterinarian and Feed Supply Store. (See **Exhibit 1**, Finding of Fact 2.) In 2002, the Board of Commissioners issued a conditional-use permit to allow Dr. Molnau to expand his veterinary clinic operation with a 40' x 56' accessory building and a 16' x 60' addition on the south side

of the existing commercial building, for total square footage of approximately 11,000 square feet. (See **Exhibit 1.**)

The Property is currently owned by GLE, LLC, a Minnesota limited liability company. The Property is currently leased by WellHaven PetHeath, MN LLC ("WellHaven"), pursuant to an Assignment, Assumption and Amendment of Lease ("Amendment") dated October 29, 2018. WellHaven ceased providing veterinary services at the Property in 2021

GLE, WellHaven and Carver Canines have entered into a Sublease Agreement, under which Carver Canines will take over possession of the Property. The proposed Sublease Agreement incorporates the terms and conditions of the October 29, 2018 Amendment. Performance of the Sublease Agreement is contingent on Carver Canines' receiving the required variances and a conditional-use permit to lawfully operate a dog kennel on the Property.

Lyle Braun, an officer of GLE has signed the Variance Request as Owner of the property and actively supports Carver Canines Variance Request.

Proposed Use

Carver Canines' principal use of the property will be as a canine daycare and boarding facility. The facility will operate 24/7. Proposed regular business hours are: 7:00 AM – 7:00 PM Monday through Friday. 7:00 AM – 6:00 PM Saturday and Sunday. All drop off and pick-ups will be limited to these hours.

Carver Canines Variance Request

Applicant believes the average number of customers per day will be 10 at peak times, 25 per day maximum.

Carver Canines intends to employ 17 employees plus 2 owners (19 total) for the business.

Projected daily staffing is as follows:

1st Shift: 6:00 AM – 2:00 PM – 5 Staff

2nd Shift: 2:00 PM – 10:00 PM – 2 to 5 Staff

2:00 PM – 6:00 PM – 5 Staff

6:00 PM – 10:00 PM – 2 Staff

3rd Shift 10:00 PM – 6:00 AM : 1 staff (*on site not sleeping*) Many

boarding facilities do not have overnight staff. Carver Canines will staff

24/7 for quality care and safety reasons.

Applicant estimates based on its due diligence of the proposed facility and its present business that the maximum number of dogs which can be boarded daily is 50. The estimated daily range is 20 to 50 dogs.

The facility currently has an indoor area for a dog play area. Applicant is proposing to add a fenced in, outdoor play area on the Northeast side of the facility, as indicated on the Site Drawing.

For better management and to minimize noise, Applicant will divide the dogs into 3 groups. Small dogs will use the current front fenced in area. Large dogs will be outside in the back, split into two areas based on number of dogs and the general situation.

Current Zoning

The Property is located in the Agricultural Zoning District. Section 152.079 of the Zoning Code allows for farm-related businesses to be operated only if the business is directly related to commercial agricultural purposes. The minimum criteria for a farm-related business use are:

(1) Minimum five-acre lot size; unless another size is specified under a particular provision;

(2) Sewage can be managed in accordance with chapter 52 of this code of ordinances;

(3) Land shall not be enrolled in the AG preserve program;

(4) The activity shall be located on a hard surfaced (blacktop or concrete) road unless written approval for location on a township road is given by the affected township or townships. The town board may condition its approval of access to a gravel road on agreements with the applicant regarding dust control, maintenance, or similar issues. The terms of the agreement shall be such that the agreement is in force so long as the permit is in effect;

(5) There is a single-family home on the parcel occupied as a homestead by a principal of the activity; or a single-family home will be constructed or homesteaded before the CUP for the activity is issued;

(6) The scale and operational characteristics of the proposed activity shall be such that it can be operated on the proposed site and within the current levels of support services and infrastructure. Activities that will have service needs—traffic capacity or roads, waste disposal or management, fire or police protection, sewage disposal—that will exceed those available in the area should locate in municipalities where the services are available.

Zoning Code § 152.079(A).

Section 152.079 also specifically allows commercial kennels. The relevant language provides that a commercial kennel is permissible if:

(a) The facility is 1,000 feet from any residence except that of the owner and a minimum of ½-mile from ten or more homes existing prior to application for a permit under this provision;

(b) An appropriate manure and waste treatment system shall be provided for the kennel operation;

(c) Confinement and shelter is provided through the use of fences and structures.

Zoning Code § 152.079(C)(4). The requirements set forth in paragraphs (b) and (c) are not at issue.

An email from Jason Mielke, the Land Use Manager for Carver County, to Felix Sahlin, counsel for Applicant, states that “[i]n order to potentially operate a Pet Daycare/Boarding facility from the site would require the approval of multiple variances (Board of Adjustment approval – public hearing process).” (**Exhibit 2**—Mielke email of Apr. 17, 2023.) The last paragraph of the email points out that:

1. There is a single-family home on the parcel occupied as a homestead by a principal of the activity; or a single-family home will be constructed or homesteaded before the CUP for the activity is issued. (No house or building eligibility available)

2. The facility is 1,000 feet from any residence except that of the owner. (1 house within 1,000 feet)

3. A minimum of ½-mile from ten or more homes existing prior to application for a permit under this provision. (Potentially 14 houses within ½-mile of existing building)”

(**Exhibit 2.**)

Grounds for a variance exist in this case, as “practical difficulties” prevent compliance with the requirements of Zoning Code § 152.079.

The Board of Adjustment has the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on

nonconformities. See Zoning Code § 152.215(D). Variances may be granted when an applicant establishes that there is “a practical difficulty in complying with the official control” of the zoning ordinance. A practical difficulty is established when the facts show:

(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.

Zoning Code § 152.215(D)(2).

Request 1—*Minimum five-acre lot size*

A variance should be granted with respect to the minimum five-acre lot size. The County Board of Commissioners already made a finding with respect to the lot size in the 2002 Order. The 2002 Order states that the lot for the Property is: “3.55 Acres in size and is improved with a commercial building (Approx. 7,800 Sq. ft.)”. (**Exhibit 1**, Finding of Fact 1.) The 2002 Order further states: “The veterinary clinic and feed stores *primary purpose is for the treating and housing of small domestic type pets/animals* and selling pet and livestock feeds as well as animal health supplies.” (**Exhibit 1**, Finding of Fact 4.)

As noted in the Background section, the Zoning Code permits commercial kennels, see Zoning Code § 152.179(C)(4), and defines a commercial kennel as “[a] place where three or more dogs or cats over the age of four months are kept for sale, breeding for sale, boarding for pay, or training for pay on an ongoing basis.” Zoning Code § 152.010.

The minimum lot-size requirement creates a practical difficulty for the Applicant because while the proposed use as a commercial kennel is reasonable—it is specifically permitted farm-related use under the Zoning Code—the parcel, which is legally established according to the Findings in the 2002 Order, is less than five acres. According to the 2002 Order, the parcel was created in 1994; the original veterinary clinic and feed store was permitted in 1990 pursuant to CUP #8219. The 3.55 acre lot size was approved by Carver County when the land was platted.

Based on 23 years of previous use, the lot size is not a condition of the Property. It is pre-existing. The less than 5-acre lot size is clearly not a creation the Applicant.

A lot-size variance will not alter the essential character of the locality. The current buildings will physically remain as they have been for the past 21 years. Jim King, the current manager of WellHaven Pet Health, states in an April 25, 2023 email that: “[t]his space was clearly built with boarding and overnight kenneling in mind. It has much larger boarding spaces than the rest of our clinics and is set away from dense populated areas which lends well to boarding. WellHaven does not kennel dogs overnight but believes that the former owner did.” (**Exhibit 3**—King email to Felix Sahlin, dated May 16, 2023.)

Finally, practical difficulty created by the minimum 5-acre rule includes more than just economic considerations. The additional 1.45 acres of land that would be required to meet the lot-size requirement must be adjacent to the Property and be available for purchase. Land, of course, is unique and there is no adjacent land for sale.

Request 2—*The Property should not be required to have an owner-occupied residence or homestead.*

Section 152.079(A)(5) states that a permit for activities centered around a home or home/farm combination requires that the property have a “single-family home on the

parcel occupied as a homestead by a principal of the activity” or that such a home will be constructed or homesteaded. This requirement also presents a practical difficulty for Applicant. As discussed above, the proposed use as a commercial kennel is a permitted use, and prior permits from the County allowed the establishment of a farm-related business without requiring the single-family home on the Property. Building a single-family home would involve a substantial burden to the Property and the Applicant. Requiring a single-family house on the Property would materially contradict the findings and ruling set forth in the 2002 Order. The fact that the 2002 Order did not require a single-family house on the Property may be unique, but in any case, Applicant did not create the issue. Allowing the Property to continue without a single-family house will not alter the essential character of the locality. These considerations are not merely economic. Besides adding considerable expense, building a house would involve substantial disruption to Applicant’s business plan and require a change to the Applicant’s principals’ personal living situation. See Zoning Code § 152.009 (permitting nonconforming uses predating the adoption of the Zoning Code to continue).

A variance to the single-family home requirement should be granted.

Request 3—*The facility is 1000 feet from any residence except that of the owner.*

As discussed above, Applicant’s proposed use of the Property as a commercial kennel is reasonable as a permitted farm-related business use.

The only house within 1000 feet of the facility is located at 13925 Highway 5. It was built in 1993, on the south side of Highway 5. The Property’s use with the “primary

purpose of housing of small domestic type pets/animals,” as found in the 2002 Order predates the construction of the house at 13925 Highway 5 by three years.

Further, section 159.009 of the Zoning Code, which addresses non-conforming uses and structures, states that “[a]ny 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.” In other words, the buildings on the Property lawfully predate the adoption of the Zoning Code.

A variance to permit Applicant's operation of a Commercial Kennel within 1000 of 13925 Highway 5 will not alter the essential character of the locality. The current buildings will physically remain as they have been or the past 21 years. The primary purpose of the housing of small domestic type pets/animals remains consistent with the property's use over the same time period.

Here too, the practical difficulty stems from more than economic considerations alone. The Applicant seeks to operate an approved Agricultural Business Activity on a site where the arguably the same primary purposes were and continued be conducted. It can only be concluded that the original owner of 13925 Highway 5 built his home acres with a veterinary clinic which as part of its primary activities housing of small domestic type pets/animals.

A variance with respect to the “house within 1000 feet” requirement should be granted.

Request 4—*The facility is one half mile from any residence except that of the owner.*

As discussed above, Applicant's proposed use of the Property as a commercial kennel is reasonable as a permitted farm-related business use.

The location of houses within one half mile of the buildings on the Property are due to circumstances unique to the Property, a situation not created by the Applicant. The buildings and primary usage of the facility to house small domestic type pets/animals, predates all but four of the affected uses as well as the enactment of the current Zoning Code.

A definitive Site/Plot Plan is submitted as part of this Adjustment Request, which establishes the precise distances from the structure to each of the houses within one-half mile of the Property. (See **Exhibit 4.**)

The 2002 Order states in its first Finding of Fact that: "The parcel was created in 1994, *however, the actual veterinary clinic and feed supply store was permitted as a Conditional Use Permit *CUP#8219) back in 1990.*" (**Exhibit 1.**) Only three of the thirteen houses within one-half mile of the facility predate the veterinary clinic and feed supply store, specifically 13680 Highway 5 (built in 1914), 13580 Highway 5 and 10790 Highway 25 (both built in 1977). Note that the house at 10790 Highway 25 may be outside the half-mile radius from the facility.

The buildings and their "*primary purpose of the housing of small domestic type pets/animals*" predate the vast majority of the homes within one-half mile of the property. Further, as discussed above, the buildings were lawfully existing when the Zoning Code was enacted, such that they qualify as permitted nonconforming uses and structures under section 152.009.

Further, a variance to permit Applicant's operation of a commercial kennel will not alter the essential character of the locality. The current buildings will physically remain as they have been for the past 21 years. The primary purpose of the housing of small domestic type pets/animals remains consistent with the property's use over the same time period.

This practical difficulty includes more than economic considerations alone. The Applicant seeks to operate an approved Agricultural Business Activity on a site where the arguably the same primary purposes were, and continue be, conducted. What has changed is the increase in residential housing, and increased regulation of farm-related business activities within the Agricultural Zoning District itself.

A variance from the requirement relating to houses within a half mile radius of the facility should be granted.

Further Considerations

The Waconia Township Board have endorsed Applicant's Variance Request (See **Exhibit 6.**). The City of Young America through its Economic Development Director also actively supports Applicant's efforts to find its new business home in Carver County. (See **Exhibit 7).**

Sincerely,

CARVER CANINES LLC

Laura Zimmerman
Laura Zimmerman (Jul 17, 2023 14:10 CDT)

Laura Zimmerman

Carver Canines Variance Request

(Referenced Exhibits Submitted Separately)

EXHIBIT LIST
CARVER CANINES LLC VARIANCE REQUEST

Exhibit 1: *County Board Order PZ20020009, dated June 3, 2002*

Exhibit 2: *E-mail from Jason Mielke, Carver County the Land Use Manager to Felix Sahlin, counsel for Applicant dated April 17, 2023;*

Exhibit 3: *E-mail from Joseph King, Manager Wellhaven LLC to Felix Sahlin, counsel for Applicant dated April 25, 2023;*

Exhibit 4: *EVS Survey, Property Exhibit, Project: Carver Canines;*

Exhibit 5: *Properties within ½ Mile Countryside Vet Clinic;*

Exhibit 6: *Waconia Township Meeting Minutes June 12, 2023;*

Exhibit 7: *Letter from Karen Hallquist, Community & Economic Development Director to Carver County Board of Commissioners, dated June 3, 2023*

NOTE: *Full Size copy of EVS Survey, Property Exhibit, Project: Carver Canines also filed as a separate document.*

EXHIBIT 1

COUNTY OF CARVER
BOARD OF COMMISSIONERS

**AN ORDER FINDING CERTAIN FACTS AND ORDERING
THE ISSUANCE OF A CONDITIONAL USE PERMIT**

DATE: June 3, 2002

ORDER #: PZ20020009

FILE #: PZ20020009

APPLICANT: Dr. Ralph Molnau

SITE ADDRESS: 13950 Hwy 5; NYA, MN 55397

PERMIT TYPE: Farm Related Business

PURSUANT TO: Ordinance No. 32S, Section 3.0305

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 09-510-0080

A public hearing was held on this matter May 21, 2002, by the Carver County Planning Commission, and the recommendation of the Planning Commission was duly considered in the issuance of this order.

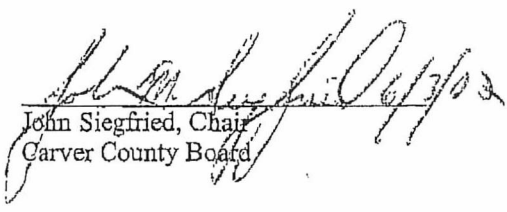
FINDINGS OF FACT

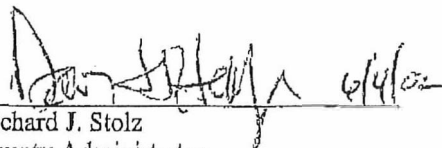
1. Dr. Ralph Molnau owns Lot 1, Block 2 of Hydes Lake Shores (3.55 acres). The property is improved with a commercial building (approx. 7,800 sq. ft.). This parcel was created in 1994; however, the actual veterinary clinic & feed supply store was permitted as a Conditional Use Permit (CUP #8219) back in 1990. The property is located in the Agricultural Zoning District, the Carver Creek Watershed and the Rice Lake Shoreland Overlay District (Natural Environment Lake).
2. Conditional Use Permit (CUP) #8219 was issued December 27th, 1990, by the Carver County Board of Commissioners for a Farm Related Business. The permit allowed Dr. Molnau to construct a commercial building to operate the Countryside Veterinarian and Feed Supply Store. Dr. Molnau is requesting to expand his veterinary clinic operation with a 40' x 56' accessory building to be attached to the existing building by a walkway. Also being proposed is a 16' x 60' addition on the south side of the existing commercial building. Due to the expansion of the operation, issuance of a new Conditional Use Permit is required. The new CUP request will supercede and terminate any prior permit(s) that have been issued.
3. Section 3.0305 of the Carver County Zoning Ordinance allows for Farm Related Businesses to be operated only if the business is directly related to commercial agricultural.
4. The veterinary clinic and feed stores primary purpose is for the treating and housing of small domestic type pets/animals and selling pet and livestock feeds as well as animal health supplies. Along with in-house care of animals, Dr. Molnau also makes routine off-site visits for treating farm animals.
5. The proposed additions 16' x 60' (960 sq. ft.) and 40' x 56' (2,240 sq. ft.) will allow extra storage space for agriculture feed inventory and allow the clinic the ability to increase their dog kennel runs by 20. The 16' x 60' addition will be utilized for examining rooms, surgery rooms and possibly more retail space. The 40' x 56' addition will be utilized for 20 additional dog kennel runs. The kennel run area will utilize approximately 880 sq. ft. (22' x 40') and the remainder will be utilized for storage. Currently, there are four dog kennel runs in the existing building. An approximate 20' x 22' cement pad (fenced) is being proposed for exercising animals during their stay.
6. Hours of operation for the clinic & feed store are from 8:00 a.m. to 7:00 p.m. (Mondays – Fridays) and 8:30 a.m. to 1:00 p.m. (Saturdays). The operation has five (5) full-time employees and three (3) part-time employees.

7. On April 2nd, 1997, a variance (#10632) was approved which allowed Dr. Molnau to construct an oversized sign with a total square footage no larger than 48 square feet. The sign was constructed to help identify the Farm Related Business (Countryside Veterinarian and Feed Supply).
8. Both existing driveways meet county requirements for access separation distances. The Minnesota Department of Transportation (MnDOT) issued an access permit as part of the original CUP request off of Highway 5. According to the previous CUP request the number of vehicles entering the property is approximately 20 to 25 a day. Adequate parking space is provided on the site.
9. Section 5.0902 of the Carver County Zoning Ordinance requires that an evaluation of the existing septic system be completed by a licensed septic inspector. If the system is not in compliance it must be upgraded.
10. The Waconia Town Board is not in opposition of the request.
11. Conditional Use Permit (PZ20020009) for the Farm Related Business shall supercede Conditional Use Permit #8219, and any other permits or renewals for a Farm Related Business on the property legally described in exhibit A. Furthermore, all prior permits, renewals and/or orders are hereby terminated.
12. The Board has considered all the factors required by Section 12.05013C of Ordinance No. 32S and finds that all are either true in this case or can be mitigated by conditions placed on the permit.

IT IS HEREBY ORDERED THAT THE CARVER COUNTY ZONING ADMINISTRATOR SHALL ISSUE CONDITIONAL USE PERMIT # PZ20020009, THEREBY SUPERCEDING CONDITIONAL USE PERMIT #8219 AND ANY OTHER PERMITS OR RENEWALS FOR A FARM RELATED BUSINESS OPERATION ON THE PROPERTY LEGALLY DESCRIBED IN EXHIBIT "A". FURTHER, ALL PRIOR PERMITS, RENEWALS AND/OR ORDERS ARE HEREBY TERMINATED. THIS PERMIT IS ISSUED PURSUANT TO CARVER COUNTY ORDINANCE #32S, SECTION 3.0305. THE FOLLOWING CONDITIONS SHALL BE ATTACHED TO THE PERMIT:

1. A change in ownership, operations or operator shall be cause for the permit to be reviewed by Planning & Zoning for a determination as to whether an application for an amendment or similar consideration is necessary. Proposed owners and/or operators are encouraged to contact Planning & Zoning as early on in the timeline of the proposed change as possible.
2. The overall operation shall consist of treating and housing of small domestic type pets/animals and selling pet and livestock feeds as well as animal health supplies. Along with in-house care of animals, routine off-site visits for treating farm animals shall be allowed. The veterinary clinic and feed store shall be operated in accordance with the submitted operation plan & site plans (dated 4/17/02). These plans will be attached to and become part of the permit.
3. Permittee shall annually submit proof of Liability Insurance and/or a Certificate of Workers' Compensation Insurance to the Planning & Zoning Department.
4. A building permit shall be obtained prior to beginning construction of any future building and/or addition.
5. Prior to the issuance of the conditional use permit, Section 5.0902 of the Zoning Ordinance requires that an evaluation of the existing septic system be completed by a licensed septic inspector. If the system is not in compliance it must be upgraded.
6. The permit is subject to administrative review.


John Siegfried, Chair
Carver County Board


Richard J. Stolz
County Administrator

THE STIPULATIONS OF THIS ORDER, IF ANY, SHALL BE SATISFIED WITHIN SIX (6) MONTHS OF THE DATE FIRST WRITTEN ABOVE, OR SAID ORDER SHALL BE NULL AND VOID AND THE CONDITIONAL USE PERMIT SHALL NOT BE ISSUED. THE SIX (6) MONTH DEADLINE MAY BE EXTENDED ONLY BY ACTION OF THE COUNTY BOARD OF COMMISSIONERS.

CARVER COUNTY REQUEST FOR BOARD ACTION

AGENDA ITEM

Item Name: Dr. Ralph Molnau - request to expand the operation of a Farm Related Business (FRB).

Originating Department: Planning & Zoning

Agenda Date: June 3, 2001

Amount of Time Requested: 1 minute

Supp. Doc. Attached (y/n): yes

Previous County Board Action: CUP #8219 was issued for the FRB on December 27, 1990.

Item Type (X Only One): Consent _____ Regular Session X Discussion Session

EXPLANATION OF AGENDA ITEM

File #PZ20020009. The Planning Commission recommended approval of Dr. Molnau's request for an amendment to Conditional Use Permit #8219 for his Farm Related Business, which is located in Section 31 of Waconia Township. Currently, Mr. Molnau is allowed to operate a veterinary clinic and feed store, in which the intended use is for the treating and housing of small domestic type pets/animals and selling pet and livestock feed, as well as animal health supplies. Along with the in-house care of animals, Dr. Molnau also makes routine off-site visits for treating farm animals. The amendment would also allow him to construct a 16' x 60' (960 sq. ft.) and 40' x 56' (2,240 sq. ft.) additions which would allow extra storage space for agricultural inventory and allow the clinic the ability to increase their indoor dog kennel runs by 20. The Waconia Town Board has no objections with the request. The amendment shall supercede and terminate any prior permit(s) and/or renewal(s) for the Farm Related Business.

RECOMMENDATIONS/BOARD ACTION MOTION REQUESTED

A motion to adopt the Findings of Fact and Order #PZ20020009 for the issuance of a Conditional Use Permit.

FINANCIAL IMPLICATIONS (None)

Funding:

County Dollars = \$0.00

Other Sources & Amounts =

_____ = \$

TOTAL = \$0.00

Budget Information (✓ appropriate items):

Budgeted:

Not Budgeted:

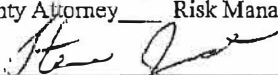
Amendment Required:
(requires controller approval)

Related Financial Comments:

REVIEWS AND APPROVALS AS REQUIRED

✓ All Reviews and Approvals Received:

County Attorney _____ Risk Management _____ Human Resources _____ Controller _____ Other _____


DEPARTMENT HEAD APPROVAL (Signature)

5-24-02
Date

Admin. Dept. Use Only: Approved ✓ Denied _____ Tabled _____ Other _____

EXHIBIT 2



Felix Sahlin <felixsahlin@gmail.com>

RE: CUP for 13950 MN-5 Norwood Young America

1 message

Jason Mielke <jmielke@co.carver.mn.us>

Mon, Apr 17, 2023 at 11:54 AM

To: Felix Sahlin <felixsahlin@gmail.com>

Cc: Carver Canines <carvercanines@gmail.com>, Joe Keske <Joe@area-cre.com>, Richard Reynolds <rich@area-cre.com>, Neal Reynolds <neal@area-cre.com>, Jeff Jones <jeff@area-cre.com>

Good morning Felix,

The site is a legal non-conforming parcel (no residence). It was approved for a Farm-Related Business (FRB) back in the mid 1990's as a veterinarian clinic and feed supply operation. The current CUP does not allow for a dog kennel/boarding facility. (see attached approved CUP and variance)

A new use would require CUP approval; however, based on the commercial kennel criteria pursuant to Section 152.079 (C)(4) the following conditions need to be met.

§ 152.079 CONDITIONAL USES--ACTIVITIES CENTERED AROUND A HOME OR A HOME/FARM COMBINATION.**(A) Minimum criteria for issuance of permit:**

- (1) Minimum five acre lot size; unless another size is specified under a particular provision;
- (2) Sewage can be managed in accordance with Chapter 52 of this code of ordinances;
- (3) Land shall not be enrolled in the AG preserve program;
- (4) The activity shall be located on a hard surfaced (blacktop or concrete) road unless written approval for location on a township road is given by the affected township or townships. The town board may condition its approval of access to a gravel road on agreements with the applicant regarding dust control, maintenance, or similar issues. The terms of the agreement shall be such that the agreement is in force so long as the permit is in effect;
- (5) There is a single-family home on the parcel occupied as a homestead by a principal of the activity; or a single-family home will be constructed or homesteaded before the CUP for the activity is issued;
- (6) The scale and operational characteristics of the proposed activity shall be such that it can be operated on the proposed site and within the current levels of support services and infrastructure. Activities that will have service needs--traffic capacity or roads, waste disposal or management, fire or police protection, sewage disposal--that will exceed those available in the area should locate in municipalities where the services are available.

(B) Minimum conditions:

- (1) Permit shall be subject to administrative review or compliance review as set by the permit. A change in ownership, operations or operator shall be cause for the permit to be reviewed to determine whether an application for an amendment or similar consideration is necessary.
- (2) The activity must operate in conformance with the approved site plan and operational plan and other provisions of this chapter. The operational plan and site plan shall become part of the permit.
- (3) Outside storage is prohibited unless the storage area is adequately screened from nearby roads and residences.
- (4) The operational plan and site plan shall become part of the permit.
- (5) The applicant must submit a copy of workers' compensation insurance or sign an affidavit stating that he or she will not have any employees.

(6) All buildings utilized by the operation must meet the State Building Code.

(C) Activities.

(1) Auto reduction/recycling yards. The purpose of this provision is to permit the continued operation and/or expansion of facilities, scope, or scale of existing home-based auto reduction yards. No new operations shall be permitted under this provision.

(2) Farm-related businesses.

(a) A business directly related to the conduct of agriculture that involves: retail sales beyond the scope of a roadside stand or yard sale, including "pick your own" sales; or operational limits exceeding that of a home occupation; or a commercial structure that would be constructed according to State Building Code.

(b) The following specific standard must be met: the business is 70% farm-related under one or more of the following criteria:

1. The business provides a repair or maintenance service for equipment unique and necessary to agricultural operations;

2. The business produces a product or involves a process that utilizes locally grown or produced commodities; or

3. The business involves sales and/or purchasing of products of the local agricultural economy or of goods unique and necessary to agricultural operations.

(3) Day care (allowed in AG preserve) accommodating more than ten children provided appropriate licenses and/or permits are granted by the state or other appropriate agencies.

(4) Commercial kennels under the following conditions:

(a) The facility is 1,000 feet from any residence except that of the owner and a minimum of ½-mile from ten or more homes existing prior to application for a permit under this provision;

(b) An appropriate manure and waste treatment system shall be provided for the kennel operation;

(c) Confinement and shelter is provided through the use of fences and structures.

In order to potentially operate a Pet Daycare/Boarding facility from the site would require the approval of multiple variances (Board of Adjustment approval – public hearing process).

1. There is a single-family home on the parcel occupied as a homestead by a principal of the activity; or a single-family home will be constructed or homesteaded before the CUP for the activity is issued. (No house or building eligibility available)
2. The facility is 1,000 feet from any residence except that of the owner. (1 house within 1,000 feet)
3. A minimum of ½-mile from ten or more homes existing prior to application for a permit under this provision. (Potentially 14 houses within ½-mile of existing building)

Hopefully I've addressed your questions at this time.

Jason Mielke

Land Use Manager

Carver County Public Services Division

Land Management Department

Government Center, Admin Bldg

600 East 4th Street Chaska, MN 55318-2101

EXHIBIT 3



Felix Sahlin <felixsahlin@gmail.com>

RE: Attorney Introduction

1 message

Jim King <jim.king@wellhaven.com>

Tue, May 16, 2023 at 3:47 PM

To: Felix Sahlin <felixsahlin@gmail.com>, "JSerum@fredlaw.com" <JSerum@fredlaw.com>

Hi Felix – WellHaven acquired this business in 2018 and our intent was to primarily focus on veterinary services. We had challenges with recruiting veterinarians in that location, so we ultimately decided to merge our staff and clients into nearby WellHaven clinics. We ceased our veterinary operations in 2021.

Please see my comments below in red. I can speak to the time WellHaven took over and will provide my best understanding of what things were like prior to WellHaven.

Jim King

Chief Financial Officer
WellHaven Pet Healthjim.king@wellhaven.com
(216) 904-0983

CONFIDENTIAL COMMUNICATION. This communication and any attached files contain information intended exclusively for the use of the individual or entity to whom it is addressed and may contain proprietary, privileged and/or confidential information that is exempt from disclosure under applicable law. Any intentional or unintentional interception of this communication by other than the intended recipient is expressly prohibited and may violate applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. Please notify the sender of any unintended receipt of this email and delete the original message.

From: Felix Sahlin <felixsahlin@gmail.com>**Sent:** Saturday, April 29, 2023 4:26 PM**To:** Jim King <jim.king@wellhaven.com>; JSerum@fredlaw.com**Subject:** Re: Attorney Introduction

Hi Jim and Jeff,

Pleased to make your virtual acquaintance. I have taken a first pass at the Sublease Agreement. It looks pretty straightforward.

The heavy lift in this transaction is obtaining the variances from Carver County. It looks like the commercial structure on the property and Conditional Use Permit (CUP) pre-date the current zoning laws. The current CUP of 2002 states that the intended use (sic) is for the treating and housing of small domestic type pets /animals and selling pet and livestock feed, as well as animal health supplies.

Is it possible to tell me:

How much of your present business is housing small domestic type pets and animals? (this can be a percentage) For WellHaven, this is a very very small percentage. However, this space was clearly built with boarding and overnight kenneling in mind. It has much larger boarding spaces than the rest of our clinics and is set away from dense populated areas which lends well to boarding.

Does this include overnight kenneling of dogs? For WellHaven, N/A, but I believe the former owner would overnight dogs here

What is the average number at any one time? 0 for WellHaven

Does the veterinary practice also treat larger farm animals i.e cattle, horses goats? WellHaven does not treat larger farm animals, only companion animals

Have there ever been any complaints from the neighbors regarding barking dogs? None

During your tenancy has there been a decrease in treatment of larger farm animals vs domestic type pets WellHaven does not treat larger farm animals, only companion animals

I greatly appreciate your assistance with gathering these facts. If you should have questions, or need additional information, please E-mail or call me on my cellphone.

Best Regards,

Felix

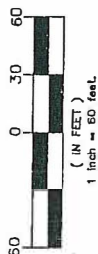
On Thu, Apr 27, 2023 at 3:42 PM Jim King <jim.king@wellhaven.com> wrote:

Forgot to add Jeff Serum!

From: Jim King

Sent: Thursday, April 27, 2023 4:42 PM

EXHIBIT 4



DESCRIPTION OF PROPERTY SURVEYED
Lot 1 Block 2, of HYDES LAKE SHORE SUBDIVISION, CARVER County, Minnesota.

BASIS OF BEARING
For the purpose of this survey the South line of Lot 1 Block 2, is assumed to bear S 59° 23' 17" West.

PROPERTY EXHIBIT

PRODUCT
CARVER CANINES

LOCATION
13950 MN-5, Norwood
Young America, MN

DATE REVISION

PROPERTY EXHIBIT TO A SITE PLAN OR REPORT WAS PREPARED BY EVIS ENGINEERING, INC. FOR THE PURPOSE OF RECORDATION AND SHALL BE A PART OF THE RECORDATION. THE ENGINEER'S SIGNATURE AND SEAL ARE REQUIRED FOR THE STATE OF MINNESOTA.

DATE 6/1/2008
REGISTERED NUMBER 6089

CHECKED BY
SCA CMH

DATE 6/01/23
PROJECT # 2023-090

SHEET NUMBER

1 OF 2

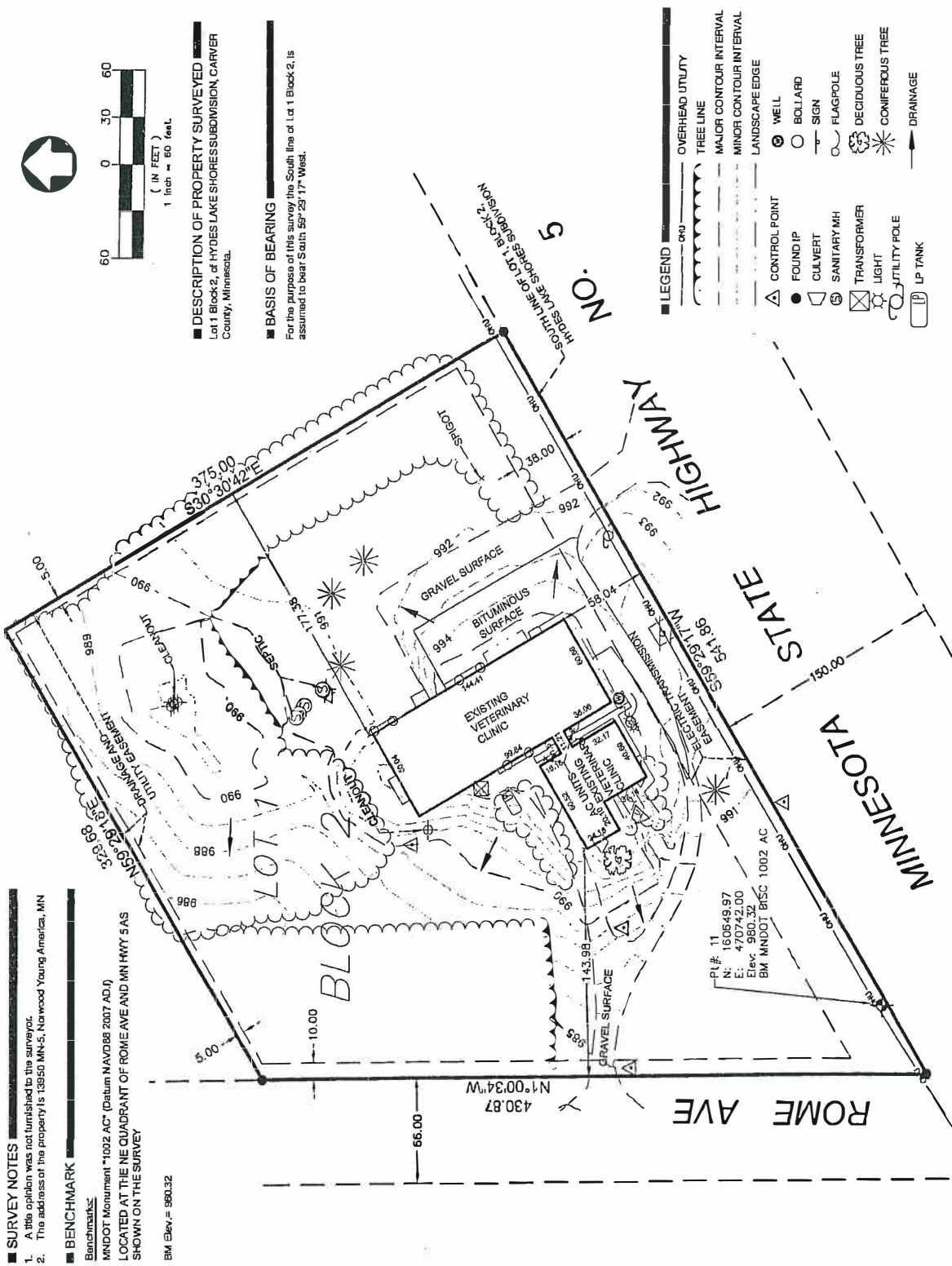


EXHIBIT 5



ENGINEERING, INC. INC.
1023 Valley View Road, Suite 140
St. Paul, MN 55108
SURVEYING
RENEWABLE ENERGY
Phone: 651.444.0200
Fax: 651.444.0206
www.evsinc.com

PROPERTY EXHIBIT

PROJECT
CARVER CANINES

LOCATION
13950 MN-5, Norwood
Young America, MN

DATE REVISION

I HEREBY CERTIFY THAT THIS
PLAN OR REPORT WAS PREPARED
BY ME OR UNDER MY CLOSE
SUPERVISION AND THAT I AM A
LICENSED PROFESSIONAL SURVEYOR
UNDER THE LAWS OF
THE STATE OF MINNESOTA.

SCOTT ALLEN
DATE 6/1/2023
REGISTRATION NUMBER 3308

DRAWN BY
SCA

CHECKED BY
CMH

DATE
6.01.23

PROJECT #
2023-090

SHEET NUMBER

2 OF 2

SURVEY NOTES

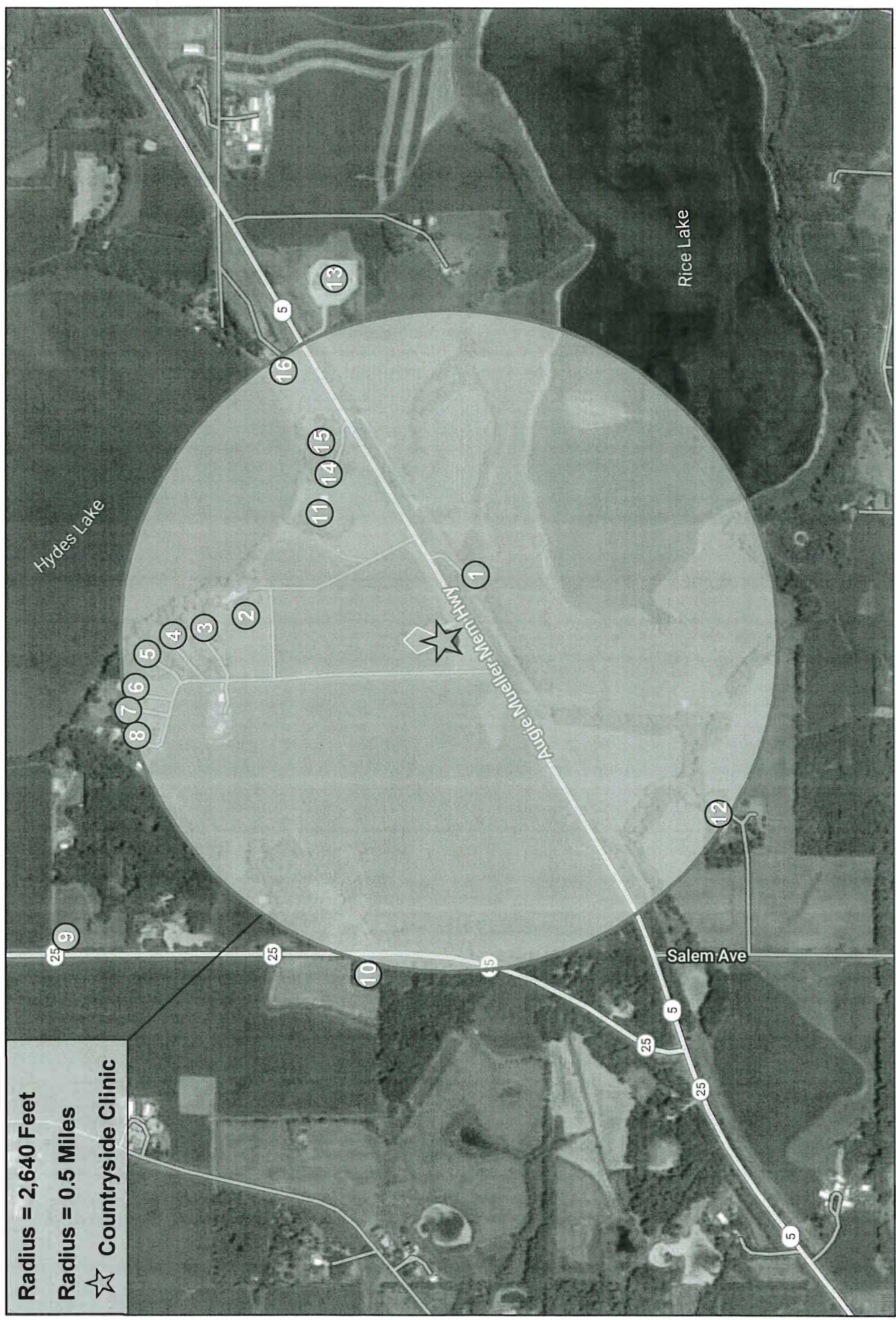
1. The purpose of this sheet is to show approximate locations of homeleads to the subject property. Dimensions are shown to the nearest approximate foot.



NOT TO SCALE



Properties within 1/2 Mile of Countryside Vet Clinic



Properties within ½ Mile of Countryside Vet Clinic



COMMERCIAL REAL ESTATE ADVISORS

Property	Site Address	Use	Year Built
1	13925 HIGHWAY 5	Residential	1993
2	10625 ROME AVE	Residential	1928
3	10595 ROME AVE	Residential	1996
4	10575 ROME AVE	Residential	1997
5	10555 ROME AVE	Residential	1995
6	10545 ROME AVE	Residential	1996
7	10535 ROME AVE	Residential	1996
8	10525 ROME AVE	Residential	1995
9	10525 HIGHWAY 25	Residential	1993
10	10790 HIGHWAY 25	Residential	1977
11	13850 HIGHWAY 5	Residential	2004
12	11125 SALEM AVE	Residential	1993
13	13425 HIGHWAY 5	Residential	2002
14	13750 HIGHWAY 5	Residential	1990
15	13680 HIGHWAY 5	Residential	1914
16	13580 HIGHWAY 5	Residential	1977

EXHIBIT 6

Waconia Township Meeting Minutes

Meeting Purpose: Waconia Township Monthly, Bi-Monthly Meeting, or Special Meeting:

Date of Meeting: April 10th, 2023

The meeting was called to order at 8:01 PM at the Town Hall

Participants were: Mark Wickenhauser-Town Board Vice Scott Wakefield - Treasurer
Robert Gennrich – Road Overseer Dave Grandy-Supervisor
Sue Goede – Clerk John Zimmerman-Town Chair
Others-Doug Pritchard and Laura Zimmerman regarding Country Side Vet Clinic

1 correction from the 3-27-2023 meeting 2nd application of dust guard is 40 gallons water 100 feet is (.02)

Regular Meeting Items: The minutes from the 03-27-2023 meeting were approved

(Mark John Dave) Seconded; (Mark John Dave) Motion: Carried/Denied

Motion: Dave Seconded: Mark

All 3 board members approved as corrected/changed.

The treasurer report was approved as provided

Motion: (Mark John Dave) Seconded: (Mark John Dave) Motion: Carried/Denied

Motion: Dave Seconded: John

All 3 board members approved Subject to audit

Equipment fund \$5,000.00 minimum

Maintenance below \$5,000.00 general fund.

Motion Dave Seconded Mark All 3 board members approved.

The bills were approved to be paid

Motion: (Mark John Dave) Seconded: (Mark John Dave) Motion: Carried/Denied

Motion: Mark Seconded: John

All 3 board members approved.

Subject to Audit

Road Overseer's Report:

Public Comments: None

Board Comments: None

Bob will call Carver County to sweep North Shore Road and West Shoreline Drive, North Shore Road has a lot of pot holes again, board suggest get patch repair cold pack from Fleet Farm, Bob will take care of this.

Bob ask budget for gravel and red rock it is \$120,000.00

All gravel roads are in good shape.

Sue will contact Jeff Schei Xcel Energy on Right of Way Obstruction Permit regarding installation overhead fault indicators to distribution lines if it is in road right away need special permit.

John will contact Mike Couri regarding a bill the township received in mail Waconia Resident Aaron Bostrom about township ordinance this is a county item.

Waconia Township needs to set up a password for website

Website no transfer of money's on website, clerk prints minutes, Scott example of redaction

Talked about townships survey reports.

Planning meeting Hoxie/ Estrada public meeting was passed, 3 residence attended the meeting never spoke up.

John left 2 message for Metro Net no answer.

County Side Vet Clinic C.U.P. Doug Pritchard and Laura Zimmermann attended the township meeting to request permission to expand and relocate their dog sitting, dog boarding, dog park facility to 13950 Hwy 5 in Waconia Township. They asked about fencing changes, signage changes, and flag relocation to make the facility fully suited to their needs. The board unanimously approved of the business location and recommended they next approach the county to find what permits and changes are needed. Sue will mail them a copy of the Township meeting regarding this issue.

Residence assessments on taxes, Tracy from Carver County Tax Department handles that every year for real estate taxes, Scott called Title Company all done electronic Scott suggest board pay the \$100.00 to have abated to show paid instead of giving the \$11,000.00 back, this is regarding the Art Clemensen home sold on West Shoreline Drive the gap for this is from November 30th to March 15th Motion John Seconded Dave All 3 board members approved.

Planning Commission board 2 at large 3 board members, need job, time commitment, future plans and information, Some names the board talked about were (Dave) Harley Reick, Tom Reistma, (Mark) Leroy Hendricks, (John) Sommer Jensen, Christine Leonard, Barb Anderson, Sharon Ziermann the board will discuss this into the next meetings.

Mark called about West Shoreline Drive zoned agriculture, Scott will check it out.

New Business:

Old Business:

The Meeting was adjourned at 9:13 PM

Motion (Mark John Dave) Seconded (Mark John Dave) Motion (Carried/Denied)

Reason for Motion Carried/Denied:

Motion: Dave Seconded John All 3 board members approved

Next Meeting to be held on Monday May 8th 2023 at 8:00 P.M. Sue Goede Waconia Township Clerk

WACONIA TOWNSHIP MEETING MINUTES

June 12TH, 2023

Meeting Called To Order 8:07PM

Doug Pritchard and Laura Zimmerman attended the meeting regarding Country Side Vet Clinic

Dog boarding, day care for dogs, CUP now shows no dog care day center, Applied, several variances, no homestead, staffing 24-7, residence within 1,000 feet, more than 9 homes within a ½ mile, has to be on 5 acres only has 3.3 acres, needed more signatures and ownership and recommendations from the township. Lyle Brown was the previous owner, Motion by John Zimmerman to grant variances for all 4 recommendations points, that the County is requesting, Seconded by Dave Grandy, All 3 board members approved, The board did suggest to Laura and Doug to talk to all the neighbors and get something in writing if they agree with what they are trying to do at this location.

Attached are the signed recommendations that the board did approve and signed.

Thanks

Sue Goede

Sue Goede 6/19/23

Waconia Township Clerk

EXHIBIT 7



Monday, May 1, 2023

Carver County Board of Commissioners
600 E 4th Street
Chaska, MN 55318

RE: Letter of Support for Carver Canine's location at 13950 Hwy 5, NYA MN 55397

Dear Honorable Commissioners of Carver County,

Laura Zimmermann and Douglas Pritchard, owners of Carver Canine (2253 Naples Ave, Cologne MN 55322), applied with the City of Norwood Young America in July 2022 to seek a city code amendment to NYA's kennel ordinance. In particular, the amendment request addressed to forgo the 200-foot wetland setback for their structure and remove the requirement that the facility be located on a collector street. Ms. Zimmermann and Mr. Pritchard did their due diligence in providing all necessary research and documentation with the request. After all the required reviews, public hearings, and Carver County WMO approval, the NYA City Council approved the amendment.

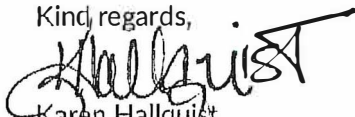
Due to unreasonable construction costs, Carver Canine decided not to pursue a new construction project within the city limits of Norwood Young America. Unfortunately, the City of Norwood Young America did not currently have an existing building to accommodate their services; however, Ms. Zimmermann and Mr. Pritchard have remained in contact throughout their entire pursuit of finding a new location for Carver Canines – including 13950 Hwy 5.

Again, although existing properties within NYA city limits cannot offer what Carver Canines needs, the City of Norwood Young America welcomes and supports their growing business at the former Countryside Veterinary Clinic location at 13950 Hwy 5, NYA MN 55397. The location and building amenities accommodate Carver Canine services plus fills a vacant building in western Carver County with a viable business on a major highway.

As a side note, the City of NYA conducted a local survey in August 2022 regarding the possibility of a dog park. Over 50% of NYA residents who participated in the survey had a dog. MN state percentage of pet owners is 54% and 66% nationally. Carver Canines offers services that are highly valued.

It was a pleasure to get to know and work with Ms. Zimmermann and Mr. Pritchard to support them in finding their new "business home." The City looks forward to continuing to support other businesses as they expand to Norwood Young America and western Carver County.

Kind regards,



Karen Hallquist
Community & Economic Development Director

Cc: Laura Zimmermann & Douglas Pritchard, Carver Canine
City Administrator Andrea Aukrust, Norwood Young America

Norwood Young America

310 Elm Street West PO Box 59 – Norwood Young America, MN 55368 – (952)467-1800 – www.cityofnya.com

■ SURVEY NOTES

1. The purpose of this sheet is to show approximate locations of homesteads to the subject property. Dimensions are shown to the nearest approximate foot.



NOT TO SCALE

PROPERTY EXHIBIT

PROJECT
CARVER CANINES

LOCATION
**13950 MN-5, Norwood
Young America, MN**

#	DATE	REVISION
1	06/05/23	ADD DISTANCES
2	06/06/23	PROPOSED FENCE
3	06/19/23	DIMENSION TO BLDG
4	07/06/23	DIMENSIONS TO BLDG

I HEREBY CERTIFY THAT THIS PLAN OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

Scott Alwin
SCOTT ALWIN
DATE 6/11/2023
REGISTRATION NUMBER 53528

DRAWN BY	CHECKED BY
SCA	CMH
DATE	PROJECT #
6.01.23	2023-090

SHEET NUMBER
2 OF 2



From: Shannon & Mike Lovich

To: Land Management

Date: July 15, 2023

Re: Oppose Variance for 13950 Highway 25

To whom it may concern:

We reside at 10625 Rome Ave and oppose the variance for a conditional use permit at 13950 Highway 25 (I believe it should say Highway 5 but says 25 in the letter we received). Although we are dog lovers, we oppose this for three reasons:

1. Noise: We expect we would hear dogs barking if there was a kennel in that location. This would not only disturb our peace that we believed we would enjoy when we purchased our property, we believe it would also disturb our dogs, goats and sheep.
2. Traffic: We live on a low-traffic country road (Rome Ave), we believe a business like this would increase the traffic and further disturb what is currently a quiet country life.
3. Property value: We believe a business like this would negatively impact our property value.

We will plan to attend the hearing.

Thank you,

Shannon & Mike Lovich

10625 Rome Ave, Norwood Young America, MN 55397

From: Gail Voller

To: Land Management

Date: July 17, 2023

Re: Comments Re: Appeal for variance 13950 Highway 5 (Countryside Vet)

To whom it may concern:

I have significant concerns regarding the request for variance by Douglas Pritchard and Laura Zimmerman. The variance request exceeds several zoning code requirements that are important criteria, created and established for good and established reasons. I feel the biggest impacts are:

Noise – Barking dogs are not a good neighbor. The ½ mile requirement exists because of how sound will carry across fields and the lake. As one of the closest neighbors, it would be very upsetting to hear barking dogs when we are outside, enjoying the outdoors.

Property Value – Approximately 11 of the 12 homes within ½ mile are lakefront property. This could impact the ability to sell property and the value it can be sold for.

Non-Homestead Business – after staff leave for the night, nobody involved in the business would be aware of, or caring for, barking dogs overnight. It would be unfortunate if the neighborhood would need to engage the services of the Carver County Sheriff department for report noise violations.

Unfortunately, this is not a situation that can be conducted on a trial basis. The zoning code exists for good reason and I feel it would have negative impact on our neighborhood.

Sincerely,

Gail R. Voller

From: Jazzlenn & Zachary Newell

To: Land Management

Date: July 18th 2023

Re: Comments Re: Appeal for variance 13950 Highway 5 (Countryside Vet)

To Whom It May Concern:

We are writing in support for Carver Canines moving their business into the Countryside Vet location. We have been neighbors to Doug and Laura for over 3 years during which time they have proven to be incredible respectful and responsible neighbors. Noted inclusive of this time they have been running Carver Canines out of their home.

Background: We live on a residential street and our home resides directly across from Doug and Laura's residence (estimated less than 150 ft front door to front door). We personally do have 1 dog but would not consider ourselves to be over the top animal lovers by any means. We have small children that go to bed early and like to enjoy many hours spent outdoors utilizing our front yard as it is larger than our backyard.

We were drawn to the area for its quiet and serene small-town living. We can say that we do enjoy just that - a peaceful quiet neighborhood. We can honestly say that we have never been bothered by Carver Canines customers or their pets during any duration of their stay.

Experience: Carver Canines customers have always been outstanding in their respect for our neighborhood and the many children that play around it. They have always followed speed limits, noise ordinances and they along their pets have waited patiently at drop off and pick up.

Doug and Laura keep their property in great shape, they keep up with landscaping, lawn care, pet pick up and have never been an eye-sore to the neighborhood. If Jazzlenn didn't work from home and have an office viewing their property, we wouldn't even be aware they were running a business in their current location.

With Jazzlenn working from home every day, having an office that sits at the front of our home viewing Doug and Laura's front of house, and having many zoom meetings that require having uninterrupted conversation, not once (even during the summer with windows open) has noise of the Carver Canines dogs been a concern - no barking or being a nuisance as you could assume.

With homes that sit just merely a city roads-width away less than 150 ft door to door if there was any disruption consistently going on and imposing on my enjoyment of my property, I would surely be able to take note, but there isn't.

Observation: We have looked at a map of the area as well as relative location to other homes near the new Carver Canines business location. We offer the opinion that the increase in "unknown or non-neighbor" traffic and animal noises cannot be a true concern if the homeowners have not issued complaints against the prior owner Countryside Vet, any neighbors with farm animals or the following Airbnb property.

If homeowners on Rome Avenue are not and have not been bothered by the incoming traffic of the Airbnb that is located on Rome Ave or animal noise from its location; which is inclusive of a variety of animals: sheep, dogs, cats, goats, geese (per the Airbnb listing with photos and descriptions) and are not bothered by typical farm animals any other neighbors it is truly just an attempt to road block by raising noise and property value concerns.

The location Carver Canines is looking to take over has already for years been a location utilized for a variety of animals in a slightly different type of care setting. It did not deter current owners from buying their properties.

Listing Here:

https://www.airbnb.com/rooms/51937811?guests=1&adults=1&viralityEntryPoint=1&s=76&unique_share_id=1b7ada67-fcd8-4be8-a8d5-a1fa74da4244&source_impression_id=p3_1689702225_x5jdHFQT6wtV6Cel

Description/Photos Here:



About this space

Our quaint and newly remodeled mother-in-law apartment has views of our historic red barn, including goats and sheep, as well as Hyde's Lake. We also have three doggy "tour guides" who are often around to greet guests.

We're within 10-15 minutes of wineries, orchards, restaurants, trails and more.

While we have a two-day minimum and are generally only booking weekends, we're open to inquiries so feel free to shoot us a note.

The space

The farm is located on the lake and secluded enough to relax while still near enough to amenities like grocery, Target, restaurants and more.

Guest access

This is a completely separate unit above the garage (including a staircase) with a separate entrance. There is plenty of room for parking on the property.

Other things to note

Please note the house rules, during their stay guests can invite up to two visitors for a day visit.

Conclusion: Doug and Laura offer 24-hour supervision of animals in their care. We attribute the animal's good behavior to their due diligence and passion these two have for their business. They interview customers with their pets prior to taking them on, they treat the pets as if they are their own. They genuinely care and are actively involved everyday with all of the dogs they watch.

As 3 year neighbors of Doug and Laura we can without hesitation confidently state that we believe they would continue to be courteous neighbors in their new business setting when the variance is approved.

Respectfully,

Jazzlenn & Zachary Newell

From: Jodene Diedrich

To: Land Management

Date: July 18th 2023

Re: Comments Re: Appeal for variance 13950 Highway 5 (Countryside Vet)

To Whom It May Concern:

I am writing in support of the variance for Carver Canine to be able to operate their business out of the old Countryside Vet building.

I've been told traffic on the country road is a concern to the nearby neighbors. As a longtime customer of Countryside Vet I can say the only reason I ever saw patrons use the road was during COVID when animals were brought into the large building through the parking lot to be dropped off and patrons exited the building and used the road to access Hwy 5. This use did not bring patrons or their vehicles anywhere near the homes on the road. So even if Carver Canine utilized entry from this direction, I see no intrusion into the lives the homeowners who are almost a mile away.

I also have knowledge of the current location of Carver Canine because my daughter and her family live directly across the street. When I first heard that the business was being run out of Doug and Laura's home, I assumed that it was going to be a bunch of strangers driving like crazy to drop off their dogs who would in turn be left to bark all day. I could not have been more wrong.

I spend lots of time at my daughter home with my grandchildren at all hours of the day and night and can honestly say I have never heard barking dogs from Doug and Laura's business. I have spent countless hours in front yard playing with the kids and inside the house where my grandsons bedroom and my daughter office directly look out on their home. Not only have I heard no barking dogs but the drop off and pick up system they have has not led to traffic issues. Their clients are very respectful of the neighborhood which is full of small children. (No speeding/noise)

I feel that Carver Canine would be a perfect fit for the Countryside Vet building and I hope the variance will be granted. I know if given the chance Doug and Laura and their business will be a well-liked edition to the area.

Sincerely,

Jodene Diedrich



Township Presentation & Recommendation Form

PARCEL # 09-510-0080	Permit # PZ 20230028
Owner's Name: GLE, LLC	Owner's Mailing Address: 624 East 13th Street
City: Glencoe	Owner State: MN Owner Zip: 55336
Applicant (if other than owner): Laura Zimmerman, dba Carver Canines LLC	Site Address: 13950 Highway 5, Norwood Young America 55397

Type of Request:	☐ CUP ☐ IUP ☐ Preliminary Plat ☐ Final Plat ☒ Variance ☐ Appeal
Description of Request:	
See Description of Request set out on Page 4 above	
Date of County Public Hearing: 8/2/23	Date of Township Meeting: 6/12/23

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:

Excerpt from Waconia Township Meeting Minutes of April 24 2023, Page 2:

"County Side Vet Clinic C.U.P. Doug Prittchard and Laura Zimmermann attended the township meeting to request permission to expand and relocate their dog sitting, dog boarding, dog park facility to 13950 Hwy 5 in Waconia Township. They asked about fencing changes, signage changes, and flag relocation to make the facility fully suited to their needs. The board unanimously approved of the business location and recommended they next approach the county to find what permits and changes are needed. Sue will mail them a copy of the Township meeting regarding this issue.

→ See back of sheet →

****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 6/12/23

[Signature]

Date 6-12-23

Signature of Township Official

Wacenia Twp Meeting - 6-17-23

Motion made to recommend granting
variances for 5 items.

- ① Need to have owners live on premises
- ② 1000' Set Back from nearest neighbor
- ③ 9 hours in 1/2 mile radius of premises
- ④ requirement to have 5 acres.

Township requests approval of
all 4 variances.



Supervisor

6-17-23

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 09-510-0080

FILE # 20230027

APPLICANTS: Douglas E Pritchard & Laura L Zimmerman

OWNER: GLE, LLC

Lot 1, Block 2, Hydes Lake Shores, Section 31, Township 116, Range 25 West,
Carver County, Minnesota.