

CARVER COUNTY BOARD OF ADJUSTMENT

Regular Meeting – **Wednesday, July 3, 2024**
Commissioners' Meeting Room
2nd Floor Human Services Bldg
Government Center – Chaska

AGENDA

7:00 p.m.

1. Approve minutes of May 1, 2024 meeting
Pages 1-1 through 1-15
2. **File #20240023**- Public hearing on request by Barry Thompson for a variance.
(Reduced Access Separation from Intersection)
San Francisco Township Pages 2-1 through 2-10
Issue Order #PZ20240023 –Barry Thompson

Other Business

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

June 20, 2024

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

FROM: The Land Management Department

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

FILE #: PZ20240023

APPLICANT: Barry Thompson

OWNER: Spencer Landsteiner and Lauryn McNeil

SITE ADDRESS: 7680 Martin Drive, Carver 55315

VARIANCE TYPE: Reduced Access Separation - Intersection

PURSUANT TO: Carver County Zoning Code: Section 152.036 (G)(1)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 08-735-0010

BACKGROUND:

1. Spencer Landsteiner and Lauryn McNeil own an approximate 4.82-acre parcel located in the Northeast Quarter (NE¼) of Northwest Quarter (NW¼) of Section 9, San Francisco Township. The parcel consists of woodlands and scrubland and is unimproved with any structures. The parcel was platted as part of Hennig Addition (1994) and is located in the Residential Cluster Zoning District and Carver County Water Management Organization (CCWMO) – Bevens Creek Watershed.
2. The parcel has limited frontage on Martin Drive near the intersection of County Road 40. The applicant, Barry Thompson, is requesting a variance that would allow for the construction of a driveway with a reduced access separation from the intersection of the County Road and a local township road. A variance, if obtained, would allow the applicant to apply for an Administrative Permit to construct a driveway or construct a driveway as part of a home construction project.

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 Rural Cluster plat (Henning Addition) in 1994 as a conforming parcel. At the time Carver County Public Works did not have a formal access separation policy. Adopted in 2021, the current access separation standards have made the parcel legal nonconforming due to its width which does not allow for adequate separation from a county road.

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, the contract purchaser of the property with a contingency to obtain an access separation variance prior to the execution of the sale, is requesting a residential driveway location which would be approximately 230 feet west of the intersection of Martin Road and Co Rd 40, reflecting a 270' variance. The proposed location includes a 15' setback from the western property line of the subject property. The submitted site plan (dated June 3, 2024) shows the proposed driveway location as well as the location of a potential home building site. The proposed driveway location meets the 100' required setback from the driveway to the west of the subject property. Martin Drive only serves one other residence.
3. In a letter dated June 4, 2024, the applicant describes the origin of the lot 30 years ago as a parcel in Henning Addition and the difficulty of obtaining driveway access 660' from Co Rd 40 on a parcel that is only about 260 feet wide. Mr. Thompson provides a personal history that establishes his desire to live in this area of Carver County and on this lot in particular. He notes that the proposed driveway location is "staying as far from County Road 40 as possible with the land dimension available, while respecting the neighboring property setback as well."
4. The plight of the landowner is due to circumstances unique to the property, not created by the landowner. The width of the subject property and its close proximity to County Road 40 have created a practical difficulty in finding a driveway location that is a compliant distance from the intersection. 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, woodland, bluffs, and scattered residences. 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 June 17, 2024, this request was reviewed by Abigail Ernst, Water Resources Program Analyst, who stated the Carver County Water Management Organization does not have any comments or concerns regarding this request.
10. On June 17, 2024, this request was reviewed by Carver County Public Works Traffic Engineer Whitney Schroeder. She stated in a memo the proposed location of the access does not meet the current Private Access Policy, but Public Works has determined the request is reasonable due to the constraints of the parcel's boundaries.
11. The San Francisco Town Board reviewed and recommended approval of the request without additional conditions during their June 10, 2024, 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:

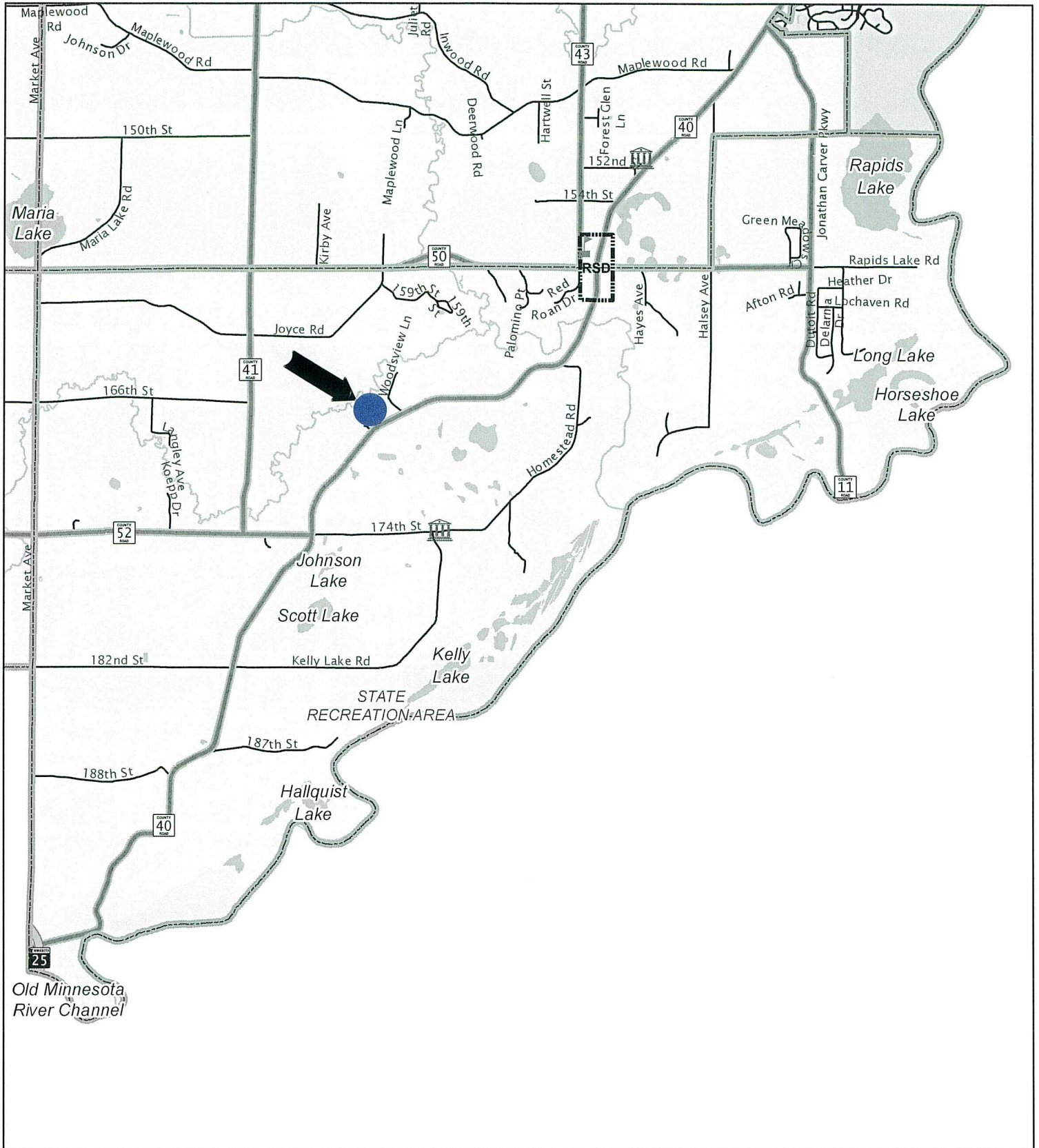
1. The driveway location shall be subject to the local road authority (San Francisco Township) standards pertaining to road access. The appropriate permit(s) shall be obtained before any work commences within the right-of-way. All work shall be done in accordance with the submitted site plans and shall comply with the approved variance.
2. If the subject driveway is to be constructed prior to the issuance of a building permit for a new house construction project, a separate Land Management Administrative Permit application shall be submitted, reviewed, and approved prior to beginning driveway construction activities.
3. The centerline of the future driveway shall not encroach any closer than 230' from the Co Rd 40 public right-of-way, without an additional variance.

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

OR

If the Board of Adjustment determines that a practical difficulty has not been identified, and that approving the variances would not serve in the interest of justice, the Board of Adjustment would need to identify reasons to support the denial.

SAN FRANCISCO TOWNSHIP

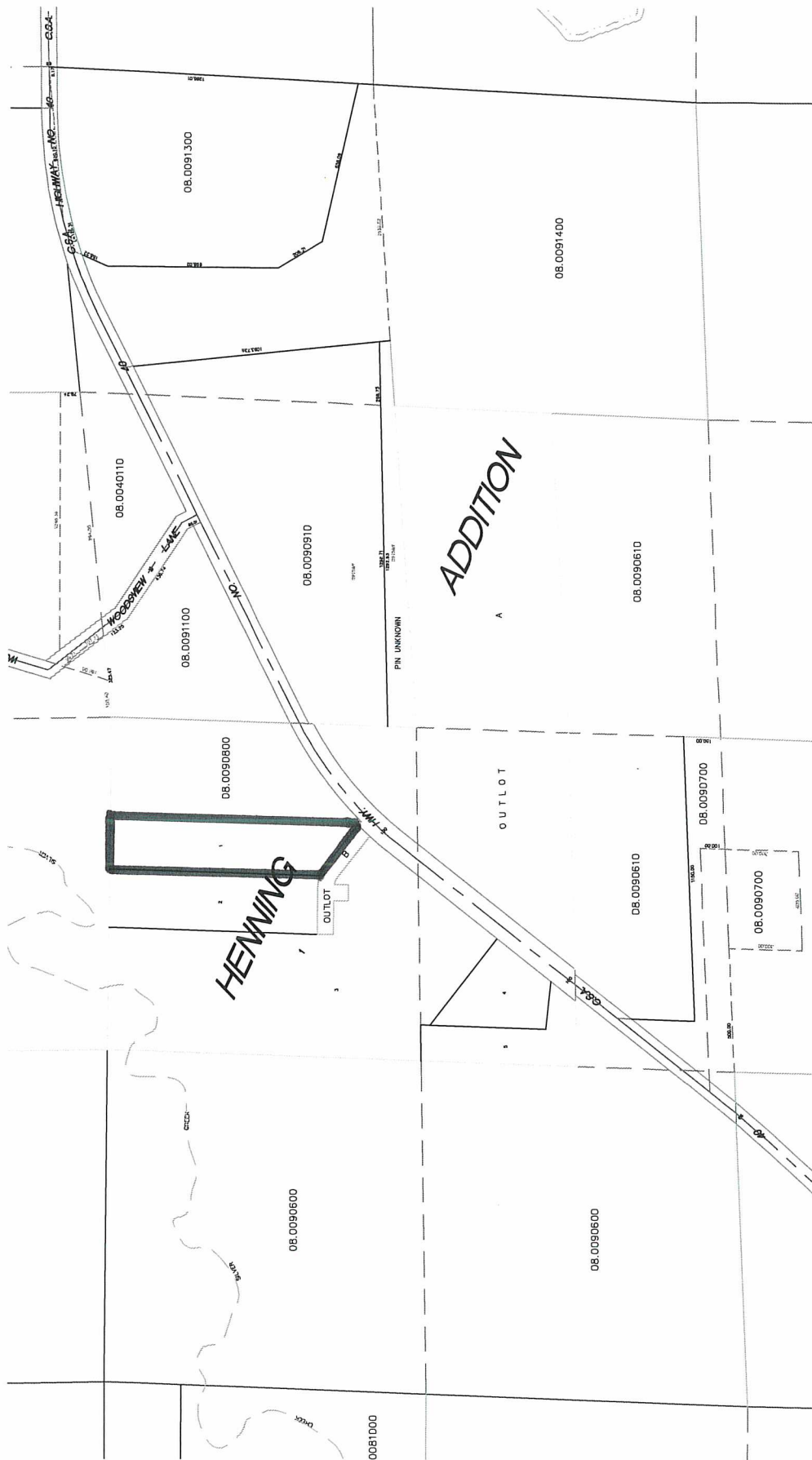


This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible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



THIS IS NOT A LEGAL RECORD. IT IS A COMPILATION OF RECORDS AND IS NOT A GUARANTEE OF THE ACCURACY OF THE INFORMATION. IT IS THE RESPONSIBILITY OF THE USER TO VERIFY THE INFORMATION. THE MAP IS PROVIDED AS A SERVICE TO THE COUNTY AND ITS RESIDENTS. NO WARRANTIES ARE MADE BY THE COUNTY OR ITS AGENTS. UNCORRECTED ORIGINAL RECORD.

N 1/2 SEC. 9, T.114, R.24



7680 Martin Drive – The Henning Addition

Dear Members of the Board of Adjustment,

On June 27th, 1994, John and Judy Henning signed a Declaration for their subdivided property. It was their vision to create a community of compatible, complimentary, single-family homes on this land. They deemed their restrictions desirable for the preservation of the natural beauty of the Henning Addition. It has been 30 years since the Hennings platted this property for the construction of a home. Since the 260-foot wide parcel was platted the County has established a 660' setback for driveways from an intersection with a county road. I am requesting a variance to place a driveway approximately 230 feet from Co Rd. 40.

My name is Barry Thompson. I too have the desire to preserve the natural beauty of this acreage and to build my home on it. My desire to build and live in Carver has been a multi-year quest and I have recently purchased the undeveloped property at 7680 Martin Drive, contingent on a variance to allow a driveway access to the property.

I grew up on a farm in southern Minnesota, west of Faribault. Graduating high school in 1984, Dad told me "You are not going to farm" because it was a very difficult economic time in agriculture. I put myself into school, started a career and I've ended up working in the agriculture industry after all, just not as a farmer like my father & grandfather. I built a new house in Chanhassen when highway 5 was only a two-lane road from 494 westward. Chanhassen didn't even have a grocery store ... that has sure changed! In 1997 I built another home when new home construction was really taking off in Chaska. In 2003, I then moved to Minnetrista, where I have been for 21 years.

My current home is built alongside County Road 44 and the traffic has increased year over year, exponentially. I personally would like to come full-circle, after all these years of living in the hustle and bustle of the city, back to my roots of country living where I can enjoy a bit more peace, quiet and being surrounded by nature! I will work with my new neighbors to ensure that I become their "best case scenario" for a new neighbor.

I'm respectfully requesting a variance for access to 7680 Martin Drive, staying as far from County Road 40 as possible with the land dimension available, while respecting the neighboring property setback as well. I have worked with Carver County Staff to determine what this should be, and I respect the intention of the code. Thank you for your consideration.

Respectfully,

Barry Thompson

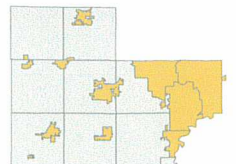
June 4, 2024

THOMPSON VARIANCE SITE PLAN



Date: 6/3/2024

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2-8



Township Presentation & Recommendation Form

PARCEL # <u>087350010</u>	Permit # <u>PZ20240023</u>
Owner's Name: <u>SPENCER LANDSTEINER</u>	Owner's Mailing Address: <u>1224 16th St. NW</u>
City: <u>NEW ULM</u>	Owner State: <u>MN</u> Owner Zip: <u>56073</u>
Applicant (if other than owner): <u>BARRY THOMSON</u>	Site Address: <u>7680 MARTIN DRIVE, CARVER MN</u>

Type of Request: ☐ CUP ☐ IUP ☐ Preliminary Plat ☐ Final Plat ☒ Variance ☐ Appeal
Description of Request: <u>REQUESTING A VARIANCE TO THE 660' SETBACK FOR DRIVEWAYS, AS THE PLATTED LOT IS ONLY 225' WIDE.</u>
Date of County Public Hearing: <u>7/3/24</u> Date of Township Meeting: <u>6/10/24</u>

Actions:

Township Action Taken:

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

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

[Signature]

Signature of Applicant

Date 6/11/24

[Signature]

Signature of Township Official

Date 6/10/24

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 08-735-0010

File# PZ20240023

APPLICANT: Barry Thompson

OWNER: Spencer Landsteiner and Lauryn McNeil

*** * * * ***

Lot 1, Block 1, Henning Addition, Carver County, Minnesota.

CARVER COUNTY BOARD OF ADJUSTMENT
Regular Meeting July 3, 2024
Minutes

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

Members Absent: None

Members Late: None

Staff Present: Donovan Hart

Pursuant to due call and published notice thereof, the July 3, 2024, 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 and indicated all members are present.

Agenda – Chairman Bruner asked if there were any additions or deletions to the agenda. Hearing none, he asked for a motion to approve the agenda. A motion was made by Bielefeldt to approve the agenda as printed. Steinhagen 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 1, 2024, meeting. Hearing none, he asked for a motion to approve the agenda. A motion was made by Thompson to approve the minutes of the May 1, 2024, meeting. Gorra seconded the motion for approval with the correction. All voted aye. Motion carried.

Public Hearing - File #20240023 – Barry Thompson – Chairman Bruner called the public hearing to order at 7:01 p.m. to consider the application of Barry Thompson for a variance pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for reduced access separation from an intersection pursuant to Chapter 152 of the County Code. The property is in Section 9 of San Francisco Township.

The following were present: Barry Thompson, Stacy McNeil

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 8, 2024

Exhibit F – Staff Report addressed to the Board of Adjustment and San Francisco Town Board dated June 20, 2024, and all attachments.

Hart described how the subject parcel created as a legal residential lot in a Residential Cluster Zoning District consisting of woodlands and scrubland and unimproved with any structures. The parcel has limited road frontage on Martin Drive near the intersection with County Road 40. When the lot was platted in 1994, the

County did not have a formal access separation policy. In 2021, Zoning Code changes were made, and the Carver County Public Works Department implemented an access separation policy for multiple situations and classes of roads. The access separation distance on a local road from a County Road is a minimum of 660 feet. The applicant, Barry Thompson, is proposing a residential driveway access which would be approximately 230 feet from the County Road intersection. The proposed location also includes a 15-foot setback from the westerly property line of the subject lot and meets the separation distance from the existing driveway to the west. When this plat was created, the Township suggested that Martin Drive not be extended any further to the west because of the location of Bevens Creek. The applicant's letter describes a practical difficulty in obtaining access separation of 660 feet from the intersection on a parcel that is only about 260 feet wide. He states the proposed driveway location is "staying as far from County Road 40 as possible with the land dimension available, while respecting the neighboring property setback as well." The plight of the landowner is due to circumstances unique to the property and not created by the landowner. Granting the variance would not conflict with the intent of the Comprehensive Plan or the County Zoning Code and would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property. It would not be materially detrimental to the public welfare of injurious to property or improvements in the area adjacent to the properties. The request would not cause a substantial change in the character of the neighborhood, nor would it have a negative impact on government services. Granting the variance is in harmony with the general purpose and intent of the official control. On June 17, 2024, Carver County Water Resources Program Analyst, Abigail Ernst, reviewed the request and did not have any comments or concerns. On June 17, 2024, the request was also reviewed by Carver County Public Works Traffic Engineer, Whitney Schroeder, who stated in a memo the proposed location of the access does not meet the current Private Access Policy, but Public Works has determined the request is reasonable due to the constraints of the parcel boundaries. The San Francisco Town Board reviewed the request at their June 10, 2024, meeting, and recommended approval without any additional conditions. Hart 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, the Board would need to identify reasons to support denial of the request.

The applicant had no additional comments at this time.

Scott Selken, speaking as San Francisco Town Board supervisor, confirmed the town board's unanimous vote recommending approval of the request. He stated they often will follow the recommendation of Public Works on access issues and seeing that they had no conflict, the Township is also supportive.

Stacy McNeil, 6419 Mere Dr, stated her daughter and son-in-law currently own the property and due to other circumstances, are now selling the lot. They are happy with the proposed access location and would hope the Board would recommend approval of the request.

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

Bielefeldt stated he visited the site and agrees that a practical difficulty has been identified with the driveway access location. He asked the applicant if he agrees with the proposed conditions of the variance.

Barry Thompson stated he agreed to abide by the proposed conditions.

Steinhagen asked if Martin Drive is identified as a cartway or if it is an official road in Henning Addition.

Selken, speaking as San Francisco Town Board Supervisor, stated the township has identified the roads in Residential Cluster districts as cartways. Technically, they are probably not cartways, but viewed as private driveway roads for the residents.

Steinhagen clarified his question to reflect if the Township plows the road or supplies gravel and other maintenance.

Selken stated the township does not provide that maintenance on Martin Drive.

Bruner stated he visited the site, and the request seems reasonable for the situation.

A motion was made by Bielefeldt to **approve and issue Order PZ20240023** for reduced access separation according to Section 152.036 (G)(1) of the Carver County Code, for property legally described on the attached Exhibit "A". The Board of Adjustment further orders approval with the following conditions:

1. The driveway location shall be subject to the local road authority (San Francisco 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. If the subject driveway is to be constructed prior to the issuance of a building permit for a new house construction project, a separate Land Management Administrative Permit application shall be submitted, reviewed, and approved prior to beginning driveway construction activities.
3. The centerline of the future driveway shall not encroach any closer than 230' from the County Rd 40 public right-of-way without an additional variance.

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

Adjournment

A motion was made by Bielefeldt and seconded by Selken to adjourn. All voted aye. The meeting was adjourned at 7:14 p.m.