

# ***CARVER COUNTY BOARD OF ADJUSTMENT***

Regular Meeting – **Wednesday, May 4, 2022**  
Commissioners' Meeting Room  
2<sup>nd</sup> Floor Human Services Bldg  
Government Center – Chaska

## **AGENDA**

7:00 p.m.

1. Approve minutes of April 6, 2022 meeting  
Pages 1-1 through 1-8
2. **File #PZ20220018**- Public hearing on request by Robert Dauwalter for a variance. (Reduced Structure Setback from Road)  
**Dahlgren Township** Pages 2-1 through 2-9  
Issue Order #PZ20220018 – Robert Dauwalter
3. **File #PZ20220014**- Public hearing on request by Greg & Lisa Wenlund for a variance. (Exceed Prime Ag Soil in a New Residential Lot)  
**Young America Township** Pages 3-1 through 3-14  
Issue Order #PZ20220014 – Greg & Lisa Wenlund
4. **File #PZ20220013**- Public hearing on request by Timothy VanTassel for a variance. (Reduced Lakeshore & Shore Impact Zone Setbacks)  
**Camden Township** Pages 4-1 through 4-11  
Issue Order #PZ20220013 – Timothy VanTassel
5. **File #PZ20220017**- Public hearing on request by Oakwood Community Church for a variance. (Exceed Single Sign Size and Total Property Signage)  
**Waconia Township** Pages 5-1 through 5-12  
Issue Order #PZ20220017 – Oakwood Community Church

### **Other Business**

**CARVER COUNTY BOARD OF ADJUSTMENT**  
**Regular Meeting April 6, 2022**  
**Minutes**

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

Members Absent: None

Members Late: None

Staff Present: Jason Mielke, Donovan Hart, Jennifer Tichey

Pursuant to due call and published notice thereof, the April 6, 2022, meeting of the Carver County Board of Adjustment was called to order by Chairman Bruner at 7:00 p.m.

Chairman Bruner announced the roll call indicated all seven members present.

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

**Minutes** – Chairman Bruner asked if there were any corrections to the minutes from the March 2, 2022 meeting. Hearing none, he asked for a motion to approve the minutes. A motion was made by Bielefeldt to approve the minutes of the March 2, 2022 meeting. Stender seconded the motion for approval. All voted aye. Motion carried.

**Public Hearing - File # 20220010 – Emanuel Lutheran Church** –Chairman Bruner called the public hearing to order at 7:03 p.m. to consider the application of Doug Stuedeman, representing Emanuel Lutheran Church pursuant to Chapter 154 of the County Code. The purpose of the public hearing was to consider a request for increased sign size, total sign square footage for a parcel, and sign type pursuant to Chapter 154 of the County Code. The property is in Section 32 of Young America Township.

The following were present: Doug Stuedeman, Tony Kohls, Todd Bentz, Chad Schrupp, Dean Panning, Lyle Braun, Virgil Vollbrecht, Ron Trick

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

Exhibit F – Staff Report addressed to the Board of Adjustment and Young America Town Board dated March 28, 2022 and all attachments

Exhibit G – Letter of support (email) from Richard Odoms

Hart explained the applicant's request is for increased size for the signage, both a single sign and total for the parcel, and also the type of sign as an electronic changeable copy sign. The sign has already been erected and is located on the east side of the parcel, in the southwest corner of County Rd 50 and Hwy 5 & 25. The sign is 94 square feet in size which exceeds the maximum standard of 32 square feet of surface area per sign and exceeds the maximum standard of 36 square feet of surface area for the total signage on a property and is an electronic changeable copy sign which is not authorized by the Sign Code. Therefore, a variance has been requested. Hart noted this request is an 'after the fact' variance for which standards are documented in the Zoning Code. He read the criteria which the Board should consider regarding an after the fact variance request. A non-illuminated sign, which became non-conforming with the adoption of the Sign Ordinance, previously stood in the location of the new sign. The new sign was erected during the summer/fall of 2021 and is smaller in overall size and shorter than the previous sign. After staff received a complaint, it was discovered that there had been no building permits issued for the sign prior to its construction. The applicant's letter does not identify a practical difficulty related to the property but states the church would like to have a lighted sign to replace the previous non-lighted sign and noted this sign is smaller than the previous one. Hart referred to the 'after the fact variance' standards and stated that staff has no recollection of being contacted by anyone from the church concerning construction of the sign and the applicant did not make an attempt to comply with the regulations considering no building or electrical permits were obtained. It appears that a substantial investment has been made and construction of the sign is complete. There are no similar structures in the area. The burden of complying with the zoning code significantly outweighs the benefit to the County if the applicant were to comply with the zoning code standards. Granting the variance would not adversely affect the health or safety of persons residing or working in the area, but it does appear to alter the character of the neighborhood which is comprised of agricultural uses, the church and school, and other scattered residences. The sign is adjacent to the MnDOT right of way of Hwy 5 & 25 and the MnDOT District 7 Traffic Engineer indicated that 'electronic signs located adjacent to the State's Trunk Highways must conform with the requirements from Mn Statute 173.15 and Code of Federal Regulations 23 750.108C. (The regulations were listed in the staff report.) The Young America Town Board reviewed the request and recommended approval at their February 8, 2022 meeting. The board was unanimous in both requests for the sign type and size. There was no opposition to the request.

Doug Stuedemann, representative from Emanuel Lutheran Church, reiterated that the church felt they had acted appropriately by contacting the County and understood that since the sign size was smaller than the original sign, they were allowed to construct the replacement sign. They were not aware that a building permit was required to replace a sign. They met all of the MnDOT requirements for setback from the highway. They were not aware of the County sign ordinance prohibiting an electronic changeable copy sign. He stated the messages are generally a simple statement announcing an event for the day and the message is not scrolling. They felt everything was up to code and were not aware of any violation until the letter of complaint was received.

Bruner asked how they felt it was up to code if nothing was inspected or there was no permit.

Mr. Stuedemann stated another member of the board had called the County and understood that replacing the sign with a smaller one would be ok. They also felt it was ok because it met all the State requirements.

Virgil Vollbrecht, Young America Township Supervisor, stated the Town Board heard the request and recommended approval. He stated they were not aware of the sign ordinance but did not have any objection to the changeable copy feature and therefore, recommended approval.

Virgil Vollbrecht, 18180 Co Rd 50, speaking as a neighbor, stated he can see the sign from his house and has no objection to it. There has been a sign on that location for years and when he moved to the area in 1976, the sign was larger and almost like a billboard. Prior signs had been constructed with wood which deteriorated and were replaced. He stated the church had acted in good faith by reaching out to the County, however, unfortunately it was not documented to whom they had spoken. They also contacted the State and completed necessary paperwork for approval. He identified two other signs along State highways within the County and stated this sign was much smaller and less flashy than those. He recognized that those signs are within city limits and the ordinance is different for the rural area. He expressed his concern with the proposed consideration that the changeable copy shall not change more than once during a 24-hour period. He stated during church holiday seasons, there are multiple services within a few days, and it would be preferable to have the information for those services be displayed more often during a 24-hour period. The State requirement was that a message remain on the screen for a minimum of six seconds. He was not suggesting the message to change that rapidly, but certainly more often than once in a 24-hour period.

Lyle Braun, 15795 102<sup>nd</sup> St, stated he owns a property in a township along Hwy 5 and wanted to replace the existing sign with an electronic changeable copy sign. He researched information and received some price quotes and contacted the County only to find that the changeable copy signs are not allowed. He stated that the issue may not be with the church and displaying a sign, but that the sign ordinance is obsolete. He stated if this variance is approved, he will also be applying for a variance for his property.

Todd Bentz, 18165 County Rd 50, stated he was the person entering and changing the messages on the sign prior to the violation notification. He stated at times there had been up to three lines of information posted, however, the pixel size of the sign does not accommodate any more than that and still be clearly readable. Most of the messages were on two lines. He is also the principal at the school and stated the sign was used to announce school activities as well as church service information and also generic messages for the general public. He stated there is a lighted sign in the front of the school which has one line that can be changed. Having the sign along Hwy 5 & 25 is beneficial because there is more traffic than on County Rd 50. He stated the sign is not visible from his house because there are trees blocking the view.

Mr. Stuedemann had no additional comments.

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

Bielefeldt asked the applicant for more information about the sign construction.

Mr. Stuedemann stated the construction was done by a contractor.

Bielefeldt asked if the contractor didn't question the absence of a building permit for the construction.

Mr. Stuedemann replied that the contractor is a congregation member and thought the board member had completed the permit process.

Bielefeldt inquired about the telephone contact made to the County and if that correspondence is public record.

Mielke replied that it is public record if it is documented. He stated at the time the church would have made the inquiry, there was no confirmation as to who was spoken to and there has also been turnover of staff members. Two employees who may have been in the office at that time have taken other jobs and there is no paper trail of their contacts, so remaining staff cannot confirm what might have been discussed. The church has indicated that there has been a sign there for a long time. If it is a legal non-conforming sign and if it is damaged and needs repair and/or replacing, then the reconstruction must meet the current code requirements. He acknowledged there could have been a misunderstanding with the request, however, a building permit would still be required for a structure of this size. If the variance is approved, the applicant will need to submit an application and get an 'after the fact' building permit and with a double fee penalty. An electrical permit would also be required.

Bielefeldt stated the practical difficulty is the lack of information surrounding the initial telephone call.

Anthony Kohls, 42243 300<sup>th</sup> St, explained he made the telephone call to Land Management and stated the current sign needed repair and needed to be replaced. He said the replacement sign was smaller than the original and was told that would be ok. Since the location was on a State highway, he was given the name and telephone number of someone to call at MnDOT and with that, he presumed everything was fine with the County concerning the sign.

Bielefeldt expressed concern about precedent-setting for other churches or organizations if the variance is approved for a scrolling sign.

Mr. Stuedemann clarified the sign does not have scrolling text.

Bielefeldt corrected his terminology to reflect an electronic changeable copy sign which is not allowed according to the code.

Mielke explained the Board of Adjustment must decide each request on its own merit and the information presented and it does not set a precedence for future requests. The guidelines on which variance requests are based is established by State Statute and each request is unique and must be evaluated on the facts and findings that pertain to it.

Bruner noted the statement made by a previous speaker indicated that if this variance was granted, then he would apply for a similar request.

Mendez emphasized that requests can be similar, but each is still unique and should be viewed and considered based on its own information. He asked if the current request is compliant with the Comprehensive Plan.

Hart noted the statement in the staff report indicating granting the variance would not be in conflict with the intent of the Comprehensive Plan.

Bielefeldt stated it is, however, in conflict with the intent of the Zoning Code.

Hart stated the Sign Code was adopted by the County Board to establish rules governing signage in the rural areas.

Mendez noted that the variance requests are made because some part of their request is conflicting with the established rules.

Mielke stated this request is based on the ‘after the fact’ variance standards because the work has already been completed. If the church hadn’t already replaced the existing sign, they could still have applied for a variance, but the facts surrounding the request would be different.

Mendez again recognized that each variance request has unique circumstances. He explained his difficulty with this request is that it is ‘after the fact’ and the work has been completed. He feels it ‘forces’ a different decision than if the church would have come with a request for the sign and no work had been done.

Polunc asked for more information about the initial telephone call to the County.

Mr. Kohls stated he spoke to a lady in September of 2020, which was approximately 8 months prior to any of the planning and drawings for the sign. He stated that he mentioned removing the existing sign because it was falling apart and needed to be repaired. They had also been manually changing the sign information by leaning a 12-foot ladder somewhat unsafely to reflect recent changes in pastors. He said the lady indicated that replacing a sign that was already in place was fine and provided the name Steve Schoeb at MnDOT since the sign is along a State highway.

Polunc asked if the employee indicated that more information and a permit application was required from the County.

Mr. Kohls stated he got the opinion that things were fine with the County and they moved forward with contacting the State to make sure they were following any guidelines with the highway. There was no mention of any County sign ordinance or application for a permit.

Polunc asked if he felt that they had done due diligence in the conversation with the County and sharing information about what they intended to do with the sign.

Mr. Kohls stated that he figured all was well with the County when she gave him Steve Schoeb’s name and telephone number to call to make sure they were complying with any State highway regulations. He stated he and Mr. Schoeb were in contact for about 5 months to make sure everything was compliant. He felt he was acting in good faith as directed.

Mr. Polunc asked what process they went through with the State.

Mr. Kohls stated they needed to meet the setbacks and with the recent resurfacing of the roads, the locations were adequately marked. A requirement of the sign was that it could not have scrolling, blinking, or color-changing text.

Polunc asked what type of permit was required from the State.

Mr. Kohls stated they did not get a physical permit from the State, but Mr. Schoeb did a site visit and stated all looked good. He felt they had done due diligence at the State level also, so he was quite surprised to get an email from Jason about a violation.

Polunc asked if there was a letter or email received from the State confirming that all work was done according to their requirements.

Mr. Kohls replied there was no written communication from the State. He asked Jason for the name of the staff member who called him concerning the sign.

Mielke stated that in her first week of employment at the County, Christina had been assigned to send out some letters. He explained the staffing issues and changes through the Covid period and the past 24 - 30 months. Any conversation with Mr. Kohls was prior to Christina's employment with the County.

Polunc asked Mr. Kohls if he had reported back to the other Trustees about his actions.

Mr. Kohls stated he shared the information about his progress with them.

Polunc asked if this was before or after contacting Young America township.

Mr. Kohls said he contacted the township and when he told them he needed to contact Steve Schoeb at the State, they didn't have any more conversation. He said that the township presumed the County had given the church permission because they had given him the State information to contact.

Mielke explained the County application forms and how the township recommendation is a part of that process.

Gorra asked about the sign size, since the new sign is smaller than the previous one.

Mielke explained the history and use of the property and stated the previous sign was erected prior to the sign ordinance and was larger than allowed when the ordinance was adopted, which classified it as a legal non-conforming sign. Any repairs of 50% or more or replacement of a legal non-conforming structure require current code compliance. The smaller sign still exceeds the maximum size allowed by the code and it has the electronic changeable copy which is not allowed.

Schmidt asked about different scenarios with temporary sign possibilities.

Mielke explained how some temporary signs are also in violation of the code.

Polunc asked to clarify if the variance is approved, the applicant would need to obtain the appropriate building permit, which would have a double fee.

Mielke stated that is correct. He explained the process of work without a permit.

Bielefeldt asked the applicant for their plan if the variance request is denied.

Mr. Stuedemann stated if the full variance request would not be granted, he would ask for the variance to the sign size so they would be allowed to replace the sign that was in need of repair and they would disconnect the electrical power to the changeable copy portion of the constructed sign.

Bruner stated his difficulty with not obtaining the appropriate permits prior to construction but was willing to hear other thoughts from the board members.

Bielefeldt stated removing the power could be an acceptable compromise.

Stuedemann stated that if the lighted changeable copy portion of the sign would not be approved, they would like to retain the sign and remove the power so they could be set up if the code would change to allow it in the future.

Mendez stated he is in support of the request and would suggest that condition #5 be removed.

Gorra stated she did a site visit and thought the sign was appropriate. She would be in favor of the variance request. She was surprised with the overall sign size regulation and felt this sign could be reduced by removing a portion above or below the changeable copy area.

Bruner felt strongly about removing the electricity, so the sign type conforms with the code.

Stuedemann asked if he meant disconnecting the electricity for the sign or removing the electronic sign completely. He explained it is not a 'lighted sign', but only the words in the message are lit. If the words are turned off, the electronic portion of the sign will be dark. He stated the original sign was not lit at all. This sign allows the words to be seen at night. They would prefer that the lighted message would be approved. The electronic portion of this sign is the most expensive portion and a church member made a significant investment for this purpose.

Mielke clarified the message is not a scrolling message but is a fixed message that can be changed when necessary.

Schmidt stated he would be in favor of the variance because the sign didn't seem to be a safety hazard for the highway traffic.

Bielefeldt stated he would not be in favor of the variance because he did not find a practical difficulty identified. He would be in favor of the sign size but not the electronic changeable copy message.

Mendez stated that he would be in favor of the request with the removal of condition #5.

Mielke stated this condition was included to be more in line with the electronic changeable copy signs within city limits.

Hart stated another reason for condition #5 is that it is not the role of the board to create policy.

A motion was made by Mendez to **approve and issue Order PZ20220010** allowing for increased sign size and electronic changeable copy and the following conditions:

1. The permittee shall obtain the appropriate permit(s) for the sign, including but not limited to the appropriate sign, building and electrical permits. All work shall be done in accordance with the submitted and approved plans.
2. No additional signage or expansion of signage related to the primary use of the property shall be permitted without obtaining all necessary building permits and/or variances, if applicable.
3. The permittee shall obtain any required permitting from MNDOT and comply with all MNDOT rules for signs adjacent to state trunk highways.
4. The sign must have automatic dimming technology installed that adjusts the device's brightness levels in response to changes in ambient light.
5. The electronic changeable copy shall not change more than once in a 24-hour period.
6. The permittee shall comply with all Carver County Zoning Code (Chapter 152) and Sign Ordinance (Chapter 154) requirements.

The motion for approval was seconded by Stender. Chairman Bruner called for a vote on the motion. Bruner, Schmidt, Polunc, Mendez and Stender, voted aye. Bielefeldt voted nay. Motion carried.

**File # 20200024 – Michael Wojtasiak – Request for Extension** –Chairman Bruner introduced the file to consider the application of Michael Wojtasiak for an extension of time to act on his variance.

Mielke stated the applicant was granted a variance in 2020. Their intent was to remove the existing house and construct a new one, which has not yet begun due to significant increases in construction costs and delays in obtaining materials. They requested an extension in 2021 in anticipation of building last summer, however labor shortages and building materials were still in short supply, so their construction was again delayed. Because of these unique circumstances, the applicants are requesting another extension to allow them the time to build their house and have it completed in a reasonable amount of time.

A motion was made by Mendez to accept and approve another one-year extension for the applicants to complete their project. Schmidt seconded the motion. All voted aye. Motion carried.

### **Adjournment**

Having completed the agenda items and seeing no other business, a motion was made by Bielefeldt and seconded by Mendez to adjourn. All voted aye. The meeting was adjourned at 8:06 p.m.

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**COUNTY OF CARVER**  
**PUBLIC SERVICES DIVISION**  
*Department of Land Management*

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April 25, 2022

**TO:** Carver County Board of Adjustment & Dahlgren Town Board  
**FROM:** The Land Management Department  
**SUBJECT:** Application for a Variance (Reduced Front Yard Setback)

**FILE #:** PZ20220018  
**APPLICANT:** Robert Dauwalter  
**OWNER:** Robert Dauwalter  
**SITE ADDRESS:** 10975 Little Avenue, Cologne, MN 55322  
**VARIANCE TYPE:** Reduced Setback from the Center of a Future County Road  
**PURSUANT TO:** County Code Section 152.034 D  
**LEGAL DESCRIPTION:** See attached Exhibit "A"  
**PARCEL #:** 04-006-0800

**BACKGROUND:**

1. Mr. Dauwalter owns an approximate 5-acre parcel located in the Northwest Quarter (NW¼) of the North Half (N½) of Section 6, Dahlgren Township. The property is improved with a single-family dwelling with an attached tuck-under 2-stall garage. The property is located in the Agricultural Zoning District and the CCWMO (Carver Creek Watershed).
2. The applicant is requesting a Variance to reduce the required structure setback from the centerline of a local road but a future Minor Arterial not in Shoreland District (based on the *Future Functional Class of Road as Shown in Roadway Systems Plan Figure 4.13*). The request would consist of a setback from 80 feet to 60 feet to accommodate a proposed house addition consisting of a new attached garage. The proposed structure would be closer to the centerline of a road than what is permitted by the Zoning Code; therefore, a variance 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.*

| <i>Future Functional Class of Road as Shown in Roadway Systems Plan Figure 4.13</i> | <i>Setback from Centerline</i> | <i>Reduced Setback*</i> | <i>R-O-W</i> | <i>Reduced R-O-W</i> |
|-------------------------------------------------------------------------------------|--------------------------------|-------------------------|--------------|----------------------|
| Minor arterial not in Shoreland District                                            | 120                            | 80                      | 150          | 110                  |

**STAFF ANALYSIS:**

1. Section 152.034 (D) of the County Zoning Code requires that the nearest corner of any structure, in all zoning districts, meets or exceeds an 80-foot reduced setback from a minor arterial road not in the Shoreland area. Approval of this request would allow the applicant to apply for a building permit to construct a house addition with an approximate 67-foot setback from the centerline of Little Avenue.

2. In the submitted narrative (dated: 4/8/2022), Mr. Dauwalter describes the practical difficulty of a steep hill with the house's septic system at the bottom of the slope in the area available for an addition (south of proposed addition location). The proximity to the western property line does not make a house addition on that side of the house feasible. The proposed addition angles forward from the house due to the lack of level land directly east of the house.
3. The lack of buildable land near the house was due to the original placement of the residence, which was built in 1973 before Mr. Dauwalter purchased the property. Previously, in 2007 Mr. Dauwalter imported approximately 6,000 cubic yards of fill material to create a flat outdoor storage area east of the house site since there was a scarcity of flat land near the road and close to the residence.
4. The subject property is on Little Avenue, which is a township road. Normally, a 68-foot front required setback would apply. However, the 2040 Comprehensive Plan adopted on February 1, 2020 designates this section of Little Avenue as a Minor Connector in the County Public Works Future Functional Class figure (Figure 4.13). The County Zoning Code, adopted in July 2021, categorized this type of road as a minor arterial in the Zoning Code setbacks table. Hence, the setback increased to 80' in preparation of Little Avenue becoming a County two-lane rural road sometime post 2040. Mr. Dauwalter did not prompt the County to take this action. His application notes that he had prepared plans two years ago to submit, when the setback was 68-feet, but due to Covid and inflation, had not sent the plans to the County.
5. The granting of the variance is in harmony with the general purpose and intent of the official control. The official control in this request is the recent change in the road classification setback (i.e., 120 feet or reduced 80 feet). Although this request does not meet the specific standards, it appears to meet the intent of the regulations which existed prior to the Future Functional Class of the Road modification. The setback modification was designed to assist the Carver County Public Works Division for future road planning purposes.
6. Carver County Public Works has reviewed the proposed variance and provided the following comment: "Little Avenue is designated as a future Minor Arterial, per 2040 Comprehensive Plan, Figure 4.13. Per ordinance, the required setback is determined based on this figure. In addition, Little Ave. is defined as a future County roadway in 2040 Comprehensive Plan Figure 4.11. The future roadway network in this location has a 'Post 2040 Project' definition in the 2040 Comprehensive Plan, as this project is not expected to happen until after 2040. There are no additional county planning documents that reference or define the long-term alignment for the future County roadway in this subject location. It was determined future County planning will be able to accommodate this variance. Public Works does not have a concern with the variance being approved."
7. The granting of the variance would not conflict with the intent of the Comprehensive Plan and will not alter the character of the neighborhood nor will government services be negatively impacted by the addition of the attached garage structure. The neighborhood is comprised of agricultural and residential activities.
8. The granting of the variance would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicants and would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
9. The Dahlgren Town Board has reviewed the request, and recommended approval at their April 11, 2022 Town Board meeting. There were no comments for this application (i.e., no concerns or objections).

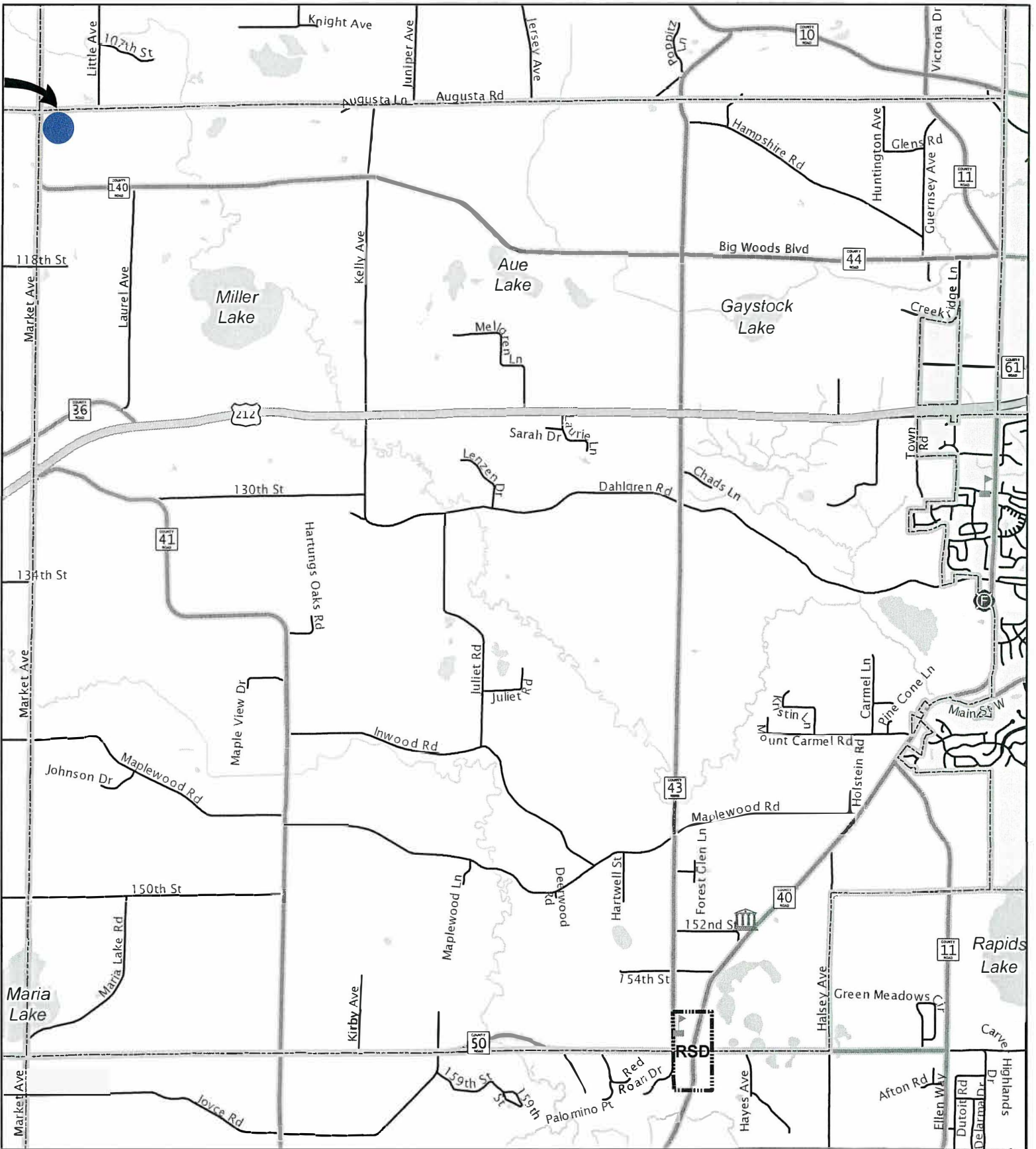
### **BOARD CONSIDERATION:**

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

1. The permittee shall obtain the appropriate building permit(s) prior to the construction of the proposed attached garage addition. All work shall be done in accordance with the submitted and approved building permit plans.

2. All construction activities shall be done in accordance with the submitted site plan and Carver County Public Works requirements. The new construction shall not encroach any closer to the centerline of the road than approved (i.e., 67 feet from the center of Little Avenue) as part of this permit application.
3. The permittee shall comply with all Dahlgren Township access requirements.
4. Prior to the issuance of a building permit, the landowner/contractor shall obtain the appropriate SSTs (septic system) approval(s) and submit all required documentation.
5. No additional expansions shall be permitted without obtaining all necessary building permits and/or Variances.

# DAHLGREN TOWNSHIP



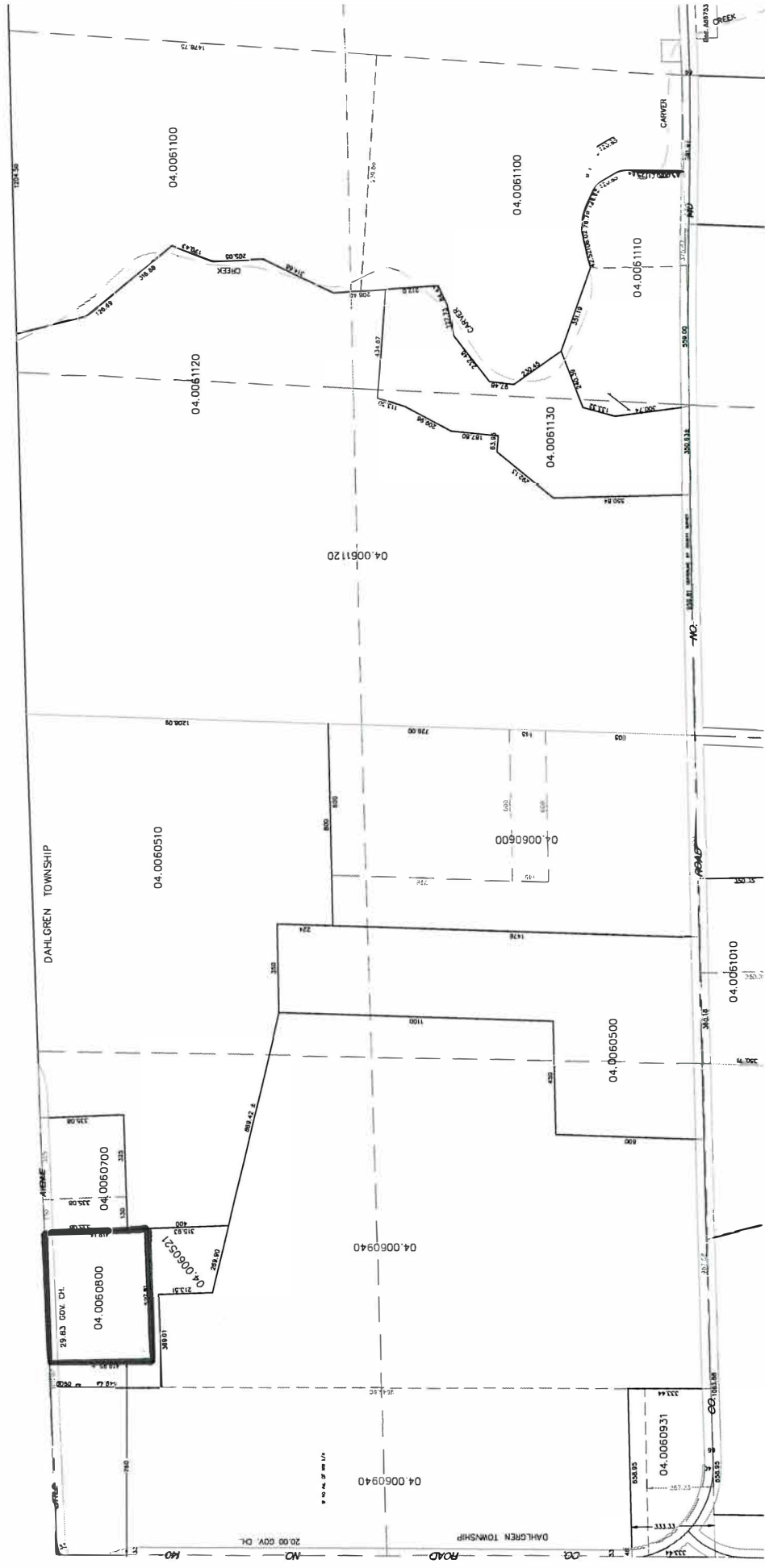
This map was created using Carver County's Geographic Information Systems (GIS). It is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible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



Map Created by Carver County GIS

# N 1/2 SEC. 6, T.115, R.24

THIS IS A MAP A LEGALLY RECORDED PLAT  
THIS MAP IS A COMPARISON OF RECORDS  
ON FILE IN THE CLERK'S OFFICE WITH THE  
OFFICES AND OTHER SOURCES. THIS MAP  
IS NOT A SURVEY AND DOES NOT REPRESENT  
THE ACTUAL LOCATION OF THE BOUNDARIES  
AND NOT BE USED FOR ANY PURPOSES  
OTHER THAN CONTAINING THE MAP.



Surveying & Mapping Office  
Claver County Gov. Center  
600 East Fourth Street  
Chaska, MN 55318  
Phone 952-832-5000

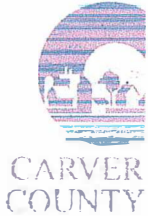
Two years ago our family had plans drawn up to add an attached garage (current tuck under) and a larger entry way (split level) to meet the needs of our family of six. Due to Covid and inflation our plans were temporarily postponed. In that time the county changed our road classification and after talking to Angie Stenson in public works she did confirm that we are no longer in compliance. With the new setback of 80ft we are seeking a 13ft variance from the center of right of way. This change is due to a potential year 2040 plan for Little Ave that is in the very beginning stages which Angie stated would not be impacted by our variance. In addition we are looking to move our current driveway 33ft to the East lining up with the neighbor's driveway to the North to avoid a large slope towards our potential new garage addition. We are very limited with options for this addition as our house sits on a large hill with a steep slope and our septic system is directly below this (see printed document for reference). We are seeking a variance that would allow us to stay in the home we have lived in for 17 years and move forward with our project and current drawn up plans. Thank you.

The Dauwalter Family

*April 8, 2022*

# 10975 LITTLE AVENUE





# Township Presentation & Recommendation Form

|                                                                                                             |                                                                                          |                            |
|-------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------------|
| PARCEL # <u>040060800</u>                                                                                   | Permit # <u>P220220018</u>                                                               |                            |
| Owner's Name:<br><u>Robert Dauwalter</u>                                                                    | Owner's Mailing Address:<br><u>10975 Little Ave</u>                                      |                            |
| City:<br><u>Cologne</u>                                                                                     | Owner State:<br><u>MN</u>                                                                | Owner Zip:<br><u>55322</u> |
| Applicant (if other than owner):<br><div style="border: 1px solid black; height: 20px; width: 100%;"></div> | Site Address:<br><div style="border: 1px solid black; height: 20px; width: 100%;"></div> |                            |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                         |                                           |                                     |                                              |                                 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|-------------------------------------------|-------------------------------------|----------------------------------------------|---------------------------------|
| Type of Request:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <input checked="" type="checkbox"/> IUP | <input type="checkbox"/> Preliminary Plat | <input type="checkbox"/> Final Plat | <input checked="" type="checkbox"/> Variance | <input type="checkbox"/> Appeal |
| Description of Request:<br><u>Seeking a variance to construct a garage addition within the 80ft setback from Little Ave. The addition would be 60ft from the center of right of way. The variance is needed due to the practical difficulty of a steep hill near our home and our septic system would be at the bottom of such hill. Plans were drawn up 24 years prior to the change. Additionally looking to move our driveway 33ft east lining up with the neighbors driveway to the north.</u> |                                         |                                           |                                     |                                              |                                 |
| Date of County Public Hearing:                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <u>5-4-22</u>                           | Date of Township Meeting:                 | <u>4-11-22</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.

|                                                                         |                       |
|-------------------------------------------------------------------------|-----------------------|
| <div style="border: 1px solid black; height: 30px; width: 100%;"></div> | Date <u>4-11-22</u>   |
| Signature of Applicant                                                  |                       |
| <div style="border: 1px solid black; height: 30px; width: 100%;"></div> | Date <u>4-11-2020</u> |
| Signature of Township Official                                          |                       |

**EXHIBIT "A" – LEGAL DESCRIPTION**

**PID NUMBER: 04-006-0800**

**File# A20220018**

**APPLICANT/OWNER: Robert J Dauwalter &  
Cassandra L Dauwalter**

\* \* \* \* \*

That part of the Northwest Quarter of Section 6, Township 115, Range 24, Carver County, Minnesota, described as follows: Commencing at the Northwest corner of the Northwest Quarter; thence East along the North line of said Northwest Quarter, a distance of 1,272.5 feet to the actual point of beginning; thence South at right angles, a distance of 419.15 feet; thence West at right angles, a distance of 527.81 feet, more or less, to a line 760.0 feet East of, measured at right angles to, and parallel with the West line of the Northwest Quarter; thence North parallel with said West line, to the North line of the Northwest Quarter; thence East on the North line, a distance of 511.96 feet, more or less, to the point of beginning.

**DRAFTED BY: Carver County Land Management Department**

**COUNTY OF CARVER**  
**PUBLIC SERVICES DIVISION**  
*Department of Land Management*

April 25, 2022

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

**FROM:** The Land Management Department

**SUBJECT:** Application for a Variance (Exceed Prime Ag Land in New Lot)

**FILE #:** PZ20220014

**APPLICANT:** Greg Wenlund

**PROPERTY OWNER:** Greg & Lisa Wenlund

**SITE ADDRESS:** Land South of 13620 County Road 33 NYA, MN 55368

**VARIANCE TYPE:** Exceed the Maximum Allowed Prime Ag Land,

**PURSUANT TO:** Carver County Zoning Code: Section 152.033 (F)

**LEGAL DESCRIPTION:** See attached Exhibit "A"

**PARCEL #:** 11-023-0920

**BACKGROUND:**

1. Greg and Lisa Wenlund own an approximate 73.14-acre parcel located in the Southwest Quarter (SW¼) of the Southwest Quarter (SW¼) of Section 23, Young America Township. The undeveloped parcel has an available Building Eligibility (B.E.) and consists of mostly tillable acreage with some wooded areas. There are small pocket wetlands or seasonally flooded basins. The property is in the Agricultural Zoning District and the CCWMO (Bevens Creek watershed). The area north of the railroad right-of-way is within the Transition Overlay District for the City of Norwood Young America.
2. The applicant is requesting a variance that would allow for a Minor Subdivision to create a new residential parcel for land located south of the railroad. The new residential parcel be approximately 15 acres and would meet all County regulations for residential parcels except for the amount of Prime Ag. Soil. The proposed residential parcel would include approximately 8 acres of prime agricultural soils; therefore, a variance has been requested pursuant to Section 152.033 (F) of the County Zoning Code.

**LEGAL BACKGROUND:**

**§ 152.033 LOT REQUIREMENTS.**

(F) *Use of prime AG land.* Lots of less than 20 acres created for a new residential building site shall contain no more than 2 acres of prime agricultural land under till. The setbacks as required by this chapter shall not be included in the calculation.

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

**§ 152.217 EXPIRATION/EXTENSION OF VARIANCE.**

If the work, as permitted by the variance, is not completed within one year after the granting of the variance, then the variance shall become null and void, unless a request for extension of time in which to complete the work has been granted by the Board of Adjustment. In order to obtain an extension the applicant must file a written request with the Department at such time as the request can be placed on the Board of Adjustment agenda prior to the expiration of the variance. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance. There shall be no charge for the filing of the request.

(Ord. 47, passed 7-23-02)

## **STAFF ANALYSIS:**

1. The applicant was granted a variance in 2009 that is nearly identical to this request (PZ20090026) for exceeding Prime Ag land for a new building site. Per Code Section 152.217, if the work permitted by a variance is not completed within one year after the granting of a variance, the variance is considered expired and the applicant must submit a new variance application.
2. The existing 73.14-acre parcel was part of a larger tract of land; however, a minor subdivision approval in 2011 created the current configuration. That property split separated an existing farmstead at 13620 County Road 33. The remnant parcel includes the tillable acreage, woodland area, and one (1 per 40) building eligibility.
3. The proposed lot would include approximately 8 acres of tillable “prime ag” land. The Zoning Code prohibits lots of less than 20 acres from containing more than 2 acres of prime agricultural land under till (excluding the setbacks). All lots created for a new residence after July 1, 1974, are required to comply with the 2-acre maximum prime ag limitation.
4. The applicant has stated in his that the practical difficulty in this case is related to the manner with which the property is shaped and zoned. The applicant has stated that subdividing a parcel that meets the County’s requirement for prime ag soils would leave an even smaller remnant that would not be able to be farmed with modern equipment. The subject section of the property is the only portion not in the Transition Overlay Zone for the City of Norwood Young America. The Norwood Young America Comprehensive Plan shows no intention to annex the southern 15 acres. In this case, the unique circumstances are related to the property being bisected by the railroad right-of-way. Although the land has been farmed consistently, the applicants see a building site as being a better use of the property. If a smaller building site meeting prime ag acreage was chosen, the remnant would be too small to be utilized as agricultural land. Therefore, the plight of the landowner appears to be due to circumstances unique to the property, not created by the landowner.
5. The granting of the variance is in harmony with the general purpose and intent of the official control. The official control in this request is standard related to the amount of prime ag soil being included. The intent of these regulations is to prohibit the development of parcels that convert tillable acreage into residential development.
6. The granting of the variance would not be in conflict with the intent of the Comprehensive Plan. In the Comprehensive Plan, the preservation of agriculture land is listed as one of the major themes. If a minor subdivision were to be approved as proposed, it would preserve the larger tract of tillable acreage and make a more efficient use out of a non-productive portion of the farmland. Because the request does not fragment the larger parcel in a manner that leaves a remnant area too small for efficient farming practices, and repurposes a non-productive portion of the farm, it does not appear to be in conflict with the intent of the Comprehensive Plan.
7. The applicant is proposing to use the property in a reasonable manner, not permitted by an official control. The property does have an existing 1 per 40 building eligibility. Trying to use the existing B.E. in the proposed location may increase the efficiency of use for the remaining tillable acreage and is a reasonable use of the property that would not be permitted by the official control.
8. The neighborhood is comprised of agricultural uses and 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.
9. The granting of the variance would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicants and would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
10. On April 15, 2022, this request was reviewed by Lori Brinkman, Senior Environmentalist for Carver County. Ms. Brinkman stated that the applicant’s soil borings from 2009 are no longer valid, and new soil observations will be needed for the primary and alternate septic sites. This is to be submitted with the Minor Subdivision application materials.

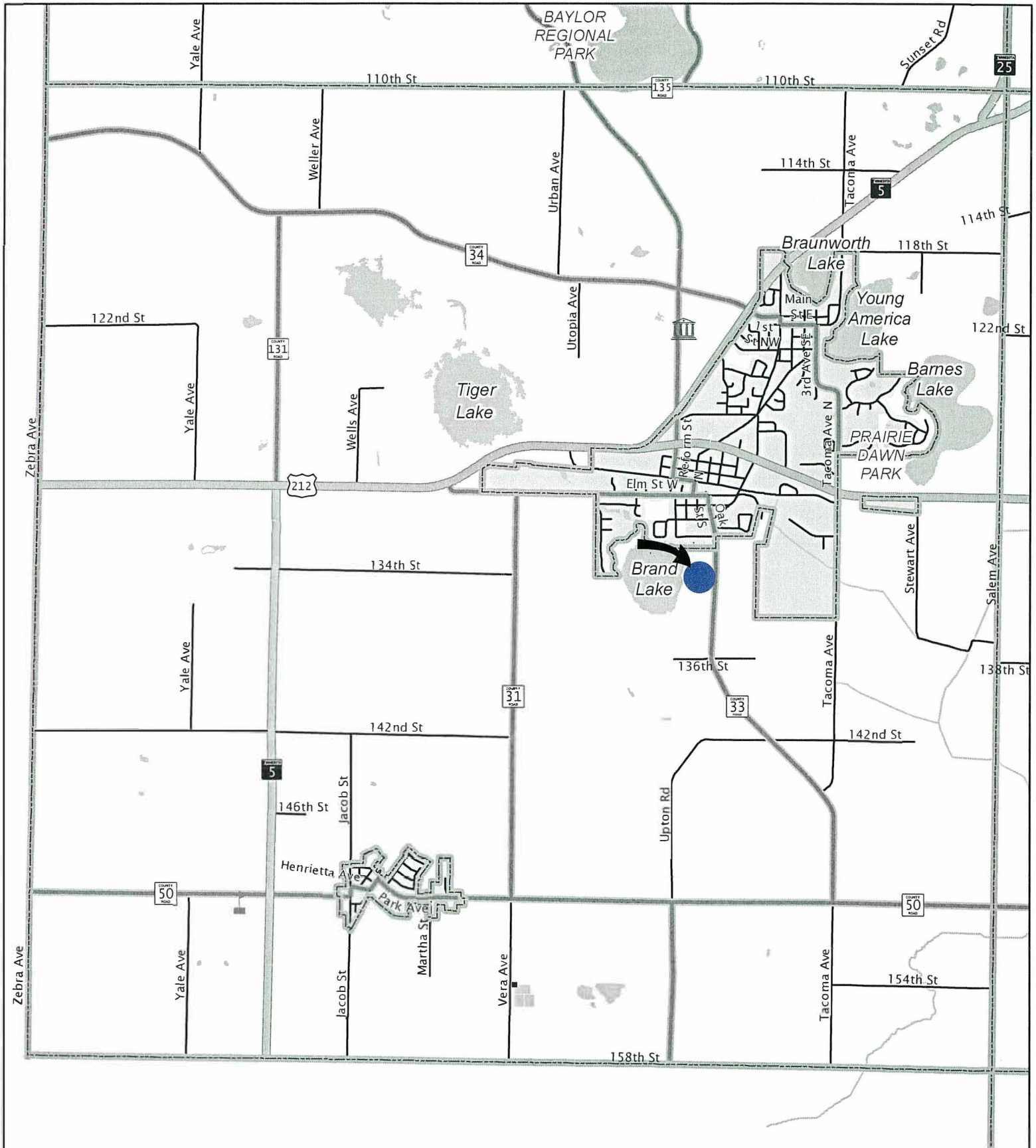
11. On April 15, 2022, this request was reviewed by Chad Braun, Transportation Engineering Coordinator for Carver County Public Works. Mr. Braun stated that Public Works has no issues with this variance, provided the applicants get access from 136<sup>th</sup> Street, a Township Road.
12. The Young America Town Board reviewed and recommended approval of the request during their April 12, 2021, Town Board meeting. There were no comments for this application (i.e., no concerns or objections).

**BOARD CONSIDERATION:**

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance to exceed the prime ag land standard would serve in the interest of justice, the following conditions should be attached:

1. A Minor Subdivision application shall be submitted, reviewed, and approved prior to the recording of any deed(s). The parcels shall be subdivided in accordance with the County Zoning Code and Subdivision requirements including but not limited to, a completed minor subdivision application, a survey, and SSTS compliance.
2. Permittee shall contact Young America Township regarding access location from 136<sup>th</sup> Street and apply for all necessary permits for a driveway access.
3. Landowners, purchasers and successors or assigns shall be on notice that the area is rural in nature and commercial agriculture activities such as odors, dirt, dust, noises, long hours of operation and other factors associated with agriculture and feedlot activities may occur, as well as other rural land use activities. Complaints relating to these activities shall be considered unwarranted so long as such activities are being conducted in accordance with Carver County Rules and Regulations.

# YOUNG AMERICA TOWNSHIP

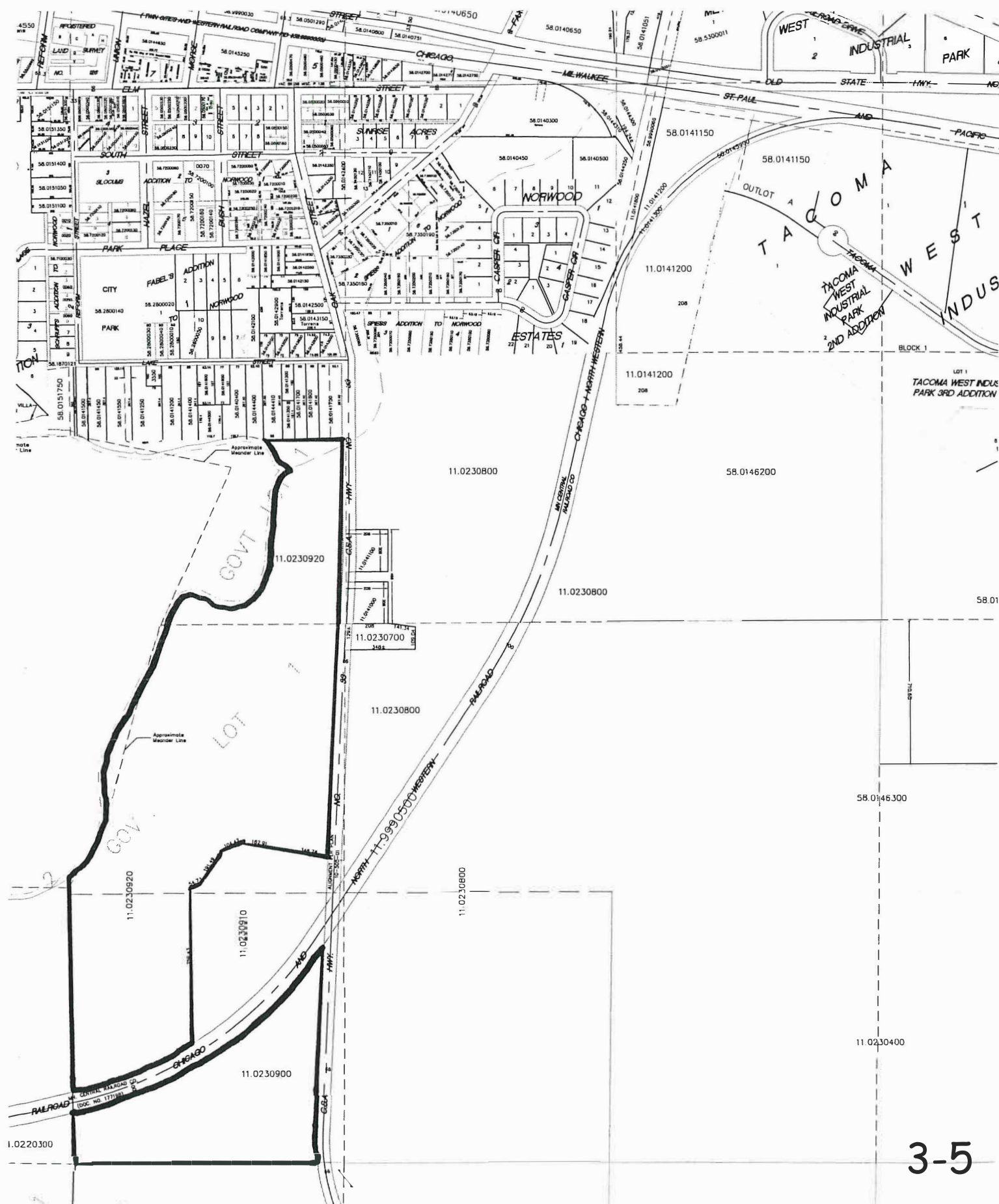


This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible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



Map Created by Carver County GIS

*S 1/2 SEC. 14, T.115, R.26*



Greg & Lisa Wenlund  
13620 County Road 33  
NYA MN, 55368

Subject: Variance due to Hardship conditions

Exhibits:

2009 Survey

Site map for primary and secondary septic locations

Figure 6: Existing Land Use from NYA Comp Plan

Figure 8: Orderly Annexation Boundary 2020 from NYA Comp Plan

Figure 12: Future Land Use from NYA Comp Plan

2 aerial photos of section in question

~~2009~~ Township Presentation & Recommendation Form

2022

Dear Carver County Board of Adjustment,

Please accept this letter and the accompanying documentation as our request for a hardship variance to the current rules governing building sites and lot size. We currently own approximately 83 acres with one building eligibility remaining in Young America Township. We would like to assign this eligibility to the southern most section of our property identified as parcel B and C on the attached 2009 survey. We request this so that we can keep our larger parcel (A) intact. As you can see from the survey, approximately 9.99 acres in parcel B is tillable land and 5.41 acres in parcel C are National Wetland Inventory. There is also a power line that juts into the tillable land as well. Our request is also influenced by the NYA comprehensive plan which shows that there is no intention to annex this parcel into the city as it does with parcel A which then divides our property at the railroad tracks. With a typical building site of approximately 2.5 – 3 acres that would be located along the cart way at the southern most border, it would leave us with a piece of property with little practical purpose other than a larger home site.

I would like to thank you for your consideration and hope that the Carver County Board of Adjustment will agree to our request. I look forward to answering any questions you may have concerning this matter.

Regards,

Greg Wenlund

4-5-22



Need New SSTS Info.

WINDLUND

LOCATION MAP

C. HENTGER

11/09

CORP 33

Power Pole

SCALE

1" = 30'

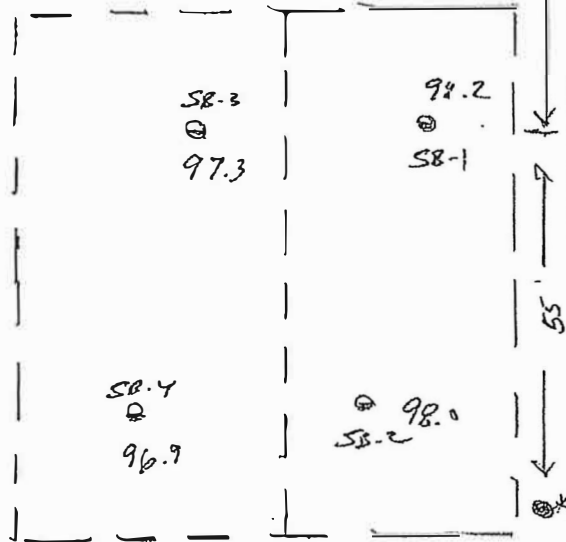
TBM NAIL IN  
POWER POLE



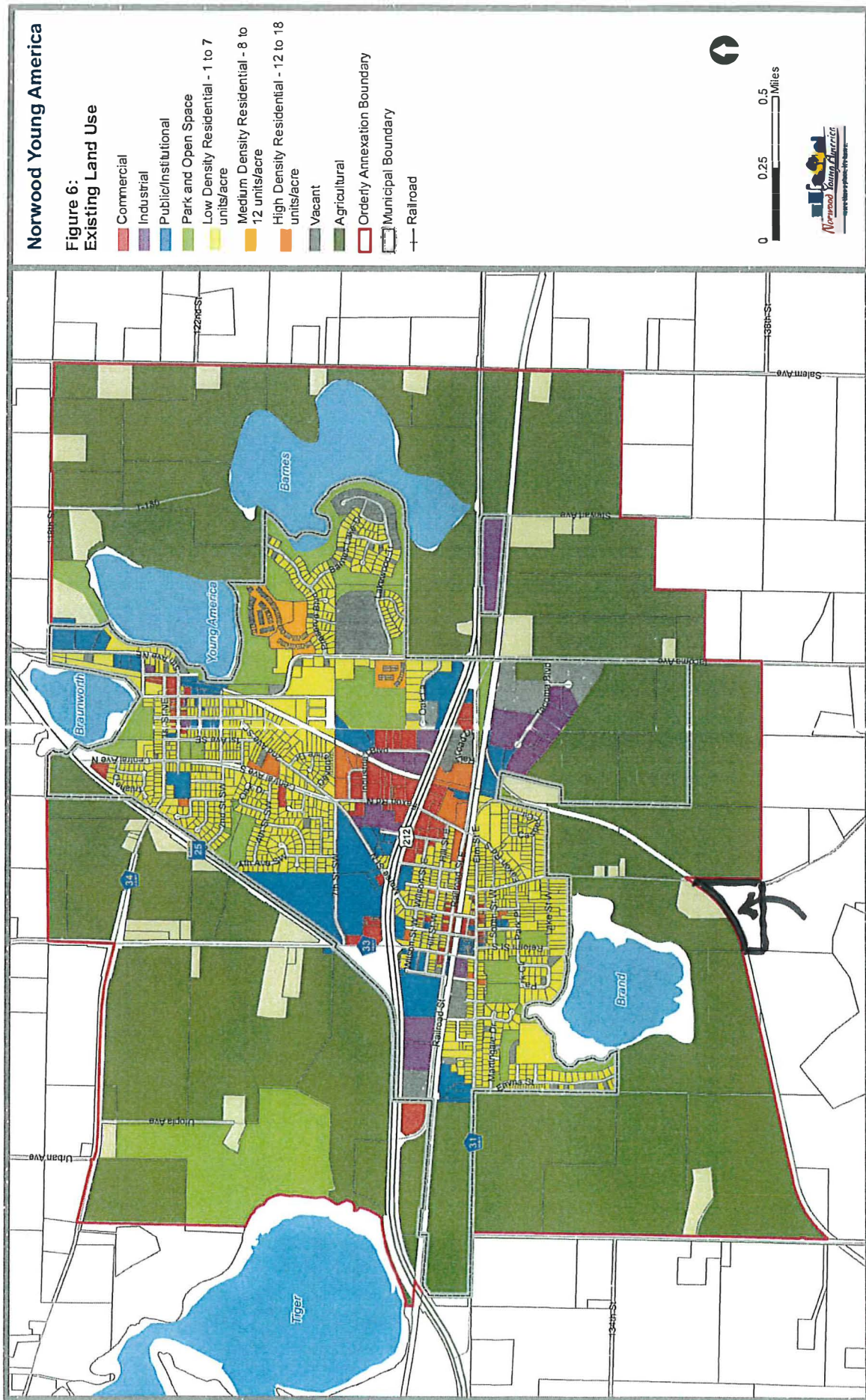
225'

DRIVE

(CROP FIELD)



POWER POLE



4-5-22

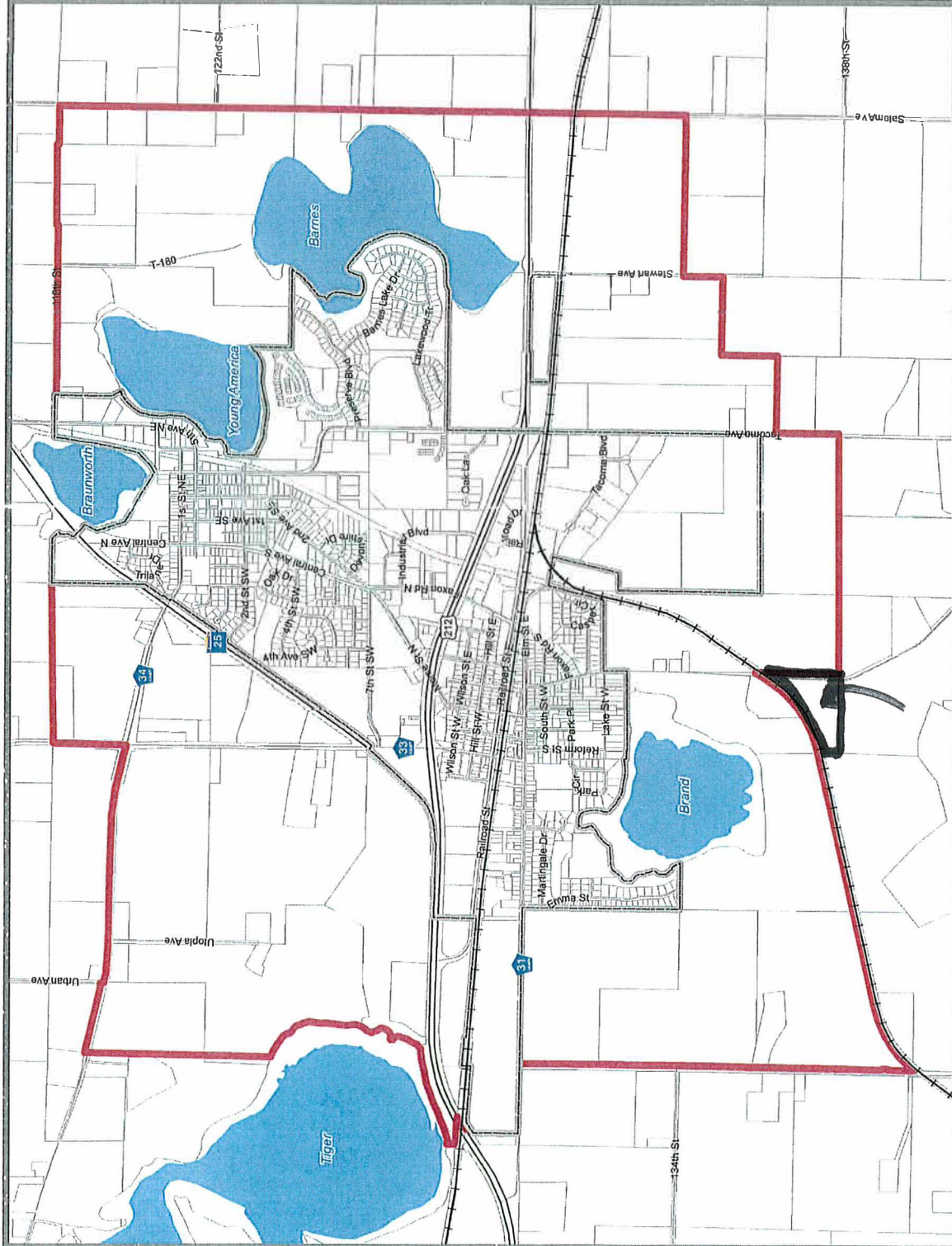
# Norwood Young America

Figure 8:  
Orderly Annexation  
Boundary, 2020

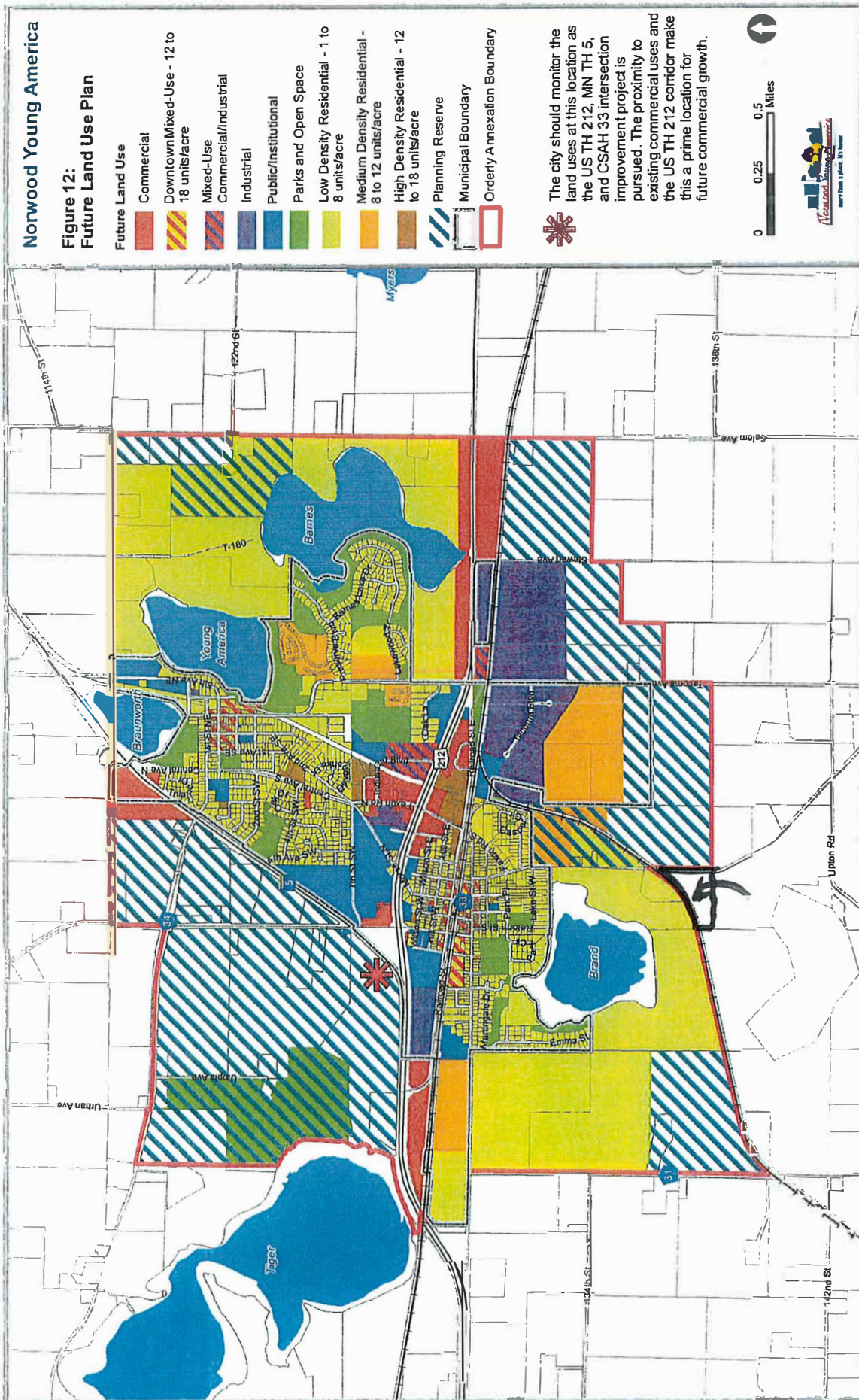
-  Municipal Boundary
-  Orderly Annexation Boundary
-  Railroad



0 0.25 0.5 Miles

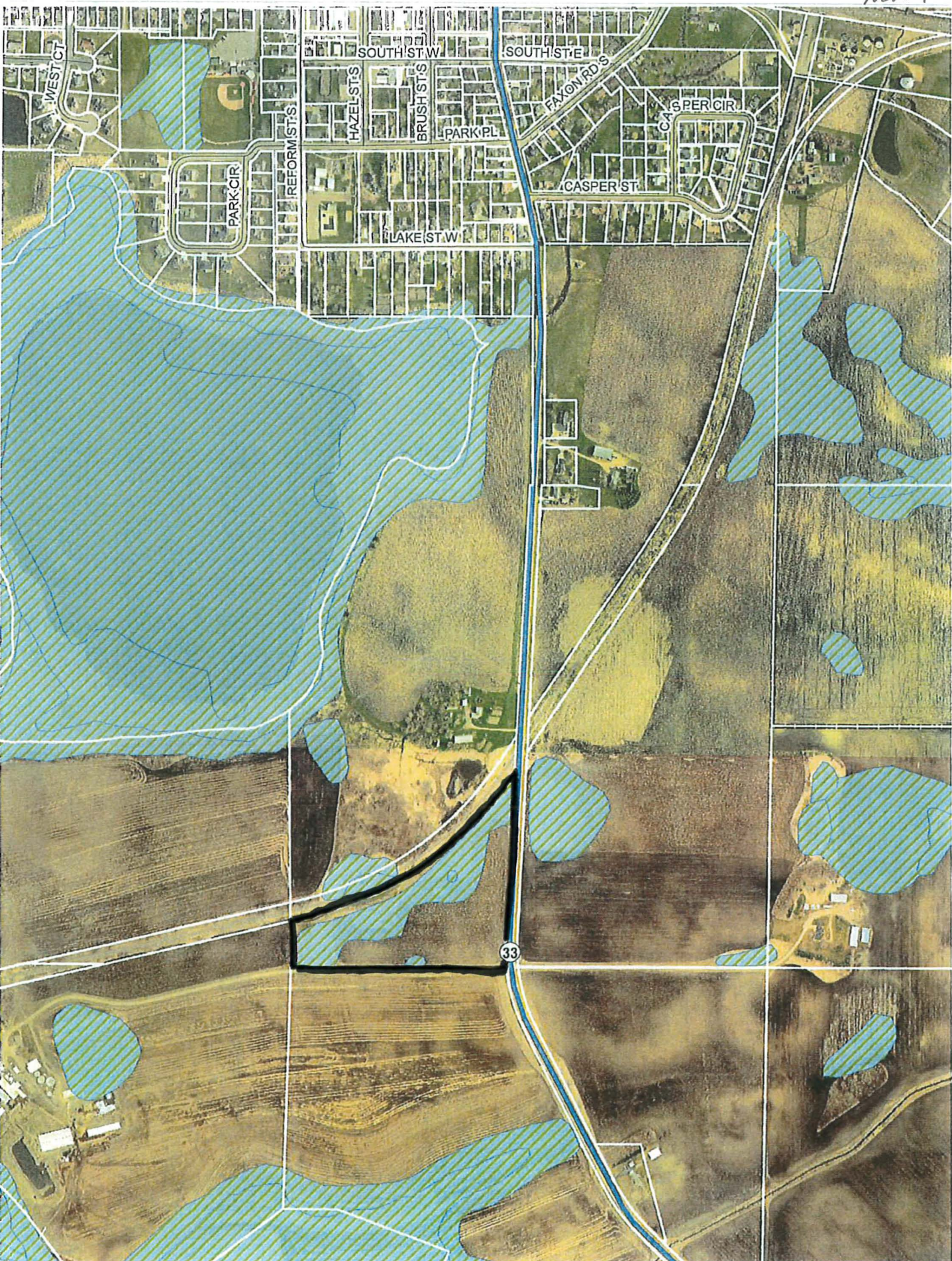


4-5-22



4-5-22

North





## Township Presentation & Recommendation Form

|                                             |                                                         |                            |
|---------------------------------------------|---------------------------------------------------------|----------------------------|
| PARCEL # <u>11.0230920</u>                  | Permit # <u>PZ 20220014</u>                             |                            |
| Owner's Name:<br><u>Loreg wenlund</u>       | Owner's Mailing Address:<br><u>13620 county Road 33</u> |                            |
| City:<br><u>Norwood</u>                     | Owner State:<br><u>mn</u>                               | Owner Zip:<br><u>55368</u> |
| Applicant (if other than owner):<br><u></u> | Site Address:<br><u></u>                                |                            |

|                                                                                                  |                           |                           |                                                             |                                  |                                           |                              |
|--------------------------------------------------------------------------------------------------|---------------------------|---------------------------|-------------------------------------------------------------|----------------------------------|-------------------------------------------|------------------------------|
| Type of Request:                                                                                 | <input type="radio"/> CUP | <input type="radio"/> IUP | <input type="radio"/> Preliminary Plat                      | <input type="radio"/> Final Plat | <input checked="" type="radio"/> Variance | <input type="radio"/> Appeal |
| Description of Request:<br><u>Divide Property into 2 Parcel + sell smaller Parcel as 1 Piece</u> |                           |                           |                                                             |                                  |                                           |                              |
| Date of County Public Hearing: <u>May 4<sup>th</sup> 2022</u>                                    |                           |                           | Date of Township Meeting: <u>April 12<sup>th</sup> 2022</u> |                                  |                                           |                              |

### Actions:

#### Township Action Taken:

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

Township recommends approval based on division of existing property, + no objections

**\*\*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.

|                                |                     |
|--------------------------------|---------------------|
| <u>Loreg Wenlund</u>           | Date <u>4/5/22</u>  |
| <u>Bradley Schupp</u>          | Date <u>4/12/22</u> |
| Signature of Township Official |                     |

**EXHIBIT "A" – LEGAL DESCRIPTION**

**PID NUMBER: 11-023-0920/part of**

**File# PZ20220014**

**APPLICANT/OWNER: Greg A & Lisa A Wenlund**

\* \* \* \* \*

That part of the South Half of the Northwest Quarter of Section 23, Township 115, Range 26, Carver County, Minnesota, lying westerly of the centerline of County Highway Number 33 and southeasterly of the Chicago and Northwestern Railroad, containing 15.40 acres of land, more or less.

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**COUNTY OF CARVER**  
**PUBLIC SERVICES DIVISION**  
*Land Management Department*

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April 25, 2022

**TO:** Carver County Board of Adjustment & Camden Town Board

**FROM:** The Land Management Department

**SUBJECT:** Application for a Variance (Reduced OHW Setback to Natural Environment Lake).

**FILE #:** PZ20220013

**APPLICANT:** Timothy Van Tassel

**OWNER:** Timothy & Susan Van Tassel

**SITE ADDRESS:** 16220 County Road 135, NYA, MN 55397

**VARIANCE TYPE:** Reduced Structure Setback from OHW

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

**LEGAL DESCRIPTION:** See attached Exhibit "A"

**PARCEL #:** 02-034-0900

**BACKGROUND:**

1. Timothy and Susan Van Tassel own an approximate 0.98-acre residential parcel located in Gov't Lot 1 of Section 34, Camden Township. The property is homesteaded and improved with a house with attached garage. The property is located within the Agricultural Zoning District, Shoreland Overlay District (Eagle Lake) and the CCWMO (Crow River Watershed).
2. The applicant, Timothy Van Tassel, is requesting a variance that would allow for the replacement of a deck that would not meet the required Ordinary High Water (OHW) 150-foot setback standard of a Department of Natural Resources (DNR) Protected Natural Environment Lake (Eagle Lake); therefore, a reduced structure setback (approximately 45 feet) to the Ordinary High Water Level (OHW) has been requested pursuant to Section 152.034 (D) of the Carver County Zoning Code.

**LEGAL BACKGROUND:**

**§ 152.009 NON-CONFORMING USES AND STRUCTURES.**

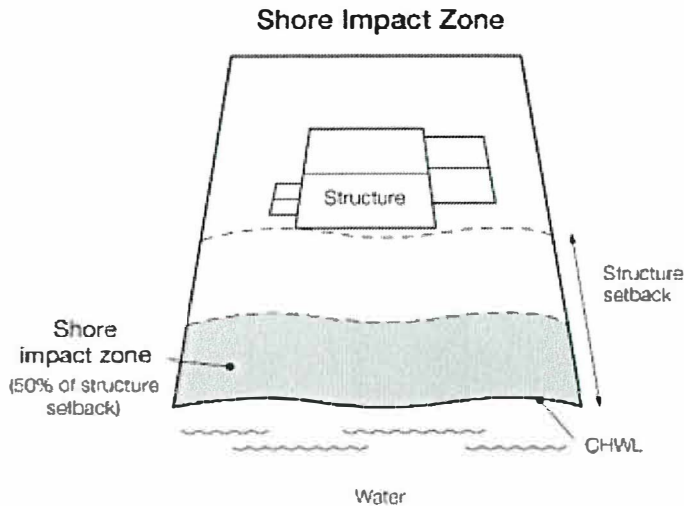
(A) Any structure or use of a structure, or use of land lawfully existing upon the effective date of this chapter may be continued at the size and in the manner of operation existing upon the date, notwithstanding the certain classes pursuant to M.S. § 394.36, except as hereinafter specified.

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

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

#### § 152.010 DEFINITIONS.

**SHORE IMPACT ZONE.** Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the structure setback.



#### § 152.034 SETBACKS.

(D) *Table of setback requirements.*

| <b><i>Setbacks from Ordinary High Water Level in Shoreland District</i></b> | <b><i>Setback Required for Structures</i></b> | <b><i>Setback Required for SSTS</i></b> |
|-----------------------------------------------------------------------------|-----------------------------------------------|-----------------------------------------|
| Natural Environment Lake                                                    | 150                                           | as required by <u>Chapter 52</u>        |

#### § 152.116 LOT SIZE AND WIDTH, SETBACKS, AND YARD REQUIREMENTS. (SHORELAND DISTRICT)

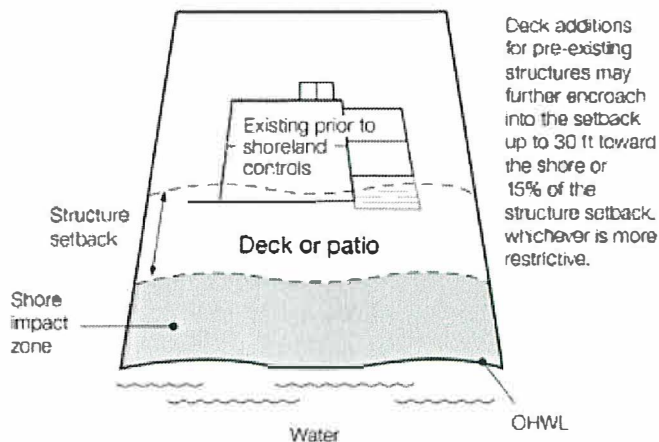
(A) See standards section (§§ 152.025 through 152.041) and provisions below.

(B) Any structure must meet § 152.034. Additional provisions with regard to setbacks include:

(C) Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:

- (1) The structure existed on the date of adoption of this chapter;
- (2) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
- (3) The deck encroachment toward the ordinary high water level does not exceed 15% of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and
- (4) The deck is constructed primarily of wood and is not roofed or screened.

## Deck Encroachment



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

### STAFF ANALYSIS:

1. Section 152.009 of the County Zoning Code addresses non-conforming uses and structures, and states, *“Any structure or use of a structure, or use of land lawfully existing upon the effective date of this chapter may be continued at the size and in the manner of operation existing upon the date”* and further references that a nonconformity, *“may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion.”* The existing house in its current location was constructed in 1969, prior to any Zoning Code regulations being enforced by the County.
2. Section 152.034 of the County Zoning Code requires the nearest corner of any structure, in all zoning districts, to meet or exceed a 150-foot setback from a DNR Natural Environment Lake. Approval of this request would allow the applicant to apply for a building permit to replace a deck attached to the rear (lakeside) of the house, with an approximate 45’ setback to the OHW of Eagle Lake. The established OHW for Eagle Lake is 965.7, pursuant to the MN DNR.
3. The applicants’ letter (dated: 4/12/22) describes a practical difficulty in locating the deck in an area that is not within the required Shoreland setback. He explains that the current deck, which was built prior to the Van Tassels’ purchase of the property, is in deteriorating condition and needs to be replaced. If the new deck was to be placed outside of the 150’ setback, it would need to be located in the front yard of the property. The shape of the property itself, the location of house, and the lake boundary make positioning the proposed structure in a manner that conforms with required setbacks impossible without a variance. The applicant is requesting to reduce the setback from 150’ to approximately 45’ (a variance of 105’). Both the original deck setback and the proposed setback are within the Shore Impact Zone of Eagle Lake, which is defined as “land located between the ordinary high water level of a public water, and a line parallel to it at a setback of 50% of the structure setback”.
4. Section 152.116 of the County Zoning Code indicates deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if certain criteria and standards are met. The standard in which the applicant does not meet under this section states *“The deck encroachment toward the ordinary high water level does not exceed 15% of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive.”* Please note the entire house w/deck (structure) is located with the required setback; therefore, this standard can not be met and the need for a variance is warranted.

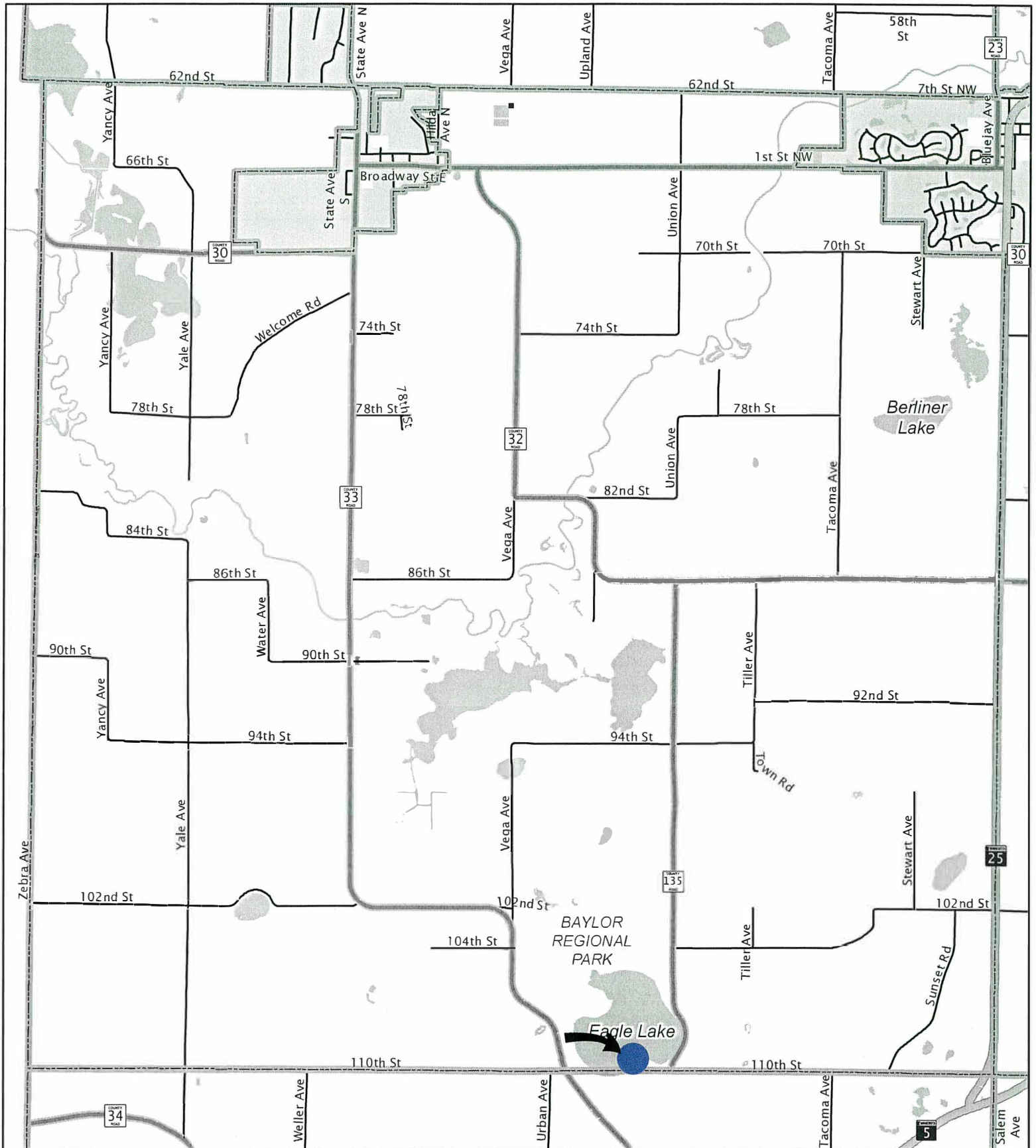
5. The property received a Subsurface Sewage Treatment System (SSTS) Certificate of Compliance on April 12, 2021; therefore, the Expiration of Compliance is April 12, 2024. The Carver County Environmental Services Department has all SSTS documentation on record for this property.
6. The granting of the variance is in harmony with the general purpose and intent of the official control. The official control in this request is the required 150-foot shoreland setback. Although this request does not meet the specific standards, it appears to meet the intent of the regulations.
7. The granting of the variance would not conflict with the intent of the Comprehensive Plan and will not alter the character of the neighborhood nor will government services be negatively impacted by the relocation of the structure.
8. The neighborhood is comprised of agricultural and residential activities, as well as some areas of wetland and 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.
9. The granting of the variance would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicants and would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
10. This request was sent to Minnesota Department of Natural Resources (MnDNR) for review. At time of staff report, no comments or concerns have been sent.
11. The Camden Town Board has reviewed and recommended approval of the request during their April 13, 2022, Town Board meeting. There were no comments for this application (i.e. no concerns or objections).

#### **BOARD CONSIDERATION:**

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

1. The permittee shall obtain the appropriate building permit(s) prior to the construction of the proposed deck structure. All work shall be done in accordance with the submitted and approved building permit plans.
1. All construction activities shall be done in accordance with the submitted site plan(s). The new construction shall not encroach any closer to the OHW of Eagle Lake than approved (i.e. 45± feet) as part of this permit application.
2. as part of this permit application.
3. No additional expansions shall be permitted without obtaining all necessary building permits and/or Variances.

# 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



**4/12/22**

**To: Board of Adjustment, Carver County**

In regard to my Variance Application, I am proposing to construct a replacement deck on the rear (lakeside) of my house. However this impinges upon the current Land Use Ordinance governing this property. Specifically, the Lakeshore Setback to a Natural Environment Lake and the Shoreland Impact Zone. Our property was developed long before these regulations were established. Due to the property's unique position between the lake (Eagle Lake) and Co Rd 135 there is no way to avoid constructing the proposed deck and stay within the above mentioned regulations. The existing deck, which was built prior to my ownership of the property, is in deteriorating condition and will have to be totally removed. The deck was built over and around the stoops of the original egress design preventing proper supporting structure so is subsequently failing. In it's place will be built a deck from the latest high end materials and designed with the idea that future prospective buyers will view as a positive aspect of the property rather than an eyesore that would have to be dealt with soon after purchase. Furthermore, even if we kept the original deck footprint we would still need a variance due to the proximity of the lakeshore so decided to expand the deck size in a way to be more easily accessible from the yard and from the house and improving the lakeshore experience at the same time.

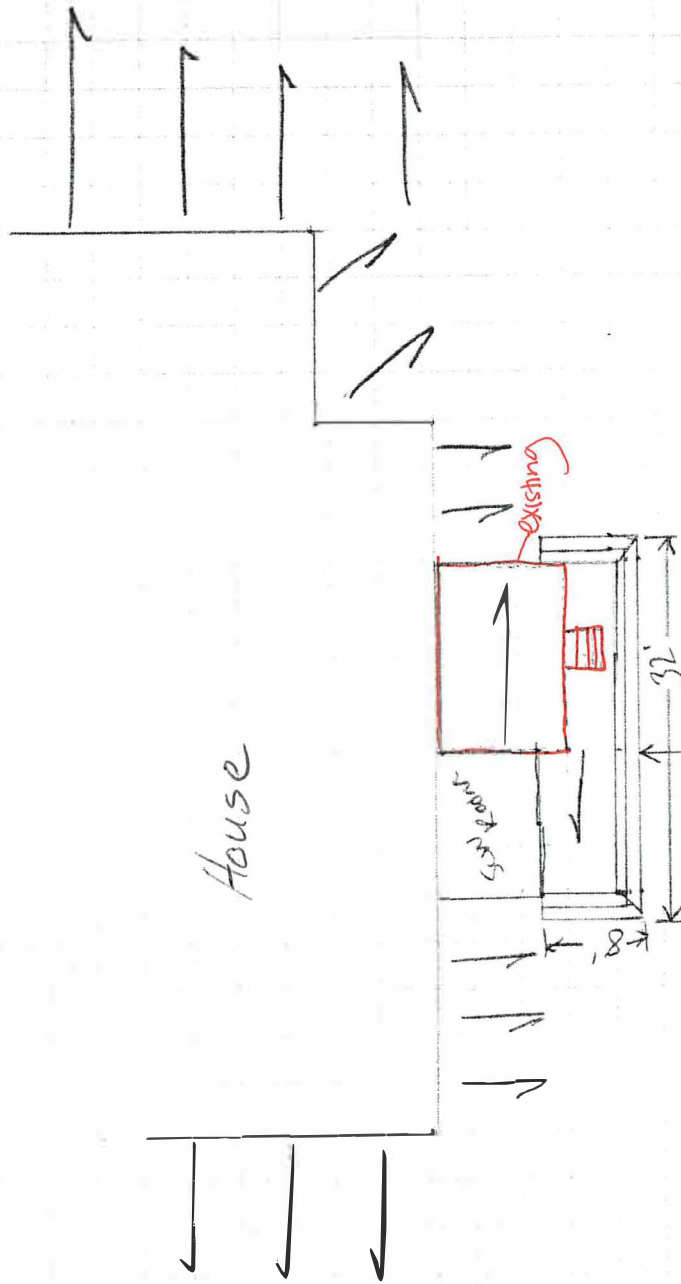
The property tapers from east to west and although the house is situated at the deepest part of the lot it still does not allow sufficient depth to meet current Set Back regulations pertaining to lakeshore property.

Thank you for your time in this matter.

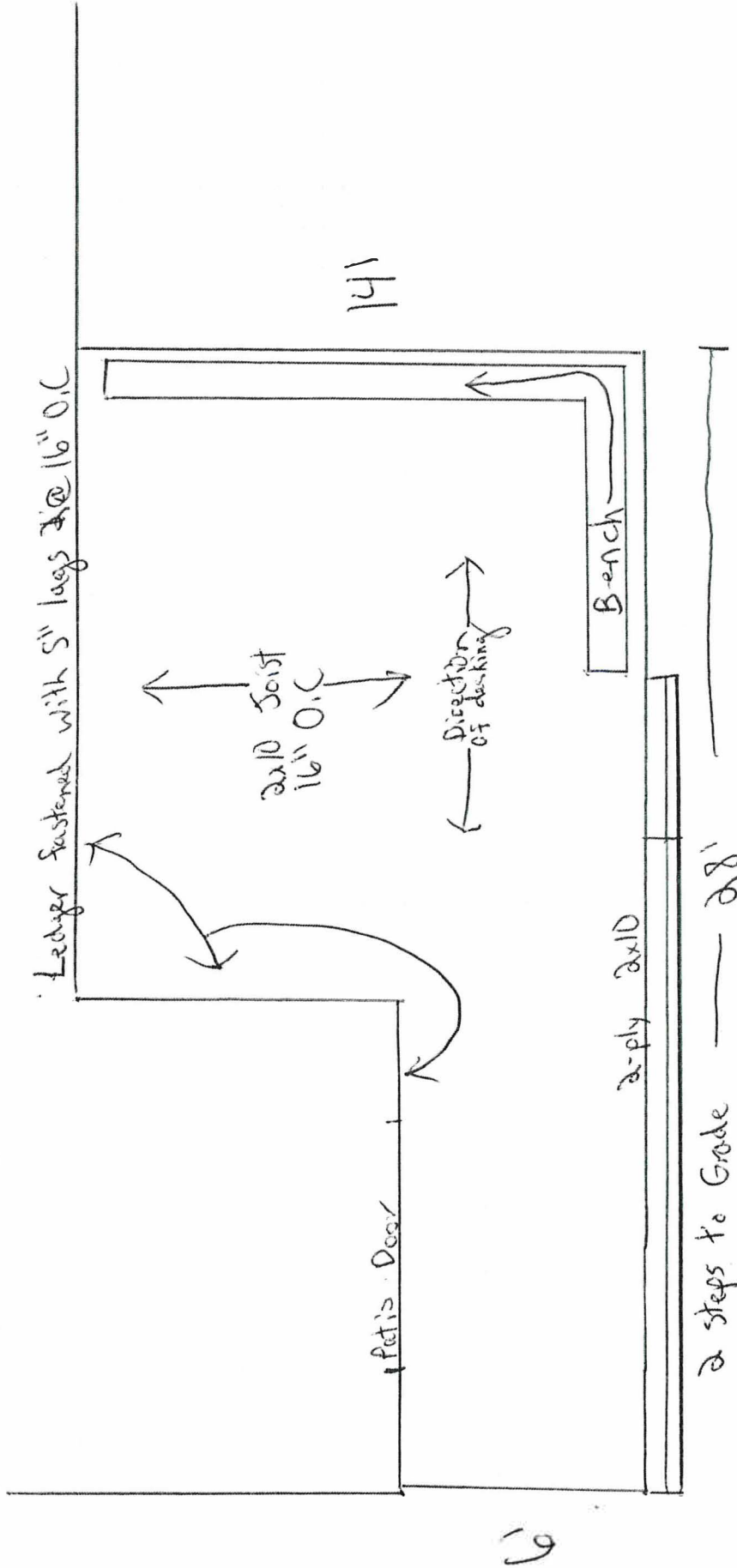
-Timothy Van Tassel

4/5/22  
10220 Cord 135

CO RD 135



# House



Tim Van Tassel  
16220 County Rd 13S  
NWA MN

2x12 - Stair Stringers 9" O.C.



# Township Presentation & Recommendation Form

|                                            |                                                          |
|--------------------------------------------|----------------------------------------------------------|
| <b>PARCEL #</b> 02-034-0900                | <b>Permit #</b> PZ 20220013                              |
| <b>Owner's Name:</b><br>TIMOTHY VAN TASSEL | <b>Owner's Mailing Address:</b><br>16220 COUNTY ROAD 135 |
| <b>City:</b><br>NORWOOD YOUNG AMERICA      | <b>Owner State:</b> MN <b>Owner Zip:</b> 55397           |
| <b>Applicant (if other than owner):</b>    | <b>Site Address:</b><br>16220 COUNTY ROAD 135            |

|                                                                                                                                                                                                                            |                                                 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|
| <b>Type of Request:</b> <input type="radio"/> CUP <input type="radio"/> IUP <input type="radio"/> Preliminary Plat <input type="radio"/> Final Plat <input checked="" type="radio"/> Variance <input type="radio"/> Appeal |                                                 |
| <b>Description of Request:</b><br>VARIANCE FOR REPLACEMENT OF EXISTING DECK, due to lot restrictions regarding lakeshore set back regulations.                                                                             |                                                 |
| <b>Date of County Public Hearing:</b> MAY 4, 2022                                                                                                                                                                          | <b>Date of Township Meeting:</b> April 13, 2022 |

### Actions:

#### Township Action Taken:

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

Township approves variance request.

**\*\*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.

*Timothy D Van Tassel*

Date 4/5/22

Signature of Applicant

*William Devine*

Date 4-13-22

Signature of Township Official

**EXHIBIT "A" – LEGAL DESCRIPTION**

**PID NUMBER: 02-034-0900**

**File# PZ20220013**

**APPLICANT/OWNER: Timothy D VanTassel & Susan R VanTassel**

**\* \* \* \* \***

That part of Government Lot 1, Section 34, Township 116 North, Range 26 West of the 5<sup>th</sup> Principal Meridian, lying West of a line drawn north at right angles to the south line of said Government Lot 1 from a point on said south line distant 1,366.60 feet west of the southeast corner of said Government Lot 1, Carver County, Minnesota.

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**COUNTY OF CARVER**  
**PUBLIC SERVICES DIVISION**  
*Department of Land Management*

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April 25, 2022

**TO:** Carver County Board of Adjustment & Laketown Town Board

**FROM:** The Land Management Department

**SUBJECT:** Application for a Variance (Increased Square Footage for Signage).

**FILE #:** PZ20220017

**APPLICANT:** Kirk Van Blaircom

**OWNERS:** Oakwood Community Church – Pastor Jon Tolly

**SITE ADDRESS:** 8805 Klein Drive, Waconia, MN 55387

**VARIANCE TYPE:** Increased Square Footage for Signage

**PURSUANT TO:** Carver County Code: Chapter 154.20

**LEGAL DESCRIPTION:** See attached Exhibit "A"

**PARCEL #:** 07-030-1710

**BACKGROUND:**

1. The Oakwood Community Church own an approximate 15.51-acre parcel located in the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) of Section 30, Laketown Township. In 2012, Conditional Use Permit PZ20120044 was granted to Oakwood Community Church to operate a Large-Scale Activity – Church Facility on the subject parcel. The property is improved with a church, parking lot, stormwater pond (w/preservation area), and subsurface sewage treatment system (SSTS). The parcel is located in the Agricultural Zoning District and the CCWMO (Carver Creek watershed).
2. Kirk Von Blaircom, of Blue Label Creative, is requesting a variance on behalf of Oakwood Community Church to exceed the maximum allowed square footage of signage on their property. The proposed sign would exceed the maximum standard of 32 square feet of surface area per sign and would also exceed the maximum standard of 36 square feet of surface area for the total signage on a property; therefore, a variance has been requested pursuant to Section 154.20 of the Sign Ordinance.

**LEGAL BACKGROUND:**

**§ 154.20 SIZE.**

- (A) No sign shall exceed 32 square feet of surface area. The size of a two-sided sign shall be calculated based on the surface area of only one of the sides, provided the sign surfaces are completely flush (i.e. back to back).
- (B) No parcel shall have signage exceeding a total aggregate of 36 square feet of surface area for all signs.  
(Ord. 58-2007, passed 3-27-07; Am. Ord. 70-2010, passed 1-25-11)

**§ 154.22 ELECTRICAL SIGNS.**

- (A) Electrical signs may be permitted, but devices giving off intermittent, flashing or rotating beam of light shall be prohibited. Flood lighting shall be focused upon the sign. No lighting for signs shall directly reflect light beams onto any public street or residential structure. Signs may not be illuminated beyond any lot line.
- (B) Electrical signs must be installed in accordance with the current electrical code and a separate permit from the building official must be obtained prior to placement.  
(Ord. 58-2007, passed 3-27-07)

### **§ 154.25 AREA.**

The area within the frame shall be used to calculate the square footage except that the width of a frame exceeding 12 inches shall constitute sign face, and if such letters or graphics be mounted directly on a wall or fascia or in such way as to be without a frame the dimensions for calculating the square footage shall be the area extending six inches beyond the periphery formed around such letters or graphics in a plane figure bounded by straight lines connecting the outermost points thereof. Except for the allowance for a two-sided, flush sign, each surface utilized to display a message or to attract attention shall be measured as a separate sign and shall be calculated in the overall square footage. Symbols, flags, pictures, wording, figures or other forms of graphics painted on or attached to windows, walls, awnings, free-standing structures, suspended by balloons, or kites or on persons, animals, or vehicles are considered a sign and are included in calculating the overall square footage. (Ord. 58-2007, passed 3-27-07; Am. Ord. 70-2010, passed 1-25-11)

### **STAFF ANALYSIS:**

1. In January of 2013, the County Board approved Conditional Use Permit PZ20120044 which allowed the Oakwood Community Church to operate a Large-Scale Activity – Church Facility on the subject parcel. The application included a monument style sign which exceeded the maximum allowed square footage for an individual sign, as well as the maximum allowed total amount of signage on a parcel.
2. The previously approved monument sign located at the corner of County Road 10 and Klein Drive was damaged over the winter months after a vehicle veered off the road and destroyed the structure. The applicant and Oakwood Community Church are now proposed a wall sign as being a safer option for a sign that is visible and out of the harm's way.
3. The applicant's current request would include the removal of the monument style sign on the property and then replace it with a logo and a name plate (single sided sign) attached to the side of the church building. Based on the direction provided for calculating the area of a sign in Section 154.25 of the County's Sign Ordinance, the proposed sign will be approximately 102.5 square feet, or 70.5 square feet more than allowed for a single sign and 66.5 square feet more than allowed for the total signage on the property located in the agricultural zoning district.
4. Section 154.25 of the County's Sign Ordinance discusses how the area of a sign should be calculated. In this section there is a reference to including symbols, flags, pictures, etc. to the calculation for overall square footage. The Land Management Department has historically interpreted that statement and the inclusion of the word "symbols" to mean a business logo and not to include stand-alone or wall mounted religious symbols in the calculation of overall signage for the property.
5. The applicant's letter (dated: April 9, 2022) addresses the reasons for the request. The applicant stated that they need a more visible sign to represent their facility and better identify the property. The applicant has also stated that the size of the building and the required setback from the road, would render a sign that meets the requirements of the Sign Ordinance unrecognizable.
6. The practical difficulty in this request is related to the Sign Ordinance not including additional regulations for those uses allowed in the County which require larger sized structures. Most of the businesses that operate in the rural area are home-based in nature. For those type of uses, the current maximum allowed square footage generally meets their needs for signage. In addition to being a larger sized structure, the facility is also setback nearly double the distance (approx. 205') that is required from a road classified as a Minor Arterial (110'). This setback was not selected by the owner. The extra area was needed to make room for the stormwater ponds that are required to offset the stormwater runoff from the large parking area and other impervious surfaces on the property and designed to meet the Carver County Water Management Organization (CCWMO) standards.
7. The granting of the variance for increased signage would not be in conflict with the intent of the Comprehensive Plan and does not appear to alter the character of the neighborhood.

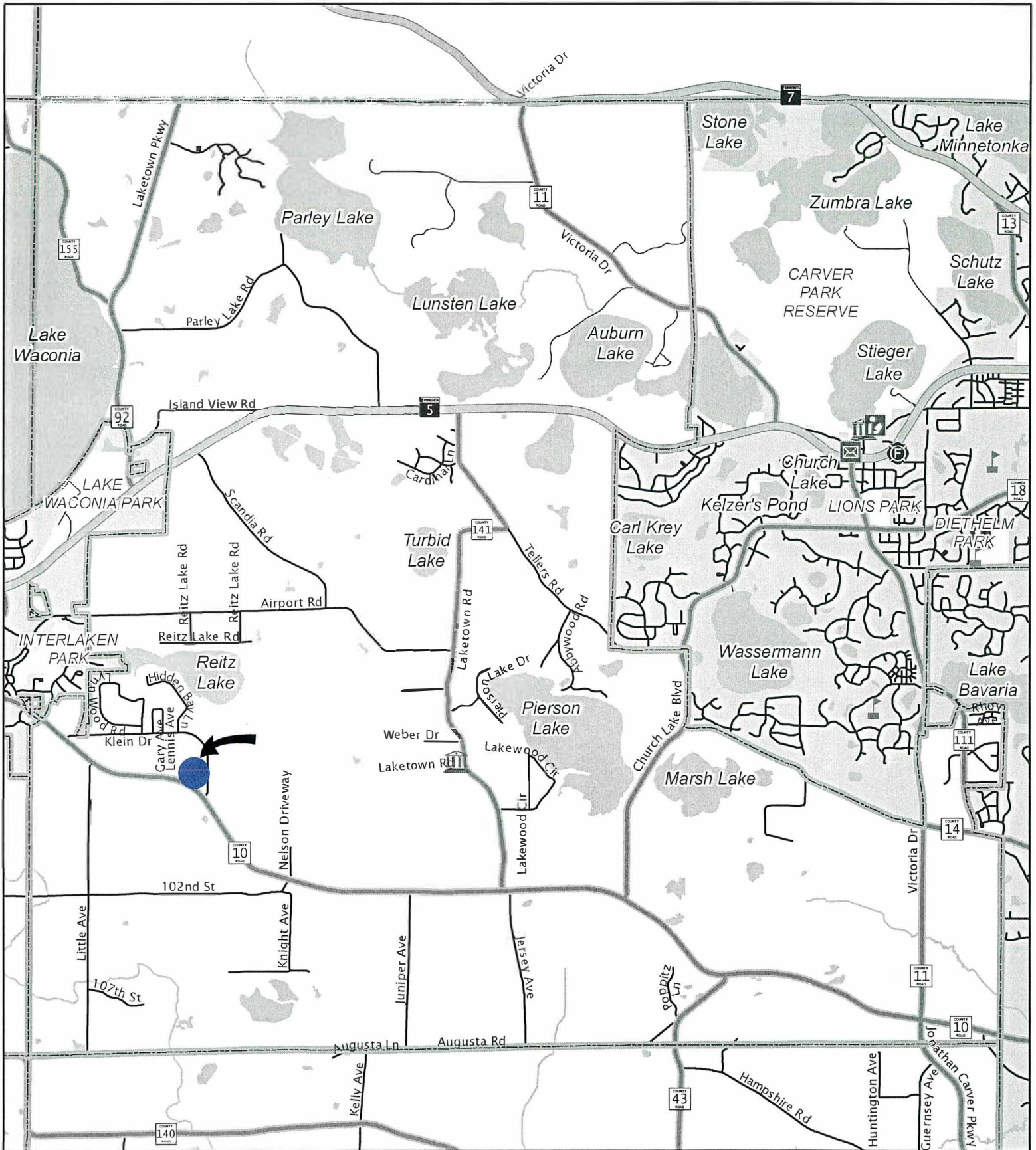
8. In the area adjacent to the property of the church facility there are no businesses, but there are three (3) single family residences in the general area. None of the existing residential structures are less than 1,000 feet from the proposed sign and only one (1) of the three (3) residential structures face the proposed location of the sign. In addition, 154.22 of the Sign Ordinance does not permit any illuminated sign in the rural area which reflects light onto a public street or a residential structure and does not allow lighted signs to be illuminated beyond any lot lines. Therefore, the granting of the variance does not appear to materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicants. Furthermore, the proposed sign would not appear be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
9. The Laketown Town Board reviewed and recommended approval of the request during their April 11, 2022, Town Board meeting. The Town Board requested the conditions include the following:
  - One (1) internally illuminated sign as per plans (102 sq. ft.) be allowed.
  - The sign be controlled by a dimmer, as well as a timer.
  - The sign lighting be turned off by 10PM each night.

**BOARD CONSIDERATION:**

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance for an increase in individual sign square footage and an increase in total sign square footage pursuant to Section 154.20 of the Sign Ordinance would serve in the interest of justice, the following conditions should be attached:

1. The permittee shall obtain the appropriate building permit(s) prior to the construction of the proposed sign. All work shall be done in accordance with the submitted plan. NOTE: Signage with illumination from behind must be installed in accordance with the current electrical code and a separate permit from the building official must be obtained prior to placement.
2. The existing roadside monument sign shall be removed prior to the final inspection of the proposed wall sign.
3. The sign shall be controlled by dimmer and timer, with sign lighting turned off at 10PM daily.
4. No additional signage or expansion of signage related to the primary use of the property shall be permitted without obtaining all necessary building permits and/or variances, if applicable.

# LAKETOWN TOWNSHIP



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



Map Created by Carver County GIS

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



## **Variance request for 8805 Klein Drive Oakwood Community Church.**

### **Main Wall Sign**

The need to vary from the maximum size of one sign- 32 square feet in size to 102.5 square feet and total signage square footage of 36 square feet to 102.5 square feet.

The request meets the required conditions for a variance based upon the following findings:

- It is in harmony with the ordinance by supporting visibility, promoting natural flow of vehicular navigation and creates a sense of place for the site.
- It is a reasonable use of the property as it uses the best location for a sign as the property grade change and soil condition do not support a freestanding sign with reasonable site lines and connection to the building.
- Visibility, practicality and feasibility were an issue with what was allowed previously:
  - The previously approved sign was significantly below grade of the road and had extremely limited visibility.
  - The previously approved sign was so far removed from the building it appeared to be off premise advertising for another church.
  - The previously approved sign was finally destroyed after multiple cars veered off the road at the intersection.
- Proposed sign is at the modest levels of visibility and legibility due to site conditions.

This application would replace the currently approved signage plans for the monument sign.

### **Site at a glance:**

The property developed in 2014 fits into the surroundings and buffers light industrial, retail and residential. It is a office building primarily for business to business activities.

### **Project intent:**

The intent is to place a single sided wall sign to properly identify the church.

Again, we are asking to vary from the sign code for overall square footage of 32 square feet to 102.5.

The sign meets every other design criteria for a sign in this Zoning District. Thank you for your consideration and granting the request.

| <b><u>Revisions</u></b> |                    |
|-------------------------|--------------------|
| No.                     | Date • Description |
|                         |                    |
|                         |                    |
|                         |                    |
|                         |                    |
|                         |                    |

1. HENRY GIBBY, 3215 11th PL., SE, WASHINGTON, DC 20003, was employed by me in 1968 as a full-time salesman and was a full-time insurance salesman, licensed under the laws of the State of Maryland.

2. JOHN H. JAMES, JR., 1111 11th St., N.E.,

| Distilled Phase | Distillation Date/Time |
|-----------------|------------------------|
| Feed            | August 22, 2014        |
| FG/JAC          |                        |
| Drawn By        | AMS                    |
| Checked By      | AMS                    |
| Cont. No.       | 13402                  |

|               |                          |
|---------------|--------------------------|
| Project Title | Oakwood Community Church |
|---------------|--------------------------|

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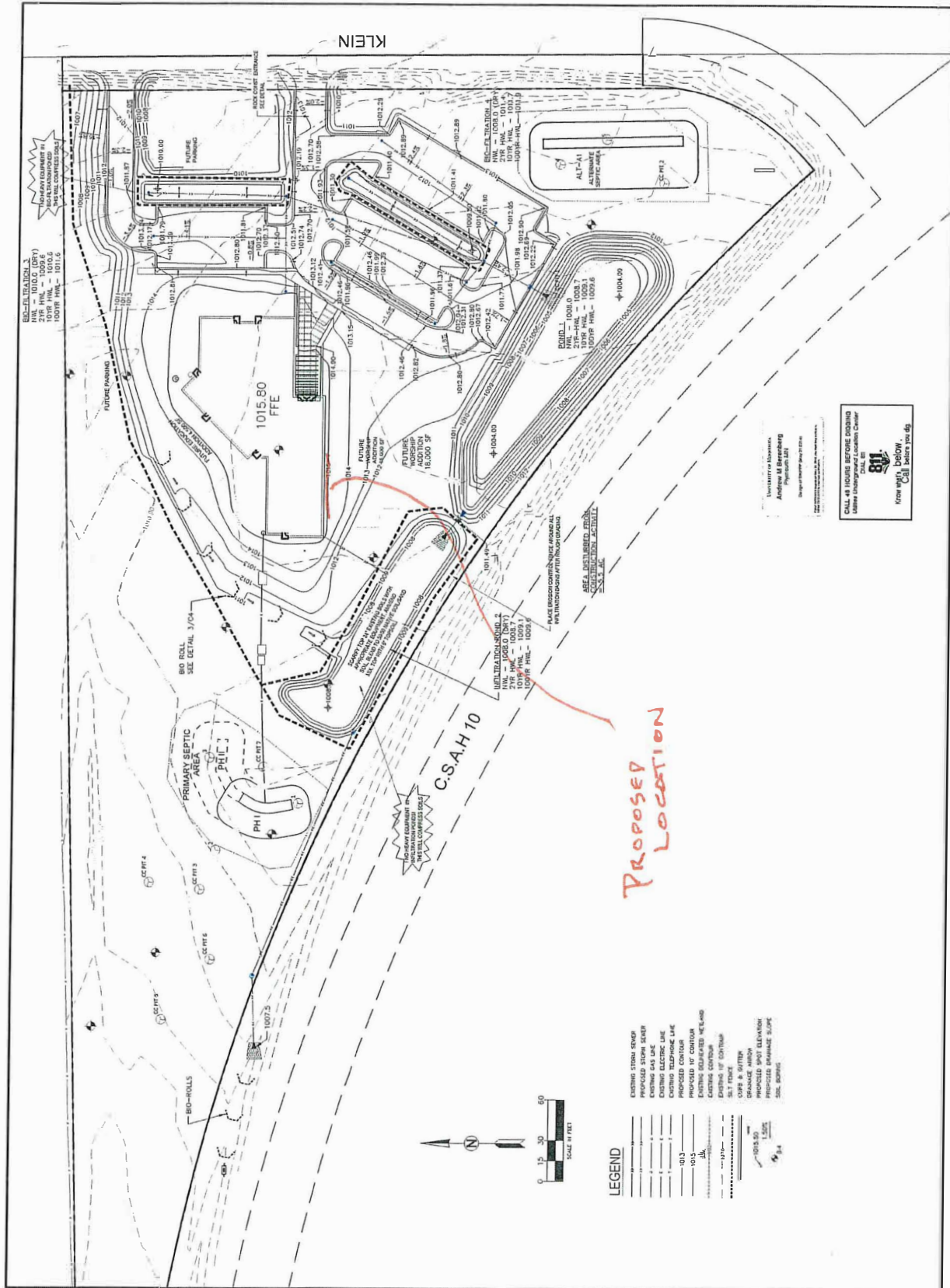
Student Name \_\_\_\_\_

## GRADING AND EROSION CONTROL PLAN

**Paul Marshall**

3

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**OAKWOOD CHURCH**

8805 KLEIN DR, WACONIA, MN 55387

**EXTERIOR SIGN PACKAGE - ROUND 1**

// 033022

// **AGENCY**  
BLUE LABEL CREATIVE  
6131 BAKER ROAD, SUITE 104  
MINNETONKA, MN 55345

// **CONTACTS**  
JEFF @BLUELABELCREATIVE.COM  
JEFF 612.979.8283  
BETH 612.200.9149  
DEN @BLUELABELCREATIVE.COM

// **DIGITAL**  
BLUELABELCREATIVE.COM

**blue|label**  
creative

BUILDING SIGN



// AGENCY  
BLUE LABEL CREATIVE  
6121 SAFFER ROAD, SUITE 104  
MINNETONKA, MN 55345

// CONTACTS  
JEFF @BLUELABELCREATIVE.COM  
JEN @BLUELABELCREATIVE.COM  
JEN @BLUELABELCREATIVE.COM

// DIGITAL  
BLUELABELCREATIVE.COM

bluelabel  
creative

## BUILDING SIGN

246" (25' 6")



3" CONTOUR CAB (BLK RETURNS)

BLACK TRIM-CAPS

3" CHANNEL LETTERS  
(BLK RETURNS)



POLY-CARB FACE

// **AGENCY**  
BLUE LABEL CREATIVE  
6121 BAKER ROAD, SUITE 104  
JUNNETOWN, NH 05845

// **CONTACTS**  
JEFF: 603.978.5323  
JEFF@BLUELABELCREATIVE.COM  
BEN: 603.300.0149  
BEN@BLUELABELCREATIVE.COM

// **DIGITAL**  
BLUELABELCREATIVE.COM

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bluelabel  
creative



## Township Presentation & Recommendation Form

|                                  |                          |            |            |
|----------------------------------|--------------------------|------------|------------|
| PARCEL #                         | 07.030.1710              | Permit #   | P220220017 |
| Owner's Name:                    | Owner's Mailing Address: |            |            |
| CHANDLER COMMUNITY CENTER        | 8805 KLEIN DRIVE         |            |            |
| City:                            | Owner State:             | Owner Zip: |            |
| WACONIA                          | MN                       | 55387      |            |
| Applicant (if other than owner): | Site Address:            |            |            |
| WILLIAM VAN BLAIREN              | 8805 KLEIN DRIVE         |            |            |

|                                |                                              |                               |                                           |                                     |                                              |                                 |
|--------------------------------|----------------------------------------------|-------------------------------|-------------------------------------------|-------------------------------------|----------------------------------------------|---------------------------------|
| Type of Request:               | <input type="checkbox"/> CUP                 | <input type="checkbox"/> CIUP | <input type="checkbox"/> Preliminary Plat | <input type="checkbox"/> Final Plat | <input checked="" type="checkbox"/> Variance | <input type="checkbox"/> Appeal |
| Description of Request:        | VARIANCE FROM SIGN CODE FROM 32.5' TO 102.5' |                               |                                           |                                     |                                              |                                 |
| Date of County Public Hearing: | MAY 11, 2022                                 |                               | Date of Township Meeting:                 | 4/11/22                             |                                              |                                 |

### Actions:

#### Township Action Taken:

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

Lakeview  
Township

We approve the variance of 1 internally illuminated sign as per plans, 102 square feet, to be controlled by a dimmer, as well as a timer, and the sign lighting shall be turned off by 10 pm each night.

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

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Township Official: \_\_\_\_\_

\_\_\_\_\_

Date: 4/08/22

Signature of Township Official: \_\_\_\_\_

\_\_\_\_\_

4-11-2022

## EXHIBIT "A" – LEGAL DESCRIPTION

**PID NUMBER: 07-030-1710**

**File# PZ20220017**

### **APPLICANT/OWNER: Oakwood Community Church**

\* \* \* \* \*

That part of the Southeast Quarter of the Northeast Quarter of Section 30, Township 116, Range 24, Carver County, Minnesota, described as follows: Commencing at the southeast corner of the Southeast Quarter of the Northeast Quarter of said Section 30; thence North 00 degrees 28 minutes 15 seconds West, assumed bearing along the east line of said Southeast Quarter, a distance of 743.23 feet to the centerline of a roadway, currently referred to as Klein Drive, as depicted on Carver County Right of Way Plat No. 11, to the point of beginning of the land to be described; thence continue North 00 degrees 28 minutes 15 seconds West, along the east line of said Southeast Quarter, a distance of 618.52 feet to the northeast corner of said Southeast Quarter; thence South 88 degrees 36 minutes 58 seconds West along the north line of said Southeast Quarter, a distance of 1323.62 feet to the northwest corner of said Southeast Quarter; thence South 00 degrees 11 minutes 54 seconds East along the west line of said Southeast Quarter, a distance of 136.23 feet to the centerline of C.S.A.H No. 10 as depicted on Carver County Right of Way Plat No. 11; thence southeasterly along the centerline of C.S.A.H. No. 10 as depicted in said right of way plat, a distance of 1385.37 feet along a non-tangential curve concave to the southwest, having a radius of 1909.86 feet, a central angle of 41 degrees 33 minutes 40 seconds, and the chord of said curve bears South 61 degrees 07 minutes 01 second East to the intersection of C.S.A.H. No. 10 with the centerline of a road way, currently referred to as Klein Drive, as depicted on Carver County Right of Way Plat No. 11; thence North 49 degrees 39 minutes 50 seconds East along the centerline as depicted on said right of way plat, a distance of 72.49 feet; thence northerly along the centerline as depicted on said right of way plat, a distance of 183.40 feet, along a tangential curve concave to the northwest having a radius of 250 feet and a central angle of 42 degrees 01 minute 56 seconds to the point of beginning.