

CARVER COUNTY BOARD OF ADJUSTMENT

Regular Meeting – **Wednesday, May 3, 2023**
Commissioners' Meeting Room
2nd Floor Human Services Bldg
Government Center – Chaska

AGENDA

7:00 p.m.

1. Approve minutes of April 5, 2023 meeting
Pages 1-1 through 1-13
2. **File #20230015**- Public hearing on request by Loren & Susan Kohls for a variance. (Reduced Road Frontage, Lot Width & Width to Depth Ratio)
Watertown Township Pages 2-1 through 2-10
Issue Order #PZ20230015 – Loren & Susan Kohls

Other Business

Request for Extension of Variance PZ20220018 – Robert Dauwalter

CARVER COUNTY BOARD OF ADJUSTMENT
Regular Meeting April 5, 2023
Minutes

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

Members Absent: Chad Reisner

Members Late: None

Staff Present: Jason Mielke, Donovan Hart, Christina Neel

Pursuant to due call and published notice thereof, the April 5, 2023, meeting of the Carver County Board of Adjustment was called to order by Chairman Bruner at 7:00 p.m.

Chairman Bruner announced the roll call indicated six members are present and acknowledged the absence and resignation of member Chad Reisner.

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

Minutes – Chairman Bruner asked if there were any corrections to the minutes from the March 1, 2023, meeting. A motion was made by Selken to approve the minutes of the March 1, 2023, meeting as written. Wakefield seconded the motion for approval. All voted aye. Motion carried.

Public Hearing - File #20230009 – Charles Essig – Chairman Bruner called the public hearing to order at 7:02 p.m. to consider the application of Colin Buechel, representing Charles Essig, for a variance pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for exceeding 80% roof coverage for a solar energy system pursuant to Chapter 152 of the County Code. The property is in Section 14 of Hollywood Township.

The following were present: Danielle DeMarre, Martin Zais

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant dated February 16, 2023

Exhibit F – Staff Report addressed to the Board of Adjustment and Hollywood Town Board dated March 22, 2023, and all attachments

Neel stated Charles Essig owns an approximate 14.49-acre parcel which is improved with a single-family residence and two additional legal non-conforming single-family houses. There are also several barns and accessory structures which have been used for commercial boat storage since prior to 1989, as

a legal non-conforming land use. The applicant, Colin Buechel of All Energy Solar, is requesting a variance which would allow him to apply for a building permit to install a rooftop solar energy system on a pole shed that would exceed the allowable roof coverage. The proposed solar energy system would be approximately 2,831 square feet, which equates to 88% of roof coverage on this building. The Zoning Code states roof or building mount solar systems, shall no cover more than 80% of the south-facing or flat roof upon which the panels are mounted. The applicant's letter states he believes this request is reasonable based on the size and location of the building's roof. Installation of a system design meeting the Zoning Code requirements would reduce the number of solar panels from 121 to 107, resulting in a significant reduction of energy production over the course of the system's lifetime. The applicant also noted the Mn State Statute 462.357, subd 6, states that inadequate access to direct sunlight for solar energy systems is a practical difficulty and placing the additional panels on the north-facing roof would not be as productive. The plight of the landowner is due to circumstances created by the landowner, as a smaller system that meets the 80% requirement could be constructed. Granting the variance would not materially or adversely affect the health or safety of person residing or working in the area and should not be detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property. Granting of the variance does not appear to be in conflict with the intent of the Comprehensive Plan or County Ordinances and would not alter the character of the neighborhood. The Hollywood Town Board reviewed the request and recommended approval during their October 10, 2022, meeting. Neel read the proposed conditions for consideration if the request is approved. If the Board of Adjustment determines that a practical difficulty has not been identified, the reasons supporting the denial would need to be stated.

Ms. DeMarre commented about the statement of the plight of the landowner being created by the landowner. She stated that only a few of the accessory structures on the property have south-facing rooftops. Assuming the larger structure toward the center of the property could accommodate the solar system, the 80% maximum coverage requirement would not apply, however the roof line is east/west which would result in approximately 15% reduction in solar production of the system. A south-facing roof offers the most direct access to sunlight.

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

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

A motion was made by Bielefeldt and seconded by Gorra to close the public hearing. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 7:09 p.m.

Bielefeldt stated he has contemplated the Zoning Code requirement and asked the applicant if they have experienced this in other counties.

Ms. DeMarre stated that she has seen it; however, the Carver County requirement on a south-facing rooftop and considering a detached structure which is not habitable is very rare.

Bielefeldt asked about altering the solar array to meet the coverage requirement.

Mr. Demarre stated removing 14 panels would take off the bottom row of 11 panels and 3 more from the next row resulting in a non-uniform array of the system. She stated each module is 450 watts which is the largest that they have available.

Bielefeldt asked staff if there was any history for the Zoning Code requirement of 80% maximum coverage.

Mielke stated this language has been in the Zoning Code for many years. He was uncertain if this figure had changed from a previous requirement or was a random number.

Thompson stated he would support the request and saw the 80% maximum as an arbitrary number, and he felt the 8% overage made sense for this system.

Wakefield stated he would support the request stating the full system would be esthetically pleasing and finished rather than having panels removed. He felt the 8% variance was minimal.

Bruner stated he visited the site and saw the building. He would support the request and feels that solar energy is good for the future.

A motion was made by Gorra to **approve and issue Order PZ20230009** for a variance allowing the installation of a solar energy system that exceeds 80% coverage of a south-facing roof on a detached accessory structure pursuant to Section 152.057 (C)(2)(a)3i of the Carver County Zoning Code, for property legally described on the attached Exhibit "A", with the following conditions:

1. The permittee shall obtain the appropriate building permit(s) prior to the construction of the proposed solar energy structure. All work shall be done in accordance with the submitted plan and shall comply with the approved variance and plans.
2. No expansions or additional solar structures shall be permitted without obtaining all necessary building permits and/or variance(s).

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

Public Hearing - File #20230010 – John Estrada – Chairman Bruner called the public hearing to order at 7:15 p.m. to consider the application of Jeff Hoxie, representing John Estrada, pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for a reduced setback to the Ordinary High Water Level of a DNR protected watercourse and reduced setbacks to property lines pursuant to Chapter 152 of the County Code. The property is in Section 10 of Waconia Township.

The following were present: Jeff Hoxie, John Estrada, Leo Schlumpberger

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant dated March 3, 2023

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

Mielke stated the current property owner purchased an approximate 1-acre parcel improved with a house with attached garage and SSTS. Many of the lots along West Shoreline Dr are legal non-conforming residential parcels created prior to any zoning code. Jeff Hoxie of Hoxie Homes, representing the homeowner, John Estrada, is requesting a variance to be able to apply for a building permit for a home addition and remodel project. The proposed additions would not meet the required 68-foot front yard setback from West Shoreline Dr, the 75-foot setback from the OHWL for Lake Waconia and the 15-foot side yard setback from the property line. The proposed garage addition on the north side of the house would be approximately 43.1 feet from the centerline of West Shoreline Dr. The porch addition to the south side of the house would be approximately 51.6 feet from the OHWL of Lake Waconia, and the house addition/remodel would be approximately 14.8 feet from the south property line. This 2-inch variance seems extremely minimal; however the variance is necessary due to the design and functionality of the layout. The applicant's letter describes the practical difficulty in locating the house additions within the required setbacks. He also noted these improvements are in line with other house improvements done in the past on West Shoreline Dr. The existing home is also in need of many updates to bring it up to current standards for growing families. Mielke referred to the submitted survey indicating the location of the house additions and the setbacks to the road, shoreline and side property line. Septic compliance is also a requirement for this building project. Carver County Water Management Organization (CCWMO) reviewed the variance request and commented there are no specific concerns but added that an erosion and sediment control plan should be included in the information submitted as part of the building permit. David DePaz, of the Mn DNR had no comments about the proposed project. Granting the variance is in harmony with the general purpose and intent of the official control and appears to meet the intent of the regulations. The request would not cause a substantial change in the character of the neighborhood. Waconia Town Board reviewed and recommended approval of the request at their March 13, 2023, meeting and stated the Board approves the setback variance for this remodel project. Mielke read the proposed conditions for consideration if the request is approved. He stated if the Board determines that a practical difficulty has not been identified, the reasons to support the denial will need to be identified.

Mr. Hoxie confirmed that they are planning to replace the septic system and have a new design which will be submitted with the building permit.

No one was present to represent the Waconia Town Board. Wakefield, Waconia Township Treasurer, confirmed the supervisors reviewed the reduced setbacks for the proposed addition and voted to recommend approval of the request.

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

A motion was made by Wakefield 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 7:27 p.m.

Bielefeldt stated he visited the property and due to the location of the house and the topography of the lot, the variance requests are pretty routine and reasonable.

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

A motion was made by Bielefeldt to **approve and issue Order PZ20230010** for a variance allowing a house remodel/construction with reduced setbacks (Front yard, Side yard and OHWL) pursuant to Section 152.034 (D) of the Carver County Zoning Code, for property legally described on the attached Exhibit "A", with the following conditions:

1. The permittee shall obtain the appropriate building permit(s) and septic permit(s) prior to the construction of the residential house. A grading plan and erosion/sediment control plan shall also be prepared, submitted and implemented in accordance with the CCWMO Water Rules (Chapter 153) as part of the building permit application process.
2. All construction activities shall be done in accordance with the submitted site plan dated "revised" March 8, 2023. The new construction shall not encroach any closer to the OHWL of Lake Waconia than approved (i.e. 47.6± feet) as part of this permit application.
3. The house remodel/construction project would be required to comply with all Subsurface Sewage Treatment System (SSTS) standards (i.e. obtain County approval). The house design plan would be reviewed once submitted to the Carver County Environmental Services staff to verify all requirements of MN Rule 7080-7083 and Chapter 52 of the Carver County Code of Ordinances.
4. No additional expansions shall be permitted without obtaining all necessary building permits and/or variances.

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

Public Hearing - File #20230008 – Craig & Lori Thaemert – Chairman Bruner called the public hearing to order at 7:29 p.m. to consider the application of Craig & Lori Thaemert pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a variance to increase the non-conformity of a legal non-conforming parcel pursuant to Chapter 152 of the County Code. The property is in Section 13 of Hancock Township.

The following were present: Craig Thaemert, Lori Thaemert, Kevin Sons

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E – Letter from the Applicant dated February 20, 2023

Exhibit F – Staff Report addressed to the Board of Adjustment and Hancock Town Board dated March 27, 2023, and all attachments

Exhibit G – Letter from Betty Chard dated April 5, 2023

Hart stated the applicants are requesting to add land to their parcel which would increase the non-conformity of the adjacent parcel. Hart used an aerial photo to show the current parcel boundaries. Lee and Mary Muehlenhardt own a 17-acre parcel, which is a legal non-conforming lot (it is less than 20 acres and has no building eligibility) which was allowed to be created by a variance in 1989. The Thaemerts

would like to add approximately 2.68 acres of this parcel to their current 2.32-acre parcel. They described a practical difficulty in their letter stating that the land would be necessary in the future if their current septic system would become fully dysfunctional. The proposed additional land appears to exceed what is needed for an alternate septic location and no soil borings have been submitted to indicate that the land would be suitable for a future septic location. A large portion of the proposed additional land also appears to be hundreds of feet away from the Thaemert residence and behind the large accessory structure, an inconvenient location for a septic system to serve the residence. When asked about this, Ms. Thaemert replied by email that *“There would be no soil borings done as our current septic was put in in 2009 and is in good working order. We are not applying for a septic at this time. The additional land would help with the septic need, in case it was needed in the future, which could be many years from now. We wanted to have additional land to the East if we put a garden in. There is no area for a garden currently which is why we had it surveyed to 5 acres total.”* It appears the variance request is due to the actions of the owners, since there was a CUP issued for the oversized accessory structure in 1996. The request was reviewed by Jacob McLain, Senior Environmentalist, who stated compliance of the current septic system is necessary due to the property being located in the shoreland overlay district. The neighborhood is comprised of scattered residences, agricultural farmsteads and tilled agricultural fields. Granting the variance would not materially, adversely affect the health or safety of person residing or working in the area and would not be detrimental to the public welfare or injurious to property or improvements in the area. The Hancock Township Board reviewed the request and recommended approval at their February 21, 2023, meeting without further comment. Hart read the conditions for consideration if the request is approved. If they Board of Adjustment determined that a practical difficulty has not been identified, then the reasons to support denial must be stated.

Ms. Thaemert stated the property owner, Lee Muehlenhardt, was unable to attend the meeting but is in favor of the subdivision. She stated the Muehlenhardt’s recently purchased the 17-acre non-conforming parcel. The property received a variance in 1989 to subdivide the house from the tillable farmland. Ms. Thaemert stated they purchased their 2.32 acres in 1989, but the tillable land had already been sold and they did not have a chance to purchase it at that time.

Kevin Sons, Hancock Township Supervisor, stated the board recommended approval of the variance with no objections.

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

A motion was made by Gorra 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 7:39 p.m.

Bielefeldt asked the applicants to further describe the practical difficulty and circumstances unique to the property and why the subdivision needs to be in the configuration of the proposed 2.68 acres.

Ms. Thaemert replied that they are concerned to have an area for a replacement septic system in the future.

Selken stated he is in a similar situation at his residence where there is very little or limited space for an alternate septic location. He stated mound systems require a large area for installation. He also was in favor to increase the total lot size to 5 acres to allow for some expansion and growth in the future. He would support the request.

Thompson echoed Selken's statements and has a similar situation at his residence. He felt it was a reasonable request.

Gorra asked for the location of the current septic system on the property.

Thaemerts described the location as being east and south of the residence. This was illustrated on an aerial photo.

Mielke stated the installation of a mound system can use a large area of land and adding land in this case might be justified. If board members were having difficulty in identifying a practical difficulty with the request, he asked that any motion being made be specific and clearly stated.

Bruner stated he visited the site and was questioning the request; however, after hearing the staff report and also Selken's statements, he can understand the value of having additional land for an alternate future septic location.

A motion was made by Bielefeldt to **approve and issue Order PZ20230008** for a variance allowing a reduced parcel configuration size pursuant to Section 152.033 (C)(3) of the Carver County Zoning Code, for property legally described on the attached Exhibit "A", and with the following conditions:

1. A complete Minor Subdivision application shall be submitted for review and approval by Land Management staff prior to the recording of any deeds. The parcels shall be subdivided and combined in accordance with the County Zoning Code requirements including by not limited to, a completed minor subdivision application, survey, and appropriate deeds.
2. The residential property must comply with all SSTS requirements prior to completion of the minor subdivision.

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

Public Hearing - File #20230012 – Russell Storms – Chairman Bruner called the public hearing to order at 7:48 p.m. to consider the application of Russell Storms pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a variance to exceed the maximum personal storage space and a reduced rear yard setback pursuant to Chapter 152 of the County Code. The property is in Section 10 of Benton Township.

The following were present: Russell Storms, Donna Storms, David Traver

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant dated March 8, 2023

Exhibit F – Staff Report addressed to the Board of Adjustment and Hancock Town Board dated March 24, 2023, and all attachments

Neel stated the applicants own an approximate 7-acre parcel improved with a single-family home, attached 1,198 square foot garage and 2 pole sheds having a combined total square footage of 3,450, for a maximum total of 4,648 square feet of personal storage on the property. The request is a two-part variance to exceed the maximum allowable personal storage space on a property of this size and a reduced setback to the rear lot line. The applicant is requesting to replace the existing 30' x 45' accessory structure with a 55' x 55' structure set approximately 10 feet from the rear lot line. The minimum setback to a rear lot line is 30 feet and the total personal storage space on a parcel of this size is 5,000 square feet. Construction of the proposed accessory structure would increase the total personal storage space on the property to approximately 6,159 square feet, exceeding the maximum allowable by approximately 1,159 square feet. Neel used an aerial photo for illustration of the accessory structure and proposed location. The applicant's letter states he currently does not have enough indoor storage space on the property to adequately store the number of personal items he has on site. The current 30' x 45' structure is deteriorating and in need of repair and is not suitable to fit some of the farm equipment or trailers. He is asking for the reduced rear setback because of the driveway location and the needed access and turnaround space. All of the equipment and vehicles to be stored in the proposed accessory structure are for personal use. The plight of the landowner is due to circumstances created by the landowner. Each variance application is based on its own merit and reasons. Granting the variance would not conflict with the intent of the Comprehensive Plan nor alter the character of the neighborhood. It would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property or be materially detrimental to the public welfare or injurious to property or improvements in the area. Jacob McLain, Senior Environmentalist, reviewed the request and stated, "The system was redone in 2014 and the building will be used for personal storage only." He had no other comments about the septic system. The Benton Township Board reviewed and recommended approval of the request at their March 9, 2023, meeting. Neel read the conditions for consideration if the request is approved. If the board determines that a practical difficulty has not been identified, then the reasons supporting denial must be clearly stated.

Russell Storms, 11255 County Rd 153, stated Dennis Buehler, the landowner of the tillable land adjacent to his south property line, talked with him and asked for a larger setback to the rear property line. Mr. Storms stated they talked and agreed upon a 15-foot setback from the property line. Mr. Storms stated they were both in agreement with that distance and he would ask to construct the shed at 15 feet from the rear property line.

David Traver, Benton Township supervisor, confirmed the applicant's attendance at their meeting and stated the board voted unanimously to recommend approval of the request. He stated everyone would benefit if the items were stored indoors to keep the property neat.

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

A motion was made by Bielefeldt and seconded by Thompson to close the public hearing. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 7:56 p.m.

Bielefeldt stated he visited the property. He asked the applicant to identify the practical difficulty or circumstances unique to the property as to why the shed needs to be placed in that location requiring a variance.

Mr. Storms stated a 30' setback from the rear property line would cause the shed to encroach onto the center turnaround, making access to the shed more difficult. The water runoff from the yard flows to that center area also.

Bielefeldt stated he was referring more to the total storage space on the property rather than the reduced setback.

Mr. Storms stated he farms the tillable field on his property and the existing shed doesn't allow space for his combine or any shop area to work on the equipment. Replacing the existing shed with one a little larger would allow him the space to store and maintain the equipment. If the opportunity would arise, he would like to rent and run the tillable land around his parcel because he likes to farm.

Thompson stated he would support this request, understanding that larger doors and space are needed to accommodate the equipment and maintenance. He commended Mr. Storms for working with the neighbor and mutually agreeing to increase the proposed setback to 15 feet from the rear property line.

Wakefield stated he would support the request and was pleased to know that Mr. Storms was willing to negotiate with the neighbor and reach an agreement on the proposed setback. He also liked the Township comments about keeping the property neat in appearance by having things stored inside.

Selken stated he will support the request and better understood the need for the space when the farming equipment was mentioned.

Gorra stated she visited the site and agreed that the existing shed doors might not accommodate any farm equipment. She understood the need for space to store and maintain the equipment indoors and felt the request was reasonable. She was please that Mr. Storms and the neighbor worked together to reach an agreement on the setback and stated the surrounding area is tillable land, so there should not be a conflict with any neighboring residences.

Bruner stated he visited the site and agreed with replacing the existing shed with one that can better accommodate the applicant's needs. He noted there are semis on site and inquired about them.

Mr. Storms replied they belong to him and he has a race car habit and uses them for hauling. He hopes to store them inside the shed also.

Bielefeldt made a motion to remove proposed condition #2, referencing a 10-foot rear property line setback, since Mr. Storms has agreed with the neighbor to increase the setback to 15 feet.

Neel clarified that the required minimum rear setback is 30 feet, so the agreement to place the shed 15 feet from the rear property line is still necessary, but it is a variance for less than initially requested.

Thompson seconded the motion to recognize a reduced setback from the rear property line to 15 feet. Chairman Bruner called for a vote on the motion. All voted aye. Motion carried.

A motion was made by Selken to **approve and issue Order PZ20230012** for a variance to exceed the personal storage square-footage by 1,159 square feet on the property pursuant to Section 152.073 (A)(4) and to reduce the accessory structure setback to 15-feet from the rear property line pursuant to Section 152.034 (D) of the Carver County Zoning Code, for property legally described on the attached Exhibit "A", with the following conditions:

1. The permit is subject to administrative review. The proposed structure shall be used only by the occupant(s) of the residence for personal storage, hobbies, recreation, entertainment, family uses, private maintenance and repair activities, and as otherwise regulated by this Ordinance. Guest quarters and/or additional dwelling units are strictly prohibited. No products or services shall be offered for sale for pay or similar remuneration except as permitted for a home occupation or as otherwise regulated by this Code.
2. The new building construction shall not encroach any closer to the rear property line than approved (15 feet) as part of this permit application.
3. The permittee shall obtain the appropriate building permit(s) prior to the construction of the proposed structure. All work shall be done in accordance with the submitted plan and shall comply with the approved variance and plans.
4. No building expansions or additional accessory structures shall be permitted without obtaining all necessary building permits and/or variance(s).

Gorra seconded the motion to recommend approval of the request. Chairman Bruner called for a vote on the motion. All voted aye. Motion carried.

Public Hearing - File #20230011 – Mitchell Jamison – Chairman Bruner called the public hearing to order at 8:04 p.m. to consider the application of Mitchel Jamison pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a variance to allow a CUP on a Residential Cluster zoned parcel pursuant to Chapter 152 of the County Code. The property is in Section 17 of San Francisco Township.

The following were present: Mitchell Jamison, Tia Jamison, Mike Pieper, Roxanne Pieper, Mark Dauwalter

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant dated March 10, 2023

Exhibit F – Staff Report addressed to the Board of Adjustment and San Francisco Town Board dated March 27, 2023, and all attachments

Exhibit G – Letter of support from Beverly Slatten dated April 2, 2023

Exhibit H – Letter of support from Sara Bunker dated April 4, 2023

Exhibit I – Letter of support from Tia Jamison dated April 4, 2023

Hart explained the applicant owns an approximate 16.27-acre parcel in the Residential Cluster Zoning District, which is improved with a single-family dwelling, two accessory structures, several agricultural buildings and outdoor riding arenas. A large portion of the property is pastureland. Hart explained that this variance is of a technical nature of the Residential Cluster Development Zoning regulations. The CUP establishing Molnar Addition as a Residential Cluster prohibits all CUPs on the agricultural parcel, except those related to the use of existing agricultural structures for storage. Mr. Jamison is requesting a CUP for his horse boarding business which has already been established, making this an after-the-fact variance request. The owners purchased the property in 2021 to reside in the dwelling and utilize the property for horse board and other equine purposes. The property was purchased with the existing feedlot components and horse boarding facilities currently on the property. No new structures have been erected since the purchase and there are no plans for new structures in the future. This variance is needed to allow Mr. Jamison to apply for a CUP for his horse boarding operation. Mr. Jamison's letter states the owners have made a substantial financial investment to date in the order to operate this facility. Prior to the purchase, they visited the property and witnessed the horse boarding facility with 26 horses. The sellers advertised the property as 'County Approved' and 'Zoned for up to 26 horses.' The buyers were unaware of any violations with this activity. The previous owners were aware that horse boarding was a violation and were sent an enforcement letter alerting them of the Zoning and Feedlot Ordinance violations. The previous owner never corrected the violations. Jacob McLain, Senior Environmentalist, reviewed the proposed request and noted the existing SSTS system was certified compliant in 2020. Matt Steele, Carver County Feedlot Officer, reviewed the request and offered comments on the current Feedlot Ordinance permitting and horse board facilities and noted the current paddock areas are legal non-conforming. The details of the Feedlot Ordinance would be addressed at the public hearing for the CUP, if this variance request is approved. Jack Johansen, Carver County Transportation Planner, reviewed the request and recognized this activity is not a change in use and determined an access permit would not be required. It is staff's opinion that there is limited benefit to the County and a substantial burden to the applicant if compliance with the Zoning Code and ceasing the operation of the current horse boarding facility is required. Granting the variance should not materially or adversely affect the health or safety of persons residing or working in the area adjacent to the property and should not be materially detrimental to the public welfare of injurious to property or improvements in the area adjacent to the property. Granting the variance does not seem to be in conflict with the intent of the Comprehensive Plan or County Ordinances and would not alter the character of the neighborhood. The San Francisco Town Board reviewed the request and recommended approval at their March 20, 2023, meeting without any additional conditions. Hart read the proposed conditions for consideration if the request is approved. He stated if the Board of Adjustment determines that a practical difficulty has not been identified, then reasons supporting denial of the request must be stated.

Mr. Jamison had no additional comments but offered to answer questions if there are any.

Selken, speaking as San Francisco Township supervisor, confirmed the board voted to recommend approval of the request with no additional conditions. He stated there have been no complaints received by the township from neighbors about the property use.

Roxanne Pieper, 8485 County Rd 52, stated she and her husband, Mike, were former renters of the ag land that became the Jamison parcel. They believe the Jamisons acted in good faith when purchasing the property which appeared to be a well-established equestrian facility. The Jamisons were told that all permits were properly secured and were County approved. The property has had horses and other animals since as early as 1978. Ms. Pieper stated the Jamisons have made remarkable improvements to the property in keeping it neat and well-manicured, the horses well cared for, and are fully dedicated to the operation and the horses they board. The property is well-suited and much needed as a horse boarding facility. They strongly support the application of the Jamisons' variance request and would encourage the board to approve it.

Ms. Pieper also read a letter in support of the variance request from Carol Santovi dated April 5, 2023.

Gorra asked to see the location of the residents who sent letters of support.

Neel used the aerial map to illustrate those parcels.

Mark Dauwalter, 17590 County Rd 40, stated he has no issues with the request and would support the request.

Mr. Jamison thanked the neighbors for their support and stated they are grateful to be a part of this township community.

A motion was made by Bielefeldt to close the public hearing. Gorra seconded the motion. Chairman Bruner called for a vote on the motion. All voted aye. The public hearing was closed at 8:22 p.m.

Bielefeldt recognized confusion and issues in the past with the Residential Cluster Development requirements and acknowledged it appears the owners were led to believe things that may not have been correct. He is in support of the variance request.

Thompson stated he would also support the request and felt that the neighborhood support speaks well for the applicants and their operation.

Gorra asked how large this Residential Cluster Zoning District was.

Mielke explained that the history of the Residential Cluster zoning and stated it was an additional density offered in the 1990's and was relinquished in 2000. Only two townships, San Francisco and Laketown, took advantage of this development option. There are around 18 Residential Cluster developments within these two townships. This particular development consists of only two lots, the Jamison's parcel and the one to the west.

Neel used the aerial photo to indicate various Residential Cluster developments in this area.

A motion was made by Bielefeldt to **approve and issue Order PZ20230011** for a variance allowing for an additional category of conditional use (public equestrian facility) on the agricultural parcel in the Residential Cluster District pursuant to Section 152.177 (B) of the Carver County Zoning Code, for property legally described on the attached Exhibit "A", with the following conditions:

1. A Conditional Use Permit application a Public Equestrian Facility pursuant to Section 152.079(C)(5), shall be submitted, reviewed and approved. If the CUP application is denied by the County Board, the variance shall be considered null and void. The Public Equestrian Facility and/or property shall meet all other requirements of the Carver County Zoning Code and MN State Building Code.
2. The feedlot shall not exceed 29.99 animal units unless a variance is obtained to allow for a new feedlot of 30 animal units or more within 1,000-feet of a residence.
3. Any modifications or expansions of the existing animal feedlot located within 200 feet of the side property line shall not further encroach on the established setback of approximately 163 feet.
4. Any new manure storage areas or feedlot components with capacity to hold ten animal units or more shall not be established in the Shoreland District pursuant to Minn. Rules 7020.2005 Subp. 1.
5. The permittee shall operate the facility in full compliance with MPCA Feedlot Rules and the Carver County Feedlot Management Ordinance.

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

Other Business

Mielke formally announced the resignation of Chad Reisner from the Board of Adjustment. He stated this seat will remain vacant until the County Board of Commissioners appoints someone to fill the seat.

Adjournment

A motion was made by Bielefeldt and seconded by Selken to adjourn. All voted aye. The meeting was adjourned at 8:31 p.m.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

April 24, 2023

TO: Carver County Board of Adjustment & Watertown Town Board

FROM: The Land Management Department

SUBJECT: Variance application to create a parcel with reduced road frontage, lot width-to-depth ratio and lot width

FILE #: PZ20230015

APPLICANTS: Loren & Susan Kohls

OWNERS: Loren & Susan Kohls

SITE ADDRESS: 25xx Navajo Ave., Watertown 55388

VARIANCE TYPE: Reduced Road Frontage, Width/Depth Ratio, and Shoreland Land Lot Width

PURSUANT TO: Carver County Zoning Code: Section 152.033 (D)(1), (4), (5)(a)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 10-011-0730

BACKGROUND:

1. Loren and Susan Kohls own an approximate 64.8-acre parcel located in Government Lots 3, 4, 5 of the Northeast Quarter (NE¼) of Section 11 and part of the Southeast Quarter (SE¼) of Section 2, Watertown Township. The parcel consists almost entirely of crop production land, with some wetlands. The parcel is bisected by the Luce Line Trail and contains Oak Lake shoreline. The parcel is located in the Agricultural Zoning District, Shoreland Overlay District of Oak Lake, and Carver County Water Management Organization (CCWMO) - Crow River Watershed.
2. The current parcel has about 132 feet of public frontage on Navajo Avenue in the southeast corner of the parcel. The applicant is requesting a variance that would allow for the creation of a new 28-acre lot with reduced road frontage. Also, the proposed lot does not have the adequate lot width for a parcel in the shoreland area. In addition, the proposed lot has an excessive width-to-depth ratio; therefore, a variance has been requested. A variance, if obtained, would allow the applicants to apply for a Conditional Use Permit to obtain a building eligibility through the One Building Eligibility Incentive option pursuant to the County Zoning Code.

LEGAL BACKGROUND:

§ 152.033 LOT REQUIREMENTS.

(D) Road frontage, lot width and depth.

- (1) Road frontage. All new lots shall have frontage on a public road or be attached to an adjacent parcel having the required road frontage; minimum road frontage is 125 feet.
- (2) Minimum width. One hundred twenty-five feet with 125 feet of frontage on a public road existing at the time of application or the minimum width required to maintain width to depth ratio, whichever is greater. The minimum width must be maintained for the entire depth of the lot except where the lot is located on a cul-de-sac.
- (3) Minimum lot depth. One hundred twenty-five feet.
- (4) Width to depth ratio. Depth of the lot shall not exceed five times the width. Road frontage of 500 feet or more will support a lot of any depth.
- (5) Minimum width for lots in the Shoreland Overlay District.
 - (a) Natural environment lakes - 200 feet;

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

STAFF ANALYSIS:

1. The County Code typically requires the platting process (i.e. Major Subdivision) be completed for any subdivision request that does not meet the criteria for the minor subdivision as follows: the subdivision must meet the frontage requirement on an existing road; and the subdivision would not require the construction of any public improvements or new road. The approval of the variance would negate the major subdivision requirement.
2. The subject property contains a lengthy stretch of Oak Lake shoreline and on the north part is adjacent to County Road 20. The Zoning Code requires a minimum of 125 feet of road frontage on a public road for any new lot, or the minimum width required to maintain the width to depth ratio (depth to be no more than five times the width). Currently Navajo Avenue ends at the property line, which provides this corner of the property with approximately 132 feet of road frontage. The proposed 28-acre parcel has a depth of about 2,470 feet, so the current amount of road frontage does not allow a lot of this depth. If the proposed land subdivision occurred, the remnant parcel along County Road 20 would still be a conforming lot.
3. Since the proposed parcel contains several hundred feet of lake shoreline, it is in the Shoreland Overlay District. Oak Lake is a Natural Environment Lake where the minimum lot width is 200 feet. The proposed lot does not have this width, necessitating the third variance request. The proposed lot split largely conforms to the trail's bisection of the existing parcel, although the parent farmland parcel retains some direct access to Oak Lake south of the Luce Line Trail,
4. The submitted survey (dated January 26, 2023) shows the Kohl's current property, with Tract D identified as the proposed lot. The variance narrative (dated March 13, 2023) explains the request and context for the variance. The applicants state that the southern section of the property is only accessed by a dead-end township road (Navajo Ave). The narrative also notes that a neighboring property with a similar amount of road frontage was granted a variance in the past to create a lot that was then occupied by a mobile home.
5. Since the subject property contains no septic system and no residential use is proposed in this variance application, no septic compliance review was conducted. The application was sent to the DNR for review and in an email dated April 14, 2023, Taylor Huinker, Area Hydrologist, stated that she had no comment to this proposal.
6. The plight of the landowner is due to circumstances unique to the property, not created by the landowner. The configuration of the subject property, divided by a regional trail with only minimal access on the southern portion, is due to a unique set of circumstances not created by the landowner. The applicant is proposing to use the property in a reasonable manner, not permitted by an official control.
7. The granting of the variance would not conflict with the intent of the Comprehensive Plan nor the Carver County Zoning Code. The proposed parcel would continue to have reasonable access to a public road and the remnant parcel (i.e. the farm field) would remaining a conforming parcel. The proposed parcel's 20+ acres of area defines it as an agricultural parcel, so the requirement that a residential parcel have no more than 2 acres of prime agricultural soils parcel does not apply.
8. The neighborhood is comprised of agricultural uses and residences and a variety of lot sizes. The request would not cause a substantial change in the character of the neighborhood, nor would it have a negative impact on government services.
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. 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 width to depth regulations and road frontage standards. The intent of these regulations is to prohibit the development of parcels that do not have adequate frontage to accommodate future needs and to prohibit the creation of a parcel configuration which would not meet the future SSTS needs of a location. Although it does not meet the specific standards, it appears to meet the intent of the regulations.

11. The Watertown Town Board reviewed and recommended approval of the request “as per resident request” during their April 3, 2023, Town Board meeting.

BOARD CONSIDERATION:

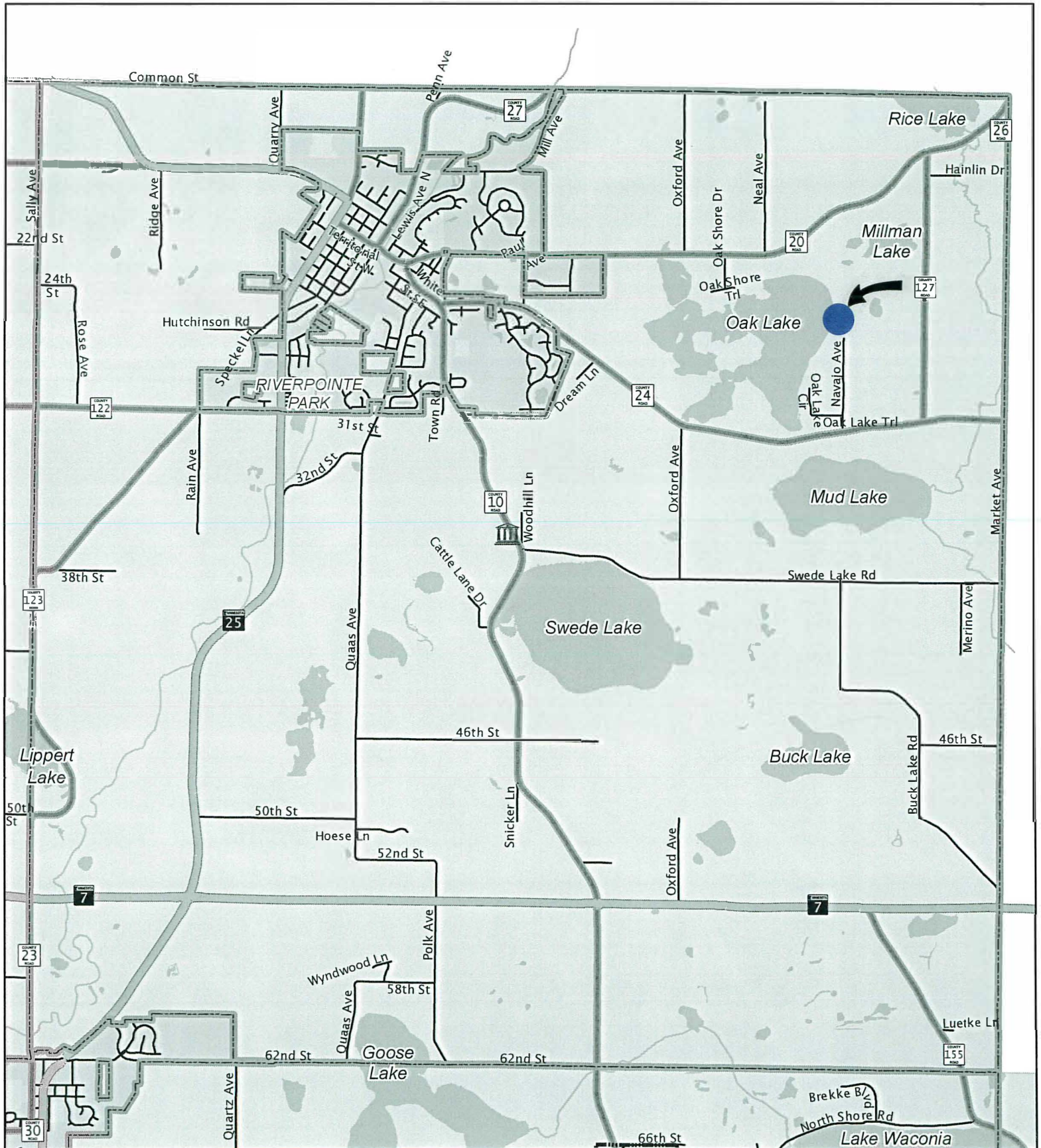
If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance for parcel PID 10-011-0730 for reduced road frontage, reduced lot width and width/depth ratio pursuant to Section 152.033 (D) of the Carver County Zoning Code would serve in the interest of justice, the following conditions should be attached to the approved variance:

1. A Minor Subdivision application shall be submitted and approved prior to the recording of any deed(s). The parcels shall be subdivided in accordance with the County Zoning Code requirements including but not limited to, a completed Minor Subdivision application, a survey and SSTS compliance.
2. Prior to the Minor Subdivision completion, the applicant shall comply with any Watertown Township road access requirements. If required, the dedication of a right-of-way easement of the township road shall be reviewed and approved by Watertown Township and Carver County, prior to recording. The easement area shall be privately maintained until such time as the Watertown Town Board takes over maintenance responsibilities.

OR

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

WATERTOWN TOWNSHIP

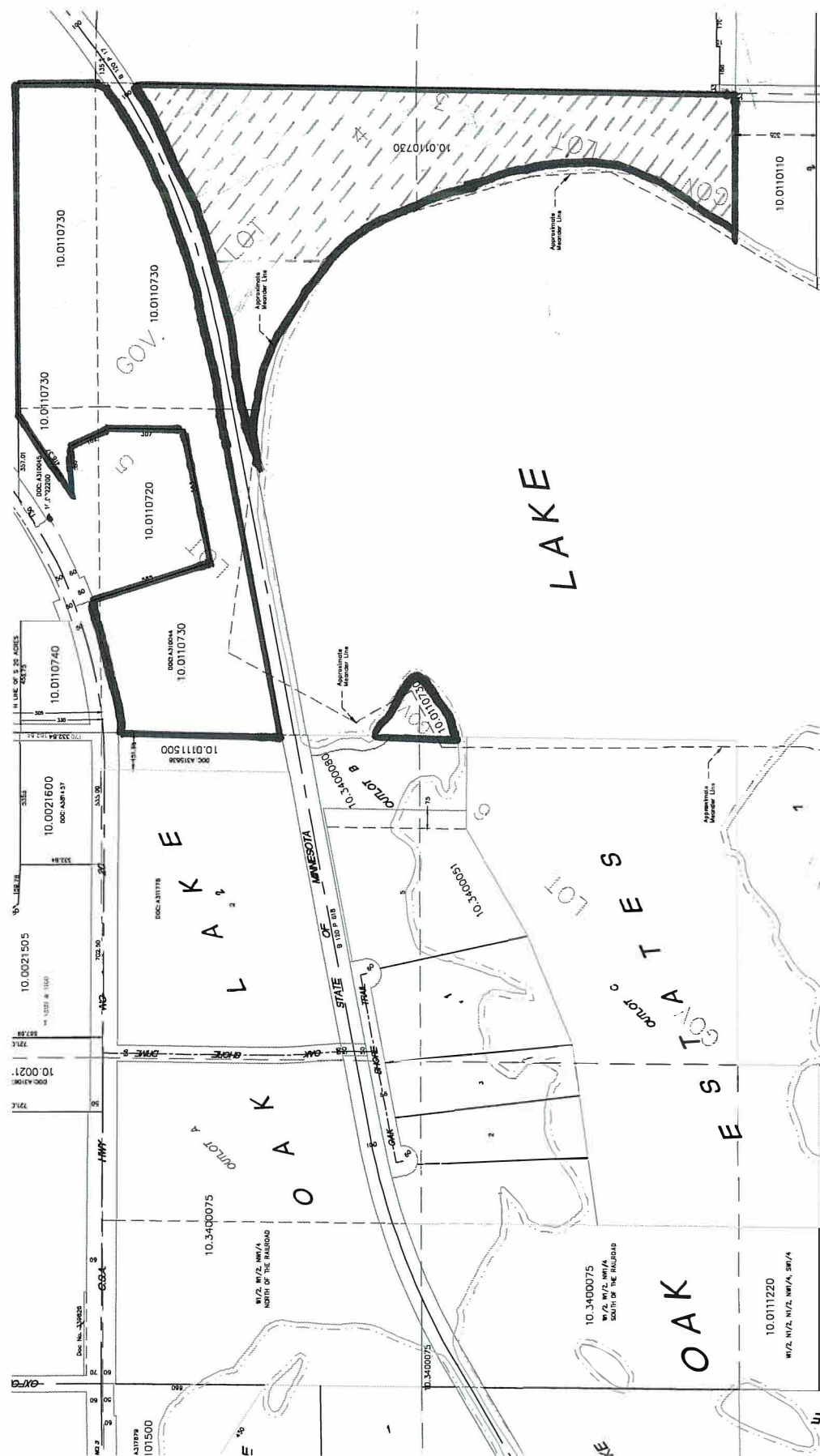


This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible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



March 13, 2023

Carver County Board of Adjustment
Chaska, MN

To Whom it may concern.

We are requesting to split off a 28-acre parcel from our homestead of 64.48 parcel. This is lake shore property on a quiet, small lake with no public landing. The subject property is located on a dead-end road which increases the privacy and provides a beautiful view of the surrounding area. We would need a variance to deviate from the Zoning Code requirements.

As mentioned previously the proposed 28-acre parcel is located on a dead-end township road. When the entire property was first acquired, that was the only road frontage given by Carver County. Our first variance sought is for inadequate width to depth ratio of the proposed lot. There is currently approximately 132' feet of road frontage. The neighbors to the east of the property were granted a variance or conditional use permit to have a mobile home brought in. This parcel has comparable road frontage as to the subject property.

Also, when the property was acquired it was located in two different towns. To the north is Delano and to the south is Watertown.

The proposed 28-acre parcel has a depth of about 2,470 feet. To meet the maximum width-to-depth ratio of the current 132'-wide lot, the lot could only be 660' feet deep. Also, the minimum lot width for a shoreland lot is 200 feet, which has to be maintained the entire depth of the lot. Since the lot width is only 132 feet at the public frontage, our second variance sought for is asking for a variance to the required shoreline lot width.

The conditions that exist on the property as explained above, do not meet the terms of the ordinance and cannot be met. Therefore, we are requesting these variances to deviate from the Zoning Code requirements in order to sell this beautiful property for someone to enjoy

Once obtaining our variance, our next step will be to apply for a CUP to obtain a building eligibility through the "one building eligibility incentive."

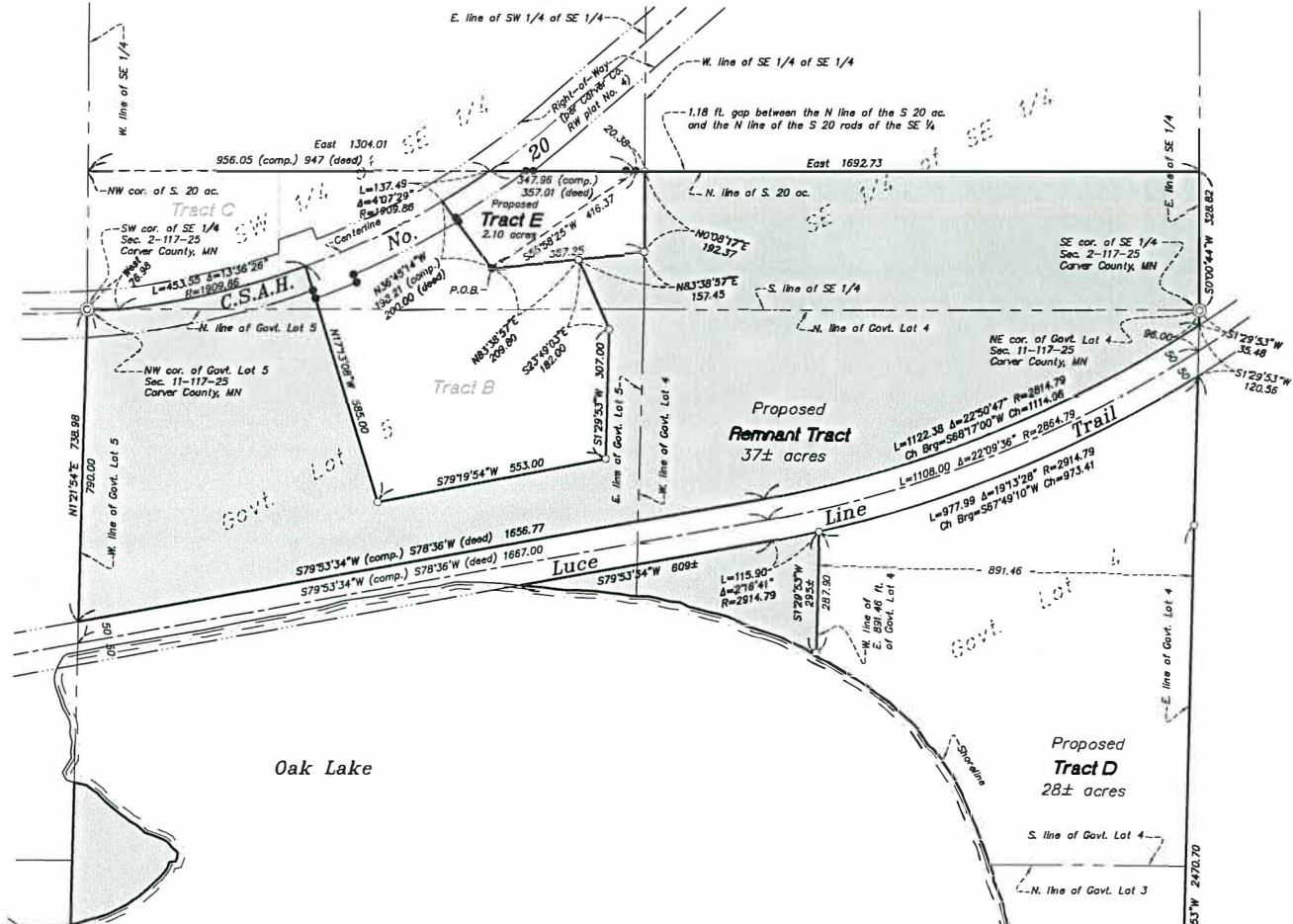
Sincerely,

Loren Kohls
Owners

Susan Kohls

Certificate of Survey

Prepared for:
Loren Kohls



Proposed Tract D
All of Government Lot 3 of Section 11, Township 117, Range 25, Carver County, Minnesota, and that part of the East 891.46 feet of Government Lot 4 of said Section 11, lying southerly of the southerly right-of-way of a strip of land 100 feet wide over and across Government Lot 4 and 5, said Section 11, said strip of land is now known as the Luce Line Trail, described as follows:
Beginning at a point in the East line of said Lot 4 distant 96 feet South of the Northeast corner of said Lot 4; thence Southwesterly on a 2 degree right curve a distance of 1108 feet; thence South 78 degrees 36 minutes West a distance of 1667 feet to a point on the West line of said Lot 5, distant 790 feet South of the Northwest corner of said Lot 5; above described course being center line of said 100 foot strip of land now located over and across said Lot 4 and 5 in said Section 11, and containing 6.37 acres of land, more or less.

Subject to any and all easements of record. Subject to road right-of-way.

Proposed Tract E
That part of the South 20 acres of the Southeast Quarter of Section 2, Township 117, Range 25, Carver County, Minnesota, described as follows:
Commencing at the northeast corner of said South 20 acres; thence along the north line of said South 20 acres, on an assumed bearing of East, a distance of 1304.01 feet; thence South 55 degrees 58 minutes 25 seconds West, a distance of 416.37 feet to the point of beginning; thence North 83 degrees 38 minutes 57 seconds East a distance of 367.25 feet to the east line of the Southwest Quarter of said Southeast Quarter; thence North 0 degrees 08 minutes 17 seconds East along said east line of the Southwest Quarter of the Southeast Quarter a distance of 192.37 feet to said north line of the South 20 acres; thence West along said north line of the South 20 acres a distance of 368.34 feet to the centerline of County State Aid Highway No. 20 according to CARVER COUNTY RIGHT OF WAY PLAT NO. 4; thence southwesterly along said centerline to its intersection with a line which bears North 36 degrees 45 minutes 14 seconds West from the point of beginning; thence South 36 degrees 45 minutes 14 seconds East a distance of 198.21 feet to the point of beginning.

Subject to any and all easements of record. Subject to road right-of-way.

Proposed Remnant Tract
That part of Government Lots 3, 4 and 5 of the Northeast Quarter of Section 11, and that part of the South 20 acres of the Southeast Quarter of Section 2, Township 117, Range 25, Carver County, Minnesota, lying south of the center line of County State Aid Highway No. 20, according to CARVER COUNTY RIGHT OF WAY PLAT NO. 4.

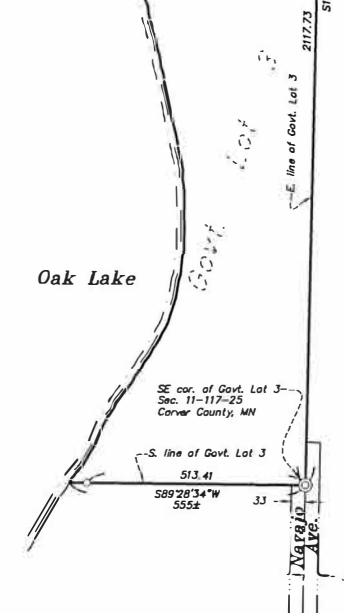
Excepting therefrom a strip of land 100 feet wide over and across Government Lots 4 and 5, Section 11, Township 117, Range 25, described as follows:
Beginning at a point in the East line of said Lot 4 distant 96 feet South of the Northeast corner of said Lot 4; thence Southwesterly on a 2 degree right curve a distance 1108 feet; thence South 78 degrees 36 minutes West a distance of 1667 feet to a point on the West line of said Lot 5; above described course being center line of said 100 foot strip of land now located over and across said Lot 4 and 5 in said Section 11, and containing 6.37 acres of land, more or less.

ALSO EXCEPT That part of Government Lot 5 of the Northeast Quarter of Section 11, and of the South 20 acres of the Southeast Quarter of Section 2, Township 117, Range 25, Carver County, Minnesota, described as follows:
Commencing at the northeast corner of said South 20 acres; thence along the north line of said South 20 acres, on an assumed bearing of East, a distance of 1304.01 feet; thence South 55 degrees 58 minutes 25 seconds West, a distance of 416.37 feet to the point of beginning; thence North 83 degrees 38 minutes 57 seconds East a distance of 367.25 feet to the east line of the Southwest Quarter of said Southeast Quarter; thence North 0 degrees 08 minutes 17 seconds East along said east line of the Southwest Quarter of the Southeast Quarter a distance of 192.37 feet to said north line of the South 20 acres; thence West along said north line of the South 20 acres a distance of 368.34 feet to the centerline of County State Aid Highway No. 20 according to CARVER COUNTY RIGHT OF WAY PLAT NO. 4; thence northwesterly along said centerline to its intersection with a line which bears North 36 degrees 45 minutes 14 seconds West from the point of beginning; thence South 36 degrees 45 minutes 14 seconds East a distance of 198.21 feet to the point of beginning.

ALSO EXCEPT All of Government Lot 3 of Section 11, Township 117, Range 25, Carver County, Minnesota, and that part of the East 891.46 feet of Government Lot 4 of said Section 11, lying southerly of the southerly right-of-way of said 100 foot wide strip of land described above.

ALSO EXCEPT That part of the South 20 acres of the Southeast Quarter of Section 2, Township 117, Range 25, Carver County, Minnesota, described as follows:
Commencing at the northeast corner of said South 20 acres; thence along the north line of said South 20 acres, on an assumed bearing of East, a distance of 1304.01 feet; thence South 55 degrees 58 minutes 25 seconds West, a distance of 416.37 feet to the point of beginning; thence North 83 degrees 38 minutes 57 seconds East a distance of 367.25 feet to the east line of the Southwest Quarter of said Southeast Quarter; thence North 0 degrees 08 minutes 17 seconds East along said east line of the Southwest Quarter of the Southeast Quarter a distance of 192.37 feet to said north line of the South 20 acres; thence West along said north line of the South 20 acres a distance of 368.34 feet to the centerline of County State Aid Highway No. 20 according to CARVER COUNTY RIGHT OF WAY PLAT NO. 4; thence southwesterly along said centerline to its intersection with a line which bears North 36 degrees 45 minutes 14 seconds West from the point of beginning; thence South 36 degrees 45 minutes 14 seconds East a distance of 198.21 feet to the point of beginning.

Subject to any and all easements of record. Subject to road right-of-way.



- Legend**
- Found Iron Monument
 - Set Iron Monument (LS 14700)
 - ◎ Cast Iron Monument

Bearings based on assumed datum.

SCHOBORG LAND SERVICES INC.

763-972-3221
www.schoborgland.com
8997 Co. Rd. 13 SE
Delano, MN 55328

I hereby certify that this certificate of survey was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

Paul B. Schoborg
Paul B. Schoborg

Date: January 26, 2022

Registration No. 14700

Job Number:	7290
Survey Date:	1/11/22
Drawing Name:	kohls-01-10-22.dwg
Drawn by:	DMS
Revisions:	



CARVER
COUNTY

Township Presentation & Recommendation Form

PARCEL #	10-0110730	Permit #	PZ20230015
Owner's Name:	Loren + Susan Kohls	Owner's Mailing Address:	10675 County Rd 20
City:	Delano	Owner State:	MN
		Owner Zip:	55328
Applicant (if other than owner):		Site Address:	xxx Navajo Ave Watertown MN

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

Description of Request:

Split off 28 acre parcel from homestead of 64.48 parcel. Apply for a variance to deviate from the Zoning Code requirements.

Date of County Public Hearing: 5/3/2023 **Date of Township Meeting:** 4/3/2023

Actions:

Township Action Taken:

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

As per resident request

Approved

****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.

Loren Kohls Susan Kohls

Signature of Applicant

Date 3/13/23

Scott Hoyer

Signature of Township Official

Date 8-3-23

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 10-011-0730

File# PZ20230015

APPLICANT/OWNER: Loren Kohls & Susan Kohls

* * * * *

That part of Government Lots 3, 4, and 5 of the Northeast Quarter of Section 11, and that part of the South 330.00 feet of the Southeast Quarter of Section 2, Township 117, Range 25, Carver County, Minnesota, lying south of the centerline of County State Aid Highway No. 20, according to CARVER COUNTY RIGHT OF WAY PLAT NO. 4.

Excepting therefrom a strip of land 100 feet wide over and across Government Lots 4 and 5, Section 11, Township 117, Range 25, described as follows: Commencing at a point in the East line of said Lot 4, distant 96 feet South of the Northeast corner of said Lot 4; thence Southwesterly on a 2 degree right curve, a distance of 1108 feet; thence South 78 degrees 36 minutes West, a distance of 1667 feet to a point on the West line of said Lot 5, distant 790 feet South of the Northwest corner of said Lot 5; above described course being center line of said 100 foot strip of land now located over and across said Lot 4 and 5 in said Section 11, and containing 6.37 acres of land, more or less.

And also excepting that part of the South 505 feet of the Southwest Quarter of the Southeast Quarter of Section 2, Township 117 North, Range 25 West of the 5th Principal Meridian, lying North of County Road No. 20, EXCEPT that part thereof lying south of "Line A", said "Line A" being a line drawn East, parallel with the South line of said Southwest Quarter of the Southeast Quarter, from a point on the West line of said Southwest Quarter of the Southeast Quarter, distant 330 feet North of the Southwest corner of said Southwest Quarter of the Southeast Quarter, and lying West of a line drawn South parallel with said West line from a point on said "Line A" distant 453.75 feet East, measured along said "Line A" of said West line, according to the recorded map or plat thereof.

And also excepting that part of the South 20 acres of the Southeast Quarter of Section 2, Township 117, Range 25, Carver County, Minnesota, described as follows: Commencing at the northwest corner of said South 20 acres; thence along the north line of said South 20 acres on an assumed bearing of East, a distance of 947.00 feet to the centerline of County State Aid Highway No. 20 as it now exists on and across said South 20 acres, being the actual point of beginning; thence continue East along the north line of said South 20 acres, a distance of 357.01 feet; thence South 55 degrees 58 minutes 25 seconds West, a distance of 416.37 feet; thence North 36 degrees 45 minutes 14 seconds West, a distance of 200.00 feet to the centerline of said County State Aid Highway No. 20; thence northeasterly along said centerline, a distance of 130 feet, more or less, to the point of beginning. Containing 1.26 acres of land, more or less.

And also excepting all that part of Government Lot 5 in the Northeast Quarter of Section 11, and of the South 20 acres of the Southeast Quarter of Section 2, Township 117, Range 25, Carver County, Minnesota, described as follows: Commencing at the northwest corner of said South 20 acres; thence along the north line of said South 20 acres, on an assumed bearing of East, a distance of 1304.01 feet; thence South 55 degrees 58 minutes 25 seconds West, a distance of 416.37 feet to the point of beginning; thence North 83 degrees 38 minutes 57 seconds East, a distance of 209.80 feet; thence South 23 degrees 49 minutes 03 seconds East,

a distance of 182.00 feet; thence South 1 degree 29 minutes 53 seconds West, a distance of 307.00 feet; thence South 79 degrees 19 minutes 54 seconds West, a distance of 553.00 feet; thence North 17 degrees 13 minutes 08 seconds West, a distance of 585.00 feet to the centerline of County State Aid Highway No. 20 according to CARVER COUNTY RIGHT OF WAY PLAT NO. 4; thence northeasterly along said centerline to its intersection with a line which bears North 36 degrees 45 minutes 14 seconds West from the point of beginning; thence South 36 degrees 45 minutes 14 seconds East, a distance of 198.21 feet to the point of beginning.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

April 24, 2022

TO: Carver County Board of Adjustment

FROM: The Land Management Department

SUBJECT: Extension Request for Approved Variance (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 Line 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 a home on an approximate 5-acre parcel located in Dahlgren Township that he seeks to improve with a two-story garage addition. In a Board Order dated May 4, 2022, the Board of Adjustment granted a variance to Mr. Dauwalter for a reduced structure setback from the centerline of a local road designated as a future Minor Arterial (not in Shoreland District). The attached Order and map provide additional details.
2. Nearly a year later, Mr. Dauwalter has not initiated construction of the home addition. Thus, he has submitted a variance extension request, which is allowed by the zoning code.
3. In a letter dated April 10, 2023, Mr. Dauwalter explains the situation. "We are requesting this extension due to the fact that we are having trouble getting a contractor to commit to our addition. We had had contractors out to assess and bid on our project and the seemed to be interested, only to have them not provide and estimate and or return our calls and emails." He explains further that due site conditions a redesign is required to amend the plans to include a concrete foundation. He requests a one-year extension until May 4, 2024, to complete construction.
4. Normally, if the work permitted by a variance is not completed within one year of variance approval, the variance becomes null and void. However, the Zoning Code provides for an applicant to request an extension of the Board if the written request is received and placed on a Board agenda prior to the expiration of the variance. Land Management received the extension request and placed it on the Board's agenda within the allowable time period for the Board's consideration.

LEGAL BACKGROUND:

§ 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; Am. Ord. 97-2021, passed 7-20-21)

STAFF ANALYSIS:

1. Mr. Dauwalter has made a good faith effort to initiate the home construction, but it appears that due to difficult circumstances he has not been able to complete the work permitted by the variance. He has submitted a preliminary construction plan for staff review.
2. Mr. Dauwalter requests a one-year extension which is consistent with the Zoning Code variance extension standard. This will give the applicant a total of two years to meet the required conditions of the original variance approval.

BOARD CONSIDERATION:

If the Board of Adjustment determines that the applicant's variance approval warrants an extension, the following conditions should be attached:

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.

April 10, 2023

Carver county land management and board of adjustment

We would like to request a one year extension for our variance (file number #pz20220018) that will allow us to complete our garage addition project with reduced setbacks from the center line of little avenue. We are requesting this extension due to the fact that we are having trouble getting a contractor to commit to our addition. We have had contractors out to assess and bid on our project and they seemed to be interested, only to have them not provide an estimate and or return our calls and emails. We have also had a excavator out to assess our project as well, which will require our plans to be redrawn due to the elevation of our front yard against the front wall of our garage will be below grade and need to be concrete not wood framing as drawn. After receiving your email that the variance expires after one year (which we did not realize that there was a one year time limit on this) we started the process over again only to get verbal commitment from contractors that they may have time in October of 2023. We are hopeful to get started on our project much sooner than October and plan on pulling permits in the next month, but wish that your department would grant us this extension for one year until May 4 2024 to give us some extra time to tie up loose ends with our architect and builders and complete construction.

Thank you for your consideration

Bob and Cassie Dauwalter

Document Number: **A746143**

Filed and/or Recorded on
May 9, 2022 3:28 PM

Office of the County Recorder/Registrar of Titles
Carver County, Minnesota
Kaaren Lewis, County Recorder

Deputy NV/LE	Pkg ID: 7434215
Document Recording Fees	\$ 0.00

Document Total	\$ 0.00
-----------------------	---------

Requesting Party: CARVER COUNTY LAND MANAGEMENT
Pages: 5



COUNTY OF CARVER
State of Minnesota

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 Minor Arterial Road
PURSUANT TO: County Code Section 152.034 (D)
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 04-006-0800

Drafted by: Land Management
Return to: Land Management

**BOARD OF ADJUSTMENT
FINDINGS OF FACT AND ORDER**

A public hearing was held on this matter on May 4, 2022, by the Carver County Board of Adjustment. Upon the evidence presented at said hearing by the applicant and other persons named and all the files, records, and proceedings herein, the Board makes the following:

FINDINGS OF FACT

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 designated as 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 67 feet to accommodate a proposed house addition consisting of a new attached garage. Therefore, a variance has been requested pursuant to Section 152.034 (D) of the Carver County Zoning Code.
3. 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.
4. 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.

5. 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.
6. 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.
7. 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.
8. 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."
9. 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.
10. The granting of the variance would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicants and would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
11. The Dahlgren Town Board has reviewed and recommended approval of the request at their April 11, 2022, Town Board meeting. There Town Board had no comments for this application (i.e., no concerns or objections).
12. The Board has considered all the factors required by Section 152.215 of the Carver County Code and finds that the grounds for a variance are hereby satisfied.

ORDER #PZ20220018

IT IS HEREBY ORDERED: That the application of Robert Dauwalter to reduce the required structure setback from the centerline of a local road designated as a future Minor Arterial not in Shoreland District pursuant to Section 152.034 (D) of the Carver County Zoning Code on property legally described on the attached Exhibit "A", is hereby **approved**. The Board of Adjustment further orders approval with the following conditions:

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.

gerald bruner

gerald bruner (May 6, 2022 15:18 CDT)

Gerald Bruner, Chairman

05/06/22

Carver County Board of Adjustment

**IF ANY WORK OR ACTION, AS PERMITTED BY THIS ORDER IS NOT COMPLETED WITHIN ONE YEAR OF THE
ISSUANCE OF THIS ORDER, THEN THIS ORDER SHALL BECOME NULL AND VOID UNLESS AN EXTENSION OF
TIME IN WHICH TO COMPLETE THE WORK IS GRANTED BY THE BOARD OF ADJUSTMENT.**

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.