CARVER COUNTY BOARD OF ADJUSTMENT

Regular Meeting – **Wednesday, May 1, 2024**
Commissioners' Meeting Room
2nd Floor Human Services Bldg
Government Center – Chaska

AGENDA

7:00 p.m.

1. Approve minutes of April 3, 2024 meeting
   Pages 1-1 through 1-8

2. **File #20240015**- Public hearing on request by Craig Foster for a variance. (Reduced Side Yard Setback & Exceed Impervious Surface Coverage)
   Waconia Township Pages 2-1 through 2-12
   Issue Order #PZ20240015 – Craig Foster

3. **File #20240019**- Public hearing on request by Craig Foster for a variance. (SSTS setbacks-tank from structure, side yard property line & road ROW)
   Waconia Township Pages 3-1 through 3-11
   Issue Order #PZ20240019 – Craig Foster

4. **File #20240017**- Public hearing on request by Amanda Finnerty for a variance. (Reduced Side Yard Setback)
   Young America Township Pages 4-1 through 4-11
   Issue Order #PZ20240017 – Amanda Finnerty

5. **File #20240012**- Public hearing on request by Frank Pernat for a variance. (Reconfiguration of Non-Conforming Lots)
   Laketown Township Pages 5-1 through 5-11
   Issue Order #PZ20240012 – Frank Pernat

6. **File #20240016**- Public hearing on request by Jake & Nikki Weiers for a variance. (Reduced Access Separation, 2nd Driveway)
   Laketown Township Pages 6-1 through 6-12
   Issue Order #PZ20240016 – Jake & Nikki Weiers

7. **File #20240013**- Public hearing on request by Dan Held, representing John Mooty, for a variance.
   (Reduced Setbacks & Exceed Impervious Surface Coverage)
   Laketown Township Pages 7-1 through 7-16
   Issue Order #PZ20240013 –Dan Held, for John Mooty

8. **File #20240014**- Public hearing on request by Daniel Wellens for a variance. (Reduced Setback from existing residence)
   Dahlgren Township Pages 8-1 through 8-10

Other Business

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

April 24, 2024

TO: Carver County Board of Adjustment & Waconia Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (Reduced Side Yard Setback and Excessive Impervious Surface)

FILE #: PZ20240015
APPLICANTS: Craig & Kim Foster
OWNERS: Craig & Kim Foster
SITE ADDRESS: 7419 W. Shoreline Dr., Waconia, 55387
PERMIT TYPE: Reduced Side Yard Setback & Excessive Impervious Surface in a Shoreland Area
PURSUANT TO: County Code Sections 152.034 (D) & 152.131.1 (B)(1)
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 09-849-0030

BACKGROUND:

1. Craig and Kim Foster own an approximate .27-acre parcel identified as part of Gov't Lot 2 located in the North Half (N½) of the Southeast Quarter (SE¼) of Section 10, Waconia Township. The property is improved with a single-family residence and a detached garage, which are separated by West Shoreline Drive. The parcel is part of Wageners Subdivision No. 3, which was platted in 1942, and is located in the Agricultural Zoning District, Shoreland Overlay District (Lake Waconia), and the Carver County Water Management Organization (CCWMO) - Carver Creek watershed.

2. The applicant is requesting variances to reduce the required side yard structure setback and to increase the percentage of impervious surface on a shoreland lot. The request would decrease the side yard setback from 15 feet to 5 feet in order to accommodate a set of stairs leading to a proposed screen porch addition. In total, the proposed home and site improvements would result in an increase of impervious surface for the lake lot from about 54.2% to about 55.3%. The proposed stairs, which are considered part of the structure, would be closer the southern property line 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. The impervious surface is proposed to be above the allowable 25% on a shoreland lot, so a variance has been requested pursuant to Section 152.131.1 (B)(1) of the County Zoning Code.

LEGAL BACKGROUND:

§ 152.034 SETBACKS.
(D) *Table of setback requirements.* All structures unless exempted above; and signs and parking areas near a public right-of-way:

Side Lot Line Setbacks	All Districts	**15 feet**

§ 152.131.1 STORMWATER MANAGEMENT.
(A) General standards.
(1) When possible, existing natural drainageways, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

(2) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized as soon as possible, and appropriate facilities or methods used to retain sediment on the site.

(3) When development density, topography, soils, and vegetation are not sufficient to adequately handle stormwater runoff, constructed facilities such as settling basins, skimming devices, dikes, waterways, ponds, and infiltration may be used. Preference must be given to surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

(B) Specific standards.

(1) Impervious surfaces of lots must not exceed 25% of the lot area.

(2) When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation district or the Minnesota Stormwater Manual, as applicable.

(3) New constructed stormwater outfalls to public waters must be consistent with Minn. Rules Part 6115.0231.

(Ord. 97-2021, passed 7-20-21)

BOARD OF ADJUSTMENT

§ 152.210 CREATION.

The Board of Adjustment is hereby established and invested with the authority as is hereinafter provided and as provided by M.S. §§ 394.21 through 394.37, as they may be amended from time to time.

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

§ 152.215 VARIANCES.

(D) Grounds for variance. The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall be granted in accordance with M.S. Chapter 394, as it may be amended from time to time, in cases where the applicant establishes that there is a practical difficulty in the way of carrying out the strict letter of any official control.

(1) A variance shall only be permitted when the following can be found as fact:

(a) The variance is in harmony with the general purpose and intent of the official control.

(b) The variance is consistent with the intent of the comprehensive plan.

(2) In addition, a variance may be granted when the applicant establishes a practical difficulty in complying with the official control. A practical difficulty is established when the following items are found as fact:

(a) The property owner proposes to use the property in a reasonable manner not permitted by an official control.

(b) The plight of the landowner is due to circumstances unique to the property, not created by the landowner.

(c) The variance will not alter the essential character of the locality.

(d) The practical difficulty includes more than economic considerations alone.

(F) *Other provisions related to variances.*

(1) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.

(2) Inadequate access to direct sunlight for solar energy systems is considered a practical difficulty.

(3) Variances shall be granted for earth shelter construction as defined in MN State Statute section 216C.06, subdivision 14, when in harmony with the official controls.

(4) The board of adjustment may impose conditions on the granting of any variance pursuant to subsection 152.216 (B).

(5) Granting of the variance shall not have the effect of violating a state or federal rule or law.

(6) *Floodplain standards.* A variance issued to property within the Floodplain Overlay District must meet the requirements set forth in §§ 152.143 through 152.156.

(7) Shoreland Overlay District. A variance issued to property within the Shoreland Overlay District must meet the requirements set forth in §§ 152.108 and 152.135.

(8) That the granting of the variance will not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.

(Ord. 47, passed 7-23-02; Am. Ord. 70-2010, passed 1-25-11; Am. Ord. 80-2015, passed 6-16-15; Am. Ord. 88-2018, passed 11-20-18; Am. Ord. 97-2021, passed 7-20-21)

STAFF ANALYSIS:

1. The existing home was on the property in 1977 prior to the County's adoption of zoning controls for lot size, structure setback requirements, and limit on lot impervious surface. Thus, the structure, lot, and impervious surface (hardcover) percentage are legal nonconforming. In 1985, the owners of the property received a side yard setback variance (#7108) to construct a house addition that reduced the side structure setback to 9 feet. In 1998, the property received another variance for a reduced front yard setback to construct a two-story addition on the front (road) side of the house 37 feet from the road centerline (#11122).

2. The submitted proposed conditions survey (dated March 20, 2024) displays the proposed house improvements in a blue color and the existing structure in a tan color. The proposed construction consists of a deck on the lake side of the house and a screen porch with accompanying stairs and landing. The proposed screen porch and landing construction is one component of this variance request. The survey also shows pavers, deck walkway, driveway, and the footprint of the existing/proposed house construction that prompts the impervious surface variance request.

3. Regarding the rear (lake) setback, the setback for structures from a Recreational Development Lake is 75 feet. However, a revised required lake setback is applied if the structure under consideration is flanked by structures on adjoining properties and the proposed structure conforms to the average setback of the other two structures (§ 152.116(B)(4)). In this case the proposed deck addition conforms to that average setback, so the proposed deck does not require a variance though it will be approximately 48 feet from the ordinary high-water level of Lake Waconia.

4. The applicant has submitted a letter (dated: April 8, 2024) explaining the circumstances of this request. The proposed construction is "to increase the usable space of their home by building over an existing deck and basement area." To minimize the impact of the proposed construction the Fosters report*: "Care has been taken to not encroach upon the property line further, but to retreat from the line by removal of existing deck structure and replace with a screen porch, landing, and steps."* The applicants note that the proposed construction only results in a 1.1% increase in the impervious surface percentage.

5. The letter to the Planning Commission also includes the impervious surface calculations, which are based on the hardcover of the lakeside lot. The itemized list of site improvements show the impervious surface percentage increasing from 54.2% to 55.3%. Based on the letter, a practical difficulty exists due to the non-conforming lot in addition to the existing nonconforming side yard setback of 8.5 feet on the side of the house where construction is proposed and the existing hard cover that pre-dates the Fosters' ownership of the property.

6. The property's septic system is the subject of a separate SSTS setback variance request that will be reviewed at the May 1, 2024, Board of Adjustment meeting. Hence, Environmental Services did not provide any review comments for this variance application. Regardless of the BOA's decision on the SSTS variance request, the property would be required to comply with County SSTS standards.

7. The subject property is located within the CCWMO jurisdiction. Abigail Ernst of the CCWMO reviewed the application and in an email dated April 10, 2024, reported that the permittee would need an erosion control permit *"because the proposed work is within a sensitive area (within 50 ft. of a lake)."*

8. This request was sent to Minnesota Department of Natural Resources (MnDNR) for review; however, no comments have been received. Taylor Huinker of the DNR questioned how stormwater was to be managed and she was reassured that County stormwater standards would be met prior to this issuance of any building permits.

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9. 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 15-foot side yard setback and maximum 25% impervious surface for a shoreline lot. Although this request does not meet the specific standards, it appears to meet the intent of the regulations.

10. The granting of the variance would not conflict with the intent of the Comprehensive Plan, would not alter the character of the neighborhood, nor would government services be negatively with the construction.

11. The neighborhood is comprised of residences on the lake with a variety of non-conformities. The request would not cause a substantial change in the character of the neighborhood, nor would it result in a detriment to neighboring properties. Many neighboring properties have existing structures that do not meet the required 15-foot side yard setback and have excessive hard cover.

12. 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.

13. The Waconia Town Board has reviewed the side yard setback variance request at their March 25, 2024, meeting and recommended approval with the comment: "Township approves of remodeling house and installation of new septic system west of West Shoreline Drive." A second Waconia Town Board meeting was needed to include a review for the excessive impervious surface request. At their April 8, 2024, meeting the Town Board recommended approval of the increased impervious surface without any further comments or concerns.

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance for a reduced side yard setback pursuant to Sections 152.034 (D) and increased impervious surface pursuant to 152.131.1 (B)(1) of the Carver County Zoning Code, would serve in the interest of justice, the following conditions should be attached to the approved variance:

1. All construction activities shall be done in accordance with the submitted site plan and shall obtain all necessary building permit approvals. The new construction shall not encroach any closer than 5 feet to the southern side property line as part of this permit application. Additionally, the new construction shall not increase the lakeside lot's impervious surface to greater than 55.3%. All work shall be done in accordance with the submitted and approved building permit plans.

2. No vegetation shall be removed due to the proposed construction and construction activities.

3. The Permittee shall obtain the appropriate SSTS permits through the Carver County Environmental Services (E.S.) Department prior to the issuance of any new construction building permit(s).

4. The Permittee shall obtain any necessary permits from the Carver County Water Management Organization; if applicable.

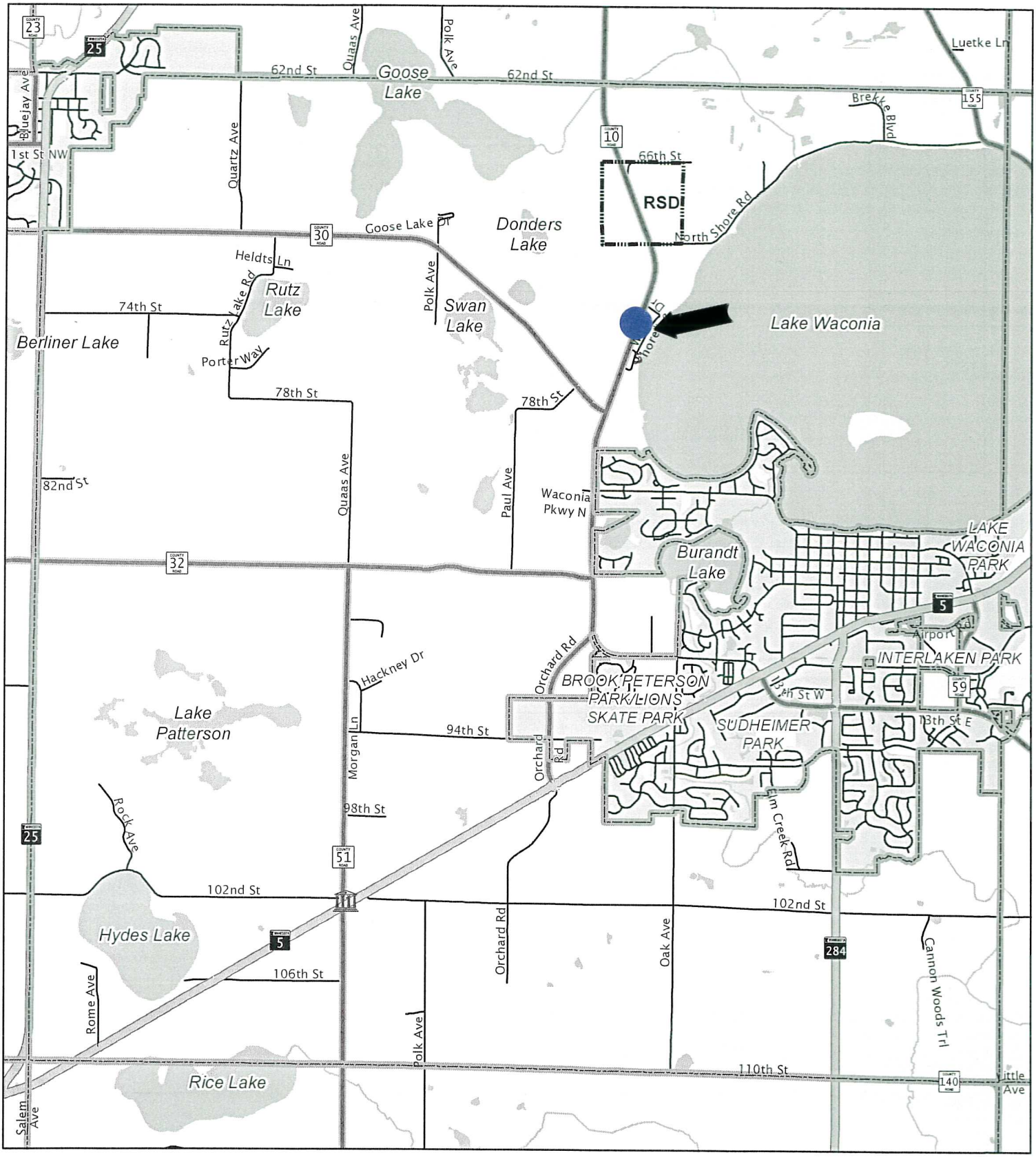
5. No additional expansions within the required setback(s) on increase of impervious surface shall be permitted without obtaining all necessary building permits and/or variances, if applicable.

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

OR

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

WACONIA TOWNSHIP



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

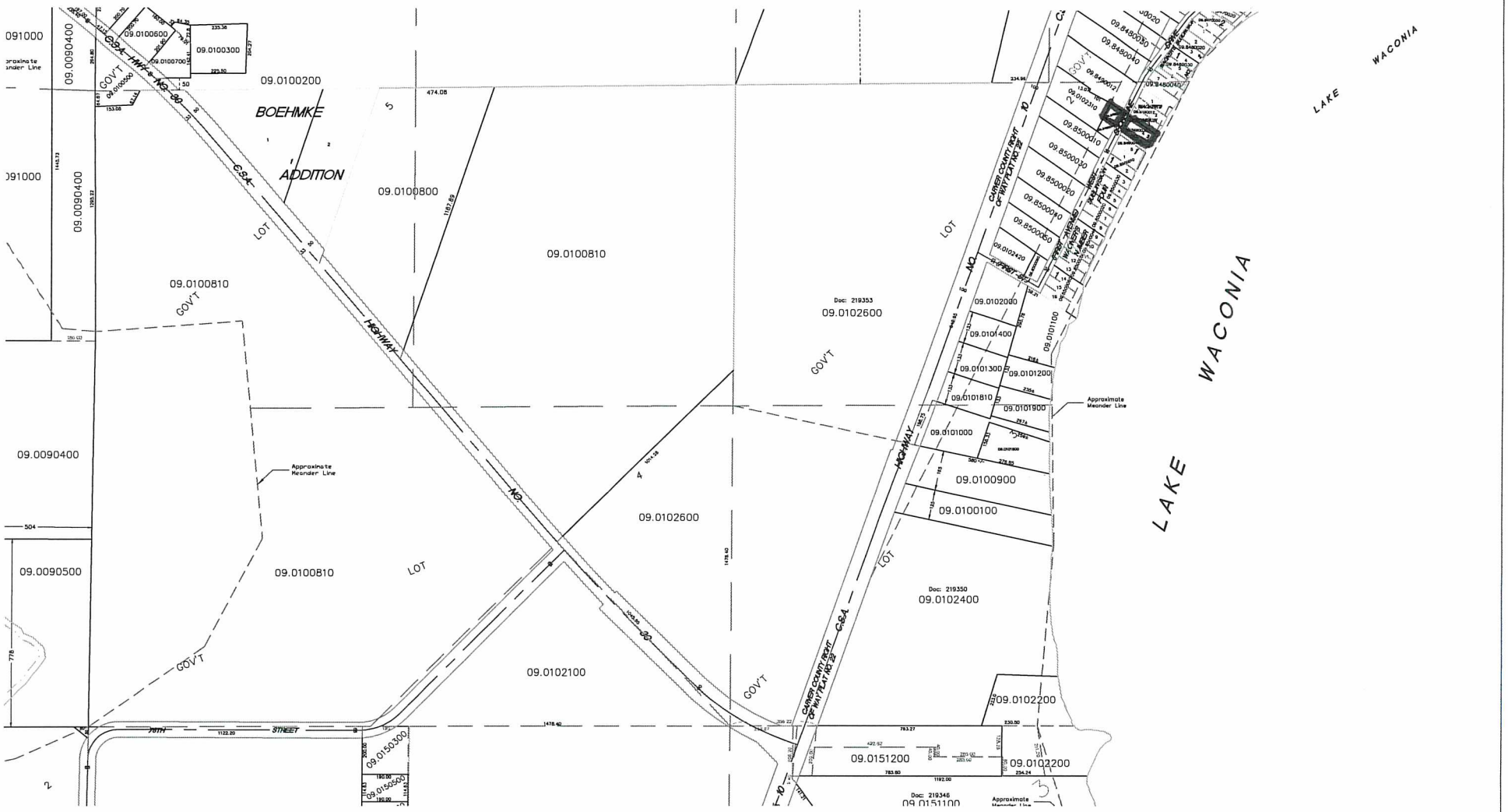
0 1 2 Miles

N W E S

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.

S 1/2 SEC. 10, T.116, R.25



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

Nov 14, 2023

Letter to the Planning Commission
April 8, 2024

Craig and Kim Foster at 7419 West Shoreline Drive, Waconia MN would like to increase the usable space of their home by building over an existing deck and basement area. They are also in need of replacing a fire-damaged roof area and replacing attic trusses above existing and proposed areas.

The Fosters request a variance for a 5' side yard structure setback to the southern side lot line. Care has been taken to not encroach upon the property line further, but to retreat from the line by removal of existing deck structure and replace with a screen porch, landing, and steps.

The Fosters also request to increase the existing impervious coverage by 92 square feet or 1.1% of the total coverage area. Increasing coverage area from 4,593 Sq ft (54.24%) to 4685 sq ft (55.33%)

In addition, the Fosters will install a septic system (currently a holding tank) as was promised to Carver County, upon the purchase of land across Shoreline Drive in April of 2007 if any modifications to the house were made.

Consideration was given not to disrupt any neighbors' sightlines with the proposed construction and no trees will have been removed before or after this request.

Kim and Craig formally ask for your approval of these variances and to note this House is located in the shore land where most of the homes, new and existing, do not meet the requirements for setbacks and impervious coverage.

Hardcover calculations

Total shore-adjacent parcel lot area: 8,467 square feet

Existing coverage:

- Home area: 2,711 sf
- House driveway area: 497 sf
- Deck walkway area: 270 sf
- Pavers area: 927 sf
- Deck area: 188 sf

Total: 4,593 square feet. 54.24% existing coverage

Proposed coverage:

- Home area: 2,638 sf
- Proposed screen porch: 246 sf
- House driveway area: 497 sf
- Deck walkway area: 270 sf
- Pavers area: 892 sf
- Proposed new deck: 142 sf

Total: 4,685 square feet. 55.33% proposed coverage.

PARCEL A- DESCRIPTION OF PROPERTY SURVEYED

Lot Four (4), Block (1), WAGENER'S SUBDIVISION NO. 3, also known as Wagener's Third Addition, Carver County, Minnesota

The Northeasterly half of Lot Five (5), Block One(1), Wagener's Subdivision No. 3, also described as follows: Commencing at the most Northerly corner of said Lot Five(5); thence running Southeasterly along lot line 130.00 feet to the most easterly corner of said Lot 5; thence running Southwesterly a distance of 21.65 feet to a point; thence running Northwesterly, parallel to said first described line a distance of 130.00 feet to the most Westerly line of said Lot 5; thence running Northeasterly along lot line to point of beginning.

That part of Government Lot 2, Section 10, Township 116 North, Range 25 West of the Fifth Principal Meridian lying Northeasterly of the Northwesterly extension of the Southwesterly line of the Northeasterly 1/2 of Lot 5, Block 1, WAGENER'S SUBDIVISION NO.3 and lying Southwesterly of the Northwesterly extension of the Northeasterly line of Lot 4, Block 1, WAGENER'S SUBDIVISION NO. 3 and lying within the boundaries described as follows: That part of Government Lot 1 and 2, Section 10, Township 116 North, Range 25 West of the Fifth Principal Meridian, described as commencing at a point on the Northwesterly line of First Avenue in WAGENER'S SUBDIVISION NO. 2 where the Northeasterly line of Lot 2,Block 1, WAGENER'S SUBDIVISION, IF EXTENDED, WILL INTERSECT THE Northwesterly line of said First Avenue; thence running Southwesterly along the Northwesterly line of said First Avenue a distance of 130 feet to the actual point of beginning; thence continuing South 34 degrees 51 minutes West, along the Northwesterly line of said First Avenue, a distance of 132.42 feet; thence South 25 degrees 25 minutes West, along the Northwesterly line of First Avenue in WAGENER'S SUBDIVISION NO.3, a distance of 962.90 feet to the Northeasterly line of First Street in WAGENER'S SUBDIVISION NO.4: thence North 60 degrees 50 minutes West along the Northeasterly line of said First Street, a distance of 60 feet: thence North 25 degrees 25 minutes East a distance of 1103.22 feet to point on a line bearing North 55 degrees 09 minutes West from the point of beginning; thence South 55 degrees 09 minutes East, a distance of 82.68 feet to the point of beginning, Carver County, Minnesota.

PARCEL B - DESCRIPTION OF PROPERTY SURVEYED

That part of the following described tract which lies between the northwesterly extension of the southerly line of Lot 3 and the northwesterly extension of the southerly line of Lot 6, WAGENER'S SUBDIVISION NO. 3, according to the plat thereof on file and of record in the office of the County Recorder, Carver County, Minnesota;

That part of Governments Lots 1 and 2, Section 10, Township 116, Range 25, Carver County, Minnesota, lying southeasterly of the centerline of County State Aid Highway No. 10, and which lies northeasterly of the northeasterly line of First Street as platted in WAGENER'S SUBDIVISION NO. 4, according to the recorded plat thereof, and which lies southwesterly of the southwesterly line of Elm Street as platted in WAGENER'S SUBDIVISION, according to the recorded plat thereof, and which lies northwesterly of the following described line;

Commencing at a point on the northwesterly line of said First Avenue in WAGENER'S SUBDIVISION NO. 2 where the northwesterly extension of the northeasterly line of Lot 2, Block 1 of said WAGENER'S SUBDIVISION NO. 2, according to the recorded plat, intersects said northwesterly line of First Avenue; thence on an assumed bearing of South 35 degrees 13 minutes West along the northwesterly line of said First Avenue 130.00 feet to a point for descriptive purposes only is referred to as "Point A"; thence continuing South 35 degrees 13 minutes West, along the northwesterly line of said First Avenue 132.42 feet; thence South 25 degrees 25 minutes West along the northwesterly line of said First Avenue 962.90 feet to the northeasterly line of First Street; thence North 60 degrees 50 minutes West along the northeasterly line of First Street 60.00 feet to the point of beginning of said line to be described; thence North 25 degrees 25 minutes East 1103.22 feet on a line to hereinafter be referred to as Line "A", to the intersection with a line extended northwesterly from said "Point A" and measured at a right angle to the northwesterly line of said First Avenue, distant 82.68 feet from "Point A"; thence continue Northwesterly on said extended line distant 114.43 feet as measured from said "Point A"; thence Northeasterly, along a line, to a point on the southwesterly line of Block 3, WAGENER'S SUBDIVISION, according to the recorded plat, said line if extended northeasterly would intersect the north easterly line of said Block 3, at a point 195 feet northwesterly of the most easterly corner of said Block 3; thence Northwesterly along the southwesterly line of said Block 3, to the most westerly corner of said Block 3; thence Northeasterly along the northwesterly line of said Block 3 to the most northerly corner of said Block 3 and said line there terminating.

Except a parcel described as beginning at the intersection of said northwesterly extension of the southwesterly line of Lot 3, Block 1, WAGENER'S SUBDIVISION NO. 3 and said Line "A"; thence deflecting northwesterly to the left from said northwesterly extension of the southwesterly line of Lot 3, Block 1, WAGENER'S SUBDIVISION NO. 3, an angle of 7 degrees 19 minutes 35 seconds, a distance of 101.00 feet; thence deflecting to the right 92 degrees 49 minutes 52 seconds, a distance of 13.07 feet to said northwesterly extension of the southwesterly line of Lot 3, Block 1, WAGENER'S SUBDIVISION NO. 3; thence southeasterly along said northwesterly extension to the point of beginning.

STANDARD NOTES

1) **Site Address**: 7419 West Shoreline Drive, Waconia, Minnesota

2) A title opinion was not furnished to the surveyor as part of this survey. Only easements per the recorded plat are shown unless otherwise denoted hereon.

3) **Flood Zone Information**: X (area determined to be outside of the 0.2% annual chance floodplain) and Zone AE (Areas subject to inundation by the 1-percent-annual-chance flood event determined by detailed methods. Base Flood Elevations (BFEs) are shown. Mandatory flood insurance purchase requirements and floodplain management standards apply.) per Flood Insurance Rate Map, Community Panel No. 27019C0181D, effective date of December 12, 2018.

4) **Parcel Area Information**:
PARCEL A :12,353 ± s.f. ~ 0.284± acres (as measured to ordinary high water line)
PARCEL B: 34,380 ± s.f. ~ 0.789 acres
PARCEL B and R.W: 41,048 ± s.f. ~ 0.942 acres
Gross: 53,401 ± s.f. ~ 1.23 ± acres.

5) **Benchmark**: Top of top nut of fire hydrant at northwest quadrant of Lake Street and Vine Street in Waconia.

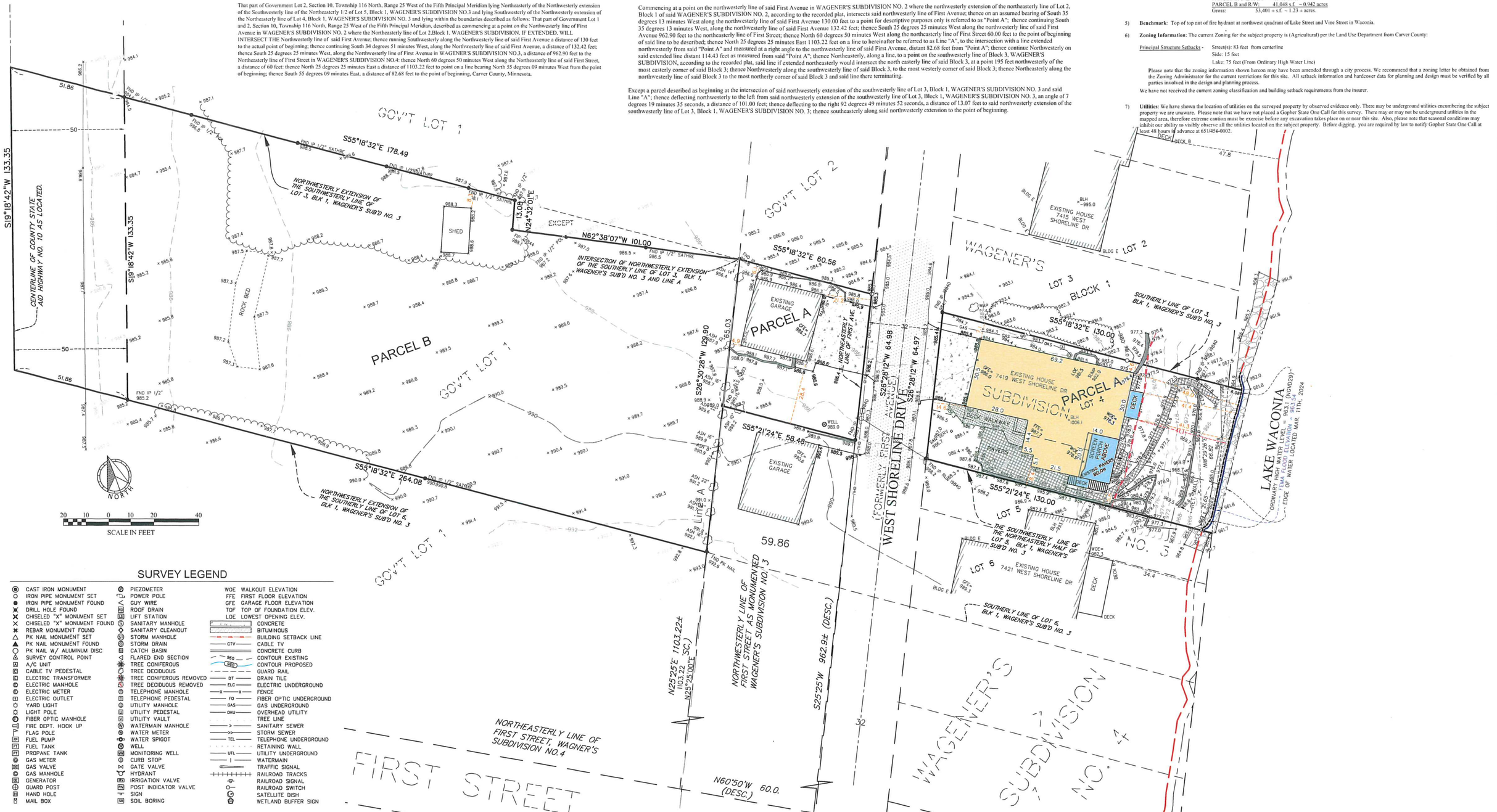
6) **Zoning Information**: The current Zoning for the subject property is (Agricultural) per the Land Use Department from Carver County:

Principal Structure Setbacks - Street(s): 83 feet from centerline
Side: 15 feet
Lake: 75 feet (From Ordinary High Water Line)

Please note that the zoning information shown hereon may have been amended through a city process. We recommend that a zoning letter be obtained from the Zoning Administrator for the current restrictions for this site. All setback information and hardcover data for planning and design must be verified by all parties involved in the design and planning process.

We have not received the current zoning classification and building setback requirements from the insurer.

7) **Utilities**: We have shown the location of utilities on the surveyed property by observed evidence only. There may be underground utilities encumbering the subject property we are unaware. Please note that we have not placed a Gopher State One Call for this survey. There may or may not be underground utilities in the mapped area, therefore extreme caution must be exercise before any excavation takes place on or near this site. Also, please note that seasonal conditions may inhibit our ability to visibly observe all the utilities located on the subject property. Before digging, you are required by law to notify Gopher State One Call at least 48 hours in advance at 651/454-0002.



SURVEY LEGEND

CAST IRON MONUMENT	PIEZOMETER	WOE	WALKOUT ELEVATION
IRON PIPE MONUMENT SET	POWER POLE	FFE	FIRST FLOOR ELEVATION
IRON PIPE MONUMENT FOUND	GUY WIRE	GFE	GARAGE FLOOR ELEVATION
DRILL HOLE FOUND	ROOF DRAIN	TOF	TOP OF FOUNDATION ELEV.
CHISELED "X" MONUMENT SET	LIFT STATION	LOE	LOWEST OPENING ELEV.
CHISELED "X" MONUMENT FOUND	SANITARY MANHOLE		CONCRETE
REBAR MONUMENT FOUND	SANITARY CLEANOUT		BITUMINOUS
PK NAIL MONUMENT SET	STORM MANHOLE		BUILDING SETBACK LINE
PK NAIL MONUMENT FOUND	STORM DRAIN	CTV	CABLE TV
PK NAIL W/ ALUMINUM DISC	CATCH BASIN		CONCRETE CURB
SURVEY CONTROL POINT	FLARED END SECTION	986	CONTOUR EXISTING
A/C UNIT	TREE CONIFEROUS	980	CONTOUR PROPOSED
CABLE TV PEDESTAL	TREE DECIDUOUS		GUARD RAIL
ELECTRIC TRANSFORMER	TREE CONIFEROUS REMOVED	DT	DRAIN TILE
ELECTRIC MANHOLE	TREE DECIDUOUS REMOVED	ELC	ELECTRIC UNDERGROUND
ELECTRIC METER	TELEPHONE MANHOLE		FENCE
ELECTRIC OUTLET	TELEPHONE PEDESTAL	FO	FIBER OPTIC UNDERGROUND
YARD LIGHT	UTILITY MANHOLE	GAS	GAS UNDERGROUND
LIGHT POLE	UTILITY PEDESTAL	OHU	OVERHEAD UTILITY
FIBER OPTIC MANHOLE	UTILITY VAULT		TREE LINE
FIRE DEPT. HOOK UP	WATERMAIN MANHOLE	S	SANITARY SEWER
FLAG POLE	WATER METER		STORM SEWER
FUEL PUMP	WATER SPIGOT	TEL	TELEPHONE UNDERGROUND
FUEL TANK	WELL		RETAINING WALL
PROPANE TANK	MONITORING WELL	UTL	UTILITY UNDERGROUND
GAS METER	CURB STOP	W	WATERMAIN
GAS VALVE	GATE VALVE		TRAFFIC SIGNAL
GAS MANHOLE	HYDRANT		RAILROAD TRACKS
GENERATOR	IRRIGATION VALVE		RAILROAD SIGNAL
GUARD POST	POST INDICATOR VALVE		RAILROAD SWITCH
HAND HOLE	SIGN		SATELLITE DISH
MAIL BOX	SOIL BORING		WETLAND BUFFER SIGN

FIELD CREW	NO.	BY	DATE	REVISION
DM	1	BRV	3/20/2024	PROPOSED HOUSE ADDITION
DRAWN				
BRV				
CHECKED				
DLS				
DATE				
03/15/24				

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

Dated this 20th day of March, 2024.

Daniel L. Schmidt, PLS Minnesota License No. 26147
schmidt@sathrc.com

SATHRE-BERGQUIST, INC.
14000 25TH AVENUE NORTH, SUITE 120
PLYMOUTH MN 55447 (952) 476-6000
WWW.SATHRE.COM

TWP:116N-RGE.25W-SEC.10
Carver County
WACONIA, MINNESOTA

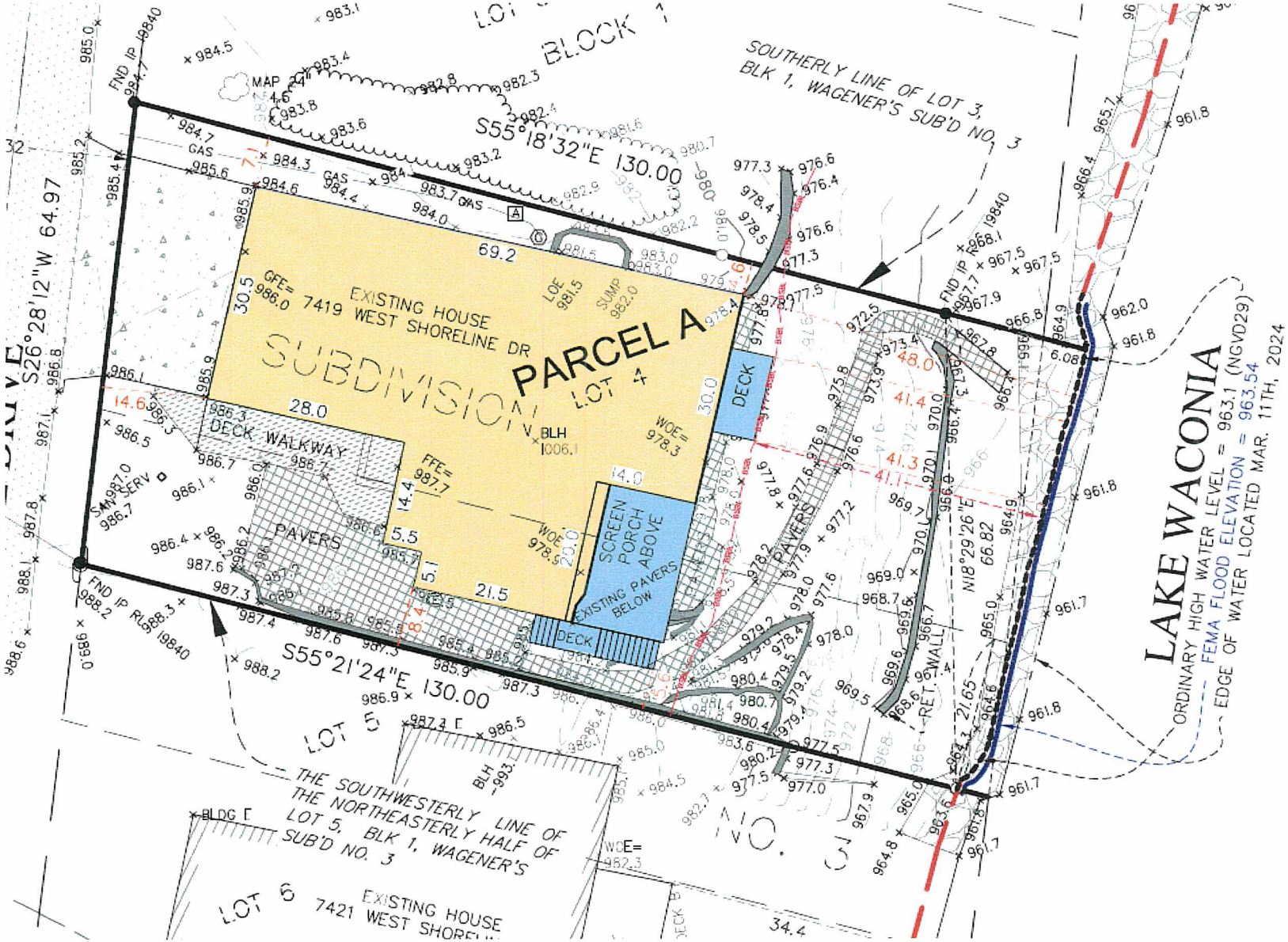
CERTIFICATE OF SURVEY

PREPARED FOR:
FOSTER

FILE NO.
27218-001
1
2-8

Foster Site Plan (detail)

March 20, 2024



CARVER COUNTY

Township Presentation & Recommendation Form

PARCEL # 09.849003D **Permit #** PZ0240015

Owner's Name: CRAIG+KIM FOSTER

Owner's Mailing Address: 7419 W. SHORELINE DR

City: WACONIA

Owner State: MINNESOTA

Owner Zip: 55387

Applicant (if other than owner):

Site Address:

Type of Request: ○ CUP ○ IUP ○ Preliminary Plat ○ Final Plat ◉ Variance ○ Appeal

Description of Request:

CRAIG+KIM FOSTER ARE REQUESTING A VARIENCE TO EXCEED THE 10' SETBACK TO BOTH A STRUCTURE FOUNDATION + OR SIDE LOT LINE SEE LETTER (ATTACHED)

Date of County Public Hearing: 5/1/24 **Date of Township Meeting:** 04-08-2024

Actions:

Township Action Taken:

☒ Recommends approval and use of the Township Road (if applicable) with the following comments:

○ Recommends denial for the following reasons:

○ No recommendation, but will comment on the request at the Planning Commission or Board of Adjustment hearing:

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

Signature of Applicant Date 04-05-2024

Signature of Township Official Date 4-8-24

CARVER COUNTY

Township Presentation & Recommendation Form

PARCEL # 09.84.90030 **Permit #** PZ20240015

Owner's Name: CRAIG M + KIM A FOSTER

Owner's Mailing Address: 7419 W. STORKLINE DRIVE

City: WACONIA

Owner State: MINNESOTA

Owner Zip: 55387

Applicant (if other than owner):

Site Address: 7419 W STORKLINE DR WACONIA MN 55387

Type of Request: ○ CUP ○ IUP ○ Preliminary Plat ○ Final Plat ● Variance ○ Appeal

Description of Request:

THE FOSTERS ARE REQUESTING TO BUILD ON TO THEIR EXISTING STRUCTURE & LINES OF THE HOUSE. ADDING A MASTER BEDROOM IN ROOM + ATTIC TRUSSES WITH A 6X12 BALCONY OFF OF PROPOSED ROOM THIS WILL ADD LIVING + DINNING SPACE — OVER →

Date of County Public Hearing: 5/1/24 **Date of Township Meeting:** 03-25-2024

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 of remodeling of house and installation of new septic system west of West Starline Drive —

**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 03-22-2024

Signature of Township Official — Date 3-25-24

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 09-849-0030 **File# PZ20140015**

APPLICANT:
OWNERS: Craig M Foster and Kimberly A Foster

* *

Lot Four (4), Block One (1), Wagener's Subdivision No. 3, also known as Wagener's Third Addition, according to the map or plat thereof on file and of record in the office of the County Recorder in and for Carver County, Minnesota.

The Northeasterly Half of Lot Five (5), Block One (1), Wagener's Subdivision No. 3, according to the plat thereof on file and of record in the office of the County Recorder in and for Carver County, Minnesota, also described as follows: Commencing at the most Northerly corner of said Lot Five (5); thence running Southeasterly along lot line 130.0 feet to the most easterly corner of said Lot 5: thence running Southwesterly a distance of 21.65 feet to a point; thence running Northwesterly, parallel to said first described line. a distance of 130.00 feet to the most westerly line of said Lot 5; thence running Northeasterly along lot line to point of beginning.

That part of Government Lot 2, Section 10, Township 116 North, Range 25 West of the Fifth Principal Meridian lying northeasterly of the northwesterly extension of the Southwesterly line of the Northeasterly ½ of Lot 5, Block 1, Wagener's Subdivision No. 3 and lying Southwesterly of the Northwesterly extension of the Northeasterly line of Lot 4, Block 1, Wagener's Subdivision No. 3 and lying within the boundaries described as follows: That part of Government Lots 1 and 2, Section 10, Township 116 North, Range 25 West of the Fifth Principal Meridian, described as commencing at a point on the Northwesterly line of First Avenue in Wagener's Subdivision No. 2 where the Northeasterly line of Lot 2, Block 1, said Wagener's Subdivision, if extended, will intersect the Northwesterly line of said First Avenue; thence running Southwesterly along the Northwesterly line of said First Avenue, a distance of 130 feet to the actual point of beginning; thence continuing South 34 degrees 51 minutes West, along the Northwesterly line of said First Avenue, a distance of 132.42 feet; thence South 25 degrees 25 minutes West, along the Northwesterly line of First Avenue in Wagener's Subdivision No. 3, a distance of 962.90 feet to the Northeasterly line of First Street in Wagener's Subdivision No. 4; thence North 60 degrees 50 minutes West along the Northeasterly line of said First Street, a distance of 60 feet; thence North 25 degrees 25 minutes East, a distance of 1103.22 feet to point on a line bearing North 55 degrees 09 minutes West from the point of beginning; thence South 55 degrees 09 minutes East, a distance of 82.68 feet to the point of beginning.

DRAFTED BY: Carver County Planning & Zoning Department

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Environmental Services

April 22, 2024

TO: Carver County Board of Adjustment & Waconia Town Board

FROM: The Environmental Services Department

SUBJECT: Application for a Variance (SSTS Setback)

FILE #: PZ20240019
APPLICANT: Craig & Kimberly Foster
OWNER: Craig & Kimberly Foster
SITE ADDRESS: 7419 West Shoreline Dr., Waconia, MN 55387
VARIANCE TYPE: Reduced setback to a septic/grinder tank from a structure, property line, and road right of way
PURSUANT TO: Carver County Code Section 52.022
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 09-849-0030

BACKGROUND:

1. Craig & Kimberly Foster own an approximately 0.27-acre parcel located in Government Lot 2 in the North (½) of the Southeast (¼) of Section 10, Waconia Township. The property is improved with a house and attached garage, as well as a detached garage, which are separated by West Shoreline Drive. The parcel is part of Wageners Subdivision No. 3, which was platted in 1942, and is located in the Agricultural Zoning District, Shoreland Overlay District (Lake Waconia), and the Carver County Water Management Organization (CCWMO) - Carver Creek watershed.

2. The applicant is requesting a variance that would allow them to install a new Subsurface Sewage Treatment system (SSTS), consisting of a 500-gallon grinder tank, 3,000-gallon septic tank, 1,000-gallon pump tank, and a 38-foot x 78-foot mound drainfield. The new grinder tank would be placed approximately 5-feet from a permanent structure, 2-feet from the south property line, and 5-feet from the road right-of-way. Chapter 52 of the County Code requires a minimum 10-foot setback from a structure, property line, and road right-of-way to a grinder tank. Therefore, a variance for reduced setbacks pursuant to Chapter 52 – Section 52.022 has been requested.

LEGAL BACKGROUND:

§ 52.022 SSTS SETBACKS.

SSTS must be designed and installed to comply with the following minimum setback distances measured in feet:

Feature	Tank(s)/Sealed Privy	Soil Treatment and Dispersal Area/Unsealed Privy	Building Sewer or Supply Pipes
Structure(s)	10	20	-
Property lines & road rights-of-way	10	10 Above grade systems will be measured from the toe of the slope.	

BOARD OF ADJUSTMENT

§ 152.210 CREATION.

The Board of Adjustment is hereby established and invested with the authority as is hereinafter provided and as provided by M.S. §§ 394.21 through 394.37, as they may be amended from time to time.
(Ord. 47, passed 7-23-02; Am. Ord. 97-2021, passed 7-20-21)

§ 152.215 VARIANCES.

(D) Grounds for variance. The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall be granted in accordance with M.S. Chapter 394, as it may be amended from time to time, in cases where the applicant establishes that there is a practical difficulty in the way of carrying out the strict letter of any official control.

(1) A variance shall only be permitted when the following can be found as fact:
  (a) The variance is in harmony with the general purpose and intent of the official control.
  (b) The variance is consistent with the intent of the comprehensive plan.

(2) In addition, a variance may be granted when the applicant establishes a practical difficulty in complying with the official control. A practical difficulty is established when the following items are found as fact:
  (a) The property owner proposes to use the property in a reasonable manner not permitted by an official control.
  (b) The plight of the landowner is due to circumstances unique to the property, not created by the landowner.
  (c) The variance will not alter the essential character of the locality.
  (d) The practical difficulty includes more than economic considerations alone.

(F) *Other provisions related to variances.*

(1) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.

(2) Inadequate access to direct sunlight for solar energy systems is considered a practical difficulty.

(3) Variances shall be granted for earth shelter construction as defined in MN State Statute section 216C.06, subdivision 14, when in harmony with the official controls.

(4) The board of adjustment may impose conditions on the granting of any variance pursuant to subsection 152.216 (B).

(5) Granting of the variance shall not have the effect of violating a state or federal rule or law.

(6) *Floodplain standards.* A variance issued to property within the Floodplain Overlay District must meet the requirements set forth in §§ 152.143 through 152.156.

(7) Shoreland Overlay District. A variance issued to property within the Shoreland Overlay District must meet the requirements set forth in §§ 152.108 and 152.135.

(8) That the granting of the variance will not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.

(Ord. 47, passed 7-23-02; Am. Ord. 70-2010, passed 1-25-11; Am. Ord. 80-2015, passed 6-16-15; Am. Ord. 88-2018, passed 11-20-18; Am. Ord. 97-2021, passed 7-20-21)

STAFF ANALYSIS:

1. Craig and Kimberly Foster purchased the property in fall of 1995 to reside in the existing residence. The property was purchased with the existing house, as well as a detached garage. In 1985, a variance to the septic ordinance was approved to allow a holding tank system to be installed rather than a standard septic system. The holding tank currently servicing the house was installed in 1999.

2. The owners' letter dated April 8, 2024, describes the desire to install a new Subsurface Sewage Treatment System (SSTS) to facilitate planned home improvements on the property. Carver County Chapter 52 of the County Code requires a 10-foot setback for tank(s) to a structure, property lines, and road right-of-way. Approval of the variance would allow the owners to install a system in compliance with state and local rules. Further, approval of the variance would allow the new grinder tank to be placed approximately 5-feet from the structure, 2-feet from the south property line, and 5-feet from the West Shoreline Drive Road right-of-way, reflecting approximate 5-foot, 8-foot, and 5-foot variances respectively.

3. The submitted site plan, dated June 2023, shows the location of the system and its proximity to the structure, property line, and road right-of-way. The site plan shows the grinder tank approximately 5-feet from the structure and road right-of-way, and 2-feet to the south property line. Other than the requested variances, there is also a variance required with the Minnesota Department of Health to allow the new sewer line within 20-feet of the existing well. Other than these variances, the proposed system meets the required setbacks to property lines, structures, and wells.

4. The granting of the variance would not conflict with the intent of the Comprehensive Plan and/or County Ordinances and would not alter the character of the neighborhood.

5. 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.

6. The Waconia Town Board reviewed and recommended approval of the request at their April 8, 2024, Town Board meeting without any additional conditions.

BOARD CONSIDERATION:
If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance for the reduced tank setbacks would serve in the interest of justice, the following conditions should be considered:

1. The SSTS shall be located according to the final design approved by Carver County Environmental Services. The new grinder tank shall not encroach any closer to the structure, property line, and road right-of-way than as approved as part of this variance application (Approx. 5-feet from the house and road right of way, and approx. 2-feet from the south property line).

2. Parcel numbers 09-849-0030 & 09-010-2310 shall be combined to facilitate the installation of the septic system on one combined parcel.

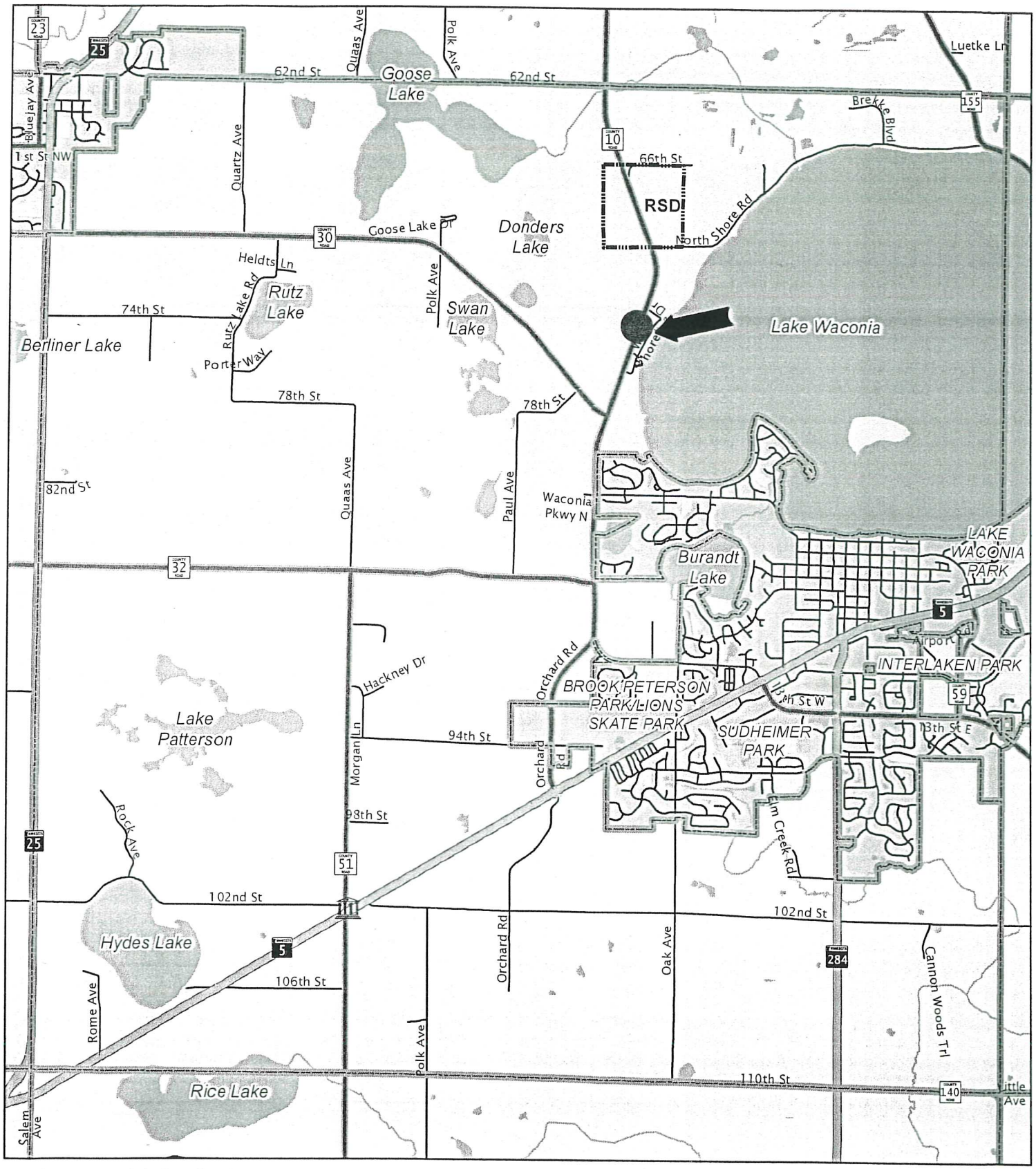
3. Owners shall receive the required variance from the Minnesota Department of Health to install a sewer line closer than 20-feet to an existing well.

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

OR

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

WACONIA TOWNSHIP



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

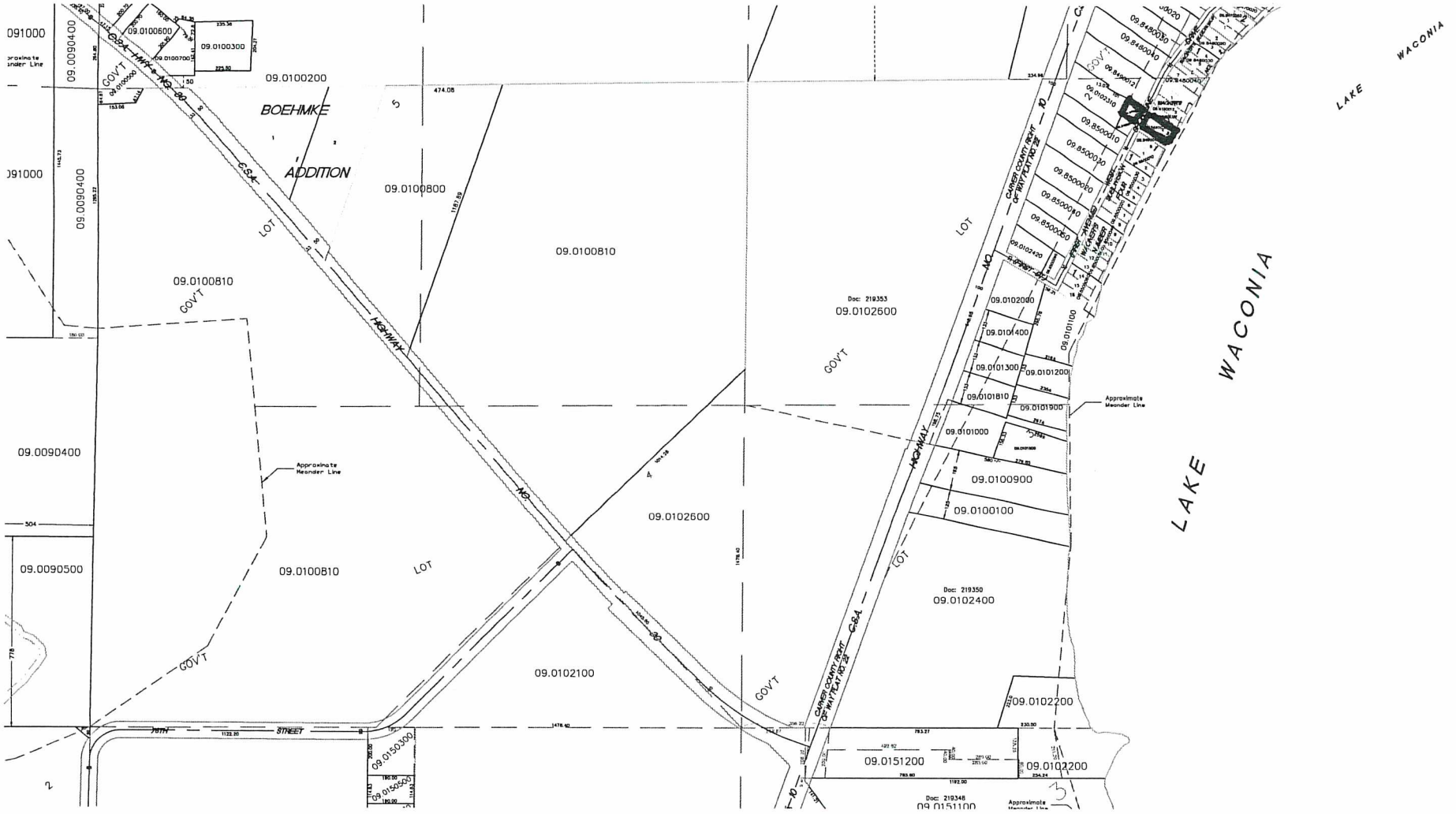
0 1 2 Miles

N W E S

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.

S 1/2 SEC. 10, T.116, R.25



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

Nov 14, 2023

Craig and Kim Foster

7419 West Shoreline Dr.

Waconia, MN 55387

4/8/2024

Dear Board of Adjustment and Waconia Township:

Our current septic system is comprised of a 1500 gallon holding tank. We plan to install a new Subsurface Sewage Treatment System (SSTS) with a 500 gallon grinder tank, 3000 gallon septic tank, 1000 gallon pump tank, and a 38' x 78' mound drainfield to facilitate planned home improvements. The only sufficient site available on the property has the grinder tank placed where the current holding tank is within the 10' setback from a house, lot line, and Road Right-of-Way.

Due to the small lot size, and required setbacks we are requesting 3 variances. The current system design has the grinder/pump tank located in the front yard. The tank would be placed approximately 5' from a permanent structure, 2' from the south property line, and 5' from West Shoreline Drive Road Right-of-Way with leeway for construction related issues. Therefore we are requesting variances to reflect the setbacks above.

In reading the practical difficulty from the ordinance we feel we are using the property in a reasonable manner, and the variance will not alter the character of the property except to comply with Carver County and Chapter 7080 requirements. The new system will not impact any neighbors.

Thank you for your consideration in this matter.

Craig & Kim Foster

PARCEL A- DESCRIPTION OF PROPERTY SURVEYED

Lot Four (4), Block (1), WAGENER'S SUBDIVISION NO. 3, also known as Wagener's Third Addition, Carver County, Minnesota

The Northeasterly half of Lot Five (5), Block One(1), Wagener's Subdivision No. 3, also described as follows: Commencing at the most Northerly corner of said Lot Five(5); thence running Southeasterly along lot line 130.00 feet to the most easterly corner of said Lot 5; thence running Southwesterly a distance of 21.65 feet to a point; thence running Northwesterly, parallel to said first described line a distance of 130.00 feet to the most Westerly line of said Lot 5; thence running Northeasterly along lot line to point of beginning.

That part of Government Lot 2, Section 10, Township 116 North, Range 25 West of the Fifth Principal Meridian lying Northeasterly of the Northwesterly extension of the Southwesterly line of the Northeasterly 1/2 of Lot 5, Block 1, WAGENER'S SUBDIVISION NO.3 and lying Southwesterly of the Northwesterly extension of the Northeasterly line of Lot 4, Block 1, WAGENER'S SUBDIVISION NO. 3 and lying within the boundaries described as follows: That part of Government Lot 1 and 2, Section 10, Township 116 North, Range 25 West of the Fifth Principal Meridian, described as commencing at a point on the Northwesterly line of First Avenue in WAGENER'S SUBDIVISION NO. 2 where the Northeasterly line of Lot 2,Block 1, WAGENER'S SUBDIVISION, IF EXTENDED, WILL INTERSECT THE Northwesterly line of said First Avenue; thence running Southwesterly along the Northwesterly line of said First Avenue a distance of 130 feet to the actual point of beginning; thence continuing South 34 degrees 51 minutes West, along the Northwesterly line of said First Avenue, a distance of 132.42 feet; thence South 25 degrees 25 minutes West, along the Northwesterly line of First Avenue in WAGENER'S SUBDIVISION NO.3, a distance of 962.90 feet to the Northeasterly line of First Street in WAGENER'S SUBDIVISION NO.4: thence North 60 degrees 50 minutes West along the Northeasterly line of said First Street, a distance of 60 feet: thence North 25 degrees 25 minutes East a distance of 1103.22 feet to point on a line bearing North 55 degrees 09 minutes West from the point of beginning: thence South 55 degrees 09 minutes East, a distance of 82.68 feet to the point of beginning, Carver County, Minnesota.

PARCEL B - DESCRIPTION OF PROPERTY SURVEYED

That part of the following described tract which lies between the northwesterly extension of the southerly line of Lot 3 and the northwesterly extension of the southerly line of Lot 6, WAGENER'S SUBDIVISION NO. 3, according to the plat thereof on file and of record in the office of the County Recorder, Carver County, Minnesota;

That part of Governments Lots 1 and 2, Section 10, Township 116, Range 25, Carver County, Minnesota, lying southeasterly of the centerline of County State Aid Highway No. 10, and which lies northeasterly of the northeasterly line of First Street as platted in WAGENER'S SUBDIVISION NO. 4, according to the recorded plat thereof, and which lies southwesterly of the southwesterly line of Elm Street as platted in WAGENER'S SUBDIVISION, according to the recorded plat thereof, and which lies northwesterly of the following described line;

Commencing at a point on the northwesterly line of said First Avenue in WAGENER'S SUBDIVISION NO. 2 where the northwesterly extension of the northeasterly line of Lot 2, Block 1 of said WAGENER'S SUBDIVISION NO. 2, according to the recorded plat, intersects said northwesterly line of First Avenue; thence on an assumed bearing of South 35 degrees 13 minutes West along the northwesterly line of said First Avenue 130.00 feet to a point for descriptive purposes only is referred to as "Point A"; thence continuing South 35 degrees 13 minutes West, along the northwesterly line of said First Avenue 132.42 feet; thence South 25 degrees 25 minutes West along the northwesterly line of said First Avenue 962.90 feet to the northeasterly line of First Street; thence North 60 degrees 50 minutes West along the northeasterly line of First Street 60.00 feet to the point of beginning of said line to be described; thence North 25 degrees 25 minutes East 1103.22 feet on a line to hereinafter be referred to as Line "A", to the intersection with a line extended northwesterly from said "Point A" and measured at a right angle to the northwesterly line of said First Avenue, distant 82.68 feet from "Point A"; thence continue Northwesterly on said extended line distant 114.43 feet as measured from said "Point A"; thence Northeasterly, along a line, to a point on the southwesterly line of Block 3, WAGENER'S SUBDIVISION, according to the recorded plat, said line if extended northeasterly would intersect the north easterly line of said Block 3, at a point 195 feet northwesterly of the most easterly corner of said Block 3; thence Northwesterly along the southwesterly line of said Block 3, to the most westerly corner of said Block 3; thence Northeasterly along the northwesterly line of said Block 3 to the most northerly corner of said Block 3 and said line there terminating.

Except a parcel described as beginning at the intersection of said northwesterly extension of the southwesterly line of Lot 3, Block 1, WAGENER'S SUBDIVISION NO. 3 and said Line "A"; thence deflecting northwesterly to the left from said northwesterly extension of the southwesterly line of Lot 3, Block 1, WAGENER'S SUBDIVISION NO. 3, an angle of 7 degrees 19 minutes 35 seconds, a distance of 101.00 feet; thence deflecting to the right 92 degrees 49 minutes 52 seconds, a distance of 13.07 feet to said northwesterly extension of the southwesterly line of Lot 3, Block 1, WAGENER'S SUBDIVISION NO. 3; thence southeasterly along said northwesterly extension to the point of beginning.

STANDARD NOTES

1) **Site Address**: 7419 West Shoreline Drive, Waconia, Minnesota

2) A title opinion was not furnished to the surveyor as part of this survey. Only easements per the recorded plat are shown unless otherwise denoted hereon.

3) **Flood Zone Information**: X (area determined to be outside of the 0.2% annual chance floodplain) and Zone AE (Areas subject to inundation by the 1-percent-annual-chance flood event determined by detailed methods. Base Flood Elevations (BFEs) are shown. Mandatory flood insurance purchase requirements and floodplain management standards apply.) per Flood Insurance Rate Map, Community Panel No. 27019C0181D, effective date of December 12, 2018.

4) **Parcel Area Information**:
PARCEL A :12,353 ± s.f. ~ 0.284± acres (as measured to ordinary high water line)
PARCEL B: 34,380 s.f. ~ 0.789 acres
PARCEL B and R/W: 41,048 s.f. ~ 0.942 acres
Gross: 53,401 ± s.f. ~ 1.23 ± acres.

5) **Benchmark**: Top of top nut of fire hydrant at northwest quadrant of Lake Street and Vine Street in Waconia.

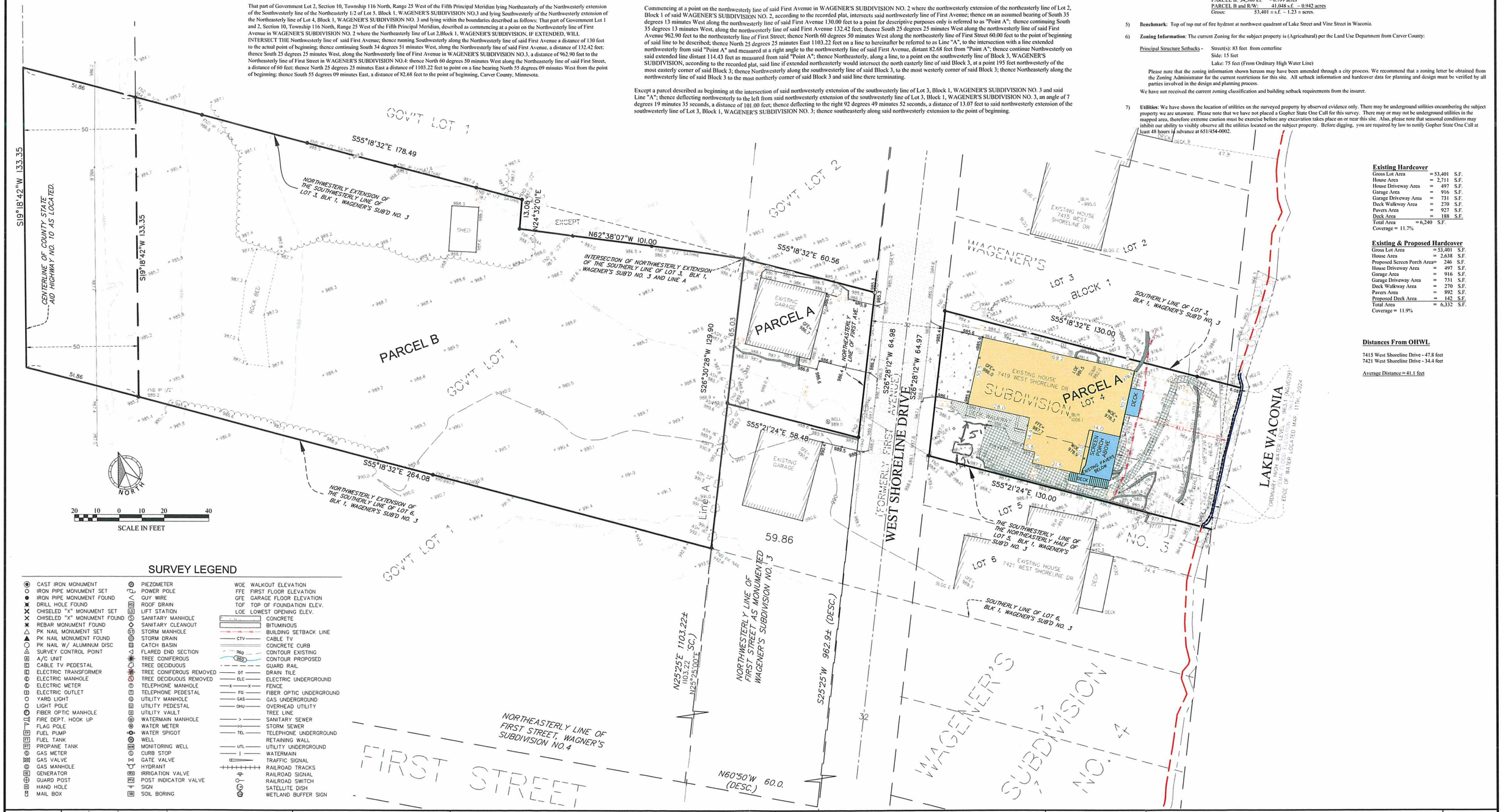
6) **Zoning Information**: The current Zoning for the subject property is (Agricultural) per the Land Use Department from Carver County:

Principal Structure Setbacks - Street(s): 83 feet from centerline
Side: 15 feet
Lake: 75 feet (From Ordinary High Water Line)

Please note that the zoning information shown hereon may have been amended through a city process. We recommend that a zoning letter be obtained from the Zoning Administrator for the current restrictions for this site. All setback information and hardcover data for planning and design must be verified by all parties involved in the design and planning process.

We have not received the current zoning classification and building setback requirements from the insurer.

7) **Utilities**: We have shown the location of utilities on the surveyed property by observed evidence only. There may be underground utilities encumbering the subject property we are unaware. Please note that we have not placed a Gopher State One Call for this survey. There may or may not be underground utilities in the mapped area, therefore extreme caution must be exercise before any excavation takes place on or near this site. Also, please note that seasonal conditions may inhibit our ability to visibly observe all the utilities located on the subject property. Before digging, you are required by law to notify Gopher State One Call at least 48 hours in advance at 651/454-0002.



Existing Hardcover

Gross Lot Area	= 53,401	S.F.
House Area	= 2,711	S.F.
House Driveway Area	= 497	S.F.
Garage Area	= 916	S.F.
Garage Driveway Area	= 731	S.F.
Deck Walkway Area	= 270	S.F.
Pavers Area	= 927	S.F.
Deck Area	= 188	S.F.
Total Area	= 6,240	S.F.

Coverage = 11.7%

Existing & Proposed Hardcover

Gross Lot Area	= 53,401	S.F.
House Area	= 2,638	S.F.
Proposed Screen Porch Area=	246	S.F.
House Driveway Area	= 497	S.F.
Garage Area	= 916	S.F.
Garage Driveway Area	= 731	S.F.
Deck Walkway Area	= 270	S.F.
Pavers Area	= 892	S.F.
Proposed Deck Area	= 142	S.F.
Total Area	= 6,332	S.F.

Coverage = 11.9%

Distances From OHWL

7415 West Shoreline Drive - 47.8 feet
7421 West Shoreline Drive - 34.4 feet

Average Distance = 41.1 feet

SURVEY LEGEND

- CAST IRON MONUMENT
- IRON PIPE MONUMENT SET
- IRON PIPE MONUMENT FOUND
- DRILL HOLE FOUND
- CHISELED "X" MONUMENT SET
- CHISELED "X" MONUMENT FOUND
- REBAR MONUMENT FOUND
- PK NAIL MONUMENT SET
- PK NAIL MONUMENT FOUND
- PK NAIL W/ ALUMINUM DISC
- SURVEY CONTROL POINT
- A/C UNIT
- CABLE TV PEDESTAL
- ELECTRIC TRANSFORMER
- ELECTRIC MANHOLE
- ELECTRIC METER
- ELECTRIC OUTLET
- YARD LIGHT
- LIGHT POLE
- FIBER OPTIC MANHOLE
- FIRE DEPT. HOOK UP
- FLAG POLE
- FUEL PUMP
- FUEL TANK
- PROPANE TANK
- GAS METER
- GAS VALVE
- GAS MANHOLE
- GENERATOR
- GUARD POST
- HAND HOLE
- MAIL BOX
- PIEZOMETER
- POWER POLE
- GUY WIRE
- ROOF DRAIN
- LIFT STATION
- SANITARY MANHOLE
- SANITARY CLEANOUT
- STORM MANHOLE
- STORM DRAIN
- CATCH BASIN
- FLARED END SECTION
- TREE CONIFEROUS
- TREE DECIDUOUS
- TREE CONIFEROUS REMOVED
- TREE DECIDUOUS REMOVED
- TELEPHONE MANHOLE
- TELEPHONE PEDESTAL
- UTILITY MANHOLE
- UTILITY PEDESTAL
- UTILITY VAULT
- WATERMAIN MANHOLE
- WATER METER
- WATER SPIGOT
- WELL
- MONITORING WELL
- CURB STOP
- GATE VALVE
- HYDRANT
- IRRIGATION VALVE
- POST INDICATOR VALVE
- SIGN
- SOIL BORING
- WOE WALKOUT ELEVATION
- FFE FIRST FLOOR ELEVATION
- GFE GARAGE FLOOR ELEVATION
- TOF TOP OF FOUNDATION ELEV.
- LOE LOWEST OPENING ELEV.
- CONCRETE
- BITUMINOUS
- BUILDING SETBACK LINE
- CABLE TV
- CONCRETE CURB
- CONTOUR EXISTING
- CONTOUR PROPOSED
- GUARD RAIL
- DRAIN TILE
- ELECTRIC UNDERGROUND
- FENCE
- FIBER OPTIC UNDERGROUND
- GAS UNDERGROUND
- OVERHEAD UTILITY
- TREE LINE
- SANITARY SEWER
- STORM SEWER
- TELEPHONE UNDERGROUND
- RETAINING WALL
- UTILITY UNDERGROUND
- WATERMAIN
- TRAFFIC SIGNAL
- RAILROAD TRACKS
- RAILROAD SIGNAL
- RAILROAD SWITCH
- SATELLITE DISH
- WETLAND BUFFER SIGN

FIELD CREW	NO.	BY	DATE	REVISION
DM	1	BRV	3/20/2024	PROPOSED HOUSE ADDITION
DRAWN				
BRV				
CHECKED				
DLS				
DATE				
03/15/24				

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

Dated this 20th day of March, 2024.

Daniel L. Schmidt

Daniel L. Schmidt, PLS Minnesota License No. 26147
schmidt@sathre.com

SATHRE-BERGQUIST, INC.
14000 25TH AVENUE NORTH, SUITE 120
PLYMOUTH MN 55447 (952) 476-6000
WWW.SATHRE.COM

TWP:116N-RGE.25W-SEC.10
Carver County

WACONIA, MINNESOTA

CERTIFICATE OF SURVEY

PREPARED FOR:
FOSTER

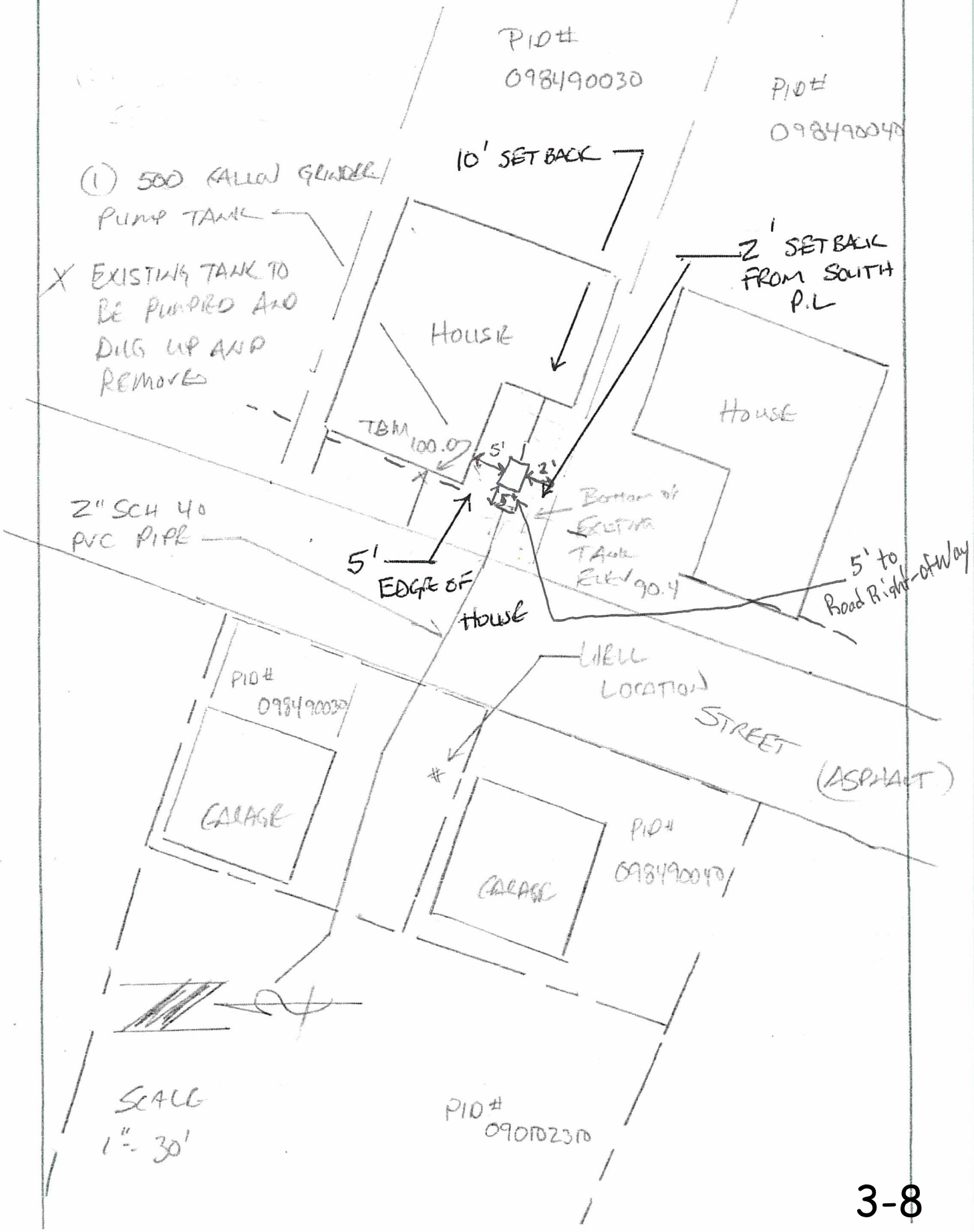
FILE NO. 27218-001

1

7419 West Sterling P.	LOCATION MAP	C. HENTGES 6/23

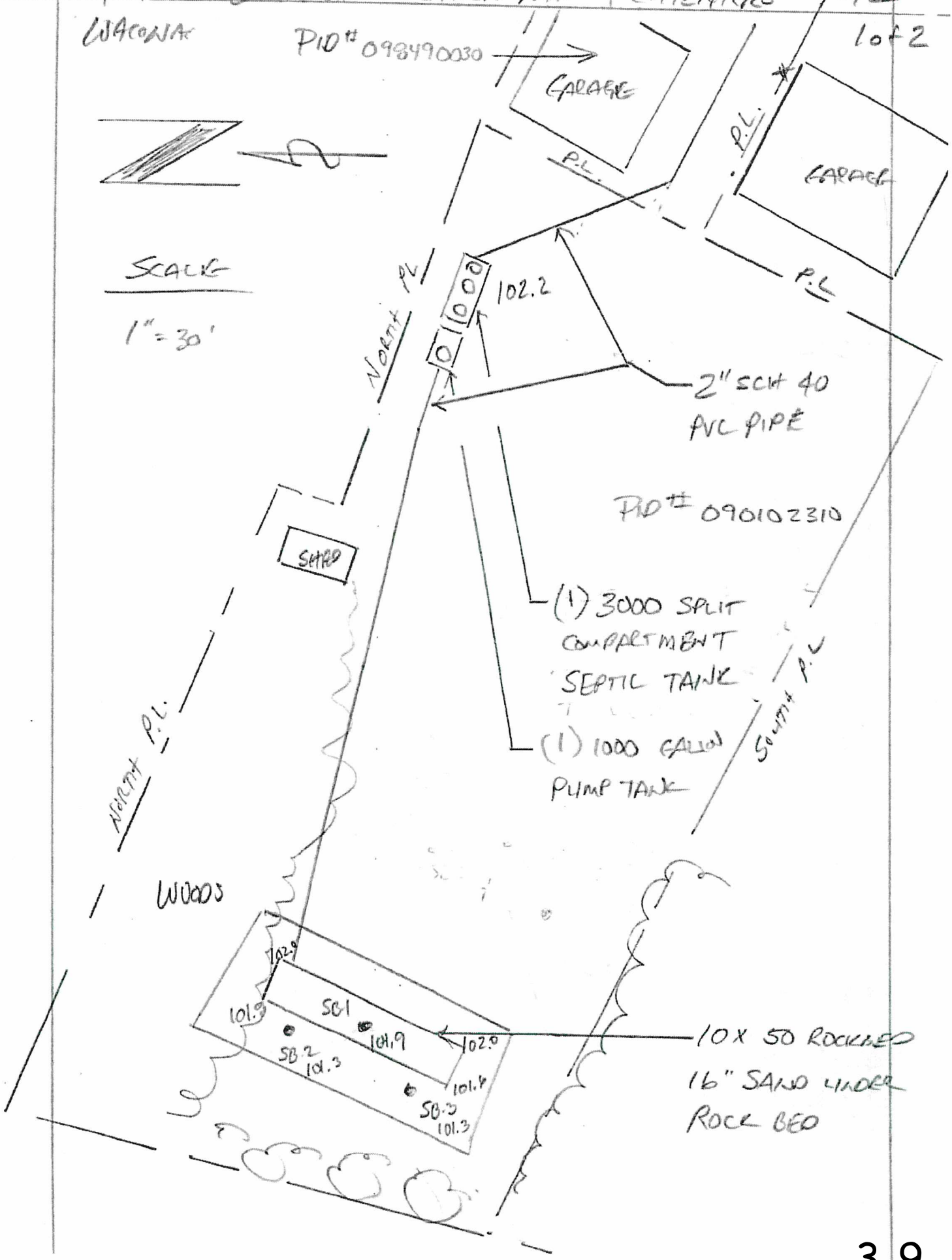
WACOM

2 of 2



7419 West Shoreline Dr | LOCATION MAP | C. HENTGES 6/23

WASILLA 1 of 2



CARVER COUNTY

Township Presentation & Recommendation Form

PARCEL # 09.84900030 Permit # PZ0240019

Owner's Name: CRAIG & KIM FOSTER

Owner's Mailing Address: 7419 WEST SHORELINK DR

City: WACONIA

Owner State: MINNESOTA

Owner Zip: 55387

Applicant (if other than owner):

Site Address:

Type of Request: ○ CUP ○ IUP ○ Preliminary Plat ○ Final Plat ◉ Variance ○ Appeal

Description of Request:

SEE ATTATCHED LATTER

Date of County Public Hearing: 5/1/24 Date of Township Meeting: APRIL 8TH 2024

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:

Motion was approved to accept Septic
approved 50. Set back
approved 5' from Structure + Right of way

**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 04-08-2024

Signature of Township Official Date 4-8-24

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 09-849-0030 **File# PZ20140019**

APPLICANT:
OWNERS: Craig M Foster and Kimberly A Foster

* *

Lot Four (4), Block One (1), Wagener's Subdivision No. 3, also known as Wagener's Third Addition, according to the map or plat thereof on file and of record in the office of the County Recorder in and for Carver County, Minnesota.

The Northeasterly Half of Lot Five (5), Block One (1), Wagener's Subdivision No. 3, according to the plat thereof on file and of record in the office of the County Recorder in and for Carver County, Minnesota, also described as follows: Commencing at the most Northerly corner of said Lot Five (5); thence running Southeasterly along lot line 130.0 feet to the most easterly corner of said Lot 5: thence running Southwesterly a distance of 21.65 feet to a point; thence running Northwesterly, parallel to said first described line. a distance of 130.00 feet to the most westerly line of said Lot 5; thence running Northeasterly along lot line to point of beginning.

That part of Government Lot 2, Section 10, Township 116 North, Range 25 West of the Fifth Principal Meridian lying northeasterly of the northwesterly extension of the Southwesterly line of the Northeasterly ½ of Lot 5, Block 1, Wagener's Subdivision No. 3 and lying Southwesterly of the Northwesterly extension of the Northeasterly line of Lot 4, Block 1, Wagener's Subdivision No. 3 and lying within the boundaries described as follows: That part of Government Lots 1 and 2, Section 10, Township 116 North, Range 25 West of the Fifth Principal Meridian, described as commencing at a point on the Northwesterly line of First Avenue in Wagener's Subdivision No. 2 where the Northeasterly line of Lot 2, Block 1, said Wagener's Subdivision, if extended, will intersect the Northwesterly line of said First Avenue; thence running Southwesterly along the Northwesterly line of said First Avenue, a distance of 130 feet to the actual point of beginning; thence continuing South 34 degrees 51 minutes West, along the Northwesterly line of said First Avenue, a distance of 132.42 feet; thence South 25 degrees 25 minutes West, along the Northwesterly line of First Avenue in Wagener's Subdivision No. 3, a distance of 962.90 feet to the Northeasterly line of First Street in Wagener's Subdivision No. 4; thence North 60 degrees 50 minutes West along the Northeasterly line of said First Street, a distance of 60 feet; thence North 25 degrees 25 minutes East, a distance of 1103.22 feet to point on a line bearing North 55 degrees 09 minutes West from the point of beginning; thence South 55 degrees 09 minutes East, a distance of 82.68 feet to the point of beginning.

DRAFTED BY: Carver County Planning & Zoning Department

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Land Management Department

April 19, 2024

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

FROM: The Land Management Department

SUBJECT: Application for a Variance (Reduced Setback to Property Line)

FILE #: PZ20240017
APPLICANT: Amanda Finnerty
OWNER: Ryan and Amanda Finnerty
SITE ADDRESS: 140 Jacob Street, Hamburg, MN 55339
VARIANCE TYPE: Reduced Structure Setback from Side Property Line
PURSUANT TO: Carver County Code: Section 152.034 (D)
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 11-032-0400

BACKGROUND:

1. Ryan and Amanda Finnerty own an approximate 3.75-acre residential parcel located in the East Half (E½) of the Northeast Quarter (NE¼) of Section 32, Young America Township. The property is improved with a house built in 1974, an attached garage, and the Subsurface Sewage Treatment System (SSTS). The parcel is located in the Agricultural Zoning District and the Carver County Water Management Organization (CCWMO) - Bevens Creek watershed.

2. The applicant is requesting a variance which would allow her to apply for a building permit on the subject property to construct a detached garage. The proposed garage location would not meet the required side yard setback of 15 feet (i.e. 5 feet). Therefore, a reduced structure setback from the side yard 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.

Side Lot Line Setbacks	All Districts	15 feet

BOARD OF ADJUSTMENT

§ 152.210 CREATION.
The Board of Adjustment is hereby established and invested with the authority as is hereinafter provided and as provided by M.S. §§ 394.21 through 394.37, as they may be amended from time to time.
(Ord. 47, passed 7-23-02; Am. Ord. 97-2021, passed 7-20-21)

§ 152.215 VARIANCES.

(D) *Grounds for variance.* The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall be granted in accordance with M.S. Chapter 394, as it may be amended from time to time, in cases where the applicant establishes that there is a practical difficulty in the way of carrying out the strict letter of any official control.

(1) A variance shall only be permitted when the following can be found as fact:
   (a) The variance is in harmony with the general purpose and intent of the official control.
   (b) The variance is consistent with the intent of the comprehensive plan.

(2) In addition, a variance may be granted when the applicant establishes a practical difficulty in complying with the official control. A practical difficulty is established when the following items are found as fact:
   (a) The property owner proposes to use the property in a reasonable manner not permitted by an official control.
   (b) The plight of the landowner is due to circumstances unique to the property, not created by the landowner.
   (c) The variance will not alter the essential character of the locality.
   (d) The practical difficulty includes more than economic considerations alone.

(F) Other provisions related to variances.

(1) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.

(2) Inadequate access to direct sunlight for solar energy systems is considered a practical difficulty.

(3) Variances shall be granted for earth shelter construction as defined in MN State Statute section 216C.06, subdivision 14, when in harmony with the official controls.

(4) The board of adjustment may impose conditions on the granting of any variance pursuant to subsection 152.216 (B).

(5) Granting of the variance shall not have the effect of violating a state or federal rule or law.

(6) *Floodplain standards.* A variance issued to property within the Floodplain Overlay District must meet the requirements set forth in §§ 152.143 through 152.156.

(7) Shoreland Overlay District. A variance issued to property within the Shoreland Overlay District must meet the requirements set forth in §§ 152.108 and 152.135.

(8) That the granting of the variance will not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.

(Ord. 47, passed 7-23-02; Am. Ord. 70-2010, passed 1-25-11; Am. Ord. 80-2015, passed 6-16-15; Am. Ord. 88-2018, passed 11-20-18; Am. Ord. 97-2021, passed 7-20-21)

STAFF ANALYSIS:

1. The Finnertys have owned the property since 2018. The parcel has existed in its current configuration since the home was built in 1974. A large wetland, consisting of shallow marsh and a seasonally flooded basin, covers the southern half of the property.

2. Section 152.034 of the County Zoning Code requires a 15-foot side yard setback from a property line. Based on the applicant's site plan, dated April 4, 2024, the proposed garage is located 5 feet from the north property line; therefore, reflecting an approximate 10-foot variance. The proposed structure appears to meet all other required setbacks to the road, the house, and the wetland. The location was chosen to avoid the existing well, SSTS location, and drainage slopes, while allowing easy access for vehicles to be kept indoors during inclement weather.

3. The applicant's letter (dated March 31, 2024) describes the practical difficulty in locating a new detached garage that meets the required setbacks. Amanda Finnerty explains the only practical location for the garage is the existing driveway turnaround just northeast of the home. She also states *"The abutting property in the location of the proposed garage is a pasture. This property is owned by a family member who has giving their approval for the variance. They have no issues with the request."*

4. On April 10, 2024, Abigail Ernst, CCWMO Water Resource Program Analyst, reviewed the variance request and indicated she did not have specific concerns with the request, as it is over 50' from the wetland to the south. However, she did provide the following comments: *"I would recommend their plans show a silt fence downgradient of the work due to the slope leading to the wetland."*

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 required setback sections of the County Zoning Code. Although this request does not meet the specific standards, it appears to meet the intent of the regulations.

6. The neighborhood is comprised of residential homes & activities, as well as some areas of dense vegetation and croplands. This request would not cause a substantial change in the character of the neighborhood.

7. The granting of the variance would not conflict with the intent of the Comprehensive Plan, nor will government services be negatively impacted by the location of the proposed structure.

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 Young America Town Board has reviewed and recommended approval of the request during their April 9, 2024, Town Board meeting. The Board stated: *"No issues with reduced setback."*

BOARD CONSIDERATION:

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

1. The permittee shall obtain the appropriate building permit(s) prior to the construction of the detached garage. All construction activities shall be done in accordance with the submitted site plan dated March 31, 2024. The new construction shall not encroach any closer to the north property line than approved (i.e. 5 feet) as part of this permit application.

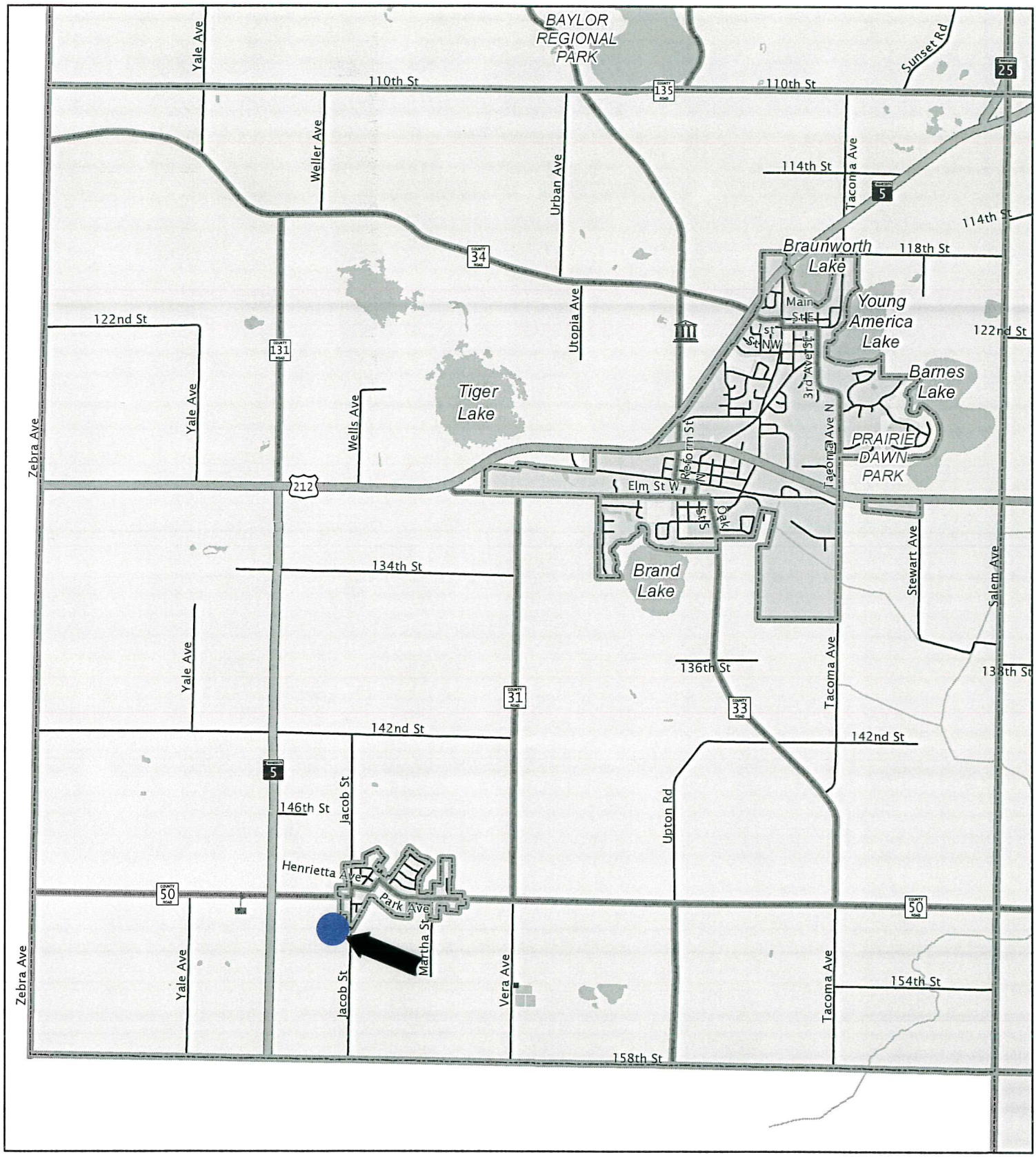
2. No additional expansions shall be permitted without obtaining all necessary building permits and/or variances.

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

OR

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

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.

0 1 2 Miles

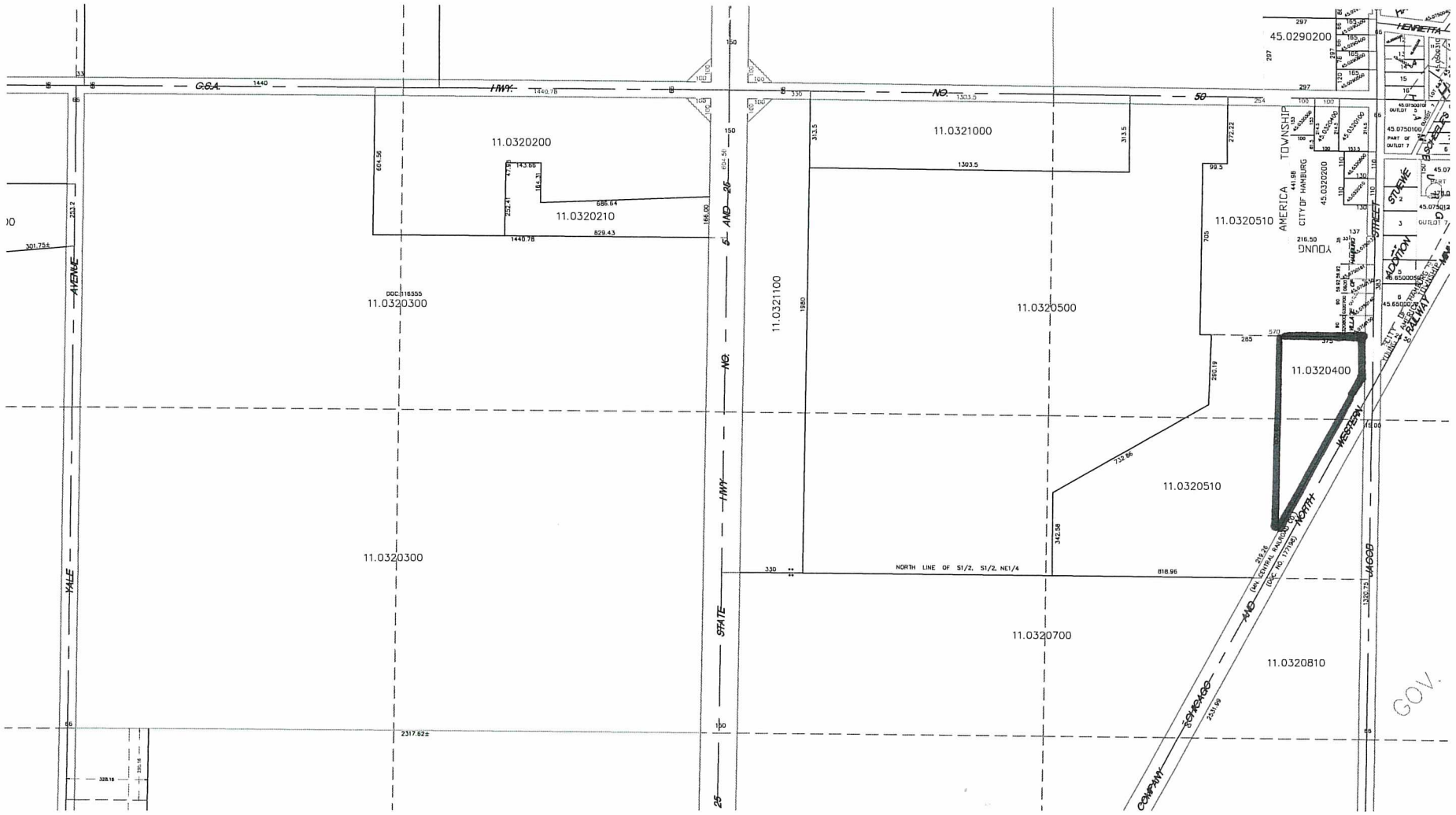
N W E S

4-4

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.

N 1/2 SEC. 32, T.115, R.26



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

Nov 14, 2023

3/31/24

Board of Adjustments,

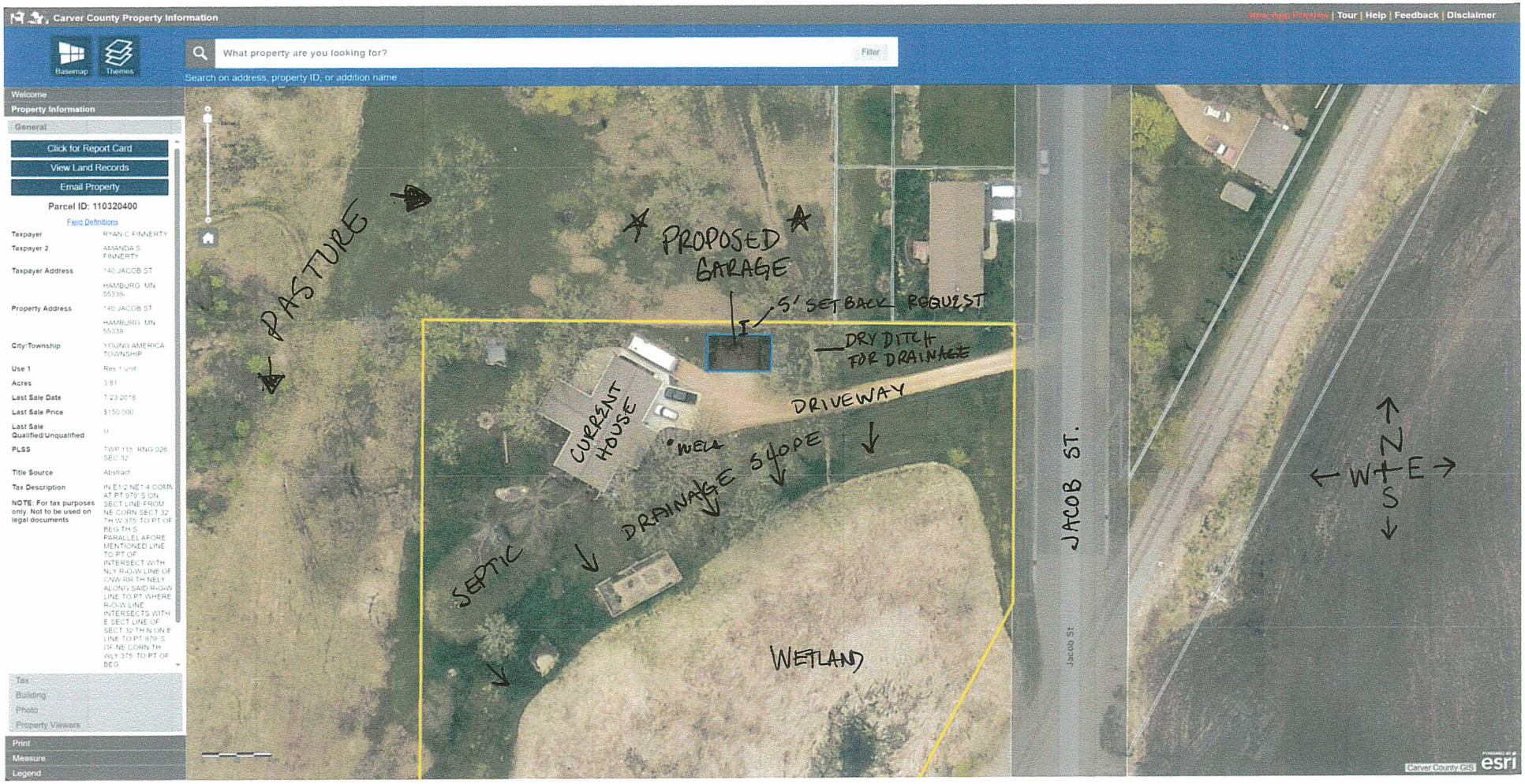
We are requesting a variance to allow a set back of 5' from the adjacent property to build a detached garage.

The only practical location to build a detached garage on our property is in our current driveway turn around. Due to space limitations, a reduced set back is needed to enable us to build a 32' x 24' garage so that it does not impede on our current driveway.

The abutting property in the location of the proposed garage is a pasture. This property is owned by a family member who has given their approval for the variance. They have no issues with the request.

Thank you for your consideration,

Amanda Finnerty


Carver County Property Information
Tour | Help | Feedback | Disclaimer
What property are you looking for?
Search on address, property ID, or addition name
Welcome
Property Information
General
Click for Report Card
View Land Records
Email Property
Parcel ID: 110320400
Field Definitions
Taxpayer RYAN C FINNERTY
Taxpayer 2 AMANDA S FINNERTY
Taxpayer Address 140 JACOB ST HAMBURG MN 55339-
Property Address 140 JACOB ST HAMBURG MN 55339
City/Township YOUNG AMERICA TOWNSHIP
Use 1 Res 1 unit
Acres 3.81
Last Sale Date 7/23/2018
Last Sale Price $150,000
Last Sale Qualified/Unqualified U
PLSS TWP 115 RNG 026 SEC 32
Title Source Abstract
Tax Description IN E1/2 NE1/4 COMM AT PT 979' S ON SECT LINE FROM NE CORN SECT 32 TH W 375 TO PT OF BEG TH S PARALLEL AFORE MENTIONED LINE TO PT OF INTERSECT WITH NLY R-O-W LINE OF CNW RR TH NELY ALONG SAID R-O-W LINE TO PT WHERE R-O-W LINE INTERSECTS WITH E SECT LINE OF SECT 32 TH N ON E LINE TO PT 979' S OF NE CORN TH W LY 375 TO PT OF BEG
NOTE: For tax purposes only. Not to be used on legal documents
Tax
Building
Photo
Property Viewers
Print
Measure
Legend
PASTURE
PROPOSED GARAGE
5' SETBACK REQUEST
DRY DITCH FOR DRAINAGE
DRIVEWAY
CURRENT HOUSE
WELL
SLOPE
DRAINAGE
SEPTIC
WETLAND
JACOB ST.
Jacob St
N
W
E
S
Carver County GIS
esri

4/15/24

Finnerty MENARDS

Date: 3/31/2024 - 5:32 PM
Design Name: Garage Design
Design ID: 317752325693
Estimated Price: $13,958.67
**Today's estimated price. Future pricing may go up or down. Tax, labor, and delivery not included.*

Design & Buy™ GARAGE

How to recall and purchase your design at home:

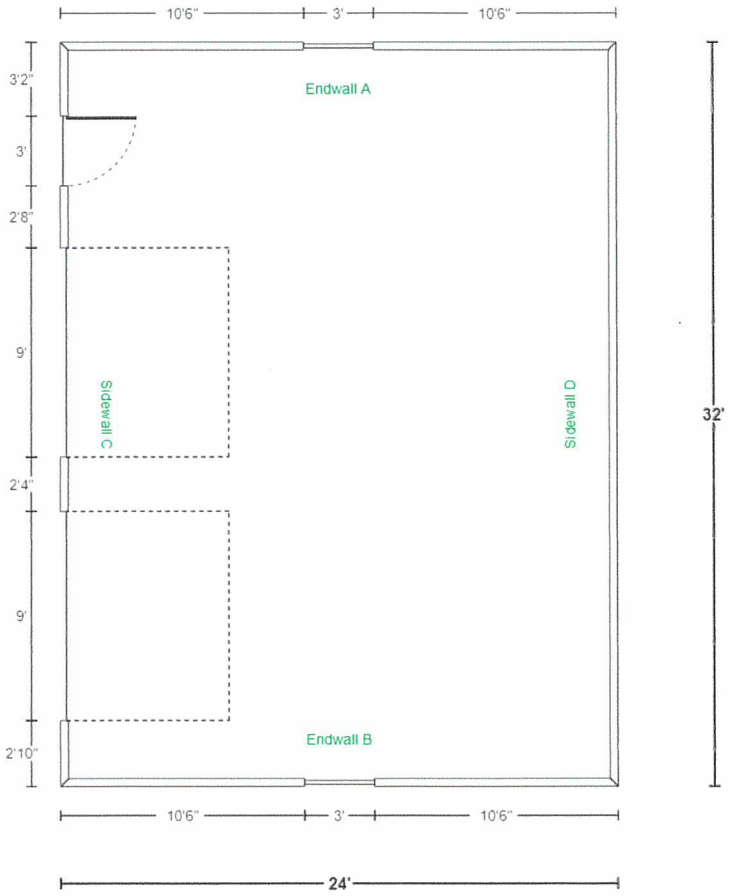
OR

1. On Menards.com, enter "Design & Buy" in the search bar
2. Select the Garage Designer
3. Recall your design by entering Design ID: 317752325693
4. Follow the on-screen purchasing instructions

How to purchase your design at the store:

1. Enter Design ID: 317752325693 at the Design-It Center Kiosk in the Building Materials Department
2. Follow the on-screen purchasing instructions

Garage Image



Date: 3/31/2024 - 5:32 PM
Design Name: Garage Design
Design ID: 317752325693
Estimated Price: $13,958.67
**Today's estimated price. Future pricing may go up or down. Tax, labor, and delivery not included.*

Finnerty MENARDS
Design&Buy™ GARAGE

SIDEWALL C

Mastercraft® 36W x 80H Primed Steel External Three-Quarter Lite

9X7 White Raised Panel Plain Window EZ Set Torsion Spring

9X7 White Raised Panel Plain Window EZ Set Torsion Spring

ENDWALL A

36"W x 24"H JELD-WEN® Vinyl Slider

CARVER COUNTY

Township Presentation & Recommendation Form

PARCEL # 110320400	**Permit #** PZ20240017
Owner's Name: Ryan & Amanda Finnerty	Owner's Mailing Address: 140 Jacob St
City: Hamburg	Owner State: MN / Owner Zip: 55339
Applicant (if other than owner):	Site Address: 140 Jacob St., Hamburg MN 55339

Type of Request: ○ CUP ○ IUP ○ Preliminary Plat ○ Final Plat ◉ Variance ○ Appeal

Description of Request:

Planning on building a detached garage. Due to limitations of space, requesting a variance to allow set back from adjacent property to 5'. adjacent property is a pasture owned by family. We have been given the ok by the adjacent property owner.

Date of County Public Hearing: 5/1/24 **Date of Township Meeting:** 4/9/24

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:

No issues with reduced set back
Approved at Township meeting 4/9/2024

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

[signature] Date 4/9/24
Signature of Applicant

Bradley Klemp Date 4/9/24
Signature of Township Official

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 11-032-0400 **File# PZ20240017**

APPLICANT: Amanda Finnerty
OWNERS: Ryan Finnerty and Amanda Finnerty

* *

Commencing at a point 979 feet South on the Section line from the Northeast corner of Section 32, Township 115 North, Range 26 West, Carver County, Minnesota; thence due West 375 feet to a point which is the actual point of beginning of the tract to be herein described; thence South and parallel with the aforesaid section line to a point where it intersects the northerly right-of-way line of the Chicago and northwestern Railroad; thence Northeasterly along the said Northerly right-of-way line to a point where the right-of-way line intersects with the East section line of said Section 32; thence North along the east section line of said Section 32 to a point 979 feet South of the northeast corner of said Section 32; thence due Westerly, a distance of 375 feet to the actual point of beginning. All of the above being located in Section 32, Township 115 North, Range 26 West, Carver County, Minnesota.

DRAFTED BY: Carver County Land Management Department

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

April 19, 2024

TO: Carver County Board of Adjustment & Laketown Town Board

FROM: The Land Management Department

SUBJECT: Changes to a Non-Conforming Parcel

FILE #: PZ20240012
APPLICANT: Frank Pernat
PROPERTY OWNERS: Frank J Pernat Revocable Trust
SITE ADDRESS: 7065 & 7055 Abbywood Ln
VARIANCE TYPE: Change of a Legal Non-Conforming Lot and Reduced Road Frontage
PURSUANT TO: County Code Section 152.009 (M) & 152.033 (D)
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 07-022-2800 & 07-022-1300

BACKGROUND:

1. Frank & Sally Pernat own an approximate 2.47-acre parcel and an approximate .29-acre parcel located in Government Lot 1 in the West Half (W½) of the Southwest Quarter (SW¼) of Section 22, Laketown Township. Each lakeshore property is improved with a single-family home and an accessory structure. The 7055 property has an access road across the north portion of the property in order to reach the 7065 property which is at the end of Abbywood Lane. The property is located within the Agricultural Zoning District, Shoreland Overlay District (Piersons Lake), and the Minnehaha Creek Watershed District.

2. The applicant is requesting a multi-component variance that would allow for a lot line adjustment. The intent of the lot line adjustment would be to relocate the parcel's common boundary line, which currently intersects the 7055 property's detached garage, to place that structure entirely on the property and create a conforming west side yard setback for the structure. The proposed lot line adjustment would not create two conforming lots. The proposed parcel re-configuration would not meet the County's requirements for lot width, area, and road frontage for either parcel; therefore, a variance has been requested.

LEGAL BACKGROUND:

§ 152.009 NON-CONFORMING USES AND STRUCTURES.
(M) A residential parcel of land with existing structures on the effective date of this chapter because of its dimensions or because it does not have sufficient road frontage is considered a legal lot. The lot may be expanded provided a variance is approved, and the new lot meets all chapter criteria except the minimum road frontage standard.
(Ord. 47, passed 7-23-02; Am. Ord. 70-2010, passed 1-25-11; Am. Ord. 88-2018, passed 11-20-18)

§ 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.

(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.
(b) Recreational development lakes - 150 feet.

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

BOARD OF ADJUSTMENT

§ 152.210 CREATION.

The Board of Adjustment is hereby established and invested with the authority as is hereinafter provided and as provided by M.S. §§ 394.21 through 394.37, as they may be amended from time to time.
(Ord. 47, passed 7-23-02; Am. Ord. 97-2021, passed 7-20-21)

§ 152.215 VARIANCES.

(D) *Grounds for variance.* The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall be granted in accordance with M.S. Chapter 394, as it may be amended from time to time, in cases where the applicant establishes that there is a practical difficulty in the way of carrying out the strict letter of any official control.
(1) A variance shall only be permitted when the following can be found as fact:
(a) The variance is in harmony with the general purpose and intent of the official control.
(b) The variance is consistent with the intent of the comprehensive plan.
(2) In addition, a variance may be granted when the applicant establishes a practical difficulty in complying with the official control. A practical difficulty is established when the following items are found as fact:
(a) The property owner proposes to use the property in a reasonable manner not permitted by an official control.
(b) The plight of the landowner is due to circumstances unique to the property, not created by the landowner.
(c) The variance will not alter the essential character of the locality.
(d) The practical difficulty includes more than economic considerations alone.

(F) Other provisions related to variances.
(1) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.
(2) Inadequate access to direct sunlight for solar energy systems is considered a practical difficulty.
(3) Variances shall be granted for earth shelter construction as defined in MN State Statute section 216C.06, subdivision 14, when in harmony with the official controls.
(4) The board of adjustment may impose conditions on the granting of any variance pursuant to subsection 152.216 (B).
(5) Granting of the variance shall not have the effect of violating a state or federal rule or law.
(6) *Floodplain standards.* A variance issued to property within the Floodplain Overlay District must meet the requirements set forth in §§ 152.143 through 152.156.
(7) Shoreland Overlay District. A variance issued to property within the Shoreland Overlay District must meet the requirements set forth in §§ 152.108 and 152.135.
(8) That the granting of the variance will not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.

(Ord. 47, passed 7-23-02; Am. Ord. 70-2010, passed 1-25-11; Am. Ord. 80-2015, passed 6-16-15; Am. Ord. 88-2018, passed 11-20-18; Am. Ord. 97-2021, passed 7-20-21)

STAFF ANALYSIS:

1. The applicant is proposing the reconfiguration of existing legal nonconforming parcels with limited road frontage. In addition, the 7055 property does not have conforming lot area and lot width. The County Code typically requires the platting process (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 applicant's letter, dated March 5, 2024, describes the variance request and the nonconforming lot circumstances. The proposed action is to move the common lot line 19 feet to the west. This would result in the detached garage for the 7055 property being located entirely within the property's boundaries (15-foot setback). The relocation of the line would increase the size of the 7055 property by about 4,400 square feet and reduce the size of the 7065 property by an equivalent amount. The narrative explains: *"We are cleaning up this property line encroachment issue by adjusting the property line before anything is sold."* The narrative states that the practical difficulty in this case is due to the fact that both lots are legal nonconforming.

3. The submitted existing conditions survey (dated September 25, 1992) shows some of the existing site improvements of the two properties and the current location of the common lot line. It shows the extreme proximity of the lot line to the garage and a shed. The survey shows the approximate 12 feet of road frontage (the stub end of Abbywood Road) and the approximate 66 feet of road frontage for the 7055 property. A note on the survey states the 7065 property's house would be a conforming 37 feet to the proposed lot line. The proposed conditions survey (dated January 16, 2024) shows the location of the proposed lot line 19 feet west of its current location. The proposed 37-foot setback to the 7065 house is noted here as well.

4. This application was reviewed by Jacob McLain, Senior Environmentalist for Carver County, who wrote in an email dated April 9, 2024, that *"both 7065 & 7055 Abbywood should have compliance inspections (tank inspections) completed just to verify that tanks are compliant."*

5. The plight of the landowner is due to circumstances unique to the property, not created by the current landowner. The Pernats purchased the property in 2013, long after the lots were created, and garage was constructed. The 7065 property was created in 1946 and the 7055 property was created in 1958.

6. The applicant is proposing to use the property in a reasonable manner, not permitted by an official control. The official control in this matter is to ensure adequate setbacks for property improvements. The applicant's lot line adjustment would correct a nonconforming situation.

7. The granting of the variance does not appear to conflict with the intent of the Comprehensive Plan and/or County Code. The neighborhood is comprised of shoreland residences, and the request would not cause a substantial change in the character of the neighborhood, nor would it have a negative impact on government services.

8. The granting of the variance will not materially or adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.

9. The Laketown Town Board has reviewed and recommended approval of the request during their March 11, 2024, Town Board meeting without the addition of further conditions.

BOARD CONSIDERATION:
If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance to allow the re-configuration of two existing legal nonconforming properties would serve in the interest of justice, the following condition should be attached to the approved variance:

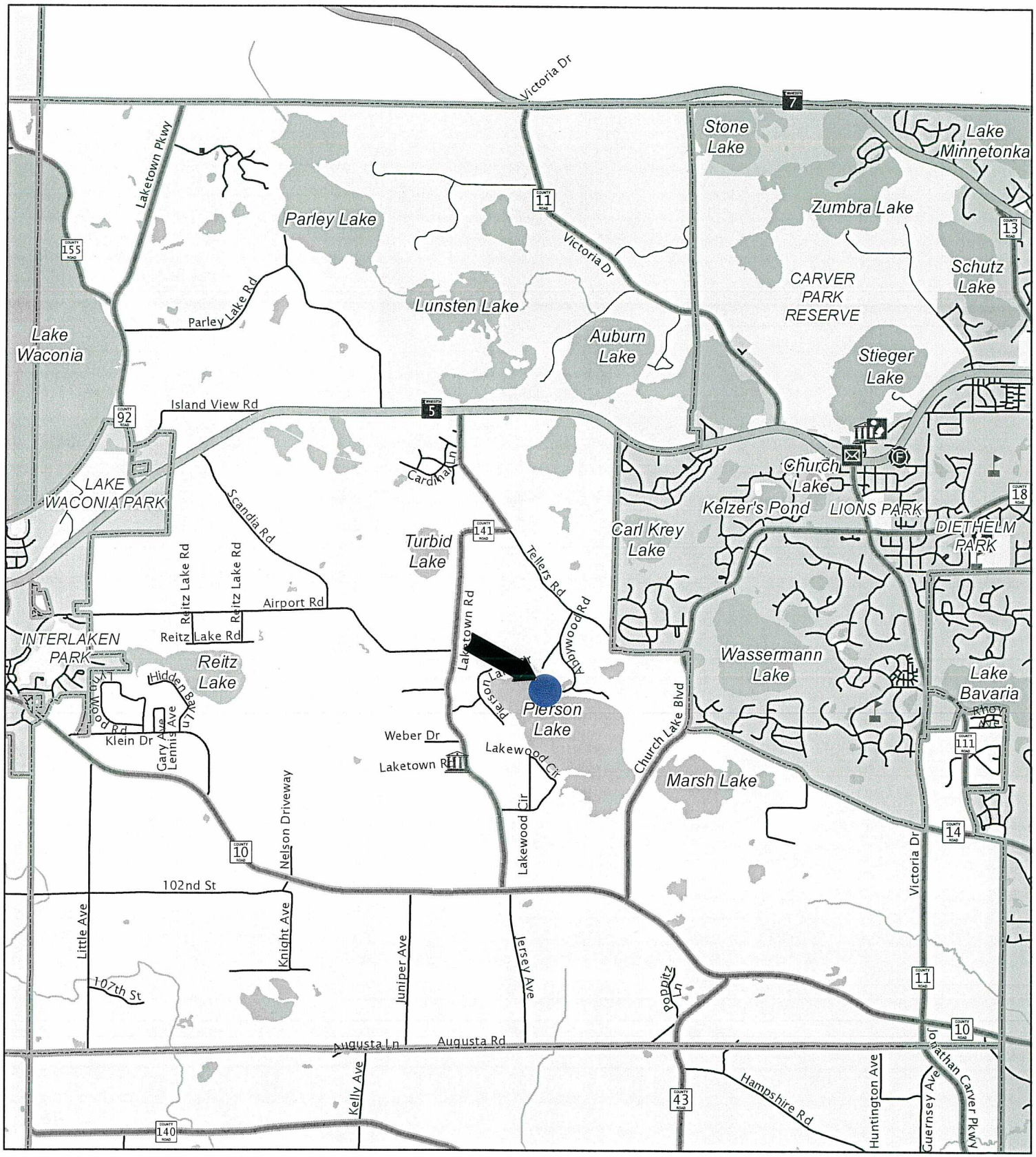
1. A Minor Subdivision application and Combination form shall be submitted and approved prior to the recording of any deeds. The parcel shall be subdivided and combined in accordance with the County Zoning Code and County Recorder's Office requirements including by not limited to, a completed minor subdivision application, a survey, SSTS compliance and appropriate deeds.

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

OR

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

LAKETOWN TOWNSHIP



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0 1 2 Miles

N W E S

Map Created by Carver County GIS

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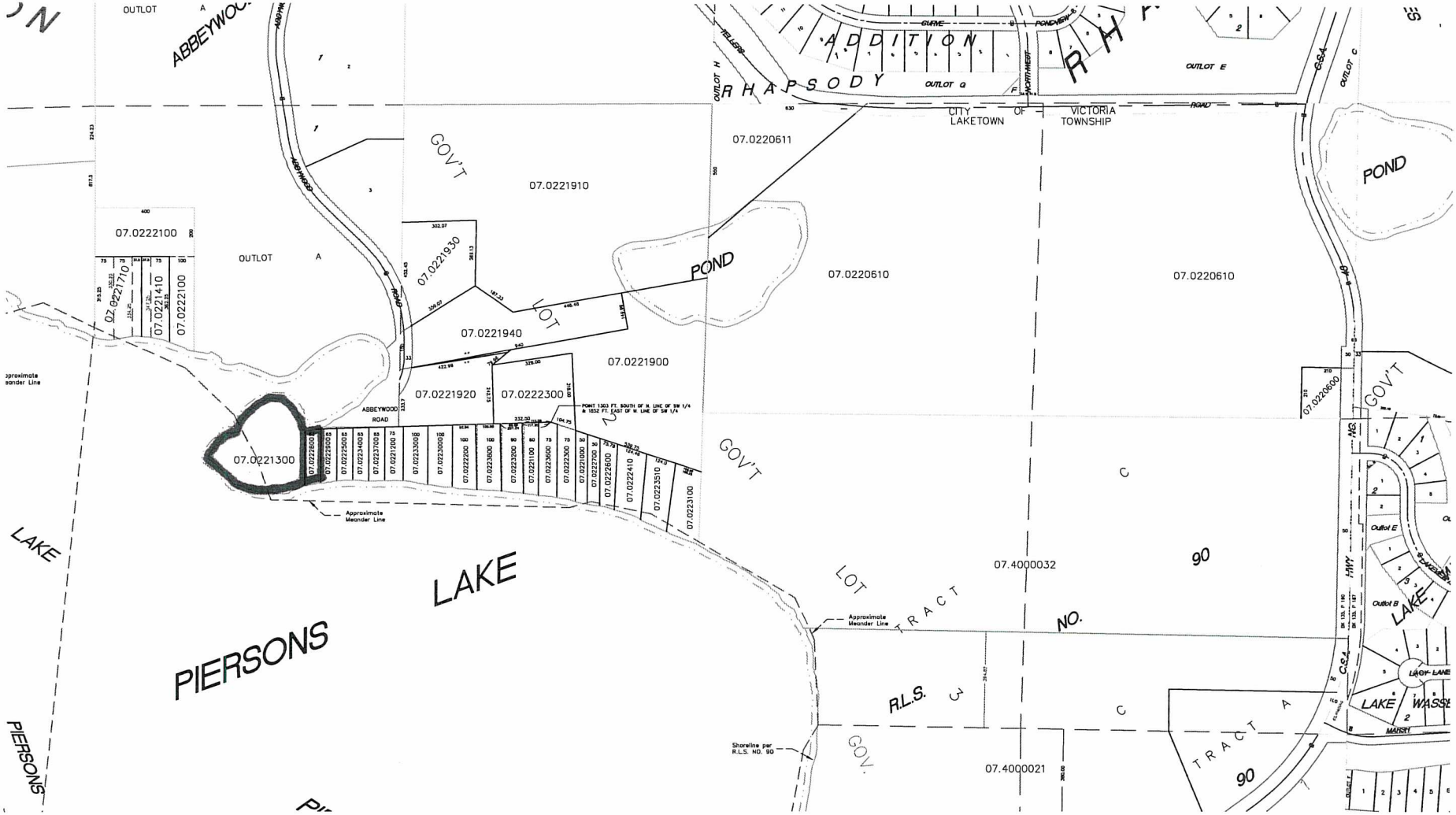
S 1/2 SEC. 22, T.116, R.24



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

Nov 14, 2023

Carver County Board of Adjustment
Carver County Government Center
Chaska, MN 55318

March 5, 2024

Dear Carver County Board of Adjustments,

We are requesting a variance to move the west property line of 7055 Abbywood Lane, 19-feet further to the west. Property 7065 Abbywood Lanes Lot allows for this property line adjustment. We are the owners of both properties, 7055 and 7065 Abbywood Lane.

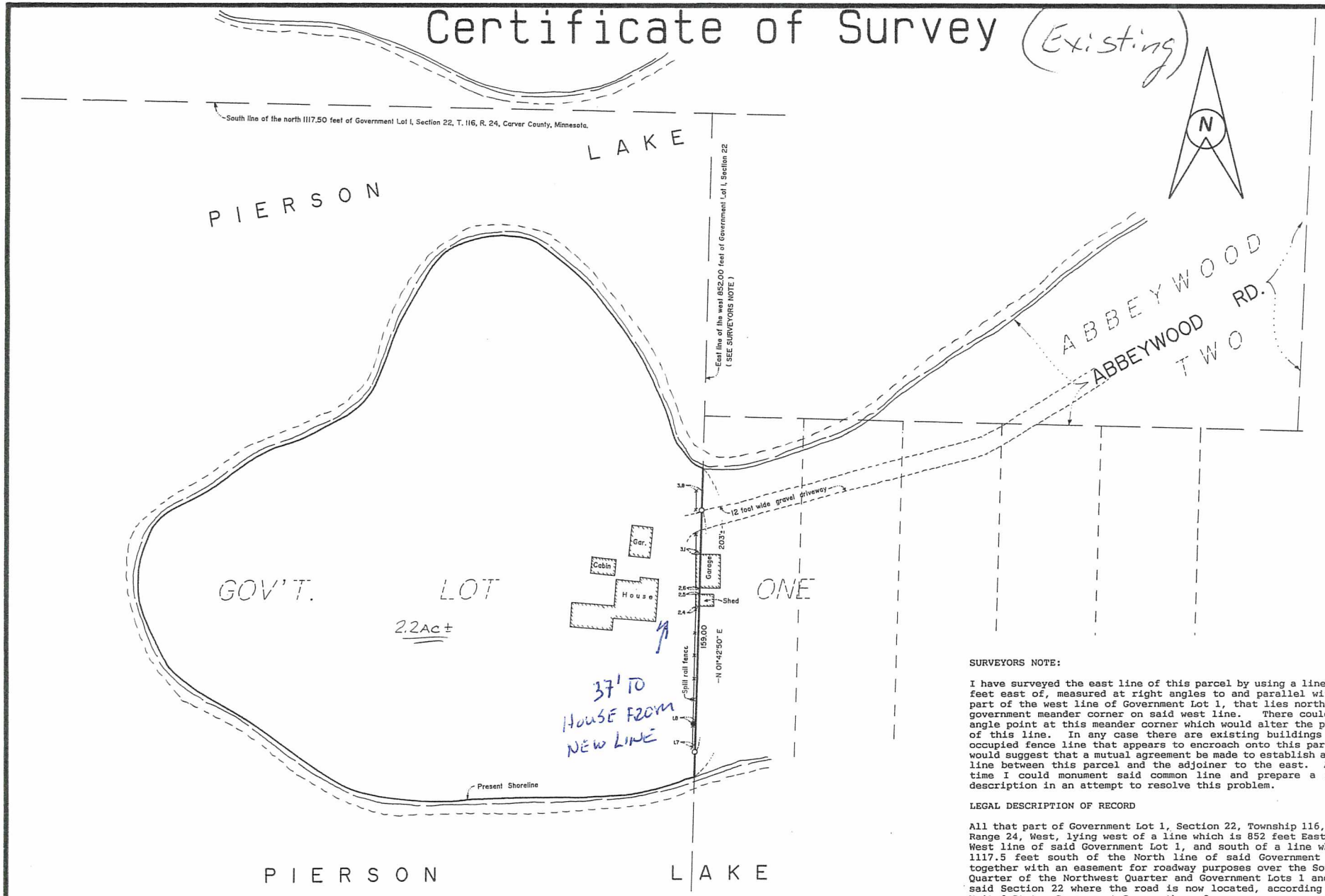
The variance is for an unconforming lot to be reconfigured to another unconforming lot but moving a property line so that the existing garage on 7055 would then reside on the 7055 lot and meet the 15-ft side setback requirement. The practical difficulty for this lot is its size, which is a 0.5-acre parcel. We are cleaning up this property line encroachment issue by adjusting the property line before anything is sold.

In closing, we thank you for your time in considering our request for a variance. If you have any questions, please call us at 952-443-0677 (home) or Frank at 612-799-6771 (mobile).

Regards,

Frank and Sally Pernat

Certificate of Survey (Existing)



SURVEYORS NOTE:

I have surveyed the east line of this parcel by using a line 852.00 feet east of, measured at right angles to and parallel with that part of the west line of Government Lot 1, that lies north of the government meander corner on said west line. There could be an angle point at this meander corner which would alter the position of this line. In any case there are existing buildings and an occupied fence line that appears to encroach onto this parcel. I would suggest that a mutual agreement be made to establish a common line between this parcel and the adjoiner to the east. At such time I could monument said common line and prepare a revised description in an attempt to resolve this problem.

LEGAL DESCRIPTION OF RECORD

All that part of Government Lot 1, Section 22, Township 116, North, Range 24, West, lying west of a line which is 852 feet East of the West line of said Government Lot 1, and south of a line which is 1117.5 feet south of the North line of said Government Lot 1, together with an easement for roadway purposes over the Southwest Quarter of the Northwest Quarter and Government Lots 1 and 2, in said Section 22 where the road is now located, according to the United States Government Survey thereof.

- ● Denotes iron monument found
- ○ Denotes iron pipe set and marked R.L.S. No. 14343
- ⊕ Denotes soil boring
- ⊗ Denotes percolation test hole

Survey part of
Government Lot One
Section 22 Township 116 Range 24
Carver County, Minnesota

Requested By:
David & Barbera Halverson

Date:	Drawn By:	Scale:	Checked By:
9/25/1992	K.P.M.	1 in.=40ft.	EJO

I hearby certify that this survey, plan, or report 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.

Edward J. Otto
Edward J. Otto Land Surveyor
Date: 9/30/92 Reg. No. 14343

TTO SSOCIATES
Engineers and Land Surveyors
9 West Division
Buffalo MN. 55313
682-4727
1-800-362-3664

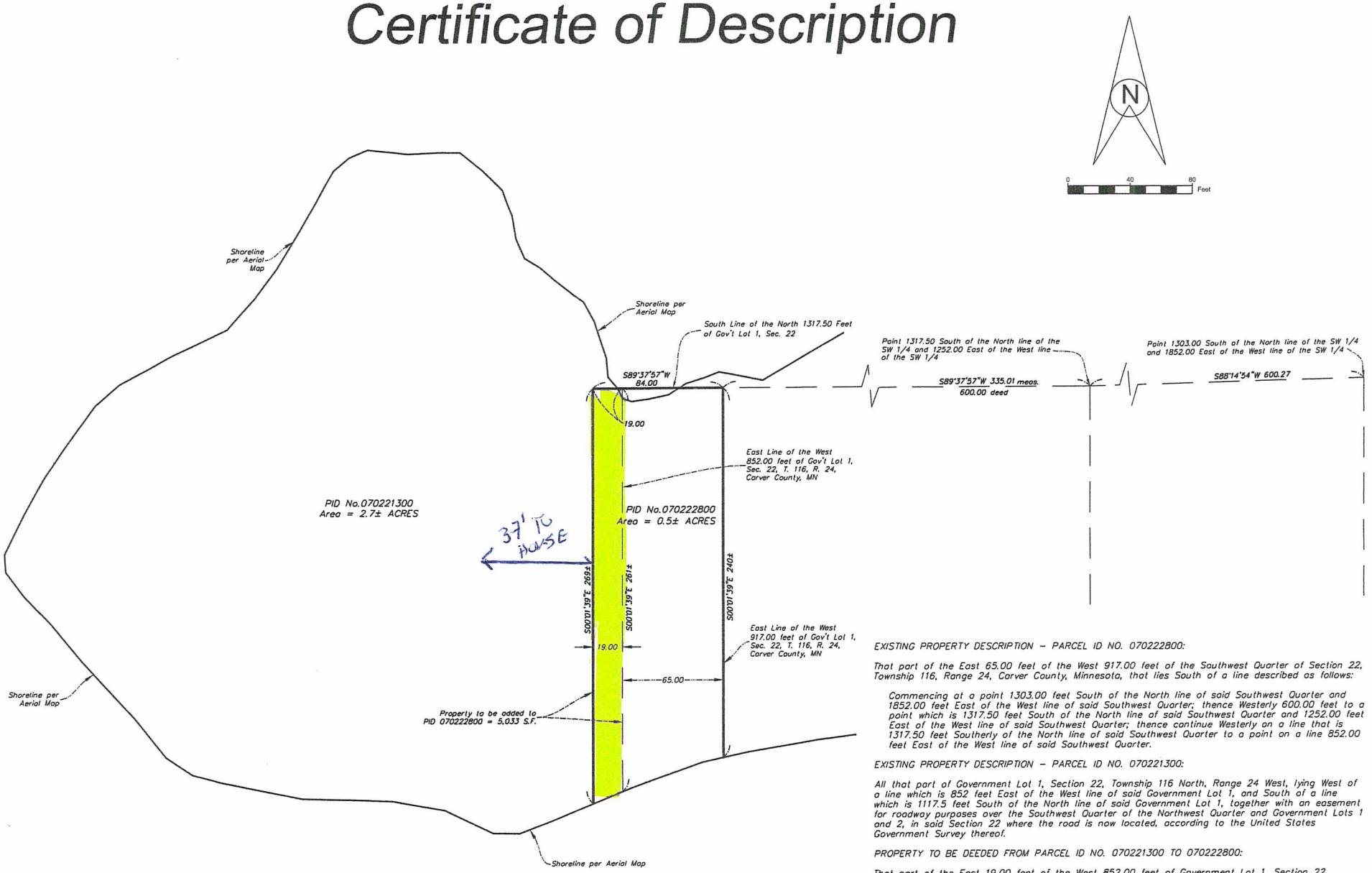
Revised:

Job No. 92439

MINNESOTA BLUEPRINT 541988

5-8

Certificate of Description



EXISTING PROPERTY DESCRIPTION – PARCEL ID NO. 070222800:

That part of the East 65.00 feet of the West 917.00 feet of the Southwest Quarter of Section 22, Township 116, Range 24, Carver County, Minnesota, that lies South of a line described as follows:

Commencing at a point 1303.00 feet South of the North line of said Southwest Quarter and 1852.00 feet East of the West line of said Southwest Quarter; thence Westerly 600.00 feet to a point which is 1317.50 feet South of the North line of said Southwest Quarter and 1252.00 feet East of the West line of said Southwest Quarter; thence continue Westerly on a line that is 1317.50 feet Southerly of the North line of said Southwest Quarter to a point on a line 852.00 feet East of the West line of said Southwest Quarter.

EXISTING PROPERTY DESCRIPTION – PARCEL ID NO. 070221300:

All that part of Government Lot 1, Section 22, Township 116 North, Range 24 West, lying West of a line which is 852 feet East of the West line of said Government Lot 1, and South of a line which is 1117.5 feet South of the North line of said Government Lot 1, together with an easement for roadway purposes over the Southwest Quarter of the Northwest Quarter and Government Lots 1 and 2, in said Section 22 where the road is now located, according to the United States Government Survey thereof.

PROPERTY TO BE DEEDED FROM PARCEL ID NO. 070221300 TO 070222800:

That part of the East 19.00 feet of the West 852.00 feet of Government Lot 1, Section 22, Township 116, Range 24, Carver County, Minnesota, that lies South of the North 1317.50 feet of said Government Lot 1.

Certificate of Description on Part of Gov't Lot 1, Sec. 22, T. 116, R. 24, Carver County, MN

Revised: 02-22-24 B.M.H. PROPERTY LINE UPDATE

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

Paul E. Otto
License #40062 Date: 02-22-24

Requested By: Frank Pernat

Date:	Drawn By:	Scale:	Checked By:
01-16-24	B.M.H.	1"=40'	P.E.O.

OTTO ASSOCIATES
Engineers & Land Surveyors, Inc.
www.ottoassociates.com
9 West Division Street
Buffalo, MN 55313
(763)682-4727
Fax: (763)682-3522

● denotes iron monument found
○ denotes 1/2 inch by 14 inch iron pipe set and marked by License #40062

Project No. 23-0488

CARVER COUNTY

Township Presentation & Recommendation Form

PARCEL # 07-025-2800 **Permit #** PZ-2024/0012

Owner's Name: FRANK PERUAT

Owner's Mailing Address: 7065 ABBYWOOD LANE

City: CHASKA

Owner State: MN

Owner Zip: 55318

Applicant (if other than owner):

Site Address: 7055 + 7065 ABBYWOOD LANE, CHASKA

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

Description of Request:

MOVE THE WEST PROPERTY LINE OF 7055 ABBYWOOD LANE, 19-FEET FURTHER TO THE WEST. 7065 ABBYWOOD LANE ALLOWS FOR THIS ADJUSTMENT. WE ARE OWNERS OF 7055 AND 7065 ABBYWOOD LANE

Date of County Public Hearing: 5/1/2024 **Date of Township Meeting:** 03-11-2024

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:

support / no further comments

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

[signature] Date 3/11/24

Signature of Applicant

[signature] clerk Date 03-11-24

Signature of Township Official

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 07-022-2800 **File# PZ20240012**
07-022-1300

APPLICANT: Frank J Pernat
OWNER: Frank J Pernat Revocable Trust

* *

07-022-2800

That part of the East 65.00 feet of the West 917.00 feet of Government Lot 1, Section 22, Township 116, Range 24, Carver County, Minnesota, that lies South of the North 1317.50 feet of said Government Lot 1. Including a permanent easement for roadway purposes over the Southwest Quarter of the Northwest Quarter and Government Lots 1 and 2 in Section 22, township 116, Range 24, where grade road is now located;
AND including an undivided 1/5 interest in the water well, pump, pressure tank, pipeline and pump house which is located on that certain tract described as follows: The East 65 feet of the West 1,112 feet, lying South of that certain line which is fully described in the tract herein conveyed; and being approximately 205 feet, more or less, from the East line of the above described land that is being conveyed herein.
Subject to easement for ingress and egress to the water pipes across said described property and to the pump house, for the purposes of allowing the joint owners of said well water system to make repairs, maintain and improvement whenever necessary or whenever said joint owners deem it necessary to make said repairs and improvements.
It is further agreed and understood that parties of interest in the above water system shall always contribute their 1/5 toward maintenance, repair and replacements, and will convey their interest and responsibilities in said water system whenever they convey the property described herein.

07-022-1300

All that part of Government Lot 1, Section 22, township 116 North, Range 24, West, lying West of a line which is 852 feet East of the West line of said Government Lot 1 and South of a line which is 1117.5 feet South of the North line of said Government Lot 1, together with an easement for roadway purposes over the Southwest Quarter of the Northwest Quarter and Government Lots 1 and 2, in said Section 22, where the road is now located, according to the United States Government Survey thereof, Carver County, Minnesota.

DRAFTED BY: Carver County Land Management Department

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

April 19, 2024

TO: Carver County Board of Adjustment & Laketown Town Board

FROM: The Land Management Department

SUBJECT: Application for a variance (Access Separation, Second Access)

FILE #: PZ20240016
PROPERTY OWNERS: Jacob & Nicole Weiers
APPLICANTS: Jacob & Nicole Weiers
SITE ADDRESS: 8741 Reitz Lake Rd, Waconia, MN 55387
VARIANCE TYPE: Access Separation, Second Access
PURSUANT TO: Carver County Code: Section 152.036 B & F
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 07-301-0140

BACKGROUND:

1. Jacob and Nicole Weiers recently purchased an approximate 0.50-acre parcel located in the Southwest Quarter (SW¼) of the Northwest Quarter (NW¼) of Section 20, Laketown Township. The parcel was created as a part of the Molnau's 2nd Addition, recorded in 1970, and has one building eligibility. The subject parcel is located in the Agricultural Zoning District, Shoreland Overlay District of Reitz Lake, and Carver County Water Management Organization (CCWMO) - Carver Creek watershed.

2. The Weiers' are requesting to construct a new driveway access which would service a future house building site. The proposed access does not meet the minimum required access separation standards (i.e. 100 feet) from the current shared driveway access to the east; therefore, a variance has been requested. The neighbor's driveway encroaches onto the Weiers' parcel (allowed via an easement agreement); therefore, the variance request also includes a second driveway access to the subject property.

LEGAL BACKGROUND:

§ 152.036 ACCESS REQUIREMENTS.

(A) *Relation to road authority.* Nothing in this chapter shall abrogate the ability of a road authority to approve, deny, or require modification of an access, require a permit for an access, develop and impose standards and conditions for an access. Approval by the Department of an access pursuant to this chapter shall not constitute approval by the road authority nor shall approval by the Department require that the road authority approve the access.

(B) *Number of accesses limited.* With the exception of field access drives, any principal use of land requiring access to a public road shall be limited to a single access connection. All parcels shall be limited to a single access, unless through the conditional, interim, or accessory use permitting process an additional access is supported by the operational plan and/or site plan, it is approved by the road authority, and it meets the standards of this chapter.

(F) *Access to Township Roads.* All private accesses to a public road other than field access drives shall meet a 100-foot access separation. The separation standards shall apply to the side of the road where the access is located. In cases where the road frontage of a lot of record is insufficient to permit adequate separation, an access not meeting the standards may be permitted. The access shall be located as required by the road authority; if the road authority has no preferences the access shall be located as far as possible form accesses on either side.

(1) Authorization to construct or alter a driveway on a Township Road shall consist of a permit signed by a representative of the Town Board.

(2) Driveways shall be constructed in accordance with Township standards.
(3) No driveway shall be constructed to a Township Road until such permit has been obtained

BOARD OF ADJUSTMENT

§ 152.210 CREATION.

The Board of Adjustment is hereby established and invested with the authority as is hereinafter provided and as provided by M.S. §§ 394.21 through 394.37, as they may be amended from time to time.
(Ord. 47, passed 7-23-02; Am. Ord. 97-2021, passed 7-20-21)

§ 152.215 VARIANCES.

(A) Prior to submission of a variance application, the person applying for a variance shall submit a concept plan and meet with the Department to discuss the application. Through the pre-application, the Department may summarize the informational requirements and issues related to the specific variance request.
(B) *Application.* The person applying for a variance shall submit to the Department a completed variance application stating the practical difficulty present, and provide all other information required by the Department. The Department shall prepare a report and refer the application to the County Board of Adjustment for consideration.
(C) *Public hearing.* The Board of Adjustment shall hold a public hearing on the request pursuant to § 152.285.
(D) *Grounds for variance.* The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall be granted in accordance with M.S. Chapter 394, as it may be amended from time to time, in cases where the applicant establishes that there is a practical difficulty in the way of carrying out the strict letter of any official control.
(1) A variance shall only be permitted when the following can be found as fact:
(a) The variance is in harmony with the general purpose and intent of the official control.
(b) The variance is consistent with the intent of the comprehensive plan.
(2) In addition, a variance may be granted when the applicant establishes a practical difficulty in complying with the official control. A practical difficulty is established when the following items are found as fact:
(a) The property owner proposes to use the property in a reasonable manner not permitted by an official control.
(b) The plight of the landowner is due to circumstances unique to the property, not created by the landowner.
(c) The variance will not alter the essential character of the locality.
(d) The practical difficulty includes more than economic considerations alone.

STAFF ANALYSIS:

1. Jacob and Nicole Weiers purchased the property in 2023 with the intention of building a home with an attached garage in the future. Platted prior to the establishment of the current 1.5-acre lot minimum, the subject property is considered a legal non-conforming lot due to its inadequate area. Although the subject property and the parcel to the east (both legal nonconforming) have been in common ownership for many years, it is designated a buildable property because the lot possesses a required hookup to the Metropolitan Council Sewer Interceptor (201) system, which is maintained by Laketown Township. The neighbor directly east has a U-shaped driveway which encroaches onto the Weiers' property. Both property owners have recorded an access easement agreement for the encroachment on the northeast corner of the subject property.

2. The Zoning Code requires access separation from centerline of driveway to centerline of adjacent driveways (on the same side of the road) to be a minimum of 100 feet on a local roadway (Reitz Lake Road). The applicant is requesting an access location which would be approximately 47 feet from the center of the nearest neighboring driveway (located to the east), reflecting a variance of 53 feet. The site plan dated December 11, 2023, shows the proposed driveway access configuration as well as the location of the proposed home.

3. The property owners' letter, dated April 1, 2024, describes the practical difficulty in accessing their new property. Originally, they had hoped to share the access on the east side neighbor but found a challenge in the garage elevations. The neighbor's garage (Fritz Family) sits approximately 4 feet lower than the Weiers' proposed garage. They explain "*with a shared access, the street is too close for a reasonable elevation change to meet the level of both garages. For that reason, we would like to leave the existing access for the neighbors and construct a new one as illustrated on our plans.*" In order to maintain the (20-foot recorded) drainage easement on the west portion of the property, the applicant's chose the proposed access location.

4. The granting of the variance is in harmony with the general purpose and intent of the official control. The official control in this request is the access separation regulations. The intent of this regulation is to ensure adequate time for merging into traffic or exiting the roadway, as well as maintaining effective sightlines. Although it does not meet the specific standards, it appears to meet the intent of the regulation.

5. The plight of the landowner is due to circumstances unique to the property, not created by the landowner. This property appears to be in the same configuration as it existed when initially platted in 1970, prior to the County's adoption of zoning regulations. The grade changes and existing wetland represent a set of circumstances unique to this property that were not created by the landowner.

6. The applicant has been in contact with Laketown Township to acquire the appropriate access permit on Reitz Lake Road. The installation of the access would be subject to all road authority regulations.

7. Granting of the variance would not be in conflict with and will not be considered a substantial variation from the County Comprehensive Plan, nor will government services be negatively impacted by the location of the second driveway access.

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 neighborhood is comprised of agricultural uses and residences, and the request would not cause a substantial change in the character of the neighborhood.

10. On April 9, 2024, the request was reviewed by Jacob McLain, Senior Environmentalist with Carver County, who stated that there are no SSTS related comments or concerns with this request.

11. On April 18, 2024, this request was reviewed by Carver County Soil and Water Conservation District Manager Mike Wanous, who stated some concern with the reshaping and narrowing of the swale and easement on the west side of the property. He asked that the applicants provide additional information regarding the drain tile and catch basin during the grading/filling permitting process.

12. Laketown Town Board reviewed the request and recommended approval during their April 8, 2024, Town Board meeting. They requested that the driveway be no more than 20 feet wide, the applicant "correct existing driveway encroachment on Reitz Lake Rd," and install a 15-inch culvert for drainage.

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance for a second driveway with a reduced access separation pursuant to Section 152.036 (B) & (F) would serve in the interest of justice, the following conditions should be attached:

1. The installation of the access would be subject to appropriate permits, and compliance inspections by the road authority (i.e. Laketown Township). The Permittee shall obtain the necessary driveway access permit prior to construction.

2. The new driveway shall not encroach any closer to the centerline of the closest neighboring driveway access than approved (i.e. 47 feet). All work shall be done in accordance with the submitted and approved plans.

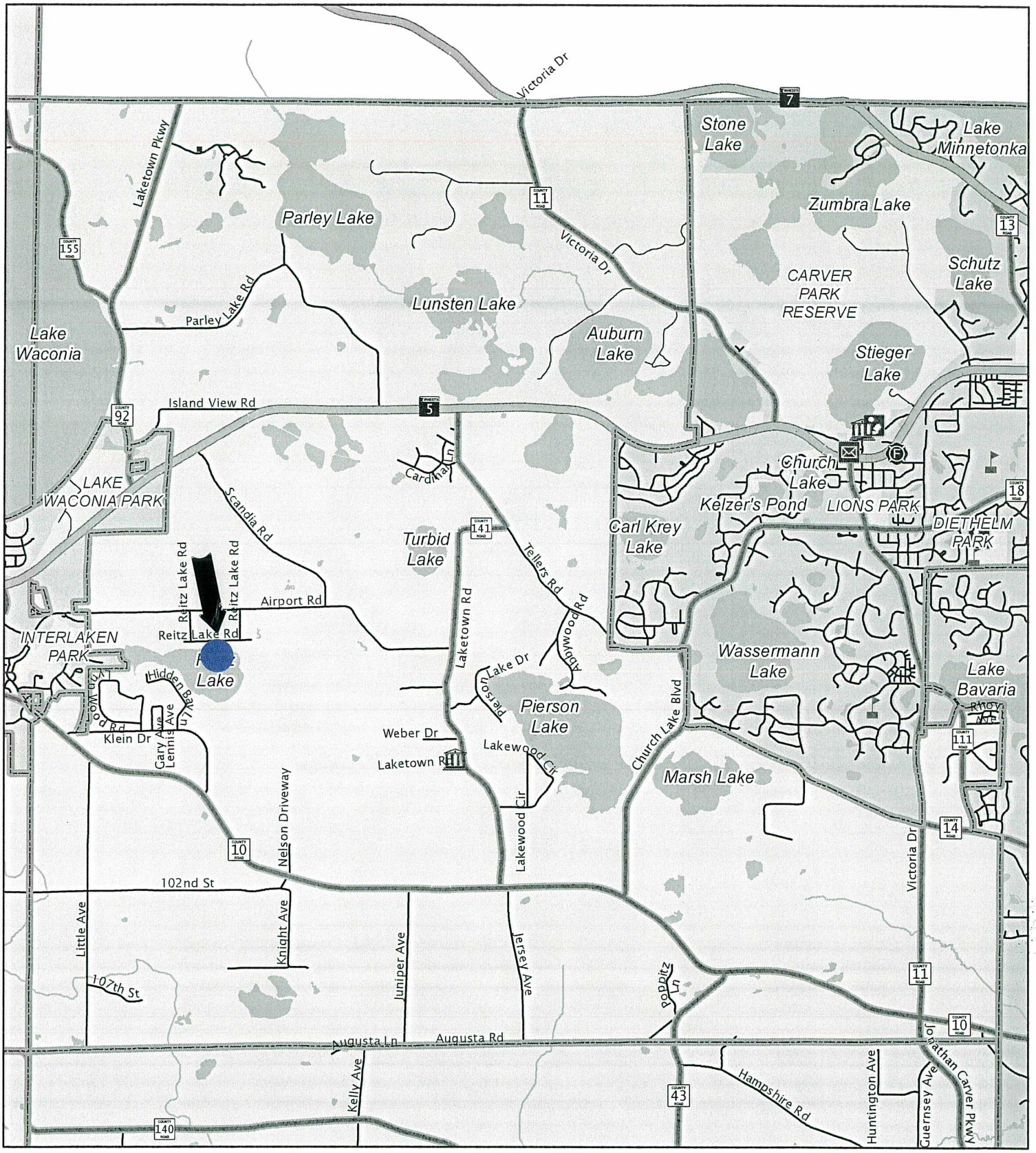
3. A completed CCWMO Water Rules application and Land Management Administrative Permit application, with required attachments, shall be submitted for any grading/filling activity taking place on the property, if applicable.

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

OR

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

LAKETOWN TOWNSHIP



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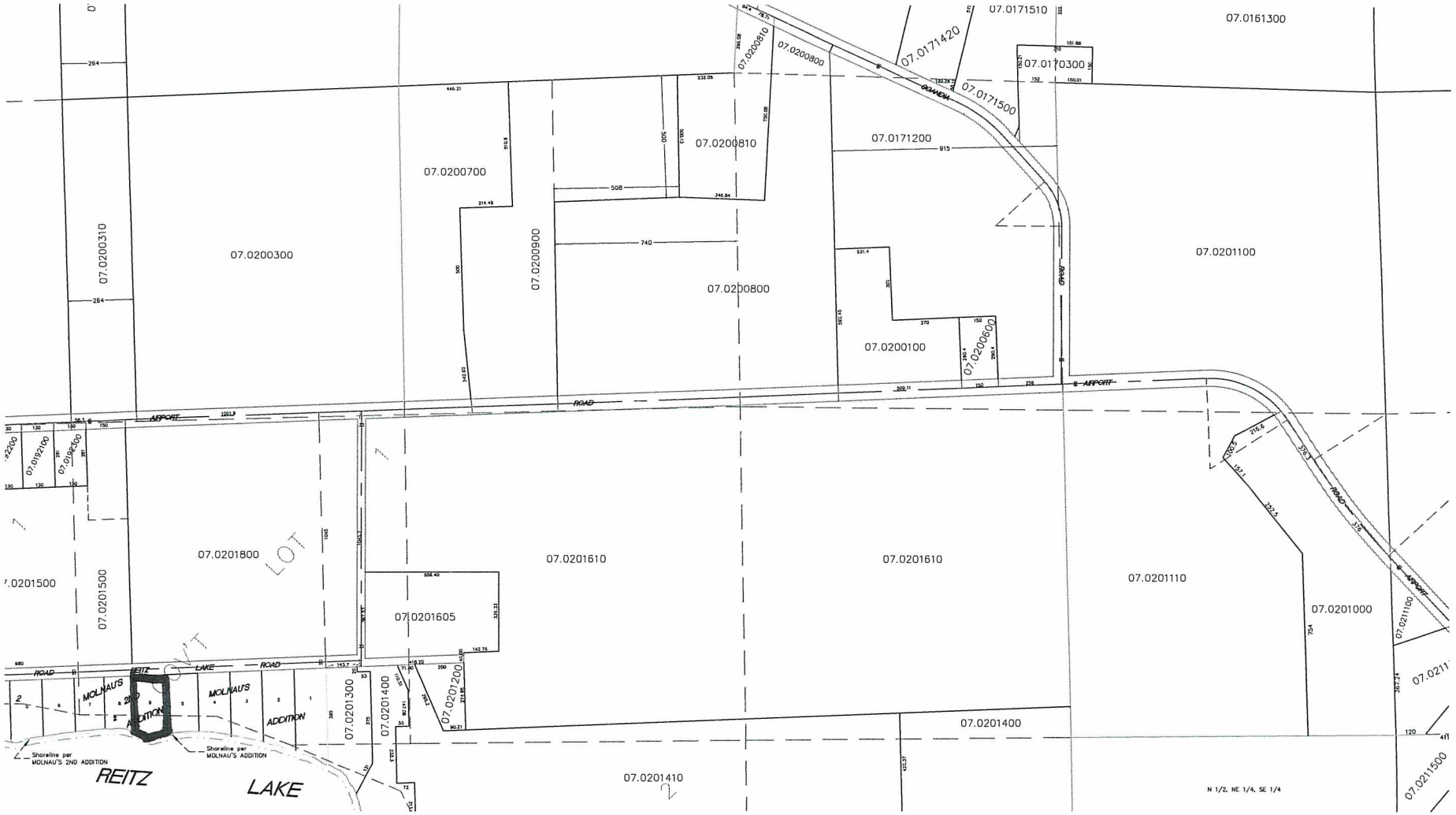
N 1/2 SEC. 20, T.116, R.24



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

Nov 14, 2023

April 1st 2024

Subject: Access variance for Site: 8741 Reitz Lake Road, Waconia, MN

Dear Laketown Township & Carver County Land Management,

We are writing for permission to add an additional driveway/access within 100 ft of an existing driveway.

For a good representation of the proposed site, please see the adjoining document "Building Permit Survey" project # 23-0437.

When looking at this plan, you will see the proposed driveway in addition to the nearest driveway to the east. The driveway to the east is part of our 8741 property, however; it is required for the neighbors to access their lower-level garage. We currently have an easement for them to do so. The original plan was to share the access, but we found this to be a challenge when trying to meet garage elevations. My proposed garage elevation sits 4 ft higher than the neighbors tuck under garage. With a shared access, the street is too close for a reasonable elevation change to meet the level of both garages. For that reason, we would like to leave the existing access for the neighbors and construct a new one as illustrated on our plans.

For comparison and continuity, using the Carver County GIS website, I measured at least two other homes on Reitz Lake Road that have driveways less than 100 ft apart.

Thank you for your time and consideration,

Jake & Nikki Weiers

Building Permit Survey

Building Permit Survey on Lot 9, Block 2, MOLNAU'S 2ND ADDITION, Sec. 20, T. 116, R. 24, Carver County, Minnesota

Revised:

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

Paul E. Otto
License #40062 Date: 04-08-24

Requested By: Jake Weiers

Date:	Drawn By:	Scale:	Checked By:
12-11-23	B.M.H.	1"=20'	P.E.O.

OTTO ASSOCIATES
Engineers & Land Surveyors, Inc.
9 West Division Street
Buffalo, MN 55313
(763)682-4727
Fax: (763)682-3522
www.ottoassociates.com

Project No. 23-0437

● denotes iron monument found
○ denotes 1/2 inch by 14 inch iron pipe set and marked by License #40062
⊛ denotes Soil Boring

LEGEND
988 denotes Existing Contour
988.00 X denotes Existing Spot Elevation
FF=980.40 denotes Finished Floor Elevation
denotes Telephone Pedestal
denotes Power Pole
denotes Catch Basin – Round
denotes Deciduous Tree
denotes Coniferous Tree
S1 denotes Storm Sewer Line
OHE denotes Overhead Electric Line
denotes Existing Culvert
denotes Drainage and Utility Easement per the plat MOLNAU'S 2ND ADDITION
denotes Building Setback Line From Street R/W = 68' Side = 15' From O.H.W.L. = 150'

0 20 40 Feet

PROPOSED HARDCOVER CALCULATIONS:

AREA TO OHWL =	31,821±	S.F.
	AREA	
Proposed House	2,896	S.F.
Proposed Porch	240	S.F.
Proposed Screen Porch	144	S.F.
Proposed Deck/Stairs	133	S.F.
Proposed Driveway	1,516	S.F.
Proposed Concrete Sidewalk	42	S.F.
Shed	143	S.F.
Bituminous Driveway	1,091	S.F.
Gravel Driveway	844	S.F.
Concrete Pad	16	S.F.
TOTAL	7065	S.F.
% HARDCOVER	22.2	%

EXISTING HARDCOVER CALCULATIONS:

AREA TO OHWL =	31,821±	S.F.
	AREA	
Shed	143	S.F.
Bituminous Driveway	1,091	S.F.
Gravel Driveway	844	S.F.
Concrete Pad	16	S.F.
TOTAL	2094	S.F.
% HARDCOVER	6.6	%

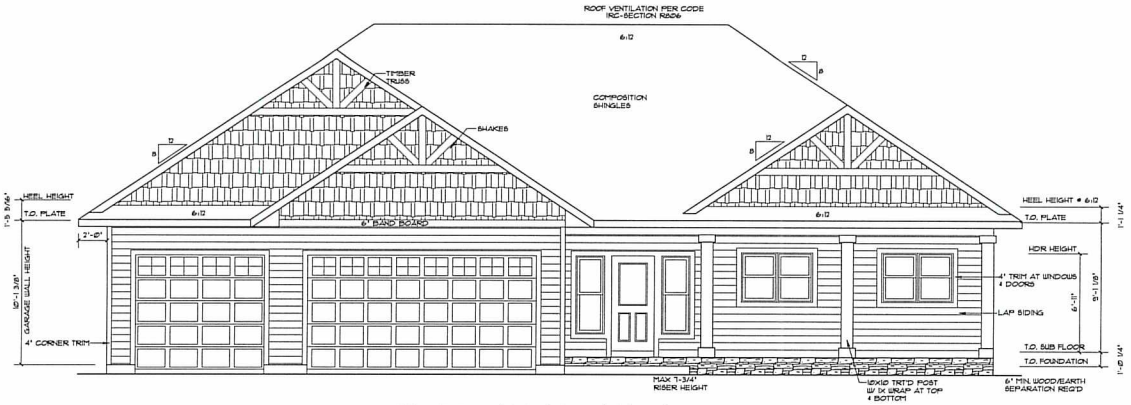
Proposed Floor Elevations:
TF = 961.48
Garage = 961.15
Basement = 951.81

REITZ LAKE ROAD

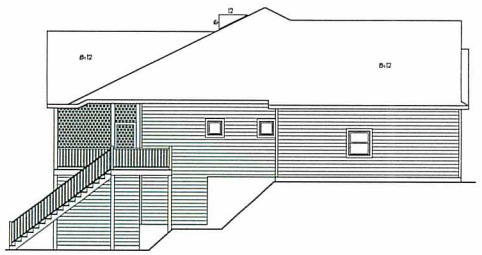
REITZ LAKE

Property Description:

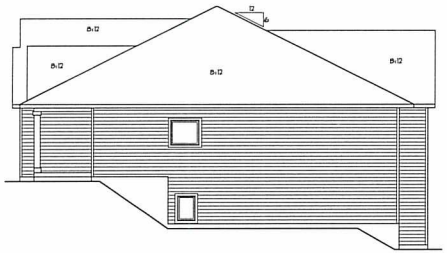
Lot 9, Block 2, MOLNAU'S 2ND ADDITION, Carver County, Minnesota, according to the recorded plat thereof.



1 FRONT ELEVATION
SCALE: 1/4" = 1'-0"



2 LEFT ELEVATION
SCALE: 1/8" = 1'-0"



3 RIGHT ELEVATION
SCALE: 1/8" = 1'-0"

4 BACK ELEVATION
SCALE: 1/4" = 1'-0"

DISCLAIMER OF WARRANTIES
The plans furnished herewith were prepared upon request by draftsmen who are not registered architects or professional engineers and are for INFORMATION PURPOSES ONLY. The Design Team makes NO WARRANTIES WHATSOEVER EITHER EXPRESSED OR IMPLIED as to merchantability or fitness for a particular purpose and places any user(s) on notice that reliance upon said plans shall be at the sole risk of the user(s). The selection of correct structural materials and the application of architectural principals is a precise art, the responsibility for which rests with the builder, the owner, or the user of these plans.

THE DESIGN TEAM
Home Design Specialists
127 4th Avenue North
St. Cloud, MN 56303
Phone: (320) 252-1517
www.thedesignteam.biz

JAKE & NIKKE WEIER
WEIER RESIDENCE

ELEVATIONS

3/19/24 AL/TP
2/1/24 AL/TP

JOB NUMBER: 152230002		
FILE NUMBER: 152230002224		
DATE: 8/1/23	DRAFT: AL	CHK'D: TP
REVISED: 8/16/23	AL	TP
REVISED: 8/24/23	AL	TP
REVISED: 9/6/23	AL	TP
REVISED: 11/8/23	AL	TP
REVISED: 1/25/24	AL	TP

ELEVATIONS
A—1

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CARVER COUNTY

Township Presentation & Recommendation Form

PARCEL # 073010140 **Permit #** PZ20240016

Owner's Name: Jacob and Nicole Weiers

Owner's Mailing Address: 1961 Sierra Parkway

City: Waconia

Owner State: MN

Owner Zip: 55387

Applicant (if other than owner):

Site Address: 8741 Reitz Lake Road, Waconia, MN 55387

Type of Request: ○ CUP ○ IUP ○ Preliminary Plat ○ Final Plat ⊗ Variance ○ Appeal

Description of Request:

Request variance for two driveways on one lot on 8741 Reitz Lake Road in Waconia.

Date of County Public Hearing: 5/1/24 **Date of Township Meeting:** 4/8/24

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:

Mak driveway 20ft w
Correct existing driveway encrotchment of Reitz Lake Rd
15 inch culvert

**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.

Jo Weiers Date 4/2/24

Signature of Applicant

Date 4-8-2024

Signature of Township Official

11-9

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 Date: 4/1/2024

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 07-301-0140 **File# PZ20240016**

APPLICANTS/OWNERS: Jacob Weiers and Nicole Weiers

* *

Lot 9, Block 2, Molnau's 2nd Addition, Carver County, Minnesota.

DRAFTED BY: Carver County Land Management Department

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Land Management Department

April 22, 2024

TO: Carver County Board of Adjustment & Laketown Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (Reduced Setbacks to Property Lines & OHWL; Excessive Impervious Surface)

FILE #: PZ20240013
APPLICANT: Dan Held, Abbywood Carpentry
OWNER: John W Mooty 1988 Irrevocable Trust
SITE ADDRESS: 6855 Abbywood Lane, Chaska MN 55318
VARIANCE TYPE: Reduced Structure Setback from OHWL & Property Line, Exceed Impervious Coverage
PURSUANT TO: Carver County Code: Section 152.034 (D) & 152.131.1 (B)(4)
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 07-022-2600

BACKGROUND:

1. Charles and Elizabeth Mooty own an approximate 0.70-acre residential parcel located in Government Lot 2 in the Southeast Quarter (SE¼) of the Southwest Quarter (SW¼) of Section 22, Laketown Township. The property was improved with a house w/attached garage which was demolished earlier this year and replacement home permits have been issued. The parcel is located in the Agricultural Zoning District, Shoreland Overlay District (Pierson's Lake), and the Minnehaha Creek Watershed District.

2. The applicant, Dan Held of Abbywood Carpentry, is requesting a variance which would allow him to apply for deck construction building permits on the subject property. The proposed deck would not meet the required side yard setback of 15 feet, or the required Ordinary High Water (OHWL) 100-foot setback from a Department of Natural Resources (DNR) Protected Recreational Development Lake (Pierson's Lake). Therefore, a reduced structure setback from the side yard (7 feet) and lake setback (approx. 62 feet) has been requested pursuant to Section 152.034 (D) and 152.135 (C)(4) of the Carver County Zoning Code. Additionally, the applicant is requesting a variance to exceed the allowed maximum impervious lot coverage of 25% (by 2.4%), pursuant to Section 152.131.1 (B)(1).

LEGAL BACKGROUND:

§ 152.009 NON-CONFORMING USES AND STRUCTURES.

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

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

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

(J) Alterations may be made to a building containing lawful, nonconforming residential units when they will improve the livability thereof, provided they will not increase the number of dwelling units. The bulk of the building may be increased if the Department rules that the increase in bulk will not intensify the non-conformity.

(L) A structure existing on the date of the adoption of this chapter that intrudes upon a required setback may be expanded provided a variance is approved, and the expansion does not decrease the distance between the structure and the applicable lot line.

§ 152.034 SETBACKS.

(D) Table of setback requirements.

Side Lot Line Setbacks	All Districts	15 feet

Setbacks from Ordinary High-Water Level in Shoreland District	***Setback Required for Structures***	***Setback Required for SSTS***
Recreational development lake (Pierson's)	100	as required by Chapter 52

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

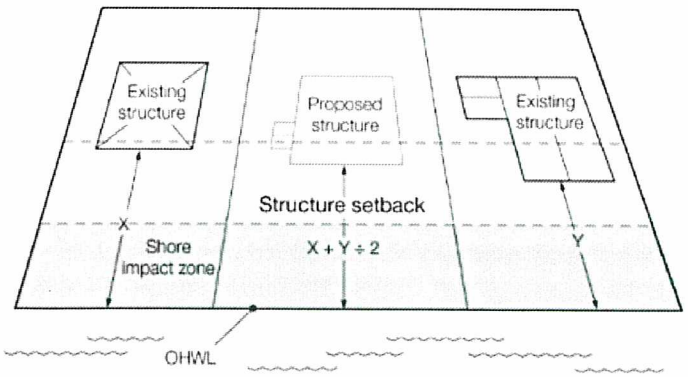
§ 152.116 LOT SIZE AND WIDTH, SETBACKS, AND YARD REQUIREMENTS *(ZONING CODE - SHORELAND OVERLAY DISTRICT)*

(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:

(4) Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the average adjoining setbacks from the ordinary high-water level, provided the proposed building site is within a platted area or a metes and bounds subdivision and is not located in a shore impact or bluff impact zone.

Structure Setback Averaging



§ 152.131.1 STORMWATER MANAGEMENT. *(ZONING CODE – SHORELAND OVERLAY DISTRICT)*

(A) General Standards:

(1) When possible, existing natural drainageways, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

(2) Development must be planned and conducted in a manner that will minimize the extend of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized as soon as possible, and appropriate facilities or methods used to retain sediment on the site.

(3) When development density, topography, soils, and vegetation are not sufficient to adequately handle stormwater runoff, constructed facilities such as settling basins, skimming devices, dikes, waterways, ponds, and infiltration may be used. Preference must be given to surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

(B) Specific Standards:

(1) Impervious surfaces of lots must not exceed 25 percent of the lot area.

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

BOARD OF ADJUSTMENT

§ 152.210 CREATION.

The Board of Adjustment is hereby established and invested with the authority as is hereinafter provided and as provided by M.S. §§ 394.21 through 394.37, as they may be amended from time to time.

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

§ 152.215 VARIANCES.

(D) *Grounds for variance.* The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall be granted in accordance with M.S. Chapter 394, as it may be amended from time to time, in cases where the applicant establishes that there is a practical difficulty in the way of carrying out the strict letter of any official control.

(1) A variance shall only be permitted when the following can be found as fact:

(a) The variance is in harmony with the general purpose and intent of the official control.

(b) The variance is consistent with the intent of the comprehensive plan.

(2) In addition, a variance may be granted when the applicant establishes a practical difficulty in complying with the official control. A practical difficulty is established when the following items are found as fact:

(a) The property owner proposes to use the property in a reasonable manner not permitted by an official control.

(b) The plight of the landowner is due to circumstances unique to the property, not created by the landowner.

(c) The variance will not alter the essential character of the locality.

(d) The practical difficulty includes more than economic considerations alone.

(F) Other provisions related to variances.

(1) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.

(2) Inadequate access to direct sunlight for solar energy systems is considered a practical difficulty.

(3) Variances shall be granted for earth shelter construction as defined in MN State Statute section 216C.06, subdivision 14, when in harmony with the official controls.

(4) The board of adjustment may impose conditions on the granting of any variance pursuant to subsection 152.216 (B).

(5) Granting of the variance shall not have the effect of violating a state or federal rule or law.

(6) *Floodplain standards.* A variance issued to property within the Floodplain Overlay District must meet the requirements set forth in §§ 152.143 through 152.156.

(7) Shoreland Overlay District. A variance issued to property within the Shoreland Overlay District must meet the requirements set forth in §§ 152.108 and 152.135.

(8) That the granting of the variance will not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.

(Ord. 47, passed 7-23-02; Am. Ord. 70-2010, passed 1-25-11; Am. Ord. 80-2015, passed 6-16-15; Am. Ord. 88-2018, passed 11-20-18; Am. Ord. 97-2021, passed 7-20-21)

STAFF ANALYSIS:

1. The Mootys have owned the property for over 35 years. Based on when the parcel was created (1933), the parcel is considered a legal non-conforming lot of record pursuant to the Carver County Zoning Code. The previous house (built in 1973) was also considered to be a legal non-conforming structure pursuant to the shoreland regulations of the Carver County Zoning Code. Therefore, the replacement house and proposed deck must meet the current Carver County Zoning Code standards or be successful in obtaining the necessary variance(s) for any reduced setback(s).

2. Section 152.034 of the County Zoning Code requires a 15-foot side yard setback from a property line. Based on the applicant's site plan (dated October 3, 2023), the newly constructed single-family house met setbacks. However, the proposed replacement deck will have a reduced east property line setback of approximately 7 feet; therefore, reflecting an approximate 8-foot variance.

3. The established OHWL for Lake Waconia is 963.2, pursuant to the Minnesota Department of Natural Resources (MN DNR). The Zoning Code structure setback from the OHWL is 100 feet. The applicant's proposal consists of replacing the new deck approximate 62 feet from the OHWL of Piersons Lake; therefore, reflecting an approximate 38-foot variance. This setback would allow the replacement deck to be located outside of the Shore Impact Zoning of Pierson's 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." The replacement of the previous deck with a new deck requires a variance due to the existing being completely removed and new construction taking place as part of the replacement.

4. The property owners' letter (dated April 7, 2024) describes the practical difficulty in rebuilding the cabin and deck within the required setbacks on the narrow lot. Mr. and Mrs. Mooty state *"...constructing the new deck and connecting it to the side deck will make the entire space more accessible and safer for our family members who are limited in their mobility. It keeps all foot traffic on one plane and avoids potential hazards with differing levels and steps."* They explain that the previous cabin had encroached into the setbacks on both sides and are happy that the new cabin meets the required setbacks, and the replaced deck would only encroach on the east side yard and lake setback. They also state that they have reached out to neighboring property owners who are supportive of the variance request.

5. The provided site survey dated October 3, 2023, shows the rebuilt cabin and proposed deck. Initially, the Mooty's planned to demolish the existing cabin (completed) and keep the original deck during reconstruction to allow for the deck's location to be maintained. During the construction process, the old deck was demolished, and the applicant provided plans for a new deck. While the new deck would be 2.5' further away from the Ordinary High-Water Line of Pierson's Lake, it still does not meet the 100' setback to the lake or the average setback from adjoining lots on both sides of the structure, hence the need for a variance. The site plan also calculated all existing and proposed hardcover, consisting of the cabin, shed, driveway, steps, and the deck. The existing hardcover is 4,811 square feet, or 24.9% coverage. The proposed total hardcover is calculated at 5,310 square feet, or 27.4% coverage. Carver County Zoning Code limits total impervious surface on a lakeside lot to 25% coverage, reflecting a 2.4% variance request.

6. This request was reviewed by Jacob McLain, Senior Environmentalist, on April 9, 2024. McLain stated that the property is served by the Metropolitan Council Sewer Interceptor (201) system, which is maintained by Laketown Township. He also mentioned that the site plan shows a new SSTS tank, and the property owners have a permit pending application for said new tank. The tank would need to be approved and installed prior to issuance of a Certificate of Occupancy.

7. On April 19, 2024, Taylor Huinker, South Metro Area Hydrologist at Minnesota Department of Natural Resources (MN DNR), reviewed the request and provided comments. She states: *"if approved, the DNR strongly recommends offsetting the increase in impervious surface and reduced setback with a restored native shoreland buffer."* The letter provided by Huinker explains the importance of riparian buffers and limiting impervious surface to reduce runoff and contaminants entering a body of water. She also states that a practical difficulty has not been observed, as the applicant and owners have created their own hardship in removing the deck and rebuilding the cabin.

8. The granting of the variance is in harmony with the general purpose and intent of the official control. The official control in this request is the required setbacks (side yard and OHWL) as well as the non-conformity sections of the County Zoning Code. Although this request does not meet the specific standards, it appears to meet the intent of the regulations, as the parcel and previous structures are considered legal non-conformities.

9. The plight of the landowner is due to circumstances created by the landowner, as well as some unique qualities of the property contributing to this variance. This property was initially developed in 1955, prior to the County's adopting of zoning regulations. The legal non-conforming subject parcel is approximately 63 feet wide at the shore and 75 feet wide along the Township Road. The reduced size of the property makes it difficult for future development or redevelopment to occur while meeting the County's requirements. The location of the well, existing SSTS, and parcel configuration in relation to the roadway alignment and shoreline represent a set of circumstances unique to this property. While the property owner did choose to demolish the home and deck and wishes to rebuild it in a nonconforming fashion, each request is evaluated based on its own merits and attributes.

10. The neighborhood is comprised of residential lake homes & activities, as well as some areas of dense vegetation and wetland. 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.

11. The granting of the variance would not conflict with the intent of the Comprehensive Plan, nor will government services be negatively impacted by the location of the deck structure.

12. 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.

13. This request was sent to the Minnehaha Creek Watershed District (MCWD), for review. While no comments have been received at this time, the applicant would be required to contact MCWD for any necessary permits relating to erosion and sediment control, drainage, or other permits.

14. On March 25, 2024, Land Management staff received a letter from neighbors Ann and Mike Carr (6485 Abbywood Lane), who stated they are supportive of the 7' reduced side yard setback request.

15. The Laketown Town Board has reviewed and recommended approval of the request during their April 8, 2024, Town Board meeting. The Board stated: *"The variance for the impervious – parking area not to exceed the 499 sq. ft. Dan called 4/9 and said the parking structure will be 23' x 25'."* The Board approved the 7' side setback and the OHWL setback without additional comments.

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the deck construction variance for reduced setbacks (Side yard and OHWL) and exceeded impervious lot coverage pursuant to Sections 152.034 (D) and 152.131.1 (B)(1) of the Carver County Zoning Code, would serve in the interest of justice, the following conditions should be attached to the approved variance:

1. The permittee shall obtain the appropriate building permit(s) and septic permit(s) prior to the construction of the attached deck.

2. A permit for the new SSTS tank shall be approved and installed prior to the issuance of a Certificate of Occupancy for the new home.

3. All construction activities shall be done in accordance with the submitted site plan. The new construction shall not encroach any closer to the OHWL of Pierson's Lake than approved (i.e. 62± feet) Additionally, the new construction shall not encroach any closer to the east property line than approved (7 feet). All work shall be done in accordance with the submitted and approved building permit plans.

4. Lot coverage shall not exceed 5,310 square feet (27.4% coverage) as calculated on the site plan.

5. The Permittee shall obtain any necessary permits from the Minnehaha Creek Watershed District, if applicable.

6. The Permittee shall consult Minnesota Department of Natural Resources to install a restored native shoreland buffer with suggested vegetation.

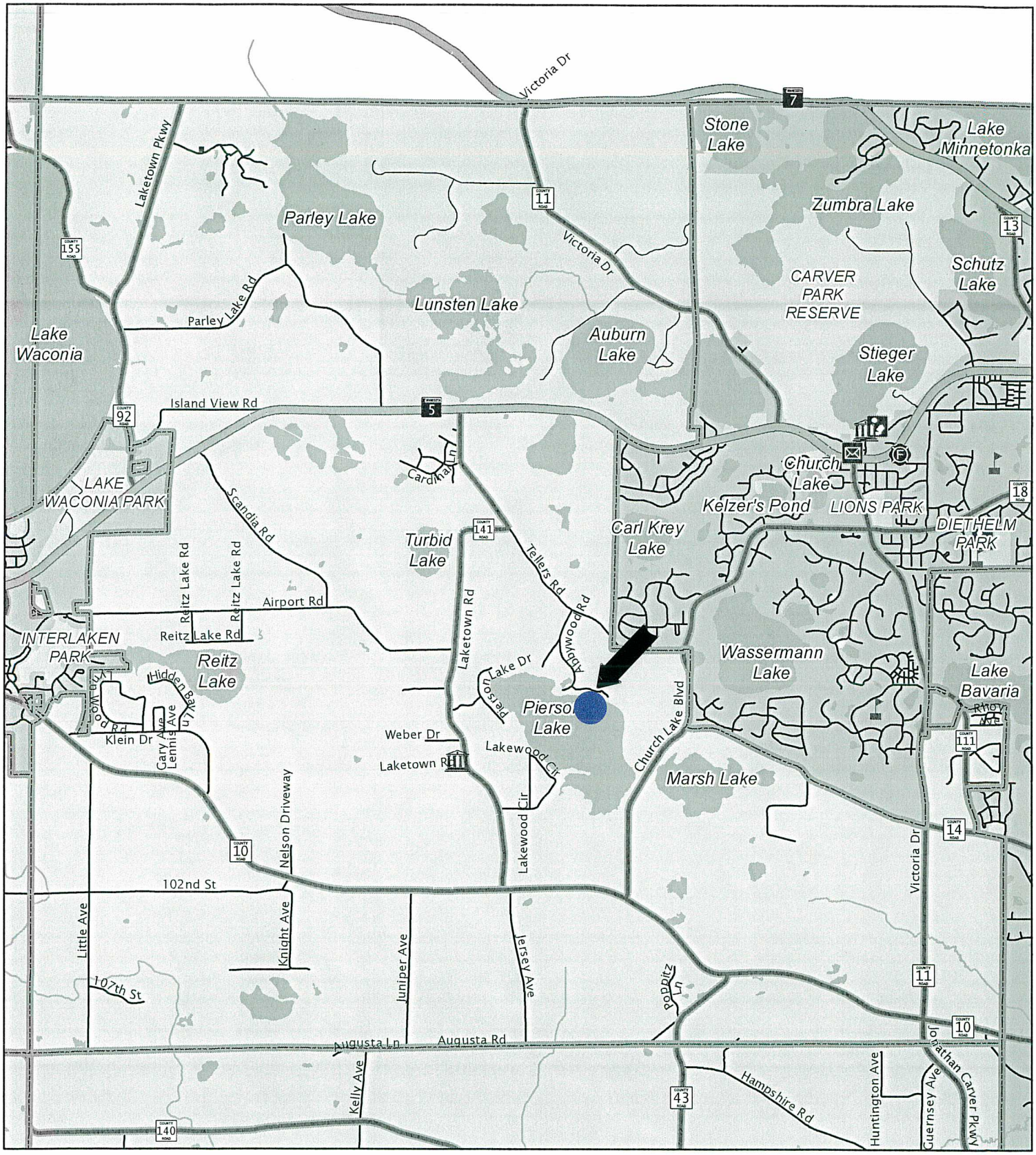
7. No additional expansions shall be permitted without obtaining all necessary building permits and/or variances.

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

OR

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

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.

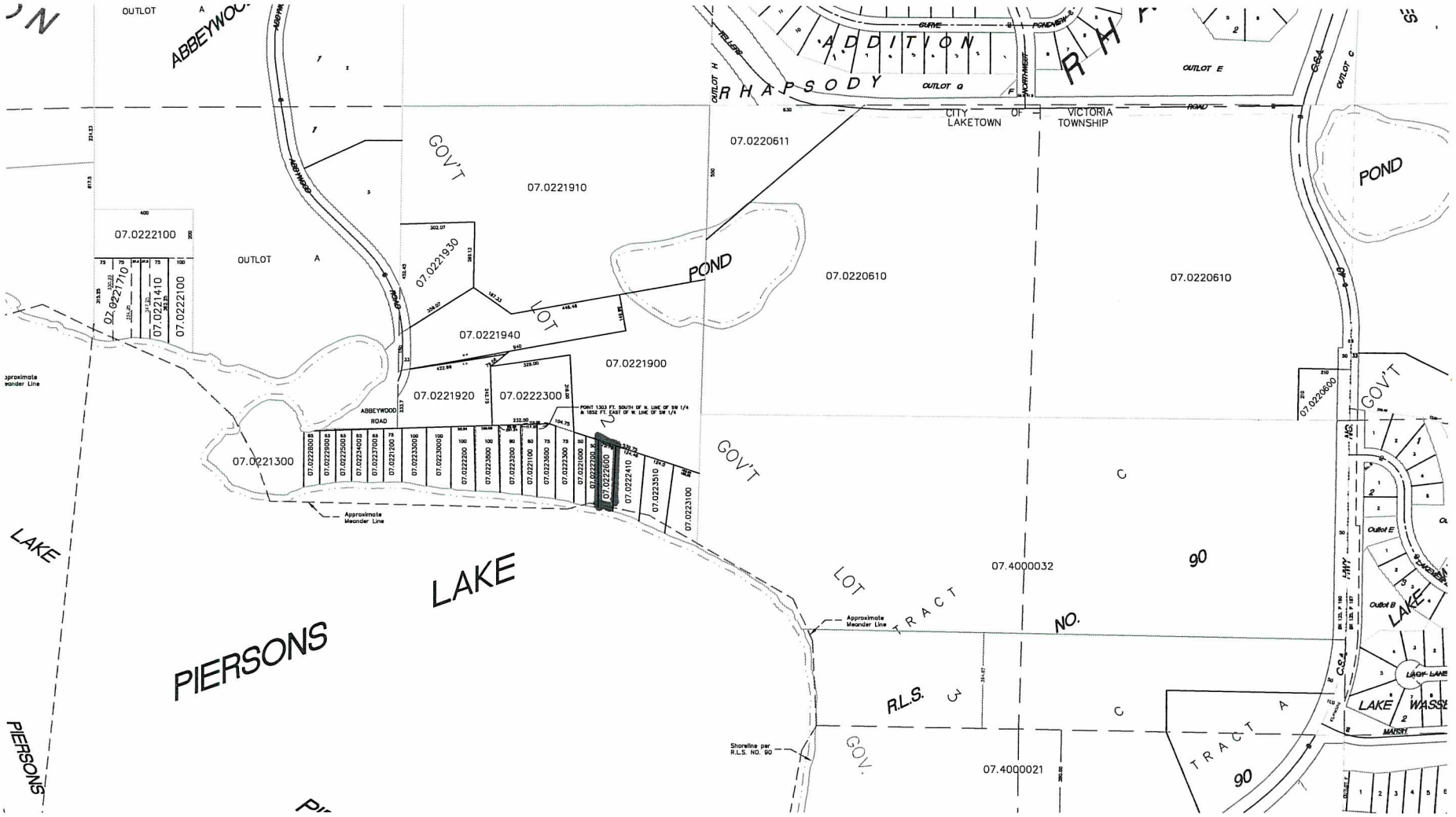
0 1 2 Miles

N W E S

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.

S 1/2 SEC. 22, T.116, R.24



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

Nov 14, 2023

April 7, 2024

Carver County Board of Adjustment,

Our cabin at 6855 Abbywood Lane is a very special place for our summer living in Minnesota. For over 35 years, cabin life has created our most cherished memories for our kids, grandkids, and grandparents. We love Laketown and particularly we love Piersons Lake.

We are writing to ask for your consideration of a matter that could cause significant hardship for our family. Specifically, we are asking for a side yard setback for our deck on the east side to be 7 feet vs the 15-foot setback. And in addition, we are requesting a lakeside setback for our deck of 9 feet from the average adjoining setback from the existing structures on the adjoining sides of the property. Prior to the construction of our new structure, the side yard deck encroached into the side yard setback and the lakeside deck (which still currently exists) also encroaches into the lakeside setback. Our proposal would actually decrease the setback of the lakeside deck and bring it in by 2 ½ feet from the current deck structure.

The side yard setback variance is critical to allow access to the front door and the front deck for our grandparents with wheelchairs as well as our small grandchildren who are challenged with stairs. Safety and accessibility are critical and by having the east side deck wrap to the front without the need for changing levels avoids great stress and concern for our family's safety particularly those with mobility challenges. Without such a variance, our family would face significant challenges for our family gatherings which have been the fabric and meaning of our cabin over the decades.

The lakeside deck is where our family lives during the time we are at the cabin. The current deck projects further out than our proposed new deck. We would be reducing the encroachment to the lake setback by 2½ feet under this new layout. Otherwise, we simply keep the existing deck. We believe constructing the new deck and connecting it to the side deck will make the entire space more accessible and safer for our family members who are limited in their mobility. It keeps all foot traffic on one plane and avoids potential hazards with differing levels and steps. This will make the cabin deck accessible and inclusive to all ages of our family.

Our lot at 6855 is narrow and thus we worked incredibly hard to design the new cabin structure to avoid encroaching the structure beyond the setbacks on both sides of the lot. Our old cabin structure did encroach into the setback on both sides of the lot and thus we felt really good that we modified the footprint to eliminate this condition.

In addition, we are asking to increase the impervious coverage area by 499 square feet or 2.5% of the total coverage area.

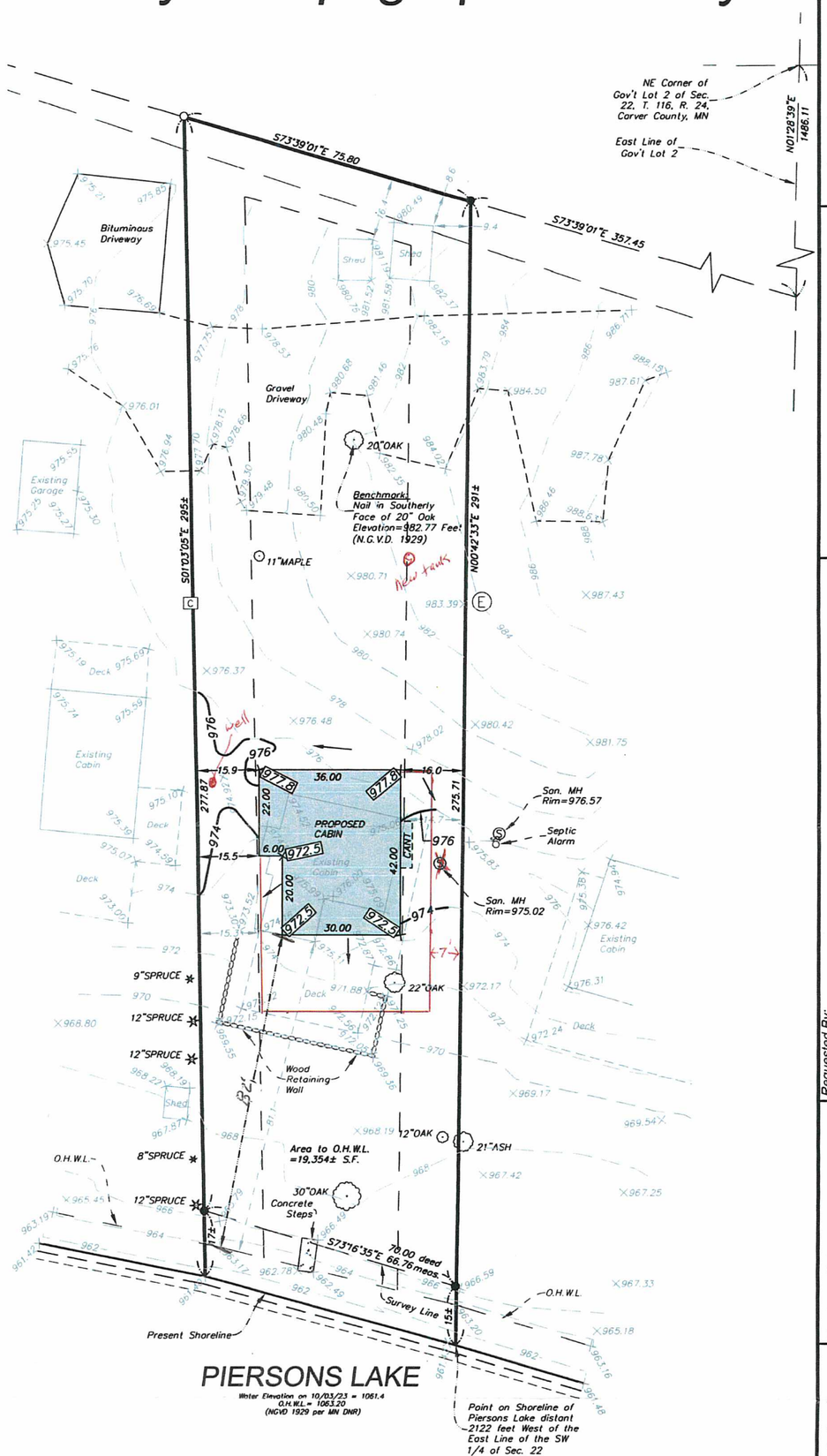
All the elements within this variance request are wholeheartedly supported by the neighbors on each side of our property.

We ask Carver County to grant this variance for our family's safety and accessibility.

We appreciate your consideration,

Elizabeth and Charles Mooty

Certificate of Survey & Topographic Survey



LEGEND

- 988 denotes Existing Contour
- 988.00 × denotes Existing Spot Elevation
- FF=989.36 denotes Finished Floor Elevation
- Ⓢ denotes Sanitary Manhole
- Ⓔ denotes Electrical Meter
- Ⓒ denotes Cable Box
- ○ denotes Deciduous Tree
- ✳ denotes Coniferous Tree
- — — denotes Building Setback Line
  - Front = 15'
  - Side = 15'

EXISTING HARDCOVER CALCULATIONS:		
AREA TO OHWL =	19,354±	S.F.
	AREA	
Existing Cabin	929	S.F.
Cabin Deck	1,024	S.F.
NE Shed	143	S.F.
NW Shed	90	S.F.
Gravel Driveway	2,528	S.F.
Concrete Steps	34	S.F.
Retaining Wall	63	S.F.
TOTAL	4811	S.F.
% HARDCOVER	24.9	%

PROPOSED HARDCOVER CALCULATIONS:		
AREA TO OHWL =	19,354±	S.F.
	AREA	
Proposed Cabin	1,428	S.F.
Cabin Deck	1,024	S.F.
NE Shed	143	S.F.
NW Shed	90	S.F.
Gravel Driveway	2,528	S.F.
Concrete Steps	34	S.F.
Retaining Wall	63	S.F.
TOTAL	5310	S.F.
% HARDCOVER	27.4	%

PROPOSED ELEVATIONS:
Top of Foundation=978.38
Basement=970.00

EXISTING PROPERTY DESCRIPTION:

That part of Government Lot 2 in Section 22, Township 116, Range 24, described as follows:

Commencing at a point distant 2052 feet East of the west line of the Southwest Quarter of Section 22, Township 116, Range 24, said point being in a line running from a point 1852 feet East from West line of said Southwest Quarter and 1303 feet South of North line of said Government Lot 2, to a point on the East line of said Government Lot 2 distant 1510 feet South from Northeasterly corner of said Lot 2; thence Southeasterly along said described line a distance of 75.78 feet; thence Southerly to a point on the shore of Pierson Lake, said point being 70 feet Southeasterly along shore from a point which is 2052 feet East of West line of said Southwest Quarter; thence Westerly along shore of Pierson Lake 70 feet; thence Northerly to the point of beginning, Carver County, Minnesota.

SURVEYORS NOTE:

The Existing Property Description does not fit the property as monumented and occupied. I have written the following Suggested Revised Property Description to fit the property as monumented. An attorney should be contacted to discuss this.

SUGGESTED REVISED PROPERTY DESCRIPTION:

That part of Government Lot 2, Section 22, Township 116, Range 24, Carver County, Minnesota, described as follows:

Commencing at the Northeast corner of said Government Lot 2; thence on an assumed bearing of South 01 degrees 28 minutes 39 seconds West, along the East line of said Government Lot 2, a distance of 1486.11 feet; thence North 73 degrees 39 minutes 01 seconds West, a distance of 357.45 feet to the point of beginning; thence continue North 73 degrees 39 minutes 01 seconds West, a distance of 75.80 feet; thence South 01 degrees 03 minutes 05 seconds East to the shoreline of Pierson Lake; thence Southeasterly along said shoreline to a line that bears South 00 degrees 42 minutes 33 seconds West from the point of beginning; thence North 00 degrees 42 minutes 33 seconds East to the point of beginning.

● denotes iron monument found
○ denotes 1/2 inch by 14 inch iron pipe set and marked by License #40062

Project No. 23-0421

OTTO ASSOCIATES
Engineers & Land Surveyors, Inc.
www.ottoassociates.com
9 West Division Street
Buffalo, MN 55313
(763)682-4727
Fax: (763)682-3522

Requested By: Charles & Elizabeth Mooty

Date: 10-03-23 | Drawn By: B.M.H. | Scale: 1"=20' | Checked By: P.E.O.

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

Paul E. Otto
License # 40062 Date: 12-04-23

Certificate of Survey on part of Gov't Lot 2 of Sec. 22, T. 116, R. 24, Carver County, Minnesota

Revised:

CARVER COUNTY

Township Presentation & Recommendation Form

PARCEL # 07-022-26000 Permit # PZ20240013

Owner's Name: John Mooty

Owner's Mailing Address: 6855 Abbywood Ln

City: Chaska

Owner State: MN

Owner Zip: 55318

Applicant (if other than owner): Don Helt

Site Address:

Type of Request: ( ) CUP ( ) IUP ( ) Preliminary Plat ( ) Final Plat (X) Variance ( ) Appeal

Description of Request:

7' set back on east side of house for new deck.

Date of County Public Hearing: 5/1/24 Date of Township Meeting: 3/25/24

Actions:

Township Action Taken:

(X) Recommends approval and use of the Township Road (if applicable) with the following comments:

( ) Recommends denial for the following reasons:

( ) No recommendation, but will comment on the request at the Planning Commission or Board of Adjustment hearing:

The board approved the 7' set back on the east side of the house and the variance for the impervious parking area not to exceed the 499 sq ft Dan called 4/9 and said the parking structure will be 23x25

approved also was the lake set back

**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 3/20/24

Signature of Township Official Date 3/20/24

PETE PARRIS, CHAIR

4-8-2024
DATE

ATTEST:

DEPARTMENT OF NATURAL RESOURCES

Ecological and Water Resources
1200 Warner Road
St. Paul, MN

April 19, 2024

Carver County Board of Adjustment
600 East 4th Street
Chaska, Minnesota 55318

RE: Variance Request – 6855 Abbywood Lane, Chaska, Carver County

Dear Board of Adjustment,

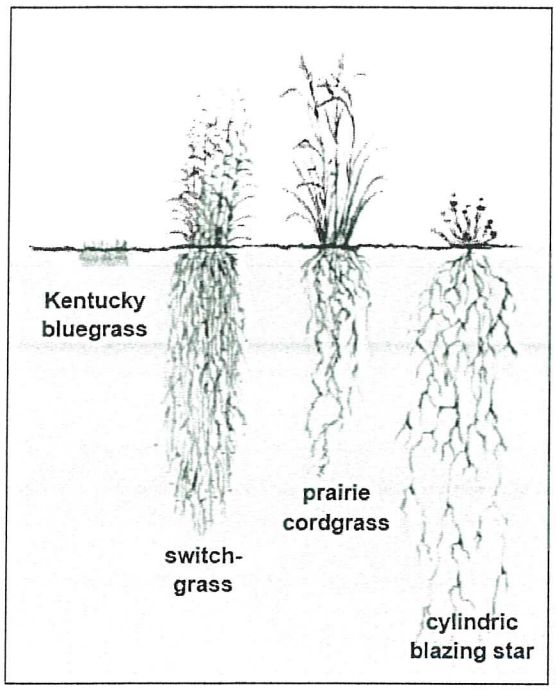
Thank you for the opportunity to comment on this application. The Department of Natural Resources would like to offer the following comments on the variance request related to structure setback and impervious surface coverage at 6855 Abbywood Lane. If approved, the DNR strongly recommends offsetting the increase in impervious surface and reduced setback with a restored native shoreland buffer.

In reviewing the application materials, I have not observed a practical difficulty described, which would result in the need for a variance to Carver County's shoreland ordinance standards. Minnesota Statutes section 394.27, subd. 7 requires five criteria to be met in order to grant variance. Most applicable to this application is the criterion "Are there unique circumstances to the property not created by the landowner?". It is my understanding that the landowner demolished the existing cabin, but left the deck. Now the landowner wishes to replace the deck, but the house has been rebuilt. The house and deck as a whole could have been designed and moved further from the lake in order to satisfy the adjoining setback average, which allows for a setback lesser than the standard without requiring a variance.

In addition to the reduced structure setback, this variance application also proposes to increase impervious surface above the maximum allowable percentage of 25%. Limiting impervious surface is important in minimizing overland runoff and reducing the amount of contaminants entering a body of water.

Riparian buffers are vital to healthy lakes, but even more so where impervious surface exceeds allowable limits. When planted with native vegetation, these buffers provide functions critical to the health of the lake. Native plants have deep root systems which work to slow erosion, decrease ice damage and increase rain infiltration and nutrient uptake. Sod does not provide the same habitat or water quality benefits (see graphic below which contrasts the root structure of Kentucky bluegrass with native vegetation). This mitigating practice would have a

direct and positive impact on the health of the lake and is strongly recommended by DNR in order to offset the proposed higher impervious surface percentage and decreased setback.



The picture contrasts the shallow (2-3 inches) roots of Kentucky bluegrass to the deep (3-5 feet) and dense roots of native grasses. The root systems of native grasses may be effective for preventing erosion.

Sincerely,

Taylor Huinker

Taylor Huinker
Area Hydrologist

CC: Dan Petrik, DNR Land Use Specialist
Jack Gleason, DNR South District Hydrologist Supervisor

From: Ann Carr <anncarr60@gmail.com>
Date: March 25, 2024 at 12:21:06 PM CDT
To: John Mooty <mootyj@yahoo.com>
Cc: Chuck Mooty <cwmooty@gmail.com>, Mike Carr <michael.dennis.carr@gmail.com>
Subject: Variance for 6855 Abbywood

hi John.
please know that both Mike and I are in support of the variance requested for your 6855 Abbywood property re the deck / 7'.
Please let us know if you need anything from us on this.

Thank you so much!

Ann and Mike Carr
6845 Abbywood
Chaska MN 55318

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 07-022-2600 **File# PZ20240013**

APPLICANT: Dan Held
OWNER: John W Mooty 1988 Irrevocable Trust

* *

That part of Government Lot 2 in Section 22, Township 116, Range 24, described as follows: Commencing at a point distant 2052 feet East of the west line of the Southwest Quarter of Section 22, Township 116, Range 24, said point being in a line running from a point 1852 feet East from West line of said Southwest Quarter and 1303 feet South of North line of said Government Lot 2, to a point on the East line of said Government Lot 2, distant 1510 feet South from Northeasterly corner of said Lot 2; thence Southeasterly along said described line, a distance of 78.58 feet; thence Southerly to a point on the shore of Pierson Lake, said point being 70 feet Southeasterly along shore from a point which is 2052 feet East of West line of said Southwest Quarter; thence Westerly along shore of Pierson Lake 70 feet; thence Northerly to the point of beginning, Carver County, Minnesota.

DRAFTED BY: Carver County Land Management Department

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

April 19, 2024

TO: Carver County Board of Adjustment & Dahlgren Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance to reduce setback to a neighboring residence from a Home Extended Business Accessory Use.

FILE #: PZ20240014
APPLICANT: Daniel Wellens
OWNER: Daniel & Michele Wellens
SITE ADDRESS: 14015 Co Road 43 Carver, MN 55315
VARIANCE TYPE: Reduced setback to accommodate a Home Extended Business Accessory Use.
PURSUANT TO: Carver County Code: Section 152.079 (C)(9)(b)1
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 04-023-0712

BACKGROUND:

1. The applicant Dan Wellens is a co-owner of an approximate 39.61-acre parcel located in the Southwest Quarter (SW¼) of the Southwest Quarter (SW¼) of Section 23, Dahlgren Township. The property is improved with a 2,000 square-foot accessory structure, a gravel parking pad, a corn crib, and a cargo container. The rest of the property is in crop production. The parcel is located in the Agricultural Zoning District, Transition Overlay District (City of Carver), and Carver County Water Management Organization (CCWMO) - Carver Creek watershed.

2. Mr. Wellens has been operating a business from the property which would be classified as a Home Extended Business Accessory Use (HEBAU). The County Zoning Code requires a HEBAU to be located a minimum of 500 feet from any neighboring residence not on the same parcel as the business. Therefore, a variance to reduce the required setback to a neighboring residence (i.e. approximately 470 feet) from a HEBAU has been requested.

3. The applicant is requesting an after-the-fact variance to the required setback in anticipation of applying for a Conditional Use Permit (CUP) for a HEBAU in order to operate his existing woodworking business. The request variance is pursuant to Section 152.079 (C)(9) of the Carver County Zoning Code, which reads as follows:

LEGAL BACKGROUND:

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

(A) Minimum criteria for issuance of permit:
- (1) Minimum five-acre lot size; unless another size is specified under a particular provision;
- (2) Sewage can be managed in accordance with Chapter 52 of this code of ordinances;
- (3) Land is not subject to the land use restrictions of an AG preserve covenant;
- (4) The activity shall be located on a hard surfaced (blacktop or concrete) road unless written approval for location on a township road is given by the affected township or townships. The town board may condition its approval of access to a gravel road on agreements with the applicant regarding dust control, maintenance, or similar issues. The terms of the agreement shall be such that the agreement is in force so long as the permit is in effect;
- (5) There is a single-family home on the parcel occupied as a homestead by a principal of the activity; or a single-family home will be constructed or homesteaded before the CUP for the activity is issued;

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

(B) Minimum conditions:

(1) Permit shall be subject to administrative review or compliance review as set by the permit. A change in ownership, operations or operator shall be cause for the permit to be reviewed to determine whether an application for an amendment or similar consideration is necessary.

(2) The activity must operate in conformance with the approved site plan and operational plan and other provisions of this chapter. The operational plan and site plan shall become part of the permit.

(3) Outside storage is prohibited unless the storage area is adequately screened from nearby roads and residences.

(4) The operational plan and site plan shall become part of the permit.

(5) The applicant must submit a copy of workers' compensation insurance or sign an affidavit stating that he or she will not have any employees.

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

(C) Activities.

(9) Home extended business accessory use.

(a) It is the intent of this section to provide for the use of newly constructed accessory structures, or adaptive re-use of residential accessory and farm structures on parcels two acres or greater by permitting the use of the structures for limited business purposes upon the issuance of a conditional use permit pursuant to this section. Permits shall be issued and remain in effect pursuant to this section only upon findings that the proposed use will clearly be accessory and subordinate to the principal use of the land. Examples of businesses permitted under this section include: woodworking, repair, machining, professional services, and small-scale contractor's activities.

(b) The following shall be the minimum conditions/operational standards for the issuance and continuation of such a permit; additional conditions may be added as necessary;

1. The business shall be located at least 500 feet from neighboring residences not on the same parcel of property existing at the time of application for the permit.
2. The business must be conducted in one or more of the following: an attached or detached garage, residential accessory structure, or agricultural structure.
3. Businesses prohibited for the purposes of this section shall be on-site recreation and entertainment businesses, mini-storage or seasonal vehicle storage when storage is the principal activity of the business, and businesses that require more than one truck with capacity greater than one ton.
4. There shall be no more than four employees in addition to the owner/operator of the business and family of the owner/operator residing in the home, providing the parcel is five acres or greater. Parcels two acres or greater but less than five acres shall be restricted to two employees in addition to family members residing in the home.
5. The business shall utilize no more than four business vehicles, providing the parcel is five acres or greater. Parcels two acres or greater but less than five acres shall be restricted to two business vehicles.
6. There shall be no retail sales. The sale of incidental stock-in-trade shall not be considered retail sales.
7. No more than three clients shall be allowed on the premises at any one time.

BOARD OF ADJUSTMENT

§ 152.210 CREATION.

The Board of Adjustment is hereby established and invested with the authority as is hereinafter provided and as provided by M.S. §§ 394.21 through 394.37, as they may be amended from time to time.
(Ord. 47, passed 7-23-02; Am. Ord. 97-2021, passed 7-20-21)

§ 152.215 VARIANCES.

(A) Prior to submission of a variance application, the person applying for a variance shall submit a concept plan and meet with the Department to discuss the application. Through the pre-application, the Department may summarize the informational requirements and issues related to the specific variance request.

(B) *Application.* The person applying for a variance shall submit to the Department a completed variance application stating the practical difficulty present, and provide all other information required by the Department. The Department shall prepare a report and refer the application to the County Board of Adjustment for consideration.

(C) *Public hearing.* The Board of Adjustment shall hold a public hearing on the request pursuant to § 152.285.

(D) *Grounds for variance.* The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall be granted in accordance with M.S. Chapter 394, as it may be amended from time to time, in cases where the applicant establishes that there is a practical difficulty in the way of carrying out the strict letter of any official control.

(1) A variance shall only be permitted when the following can be found as fact:
   (a) The variance is in harmony with the general purpose and intent of the official control.
   (b) The variance is consistent with the intent of the comprehensive plan.

(2) In addition, a variance may be granted when the applicant establishes a practical difficulty in complying with the official control. A practical difficulty is established when the following items are found as fact:
   (a) The property owner proposes to use the property in a reasonable manner not permitted by an official control.
   (b) The plight of the landowner is due to circumstances unique to the property, not created by the landowner.
   (c) The variance will not alter the essential character of the locality.
   (d) The practical difficulty includes more than economic considerations alone.

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

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

STAFF ANALYSIS:

1. The County Code requires that the operational area of a HEBAU shall meet a 500-foot setback from the nearest neighboring residence. Approval of the variance would allow the applicant to apply for a CUP to operate a HEBAU with approximate 470-foot setback from one neighboring residence located on a parcel to the northwest. A site plan (dated April 1, 2024) displays the proximity of the applicant's business operational area to the neighboring home.

2. The construction of the existing accessory structure without a principal structure on the property was allowed through the issuance of an administrative permit (#A20140353) that required the construction of a home within two years (October 14, 2016), and as of today the home has not been constructed. During a review of existing administrative permits, staff identified the non-compliance and contacted Mr. Wellens. The presence of the unpermitted commercial activity added another land use violation. The first step to gain zoning compliance for the property is initiating the land use applications to recognize and legalize the commercial use of the property. Staff informed Mr. Wellens of the permit noncompliance and he submitted a variance request.

3. The applicant has provided a letter (dated: April 2, 2024) detailing the variance request and information about the business. Consistent with the original administrative permit, he explains that the current shed was "*originally intended for personal storage. The idea was to in the future build a home on the property and build a workshop shed as well. The workshop would be in a permitted location for the home-based business. It wasn't until recently that I realized that I needed to use the shed for my woodworking business location since I could no longer work out of the shed at my City of Carver home. This business will have almost zero impact on neighboring homes since the public doesn't come to the site and there are very few visitors and deliveries. There is no outdoor storage of materials and equipment. I am in the process of applying for a building permit to start the construction of a home that will accompany the business and apply for a CUP to operate the business at this site.*"

The narrative further explains that the business (Country Tables) is a single owner/worker effort with one work vehicle, no employees, a limited number of deliveries occurring during business hours, and no signage is proposed. The submitted site plan (dated April 1, 2024) shows the accessory structure as the location of the workshop and a small surrounding area for vehicle parking. Mr. Wellens states that the cargo container located to the east of the shed will be removed.

4. If the Variance is approved, the applicant intends to apply to the Planning Commission for a CUP for the establishment of a HEBAU pursuant to the Zoning Code. The site plan and operations plan of the business activity would be reviewed by the Planning Commission as part of a CUP request.

5. The neighborhood is comprised of a mixture of agricultural and residential uses. The subject property is located in the City of Carver's growth area which is known as a Transition Overlay District pursuant to the County Comprehensive Plan.

6. Due to the lack of public vehicle traffic and no proposed construction linked to the variance request, no review comments were sought, and thus no comments received, from Carver County Public Works (road access) or the CCWMO (stormwater or sediment and erosion control permitting).

7. The granting of the variance should not materially or adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and should not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.

8. The granting of the variance does not appear to be in conflict with the intent of the Comprehensive Plan and/or County Ordinances and would not alter the character of the neighborhood.

9. The Dahlgren Town Board reviewed and recommended approval of the application request during their April 8, 2024, Town Board meeting. There were no comments or conditions attached to their recommendation.

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance to permit one residence not on the property within 500-feet of the HEBAU operational area pursuant to Section 152.079 (C)(9)(b)1 of the Carver County Zoning Code, would serve in the interest of justice, the following conditions should be considered:

1. A Conditional Use Permit application for a HEBAU 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 HEBAU and/or property shall meet all other requirements of the Carver County Zoning Code and MN State Building Code.

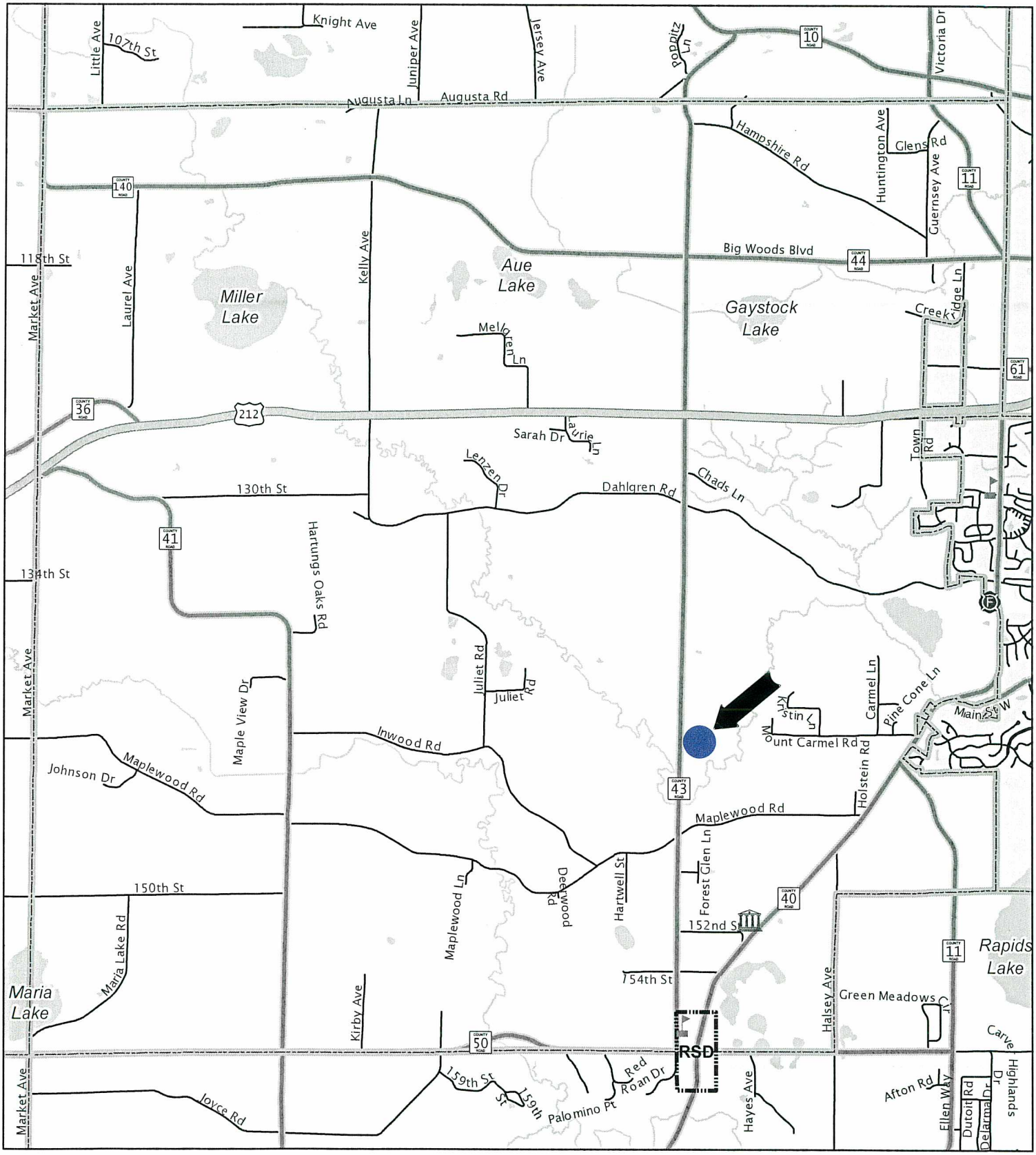
2. If the future CUP application is approved, the approved operational area shall not extend closer than 470 feet from the residence on a neighboring property located to the northwest.

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

OR

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

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.

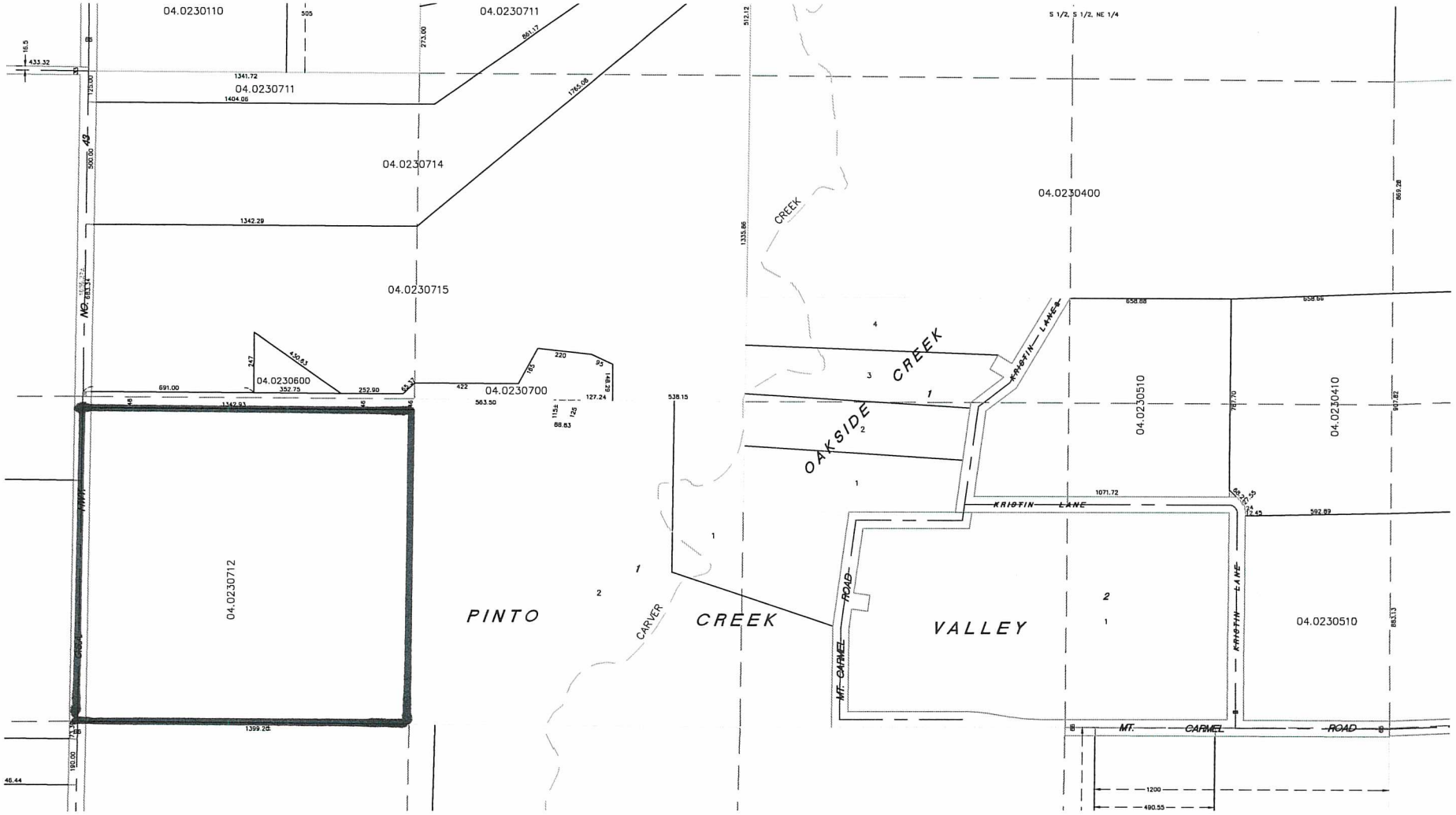
0 1 2 Miles

N W E S

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.

S 1/2 SEC. 23, T.115, R.24



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

Nov 14, 2023

Request for: Variance to Home Extended Business Accessory Use Setback
04/02/2024
Business Description: Country Tables

I am applying to locate a Home Extended Business Accessory Use closer to a nearby residence than otherwise allowed. The zoning code standard for this type of home-based business (§ 152.079 (9)(b) 1) is that the operational area for the business needs to be at least 500' from residences not on the parcel on which the business is located. The nearest home (currently occupied by my parents) is about 475 feet away to the northwest. The site plan I submitted shows the layout of the operation area and its distance from the nearest house.

When my father and I constructed the shed in 2015 on the property at 14015 Co Rd 43 it was originally intended for personal storage. The idea was to in the future build a home on the property and build a workshop shed as well. The workshop would be in a permitted location for the home-based business. It wasn't until recently that I realized that I needed to use the shed for my woodworking business location since I could no longer work out of the shed at my City of Carver home. This business will have almost zero impact on neighboring homes since the public doesn't come to the site and there are very few visitors and deliveries. There is no outdoor storage of materials and equipment. **I am in the process of applying for a building permit to start the construction of a home that will accompany the business and apply for a CUP to operate the business at this site.**

Country Tables is a solo proprietorship, furniture manufacturing business established in 2014. Country Tables had previously located 732 Kirche Drive in Carver and has recently moved to 14015 County Road 43, due to a recent divorce that resulted in a loss of the property. Country Tables is a one-man operation that is not open to the public nor are there set hours of operation. The business primarily makes hardwood tables for local residential clients. All sales leads are generated online with clients purchasing via countrytables.com. The product is then constructed on the property and delivered to the client's residence.

Business Vehicles: The business operates one small Ram 1500 box van to gather materials and conduct deliveries. Making approximately 3 deliveries a week during the hours of 9 am-5 pm.

The 40' x 50' / 2,000sq' structure
*Could have parking for 12 Vehicles (Not Needed) The building is skirted with a cement front walkway and driveway. Further surrounded by class five gravel surrounding the building.)
*Could be ADA Accessible (Not Needed) As the structure is level with cement walkway and driveway.
*The building does not have water or sewage service.
***No signage will be put up as it is not open to the public.**

V/R
Daniel Wellens

WELLENS SITE PLAN

Date: 4/1/2024

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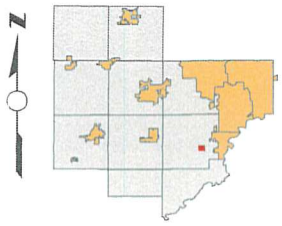
0 50 100 200 300 400 ft



CARVER COUNTY

Township Presentation & Recommendation Form

PARCEL # 01.0230712	Permit # PZ20240014
Owner's Name: Daniel Wellens	Owner's Mailing Address: 1802 Arbor Lane
City: Carver	Owner State: MN / Owner Zip: 55315
Applicant (if other than owner):	Site Address: 14015 cty Rd 43

Type of Request: ◉ CUP ○ Interim Use ○ Preliminary Plat ○ Final Plat ☑ Variance ○ Appeal

Description of Request:

See attached

Date of County Public Hearing: 5/1/2024 Date of Township Meeting: 4/8/2024

Actions:

Township Action Taken:

☑ Recommends approval and use of the Township Road (if applicable) with the following comments:

○ Recommends denial for the following reasons:

○ No recommendation, but will comment on the request at the Planning Commission or Board of Adjustment hearing:

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

Signature of Applicant — Date 3-27-24

Signature of Township Official — Date 4-8-24

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 04-023-0712 **File# PZ20240014**

APPLICANT: Daniel Wellens
OWNERS: Daniel H Wellens and Michele T Wellens

* *

The Southwest Quarter of the Southwest Quarter of Section 23, Township 115, Range 24, Carver County, Minnesota, EXCEPTING THEREFROM the North 46.00 feet thereof.

DRAFTED BY: Carver County Land Management Department

CARVER COUNTY BOARD OF ADJUSTMENT
Regular Meeting May 1, 2024
Minutes

Members Present: Gerald Bruner, Amanda Gorra, Jeff Thompson, Andy Steinhagen, Steve Washburn

Members Absent: Robin Bielefeldt, Scott Selken

Members Late: None

Staff Present: Jason Mielke, Donovan Hart, Christina Neel, Jacob McLain

Pursuant to due call and published notice thereof, the May 1, 2024, meeting of the Carver County Board of Adjustment was called to order by Chairman Bruner at 7:00 p.m.

Chairman Bruner announced the roll call indicated five members are present and acknowledged the absence of member Robin Bielefeldt and Scott Selken.

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 Steinhagen to approve the agenda as printed. Gorra seconded the motion for approval. All voted aye. Motion carried.

Minutes – Chairman Bruner asked if there were any corrections to the minutes from the April 3, 2024, meeting. Mielke noted a correction should be made to the members in attendance at the April 3rd meeting. Scott Wakefield was listed and correctly it should reflect Andy Steinhagen was present. A motion was made by Washburn to approve the minutes of the April 3, 2024, meeting with the noted correction. Steinhagen seconded the motion for approval with the correction. All voted aye. Motion carried.

Public Hearing - File #20240015 – Craig Foster – Chairman Bruner called the public hearing to order at 7:01 p.m. to consider the application of Craig Foster for a variance pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for reduced side yard setback and excessive impervious surface in a shoreland area structure pursuant to Chapter 152 of the County Code. The property is in Section 10 of Waconia Township.

The following were present: Craig Foster, Kim Foster

The following items were entered into the hearing record:

Exhibit A - Legal Description
Exhibit B - Affidavit of Publication of the Hearing Notice
Exhibit C - Affidavit of Mailing of the Hearing Notice
Exhibit D – Site Plan
Exhibit E - Letter from the Applicant dated April 8, 2024
Exhibit F – Staff Report addressed to the Board of Adjustment and Waconia Town Board dated April 22, 2024, and all attachments.
Exhibit G – Letter of support from Nancy Marquart dated May 1, 2024
Exhibit H – Letter of support from Chuck Bies dated April 30, 2024
Exhibit I – Letter from Lane Braaten, City of Waconia, dated April 30, 2024

Hart stated the applicants own an approximate .27-acre parcel improved with a single-family residence and detached garage, which are separated by West Shoreline Dr. The request is for a reduced side yard setback and excessive impervious surface coverage on a parcel in the Shoreland Area. Hart used an aerial photo as illustration of the property. The impervious surface increase is from about 54.2% to 55.3% and the side yard setback is proposed to be at 5 feet. The existing house was on the property prior to the County Zoning Code limits on impervious surface and is a legal non-conforming structure. There have been 2 prior variances for reduced setbacks on the parcel due to increasing structure size. The applicant's letter, dated April 8, 2024, explains the proposed construction is to increase the usable space of their home by building over an existing deck and basement area. It is also noted that care has been taken to not encroach upon the property line further, but to retreat from the lie by removal of existing deck structure and replace with a screen porch, landing, and steps. This proposed construction results in a 1.1% increase in the impervious surface percentage. The letter also includes the components of the impervious surface calculations for each type of improvement. The applicants' state the practical difficulty exists due to the non-conforming lot in addition to the existing non-conforming side yard setback of 8.5 feet on the side of the house where construction is proposed and the hard cover that predates the Fosters' ownership of the property. The property's septic system is subject of a separate variance request to follow this one, so no comments were provided by Environmental Services on this request. Abigail Ernst, CCWMO Water Resources Program Analyst, stated in an email dated April 10, 2024, that the permittee would need an erosion control permit because the proposed work is within a sensitive area (within 50 feet of a lake). The DNR had no comments to make but questioned how the stormwater was to be managed. She was reassured that County stormwater standards would be met prior to issuance of any building permits. Granting the variance appears to be in harmony with the general purpose and intent of the official control and would not conflict with the intent of the Comprehensive Plan, nor would it alter the character of the neighborhood, nor would government services be negatively impacted by the construction. The neighborhood is comprised of residences on the lake with a variety of non-conformities and this variance would not cause a substantial change in 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 parcel or be detrimental to the public welfare or injurious to property or improvements. The Waconia Town Board reviewed the side yard setback request at their March 25, 2024, meeting and recommended approval with the comment, "Township approves of remodeling house and installation of new septic system west of West Shoreline Drive." At their April 8, 2024, meeting, the Town Board heard the request concerning the impervious surface and recommended approval without any further comments or concerns. Hard read the letters submitted by the neighbors and the City of Waconia. He also 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 denial of the request will need to be stated.

The applicants had no additional comments at this time.

No one was present to represent Waconia Town Board.

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

A motion was made by Thompson 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 7:15 p.m.

Steinhagen asked where the impervious surface increase was identified, if the construction is above an area that was previously pavers and now is just a roof.

Hart replied it is shown in the applicants' letter dated April 8, 2024, included as page 2-7 in the packet. It appears to be an additional 92 square feet of additional impervious space.

Commissioner Washburn concurred with that math, stating it appears that it is mostly from the screen porch and the rest of the changes are less than the existing, resulting in an increase of 92 square feet. He appreciated the comments from the City of Waconia but stated that a screen porch gets a lot of use in Minnesota to avoid mosquitos.

Bruner stated he visited the site and talked with the applicants and has no concerns about the request.

A motion was made by Thompson to **approve and issue Order PZ20240015** for reduced side yard setback pursuant to Sections 152.034 (D) and increased impervious surface pursuant to 152.131.1 (B)(1) of the Carver County Code, for property legally described on the attached Exhibit "A", is hereby **approved**. The Board of Adjustment further orders approval with the following conditions:

1. All construction activities shall be done in accordance with the submitted site plan and shall obtain all necessary building permit approvals. The new construction shall not encroach any closer than 5 feet to the southern side property line as part of this permit application. Additionally, the new construction shall not increase the lakeside lot's impervious surface to greater than 55.3%. All work shall be done in accordance with the submitted and approved building permit plans.

2. No vegetation shall be removed due to the proposed construction and construction activities.

3. The Permittee shall obtain the appropriate SSTS permits through the Carver County Environmental Services (E.S.) Department prior to the issuance of any new construction building permit(s).

4. The Permittee shall obtain any necessary permits from the Carver County Water Management Organization; if applicable.

5. No additional expansions within the required setback(s) on increase of impervious surface shall be permitted without obtaining all necessary building permits and/or variances, if applicable.

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

Public Hearing - File #20240019 – Craig Foster – Chairman Bruner called the public hearing to order at 7:18 p.m. to consider the application of Craig Foster pursuant to Chapter 52 of the County Code. The purpose of the public hearing was to consider a request for a reduced setback for a tank from a structure, side yard, and road right-of-way pursuant to Chapter 52 of the County Code. The property is in Section 10 of Waconia Township.

The following were present: Craig Foster, Kim Foster

The following items were entered into the hearing record:

Exhibit A - Legal Description
Exhibit B - Affidavit of Publication of the Hearing Notice
Exhibit C - Affidavit of Mailing of the Hearing Notice
Exhibit D – Site Plan
Exhibit E - Letter from the Applicant dated April 8, 2024
Exhibit F – Staff Report addressed to the Board of Adjustment and Waconia Town Board dated April 22, 2024, and all attachments.

McLain stated the applicants are requesting a variance which would allow them to install a new septic system consisting of a 500-gallon grinder tank, 2,000-gallon septic tank, 1,000-gallon pump tank, and a 38-foot by 78-foot mound drainfield. The new grinder tank would be approximately 5 feet from a permanent structure, 2 feet from the south property line, and 5 feet from the road right-of-way. The County Code requires a minimum setback of 10-foot setback for a grinder tank from a structure, property line, and road right-of-way; therefore, a variance for reduced setbacks has been requested. A holding tank servicing the house was installed in 1999. The applicants' letter describes the desire to install a new septic system to facilitate planned home improvements. Approval of the variance would allow the homeowners to install a septic system in compliance with State and local rules. Approval of the variance would further allow the grinder tank to be installed approximately 5 feet from the structure, 2 feet from the south property line and 5 feet from the right-of-way of West Shoreline Drive, reflecting approximate 5-foot, 8-foot, and 5-foot variances respectively. The submitted site plan, dated June 2023, shows the location of the system and its proximity to the structure, property line, and road right-of-way. Other than the requested variances, there is also a variance required with the Mn Dept of Health to allow the new sewer line within 20 feet of the existing well. Other than these variances, the proposed system meets the required setback to property lines, structures, and wells. Granting of the variance would not conflict with the intent of the Comprehensive Plan and/or County Ordinances and would not alter the character of the neighborhood. Granting the variance would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property and would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property. The Waconia Town Board reviewed the request at their April 8, 2024, meeting and recommended approval without any additional comments. McLain 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 denial of the request must be stated.

Craig Foster, 7419 West Shoreline Dr, stated there is a comfortable area for the well setback, however, just to assure that they are covered by applying for that variance also.

McLain stated he talked with the proposed septic installer who feels that they should be able to meet the 20-foot setback but would rather be in compliance by having the variance if the line would encroach closer. They will be directionally boring underneath West Shoreline Dr and feel the setback can be met, but they want to be sure and applying for the variance will allow them to go closer if it is necessary. It would cause a curvature in the pipe, and they want to avoid any curvatures or dips in the pipeline, if possible. McLain also confirmed the 5-foot, and 8-foot distances are a little generous on measurement to allow for any construction problems.

Mr. Foster stated the new tank is about 1/3 the size of the current tank on the property.

No one was present to represent the Waconia Town Board.

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

A motion was made by Steinhagen 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 7:25 p.m.

Thompson stated this seems to be a reasonable request and appears the applicant is trying to manage the sewage properly with the installation of a full system.

Steinhagen agreed that this seems to be an improvement from the existing holding tank.

Bruner agreed that after visiting the site, there is very little other room to put the tank.

A motion was made by Steinhagen to **approve and issue Order PZ20240019** allowing for reduced septic tank setback from a structure, property line, and road right-of-way according to Section 52.022 of the Carver County Code, for property legally described on the attached Exhibit "A". The Board of Adjustment further orders approval with the following conditions:

1. The SSTS shall be located according to the final design approved by Carver County Environmental Services. The new grinder tank shall not encroach any closer to the structure, property line, and road right-of-way than as approved as part of this variance application (Approx. 5-feet from the house and road right of way, and approx. 2-feet from the south property line).

2. Parcels PID 09-849-0030 & PID 09-010-2310 shall be combined to facilitate the installation of the septic system on one combined parcel.

3. Owners shall receive the required variance from the Minnesota Department of Health to install a sewer line closer than 20-feet to an existing well.

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

Mr. Foster thanked the staff for their helpfulness and guidance through the variance process.

Public Hearing - File #20240017 – Amanda Finnerty – Chairman Bruner called the public hearing to order at 7:27 p.m. to consider the application of Amanda Finnerty pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a variance for reduced side yard setback pursuant to Chapter 152 of the County Code. The property is in Section 32 of Young America Township.

The following were present: Amanda Finnerty, Ryan Finnerty, Virgil Vollbrecht

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 31, 2024
Exhibit F – Staff Report addressed to the Board of Adjustment and Young America Town Board dated April 19, 2024, and all attachments.

Neel stated the applicants own an approximate 3.75-acre parcel improved with a house, attached garage, and a Subsurface Sewage Treatment System (SSTS). A large wetland, consisting of shallow marsh and a seasonally flooded basin covers the southerly portion of the parcel. The applicants would like to construct a detached garage which would not meet the required 15-foot side yard setback from a property line. The proposed location of the detached structure is approximately 5 feet from the side property line. The structure would meet all the other setbacks from the road, house, and the wetland. The proposed location was chosen to avoid the existing well, SSTS location, and drainage slopes, while allowing easy access for vehicles to be kept indoors during inclement weather. The applicant's letter explains the only practical location for the detached structure is the existing

driveway turnaround northeast of the house. She also has the support of the adjoining neighbor, a family member, who is in support of the request. On April 10, 2024, the request was reviewed by Abigail Ernst, Carver County Water Resource Program Analyst, who had no specific concerns since the proposed location is over 50 feet from the wetland to the south and offered the comment, "I would recommend their plans show a silt fence downgradient of the work due to the slope leading to the wetland." Granting of the variance is in harmony with the general purpose and intent of the official control. The neighborhood is comprised of residential houses and activities, as well as dense vegetation and croplands. Granting the variance would not conflict with the intent of the Comprehensive Plan, nor would government services be negatively impacted by the location of the structure. It would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property. The Young America Town Board reviewed the request at their April 9, 2024, meeting and recommended approval with the comment, "No issues with reduced setback." Neel read the proposed conditions for consideration if the request is recommended for approval. If the Board of Adjustment determines that a practical difficulty has not been identified, the reasons supporting the denial would need to be stated.

Amanda Finnerty, 140 Jacob St, stated she had no comments at this time. She confirmed she had a signed letter from the adjacent property owner to the north confirming her support of the request.

Virgil Vollbrecht, Young America Town Board supervisor, confirmed the applicants attended the April 9, 2024, meeting, and the board recommendation for approval of the request, citing the proposed location for the detached garage is practical according to the size and location of the wetland on the parcel.

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

A motion was made by Washburn 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 7:32 p.m.

Selken asked about the height of the structure.

Ms. Finnerty replied the structure will be a single-story construction. They are planning to have gutters to control the direction of any runoff from the building.

Steinhagen stated he drove by the site, and it appears to be a logical location for the structure considering the railroad and wetlands on the property.

Bruner stated he also visited the site, and it appears there is limited space to construct the detached garage.

A motion was made by Gorra to **approve and issue Order PZ20240017** for reduced side yard setback according to Section 152.034 of the Carver County Code, for property legally described on the attached Exhibit "A". The Board of Adjustment further orders approval with the following conditions:

1. The permittee shall obtain the appropriate building permit(s) prior to the construction of the detached garage. All construction activities shall be done in accordance with the submitted site plan dated March 31, 2024. The new construction shall not encroach any closer to the north property line than approved (i.e. 5 feet) as part of this permit application.

2. No additional expansions shall be permitted without obtaining all necessary building permits and/or variances.

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

Public Hearing - File #20240012 – Frank Pernat – Chairman Bruner called the public hearing to order at 7:35 p.m. to consider the application of Frank Pernat pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a variance to reconfigure two legal non-conforming lots and reduced road frontage pursuant to Chapter 152 of the County Code. The property is in Section 22 of Laketown Township.

The following were present: Frank Pernat, Sally Pernat, Pete Parris

The following items were entered into the hearing record:

Exhibit A - Legal Description
Exhibit B - Affidavit of Publication of the Hearing Notice
Exhibit C - Affidavit of Mailing of the Hearing Notice
Exhibit D – Site Plan
Exhibit E – Letter from the Applicant dated March 5, 2024
Exhibit F – Staff Report addressed to the Board of Adjustment and Laketown Town Board dated April 19, 2024, and all attachments.

Hart stated the applicants own two adjoining legal nonconforming parcels, 7065 and 7055 Abbywood Ln, which are each improved with a single-family dwelling and an accessory structure. The request to reconfigure the two lots to relocate the parcel's common boundary line to create a conforming west side yard setback for the detached garage structure on 7055 Abbywood Ln. The lot reconfiguration would not create two conforming lots, and therefore the variance is required. The applicant's letter describes the variance request and the nonconforming lot circumstances. Moving the common boundary line westerly 19 feet would result in the detached garage on the 7055 parcel to be located entirely within the property's boundaries and meet the 15-foot minimum side yard setback. The applicant explains they are "cleaning up this property line encroachment issue by adjusting the property line before anything is sold." The practical difficulty is because both lots are legal nonconforming lots. The submitted existing conditions survey illustrated the site improvements and the current location of the common lot line. The aerial photo also illustrated the detached garage encroachment to the westerly property line. The survey also shows the approximate 12 feet of road frontage (the stub end of Abbywood Ln) and the approximate 66 feet of road frontage for the 7055 parcel. Jacob McLain, Carver County Senior Environmentalist, reviewed the request and stated, "both 7065 and 7055 Abbywood should have compliance inspections (tank inspections) completed just to verify that tanks ae compliant." The plight of the landowner is due to circumstances unique to the property and not created by the current landowner. The applicant is proposing to use the property in a reasonable manner and the lot line adjustment would correct one of the nonconforming issues. Granting the variance does not appear to conflict with the intent of the Comprehensive Plan and/or County Code. It would not cause a substantial change in the character of the neighborhood, nor would it have a negative impact on government services. Granting the variance would not materially or adversely affect the health or safety of persons residing or working in the area adjacent to the property and would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property. The Laketown Town Board reviewed the request and recommended approval at their March 11, 2024, meeting without any further conditions or comments. Hart read the proposed conditions for consideration if the request is approved. If the Board of Adjustment determines that a practical difficulty has not been identified, the reasons supporting denial need to be stated.

Frank Pernat, 7065 Abbywood Ln, used the aerial photo to illustrate the two parcels and simply explained the intent and purpose for changing the lot line now is to reduce any issues with deeds and correcting the building setback for when the parcels are sold.

Pete Parris, Laketown Town Board supervisor, confirmed the Town Board felt this is a good common sense move to correct a problem and they recommend approval of the request.

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

A motion was made by Gorra 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 7:43 p.m.

Thompson commended the applicants for being proactive to correct a problem and taking the time and expense to go through the variance process.

Steinhagen echoed that response and acknowledged this issue was not caused by the current owners or created as a result of their actions. They are looking ahead to make a better situation for someone else in the future. The limited road frontage on the parcels is also rather unique in that it the road is a stub that dead ends at their 7065 parcel.

A motion was made by Bruner to **approve and issue Order PZ20240012** allowing for a variance for reduced road frontage and a change in a legal non-conforming lot according to Sections 152.009 (M) & 152.033 (D) of the Carver County Code, for property legally described on the attached Exhibit "A". The Board of Adjustment further orders approval with the following condition:

1. A Minor Subdivision application and Combination form shall be submitted and approved prior to the recording of any deeds. The parcel shall be subdivided and combined in accordance with the County Zoning Code and County Recorder's Office requirements including but not limited to, a completed minor subdivision application, a survey, SSTS compliance and appropriate deeds.

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

Public Hearing - File #20240016 – Jacob & Nicole Weiers – Chairman Bruner called the public hearing to order at 7:45 p.m. to consider the application of Jacob & Nicole Weiers pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a variance for a second access and access separation pursuant to Chapter 152 of the County Code. The property is in Section 20 of Laketown Township.

The following were present: Jacob Weiers, Pete Parris, Kathy Fritz, Steve Fritz

The following items were entered into the hearing record:

Exhibit A - Legal Description
Exhibit B - Affidavit of Publication of the Hearing Notice
Exhibit C - Affidavit of Mailing of the Hearing Notice
Exhibit D – Site Plan
Exhibit E – Letter from the Applicant dated April 1, 2024
Exhibit F – Staff Report addressed to the Board of Adjustment and Laketown Town Board dated April 19, 2024, and all attachments.

Neel stated the applicants recently purchased an approximate .50-acre parcel which has 1 building eligibility. This parcel, and the adjacent parcel to the east, were platted prior to the establishment of the current minimum lot size requirements and are considered legal nonconforming lots due to the inadequate area. The parcel to the east has a U-shaped driveway which encroaches onto the Weiers' property. Both property owners have recorded an access easement agreement for the encroachment on the northeast corner of the Weiers' property. Neel used an aerial photo to illustrate the encroachment. The Weiers' are requesting a variance to construct a new residential driveway which will service a future house building site. The proposed access will be approximately 47 feet from the center of the nearest driveway (to the east), which does not meet the required 100-foot access separation distance. The variance request is also for a second access on a parcel. The applicants' letter described a practical difficulty in accessing their new lot. Originally, they had hoped to share the access on the east side but found a challenge in the garage elevations. The neighbor's garage sits approximately 4 feet lower than the Weiers' proposed garage. They stated, "With a shared access, the street is too close for a reasonable elevation change to meet the level of both garages. For that reason, we would like to leave the existing access for the neighbors and construct a new one as illustrated on our plans." The proposed location for the new access was chosen to maintain the 20-foot recorded drainage easement on the west portion of the property. The plight of the landowner is due to circumstances unique to the property and not created by the landowner. The grade changes and wetlands appear to be in the same configuration as existed when the lot was platted in 1970, prior to the adoption of any Zoning Code regulations. The applicant has been in contact with Laketown Township to acquire the appropriate access permit on Reitz Lake Rd. Granting the variance would not be in conflict with or be considered a substantial variation from the Comprehensive Plan, nor will government services be negatively impacted by the second driveway access location. Granting the variance would not materially, adversely affect the health or safety of person residing or working or residing in the area of the property and would not be detrimental to the public welfare or injurious to property or improvements adjacent to the properties or cause a substantial change in the character of the neighborhood. On April 9, 2024, Jacob McLain, Carver County Senior Environmentalist, reviewed the request and had no SSTS-related comments or concerns. Carver County Soil and Water Conservation District Manager, Mike Wanous, reviewed this request on April 18, 2024, and noted some concern with the reshaping and narrowing of the swale and easement on the west side of the property. He asked the applicants provide additional information regarding the drain tile and catch basin during the grading/filling permitting process. Laketown Town Board reviewed this request at their April 8, 2024, meeting and recommended approval of the request, stating the driveway should be no more than 20 feet wide, and suggesting the applicant 'correct existing driveway encroachment on Reitz Lake Rd' and install a 15-inch culvert for drainage. Neel read the email from Lane Braaten of the City of Waconia concerning this request. 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 denial of the request must be stated.

The applicants had no additional comments at this time.

Pete Parris, Laketown Town Board supervisor, confirmed the township's recommendation for approval of the request. He stated they met the applicant on site and discussed the driveway location and slope and suggested a 15-inch culvert rather than a 12-inch size, which the applicant agreed to install.

Steinhagen asked if the difference for the driveway encroachment onto Reitz Lake Rd was the difference in culvert size.

Mr. Parris replied there is quite a hill going down from the road and the larger culvert may pick up any additional water runoff because of the slope.

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

A motion was made by Bruner 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 7:54 p.m.

Washburn asked if the second driveway encroachment will have an impact on the total impervious surface coverage on the lot.

Mielke replied that based on the calculations from the property surveyor, the project should come under the 25% impervious surface requirement. He also further explained the drainage easement on the west side of the property and the multiple components in that area directing the water flow from surrounding properties. He stated the proposed driveway would allow for continued maintenance of the drainage easement area.

A motion was made by Washburn to **approve and issue Order PZ20240016** allowing a variance for a second driveway with a reduced access separation according to Section 152.036 of the Carver County Code, for property legally described on the attached Exhibit "A". The Board of Adjustment further orders approval with the following conditions:

1. The installation of the access would be subject to appropriate permits, and compliance inspections by the road authority (i.e. Laketown Township). The Permittee shall obtain the necessary driveway access permit prior to construction.

2. The new driveway shall not encroach any closer to the centerline of the closest neighboring driveway access than approved (i.e. 47 feet). All work shall be done in accordance with the submitted and approved plans.

3. A completed CCWMO Water Rules application and Land Management Administrative Permit application, with required attachments, shall be submitted for any grading/filling activity taking place on the property, if applicable.

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

Public Hearing - File #20240013 – Dan Held, representing John Mooty – Chairman Bruner called the public hearing to order at 7:57 p.m. to consider the application of Dan held, representing John Mooty pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a variance for reduced setback from OHWL & property line and exceed impervious surface coverage pursuant to Chapter 152 of the County Code. The property is in Section 22 of Laketown Township.

The following were present: Dan Held, Charles Mooty, Pete Parris

The following items were entered into the hearing record:

Exhibit A - Legal Description
Exhibit B - Affidavit of Publication of the Hearing Notice
Exhibit C - Affidavit of Mailing of the Hearing Notice
Exhibit D – Site Plan
Exhibit E – Letter from the Applicant dated April 7, 2024
Exhibit F – Staff Report addressed to the Board of Adjustment and Young America Town Board dated April 22, 2024, and all attachments.
Exhibit G – Updated site plan dated April 23, 2024
Exhibit H – Additional comments from Laketown Township

Mielke stated the Mooty family owns an approximate .70-acre parcel was improved with a house and attached garage, which was removed, and replacement house permit have been issued. Dan Held of Abbywood Carpentry is requesting a variance which would allow him to apply for deck construction building permits on the property. The proposed deck would not meet the required side yard setback of 15 feet, or the required 100-foot setback from the Ordinary High Water (OHWL) of a DNR protected Recreational Development Lake (Pierson's Lake). A variance for reduced structure setback (approximately 7 feet) and lake setback (approximately 62 feet) have been requested as well as a variance to exceed the allowed 25% maximum impervious lot coverage. Mielke used a site plan to illustrate the lot, cabin location and construction area, and OHWL of Pierson's Lake. He stated the original lot cumulative impervious surface total was under the maximum 25% limit, but the proposed new construction will exceed the total by approximately 2.4%. The applicant was aware of the side yard and lake setbacks but returned to talk with the township concerning the impervious surface coverage. Their discussion included porous pavers be used on the driveway and parking areas to reduce the cumulative impervious surface. If this can be done, the variance for the impervious surface coverage can be eliminated. Mielke stated the lots in this area are legal nonconforming because of their size and were established in the 1930's. He explained the setback would allow a replacement deck to be located outside of the Shore Impact Zone, but because the deck was completely removed, it is considered a new structure and needs to meet the setback requirements. The applicant's letter describes the practical difficulty in rebuilding the cabin and deck within the required setbacks on the narrow lot. The Mooty's stated, "constructing the new deck and connecting it to the side deck will make the entire space more accessible and safer for our family members who are limited in their mobility. It keeps all foot traffic on one plane and avoids potential hazards with differing levels and steps." The site survey shows the rebuilt cabin and proposed deck. Mielke explained the proposed new deck is 2.5 feet further away from the OHWL than the previous deck, but it still doesn't meet the 100-foot requirement or the average calculation from adjoining lots on both sides of the structure. At the time the staff report was written, the impervious surface coverage was an issue, however, by using the porous pavers on the parking area, the new construction will be able to remain under the 25% calculation. Jacob McLain, Carver County Senior Environmentalist, reviewed the request and stated the property is served by the Met Council Sewer Interceptor (201) system, and is maintained by Laketown Township. The site plan shows a new SSTS tank, and the property owners have a pending permit application for that tank. The tank would need to be approved and installed prior to issuance of a Certificate of Occupancy. On April 19, 2024, Taylor Huinker, DNR South Metro Area Hydrologist, stated," if approved, the DNR strongly recommends offsetting the increase in impervious surface and reduced setback with a restored native shoreland buffer." She noted that a practical difficulty has not been identified since the property owners have created their own hardship in removing the deck and rebuilding the cabin. Mielke strongly suggested the property owners talk with the DNR to find out about suitable materials and alternatives to reduce runoff and contaminants from entering a body of water. Granting the variance is in harmony with the general purpose and intent of the official control. He stated the applicant and homeowners have made alterations to their original plans and the house meets the setbacks and they have a reasonable plan for the deck considering the lot size and the neighborhood. He stated that the lots were created long before any zoning code regulations were adopted by the County. The request would not cause a substantial change in the character of the neighborhood, nor would government services be negatively impacted by the location of the deck structure. Granting the variance would not materially, adversely affect the health or safety of person residing or working in the area adjacent to the property and would not be materially detrimental to the public welfare or injurious to property or improvements in the area. The request information was sent to Minnehaha Creek Watershed District (MCWD) for review and no comments were received. It will be required that the applicant contact MCWD to make sure they are meeting MCWD requirement and for any necessary permits relating to erosion and sediment control, drainage, or other issues, if required. A letter of support was received on March 25, 2024, from the Carr family at 6485 Abbywood Ln. Laketown Town Board reviewed the request and recommended approval at their April 8, 2024, meeting, with this comment: "The variance for the impervious – parking area not to exceed the 499 sq. ft. Dan

called 4/9 and said the parking structure will be 23 feet x 25 feet." Upon further discussion with the contractor, they agreed that the parking area would be constructed with porous pavers, rather than gravel, to reduce the amount of impervious surface on the parcel to meet the requirement of less than 25%. The Town Board approved the 7-foot side yard setback without additional comments. Mielke read the proposed conditions for consideration if the request is approved noting that the condition relating to the impervious parking area would be changed to reflect using porous pavers. If the Board of Adjustment determines that a practical difficulty has not been identified, the reasons supporting denial of the request must be stated.

Charles Mooty stated the report was well-presented. He explained this lot has been in the family for multiple generations and they are trying to upgrade and improve the structure without changing the overall imprint. He stated they are willing to comply with the conditions that are noted, and they are pleased to bring the structure up to date.

Pete Parris, Laketown Town Board supervisor, thanked the homeowner and the builder for working with the township and attending two meetings to discuss the issues. He confirmed the Township's recommendation for approval of the request.

No one from the public was present to comment on this request.

A motion was made by Thompson and seconded by Steinhagen to close the public hearing. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 8:15 p.m.

Steinhagen thought the deck design to accommodate mobility requirements was a good plan to allow all family members convenient access and he would be supportive of the request.

Thompson agreed that it appears to be a reasonable request and a good project, and he would also be in support.

Washburn asked for clarification when the cabin was reconstructed.

Dan Held, Abbywood Carpentry, replied they applied for the building permits in the fall of 2023. The previous cabin had encroached on both side yard setbacks, and they realigned the cabin so it would fit within those setbacks. They should have included the deck construction along with the building plans at that time but were more concerned to get the basement dug and the structure built.

Washburn agreed it appears to be a nice project but felt it would have been nice to review the entire plan at one time.

Mielke explained he had discussions with the contractor and initially they were going to salvage the original deck, but as the project moved forward, that was not going to be possible, so therefore, the variance request. It is correct that in an ideal situation, this would have been addressed earlier in the process.

Mr. Held stated they did have to raise the house about 12 to 14 inches which added to the decision to construct a new deck rather than try to salvage the former one.

Mielke confirmed the elevation increase was to meet the Shoreland regulations to have the lowest floor be a minimum of 3 feet above the known lake elevation.

A motion was made by Gorra to **approve and issue Order PZ20240013** allowing for a variance for reduced

setbacks (side yard and OHWL) according to Section 152.034 (D) of the Carver County Code, for property legally described on the attached Exhibit "A". The Board of Adjustment further orders approval with the following conditions:

1. The permittee shall obtain the appropriate building permit(s) and septic permit(s) prior to the construction of the attached deck.

2. A permit for the new SSTS tank shall be approved and installed prior to the issuance of a Certificate of Occupancy for the new home.

3. All construction activities shall be done in accordance with the submitted site plan. The new construction shall not encroach any closer to the OHWL of Pierson's Lake than approved (i.e. 62+/- feet). Additionally, the new construction shall not encroach any close to the east property line than approved (7 feet). All work shall be done in accordance with the submitted and approved building permit plans.

4. The parking area shall be completed with permeable pavers to not exceed 25% impervious lot coverage.

5. The Permittee shall obtain any necessary permits from the Minnehaha Creek Watershed District, if applicable.

6. The Permittee shall consult Minnesota Department of Natural Resources to install a restored native shoreland buffer with suggested vegetation.

7. No additional expansions shall be permitted without obtaining all necessary building permits and/or variances.

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

Public Hearing - File #20240014 – Daniel Wellens – Chairman Bruner called the public hearing to order at 8:20 p.m. to consider the application of Daniel Wellens pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a variance for reduced setback to accommodate a home extended business accessory use pursuant to Chapter 152 of the County Code. The property is in Section 23 of Dahlgren Township.

The following were present: Dan Wellens, Josh Vandergon, Steve Wellens, Jan Wellens

The following items were entered into the hearing record:

Exhibit A - Legal Description
Exhibit B - Affidavit of Publication of the Hearing Notice
Exhibit C - Affidavit of Mailing of the Hearing Notice
Exhibit D – Site Plan
Exhibit E – Letter from the Applicant dated April 2, 2024
Exhibit F – Staff Report addressed to the Board of Adjustment and Dahlgren Town Board dated April 19, 2024, and all attachments.
Exhibit G – Letter of support from Steve & Jan Wellens received May 3, 2024

Hart explained the applicant is requesting to allow a home extended business accessory use with reduced setback to a residence not on the property. The applicant is co-owner of an approximate 39.61-acre parcel improved with a 2,000 square-foot accessory structure, a gravel parking pad, a corn crib, and a cargo container. The remaining area of the parcel is in crop production. Mr. Wellens has been operating a business from the property which would be classified as a Home Extended Business Accessory Use (HEBAU). The Zoning Code requires a HEBAU to be located a minimum of 500 feet from any neighboring residence not on the same parcel as the business. In this case, there is one residence approximately 470 feet from the operational area of the HEBAU and therefore, a variance is required. The residence within the setback area is owned and occupied by the applicant's parents. If this variance is granted, Mr. Wellens will be applying for the Conditional Use Permit for operation of the HEBAU. The existing accessory structure was allowed on the property without a principal structure through an administrative permit (A20140353) that required construction of a house within two years (October 14, 2016), and as of today, the house has not been constructed. During a review of existing administrative permits, the noncompliance issue was identified, and Mr. Wellens was contacted. The presence of the unpermitted commercial activity added another land use violation. Subsequently, Mr. Wellens submitted the variance request as the first step to getting the parcel and activity into compliance. The applicant's letter explains the structure was initially constructed to be used as personal storage with the house construction within two years afterwards. Plans for a woodworking shop that would be in a permitted location for a home-based business were also being made. Mr. Wellens claims that he needed to use the structure for the woodworking business as his location in the City of Carver was no longer available. He states that "the business will have almost zero impact on neighboring homes since the public doesn't come to the site and there are very few visitors and deliveries. There is no outdoor storage of materials and equipment. I am in the process of applying of a building permit to start the construction of a home that will accompany the business and apply for a CUP to operate the business at this site." The letter further explains that the business (Country Tables) is a single owner/worker effort with one work vehicle, no employees, a limited number of deliveries occurring during business hours, with no proposed signage. The submitted site plan shows the current accessory structure as the location of the workshop and a small surrounding area for vehicle parking. The cargo container located to the east of the shed will be removed. If the variance is approved, the applicant intends to apply to the Planning Commission for a CUP for the establishment of a HEBAU pursuant to the Zoning Code. The site plan and operations plan for the business activity would be reviewed as part of the CUP request. Due to the lack of public vehicle traffic and no proposed construction linked to the variance request, no review comments were sought from Carver County Public Works (road access) or the CCWMO (stormwater or sediment and erosion control permitting). 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 or injurious to property or improvements in the area of adjacent to the property. Granting the variance does not appear to be in conflict with the intent of the Comprehensive Plan and/or County Ordinances and would not alter the character of the neighborhood. The Dahlgren Town Board reviewed the request and recommended approval at their April 8, 2024, meeting with no additional comments or conditions. Hart mentioned the letter of support which was signed by neighboring family members of the applicant. He stated that the subject parcel currently has an easement for access to County Rd 43 and noted the support of the landowners under the easement area are in favor of the request. Hart read the proposed conditions for consideration if the request is approved. If the Board of Adjustment determines that a practical difficulty has not been identified, the reasons supporting denial of the request must be stated.

Mr. Wellens explained the business operations in further detail and confirmed he is the only employee and sells most of his products on-line. He stated he is on track to apply for his building permit next month for the house on the property.

Jeff Thompson, speaking as Dahlgren Town Board supervisor, stated he was not at the April 8, 2024, meeting, but confirmed the township's recommendation for approval of the request.

No one from the public was present for comments on this request.

A motion was made by Steinhagen 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 8:30 p.m.

Steinhagen noted the history of the property and stated is a multi-generational family farm. He would like to see the family carry out their plan to continue living and working on the farm and would be in support of the request.

Thompson stated he researched the business information online and felt it was a good business fit. He would also support the variance request.

Gorra stated she didn't feel the 30-foot variance would present any problem for this business from a residence. It appears to be a good location for a sole-proprietorship business of this type.

Washburn commended the applicant for making the effort and applying for the variance and future CUP to correct the noncompliant use of the property.

A motion was made by Thompson to **approve and issue Order PZ20240014** allowing for a variance for one residence not on the property within 500 feet of the Home Extended Business Accessory Use operational area according to Section 152.079 (C)(9)(b)1 of the Carver County Code, for property legally described on the attached Exhibit "A". The Board of Adjustment further orders approval with the following conditions:

1. A Conditional Use Permit application for a HEBAU 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 HEBAU and/or property shall meet all other requirements of the Carver County Zoning Code and MN State Building Code.

2. If the future CUP application is approved, the approved operational area shall not extend closer than 470 feet from the residence on a neighboring property located to the northwest.

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

Adjournment

A motion was made by Gorra and seconded by Thompson to adjourn. All voted aye. The meeting was adjourned at 8:33 p.m.