

CARVER COUNTY BOARD OF ADJUSTMENT

Regular Meeting – **Wednesday, March 3, 2021**
Via WebEx Conference Call

AGENDA

7:00 p.m.

1. Approve minutes of February 3, 2021 meeting
Pages 1-1 through 1-6
2. **File #202010004**- Public hearing on request by Larry Schmidt for a variance.
(Reduced Setbacks Feedlot Structure from Property Line)
Hancock Township Pages 2-1 through 2-10
Issue Order #PZ20210004 – Larry Schmidt
3. **File #20210006**- Public hearing on request by Jason Mackenthun for a variance.
(Reduced setback for new residence from existing feedlot)
Young America Township Pages 3-1 through 3-9
Issue Order #PZ20210006 – Jason Mackenthun
4. **File #20210003**- Public hearing on request by Larry Dreier for a variance.
(Reduced Road Frontage)
Young America Township Pages 4-1 through 4-9
Issue Order #PZ20210003 – Larry Dreier
5. **File #20210005**- Public hearing on request by Aaron Peterson & Brooke Michaelson for a variance. (Exceed Prime Ag Soils in New Residential Lot)
Dahlgren Township Pages 5-1 through 5-11
Issue Order #PZ20210005 – Aaron Peterson & Brooke Michaelson

Other Business

CARVER COUNTY BOARD OF ADJUSTMENT
Regular (WebEx video teleconference) Meeting – February 3, 2021
Minutes

Members Present: Gerald Bruner, Robin Bielefeldt, Richard Kvitek, Virgil Stender, Mark Willems, Scott Smith

Members Absent: Doug Weber

Members Late: None

Staff Present: Jason Mielke, Aaron Stubbs, Jennifer Tichey, Nancy Buckentine

Pursuant to due call and published notice thereof, the February 3, 2021, meeting of the Carver County Board of Adjustment was called to order by Jason Mielke at 7:03 p.m.

*NOTE: The delayed meeting start time was due to members experiencing technical difficulties entering the WebEx meeting.

Mielke introduced the new members of the Board – Joe Polunc, appointed by the Commissioner from District 2 and Scott Smith, the representative from the Planning Commission.

The first order of business was the organization of the Board of Adjustment and the election of Chairman.

Election of Chairman – Mielke called for nominations for the office of Chairman. Polunc made a nomination for Gerry Bruner as chairman. Mielke called for any other nominations. A motion was made by Kvitek and seconded by Smith to cease nominations and cast a unanimous ballot for Gerald Bruner as Chairman. Mielke conducted a roll call vote. All voted aye. Motion carried. Gerry Bruner is the newly elected Chairman.

Election of Vice-Chairman – Mielke called for nominations for the office of Vice-Chairman. Stender made a nomination for Richard Kvitek as Vice-Chairman. Kvitek made a nomination for Bielefeldt as Vice-Chairman. Mielke called for any other nominations. Mielke stated because there was more than one nomination, the vote would be done by closed ballot. Since this meeting was being conducted by WebEx, the members were asked to text their vote to Aaron Stubbs who would announce the result. Stubbs stated the result was a tie with three votes for Kvitek and three votes for Bielefeldt. It was decided by the Board of Adjustment members to toss a coin to decide the vote. Stubbs tossed a coin and Bielefeldt was declared to be elected as Vice-Chairman.

Appointment of Secretary – Mielke said that traditionally the Land Management Department has been elected to act as the Secretary to the Board of Adjustment. Mielke called for nominations for the Secretary to the Board of Adjustment. Kvitek made a nomination to have Land Management as Secretary. Bruner seconded the nomination. Mielke called for any other nominations. Hearing none, staff cease a unanimous ballot for the Land Management Department as Secretary. Mielke conducted a roll call vote. All voted aye. Motion carried. Land Management staff will serve as Secretary to the Board of Adjustment.

Mielke turned the meeting over to the newly elected chairman, Gerald Bruner, to conduct the meeting.

Minutes – Chairman Bruner call for a motion on the minutes from the December 2, 2020 meeting. A motion was made by Bielefeldt and seconded by Kvitek to approve the minutes of the December 2, 2020, meeting. Bruner conducted a roll call vote. All voted aye. Motion carried.

Public Hearing - File # 20210001 – Woodhill Partners, LLC –Chairman Bruner called the public hearing to order at 7:22 p.m. to consider the application of Jim Burns, representing Woodhill Partners, LLC, pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for reduced width/depth ratio, reduced road frontage and a Township road easement pursuant to Chapter 152 of the County Code. The property is in Section 15 of Watertown Township.

The following were present: Jim Burns, Steve Hendricks

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 January 7, 2021

Exhibit F – Letter to the Board of Adjustment and Watertown Township dated January 25, 2021, and all attachments

Exhibit G – Telephone call from Steve Hendricks received January 27, 2021

Mielke explained the applicant purchased the subject parcel on a Contract for Deed a few years ago. The parcel is improved with a single-family dwelling, detached garage, former dairy barn and other agricultural structures. The applicant has proposed an extension of the Township Road to the north with a 66-foot right-of-way without platting, to facilitate a minor subdivision of the building site with approximately 9.2 acres. The newly created parcels, the building site (residential parcel) and the tillable ground (agricultural parcel), would not meet the minimum road frontage or width to depth requirements of the Zoning Code. Mielke discussed the Zoning Code standards for the major subdivision (platting requirements) and the minor subdivision process. He stated the proposed 66' x 125' road right-of-way extension would be recorded as an easement and dedicated to the Township for a future road right-of-way. This would create legal road frontage for each parcel created after the subdivision. Mielke explained the Zoning Code requirements of 1:5 width/depth ratio and stated the newly created parcels would not meet this requirement; therefore, the reason for the variance request. He stated it would take approximately 340 feet of road frontage to make the parcels conforming, which is not feasible for either parcel. If the variance is granted, each parcel would have legal road frontage with the easement in a reduced amount from the standard. The applicant has stated that the original parcel lacks adequate road frontage for any type of subdivision. Most of the land has been in agriculture production prior to the enactment of the Zoning Code (1974) and will continue in that manner until annexation into the City. The easement provides an opportunity for future road construction for orderly growth, which is the most practical option to subdivide the farmstead and continuing to utilize the tillable land for agriculture. The Environmental Services Department confirmed that current status of the SSTS on the property is

compliant and does not require any further review for this request. Watertown Township Board heard and reviewed this request at their January 4th meeting, at which time no recommendation was made but allowed the Township Board to visit the site. At their February 1st Town Board meeting, a recommendation for approval was submitted. This information was not available at the time the staff report was completed. Mielke read the proposed conditions for consideration if the request is approved. He noted that the proposed road easement will be privately maintained, pursuant to Watertown Township Board requirements.

Jim Burns, representing Woodhill Partners, LLC, added information about the drain tile which was a concern expressed by Steve Hendricks. The drain tile runs along the east side of Woodhill Ln and continues north underneath the driveway and along the westerly property line. He stated they are aware of the drain tile and will continue to maintain it as they currently do. The subdivision should not affect the tile and they will construct a field approach to access the tillable ground without disturbing the tile line.

Steve Hendricks, 11820 Swede Lake Rd, stated his concern was about maintenance of the tile line and he stated that Mr. Burns' acknowledgement to maintain the tile was satisfactory.

A motion was made by Stender and seconded by Bielefeldt to close the public hearing. Bruner conducted a roll call vote. All voted aye. Motion carried. The public hearing was closed at 7:38 p.m.

A motion was made by Kvitek and seconded by Stender to **approve and issue Order PZ20210001** allowing for a minor subdivision resulting in two parcels with reduced road frontage and width/depth ratio and the following conditions:

1. A Minor Subdivision application shall be submitted and approved prior to the recording of any deed(s). The parcels shall be subdivided in accordance with the County Zoning Code requirements including but not limited to, a completed Minor Subdivision application, a survey, SSTS compliance, and road easement description.
2. Prior to the Minor Subdivision completion, the township road easement (or deed) shall be dedicated to Watertown Township, and recorded at the County Recorder's Office, providing for a minimum of 66 feet x 125 feet. The dedication as a right-of-way easement of the township road shall be pursuant to the approved site plan, providing frontage to all parcels. The easement shall be reviewed Watertown Township and Carver County, prior to recording. The township road easement shall be privately maintained, pursuant to Watertown Town Board requirements.

Chairman Bruner conducted a roll call vote. All voted aye. Motion carried.

Public Hearing - File # 20200062 – Timothy Heiland –Chairman Bruner called the public hearing to order at 7:43 p.m. to consider the application of Timothy Heiland pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for reduced width/depth ratio and reduced road frontage pursuant to Chapter 152 of the County Code. The property is in Section 14 of Dahlgren Township.

The following were present: Timothy Heiland, Jeff Thompson

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant

Exhibit F – Letter to the Board of Adjustment and Dahlgren Township dated January 25, 2021, and all attachments

Stubbs explained the applicant is interested in subdividing a portion of his uncle's land and using the remaining 1 per 40 building eligibility to create a residential lot. The parcel consists primarily of crop production land with a large wooded area on top of a bluff in the southeast corner. The proposed residential lot would not meet the width to depth ratio and road frontage requirements for a new residential lot; therefore, a variance has been requested. A property split approved in 2006 separated the existing farmstead and agricultural buildings from the remaining tillable acreage and wooded area with one building eligibility. Stubbs discussed the Zoning Code standards for the major subdivision (platting requirements) and the minor subdivision process and explained that a requirement for newly created parcels is 125 feet of road frontage and the lot depth must not exceed five times the proposed parcel width. All newly created parcels must also maintain the required width for the entire depth of the lot. The applicant is proposing to subdivide the wooded area from the tillable land by creating an approximate 16.23-acre parcel with a maximum depth of 2,015 feet. This depth would require a minimum of 403 feet of road frontage to meet the County's standards. If this width is maintained, it would include approximately 8 acres of the tillable land, with approximately 5 acres of that tillable land being categorized as prime agricultural soil, in the residential lot. The applicant has indicated that the practical difficulty is lot configuration and the classification of the surrounding roadways. Access to the wooded area is extremely limited based on the topography of its location. It is unlikely that a new access would be granted from either of the surrounding roadways. The applicant is working with the adjacent landowner (Tom Jacobson) to the southeast on finalizing an easement agreement which would allow for the wooded high ground to be accessed using the driveway to the south of the subject parcel. The proposed parcel will have approximately 133 feet of road frontage and will maintain a width of no less than 125 feet for the entire depth of the parcel. If the proposed land subdivision were to meet the County Zoning code guidelines, it would result in an additional 8 acres of tillage land being fragmented from the parent parcel. Using the existing building eligibility in the wooded area and not reducing the tillable acreage is a reasonable use for the property. The property is unique in that it is bounded by Highway 212 and County Road 43, both of which are classified in a manner that makes new access points difficult to obtain. The request was reviewed by Erin Smith, City of Carver Planner, who indicated that the City of Carver would not object to this request. It was her opinion that the City would not extend out to this area in the next 40 years. Carver County Environmental Services Department stated the applicant has submitted a design for a future septic system and the submitted soils for the location have been reviewed and approved. Dahlgren Township Board heard and reviewed the request at their November 9, 2020, meeting and recommended approval. Stubbs read the conditions for consideration if the request is approved.

Jeff Thompson, Dahlgren Township Chairman, stated Mr. Heiland appeared before their board with his request and he acknowledged the Township's recommendation for approval with no additional

comments or conditions.

Tim Heiland, 1899 White Oak Dr, thanked staff for the report and stated all information was correct as presented. He had no additional information to offer at this time.

Bielefeldt stated he had tried to locate the proposed lot but found it difficult to identify. Bruner also stated he visited the area but was uncertain of the exact location. Kvitek visited the site and noticed survey stakes and what appeared to be an access to the wooded area.

Mr. Heiland confirmed the stakes at the site were related to the septic location and soil borings.

Smith asked the applicant if he intends to use the same driveway as the existing parcel to the southeast.

Mr. Heiland stated he is working with the landowner on finalizing a driveway easement and maintenance agreement to share the access and a portion of the existing driveway. He stated there had been a long-time verbal agreement for the shared use and they are now working to get a formal easement and maintenance agreement to be recorded on the property.

Bielefeldt asked if the adjacent property owner was notified of this meeting.

Stubbs confirmed that Mr. Jacobson received notice of the meeting and had called to say he did not wish to participate in the meeting. Mr. Jacobson stated he had no issue with the easement and wanted to make sure the maintenance agreement would be in place.

Kvitek noted the statement citing the access easement must be approved and recorded prior to the minor subdivision taking place.

Stubbs stated the applicant had submitted an easement agreement along with his application. The County mapped out the easement as described and recognized an error/typo in the description which needs to be corrected. This correction could not be completed prior to this meeting, so the condition was added to avoid a delay in the decision.

A motion was made by Bielefeldt and seconded by Kvitek to conclude the public hearing. Bruner conducted a roll call vote. All voted aye. Motion carried. The public hearing was concluded at 7:56 p.m.

A motion was made by Bielefeldt and seconded by Polunc to **approve and issue Order PZ20200062** allowing for a new residential lot with reduced width/depth and reduced road frontage and the following conditions:

1. A Minor Subdivision application shall be submitted and approved prior to the recording of any deed(s). The parcels shall be subdivided in accordance with the County Zoning Code requirements including but not limited to, a completed minor subdivision application, a survey and SSTS compliance.
2. Prior to the Minor Subdivision completion, an access easement allowing for the use of the

existing driveway on the south side of the proposed parcel shall be approved by Land Management and recorded at the County Recorder's Office.

Chairman Bruner conducted a roll call vote. All voted aye. Motion carried.

Adjournment

Having completed the agenda items and seeing no other business, a motion was made by Bielefeldt and seconded by Kvitek to adjourn. Bruner conducted a roll call vote. All voted aye. The meeting was adjourned at 7:59 p.m.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Environmental Services Department

February 22, 2021

TO: Carver County Board of Adjustment & Hancock Town Board

FROM: The Environmental Services Department

SUBJECT: Application for a Variance (Reduced Setbacks to Property Lines for a New Feedlot)

FILE #: PZ20210004

OWNER/APPLICANT: Larry A. Schmidt

SITE ADDRESS: 10355 County Road 52, 56011

VARIANCE TYPE: Reduced Setback to Property Lines for a New Feedlot

PURSUANT TO: Carver County Code Section 54.46 (C) (1)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 05-013-0800

BACKGROUND:

1. Mr. Larry Schmidt owns an approximately 40-acre parcel located in the West Half (W½) of the West Half (W½) of the Northwest Quarter (NW¼) of Section 13, Hancock Township. The property is in the Agricultural Zoning District, Shoreland Overlay District of a protected public water, and the CCWMO (Bevens Creek watershed).
2. The applicant is requesting a Variance that would allow him to register and operate a new feedlot of 10 animal units or more (cattle) approximately 62 feet from the west property line and 82 feet from the north property line. Chapter 54 of the County Code requires new feedlots of 10 animal units or more to be located a minimum of 200 feet from any property line. Therefore, a Variance for reduced setbacks pursuant to Chapter 54 – Section 54.46 (C) (1) has been requested.

LEGAL BACKGROUND:

§ 54.04 DEFINITIONS.

FEEDLOT, (NEW) ANIMAL. An animal feedlot constructed and operated at a site where no animal feedlot existed previously or where a pre-existing animal feedlot has been abandoned or unused for a period of three years or more.

§ 54.46 SETBACKS.

(B) For the purpose of this section, when measuring from a road, the edge of the right-of-way line shall be considered the property line.

(C) New feedlots.

- (1) A setback of 200 feet shall apply to all new feedlots of ten animal units or more from rear, front, and side property lines.

STAFF ANALYSIS:

1. Mr. Schmidt and his family purchased the approximately 40-acre parcel in August of 2020. The property is improved with multiple out-buildings (none within the Shoreland Overlay District). Since purchasing the property, the applicant and his family have fenced in the yard adjacent to the existing out-buildings and started a small cattle operation. The current operation consists of five cow/calf pairs and five heifers, totaling 9.5 animal units. The property has not been registered as a feedlot by the County because it falls below the County Code threshold of 10 animal units.

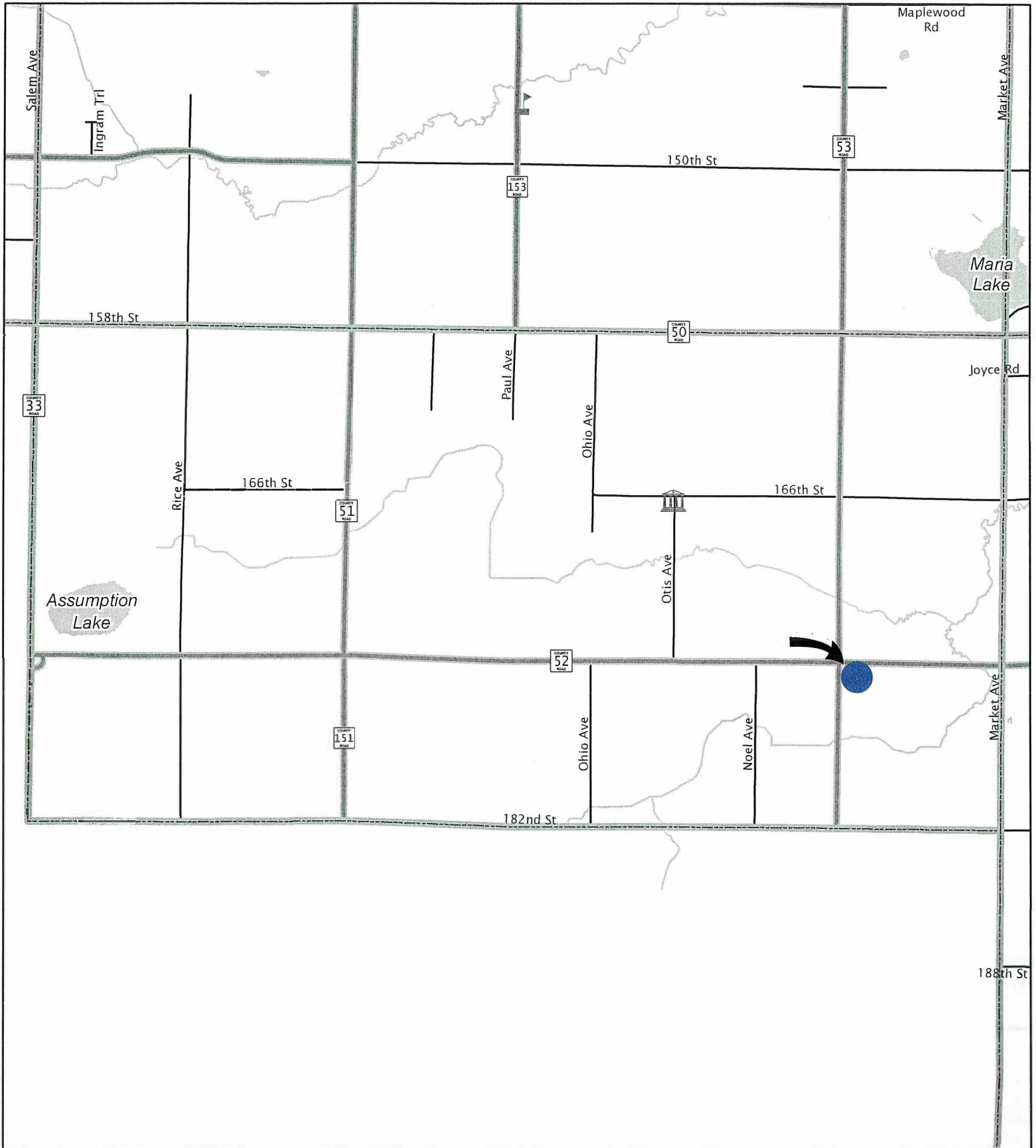
2. The applicant and his family would like to expand their operation to allow for additional cattle. The herd of heifers will remain on-site, giving birth to calves each season. Once the herd grows to 10 animal units or more, the site will need to be registered with the County as a new feedlot and setback requirements will need to be met. Chapter 54 of the County Code requires new feedlots of 10 animal units or more to be located a minimum of 200 feet from all property lines. Approval of the variance would allow Mr. Schmidt and his family to operate a new feedlot within an approximate 62-foot setback to the west property line, reflecting an approximate 138-foot variance and an approximate 82-foot setback to the north property line, reflecting an approximate 118-foot variance.
3. The current location of the feedlot is approximately 906-feet from the closest residence. Chapter 54 of the County Code requires a setback of 1,000-feet shall apply to all new feedlots of 30 animal units or more from residences. The feedlot shall not exceed 29 animal units unless a variance is obtained in the future.
4. The applicant has determined that the current site is the best location for a feedlot based on the following reasons:
 - a. The existing out-buildings are utilized as wind breaks for the cattle during the winter months, with the western most building also serving as a shelter for the animals.
 - b. Moving the feedlot to meet the 200-foot setback would not provide the best use of the land, which is prime agriculture and currently used for crop farming.
 - c. The remaining grassland will be used for grazing during the summer months.
 - d. The current location is approximately 906-feet from the closest neighboring home. Moving the feedlot further away from the property lines would decrease this distance.
5. 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.
6. 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.
7. The Hancock Town Board reviewed and recommended approval of the request at their February 22, 2021 Town Board meeting.

BOARD CONSIDERATION:

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

1. The permittee shall register the feedlot with the County when the number of cattle reaches 10 animal units or more.
2. The feedlot shall not exceed 29 animal units unless a variance is obtained to allow for a new feedlot of 30 animal units or more within 1,000-feet of a residence.
3. All feedlot activities shall be done in accordance with the submitted site plan(s). The new feedlot shall not encroach any closer to the road right-of-way line than as approved as part of this permit application. (Approx. 62 feet from the west and 82 feet from the north)

HANCOCK TOWNSHIP

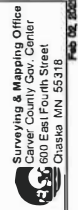


This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible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



Map Created by Carver County GIS

N 1/2 SEC. 13, T.114, R.25



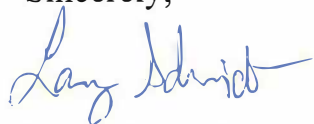
Dear Hancock Township Board Members and Carver County,

My family and I purchased a 40 acre agricultural property addressed 10355 County Road 52 in Belle Plaine in August of 2020 and have since started a small cattle operation. After purchasing the land in August, we fenced in the yard around the outbuildings that were already constructed. This site offers a wind break for the cattle between the buildings during the winter months and the western most building serves as a shelter. This spring we intend to fence in the remaining grassland as pasture for the cattle to graze during summer months. Currently, we have 5 cow/calf pairs and 5 heifers that are on the land. The herd of heifers are intended to remain on the farm and each year they will have calves. We have decided to apply for a variance so that we may expand our operation to allow for a variable number of animal units in the coming years.

My family and I would like to register for a feedlot and apply for a setback variance in order to utilize the existing outbuildings for our cattle. We feel that the current fence setup is in the best location as it is furthest away from any neighboring homes. The current site is about 906 feet away from the closest homestead and the current buildings are 62 feet and 82 feet respectively from the road right of ways. We feel that moving the fenced area for the cattle would not provide best use of the land. In addition, moving the fenced in area further away from the road right of ways would encroach on the distance between the nearest neighboring home. Also, moving the fence would use up prime agricultural land which is needed for crop production.

Please see attached images for an aerial view of the property and fence lines with measurements.

Sincerely,



Larry Schmidt

2-2-21

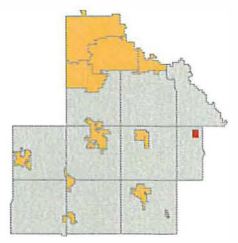
PROPOSED SETBACKS - 05.013.0800



Date: 2/11/2021



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Carver County GIS



Township Presentation & Recommendation Form

PARCEL #	05.0130800	Permit #	
Owner's Name:		Owner's Mailing Address:	
Larry A Schmidt		19185 Market Ave	
City:	Owner State:	Owner Zip:	
Belle Plaine	MN	56011	
Applicant (if other than owner):		Site Address:	
		10355 COUNTY ROAD 52	

Type of Request:	☐ CUP	☐ IUP	☐ Preliminary Plat	☐ Final Plat	☒ Variance	☐ Appeal
Description of Request:						
I am requesting a feedlot variance to allow for reduced setbacks for having cattle on the property.						
Date of County Public Hearing:			Date of Township Meeting:			
			2-22-2021			

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:
approve the request for Variance

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

Signature of Applicant

Date

Signature of Township Official

Date

Dear Carver County and Hancock Township Board Members,

On behalf our neighborhood, we would like to express our support for the passage of a variance request submitted by Larry Schmidt regarding his property addressed 10355 County Road 52, Belle Plaine, MN 56011. We are neighbors of the Schmidt farm and are located across the property lines. We have our contact information listed below. We support their cattle operation and hope you will consider passing their requested variance.

Sincerely,

David Bessel 952-466-2478
Judy Bessel 952-466-2478
Erinad Karnitz 952-466-5842
Donna Karnitz 952-466-5842
Jeff Vitt 612 419 3091
Emily Vitt 612 -419-0385

Dear Carver County and Hancock Township Board Members,

On behalf our neighborhood, we would like to express our support for the passage of a variance request submitted by Larry Schmidt regarding his property addressed 10355 County Road 52, Belle Plaine, MN 56011. We are neighbors of the Schmidt farm and are located across the property lines. We have our contact information listed below. We support their cattle operation and hope you will consider passing their requested variance.

Sincerely,

10810 County Road 52
Belle Plaine, MN 56011

A handwritten signature in black ink, appearing to read "Paul Berto", with a long horizontal flourish extending to the right.

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 05-013-0800

File# PZ20210004

APPLICANT/OWNER: Larry A Schmidt

* * * * *

The West Half of the West Half of the Northwest Quarter (W1/2 of W1/2 of NW1/4), Section 13,
Township 114 North, Range 25 West of the 5th Principal Meridian, Carver County, Minnesota.

DRAFTED BY: Carver County Land Management Department

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Environmental Services Department

February 22, 2021

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

FROM: The Environmental Services Department

SUBJECT: Application for a Variance (Reduced Setback to an Existing Feedlot for a New House)

FILE #: PZ20210006

OWNER: Otto E. and Janice C. Mackenthun

APPLICANT: Jason Mackenthun

SITE ADDRESS: 15XXX Martha Street, 55339

VARIANCE TYPE: Reduced Setback to an existing Feedlot for New Home Construction

PURSUANT TO: Carver County Code Section 54.46 (D) 2a

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 11-033-1505

BACKGROUND:

1. Otto and Janice Mackenthun own an approximately 74.39-acre parcel located in the Northeast Quarter (NE¼) of the Southwest Quarter (SW¼) of Section 33, Young America Township. The property is in the Agricultural Zoning District and the CCWMO (Bevens Creek watershed). Jason Mackenthun, their grandson, has proposed to subdivide a 1 per 40 eligibility of his grandparent's land, comprising of approximately 4.67 acres.
2. The applicant, Jason Mackenthun, is requesting a Variance that would allow him to construct a house and garage approximately 970 feet from an existing registered feedlot (Stuewe) located to the northeast of the subject property. Chapter 54 of the County Code requires a minimum setback of 1,000 feet from an existing feedlot to all new residences. Therefore, a Variance for reduced setbacks pursuant to Chapter 54 – Section 54.46 (D) (2)a has been requested.

LEGAL BACKGROUND:

§ 54.04 DEFINITIONS.

FEEDLOT, (EXISTING) ANIMAL. An animal feedlot that has registered, pursuant to Minn. Rule 7020.0350 and/or has registered with Carver County Environmental Services prior to July 7, 2003.

§ 54.46 SETBACKS.

(D) Existing feedlots as of July 7, 2003.

- 1) The modifications and/or expansions of animal feedlots, that are located within 200 feet of existing property lines, may be allowed if they do not further encroach on the established setback.
- 2) The modification or expansion of animal feedlots that are located within 1,000 feet of residences, churches, schools, regional parks, cemeteries, non-agricultural commercial and industrial activities, and restaurants may be allowed if the modification and/or expansion does not further encroach on the established setback.
 - a. This setback shall be reciprocal.

STAFF ANALYSIS:

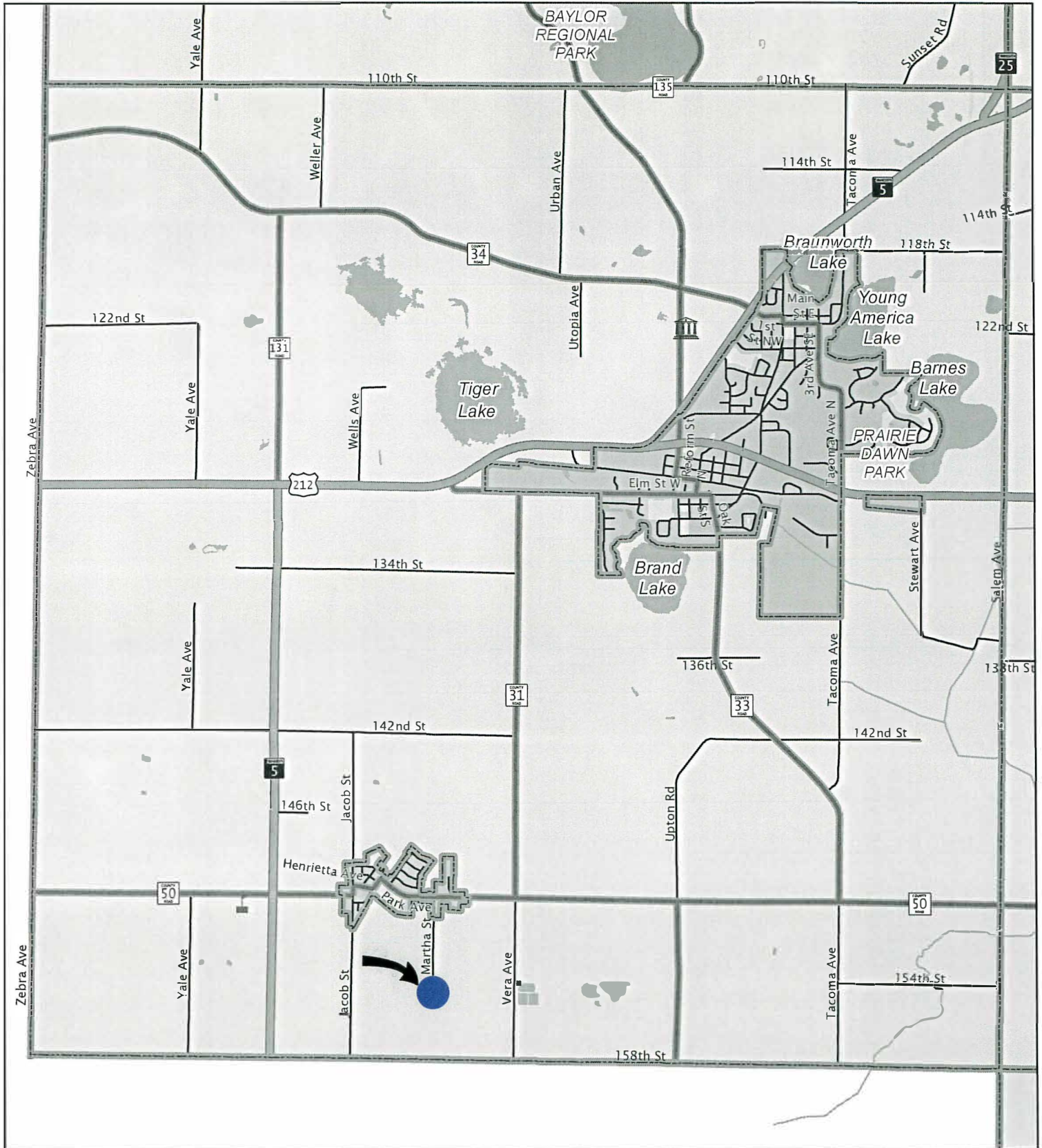
1. Jason Mackenthun, the applicant, has proposed to subdivide a 1 per 40 eligibility comprising of approximately 4.67 acres of an approximately 74.39-acre parcel owned by his grandparents, Otto and Janice Mackenthun. The applicant would like to construct a house on the property; however, based on the topography and existing features, he has no choice but to locate the house within the required 1,000-foot setback from an existing feedlot. If approved, the variance would allow the applicant to construct a house and garage approximately 970 feet from an existing registered feedlot to the northeast (Stuewe). The applicants' request reflects an approximate 30-foot variance to the neighboring feedlot.
2. The applicant describes a practical difficulty based on the existing field tile drainage system and the topography of the property. The drain tile that runs northwest to southeast splits the property and cannot be removed because it drains the field to the north of the driveway. The area to the west of the tile line is the lowest part of the property and is prone to holding water after heavy rain events. The placement of the house in the proposed location would be best location for the house, while maintaining a feasible distance from the feedlot.
3. The Subsurface Sewage Treatment System (SSTS) locations have been reviewed by the Carver County Environmental Services staff to verify all requirements of MN Rule 7080-7083 and Chapter 52 of the Carver County Code of Ordinances.
4. 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 Young America Town Board reviewed and recommended approval of the request at their February 9, 2021 Town Board meeting.

BOARD CONSIDERATION:

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

1. The permittee shall obtain the appropriate building permit(s) and septic permit(s) prior to the construction of the residential house. A grading plan and erosion/sediment control plan shall also be prepared, submitted and implemented in accordance with the CCWMO Water Rules (Chapter 153) as part of the building permit application process. The lowest floor elevation for the house must meet to the Carver County Zoning Code Shoreland Regulations.
2. All construction activities shall be done in accordance with the submitted site plan(s). The new construction shall not encroach any closer to the existing feedlot than as approved as part of this permit application (Approx. 970 feet).

YOUNG AMERICA TOWNSHIP



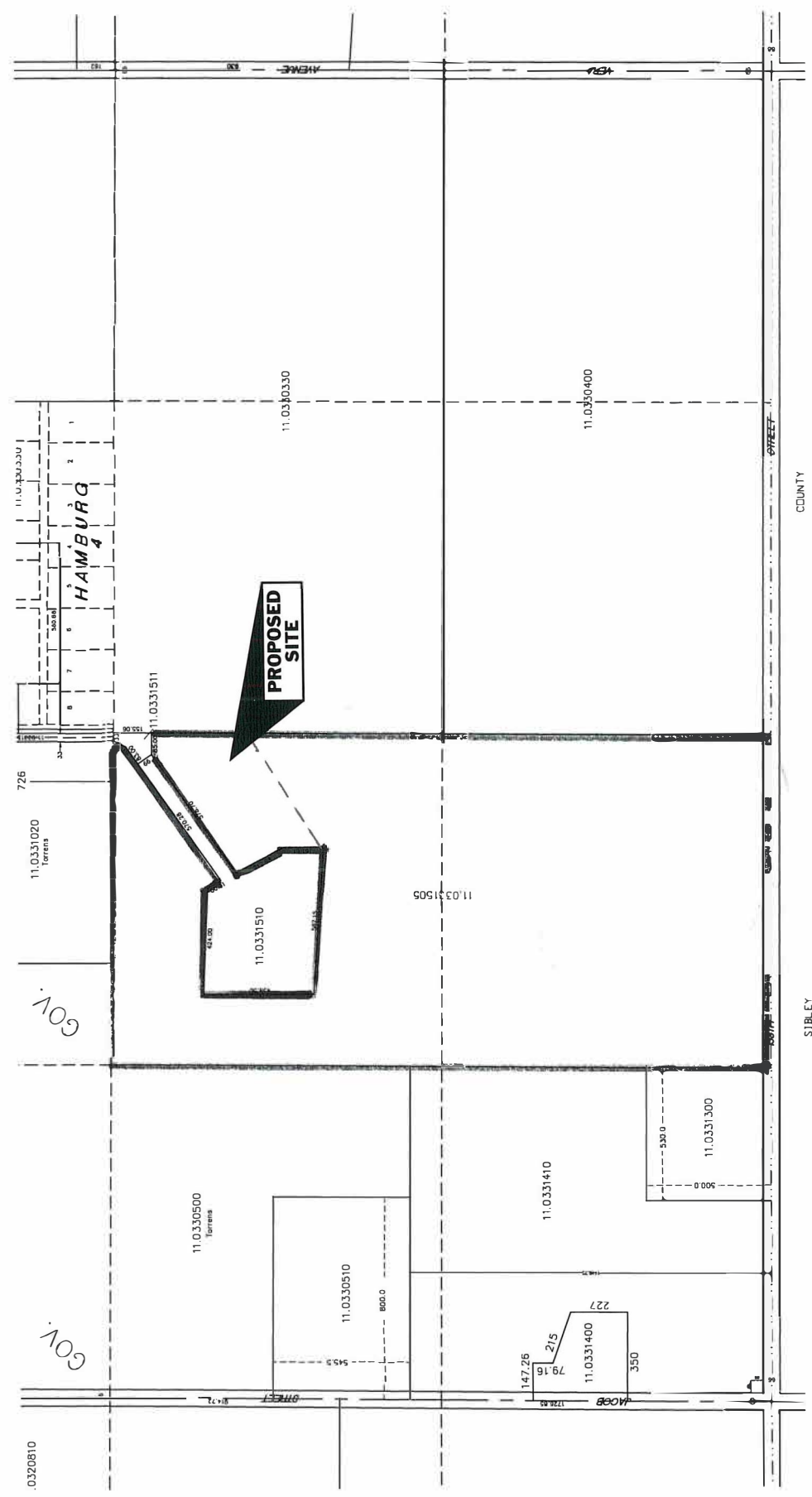
This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible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



Map Created by Carver County GIS

THIS IS NOT A LEGALLY RECORDED PLAT
 AS IT MAY NOT BE RECORDED IN THE CARVER COUNTY
 RECORDS. THIS PLAT IS FOR INFORMATIONAL USE
 ONLY. IT IS NOT TO BE USED FOR EVIDENCE
 IN ANY COURT OF LAW. THE SURVEYING AGENTS
 ARE NOT RESPONSIBLE FOR ANY
 INACCURACIES CONTAINED HEREIN.

S 1/2 SEC. 33, T.115, R.26



February 1, 2021

Land Management Department
Carver County Government Center
600 E 4th Street
Chaska, MN 55318

To Whom It May Concern,

I am requesting a variance for a home to be constructed within 1,000 feet of an existing feedlot located at 15335 Martha St, Hamburg. Our house plan encroaches into the feedlot setback by an estimated 30 feet. To move the house back an additional 30 feet is not feasible due to existing drain tile lines and lowland areas that are prone to holding water after heavy rain events. The drain tile that runs northwest to southeast splits the property and cannot be removed because it drains the field to the north of the driveway. The area to the west of the tile line is the lowest part of the property. This area holds water and would be less desirable for building a house.

Thank you for considering this request.

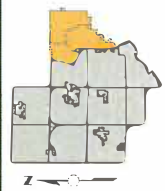
A handwritten signature in dark ink, appearing to read 'Jason Mackenthun', with a long horizontal stroke extending to the right.

Jason Mackenthun

PROPOSED SETBACK MAP - 11.033.1505



Carver County GIS



CERTIFICATE OF SURVEY

part of NE 1/4 of the NE 1/4
Section 33, Township 115, Range 26
Carver County, Minnesota
for Jason Mackenthun

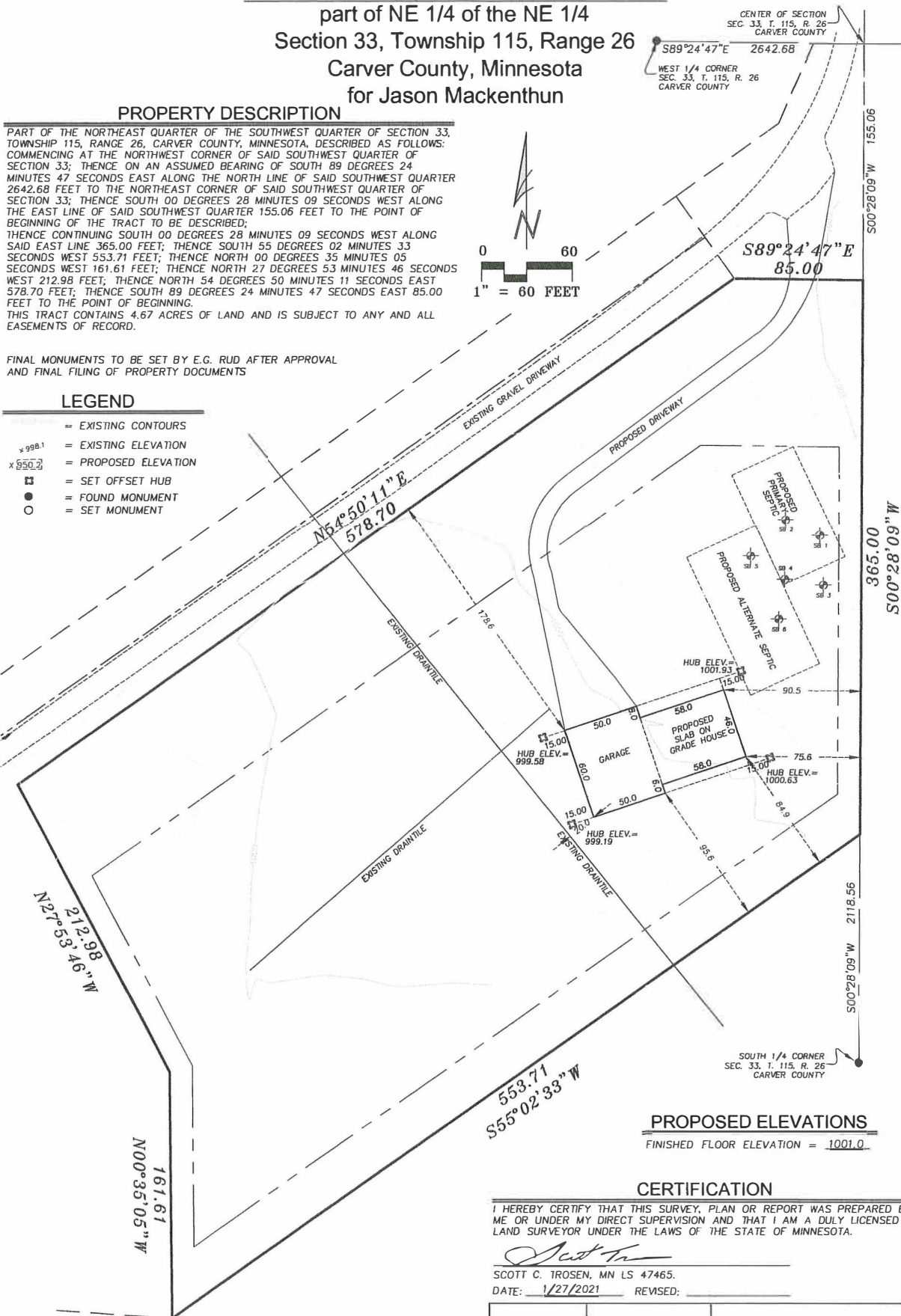
PROPERTY DESCRIPTION

PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 115, RANGE 26, CARVER COUNTY, MINNESOTA, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER OF SECTION 33; THENCE ON AN ASSUMED BEARING OF SOUTH 89 DEGREES 24 MINUTES 47 SECONDS EAST ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER 2642.68 FEET TO THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER OF SECTION 33; THENCE SOUTH 00 DEGREES 28 MINUTES 09 SECONDS WEST ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER 155.06 FEET TO THE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED; THENCE CONTINUING SOUTH 00 DEGREES 28 MINUTES 09 SECONDS WEST ALONG SAID EAST LINE 365.00 FEET; THENCE SOUTH 55 DEGREES 02 MINUTES 33 SECONDS WEST 553.71 FEET; THENCE NORTH 00 DEGREES 35 MINUTES 05 SECONDS WEST 161.61 FEET; THENCE NORTH 27 DEGREES 53 MINUTES 46 SECONDS WEST 212.98 FEET; THENCE NORTH 54 DEGREES 50 MINUTES 11 SECONDS EAST 578.70 FEET; THENCE SOUTH 89 DEGREES 24 MINUTES 47 SECONDS EAST 85.00 FEET TO THE POINT OF BEGINNING. THIS TRACT CONTAINS 4.67 ACRES OF LAND AND IS SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

FINAL MONUMENTS TO BE SET BY E.G. RUD AFTER APPROVAL AND FINAL FILING OF PROPERTY DOCUMENTS

LEGEND

- = EXISTING CONTOURS
- = EXISTING ELEVATION
- = PROPOSED ELEVATION
- = SET OFFSET HUB
- = FOUND MONUMENT
- = SET MONUMENT



PROPOSED ELEVATIONS

FINISHED FLOOR ELEVATION = 1001.0

CERTIFICATION

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.

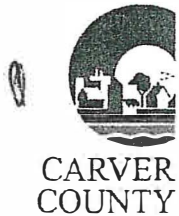
SCOTT C. TROSEN, MN LS 47465.
DATE: 1/27/2021 REVISED:

TROSEN
LAND SURVEYING

TROSEN LAND SURVEYING, LLC
236 LEWIS STREET SOUTH
SHAKOPEE, MN 55379
PH: 612-990-1182
WWW.TROSENLANDSURVEYING.COM

AREA SUMMARY

203,271 SQ. FT. OR 4.67 ACRES



Township Presentation & Recommendation Form

PARCEL #	11.0331505	Permit #	PZ 20210006
Owner's Name:	Otto Mackenthun	Owner's Mailing Address:	667 George St.
City:	Hamburg	Owner State:	MN
		Owner Zip:	55339
Applicant (if other than owner):	Jasen Mackenthun	Site Address:	

Type of Request:	☐ CUP	☐ IUP	☐ Preliminary Plat	☐ Final Plat	☒ Variance	☐ Appeal
Description of Request:	Construction within 1000 ft of a feed lot.					
Date of County Public Hearing:	3-3-21	Date of Township Meeting:	2-9-21			

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, 30 feet is reasonable for an exception
--	--

****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	
Signature of Township Official	

Date	1-28-21
Date	2/9/21

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 11-033-1505/part of

File# PZ20210006

APPLICANT: Jason Mackenthun

OWNERS: Clayton Mackenthun & Karen Gebhardt

Part of the Northeast Quarter of the Southwest Quarter of Section 33, Township 115, Range 26, Carver County, Minnesota, described as follows:

Commencing at the Northwest corner of said Southwest Quarter of Section 33, thence on an assumed bearing of South 89 degrees 24 minutes 47 seconds East along the North line of said Southwest Quarter 2,642.68 feet to the Northeast corner of said Southwest Quarter of Section 33; thence South 00 degrees 28 minutes 09 seconds West, along the East line of said Southwest Quarter 155.06 feet to the point of beginning of the tract to be described; thence continuing South 00 degrees 28 minutes 09 seconds West along said East line, 365.00 feet; thence South 55 degrees 02 minutes 33 seconds West 553.71 feet; thence North 00 degrees 35 minutes 05 seconds West 161.61 feet; thence North 27 degrees 53 minutes 46 seconds West 212.98 feet; thence North 54 degrees 50 minutes 11 seconds East 578.70 feet; thence South 89 degrees 24 minutes 47 seconds East 85.00 feet to the point of beginning.

This tract contains 4.67 acres of land and is subject to any and all easements of record.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

February 22, 2021

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

FROM: The Land Management Department

SUBJECT: Application for a Variance (reduced road frontage and width/depth ratio).

FILE #: PZ20210003

PROPERTY OWNER: Larry & Debra Dreier Revocable Trust

APPLICANT: Larry Dreier

SITE ADDRESS: TBD County Road 31, 55339

VARIANCE TYPE: Width/Depth Ratio and Reduced Road Frontage

PURSUANT TO: Carver County Zoning Code: Section 152.033 (D)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 11-021-0220

BACKGROUND:

1. Larry & Debra Dreier own approximately 111.78 acres in parts of both the Northern Half (N ½) and Southern Half (S ½) of Section 21, Young America Township. The property currently has one, 1 per 40, building eligibility that can be used to create a new residential dwelling. The subject parcel consists primarily of crop production land, wooded area, and also has an area of grassland on the northeast side of County Ditch 5. The property is located within the Agricultural Zoning District, the Shoreland Overlay District of County Ditch 5, and the CCWMO (Bevens Creek watershed).
2. The applicant is requesting a variance that would allow for a Minor Subdivision to create a new residential parcel in the farm field/grassland area northeast of the drainage ditch. The residential parcel be approximately 16.6 acres and would meet all County regulations for residential parcels. The remnant agricultural parcel would be approximately 95 acres and would not meet the required road frontage or the width/depth standard; therefore, a variance has been requested.

LEGAL BACKGROUND:

§ 152.033 LOT REQUIREMENTS.

(D) Road frontage, lot width and depth.

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

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

STAFF ANALYSIS:

1. 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 existing 111.78-acre parcel was part of a larger tract of land; however, a minor subdivision approval in 1999 created the current configuration. That property split separated the tillable acreage, grassland area, and one building eligibility from the existing farmstead and agricultural buildings.
3. The Zoning Code requires all newly created parcels to have a minimum of 125 feet of road frontage to a publicly dedicated road and a minimum depth of 125 feet. As the depth of a proposed parcel increases, the width must also increase so that the depth does not exceed five times the width of the proposed parcel. A width of 500 feet, will support any depth. In addition, all newly created parcels must maintain the required width for the entire depth of the lot.
4. The applicant is proposing to split off the farm field grassland area (east of the drainage ditch) from the tillable by creating an approximate 16.6-acre residential parcel. The agricultural remnant would have approximately 3,200 feet of depth. Based on the Zoning Code regulations, this depth would require a minimum of 500 feet to meet the County's standards. Due to the location of the drainage ditch and the road frontage for the 1999 minor subdivision, there is only 420 feet of road frontage available for the agricultural remnant.
5. The applicant has stated that the practical difficulty in this case is related to the location of County Ditch 5. The applicant believes the presence of the ditch, and how it bisects the property, creates a natural divide which makes more sense as a residential parcel instead of a small piece of fragmented farmland.
6. The applicant is proposing to use the property in a reasonable manner, not permitted by an official control. The property does have an existing 1 per 40 building eligibility. Trying to use the existing B.E. in the grassland area that would not reduce the amount of tillable acreage on the remnant and is a reasonable use of the property that would not be permitted by the official control.
7. The plight of the landowner is due to circumstances unique to the property, not created by the landowner. This property was split by a previous owner in 1999, that minor subdivision removed approximately 66 feet of road frontage from the current parcel. However, the current parcel would still be unable to meet the County's road frontage requirements if that subdivision had not taken place. The presence of County Ditch 5 and the way it divides the property is the main reason for not being able to meet that standard. The location of the County Ditch along with the previous minor subdivision represents a unique set of circumstances not created by the landowner.
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 width to depth regulations and road frontage standards. The intent of these regulations is to prohibit the development of parcels that do not have adequate frontage to accommodate future needs and to prohibit the creation of a parcel configuration which would not meet the future SSTS needs of a location. This remnant agricultural parcel is being proposed with approximately 420 feet of road frontage and maintains a width no less than 125 feet for the entire depth of the parcel. Although it does not meet the specific standards, it appears to meet the intent of the regulations.
9. The granting of the variance would not conflict with the intent of the Comprehensive Plan. In the Comprehensive Plan, the preservation of agriculture land is listed as one of the major themes. If the proposed land split were to be done in a manner consistent with County guidelines, it would result in approximately 80 feet of land on the opposite side of the ditch being included with the tillable acreage. Maintaining the opposite side of the ditch may be problematic to future landowners and could lead to a boundary dispute. Splitting the land at the ditch does not fragment the larger parcel and therefore appears to not be in conflict with the intent of the Comprehensive Plan.

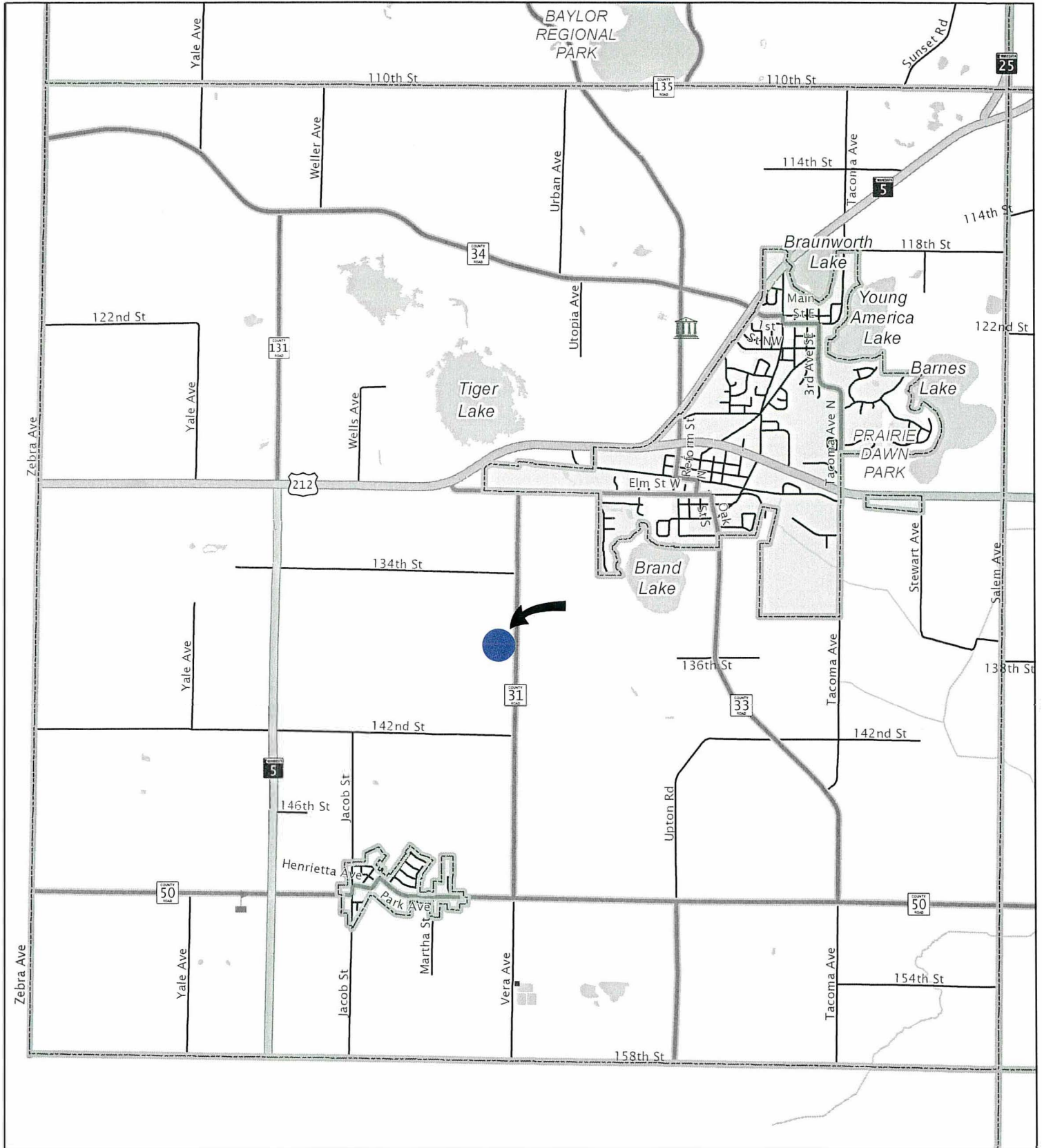
10. The neighborhood is comprised of agricultural uses and residences, and the request would not cause a substantial change in the character of the neighborhood, nor would it have a negative impact on government services.
11. The granting of the variance would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicants and would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
12. This request has been reviewed by the County's Environmental Services department. On February 16, 2021, this request was reviewed by Joe Enfield, Senior Environmentalist for Carver County. Mr. Enfield stated that because there is no existing house on the proposed or parent parcel, no review is required by Environmental Services. In addition, Mr. Enfield stated the soils for this location would be reviewed by County Environmentalist II, Lori Brinkman, as a part of the proposed Minor Subdivision.
13. The Young America Town Board reviewed this request and recommended approval during their February 9, 2021, Town Board meeting. The Town Board did not ask for any conditions to be attached to their recommendation.

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance for reduced road frontage and width/depth ratio would serve in the interest of justice, the following conditions should be attached:

1. A Minor Subdivision application shall be submitted and approved prior to the recording of any deed(s). The parcels shall be subdivided in accordance with the County Zoning Code requirements including but not limited to, a completed minor subdivision application, a survey and SSTS compliance.

YOUNG AMERICA TOWNSHIP



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Map Created by Carver County GIS



1/20/21

Board of Adjustment Member

We Larry & Deb Dreier are requesting a subdivision on the "Vestal property" recently purchased. I understand the county prefers to have a 500' buffer between property lines. We have about 420' currently from the south boundary to the North boundary being the center of county ditch 5(?). It is here that you make an exception because the ditch would make a very good natural boundary and would not leave a small piece of land that is useless to everyone.

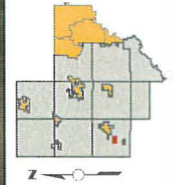
Thank You for your consideration

Larry & Deb Dreier

PROPOSED PARCEL MAP - 11.021.0220



Carver County GIS



Date: 7/11/2021
 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 provided for informational purposes only. Carver County is not responsible for any inaccuracies contained herein.





Township Presentation & Recommendation Form

PARCEL #	11-021-0220	Permit #	
Owner's Name:	Owner's Mailing Address:		
Larry + Debra Dreier	13820 Co Rd 33		
City:	Owner State:	Owner Zip:	
Norwood	Minn	55368	
Applicant (if other than owner):	Site Address:		
	Co Rd 31 Norwood Mn 55368		

Type of Request:	☐ CUP	☐ IUP	☐ Preliminary Plat	☐ Final Plat	☒ Variance	☐ Appeal
Description of Request:						
To give permission to use the center of the county ditch as the property line even though less than 500'						
Date of County Public Hearing:		Date of Township Meeting:				

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 has no problem allowing 420 instead of 500 ft for property lines.

****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.

Larry Dreier

Date

2/9/21

Signature of Applicant

Bradley Shust

Date

2/9/21

Signature of Township Official

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 11-021-0220

File# PZ20210003

**APPLICANT/OWNER: Larry J Dreier Revocable Trust and
Debra L Dreier Revocable Trust
Larry J Dreier and Debra L Dreier, Trustees**

*** * * * ***

Parcel 1:

The North Half of the Southeast Quarter of Section 21, Township 115 North, Range 26 West, according to the Government Survey thereof, Carver County, Minnesota.

EXCEPTING THEREFROM the following:

That part of the North Half of the Southeast Quarter of Section 21, Township 115, Range 26, Carver County, Minnesota, described as follows:

Beginning at the southeast corner of said North Half of the Southeast Quarter; thence on an assumed bearing of North 89 degrees 49 minutes 36 seconds West along the south line thereof, a distance of 824.05 feet; thence North 72 degrees 00 minutes 35 seconds West, a distance of 634.22 feet; thence North 88 degrees 30 minutes 10 seconds West, a distance of 546.50 feet; thence North 00 degrees 00 minutes 10 seconds West, a distance of 311.78 feet; thence North 89 degrees 59 minutes 48 seconds East, a distance of 546.31 feet; thence South 00 degrees 00 minutes 10 seconds East, a distance of 256.70 feet; thence South 72 degrees 00 minutes 35 seconds East, a distance of 645.30 feet; thence South 89 degrees 49 minutes 36 seconds East, a distance of 813.52 feet to the East line of said North Half of Southeast Quarter; thence Southerly along said East line, a distance of 66.00 feet to the point of beginning.

Parcel 2:

The South 40 rods of the Northeast Quarter of Section 21, Township 115 North, Range 26 West, according to the Government Survey thereof, Carver County, Minnesota.

EXCEPTING THEREFROM the following:

The North 175.00 feet of the East 500.32 feet of the South 40 rods (660.00 feet) of the northeast Quarter of Section 21, Township 115, Range 26, Carver County, Minnesota.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

February 22, 2021

TO: Carver County Board of Adjustment & Dahlgren Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (exceed the maximum allowed Prime Ag Land).

FILE #: PZ20210005

PROPERTY OWNER: Aaron Peterson & Brooke Michaelson

APPLICANT: James & Catherine Tonneson

SITE ADDRESS: TBD Maria Lake Road, 55315

VARIANCE TYPE: Exceed prime ag land

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

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 04-031-1000

BACKGROUND:

1. Aaron Peterson & Brooke Michaelson own approximately 102.87 acres in parts of the Northwest Quarter (NW ¼) of Section 31, Dahlgren Township. The property currently has an available, 1 per 40, building eligibility that can be used to create a new residential dwelling. The subject parcel consists primarily of crop production land, and also has areas of woodland on the southwest and northeast sides. The property is located within the Agricultural Zoning District, the western portion is within the Shoreland Overlay District of Maria Lake, and the entire parcel is within the CCWMO (Bevens Creek watershed).
2. The applicant is requesting a variance that would allow for a Minor Subdivision to create a new residential parcel east side of the parcel. The residential parcel be approximately 9.0 acres and would meet all County regulations for residential parcels except for the amount of Prime Ag. Soil. The proposed residential parcel would include approximately 6.9 acres of Prime Ag. Soil; therefore, a variance has been requested.

LEGAL BACKGROUND:

§ 152.033 LOT REQUIREMENTS.

(F) *Use of prime AG land.* Lots of less than 20 acres created for a new dwelling unit shall contain no more than 2 acres of tilled SCS Class I or II production land. The setbacks as required by this chapter shall not be included in the calculation. (Ord. 47, passed 7-23-02; Am. Ord. 70-2010, passed 1-25-11)

STAFF ANALYSIS:

1. The existing 102.87-acre parcel was part of a larger tract of land; however, a minor subdivision approval in 2017 created the current configuration. That property split separated a residential parcel with a building eligibility in the northern portion. The remnant acreage includes the tillable acreage, woodland area, and one (1 per 40) building eligibility.
2. The Zoning Code prohibits lots of less than 20 acres, created for a new dwelling, from containing more than 2 acres of tilled Class 1 or 2 production land (prime ag soil).

3. On November 24, 2020, the agent (Randy Kubes) for the owners submitted a survey and the required application documents to initiate the review of a minor subdivision. Staff reviewed the proposed lot to ensure the future lot met the road frontage requirements, the width to depth requirements and had an available building eligibility. At the time of review, the survey included a background which appeared to show the proposed parcel as vegetated grassland. Based on this image, staff did not review the amount of prime ag soil being included with the proposed parcel because it did not appear to be under till.
4. On December 15, 2020, staff contacted the agent for the property owner and informed him that the County Surveyor had finished his review of the survey and proposed legal description. The agent was told the property owners were cleared to have the new deeds drawn up and proceed with the recording process.
5. On January 14, 2021, staff noticed an error in our review process and that the image on the survey did not match the County's GIS image. This area of land was in fact under till and prime ag soils needed to be calculated before a minor subdivision application could be approved. At this time, staff determined the amount of prime ag soils being included with this minor subdivision to be approximately 6.9 acres. Staff immediately contacted the agent for the property owners and informed him of the error.
6. On January 19, 2021, staff drew up two different amendments to the proposed minor subdivision. The first one shifted the 9-acre parcel to the north to reduce the amount of prime ag soils being included in the proposal. The second amendment shifted the parcel north to included more of the wooded area as well as rotate the parcel so it did not extend as far west as what was originally submitted. Doing this still included a large portion of the wooded area to the north but also gave the sellers more area of open space for future development than the previous amended option.
7. On January 20, 2021, staff was informed by Mr. Kubes that both proposed amendments were rejected by the sellers as well as the buyers. The sellers were reserving that wooded area for possible amenity development in the future, which is why it was not included as a part of this proposal. Mr. Kubes informed staff that this sale was closed on as of December 16, 2020. In addition, Mr. Kubes indicated that loans had been paid off and new mortgages created.
8. On January 21, 2021, after several discussions with the title company representing the buyers and the agent for the sellers, it was determined that the title company failed to submit the documents in a timely manner. In doing that, a delay was created that allowed time for mortgages to be paid off and new loans to be funded. If the title company had submitted the necessary documents in a timely manner, staff may have had a chance to discover their review error early enough to amend the minor subdivision so that it met all County regulations. The reversing of the financial transactions that have occurred may not be allowed at this point. If they were, those actions would represent a series of burdens on the buyers and sellers that would outweigh the benefit to the County. Therefore, staff felt it best to allow an application for a variance to be submitted.
9. The applicant has stated that the practical difficulty in this case is related to the minor subdivision review by Land Management staff and the failure to submit the applicable documents for closing in a timely manner by the title company. The applicant has stated that either of those two issues being handled properly would have prevented the error from going unnoticed prior to the funding process being completed.
10. The granting of the variance is in harmony with the general purpose and intent of the official control. The official control in this request is standard related to the amount of prime ag soil being included. The intent of these regulations is to prohibit the development of parcels that convert tillable acreage into residential development. The buyers have stated that it is their intent to develop this parcel in a manner which reflects a family hobby farm in another state. The buyers enjoy the rural area and do not intend to conduct any non-agricultural types of activities in the future. A condition could be added that states if this request were to be approved, any future permits for non-agricultural type activities would be prohibited.
11. The granting of the variance would not conflict with the intent of the Comprehensive Plan. In the Comprehensive Plan, the preservation of agriculture land is listed as one of the major themes. If the proposed land split were to be split as proposed, it would not be for commercial type activities. As stated previously, the buyers intend to develop in a manner

consistent with a hobby farm and do not intend to infringe on the rural characteristics on the area. Splitting the land between the larger wooded area and the smaller grove of trees reduces the small area that may be difficult to farm based on the size of the current agricultural equipment. Eliminating this area, effectively straightens the lines for the tillable area and does not fragment the larger parcel in a manner that leaves a remnant area too small for efficient farming practices and therefore does not appear to be in conflict with the intent of the Comprehensive Plan.

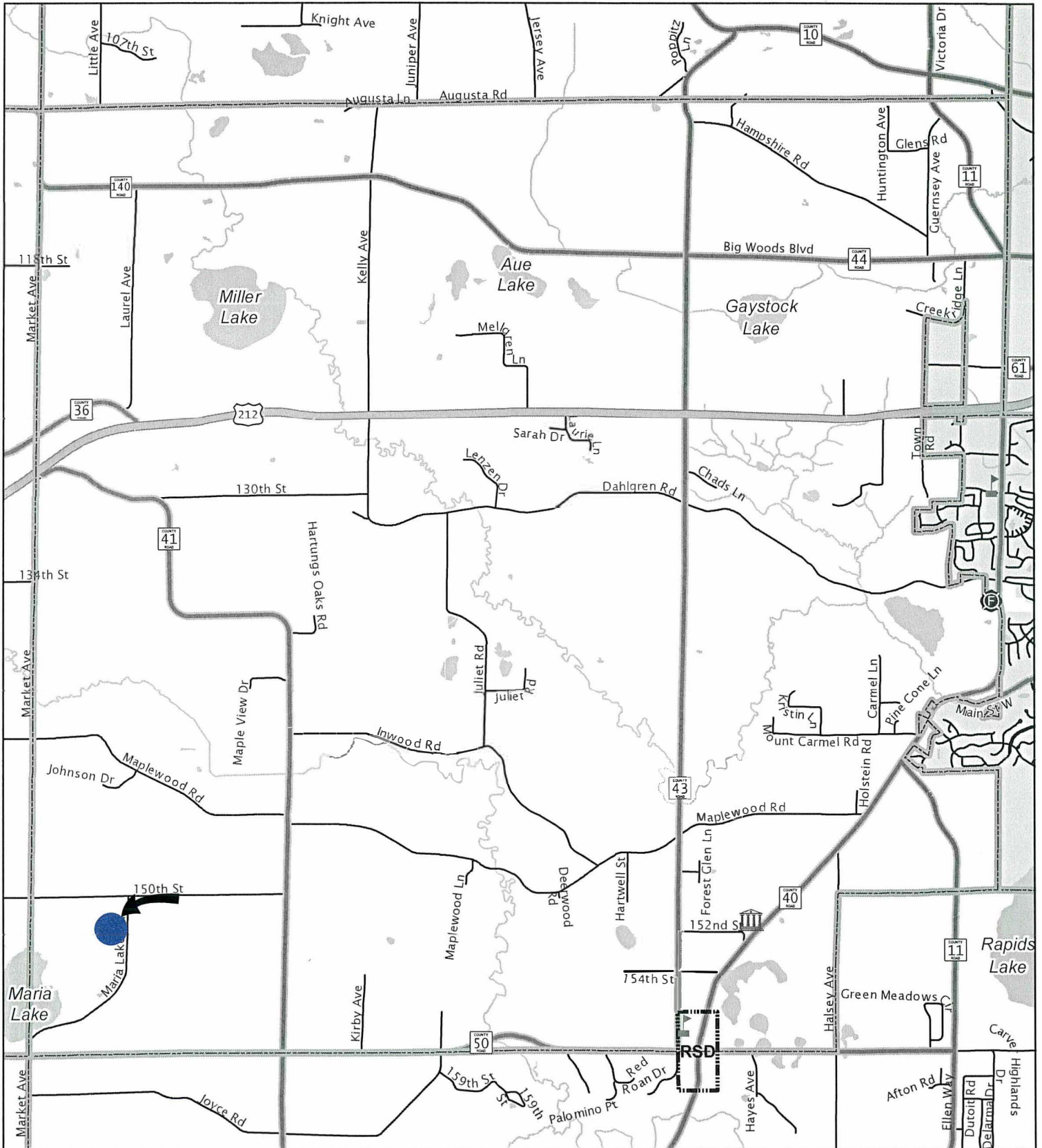
12. The applicant is proposing to use the property in a reasonable manner, not permitted by an official control. The property does have an existing 1 per 40 building eligibility. Trying to use the existing B.E. in an area between two groves of trees may increase the efficiency of use for the remaining tillable acreage and is a reasonable use of the property that would not be permitted by the official control.
13. The plight of the landowner is due to circumstances unique to the property, not created by the landowner. In this case, the unique circumstances are related to a series of errors by Land Management staff and the title company responsible for the recording of the deeds. Land Management reviews approximately 50-60 Minor Subdivisions on an annual basis. This type of error has happened less than 5 times in the last 25 years. In addition, due to the number of documents that are required to be recorded at the end of each year, the practice of paying down loans and funding new mortgages while waiting for documents to be recorded is common for financial institutions during that time. Neither the buyers nor the sellers in this proposal were responsible for the creation of these circumstances. Therefore, the plight of the landowner appears to be due to circumstances unique to the property, not created by the landowner.
14. The neighborhood is comprised of agricultural uses and 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.
15. 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.
16. This request has been reviewed by the County's Environmental Services department. On February 16, 2021, this request was reviewed by Joe Enfield, Senior Environmentalist for Carver County. Mr. Enfield stated that because there is no existing house on the proposed or parent parcel, no review is required by Environmental Services. In addition, Mr. Enfield stated the soils for this location have been reviewed and approved by County Environmentalist II, Lori Brinkman, as a part of the proposed Minor Subdivision.
17. The Dahlgren Town Board reviewed this request and recommended approval during their February 8, 2021, Town Board meeting. The Town Board did not ask for any conditions to be attached to their recommendation.

BOARD CONSIDERATION:

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

1. A Minor Subdivision application shall be submitted and approved prior to the recording of any deed(s). The parcels shall be subdivided in accordance with the County Zoning Code requirements including but not limited to, a completed minor subdivision application, a survey and SSTS compliance.
2. Any future permits for non-agricultural type activities shall be prohibited.

DAHLGREN TOWNSHIP



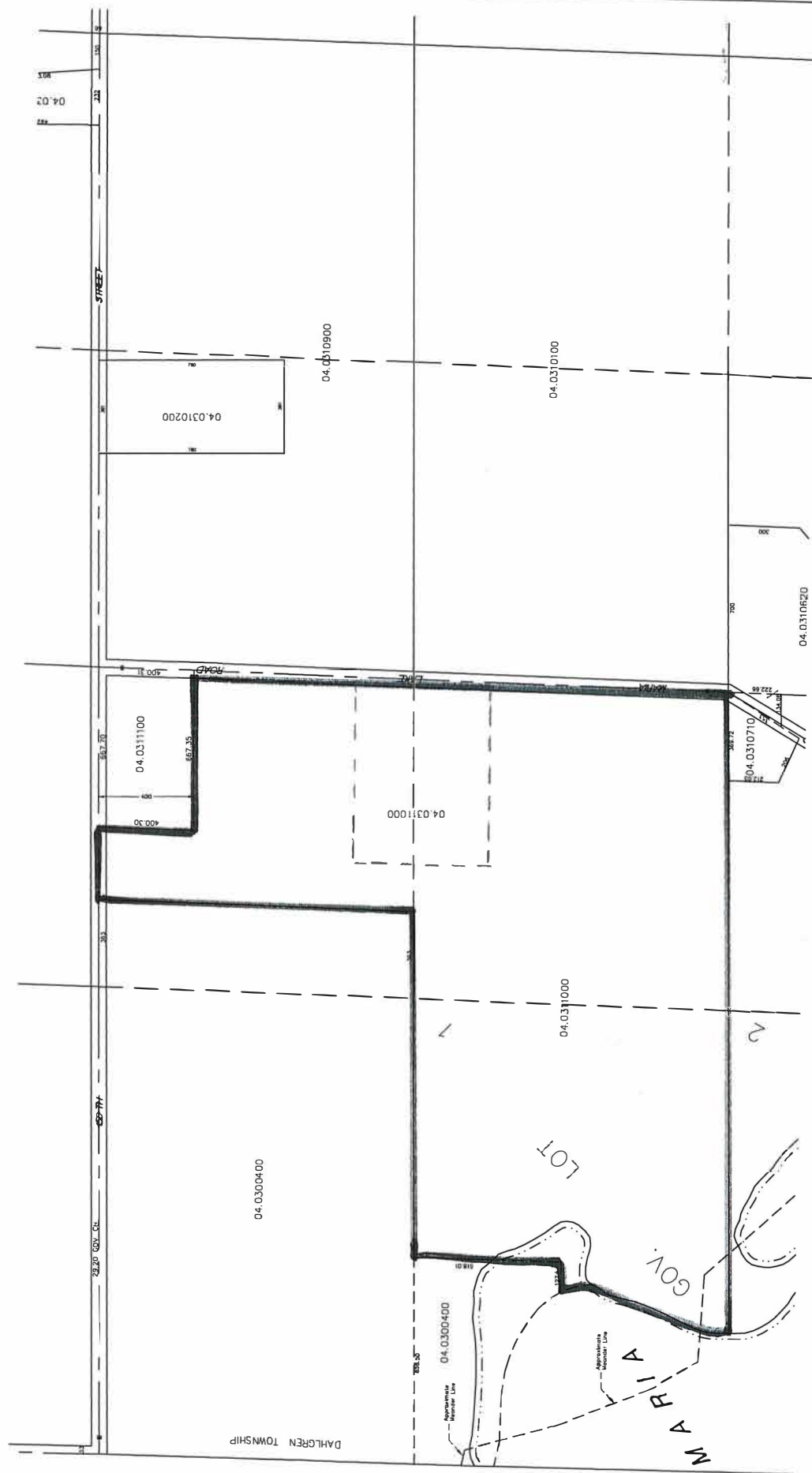
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Map Created by Carver County GIS

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 A PRELIMINARY MAP. THE MAP IS ONLY
 FOR INFORMATIONAL PURPOSES. THE MAP
 IS NOT TO BE USED FOR ANY OTHER
 PURPOSES. THE COUNTY AND ITS AGENTS
 MAKE NO WARRANTY, REPRESENTATION
 OR GUARANTEE OF ANY KIND, INCLUDING
 MERCHANTABILITY, FITNESS FOR A
 PARTICULAR PURPOSE, OR NON-INFRINGEMENT.
 INACCURACIES CONTAINED HEREIN.

N 1/2 SEC. 31, T.115, R.24



February 1, 2021

TO: Carver County Board of Adjustments & Dahlgren Township

RE: 9 Acre Lot on Maria Lake Road

To Whom It May Concern:

On 11/16/2020 a survey was completed by Bolton & Menk to split 9 acres away from a larger farm owned by the Peterson family PID #040311000. A minor subdivision application was submitted on 11/24/2020 and reviewed by county staff and the county surveyor for approval.

The property had a purchase agreement signed by James and Catherine Tonneson and was scheduled to close 12/15/2020 +/- . On 12/15/2020 at 1:11 PM we received an email from Aaron Stubbs at Carver County Planning stating that the survey and the legal description are good for the 9-acre parcel and we're clear to move forward having the deeds drawn up. We then moved forward with immediately doing our closing (see attached closing statement and deed dated 12/16/2020). The buyers were obtaining a mortgage and were coming up with the down payment, both of which, were disbursed on 12/16/2020 and received by the sellers, which they proceeded to distribute through the closing statement to pay bills and then eventually use the proceeds to pay down the lending and other miscellaneous items. The deed was then processed at the title company to be sent in for recording along with the mortgage with the assumption that everything was okay for Carver County Recorder's Office to record once they received it. In the banking world, it is extremely difficult to reverse this process once it has all been signed at closing and the funds disbursed. It is common for the deed to be recorded within a month or less.

Given the high volume of documents to record at the end of the year, the documents had not been sent out by the title company until around mid-January, 2021. So, the banks and title company involved did send in their documents with usually no worries of it getting recorded once they had received the okay from the Carver County planning department. On or about 1/14/2021, Aaron Stubbs had reached out to Randy Kubes to say that there was an error in the calculation of prime ag on this newly created 9-acre lot. There was more like 7.3 acres of prime ag so the deed was not recordable. Since this is now about 30 days past the closing and the disbursement of the funds, it is very difficult to unwind everything. We'd look at the buyers to change the shape of the lot but that was also not possible because of the woods to the north and the buyers wanting open land. Now we have a lender that is expecting monthly payments from the buyer and we have a seller that paid down on existing financing, etc., and the only thing left to do is to apply for this variance.

Thanks for your attention to remedying this problem.

Aaron S Peterson
Brooke N Michaelson
Sellers

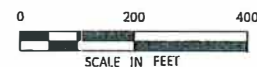
James Tonneson
Catherine Tonneson
Buyers



PROPOSED DESCRIPTION

That part of the Northeast Quarter of the Northwest Quarter and that part of the Southeast Quarter of the Northwest Quarter of Section 31, Township 115 North, Range 24 West, Carver County, Minnesota, described as follows: Commencing at the North Quarter Corner of said Section 31; thence South 01 degrees 01 minutes 30 seconds West (bearings based on Carver County Coordinate System NAD83, 1986 Adjustment) on the east line of said Northwest Quarter, a distance of 1149.58 feet to the point of beginning; thence continuing South 01 degrees 01 minutes 31 seconds West on said west line, a distance of 502.63 feet; thence North 88 degrees 58 minutes 30 seconds West, a distance of 780.00 feet; thence North 01 degrees 01 minutes 30 seconds East, a distance of 502.63 feet; thence South 88 degrees 58 minutes 30 seconds East, a distance of 780.00 feet to the point of beginning.

Said parcel contains 9.00 acres of land.



SURVEYOR'S CERTIFICATION

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.

Rory Jensen
Rory Jensen
License Number 19789

11/16/2020
Date

LEGEND

- 3/4" IRON PIPE MONUMENT SET MARKED BY LIC. NO. 19789
- MONUMENT FOUND
- ✦ SOIL BORING

Horizontal Datum: 1996 Carver County Coordinate System NAD83, 1996 Adjustment

CERTIFICATE OF SURVEY CARVER COUNTY, MINNESOTA



1960 PREMIER DRIVE
MANKATO, MINNESOTA 56001
(507) 625-4171

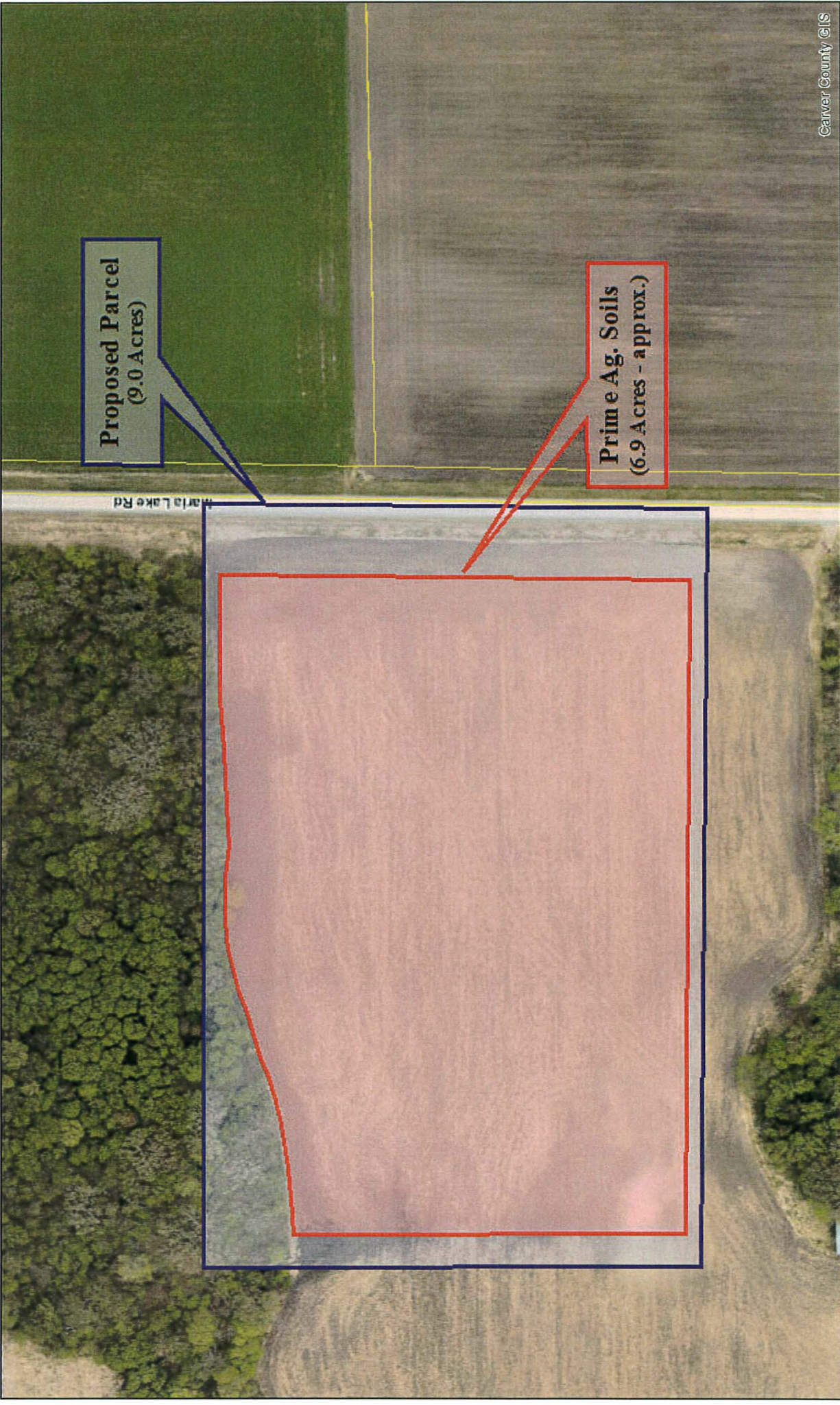
THAT PART OF THE NW 1/4 OF SECTION 31,
TOWNSHIP 115 NORTH, RANGE 24 WEST, CARVER
COUNTY, MINNESOTA

FOR: KUBES REALTY
PETERSON 9.0 ACRES SPLIT

© Bolton & Menk, Inc. 2020, All Rights Reserved

H:\KUBES_PR\0M3122969\CAD\C3D\122969_V_PROP_N1.dwg 11/16/2020 2:58 PM JOB NUMBER: 0M31.22969 FIELD BOOK: SEE FILE DRAWN BY: JLA 10.0 S31-T115N-R24W

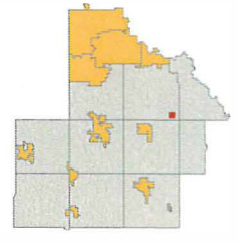
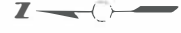
PROPOSED MINOR SUBDIVISION - 04.031.1000



Date: 2/10/2021



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Carver County GIS



Township Presentation & Recommendation Form

PARCEL # 04.031.1000	Permit # PZ20210005	
Owner's Name: Aaron Peterson & Brooke Michaelson	Owner's Mailing Address: 15900 Flying Cloud Drive	
City: Eden Prairie	Owner State: MN	Owner Zip: 55347
Applicant (If other than owner): James & Catherine Tonneson	Site Address: TBD Maria Lake Road, 55315	

Type of Request:	☐ CUP	☐ IUP	☐ Preliminary Plat	☐ Final Plat	☒ Variance	☐ Appeal
Description of Request: Request to increase the maximum allowed amount of Prime Ag. Soil for a newly created residential parcel, from 2.0 acres to approx. 7.3 acres to remedy a staff review error and approval.						
Date of County Public Hearing:	03/03/2021	Date of Township Meeting:	02/08/2021			

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 James Tonneson 1/28/2021 8:40:02 AM CST	Signature of Applicant Catherine Tonneson 1/28/2021 11:42:29 AM CST	Date 01/28/2021
Signature of Township Official 		Date 2-8-2021

From: Darrell Kieser <djgieser@outlook.com>
Sent: Sunday, February 14, 2021 9:38 AM
To: Land Management
Subject: Dahlgren section 31 variance application

Follow Up Flag: Follow up
Flag Status: Flagged

This email was received from outside of Carver County

This email is in response to a notification I received from the Carver County Dept of Land Management, regarding a variance application from Aaron Peterson and Brooke Michaelson for subdivision of parcel 04.0311000. I've reviewed the information provided in the notice, and I have no objection or concern related to this variance. I will be fine with whatever decision is made by the Carver County Board of Adjustment in this matter.

Thank you for the opportunity to review the information and provide feedback during the decision-making process.

Darrell J Kieser
15580 Maria Lake Road
Carver, MN 55315

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 04-031-1000-part of

File# PZ20210005

**APPLICANT/OWNER: Aaron S & Nicola Peterson and
Brooke N and Mitchell Michaelson**

*** * * * ***

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