

CARVER COUNTY BOARD OF ADJUSTMENT

Regular Meeting – **Wednesday, March 1, 2023**
Commissioners' Meeting Room
2nd Floor Human Services Bldg
Government Center – Chaska

AGENDA

7:00 p.m.

1. Approve minutes of February 1, 2023 meeting
Pages 1-1 through 1-6
2. **File #20230004**- Public hearing on request by Ronald Olson for a variance.
(Reduced Setback for New Feedlot)
Dahlgren Township Pages 2-1 through 2-13
Issue Order #PZ20220004 – Ronald Olson
3. **File #20230003**- Public hearing on request by Kevin Ciernia for a variance.
(Reduced Setback for Home Ext Bus Accessory Use)
Dahlgren Township Pages 3-1 through 3-15
Issue Order #PZ20230003 – Kevin Ciernia
4. **File #20230002**- Public hearing on request by Jerrad Sunde for a variance.
(Reduced Setback - DNR Protected Watercourse)
Dahlgren Township Pages 4-1 through 4-11
Issue Order #PZ20230002 – Jerrad Sunde

Other Business

CARVER COUNTY BOARD OF ADJUSTMENT
Regular Meeting – February 1, 2023
Minutes

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

Members Absent: Chad Reisner, No PLC Appointment

Members Late: None

Staff Present: Jason Mielke, Donovan Hart

Pursuant to due call and published notice thereof, the February 1, 2023, meeting of the Carver County Board of Adjustment was called to order by Jason Mielke at 7:00 p.m.

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

Election of Chairman – Mielke called for nominations for the office of Chair. Gorra made a nomination for Gerry Bruner as Chairman. The nomination for Bruner was seconded by Thompson. No other nominations were made. A motion was made by Gorra and seconded by Thompson to cease nominations and cast a unanimous ballot for Gerald Bruner as Chair. Mielke called for the vote. All voted aye. Motion carried. Gerry Bruner is the newly elected Chair.

Election of Vice-Chairman – Chairman Bruner called for nominations for the office of Vice-Chair. Selken made a nomination for Gorra as Vice-Chair. Thompson seconded the nomination for Gorra as Vice-Chair. Hearing no other nominations, Bruner called for a vote on the nomination. All voted aye. Amanda Gorra was elected as Vice-Chair.

Appointment of Secretary – Traditionally, the Land Management Department has been elected to act as the Secretary to the Board of Adjustment. Bruner made a nomination for Land Management staff as Secretary. The nomination was seconded by Selken. Hearing no other nominations, Chairman Bruner called for a vote on the nomination. All voted aye. Motion carried. Land Management staff will serve as Secretary to the Board of Adjustment.

Roll Call – Chairman Bruner acknowledged that 5 board members were present at this meeting. Chad Reisner is absent, and there has not yet been an appointment for a representative from the Planning Commission.

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

Minutes – Chairman Bruner asked if there were any corrections to the minutes from the November 2, 2022, meeting. Hearing none, he asked for a motion to approve the minutes. Bielefeldt made a motion to approve the minutes of the November 2, 2022, meeting. Gorra seconded the motion for approval.

Bruner, Gorra & Bielefeldt voted aye. Selken and Thompson abstained, as they were not appointed to the board at that time. Motion carried.

Public Hearing - File # 20230001 – Timothy Anderson –Chairman Bruner called the public hearing to order at 7:05 p.m. to consider the application of Timothy Anderson pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request to exceed the maximum allowable personal storage space with a new accessory structure pursuant to Chapter 152 of the County Code. The property is in Section 7 of Waconia Township.

The following were present: Tim Anderson, Neil Dummer, Gary Foley, Kelli Foley, Dan Cook, Kari Bruner

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant

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

Hart explained the applicant owns an approximate 3.21-acre parcel improved with a house and attached garage and a detached accessory building. Mr. Anderson is requesting to construct an approximate 60-foot by 80-foot accessory structure for personal storage. The addition of this structure would increase the total personal storage space on the property to approximately 6,300 square feet, which is 2,300 square feet more than allowed by the Zoning Code on a parcel of this size. Hart used an aerial photo of the property to indicate the proposed location of the structure, stating it would meet all of the required setbacks from property lines and the septic system. The applicant's letter states the structure will be used for personal storage to house various vehicles and equipment. The need for the variance was due to circumstances created by the landowner. Granting the variance would not conflict with the intent of the Comprehensive Plan or alter the character of the neighborhood, nor would government services be negatively impacted by the structure. Granting the variance would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property or be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties. Environmental Services has determined the current septic system was installed in 2020 and is compliant. The Waconia Town Board reviewed the request at their November 14, 2022, meeting and recommended approval, including that all neighbors be informed. Hart read the proposed conditions for consideration if the request is approved. If the request is denied, the Board of Adjustment would need to identify their reasons to support the denial.

The applicant had no additional information.

There was no representative from the Waconia Town Board present for comments.

Neil Dummer, 13555 74th St, expressed concerns that the property is too small for this request and that the structure might be used for business purposes and storage of rental equipment. He stated the applicant owns a business, Pioneer Equipment & Rentals, which lists this parcel's property address on their website. He noted there was an increased number of bobcats, lifts, trailers, and other equipment on the site and questioned whether this building would be used for personal use or for storage of business equipment. He also identified other recreational items at the property which seemed to be available for rent as well. He stated the location Mr. Anderson has in Norwood a larger building than the one he is proposing to construct at this site, which should be used for storage of the business equipment. Mr. Dummer had also observed a camper at Rutz Lake whose occupants seemed to be emptying the sewage from the camper into the lake or on the township road. He did not have a photo and could not be certain whether or not this was a rental item from the rental business. He asked if this equipment will be maintained on this site and expressed concern of contaminated runoff flowing toward his property and into a wetland area. He stated the location of the proposed shed is low and will need to have fill brought in to create a suitable building pad. He questioned whether the items to be stored on site is a misrepresentation of 'personal storage'.

Dan Cook, 7625 Rutz Lake Rd, expressed a similar concern about the possible use of the proposed structure to be an expansion of the applicant's business activity. He shared a photo of the accessory structure currently on site to indicate there is a personal storage structure on the site. He continued by speaking about the 'fairness' and 'sincerity' of variances and conditional use permits and how it can affect the neighborhood. He stated he and some neighbors are involved with 'policing' a solar garden in the area to ensure compliance with their permit regulations. He read that the applicant confirmed the proposed building would be used for personal storage but had an intuition that it may transition to business use. He presumed a business use might be of concern to the Land Management department also. He validated his thoughts by the information and advertisements he has seen posted on the applicant's business website and wondered if this would be another problem to watch over.

Greg Foley, 13910 74th St, echoed the same business activity concerns as previously stated. He shared that there have been customers stopping by his residence asking where to pick up the equipment they are renting. He definitely feels this property has been used for the rental business activity.

Mr. Dummer stated this request was heard and approved by the Township, however, the neighbors were not aware that it was on the agenda.

Mielke explained the Township Board hears the request and provides a recommendation for this meeting. There is no standard requirement on how or if the township notifies its residents of their meeting agendas. The County publishes a public hearing notice in the newspaper and is required to notify surrounding property owners for this public hearing meeting, but this requirement does not pertain to the townships. A public hearing is the required meeting that takes place for a land use request, either for a variance, such as this, or a conditional use permit for a business activity. Mielke stated this request is for a personal storage structure which exceeds the allowable size on a property of this size and is based on the information submitted with the application. The Board of Adjustment members need to determine if the size is justified for the proposed use as presented in the application information.

Mr. Anderson confirmed the reason for the structure is to store his personal items, camper, fish house, pontoon, etc., which are currently in the storage building at the business location in Norwood Young America. He wants to construct the storage building so he can transfer the personal items to his residence and move the rental equipment to NYA. He clarified that he does not rent out campers from this location and has no knowledge about any dumping of sewage into the lake or on the township road. He owns a large 5th-wheel camper and properly disposes the sewage and also takes care of any campers that are used and returned with sewage. This is all done from the Norwood site and not at this residence. He reiterated that he needs the proposed shed to house his personal items so that the business location in Norwood can be used for the rental items. He also clarified there is no mailbox at the business location so all of his business correspondence lists the residential mailing address and Google advertising allows only one address.

A motion was made by Bielefeldt and seconded by Gorra to close the public hearing. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 7:27 p.m.

Bielefeldt stated he visited the site and saw the existing accessory structure. He asked the applicant to explain the unique need for the proposed structure which has not been created by him.

Mr. Anderson stated the existing structure has 9-foot doors and will not accommodate the size of his camper for winter storage. The existing structure can house two vehicles and there are two people living there who each have two vehicles which fills that space. He would like to keep his camper, fish house, and other personal items stored indoors which requires a larger structure.

Gorra asked if the storage was changed and became business-related, what would the necessary procedure?

Hart replied the Zoning Code allows home-based businesses with a conditional use permit and many of those uses require a 5-acre parcel from which to operate.

Gorra summarized that this parcel would not qualify for a business use because of the size.

Mielke replied that there are some business activities that are allowed on parcels of less than 5 acres, such as a small contractor's yard, however, this request is for a personal storage structure. If business activity is conducted from the property, then enforcement action will be taken because it is in violation of the proposed intended use as permitted. He further explained some differences with conditional use permits and commercial storage structures, but confirmed this request is for storage of personal items.

Bruner stated he visited the site and talked with the applicant about the request. He wanted to emphasize that neighbors' opinions matter and it seems as if they have seen things that are contrary to the submitted application information. He clarified with Mr. Anderson that the trailers at this site are rentals which will be stored in Norwood after construction of the proposed structure to store the personal items currently at the Norwood business site. Bruner also commented that the dumping of sewage from campers along the township roads or at the lake is disgusting.

Mr. Anderson confirmed the use of the proposed building would be personal and the business items would be stored at the Norwood site. He clarified that the campers at his residence are his, but there are campers at the Norwood site that he has for rent. He clearly stated he could not be responsible for the action of the sewage dumping. He confirmed he disposes of his camper waste responsibly. He mentioned the proposed location of the structure and recognized that fill will need to be hauled to create an acceptable pad for the building. He stated the proposed location is approximately 25 feet from the east property line, however, the building could be moved a bit to the west, if necessary. He is still putting together budgeting figures for the project and will confirm the best location after the frost is out of the ground.

Bielefeldt felt that a practical difficulty related to the property has not been identified and state he will not vote in favor of the request. He encouraged his fellow board members to consider doing the same.

Mielke reminded the Board that if they feel the proposed structure size is excessive, they can certainly discuss reducing it to a more acceptable size, if the applicant is agreeable, so that if the request is denied, the applicant does not have to reapply for a smaller structure, if it can be satisfactorily resolved with this request.

Thompson stated he would be inclined to believe the applicant's statements of constructing and using this building for personal storage since he has a location in Norwood where he can house his rental business equipment. He agrees that it is better for his camper and other personal items to be stored inside to help maintain them and improve property aesthetics. He also reminded Mr. Anderson that the neighbors will likely be watching the activity at the site and report anything that appears contrary to the conditions.

Selken stated he did not hear that the neighbors were opposed to the building size, but their concern was with the use. Because the size was never mentioned, he felt it would not be necessary to ask the applicant to reduce it.

Bruner emphasized the application clearly describes the use of the building as personal storage. He stated people will be watching the proposed use and will report something if it seems out of line.

Mielke referred to the statements in proposed condition #1 and stated an administrative review allows staff to make a site inspection at any time, if necessary.

Gorra asked what recourse the neighbors have if they see something suspicious.

Mielke stated the Land Management department is usually contacted and discusses the concern and explained the enforcement process.

Bielefeldt reiterated he did not find a practical difficulty with the property for needing the proposed size of building.

Mr. Anderson stated if he constructed a 40-foot x 60-foot structure, his total personal storage space on the property would be 3,900 square feet and he would not have had to appear before the board. He

stated he has the costs budgeted and is ready to order the materials for his proposed 60-foot by 80-foot building. He would like to continue with the public hearing for his proposed request.

A motion was made by Thompson to **approve and issue Order PZ20230001** allowing the applicant to exceed the total allowable personal storage space on a parcel of this size by 2,300 square feet with the following conditions:

1. The permit is subject to administrative review. The proposed structure shall be used only by the occupant(s) of the residence for personal storage, hobbies, recreation, entertainment, family uses, private maintenance and repair activities, and as otherwise regulated by this Ordinance. Guest quarters and/or additional dwelling units are strictly prohibited. No products or services shall be offered for sale for pay or similar remuneration except as permitted for a home occupation or as otherwise regulated by this Code.
2. The permittee shall obtain the appropriate building permit(s) prior to the construction of the proposed structure. All work shall be done in accordance with the submitted plan and shall comply with the approved variance and plans. The proposed structure shall comply with all required setbacks from property lines, SSTS location, and wetlands.
3. No building expansions or additional accessory structures shall be permitted without obtaining all necessary building permits and/or variance.

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

Mielke stated the information submitted from the neighbors will be entered into the record.

Adjournment

Having completed the agenda items and seeing no other business, a motion was made by Bielefeldt and seconded by Selken to adjourn. Bruner called for a vote on the motion. All voted aye. The meeting was adjourned at 7:51 p.m.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Environmental Services

February 17, 2023

TO: Carver County Board of Adjustment & Dahlgren Town Board

FROM: The Environmental Services Department

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

FILE #: PZ20230004

APPLICANT: Ronald Olson

OWNER: Ronald and Mary Olson

SITE ADDRESS: 6975 Inwood Rd, Cologne, MN 55322

VARIANCE TYPE: Reduced Setback to Residences and Property Lines for a New Feedlot of 30 Animal Units or More

PURSUANT TO: Carver County Code Sections 54.46 (C)(1) & (2)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 04-028-0800

BACKGROUND:

1. Ronald and Mary Olson own an approximately 82.45-acre parcel located in the West Half of the Southwest Quarter (W½ of SW¼) of Section 27, Dahlgren Township. The property is improved with multiple agricultural buildings and consists of crop production land and a small, wooded area in the northern portion of the parcel. The property is located with the Agricultural Zoning District and the CCWMO (Bevens Creek and Carver Creek Watershed).
2. The applicant is requesting a variance that would allow him to establish a new feedlot of 30 animal units or more (swine and cattle) approximately 5 feet from the side property line and approximately 63 feet from the residence located at 6975 Inwood Rd, approximately 745 feet from the residence at 6968 Inwood Rd, and approximately 720 feet from the residence at 6970 Inwood Rd. Chapter 54 of the County Code requires a minimum setback of 200 feet from property lines for all new feedlots of 10 animal units or more, and a minimum setback of 1,000 feet from residences for all new feedlots of 30 animal units or more. Therefore, a variance for reduced setbacks pursuant to Chapter 54 – Section 54.46 (C) (1) and (2) has been requested.

LEGAL BACKGROUND:

§ 54.04 DEFINITIONS.

NEW ANIMAL FEEDLOT. 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 five 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.
 - (2) A setback of 1,000 feet shall apply to all feedlots of 30 animal units or more from residences, churches, schools, regional parks, cemeteries, non-agricultural commercial activities, and restaurants.

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. Ronald Olson, the applicant, established a feedlot on the property in 2002, and it was actively registered until it was permanently terminated on September 24, 2015. The site contained a maximum registration number of 194 animal units (cattle) when it was established, and animal numbers continually decreased until the feedlot closed. The applicant would like to utilize the existing dairy barn and construct an approximate 40' x 95' concrete lot for the confined feeding and raising of feeder cattle and finishing steers (100 animal units). Mr. Olson also wants to construct a new 120' x 240' pitted barn for up to 2,970 finishing swine (891 animal units) and register the site for 991 animal units. Four dilapidated agricultural structures that were utilized for the feedlot in the past will be razed.

2. The applicant's letter dated February 3, 2023, describes a practical difficulty exists based on the location of the existing dairy barn, as it does not meet the minimum required setbacks from residences and property lines. The subject parcel is mainly comprised of tillable land, and the applicant has no choice but to construct the new hog barn within the minimum setback or remove prime production land from the farming operation. The applicant owns two of the residences within the 1,000-foot setback, and his son, who assists in the operation, lives in the other residence with his family. 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. Olson to construct a concrete lot within an approximate 5-foot setback to the side property line, reflecting an approximate 195-foot variance, and a new hog barn within an approximate 7-foot setback to the side property line, reflecting an approximate 193-foot variance. Additionally, Chapter 54 of the County Code requires new feedlots of 30 animal units or more to meet the minimum required setback of 1,000 feet. Approval of the variance would permit the applicant to establish a new feedlot within an approximate 63-foot setback from 6975 Inwood Rd, reflecting a 937-foot variance, an approximate 745-foot setback from 6968 Inwood Rd, reflecting a 255-foot variance, and an approximate 720-foot setback from 6970 Inwood Rd, reflecting a 280-foot variance.
3. Kristen Larson, Water Resources Specialist, of the Carver County Planning and Water Management Department, conducted a wetland review of the property on February 9, 2023, and did not identify any wetlands classified as Type III or greater (circular 39 wetland classification system) or a special protection area where setbacks would apply for a new feedlot.
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, nor would government services be negatively impacted by the establishment of the feedlot.
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 Dahlgren Town Board reviewed and recommended approval of the request at their February 13, 2023, 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 feedlot setback to a property line and neighboring residences on the property pursuant to Section 54.46 (C)(1)(2) of the Carver County Feedlot Ordinance, would serve in the interest of justice, the following condition should be considered and attached to the approved variance:

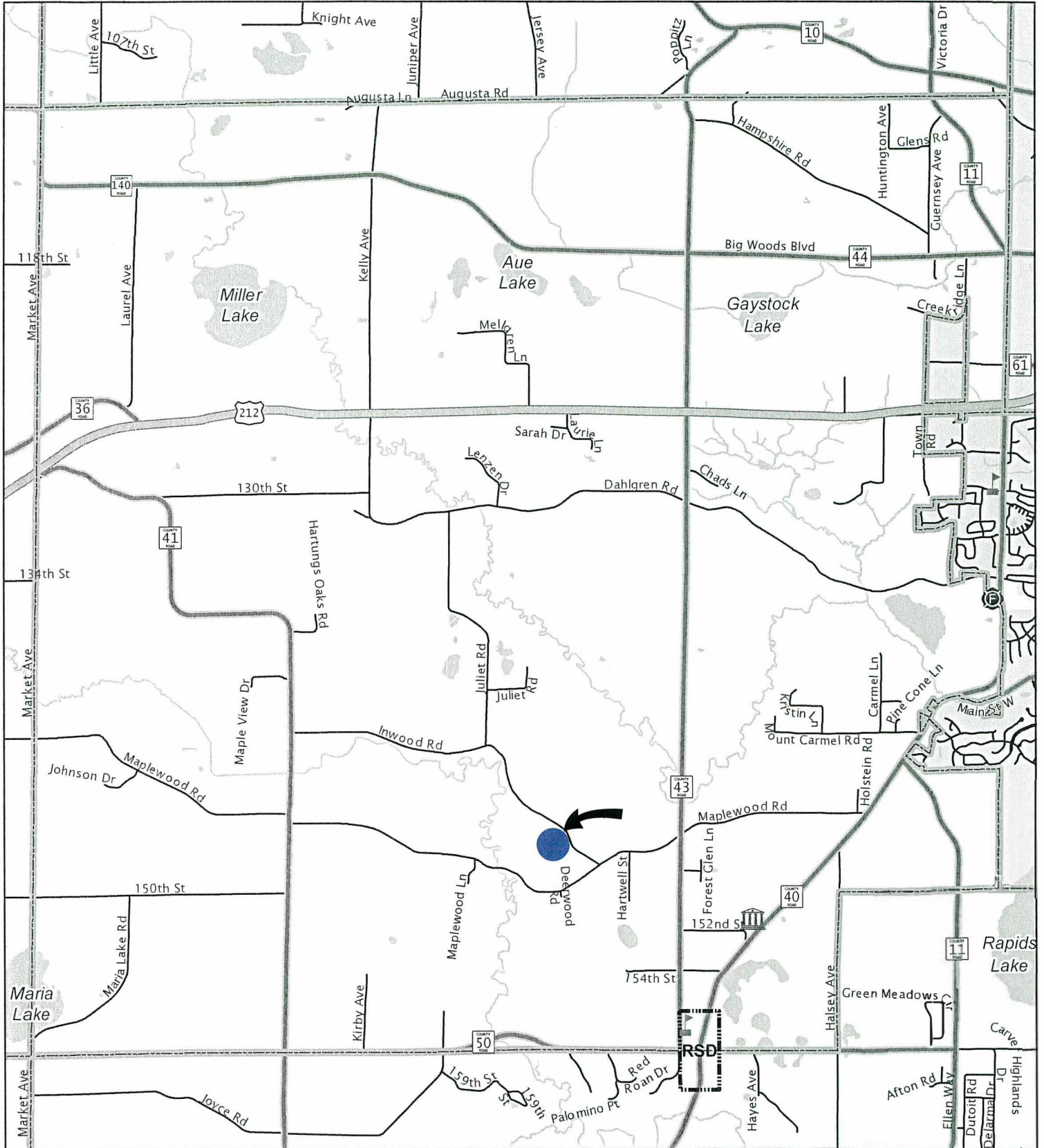
1. The number of animal units (AU) at the feedlot shall not exceed a maximum of 991 AU.
2. The permittee shall apply for and receive a Conditional Use Permit for the establishment of a new feedlot of 600 animal units or more pursuant to section 54.31(A)(3).
3. The permittee shall design, construct, and operate the facility in full compliance with MPCA Feedlot Rules.
4. All feedlot activities shall be done in accordance with the submitted site plan(s). The new feedlot shall not encroach any closer to property lines and residences than as approved as part of this permit application. (Approx. 5 feet from the side property line and Approx. 63 feet from 6975 Inwood Rd, 720 feet from 6970 Inwood Rd, and 745 feet from 6968 Inwood Rd.)
5. The permittee shall obtain the appropriate building permit(s) upon a conditional use permit approval and prior to the construction of the proposed structure. The proposed structure shall comply with all required CCWMO Water Rules requirements.

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.



Map Created by Carver County GIS

S 1/2 SEC. 27, T.115, R.24



Narrative – 2/3/2023

To: Carver County Board of Adjustment

I am requesting a variance for reduced setbacks from a proposed feedlot to three residences located within 1,000 feet. The site had an established feedlot with a registration that was active from 2002 until 2015, when I missed re-registering the site. The residences located within 1,000 feet of the proposed feedlot include; 6975 Inwood Rd, 6968 Inwood Rd, and 6970 Inwood Rd. I own and rent out the home located at 6975 Inwood Rd, and my son, who is a partner in the farm operation, and his family live in the residence located at 6968 Inwood Rd. All of the neighboring residences exceed the minimum required setback of 1,000 feet.

My variance request also includes reduced setbacks to property lines. The proposed feedlot will be within 200 feet of north, west, and east property lines of 6975 Inwood Rd. The practical difficulty that I'm experiencing is my existing barn is within 1,000 feet of existing residences and 200 feet of property lines.

The proposed feedlot will consist of the existing dairy barn (main barn), for feeder cattle/finishing steers (100 animal units) and a new pitted swine barn for 2,970 head of finishing hogs (891 animal units). The proposed feedlot will not exceed 991 animal units. The existing calf barn, open front cattle barn, grainery, and chicken barn/machine shed will be removed.

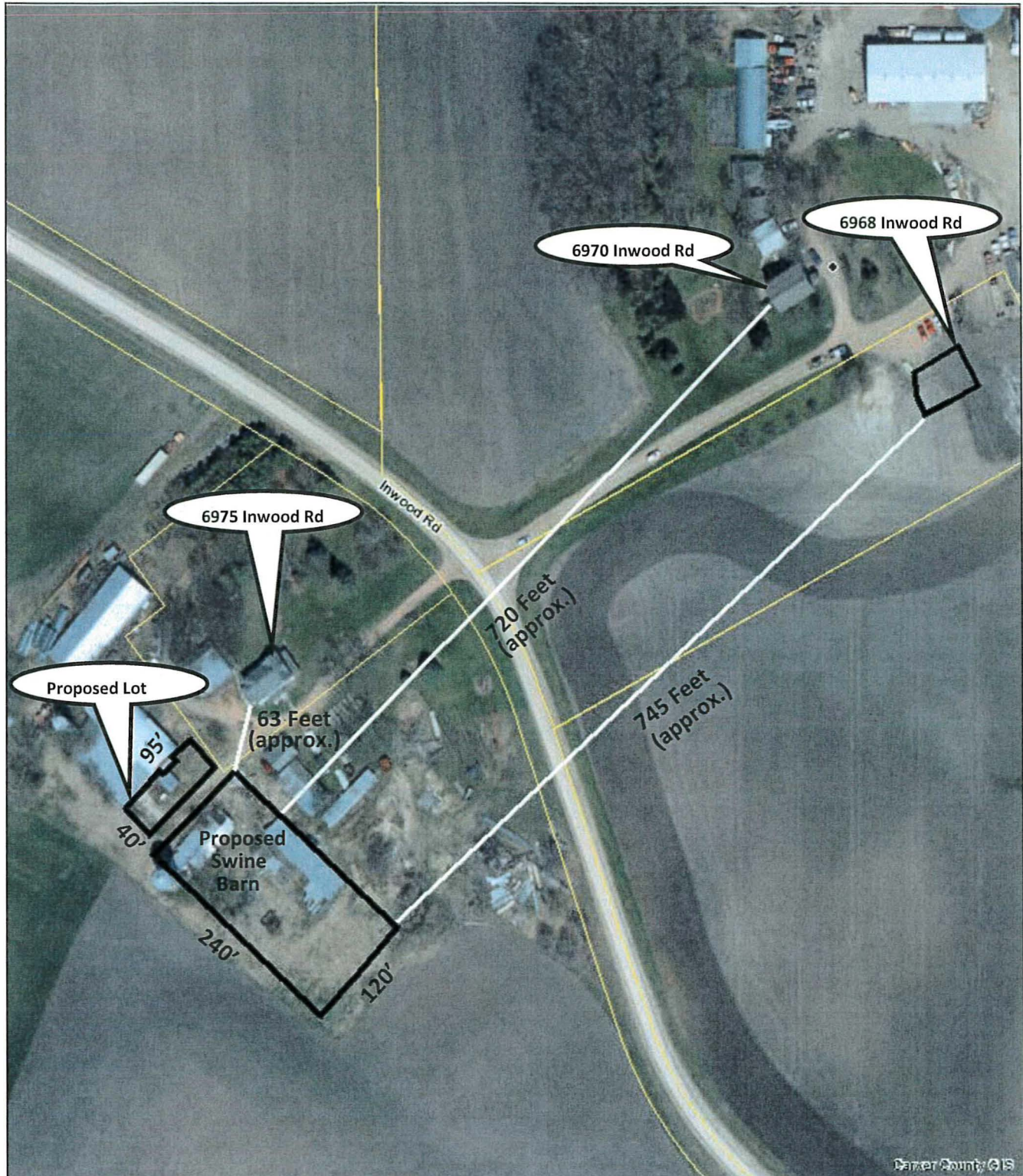
I appreciate your time and effort with this request and hope the circumstances will allow your approval.

Sincerely,

Ronald Olson

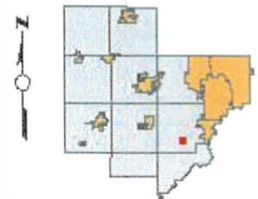
A handwritten signature in cursive script that reads "Ronald Olson". The signature is written in dark ink and is positioned below the printed name "Ronald Olson".

OLSON PROPOSED FEEDLOT SETBACKS



Date: 2/15/2023

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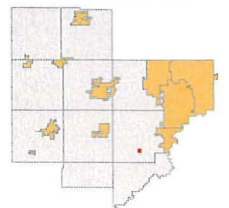


OLSON PROPOSED FEEDLOT SETBACKS



Date: 2/15/2023

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From: [Kristen Larson](#)
To: [Matt Steele](#)
Subject: RE: Wetland Review - 6975 Inwood Rd
Date: Thursday, February 9, 2023 3:28:47 PM
Attachments: [image001.png](#)

Hi Matt-

I see no Type 3 or higher wetlands on the property. There may be some farmed wetlands in the fields but those would be Type 1 or 2. Have they submitted a site plan or map of what's proposed?

Are they also looking at putting a feedlot at 6970 Inwood Rd? I thought Paul mentioned they might be looking at both parcels.

If you have questions, let me know!

Kristen

Kristen Larson

Water Resources Program Specialist
klarson@co.carver.mn.us
D: 952.361.1824 | O: 952.361.1820 | F: 952.361.1828

From: Matt Steele <msteele@co.carver.mn.us>
Sent: Wednesday, February 8, 2023 11:35 AM
To: Kristen Larson <klarson@co.carver.mn.us>
Subject: Wetland Review - 6975 Inwood Rd

Good morning Kristen,

We have an upcoming variance request for a new feedlot at 6975 Inwood Rd, Cologne, MN.

Can you please do a wetland review of the property when you have a chance?

Thanks!

Matt

Matt Steele – *Senior Environmentalist*
Public Services Division, Environmental Services Department
Carver County Government Center
600 E 4th Street
Chaska, MN 55318-2102
952-361-1808
msteele@co.carver.mn.us



Township Presentation & Recommendation Form

PARCEL #	04.0280800	Permit #	P720230004
Owner's Name:	RONALD OLSON	Owner's Mailing Address:	6970 INWOOD RD
City:	COLOGNE	Owner State:	MN.
		Owner Zip:	55322
Applicant (if other than owner):		Site Address:	6975 INWOOD RD
Type of Request: ☐ CUP ☐ CIUP ☐ Preliminary Plat ☐ Final Plat ☒ Variance ☐ Appeal			
Description of Request: REDUCED SETBACKS TO 6970, 6968, 6975 HOUSES + PROPERTY LINE TO 6975 INWOOD RD.			
Date of County Public Hearing:		Date of Township Meeting:	
3-1-23			

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.

<i>Ronald Olson</i> Signature of Applicant	Date
Signature of Township Official	Date

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 04-028-0800

File# PZ20230004

APPLICANT/OWNER: Ronald R Olson & Mary J Olson

* * * * *

Tract 1:

The West Half of the Southwest Quarter of Section 27, lying Northerly of the plat of Bevens Hills, according to the recorded plat thereof;

ALSO,

Commencing at the northwest corner of the Southeast Quarter of the Southwest Quarter of said Section 27; thence on an assumed bearing of South 00 degrees 06 minutes 55 seconds East along the west line of said East Half of the Southwest Quarter 396.00 feet to the actual point of beginning of the tract to be described; thence North 89 degrees 53 minutes 05 seconds East, a distance of 82.50 feet; thence North 23 degrees 53 minutes 05 seconds East 561.00 feet; thence North 21 degrees 06 minutes 55 seconds West 604.17 feet; thence North 51 degrees 06 minutes 55 seconds West, a distance of 95.42 feet to the point of intersection with the west line of said East Half of the Southwest Quarter of said Section 27; thence South 00 degrees 06 minutes 55 seconds East to the northwest corner of the Southeast Quarter of the Southwest Quarter of said Section 27, thence continuing South 00 degrees 06 minutes 55 seconds East 396.00 feet to the point of beginning.

ALSO,

That part of the East Half of the Southeast Quarter of Section 28, Township 115, Range 24, described as follows: Commencing at the northeast corner of said East Half of the Southeast Quarter; thence on an assumed bearing of South 00 degrees 00 minutes 29 seconds West along the east line of said East Half of the Southeast Quarter 764.84 feet to the actual point of beginning of the parcel to be described; thence South 24 degrees 47 minutes 28 seconds West 222.54 feet; thence South 19 degrees 10 minutes 27 seconds West 398.46 feet; thence South 01 degree 25 minutes 38 seconds East 688.61 feet to the northerly line of Maplewood Road as dedicated in the plat of Bevens Hills, according to the recorded plat thereof; thence South 66 degrees 30 minutes 30 seconds East along the northerly line of Maplewood Road 25.16 feet to a tangential right-of-way curve concave to the southwest; thence along said curve an arc length of 238.71 feet, radius 446.04 feet, central angle 30 degrees 39 minutes 46 seconds to the east line of said Section 28; thence North 00 degrees 00 minutes 29 seconds East along the east line of the East Half of the Southeast Quarter of Section 28, 1424.68 feet to the point of beginning.

EXCEPT beginning at the northeast corner of the West Half of the Southwest Quarter of said Section 27; thence South 88 degrees 08 minutes 11 seconds West along the north line of said West Half of the Southwest Quarter of Section 27, a distance of 792.00 feet to a point; thence South 57 degrees 51 minutes 49 seconds East, a distance of 936.05 feet to a point on the east line of said West Half of the Southwest Quarter; thence North 00 degrees 06 minutes 55 seconds West, a distance of 523.68 feet to the northeast corner of the West Half of the Southwest Quarter of said Section 27.

ALSO EXCEPT that part of the West Half of the Southwest Quarter of Section 27, Township 115, Range 24, described as follows: Beginning at the northwest corner of said West Half of the Southwest Quarter; thence on an assumed bearing of South 00 degrees 00 minutes 29 seconds West along the west line of said West Half of the Southwest Quarter 764.84 feet; thence North 24 degrees 47 minutes 28 seconds East 432.02 feet; thence North 18 degrees 56 minutes 50 seconds East 365.25 feet; thence North 88 degrees 08 minutes 11 seconds East 279.45 feet; thence North 57 degrees 51 minutes 49 seconds West 66.00 feet to a point on the north line of

said West Half of the Southwest Quarter, distance 792.0 feet west of the northeast corner of said West Half of the Southwest Quarter; thence South 88 degrees 08 minutes 11 seconds West along said north line 523.33 feet to the point of beginning.

ALSO EXCEPT that part of the North Half of the Southwest Quarter of Section 27, Township 115, Range 24, Carver County, Minnesota, described as follows: Commencing at the northeast corner of the West Half of the said Southwest Quarter; thence on an assumed bearing of South 88 degrees 08 minutes 11 seconds West, along the north line of said West Half of the Southwest Quarter 792.00 feet; thence South 57 degrees 51 minutes 49 seconds East 853.78 feet to the point of beginning of the parcel to be described; thence continuing South 57 degrees 51 minutes 49 seconds East 82.27 feet to the east line of said West Half of the Southwest Quarter; thence South 00 degrees 06 minutes 55 seconds East 19.43 feet; thence South 51 degrees 06 minutes 55 seconds East 95.42 feet; thence South 21 degrees 06 minutes 55 seconds East 46.24 feet; thence South 52 degrees 12 minutes 19 seconds West 299.28 feet; thence North 37 degrees 47 minutes 41 seconds West 168.75 feet; thence North 52 degrees 12 minutes 19 seconds East 50.00 feet; thence North 37 degrees 47 minutes 41 seconds West 61.05 feet; thence North 52 degrees 12 minutes 19 seconds East 224.21 feet to the point of beginning.

Tract 2:

That part of the East Half of the Southwest Quarter of Section 27, Township 115, Range 24, described as follows: Commencing at the northwest corner of the Southeast Quarter of the Southwest Quarter of said Section 27; thence on an assumed bearing of South 00 degrees 06 minutes 55 seconds East along the west line of said East Half of the Southwest Quarter 396.00 feet; thence North 89 degrees 53 minutes 05 seconds East 82.50 feet; thence North 23 degrees 53 minutes 05 seconds East 259.38 feet to the actual point of beginning of the tract to be described; thence continuing North 23 degrees 53 minutes 05 seconds East 301.62 feet; thence North 21 degrees 06 minutes 55 seconds West 604.17 feet; thence North 51 degrees 06 minutes 55 seconds West 95.42 feet to the west line of said East Half of the Southwest Quarter; thence North 00 degrees 06 minutes 55 seconds West along said west line 19.43 feet to a point 523.68 feet South of the northwest corner of said East Half of the Southwest Quarter; thence Southeasterly along a tangential curve concave to the southwest, radius 430.54 feet, central angle 36 degrees 49 minutes 07 seconds, a distance of 276.67 feet; thence South 21 degrees 02 minutes 42 seconds East 361.69 feet; thence Southeasterly along a tangential curve concave to the northeast, radius 377.61 feet, central angle 38 degrees 45 minutes 29 seconds, a distance of 255.44 feet; thence South 59 degrees 48 minutes 11 seconds East 418.81 feet; thence South 88 degrees 29 minutes 13 seconds West 645.70 feet to the point of beginning.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

February 17, 2023

TO: Carver County Board of Adjustment & Dahlgren Town Board

FROM: The Land Management Department

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

FILE #: PZ20230003

APPLICANT: Kevin Ciernia

OWNER: Kevin Ciernia

SITE ADDRESS: 14621 Co Road 40 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 #: 04-025-1400

BACKGROUND:

1. Kevin Ciernia owns an approximately 9.83 acres parcel located in the West Half (W½) of the Southwest Quarter (SW¼) of Section 25, Dahlgren Township. The property is improved with a single-family residence with an attached garage, a 50' x 100' accessory structure and three cargo containers. The parcel is located in the Agricultural Zoning District, Transition Overlay District (City of Carver), and CCWMO (Carver Creek watershed).
2. The applicant is requesting a variance which would allow him to apply for a Conditional Use Permit (CUP) to operate a Home Extended Business Accessory Use (small motor repair - Full Spectrum Motors) which would be approximately 498 feet, 86 feet, and 377 feet from three residences on neighboring properties. The County Zoning Code requires a home extended business accessory use 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 setbacks to neighboring residences from a Home Extended Business Accessory Use has been requested.
3. In 1994 the previous owner of the property was issued a Certificate of Zoning Compliance for an Existing Contractor's Yard (a trucking business) on the property. This type of permit, no longer issued, allowed the applicant to use the property in an approved manner but was not transferable to another owner, thus the permit was terminated when the property was sold. Assuming that permit was still valid when he purchased the property, Mr. Ciernia established his small-scale motor repair business on the property. Hence, this is an after-the-fact variance request.

LEGAL BACKGROUND:

§ 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.

§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.

STAFF ANALYSIS:

1. The County Code requires that the operational area of a Home Extended Business Accessory Use 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 Home Extended Business Accessory Use with approximate 498-foot, 86-foot, and 377-foot setbacks from three separate neighboring residences located to the northwest and the south. An aerial photo showing the proximity of the applicant's business operational area to these neighboring homes is appended to this staff report. The applicant has provided a letter (dated: February 10, 2023) with detailed information addressing the proposed business.
2. During a review of existing CUP's and Certificate of Zoning Compliance permits, staff recognized that the property's permit had been terminated in January 2016 when the property ownership was transferred to Mr. Ciernia and identified that a business was being operated from the property. Staff informed Mr. Ciernia of the terminated permit and he submitted a variance request.
3. If the Variance is approved, the applicant intends to apply to the Planning Commission for a CUP for the establishment of a Home Extended Business Accessory Use pursuant to the Zoning Code. The site plan of the Home Extended Business Accessory Use would be reviewed by the Planning Commission as part of a CUP request.
4. If both the Variance and the CUP are approved, the applicant does not plan to expand the business beyond the existing structure, two cargo containers for storage, and exterior storage of vehicles repaired and waiting for repair. Various trees, the applicant's family home, and a descending grade screen the utility shed and outdoor storage areas from the road, and there is a line of trees to that screen the vehicle storage area from the homes to the south.

5. The applicant's narrative states that he believes that this is a reasonable request based on "The building already existed when the neighbor's homes were built" and "Before the neighbor's homes, the previous owner was approved to do something similar and was using the property for commercial use." In his letter Mr. Ciernia attests "I acted in good faith... because I thought the previous owner was allowed, so I was allowed to do something similar." Also, the letter states: "I did make a substantial investment in this property not only for my business, but for my family" and "There are similar structures in the area, but maybe not used in the same way."
6. 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, so it is in the Transition Overlay District. The District's standards for CUP's require the County to refer applications to the municipality for "comment and consideration." Furthermore, District standards state:

"Conditional uses provided for in the Agriculture District should not be permitted in transition areas if they are a significant departure from the future land use in the city's comprehensive plan and the use is of a nature that it could not easily and economically be converted to the planned land use upon urbanization." (§ 152.162 (D))

As of the time this staff report was drafted, no comments had been received from the City of Carver City Planner Erin Smith. Comments may be available at the Board of Adjustment meeting.
7. Jack Johansen, Transportation Planner with Carver County Public Works, reviewed the variance request and commented: "When reviewed as a Conditional Use Permit, Public Works will ask to see the field access into the site be removed. This is the access between the northernmost access and the southernmost."
8. 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.
9. 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. The property has had some form of commercial use for about 30 years.
10. The Dahlgren Town Board reviewed and recommended approval of the application request during their February 13, 2023, Town Board meeting.

BOARD CONSIDERATION:

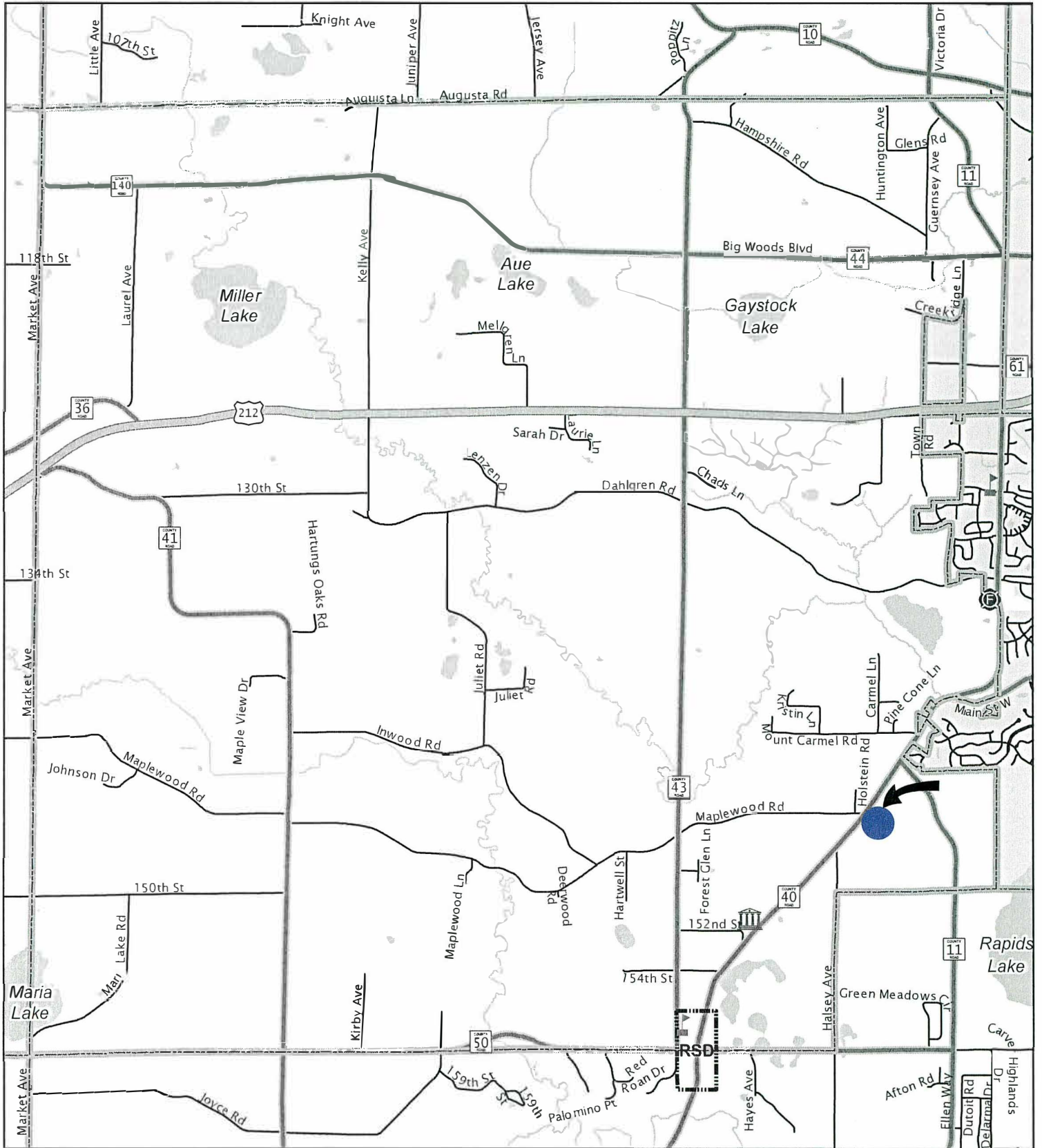
If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the Variance to permit three residences not on the property within 500-feet of the business's operational area would serve in the interest of justice, the following conditions should be considered:

1. Prior to applying for a Building Permit, a Conditional Use Permit application 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 Home Extended Business Accessory Use 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 498 feet, 86 feet, and 377 feet from three residences on neighboring properties.
3. The permittee shall obtain building permits for the three cargo containers currently on site. (two commercial & one personal storage)

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

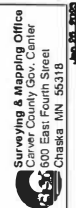


This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible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



Map Created by Carver County GIS

S 1/2 SEC. 25, T.115, R.24



Request for After the Fact Variance

To: Carver County Land Management and Dahlgren Township

From: Kevin Ciernia

Property Address: 14621 County Road 40, Carver, MN 55315

Parcel ID: 040251400

February 10, 2023

I recently became aware that my business may be operating outside of the zoning regulations for the area, and I am reaching out to request a variance. I am writing to request your support for this application for a variance for my small family-run automobile repair shop located in Dahlgren Township in Carver County, Minnesota. If I am successful in obtaining the variance, I plan to apply for a conditional use permit to operate a Home Extended Business Accessory Use (HEBAU) at this property.

I am formally requesting variances to operate my small-scale repair shop where there are three homes within the required 500-foot setback from the business operational area to neighboring residences.

I believe this is a reasonable request for the following reasons:

- a. The building already existed when the neighbors' homes were built
- b. Before the neighbors' homes, the previous owner was approved to do something similar and was using the property for commercial use.

I don't know a lot about how all this works. I am not versed on real estate and land zoning issues. I was under the impression that the previous property owner had obtained the necessary approvals to operate a diesel truck repair shop business in the existing building. Which, to me meant, I could continue under that same approval. I have been raising my family and operating my business at this location for a few years now and I have made many upgrades to the existing building to make it suitable for my needs. I have also gained new and wonderful customers from the local community. However, I was recently notified that I need a variance and a conditional use permit to continue operating my business at this location.

At my previous business location, I was driving a long distance between home and work. I wanted to find a property where I could raise my family and continue my small business. I made the move to this property because it already had an existing structure that met my needs, and I could raise my family and continue my business. Despite the challenges of moving my business, I have been able to

maintain operations over the past few years and I do not plan to grow it any larger. My goal is to take care of my family with my small operation.

After talking with a County Land Manager, I now understand the importance of following zoning regulations, and I am committed to working with the county to stay in compliance with the requested variance and conditional use permit. I am a responsible and contributing member to this community. I believe that my business provides a simple but valuable service to the community, and I would like to continue operating it in the same location.

Attached, please find the following:

1. Description of my business
2. Site Plan
3. After the Fact Variance Request

I would greatly appreciate your support for my application for a variance. I would be happy to provide any additional information that may be needed, and I look forward to working with you.

Thank you for your time and consideration.

Sincerely,

Kevin Ciernia

Description of Business

My business is called Full Spectrum Motors. I do a combination of Auto, Small Engine and Boat Repair/Maintenance. I started my business back in 2008 after graduating from high school and attending Hennepin County Technical School for Auto Repair and Alexandria Technical College for Small Engine Repair. I started out in a shed like my shed on Flying Cloud drive.

1. My Normal Business Hours are 9:00-5:00 M-F
2. I have 2 work related vehicles and a couple of trailers
3. I receive 2-3 customers a day, with a couple of visits a day from parts delivery vehicles
4. I have a small bathroom on premise for customers and worker(s)
5. I have 1-2 part time employees to help on smaller projects
6. There is a single row along the tree line for customer cars and is shielded from the neighbors by trees and bushes. It is not visible from the road.
7. There are no plans to expand the business beyond its current operating capacity.

Site Plan

The current site plan is to maintain the existing structure as is, along with the small row along the tree line for cars. There are not many cars parked there for a long period of time, usually about 5 to 10 cars there. I don't have any signage that promotes the business on the road or the building. There is an entrance from County Road 40 for vehicles to enter. It is separate from my home garage entry. There is a small concrete apron that existed prior to my purchase.

I have cleaned up many things on the property when I purchased it. There were 3 semi-trailer containers with flat wheels, iron, and steel inside. I removed them at my own expense. There are three cargo containers, two of them for business storage and one for personal storage.

Here is the site plan for the business:



Here is a view from the road. As you can see there is no signage promoting the business and you can't see anything other than the building that existed when I purchased the property.



After-the-Fact Variance Request

I am requesting a variance for the following item:

1. Relief for the following section of Title XV, Chapter 152.079 Conditional Uses – Activities Centered Around a Home or a Home/Farm Combination
 - a. 9.b.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.

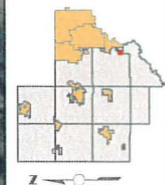
As part of a 152.215 Variances for consideration in an after-the-fact variance request (E.1). I attest to the following:

1. I acted in good faith, due to may lack of understanding of zoning and land management, because I thought the previous owner was allowed, so I was allowed to do something similar.
2. I did make a substantial investment in this property not only for my business, but for my family.
3. The building that I am using was already built when I purchased the property. I also cleaned up a large part of what the previous owner left behind and made the building and the whole property better.
4. There are many similar structures in the area, but maybe not being used in the same way.
5. Not sure on item 5, but I believe, I will leave this property and community in a better place with the opportunity to continue what I have been doing.

PROXIMITY OF FULL SPECTRUM MOTORS OPERATIONS TO NEIGHBORING HOMES



Date: 7/10/2023
 This map was created using Carver County's
 Geographic Information Systems (GIS) as a
 reference. The map is not a legal document.
 City, County, State, and Federal laws.
 This map is not intended to be used as a reference.
 Carver County is not responsible for any inaccuracies contained
 herein.





Township Presentation & Recommendation Form

PARCEL #	040251400	Permit #	V-P-20230003	
Owner's Name:	Kevin Ciernia	Owner's Mailing Address:	14621 County Road 40	
City:	Carver	Owner State:	MN	Owner Zip: 55315
Applicant (if other than owner):		Site Address:	4621 County Road 40, Carver, MN 55315	

Type of Request:	☐ CUP ☐ IUP ☐ Preliminary Plat ☐ Final Plat ☒ Variance ☐ Appeal			
Description of Request:	After the Fact Variance and Conditional Use Permit for Full Spectrum Motors at Address listed above. Details Attached			
Date of County Public Hearing:	3/1/2023	Date of Township Meeting:	2/13/23	

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.

	Date 02/03/2023
Signature of Applicant	Date

Signature of Township Official

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 04-025-1400

File# PZ20230003

APPLICANT/OWNER: Kevin Michael Ciernia

* * * * *

A tract of land in the West Half of the Southwest Quarter of Section 25, Township 115 North, Range 24 West, Carver County, Minnesota, described as follows, to-wit: Commencing at the Northeast corner thereof; thence West 5.47 chains to the center of the Carver and Henderson Road; thence South 38 degrees West along said road, 6.50 chains; thence South 75 degrees 40 minutes East 9.79 chains to the Quarter line (East line of the West Half of the Southwest Quarter); thence North 7.61 chains to the place of beginning. EXCEPT the North 1 rod thereof. ALSO, the West 2.50 chains of the Northeast Quarter of the Southwest Quarter, Section 25, Township 115 North, Range 24 West, EXCEPT the north 1 rod thereof.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Land Management Department

February 17, 2023

TO: Carver County Board of Adjustment & Waconia Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (Reduced OHWL Setback to DNR Protected Watercourse)

FILE #: PZ20230002

APPLICANT: Jerrad & Sharon Sunde

OWNER: Jerrad & Sharon Sunde

SITE ADDRESS: 10480 102nd St, Waconia 55387

VARIANCE TYPE: Reduced Structure Setback from OHWL

PURSUANT TO: Carver County Code: Section 152.034 (D)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 09-026-1000

BACKGROUND:

1. Jerrad & Sharon Sunde own an approximate 18.48-acre residential parcel located in the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of Section 26, Waconia Township. The property is homesteaded and improved with a house (built in 2014) with attached garage and several existing accessory structures. The property is located within the Agricultural Zoning District, Shoreland Overlay District (Carver Creek), and the CCWMO (Carver Creek Watershed).
2. The applicants are requesting a variance that would allow for the replacement of a deck that would not meet the required Ordinary High Water Level (OHWL) 100-foot setback standard of a Department of Natural Resources (DNR) Protected Watercourse (Carver Creek); therefore, a reduced structure setback (approximately 6 feet) to the Ordinary High Water Level (OHWL) has been requested pursuant to Section 152.034 (D) of the Carver County Zoning Code.

LEGAL BACKGROUND:

§ 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.

§ 152.034 SETBACKS.

(D) Table of setback requirements.

<i>Setbacks from Ordinary High Water Level in Shoreland District</i>	<i>Setback Required for Structures</i>	<i>Setback Required for SSTS</i>
Agriculture, Urban & Tributary Rivers	100	as required by <u>Chapter 52</u>

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

STAFF ANALYSIS:

1. Section 152.034 of the County Zoning Code requires the nearest corner of any structure, in all zoning districts, to meet or exceed a 100-foot setback from a DNR protected watercourse. Approval of this request would allow the applicant to apply for a building permit to construct a sunroom addition and deck, attached to the rear (creekside) of the house, with an approximate 94-foot setback to the OHWL of Carver Creek. The established OHWL for Carver Creek is measured by the elevation at the top of the bank of the channel, pursuant to the MN DNR.
2. The applicants' letter (dated: January 23, 2023) describes a practical difficulty in locating the sunroom and deck in an area that is not within the required Shoreland setback. He explains that the current deck, is in deteriorating condition and needs to be replaced. The new sunroom (approximately 18.7' x 18') will be 94 feet from the Ordinary High Water Line for the creek. The applicants feel that the proposed size of the sunroom is appropriate for their family's needs, and a variance for 6 additional feet closer to the creek is acceptable. The proposed deck meets the required 100-foot setback to the creek.
3. Provided site plans and building plans (dated January 9, 2023) show the sunroom addition would be approximately 337 square feet (18.75' x 18'). This extends 6 feet further north than the existing deck that measures 18 feet x 12 feet. The closest point of the proposed sunroom addition is 94 feet from the OHWL of Carver Creek. The applicant is also proposing a new deck to the east of the existing deck, measuring approximately 23 feet x 16 feet (368 square feet). The closest corner on the new deck is 100 feet to the OHWL of the creek.
4. The Carver County Environmental Services Department reviewed this request and the existing SSTS system. Senior Environmentalist Jacob McLain indicated the existing SSTS system is sized for four bedrooms. Prior to issuing building plans, the applicants need to supply an affidavit that the number of bedrooms in the house will not exceed the number of bedrooms the current SSTS system is sized for. Updated remodel plans show one bedroom being converted into an office with a closer removed as well as a bedroom being converted to a walk-in closet. Additionally, McLain noted there is some concern that the plans show the proposed deck as directly over the sewer line from the house. He suggests the applicants take caution to protect the sewer line during construction.
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 100-foot shoreland setback. Although this request does not meet the specific standards, it appears to meet the intent of the regulations.
6. The granting of the variance would not conflict with the intent of the Comprehensive Plan and will not alter the character of the neighborhood, nor will government services be negatively impacted by the relocation of the structure.

7. The neighborhood is comprised of agricultural and residential activities, as well as some areas of wetland and dense vegetation. There are similarly situated structures on other properties in the immediate area. This request would not cause a substantial change in the character of the neighborhood.
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. This request was sent to Minnesota Department of Natural Resources (MnDNR) for review. David De Paz, Watershed Specialist and Acting South Metro Area Hydrologist, reviewed the request on February 13, 2023. De Paz stated *"the area where the proposed deck is to be located is the same elevation as the existing structure, so they should not be any slope erosion."* He also stated *"as this is a minimal encroachment to an altered watercourse, DNR does not see this as a problematic variance request."*
10. The Waconia Town Board has reviewed and recommended approval of the request during their January 23, 2023, Town Board meeting. The Board stated "Township saw no harm with the 6-foot variance for the house addition. The bank is gradual slope and completely wooded that meets up with the creek."

BOARD CONSIDERATION:

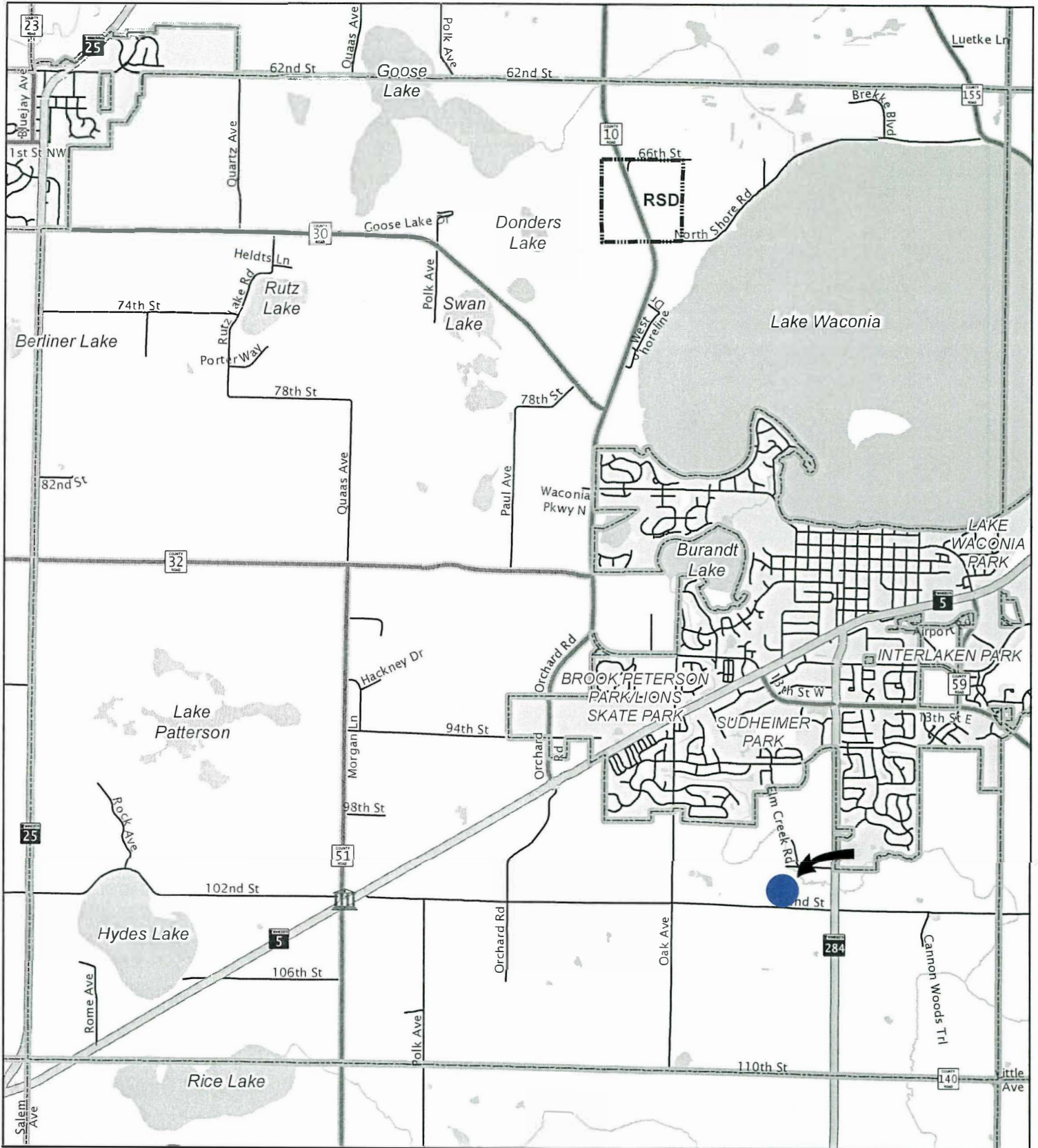
If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance for a reduced shoreland setback pursuant to Section 152.034 (D) of the Carver County Zoning Code, would serve in the interest of justice, the following conditions should be attached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

1. The permittee shall obtain the appropriate building permit(s) prior to the construction of the proposed sunroom addition. All work shall be done in accordance with the submitted and approved building permit plans.
2. All construction activities shall be done in accordance with the submitted site plan(s). The new construction shall not encroach any closer to the OHWL of Carver Creek than approved (i.e. 94± feet) as part of this permit application
3. Permittee shall submit an affidavit of septic system compliance standards that states the residence shall have no more than four bedrooms, unless the SSTS has been increased in size to accommodate additional bedroom(s) and approved by Carver County Environmental Services. This affidavit is to be completed prior to build permit issuance.
4. No additional expansions shall be permitted without obtaining all necessary building permits and/or Variances.

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.



Map Created by Carver County GIS

S 1/2 SEC. 26, T.116, R.25



To: Carver County Board of Adjustments
600 E 4th St.
Chaska, MN 55318

From: Jerrad & Sharon Sunde
243 Winkler Trail
Cologne, MN 55332

Date: January 23, 2023

Property for Proposed Variance: 10480 102nd St., Waconia MN 55387

Dear Carver County Board of Adjustments,

My wife, Sharon, and I purchased the property at 10480 102nd Street on 11/18/22. We are seeking to remove the existing 12' deep deck that has been relatively unkept with a new 18' 8 ½" Wide x 18' Deep Sunroom addition with a 16' deep deck attached to the side of it. Based on survey information obtained from the county records office we have been made known that the current deck is set at the maximum allowed distance of 100' from the tributary creek to the north. According to Carver County Code Section 152.034 – Setbacks, Table D outlines that we must maintain a 100' minimum to the tributary creek for any new structures. We are proposing to obtain a variance to allow us to build the aforementioned Sunroom addition 94' from the tributary creek, or 6' closer than the existing deck and minimum setback requirement.

Sharon and I are both Registered Nurses, Sharon works at St. Francis Hospital in Shakopee and I operate a nurse staffing business. We have 2 middle school age boys attending Waconia Schools. We currently live in Cologne and have intended to remain there until we can complete the proposed addition. While we love the property that we bought with its over 18 acres, the home itself doesn't work well for our family's needs. The home was built in 2014 by a retired couple that never saw their children living in this home. The home itself has a great Primary Suite, but the 2nd bedroom listed is barely usable as a bedroom. The bedroom is 13' x 8' with a small closet. The basement does offer the opportunity to finish a bedroom and there is an Office on the Main Floor that could potentially be used as a bedroom. However, I operate my business out of a home office, so it is critical that I keep this space as an office because two of us work out of this space consistently. Our intended use for the proposed addition that requires the variance is to build a Sunroom/Family Room space for our family, but more importantly finish the basement portion of it to make a functional bedroom for one of our sons. We then will finish the other available bedroom space in the basement and convert the existing small bedroom into a craft/homework space. This will give us 3 functional bedrooms for our family to use long term. Sadly, the property was built on over 18 acres of land, with ample space to have placed the home even just 20' to the South, which would have allowed the proposed addition. We explored the idea of adding on to the front or side of the home to achieve the bedrooms we need, but with the Kitchen, Dining Room, Foyer and Garage being at the front, there was just no way to get what we needed without expanding far larger than necessary and beyond our reasonable budget for the space. Thank you for taking the time to consider this variance, Sharon and I are hopeful that you will see the challenge the previous owner has presented to us due to the placement on this parcel of land and how it relates to our family's needs.

Regards,

Jerrad Sunde

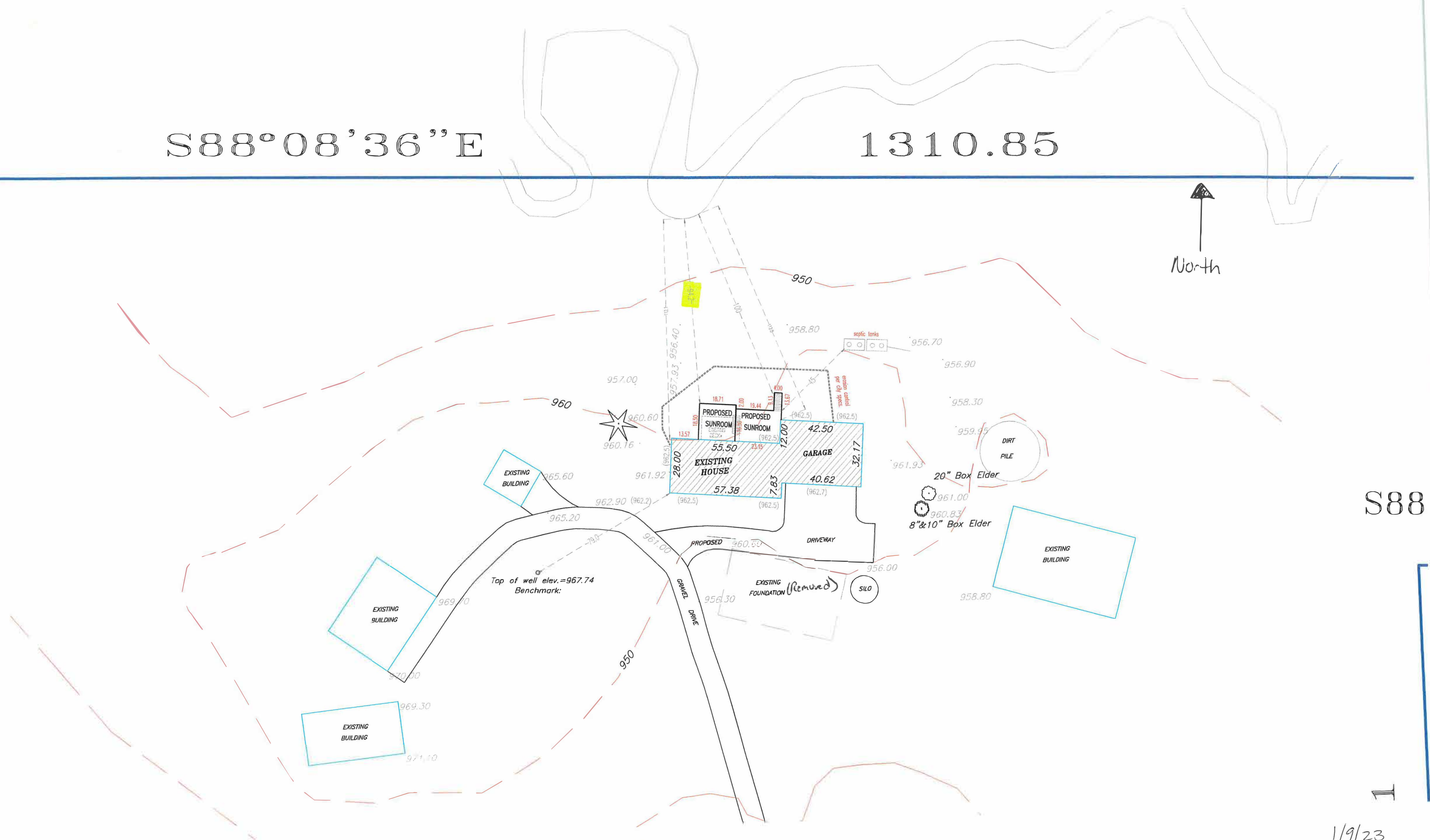
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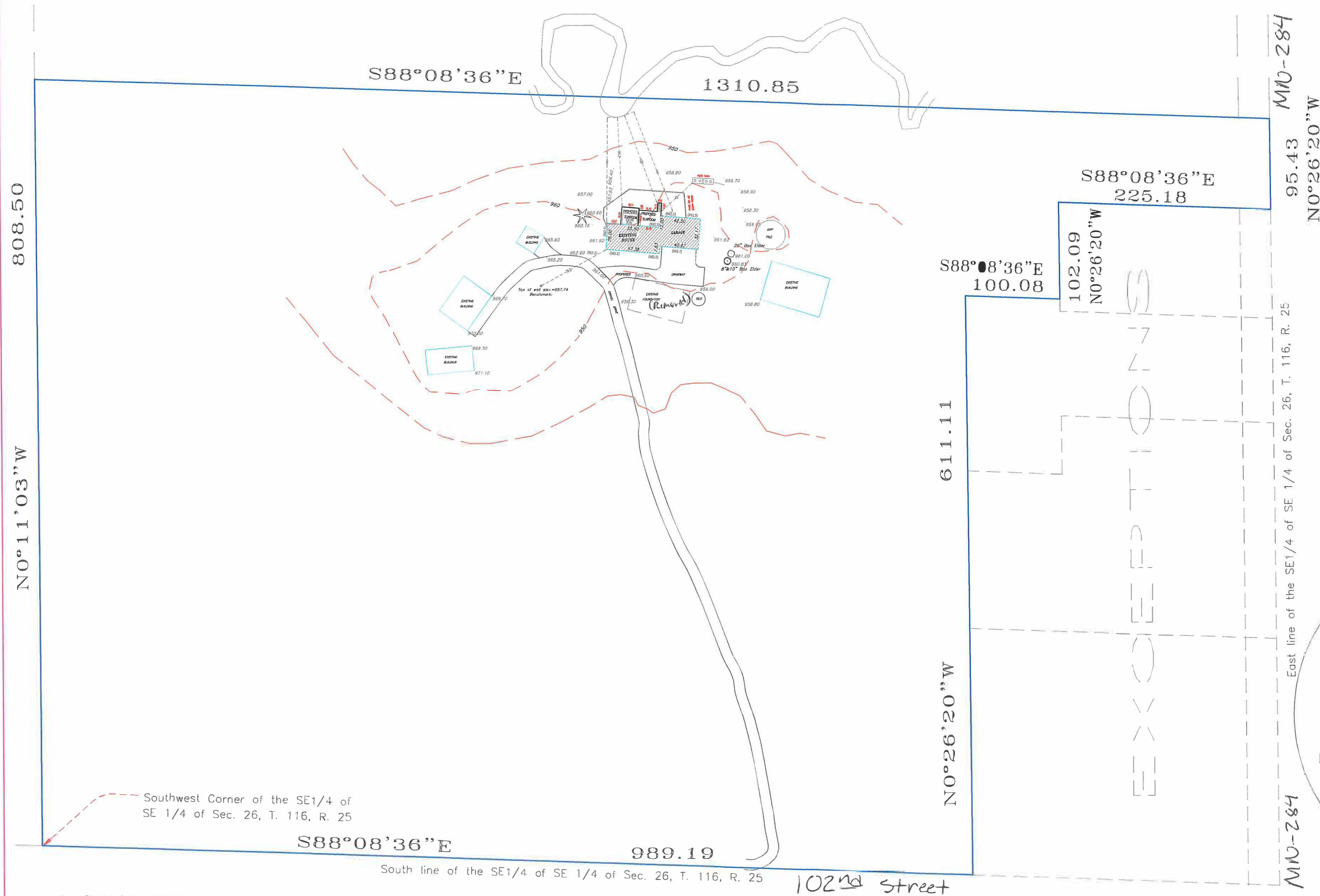
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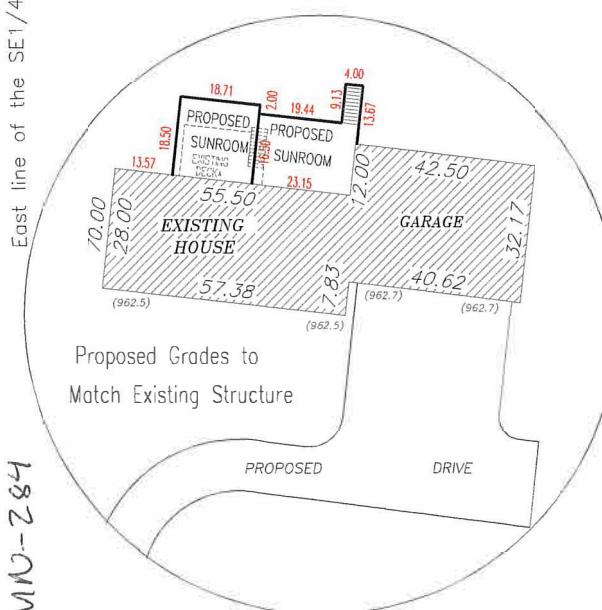


LEGAL DESCRIPTION:

COMMENCING AT THE S.W. CORNER OF THE
SE1/4 OF THE SE1/4 OF SECTION
26, TOWNSHIP 116, RANGE 25; THENCE
NORTH ON THE WEST LINE OF THE
S.E.1/4 OF THE S.E.1/4 808.5 FEET;
THENCE PARALLEL TO THE SOUTH LINE OF

THE S.E. 1/4 OF THE S.E. 1/4 TO THE EAST
LINE OF SAID S.E. 1/4 OF THE S.E. 1/4;
THENCE SOUTH ON THE EAST LINE OF THE
S.E. 1/4 OF THE S.E. 1/4 808.5 FEET
TO THE S.E. CORNER; THENCE WEST ALONG
THE SOUTH LINE TO PT OF
BEGINNING. EXCEPT: BEG AT A PT ON E
LINE OF SE1/4 SE1/4

Legal description as provided.
Subject to exceptions as shown on survey.



DETAIL
SCALE: 1"=20'

○ Denotes iron monument
 ● Denotes found monument
 x 000.0 Denotes existing elev.
 (000.0) Denotes proposed elev.
 * Denotes to be removed

REVISÉ: 02/02/2023

Proposed garage floor elev = 962.7
Proposed top of foundation elev. = 963.00
Proposed lowest floor elev = 954.29

**DEMARS-GABRIEL
LAND SURVEYORS, INC.**
6875 Washington Ave., So.
Suite 209
Edina, MN 55439
Phone: (952) 559-0908
Fax: (952) 767-0490

I hereby 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.

David E. Crook

Date: 02/01/2023 Minn. Reg. No. 22414

File No.	15085 D
Book-Page	
Scale	1" = 50'

CERTIFICATE OF SURVEY

SURVEY FOR:

THE CONSTRUCTION COORDINATORS, LLC
Mike Jirik



Township Presentation & Recommendation Form

PARCEL #	090261000	Permit #	P220230002
Owner's Name:	Jerrad & Sharon Sunde	Owner's Mailing Address:	243 Winkler Trail
City:	Cologne	Owner State:	MN
		Owner Zip:	55322
Applicant (if other than owner):		Site Address:	10480 102nd St., Waconia, MN 55387

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

Description of Request:

Proposing to remove an existing 12' deep deck and replace with a new 18' deep Sunroom addition with basement bedroom below and new deck to the side of the Sunroom addition at 16' deep.

Date of County Public Hearing: 3/1/2023 Date of Township Meeting: 1/23/23

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 saw no harm with the variance for the house addition. The bank is gradual slope and completely wooded that meets up with the creek.

****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.

Jerrad Sunde

Date: 1/23/23

Signature of Applicant

Mark Nickolaus

Date: 1-23-23

Signature of Township Official

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 09-026-1000

File# PZ20230002

APPLICANT/OWNER: Jerrad D Sunde & Sharon M Sunde

* * * * *

Commencing at the Southwest corner of the Southeast Quarter of the Southeast quarter of Section 26, Township 116, Range 25, Carver County, Minnesota; thence North on the West line of said Southeast Quarter of the Southeast Quarter, a distance of 808.50 feet to a point; thence East parallel to the South line of said quarter-quarter to the East line of said quarter-quarter; thence South along the East line of said quarter-quarter, a distance of 808.50 feet to the Southeast corner of said quarter-quarter; thence West along the South line of said quarter-quarter to the said point of beginning, EXCEPTING therefrom the following: Beginning at a point on the East line of said Southeast Quarter of the Southeast Quarter distant 292.63 feet North, measured along said East line, from the Southeast corner of said Southeast Quarter of the Southeast Quarter; thence West on a line at right angles to said East line, a distance of 225.00 feet; thence North on a line at right angles to the last mentioned line, a distance of 195.00 feet; thence East on a line at right angles to the last mentioned line, a distance of 225.00 feet to the East line of said Southeast Quarter of the Southeast quarter; thence South along said East line, a distance of 195.00 feet to the point of beginning, and further EXCEPTING: Beginning at the Southeast corner of said Southeast Quarter of the Southeast Quarter; thence North along the East line of said Southeast quarter of the Southeast Quarter, a distance of 292.63 feet; thence West at right angles to said East line, a distance of 225.00 feet; thence South at right angles to the last described line to the intersection with the South line of said Southeast Quarter of the Southeast Quarter; thence East along the South line of said Southeast Quarter to the point of beginning, and also EXCEPTING the West 100.00 feet of the East 325.00 feet of the South 602.63 feet thereof, and further EXCEPTING the following: Beginning at a point on the East line of said Southeast Quarter of the Southeast Quarter, distant 602.63 feet North, measured along said East line, from the Southeast corner of said Southeast Quarter of the Southeast Quarter; thence West on a line at right angles to said East line, a distance of 225.00 feet; thence North on a line at right angles to the last mentioned line, a distance of 115.00 feet; thence East on a line at right angles to the last mentioned line, a distance of 225.00 feet to the East line of said Southeast Quarter of the Southeast Quarter; thence South along said East line, a distance of 115.00 feet to the point of beginning. Also, further EXCEPTING the following: All that part of the Southeast Quarter of the Southeast Quarter of Section 26, Township 116 North, Range 25 West, Carver County, Minnesota, described as follows: Beginning at a point on the East line of said Southeast quarter of the Southeast Quarter, distant 487.63 feet North, measured along said East line from the Southeast corner of said Southeast Quarter of the Southeast Quarter; thence West on a line at right angles to said East line, a distance of 225.00 feet; thence north on a line at right angles to the last mentioned line, a distance of 115.00 feet; thence East on a line at right angles to the last mentioned line, a distance of 225.00 feet to the East line of said Southeast quarter of the Southeast Quarter; thence South along said East line, a distance of 115.00 feet to the point of beginning, Carver County, Minnesota.

DRAFTED BY: Carver County Land Management Department