

CARVER COUNTY BOARD OF ADJUSTMENT

Regular Meeting – **Wednesday, February 7, 2024**
Commissioners' Meeting Room
2nd Floor Human Services Bldg
Government Center – Chaska

AGENDA

7:00 p.m. **Meeting call to order** by Zoning Official

- A. Organization of the Board
- B. Election of Chair
- C. Election of Vice-Chair
- D. Appointment of Land Management Staff as Secretary

1. Approve minutes of December 6, 2023 Pages 1-1 through 1-3
2. **File #20240002** Public hearing on request by Paul Silseth for a variance.
(Feedlot Setback from Residence)
Young America Township Pages 2-1 through 2-12
Issue Order #20240002 – Paul Silseth
3. **File #20240001** Public hearing on request by Shea Lange for a variance.
(Structure Setback from Road)
Watertown Township Pages 3-1 through 3-11
Issue Order #20240001 – Shea Lange

Other Business

CARVER COUNTY BOARD OF ADJUSTMENT
Regular Meeting December 6, 2023
Minutes

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

Members Absent: None

Members Late: None

Staff Present: Jason Mielke, Christina Neel

Pursuant to due call and published notice thereof, the December 6, 2023, meeting of the Carver County Board of Adjustment was called to order by Chairman Bruner at 7:00 p.m.

Chairman Bruner announced the roll call indicated all board members are present.

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

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

Public Hearing - File #20230043 – Richard & Susan Steinhagen – Chairman Bruner called the public hearing to order at 7:01 p.m. to consider the application of Richard & Susan Steinhagen for a variance pursuant to Chapter 152 of the Zoning Code. The purpose of the public hearing was to consider a request for a minor subdivision creating a parcel with reduced road frontage and width/depth ratio pursuant to Chapter 152 of the County Code. The property is in Section 4 of Young America Township.

The following were present: Al Steinhagen, Ron Trick

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

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

Exhibit F – Staff Report addressed to the Board of Adjustment and Young America Town Board dated November 20, 2023, and all attachments.

Neel stated the applicants own an approximate 76.64-acre parcel improved with a single-family dwelling, detached garage, several agricultural buildings, pasture, and tillable land. The applicants are proposing a minor subdivision to separate the existing building site from the tillable farmland. The building site would be a conforming parcel and the remnant parcel would be non-conforming due to reduced road frontage and the required width to depth ratio. Neel used an aerial photo to illustrate the

configuration of the proposed lots and explained the width to depth ratio. The applicants' letter acknowledged there would be an option to create two conforming lots, however; the proposed configuration is preferred because it allows the building site to retain a grove of trees and a patch of fenced pasture for animals needing access to the barn. They stated that the proposed 340 feet of road frontage for the tillable parcel is a reasonable area for access to continue farming the tillable land. The plan to have the field access moved from the east side of the property to the proposed west side of the tillable field. Neel clarified that the variance would relate only to the remnant parcel, as the proposed building site would be conforming. The request was reviewed by Jacob McLain, Senior Environmentalist, who reported that an alternate location for a septic site would need to be identified on the proposed building site parcel. A minor subdivision would also require compliance of the existing septic system on the property. The plight of the landowner is created by the landowner, however; the desire is to keep the building site suitable for animal agriculture with the tree grove and small pasture area. The applicant seeks to use the land in a reasonable manner which is in harmony with the general purpose and intent of the official control. Granting the variance does not appear to be in conflict with the intent of the Comprehensive Plan nor would it alter the character of the neighborhood or have a negative impact on government services. The Young America Town Board reviewed the request at their November 14, 2023, meeting and recommended approval, supporting the reduced road frontage for the proposed tillable parcel. Neel read the proposed conditions for consideration if the Board of Adjustment determines a practical difficulty has been identified. If the Board of Adjustment determines a practical difficulty has not been identified, the reasons supporting denial of the request must be clearly stated.

The applicant had no additional comments at this time.

Ron Trick, Young America Township supervisor, confirmed the Township support of the proposed configuration for the parcels. He encouraged the board to approve the request.

There was no one present from the public present to speak on this request.

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

Bielefeldt stated he visited the site and asked about the history of the parcel and its configuration. He wanted to understand the need to create a non-conforming parcel.

Al Steinhagen (representing his parents who were unable to attend the meeting), 8815 Tiller Av, stated the parcel has been in this configuration for as long as he can remember. The treed area acts as a windbreak for the building site and the pasture area is conveniently connected to a shed which can be used to house animals. This use would be more practically used with the building site than connected to the tillable acres.

Mr. Trick stated he has lived on the adjacent parcel to the west for his entire life and does not remember the parcel in any other configuration than it currently exists.

Mielke added that there was likely more pastureland when this site was an active farming operation. The existing pastureland area would still be able to be used for animal agriculture and is conveniently located near the existing agricultural structure. The intent to keep the pasture, tree grove, and existing buildings on the same parcel is for the purpose of having animals on the site. Mielke also mentioned a 5-acre parcel size is a requirement for some conditional use permits and using the retaining the

pastureland with the buildings, rather than using tillable land to the south of the building site to maintain that size, also keeps more land in production.

Bielefeldt stated the plight of the landowner is created by the landowner with this request.

Mielke acknowledged that fact, stating each variance request is based on its own merits and circumstances. He stated the applicants explained their reasons for retaining the pastureland and tree grove (woods) with the building site and proposing the parcel configuration with a variance.

Gorra asked for clarification on the existing location and proposed location for the field access for the tillable parcel.

Mr. Steinhagen clarified the proposed location would be moved slightly eastward so it would be on the tillable parcel.

Washburn appreciated the background information of the parcel and the two different drawings for possible subdivisions. Knowing the requirements for other proposed uses was also helpful to look at the best use of the property and proposed parcels. He is supportive of the variance request.

Bruner stated he visited the site and agreed that keeping the pastureland together with the building site is a reasonable request.

A motion was made by Washburn to **approve and issue Order PZ20230043** for a variance allowing the creation of a new lot with a reduced road frontage and excessive width/depth ratio pursuant to Section 152.033 (D)(1) & (4) of the Carver County Zoning Code, for property legally described on the attached Exhibit "A", is hereby **approved** with 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 by not limited to, a completed Minor Subdivision Application, Survey, and SSTS Compliance.
2. The applicant shall apply, to the Young America Town Board, and be granted a new field access location (prior to the recording of any deed(s)).

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

Adjournment

A motion was made by Bielefeldt to adjourn. Motion was seconded by Selken. Chairman Bruner called for a vote on the motion. All voted aye. Motion carried. The meeting was adjourned at 7:18 p.m.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Environmental Services

January 26, 2024

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

FROM: The Environmental Services Department

SUBJECT: Application for a Variance (Reduced Setback to a Residence for the Expansion of an Existing Animal Feedlot to 30 Animal Units or More)

FILE #: PZ20240002

APPLICANT: Paul Silseth

OWNER: Paul and Anne Silseth Living Trusts

SITE ADDRESS: 16895 County Road 31 West, Norwood Young America, MN 55368

VARIANCE TYPE: Reduced Setback to a Residence for the Expansion of an Existing Animal Feedlot to 30 Animal Units or More

PURSUANT TO: Carver County Code Sections 54.46 (E)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 11-016-0900

BACKGROUND:

1. Paul and Anne Silseth own an approximately 59.75-acre parcel located in the Northeast Quarter (NE¼) of the Southeast Quarter (SE¼) of Section 16, Young America Township. The property is improved with a residence and multiple agricultural buildings. The parcel consists of hay ground, crop production land, and a wooded area in the southern portion of the parcel. The property is located within the Agricultural Zoning District and the CCWMO (Bevens Creek and Crow River Watershed).
2. The applicant is requesting a variance that would allow him to expand an existing animal feedlot to 30 animal units or more (cattle) approximately 700 feet from a residence, not located on the subject property, located to the northeast of the existing feedlot. Chapter 54 of the County Code requires a minimum setback of 1,000 feet from residences to all feedlots of 30 animal units or more. Therefore, a variance for a reduced setback pursuant to Chapter 54 – Section 54.46 (E) has been requested.

LEGAL BACKGROUND:

§ 54.04 DEFINITIONS.

EXISTING ANIMAL FEEDLOT. An animal feedlot that has registered with Carver County or the MPCA prior to July 7, 2003 and has been utilized for livestock production within the past five years.

§ 54.46 SETBACKS.

(E) Feedlots established after July 7, 2003. Animal feedlots, consisting of fewer than 30 animal units, that are located within 1,000 feet of residences, churches, schools, regional parks, cemeteries, non-agricultural commercial and industrial activities, and restaurants shall not be allowed to expand to greater than 30 animal units.

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. Paul Silseth, the applicant, purchased the property in 1990 and established a feedlot of less than 10 animal units (cattle) on the property in 1996. Mr. Silseth increased animal numbers to 29.4 animal units in 2006 and previously registered the same number of livestock in 2012. As shown in the site plan (dated January 23, 2024) the feedlot operation consists of a 45' x 104' partial confinement barn (Barn 1), a 22' x 36' partial confinement barn (Barn 2), a 15' x 36' lean-to shelter (Barn 3), six earthen lots, and approximately 15.2 acres of pasture for rotational grazing. The applicant would like to expand the existing operation by increasing animal numbers to 70 animal units (cattle) within the current partial confinement barns and open lots.
2. The applicant's letter (dated December 27, 2023) describes a practical difficulty exists based on the operation serving as the family's livelihood and the location of the existing confinement barns and open lots. In his letter, Mr. Silseth states, "My wife and I use this, not only as our hobby and life's dream, but also to supplement our income. This is very much ours and our children's livelihood." The residence located within 1,000 feet of the feedlot was constructed in

1992, which is approximately four years before the applicant constructed the first barn and began operating a feedlot of less than 10 animal units. Mr. Silseth's feedlot was established before the 1,000-foot setback requirement in the Ordinance was enacted, but he did not have enough animal units to become a legal nonconforming operation. Chapter 54 of the County Code requires feedlots of 30 animal units or more to be located a minimum of 1,000 feet from residences. Approval of the variance would allow Mr. Silseth to expand an existing feedlot to 30 animal units or more at an approximate distance of 700 feet from 16980 County Road 31 W, reflecting a 300-foot variance. In the letter he proposes a maximum of 70 Animal Units on the property, but he notes that rarely would there be the maximum number of animal units present on the property.

3. A routine compliance inspection conducted by Environmental Services staff on September 6, 2023, determined the feedlot operation to be compliant with Minnesota Rules Chapter 7020, but non-compliant with Section 54.46 (E) of the County Code, as there were 51.9 animal units on site. If the request is approved, the feedlot registration shall be updated to reflect the increase in animal unit numbers.
4. Kristen Larson, Water Resources Specialist with the Carver County Planning & Water Management Department, conducted a wetland review of the property on January 23, 2024, 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.
5. The residence owned by Robert Kloth, located at 13150 County Road 31 W, is approximately 640 feet from the existing feedlot, however the property is within the city limits of Norwood Young America and the 1,000-foot setback does not apply. Jurisdiction of the County Feedlot Management Ordinance applies to all areas of Carver County outside of the incorporated limits of municipalities.
6. Staff received letters of support (dated December 26, 2023) from Donald and Cheryl Andrix, who live in the residence within the 1,000-foot proximity to the feedlot, and Robert Kloth. Both neighbors own properties adjacent to the applicant.
7. 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.
8. The granting of the variance would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicants and would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
9. The Young America Town Board reviewed and recommended approval of the request at their November 14, 2023, Town Board meeting with the following comment: "Township approve variance to 70 animal units for seasonal calving to cover averages of over 30 animal units approved at Township meeting on 11/14/2023."

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 neighboring residence on the property pursuant to Section 54.46 (E) 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 70 AU.
2. The permittee shall operate the facility in full compliance with MPCA Feedlot Rules.
3. The applicant shall submit a Feedlot Registration Update Form to be processed by the County Feedlot Officer if the request is approved.

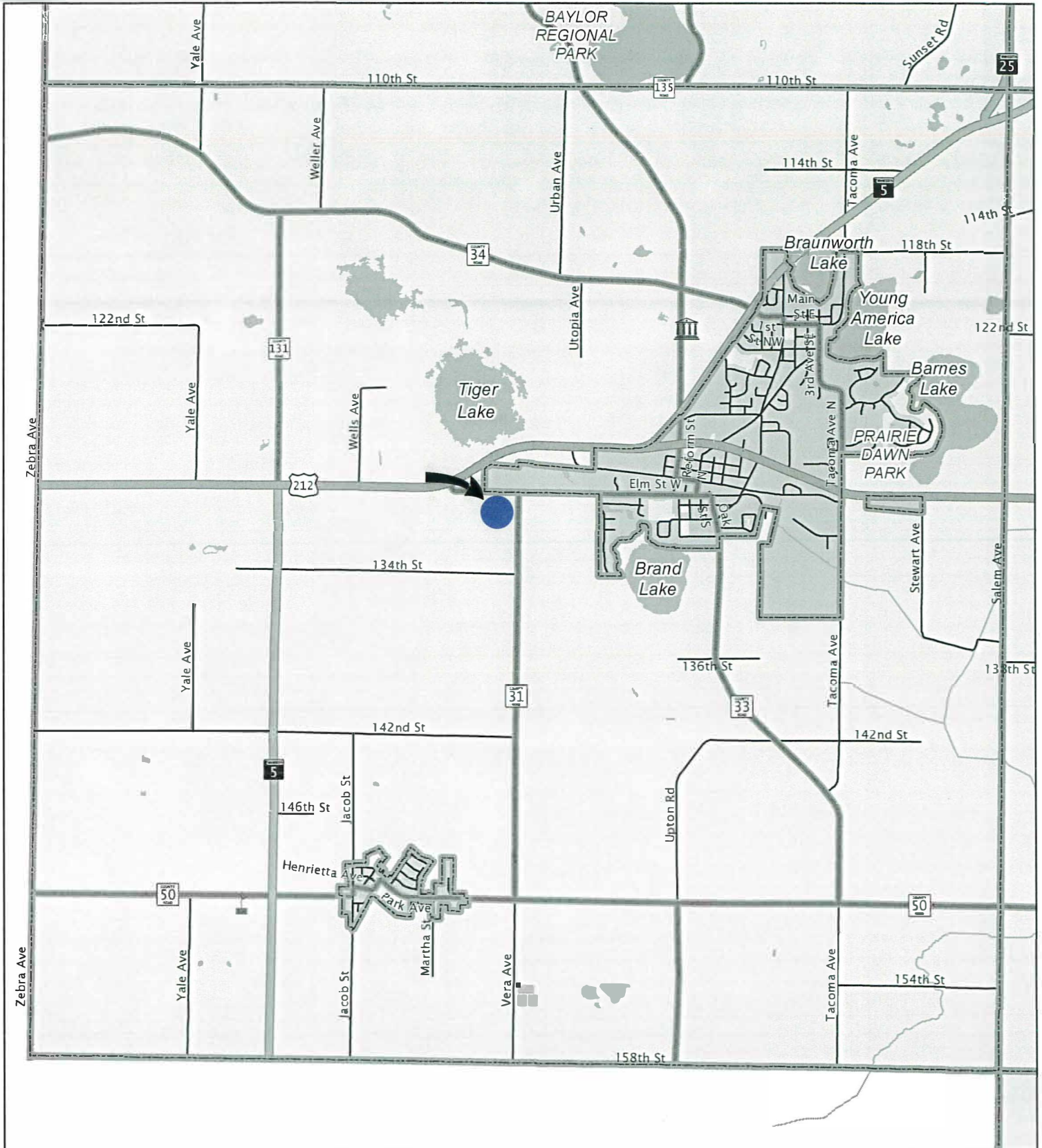
4. The applicant must operate and maintain the short-term manure stockpile such that the manure is removed from the site and land applied in accordance with Minn. Rules 7020.2225, within one year of the date when the stockpile was initially established pursuant to Minn. Rules 7020.2125 (A). A vegetative cover must be established on the site for at least one full growing season prior to reuse as a short-term stockpiling site.
5. Pursuant to Minn. Rules 7020.2125 (C), the manure stockpile site must not be located within 300 feet of flow distance and at least 50 feet horizontal distance, to waters of the state, sinkholes, rock outcroppings, open tile intakes, and any uncultivated wetlands which are not seeded to annual farm crops or crop rotations involving perennial grasses or forages.
6. All feedlot activities shall be done in accordance with the submitted site plan(s). Expansion of the existing feedlot shall not encroach any closer to the residence than as approved as part of this permit application. (Approx. 700 feet from 16980 County Road 31 W).

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

OR

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

YOUNG AMERICA TOWNSHIP



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



Map Created by Carver County GIS

THIS IS NOT A LEGALLY RECORDED PLAT.
THIS MAP IS A COMPILED OF RECORDS
FROM THE PUBLIC RECORDS OF THE
OFFICES AND OTHER SOURCES. THIS MAP
IS FOR INFORMATIONAL PURPOSES ONLY.
FOR PURPOSES, THE COUNTY AND ITS AGENTS
MAKES NO WARRANTY OR GUARANTEE OF
ACCURACY CONTAINED THEREIN.

S 1/2 SEC. 16, T.115, R.26



Regarding Feedlot Inspection Checklist 1.2 Expansion and Restocking Requirements

County Code 54.46

We, Silseth Family Farm are applying for a variance for Animal Units allowed. The current code, is a total amount to be under 30 AUs, within 1,000 feet of a residence. We are asking that the variance be permitted and increased to 70 Animal Units. We operate a cow calf operation and we feed out our butcher steers and heifers till the time of slaughter. We do sell some on the open market.

There will rarely be 70 AUs on the property. That number may be achieved for a small amount of time in the 12-month calendar year. This year 2024 we have 23 bred cows. Over the spring we will be calving in hopes to have 23 live births. (not always though). We will also have about 20 of last year's steers and heifers that we are feeding to become fats (slaughter animals) and sell them when they achieve the proper weight. A cow calf pair is 1.2 units. After calving season is complete, our cow calf units will be 27.6 AU's. The steers and heifers will be .7, multiplied by the 20 head equals 14, bringing the total to 41.6 AU's. As the slaughter animals grow, they become 1 full unit. Late in the summer the Animal Units will increase, 27.6 cow/calves plus 20 feeders, bringing the total to 47.6 AU's.

Late in the fall when we are starting to sell the feeders, the previous spring calves are growing enough that by the values of AU measurements, there could be 46 for total cow and calves. The 20 AUs for feeders bring the total animal units to 66. Once we peak in AU's, the number drops rapidly because we are selling feeders.

For a short time, we may approach the 70 AUs, but it is short-lived and we quickly are back down to the 35-50 Animal Units.

We have been raising our cattle since our children were in 4H and they were showing for many years at the Carver County Fair. Since growing out of the fair age some have kept buying, raising, and breeding Hereford cattle as part of their livelihood. My wife and I use this, not only as our hobby and life's dream but also to supplement our income. This is very much ours and our children's livelihood. We also have many friends from the city, that come out in the spring, bringing the children to see a real farm and play and learn about the newborn calves and their mothers. We are a very educational farm too.

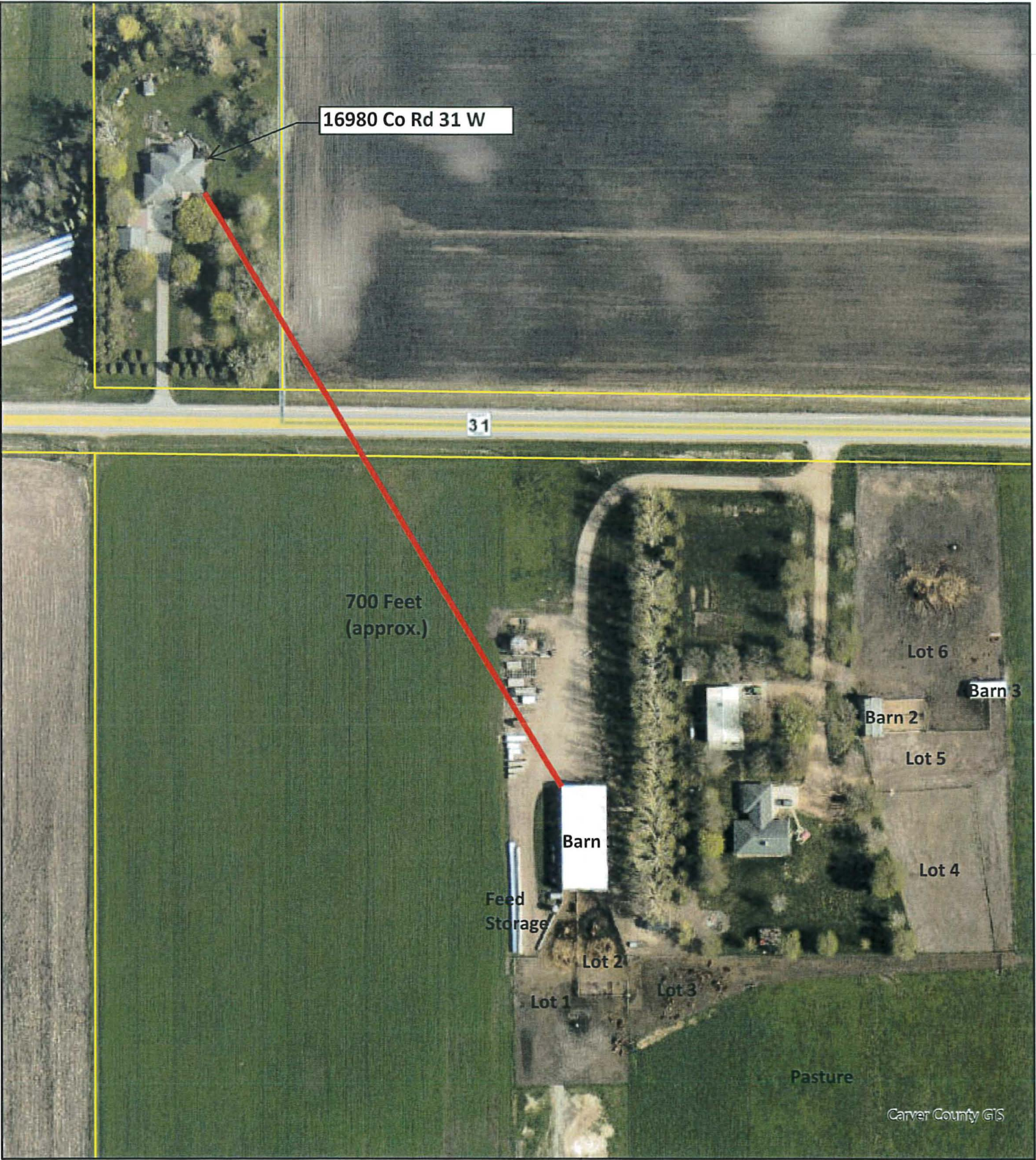
We only have one neighbor within the 1,000 feet of our cattle areas, (all other neighbors are far beyond the 1,000-foot requirement) and by the aerial pictures you can see that only a very small part of our feeding and cattle areas come inside the 1000' rule. The way we run our operation; the cattle are within those boundaries for small portions of time. As we do a lot of "Rotational Grazing" moving them around from pasture to pasture. We have very good relationships with our neighbors, and have never had any word from either about a problem. You can see they both have signed a letter that they do not see any problem in what or how we do things at Silseth Family Farm. Also, we do not see anything else on the county feedlot inspection that was not in compliance.

We keep a very well-maintained farm, and have had many people comment on our well-kept farm.

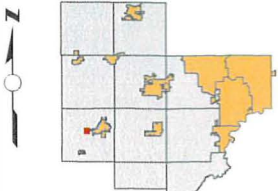
We would ask you to consider this variance in our favor.

Thank You, Paul & Anne Silseth, and family

SILSETH FEEDLOT TO RESIDENCE SETBACK



Date: 1/23/2024
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Township Presentation & Recommendation Form

PARCEL # <u>11.016.0900</u>	Permit # <u>PE20240002</u>	
Owner's Name: <u>Paul Silseth</u>	Owner's Mailing Address: <u>16895 County Rd 31 Norwood</u>	
City: <u></u>	Owner State: <u>MD</u>	Owner Zip: <u>55368</u>
Applicant (if other than owner): <u></u>	Site Address: <u>16895 County Rd 31</u>	

Type of Request:	☐ CUP	☐ IUP	☐ Preliminary Plat	☐ Final Plat	☒ Variance	☐ Appeal
Description of Request: <u>Would like to increase A.U. to 70 animal units</u>						
Date of County Public Hearing: <u>2/7/2</u>			Date of Township Meeting: <u>11-14-23</u>			

Actions:

Township Action Taken:

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

Township approve variance to 70 animal units for seasonal calving to cover averages of over 30 animal units - approved at township meeting on 11/14/2023

****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.

Paul Silseth

Date 11-14-23

Signature of Applicant

Bradley Thompson

Date 11/14/23

Signature of Township Official

2-9

To the Carver County Board of Adjustment:

I, Robert Kluth, do not have any problem with the Silseth family having more than the 30 Animal Units per county code. Increasing the amount to 70 does not affect us at all. I encourage the approval of this variance.

Signed: Robert Kluth Neighbor.



Date, 12/26/23

To the Carver County Board of Adjustment:

We, Don and Cheryl Andrix, do not have any problem with the Silseth family having more than the 30 Animal Units per county code. Increasing the amount to 70 does not affect us at all. I encourage the approval of this variance.

Signed: Don and Cheryl Andrix, Neighbors.

Cheryl Andrix

Donald L. Andrix

Date 12-26-23

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 11-016-0900

File# A20240002

**APPLICANT/OWNER: Paul S Silseth Living Trust &
Anne E Silseth Living Trust**

*** * * * ***

The Northeast Quarter of the Southeast Quarter (NE1/4 of SE1/4) and the North 19¾ acres of the Southeast Quarter of the Southeast Quarter (SE1/4 or SE1/4) of Section 16, Township 115, Range 26, Carver County, Minnesota.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

January 26, 2024

TO: Carver County Board of Adjustment & Watertown Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (Reduced Front Yard Setback)

FILE #: PZ20240001

APPLICANT: Shea Lange

OWNER: Shea A. Lange

SITE ADDRESS: 3420 Co Rd 123, Watertown 55388

VARIANCE TYPE: Reduced Setback from Road Centerline

PURSUANT TO: County Code Section 152.034 D

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 10-018-0911

BACKGROUND:

1. Mr. Lange owns an approximate 2-acre parcel located in the Northeast Quarter (NE¼) of the Southwest Quarter (SW¼) of Section 18, Watertown Township. The property is improved with a single-family dwelling with an attached garage a corn crib, and a 32' x 48' accessory structures (V-PZ20070018). The property is located in the Agricultural Zoning District and the Carver County Water Management Organization (CCWMO) - Crow River Watershed.
2. The applicant is requesting a variance to reduce the required structure setback from the centerline of a county road designated as a Collector Road not in the Shoreland District. The request consists of a reduction in the setback from 95 feet to 71 feet to accommodate a lean-to addition to an existing accessory structure. The shed addition, which is existing, would be closer to the centerline of a road than what is permitted by the Zoning Code; therefore, an after-the-fact variance has been requested pursuant to Section 152.034 (D) of the Carver County Zoning Code.

LEGAL BACKGROUND:

§ 152.034 SETBACKS.

(D) *Table of setback requirements.*

<i>Future Functional Class of Road as Shown in Roadway Systems Plan Figure 4.13</i>	<i>Setback from Centerline</i>	<i>Reduced Setback*</i>	<i>R-O-W</i>	<i>Reduced R-O-W</i>
Collector Roads not in Shoreland District	95	75	120	100

BOARD OF ADJUSTMENT

§ 152.210 CREATION.

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(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.

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

STAFF ANALYSIS:

1. Section 152.034 (D) of the County Zoning Code requires that the nearest corner of any structure, in all zoning districts, meets or exceeds a 95-foot reduced setback from a Collector Road not in the Shoreland District. Approval of this request would allow the applicant to apply for a building permit to allow the existing addition to a shed. The shed addition is approximately 71-foot setback from the centerline of County Rd 123.
2. In 2007, Mr. Lange obtained a variance (V-PZ20070018, attached) to construct a 32' x 48' (1,536 square feet) accessory structure 65 feet from the centerline of Co Rd 123. In 2017, Mr. Lange added an approximate 288 square-foot lean-to the existing accessory structure which was approved pursuant to the 2007 variance. The newer construction was not part of a variance nor was a building permit obtained. Although the shed addition is further back than original structure, it still is within the required setback from the road, thus an after-the-fact variance is required for its construction, in addition to an after-the-fact building permit. The shed addition meets other required structure setbacks.
3. In the submitted narrative (dated: January 3, 2024), Mr. Lange describes the practical difficulty of meeting the front setback requirement on the property. "The location of the lean-to was the only realistic place to put it on the property. On the northwest side of the house there is a septic mound and tanks with an old septic drain field that lies at the bottom of the sloping hill. The middle of the property contains a grove of maple, elm, and ash trees that are between 20-30 years old and in a low area." He notes that while the shed addition "is not constantly in use, it is a valuable asset to the property." As an explanation of why he didn't apply for a building permit, he states: "It was my understanding at the time that if it was for agricultural purposes, we would not have to acquire additional permits as one had already been approved for the existing shed." The submitted site plan (dated January 2, 2024) shows the property improvements and the impediments to shed construction outside of the required setbacks. The site plan shows a grove of trees, SSTS system components, and a pond.

4. The granting of the variance is in harmony with the general purpose and intent of the official control. The official control in this request is the required setback for a Collector Road. The requested variance does not encroach further into the setback to the extent that the much larger shed does, so this is a reasonable request. Although this request does not meet the specific standards, it appears to meet the intent of the regulations which is to allow for any future expansion of the roadway and to prevent any obstructions to using the public right-of-way. Since this is an after-the-fact request, there are additional evaluation criteria for the Board of Adjustment to consider. It does appear that the landowner acted in good faith to make an effort to comply with the setback rule, though he misunderstood that the 2007 variance only applied to construction of the specific structure mentioned in the variance request. Also, the benefit to the County if the shed addition was removed is outweighed by the burden it would cause the applicant who considers the shed addition a “valuable asset to the property”.
5. Jack Johansen, Transportation Planner with Carver County Public Works, has reviewed the proposed variance and in an email dated January 24, 2024, provided the following comment: “The subject structure is no closer than the existing shed to the centerline of County Road 123. Public Works does not anticipate any issues with permitting the subject structure at the setback distance. This is not in conflict with any future roadway plans.”
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 addition to the existing accessory structure. The neighborhood is comprised of agricultural activities and a few residences.
7. 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.
8. The Watertown Town Board has reviewed the request, and recommended approval at their January 2, 2024, Town Board meeting with the added comment: “Twp. is accepting of the shed lean-to addition variance.”

BOARD CONSIDERATION:

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

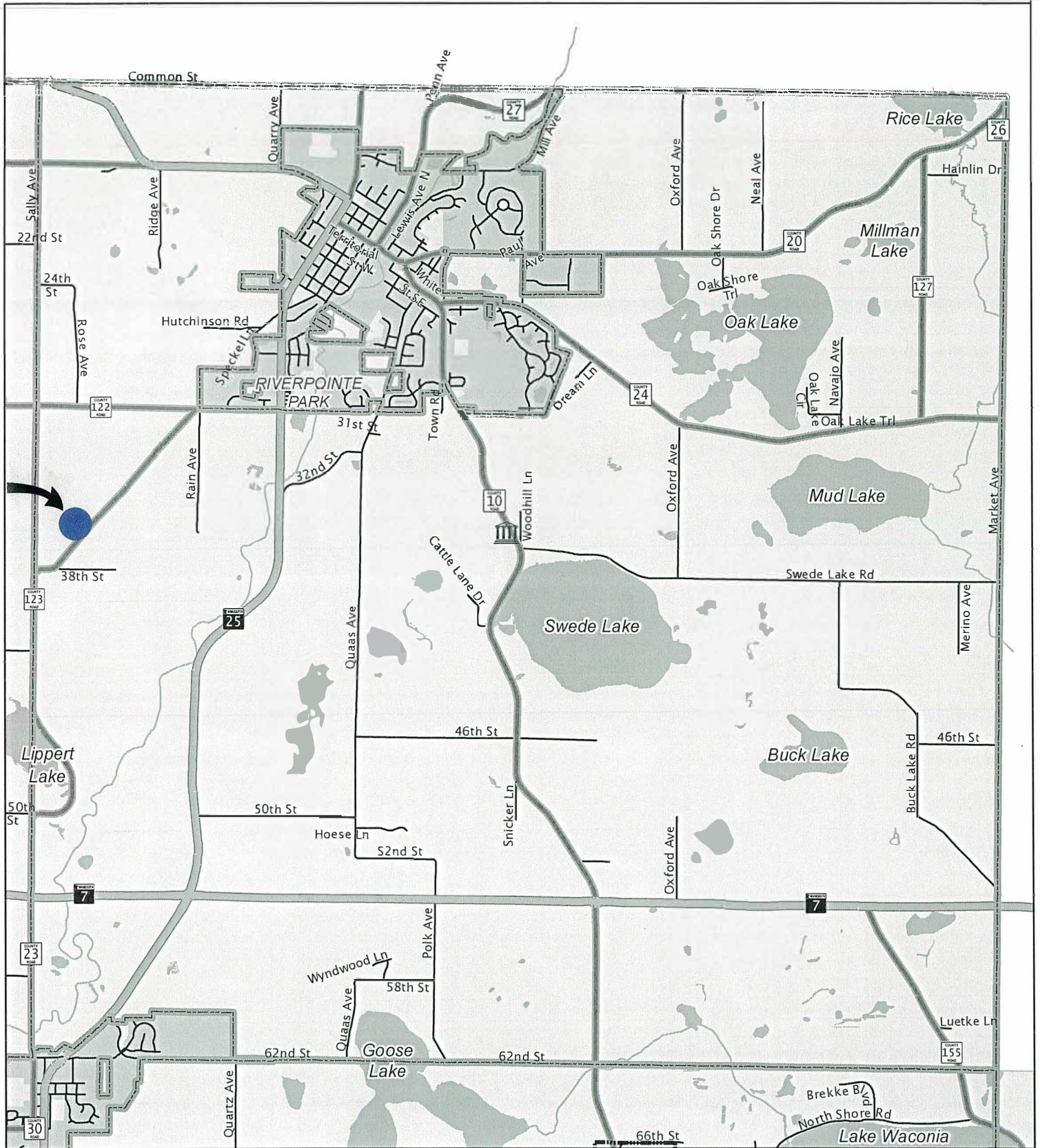
1. The permittee shall obtain the appropriate building permit(s) related to the construction of the proposed attached garage addition. All work shall be done in accordance with the submitted and approved building permit plans.
2. All construction activities shall be done in accordance with the submitted site plan and Carver County Public Works requirements. The new construction shall not encroach any closer to the centerline of the road than approved (i.e., 71 feet from the center of County Rd 123) as part of this permit application.
3. Prior to the issuance of a building permit, the landowner shall obtain any required SSTs (septic system) approval(s) and submit all required documentation.
4. No additional expansions shall be permitted without obtaining all necessary building permits and/or Variances. The conditions of the previously approved variance (V-PZ20070018) shall still apply to the 32’x48’ accessory structure.

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.

WATERTOWN TOWNSHIP



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

0 1 2 Miles



Map Created by Carver County GIS

Shea Lange

January 3rd

2024

3420 County Road 123
Watertown, MN, 55388
(952) 292-3722
Shlange2@gmail.com

Carver County

600 East 4th St
Chaska, MN, 55318

To Whom it Concern

We are writing today to request an after the fact variance for a 288 square-foot lean-to addition that I added on the south end of an already existing pole shed. The shed addition is 71 feet from the County Road 123 centerline where the required setback is 95.' I received a variance in 2007 to construct the pole shed 65' from the road centerline.

It was my understanding at the time that if it was for agricultural purposes we would not have to acquire additional permits as one had already been approved for the existing shed.

Recently we were advised that we do indeed need a variance for the lean-to as the structure is too close to the road. The variance request is to allow the shed addition 71 feet from the road centerline.

We built the lean-to for several uses, from housing animals to sheltering equipment on an as needed basis. Whilst it is not constantly in use it is a valuable asset to our property and will do what is necessary to make that happen. The location of the lean-to was the only realistic place to put it on the property. On the northwest side of the house there is a septic mound and tanks with an old septic drain field that lies at the bottom of the sloping hill. The middle of the property contains a grove of maple, elm and ash trees that are between 20-30 years old and in a low area.

Thank you for your time.

Sincerely,

A handwritten signature in black ink that reads "Shea Lange". The signature is written in a cursive, flowing style.

Shea Lange.

Large Site Plan



1 inch = 50 feet

- Proposed Shed
- Mound System
- Pond
- House
- Driveway + Sidewalk
- Septic Pipes
- Old drain field
- Surface water drainage
- Septic tanks
- Well Abandoned
- Underground telephone line
- Electric pole
- Overhead power line
- New Well
- Tree
- Grove of Trees
- Leanto

January 2, 2024

CARVER
COUNTY

Township Presentation & Recommendation Form

PARCEL # <u>100180911</u>	Permit # <u>PZ20240001</u>	
Owner's Name: <u>SHEA LANGE</u>	Owner's Mailing Address: <u>3420 Co Rd 123</u>	
City: <u>WATERTOWN</u>	Owner State: <u>MN</u>	Owner Zip: <u>55388</u>
Applicant (if other than owner): 	Site Address: 	

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

Description of Request:

Shed lean-to addition

Date of County Public Hearing: 2-7-24 Date of Township Meeting: 1-2-24

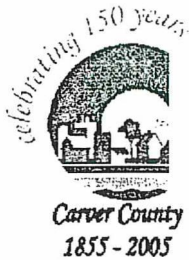
Actions:**Township Action Taken:**

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

TWP is accepting
of the shed lean-to
addition 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.

<u>Shea Lange</u> Signature of Applicant	Date <u>1-3-24</u>
<u>Scott Hoels</u> Signature of Township Official	Date <u>1-2-24</u>



COUNTY OF CARVER
State of Minnesota

Document No.
A 464214

**OFFICE OF THE
COUNTY RECORDER
CARVER COUNTY, MINNESOTA**

Fee: \$

Check#:

Certified Recorded on **05-14-2007** at **02:00** ☐ AM ☒ PM



[Signature]
Carl W. Hanson, Jr.
County Recorder

FILE #: PZ20070018

APPLICANT: Shea & Nancy Lange

SITE ADDRESS: 3420 Co Rd 123, Watertown

VARIANCE TYPE: Front Setback

PURSUANT TO: Carver County Code: Chapter 152,
Section 152.034E

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 10-018-0911

Drafted by: Land Management

Return to : Land Management

BOARD OF ADJUSTMENT FINDINGS OF FACT AND ORDER

A public hearing was held on this matter on May 2, 2007 by the Carver County Board of Adjustment. Upon the evidence presented at said hearing by the applicant and other persons named and all the files, records, and proceedings herein, the Board makes the following:

FINDINGS OF FACT

1. Mr. and Mrs. Lange own a 2 acre parcel located in the Northeast Quarter (NE¼) of the Southwest Quarter (SW¼) of Section 18 of Watertown Township. The property is improved with a house with attached garage. The property is located in the Agricultural Zoning District and the CCWMA (Crow River).
2. The applicants would like to construct an accessory structure that would not meet the front setback; therefore a Variance has been request.
3. The applicants are requesting to build an approximately 32' x 48' (1,536 sq. ft.) accessory structure 65 feet from the centerline of Co. Rd. 123. The County Code requires an 85' setback from the centerline of a Class 3 Collector Road. The house is 88' from the road centerline.
4. The applicants are proposing to build the structure to the southwest of the house in front of a row of thirty-year old silver maple trees. The applicants feel this is the best location for the shed due to the layout of the property.
5. The Langes' letter states that there is a practical difficulty in locating a new structure that would meet the Zoning Code's setback requirements. The area to the northwest of the house would not be feasible due to the existing septic mound and tanks, and an old septic drain field which lies at the bottom of a sloping hill. The middle of the property contains a grove of ninety maple, elm and ash trees that are between twenty and thirty years old and in a low area. The shed would be

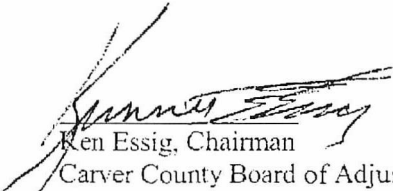
approximately 20' in front of the first row of trees. In the proposed location, the shed would meet side and back property line setbacks.

6. The proposed shed would bring the total of personal storage square footage on the property to approximately 2,000 sq. ft. The Zoning Code allows 2,000 sq. ft. of personal storage without a conditional use permit on parcels of 2 acres or less, so the shed would not require a conditional use permit.
7. The Watertown Town Board approved the request at their April 2, 2007 Town Board meeting.
8. The Board has considered all the factors required by Section 152.215C of the Carver County Code and finds that the grounds for a Variance are hereby satisfied.

ORDER #PZ20070018

IT IS HEREBY ORDERED: That the application of Shea & Nancy Lange for a variance to Chapter 152, Section(s) 152.034E of the Carver County Code for property legally described on the attached Exhibit "A" is hereby approved with the following conditions:

1. The permittee shall obtain the appropriate building permit(s) prior to the construction of the addition(s). A grading plan and erosion/sediment control plan shall be prepared and submitted as part of the building permit application for the project.
2. All work shall be done in accordance with the submitted site plan(s).
3. It is hereby stipulated that the 65' setback is identified as including 50' from the centerline for future roadway right of way and a 15' yard as measured from the preserved right-of-way line.


Ken Essig, Chairman
Carver County Board of Adjustment

05 - 10 - 07
Date

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

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 10-018-0911

File# PZ20240001

APPLICANT/OWNER: Shea A Lange

* * * * *

That part of the Southwest Quarter of Section 18, Township 117, Range 25, Carver County, Minnesota, described as follows: Commencing at the southwest corner of said Southwest Quarter; thence on an assumed bearing of South 90 degrees 00 minutes 00 seconds East along the south line of said Southwest Quarter, a distance of 485.39 feet; thence North 43 degrees 11 minutes 30 seconds East, a distance of 2065.21 feet to the point of beginning; thence North 46 degrees 48 minutes 30 seconds West a distance of 240.54 feet; thence North 43 degrees 11 minutes 30 seconds East a distance of 324.52 feet; thence South 64 degrees 12 minutes 00 seconds East a distance of 252.06 feet; thence South 43 degrees 11 minutes 30 seconds West a distance of 399.86 feet to the point of beginning.

DRAFTED BY: Carver County Land Management Department