

CARVER COUNTY BOARD OF ADJUSTMENT

Regular Meeting – **Wednesday, February 2, 2022**
Commissioners' Meeting Room
2nd Floor Human Services Bldg
Government Center – Chaska

6:00 p.m.

BOARD WORKSHOP

General Discussion of Board duties, responsibilities, and procedures

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 1, 2021 Pages 1-1 through 1-11
2. **File #20220001** Public hearing on request by Damon Klein for a variance.
(Exceed Maximum Allowed Personal Storage Space)
Young America Township Pages 2-1 through 2-10
Issue Order #20220001 – Damon Klein
3. **File #20220002**- Public hearing on request by Terry Kaiser for a variance.
(Reduced Setback for Commercial Kennel to Existing Residence)
Benton Township Pages 3-1 through 3-13
Issue Order #20220002 – Terry Kaiser
4. **File #20200062** – Request for Extension of a Variance by Timothy R Heiland.
(Width/Depth Ratio & Reduced Road Frontage)
Dahlgren Township Pages 4-1 through 4-8

Other Business

CARVER COUNTY BOARD OF ADJUSTMENT
Regular Meeting – December 1, 2021
Minutes

Members Present: Robin Bielefeldt, Richard Kvitek, Joe Polunc, Virgil Stender, Scott Smith, Kellen Schmidt,

Members Absent: Gerald Bruner

Members Late: None

Staff Present: Jason Mielke, Christina Neel, Donovan Hart, Matt Steele, Jennifer Tichey

Pursuant to due call and published notice thereof, the December 1, 2021, meeting of the Carver County Board of Adjustment was called to order by Vice-Chairman Bielefeldt at 7:00 p.m.

Vice-Chairman Bielefeldt conducted roll call which confirmed six members present and one member, Gerald Bruner, absent.

Minutes – Vice-Chairman Bielefeldt asked for any changes or corrections to the minutes or a motion to accept the minutes from the October 6, 2021, meeting as printed. A motion was made by Kvitek to approve the October 6, 2021 meeting minutes. Schmidt seconded the motion for approval. All voted aye. Motion carried.

Public Hearing - File # 20210058 – Richard & Amanda Gorra – Vice-Chairman Bielefeldt called the public hearing to order at 7:01 p.m. to consider the application of Richard & Amanda Gorra pursuant to Chapter 54 of the County Code. The purpose of the public hearing was to consider a request for reduced setback for a new residence from an existing feedlot pursuant to Chapter 54 of the County Code. The property is in Section 8 of Dahlgren Township.

The following were present: Richard Gorra, Amanda Gorra, Dawn Thostenson

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 October 29, 2021

Exhibit F – Staff Report addressed to the Board of Adjustment and Dahlgren Township dated November 22, 2021 and all attachments

Matt Steele, Carver County Feedlot Officer, stated the applicants own an approximate 68.51-acre parcel in Dahlgren Township. The applicants are requesting a variance to allow them to construct a new house and attached garage which would be approximately 960 feet from an existing feedlot. The County Code requires a minimum setback of 1,000 feet for a new house from an existing feedlot. The applicants described a land-related practical difficulty for placing the house outside of the feedlot setback based on topography, physical features, sight restrictions and other setbacks. The property consists of low-lying land, a protected public water, floodplain, woods, and tillable land. The proposed location would be the best while maintaining a reasonable distance from the feedlot. Prior to purchasing the property, the

applicants worked to understand any restrictions for the construction of a new residence and were provided with a map exhibiting the Shoreland Overlay District boundaries, flood fringe and the 1,000-foot feedlot setback buffer. The feedlot map was not field verified and contained incorrect boundaries which generated an incorrect buffer area. Based on the information provided them, the applicants hired an architect to draft plans that would work for the intended building site. If this variance is approved, the request reflects an approximate 40-foot variance and would allow them to place the house and garage approximately 960 feet from the feedlot. Soil borings for primary and alternate SSTS locations have been reviewed and approved by the Environmental Services Department. Dahlgren Town Board reviewed the request at their November 8, 2021 meeting and recommended approval without any additional conditions. Steele read the proposed conditions for consideration if the variance is approved.

Mr. Gorra reiterated that they had inquired about the feedlot setback when the property was purchased. After Mr. Steele field verified the exact feedlot location, the buffer had changed approximately 250 feet from what was initially presented to them, which created the conflict for the variance.

Vice-Chairman Bielefeldt asked for any comments from the public.

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

A motion was made by Schmidt to close the public hearing. Stender seconded the motion to close the public hearing. All voted aye. Motion carried. The public hearing was closed at 7:10 p.m.

Schmidt stated he met with the applicants on site to review the topography and other restrictions and felt this was the best location for the house and garage. He encouraged the board to grant the variance for the reduced setback.

Vice-Bielefeldt stated he had also visited the site and saw the staked location for the house and garage. He noted a line of trees between the feedlot and the proposed house location and felt this would help create a buffer from the feedlot.

A motion was made by Kvitek to **approve and issue Order PZ20210058** allowing for a reduced setback for a new house and garage from an existing feedlot and the following conditions:

1. The permittee shall obtain the appropriate building permit(s) and septic permit(s) prior to the construction of the residential house. A grading plan and erosion/sediment control plan shall also be prepared, submitted, and implemented in accordance with the CCWMO Water Rules (Chapter 153) as part of the building permit application process.
2. All construction activities shall be done in accordance with the submitted site plan(s). The new construction shall not encroach any closer to the existing feedlot than as approved as part of this permit application (Approx. 960 feet).

Smith seconded the motion for approval. All voted aye. Motion carried.

Public Hearing - File # 20210057 – Terry Kaiser – Vice-Chairman Bielefeldt called the public hearing to order at 7:11 p.m. to consider the application of Terry Kaiser pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request to place a commercial kennel within ½ mile of 10 or more existing homes pursuant to Chapter 152 of the County Code. The property is in Section 1 of Benton Township.

The following were present: Terry Kaiser, Andy Steinhagen, Robert Rehbein, Cassie Dauwalter

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant dated October 29, 2021

Exhibit F – Letter from Bob Rehbein received on December 1, 2021

Exhibit G – Staff Report addressed to the Board of Adjustment and Benton Township dated November 22, 2021 and all attachments

Neel described the applicant's property as a 39.5-acre parcel improved with a house, barn, other agricultural outbuildings. The property was also granted a CUP for a public equestrian facility in 2008. The applicant is requesting a variance which would allow her to apply for a commercial kennel CUP. The County Code requires the operational area for a commercial kennel to be a minimum of ½ mile from 10 or more existing houses. The applicant's proposed kennel operational area is within a ½ mile of 12 existing neighboring homes and requires a variance. Neel illustrated the locations using an aerial map. The applicant's letter describes the unique situation affecting the property and provides some details on how the property would be utilized. There is a conforming location to the west of the driveway; however, the applicant stated the proposed area would be more conveniently located using the existing outdoor riding arena pad and paddock areas. The proposed operational area was chosen due to it being identified as the furthest location from the closest adjacent neighboring residences. The applicant has spoken to 9 of the 12 neighbors who have indicated they support the proposed variance request. If the variance is granted, the applicant would be allowed to apply for a CUP for a commercial kennel and the site plan would be reviewed by the Planning Commission as part of that request. Conditions placed on the CUP would address the specific requirements for the proposed business activity. On November 12, 2021, this request was reviewed by Joe Enfield, Carver County Senior Environmentalist, who stated there were no SSTs concerns on the subject parcel regarding the variance request. Benton Town Board reviewed the request at their November 11, 2021, meeting and recommended approval with no additional comments or conditions. On December 1, 2021, staff received an email from neighbor, Bob Rehbein, expressing concerns with noise levels of a commercial kennel in the neighborhood. This email information was sent to the Board members prior to the BOA meeting. Neel read the proposed conditions for consideration if the variance is approved.

Vice-Chairman Bielefeldt asked for the Rehbein property to be located on the aerial map.

Neel identified the parcel for the Board.

Ms. Kaiser stated she had talked with the Rehbeins within the past month and Mr. Rehbein had expressed concern about potential noise issues. Ms. Kaiser stated she doesn't want to be a nuisance or annoyance to any of her neighbors. She explained that there would be no free runs from the kennels to the outside for the dogs to roam. The kennels would all be inside the barn with a proposed play area behind the barn. She pointed out a line of trees to the north that would act as a buffer to the play area. She stated the area to the south and southeast is more open, however, the dogs would not be in the play area for the entire day. There could be up to 10 dogs out at one time, with supervision, maybe two or three times a day. She is proposing a privacy fence and could also plant some trees, like the ones Mr. Rehbein has to the northwest of his house. She emphasized that the dogs will be supervised and not allowed to run freely all day long. Ms. Kaiser stated she lives on the property and also does not want to listen to barking dogs.

Vice-Chairman Bielefeldt asked if Ms. Kaiser was in agreement with the proposed conditions if the request were to be approved.

Ms. Kaiser stated she agreed with the proposed conditions.

Vice-Chairman Bielefeldt called for any comments from the public.

Cassie Dauwalter, 10975 Little Ave, stated her brother-in-law lived across from a kennel and it was an awful experience. She stated she experienced the barking and noise from that business and does not want to have the same issues so close to her residence.

Ms. Kaiser was asked for more details about the insulation and construction of that facility and stated she will have planned supervised times for the dogs to be outside. She anticipates starting with up to 28 dogs and if the business operates well, with the help of her sons, she would plan to increase that number. She reiterated that there would be approximately 10 dogs outside at one time with human interaction.

Ms. Dauwalter stated they have had their residence for 17 years and enjoy the quiet of the country and do not want to have a possible noise nuisance interfering with that.

Ms. Kaiser stated she felt that with the insulated building she plans to use and having a limited number of dogs outside at a time, she could keep the noise levels down.

Robert Rehbein, 9665 County Rd 140, echoed the noise concerns voiced by Ms. Dauwalter. He has been to some large kennels and stated it is very noisy. He does not want to experience that near his residence.

Andy Steinhagen, Benton Township supervisor, confirmed that Ms. Kaiser attended their meeting on November 11, 2021. She stated she had talked with neighbors and some had expressed concerns of noise. The Benton Township board felt this would be a service which is needed in the community and is animal/agricultural related and recommended approval of the request.

Larry Schmidt, San Francisco Township Supervisor, stated there is a dog kennel in San Francisco Township which is causing a huge problem with the neighbors and the Sheriff's Department does not acknowledge the issue and will not respond to the complaints. They have put that responsibility on the Township. He stated the residents/neighbors have no protection from the issues. He asked the Board to consider this request very thoughtfully and carefully.

A motion was made by Stender to close the public hearing. Schmidt seconded the motion to close the public hearing. All voted aye. Motion carried. The public hearing was closed at 7:25 p.m.

Schmidt pointed out the listing of neighbors in Ms. Kaiser's letter and stated it seemed as if they were 'ok' with the request. Having heard them speak tonight, it seems as if there are concerns and they might not be 'ok' with the request. He also noted that if a Township does not pay for the County policing, there is little enforcement that can take place for the residents. With the issue in San Francisco Township, if there are loose animals, the Sheriff's Department responds that they are not able to do anything. He felt that 28 dogs with the potential for more is a large number of animals and would like to see the Township or the County have more regulations in place before this could be approved. He felt there are a lot of unanswered questions concerning this request.

Smith stated he visited the site and found a clean operation with the horses and felt this would also be reflected with the proposed dog kennel operation.

Vice-Chairman Bielefeldt stated he liked the offer of tree plantings but felt it might not be enough after hearing the neighbor's comments concerning noise. He asked Ms. Kaiser if she would agree to a condition requiring tree plantings.

Ms. Kaiser stated she doesn't want to be a nuisance for anyone and would certainly agree to planting trees.

Vice-Chairman Bielefeldt had questions for Mr. Rehbein about a tree planting requirement.

Mr. Rehbein stated his trees were planted as a wind break from the north. He felt that any trees Ms. Kaiser might plant would look nice, but not be effective to stifle any noise. He also pointed out that the area between her barn and his residence is low and creates a hollow which carries the sound his direction (i.e. from northwest to southeast).

Kvitek pointed out that if there were only 9 residences within the setback of the operational area, there would be no need for a variance. There is not much change in what is needed for this proposed operation to be a permitted business activity to apply for a CUP application, except the number of houses in the area.

Larry Schmidt asked to have an illustration of the San Francisco site so he could caution the board about the nightmare it has caused for the residents in that township with the lack of a policing contract. He guessed there were about 18 dogs at the San Francisco township kennel location.

Mielke stated this particular property has been an issue over the years. There are dogs on the property and the owners have done some breeding, however, if the pups are sold within a specific period of time, the activity is not considered a commercial kennel. Staff has been at the property to conduct a site visit and review. If there is new information about this site, it has not been recently reported to the Land Management Department in order for it to be handled through the complaint resolution process. Currently, there is no CUP for a kennel at this property. If there was a request for a kennel CUP, it would be presented at a public hearing if the application met all of the requirements. If a variance was needed, the request would be heard by this board. Each variance is reviewed and based on its own merit and circumstances. Often, the townships do not contract for additional policing, but there is a Zoning Code in place with guidelines to govern activities in the Townships which must be administered.

Vice-Chairman Bielefeldt stated he did not have any objection to the variance request and would support the request with the addition of tree plantings to the south and east of the barn as a condition of the permit.

Stender asked if Sheriff's Department would respond to any complaints and could then bill the property owner.

Mielke stated he did not have any knowledge of the Sheriff's Department and their policing contracts or interactions with the Townships.

Andy Steinhagen stated the Township felt there would be an avenue for enforcement with the Land Management Department if there was a CUP in place, as opposed to an unpermitted site. They realize that having a policing contract might be the best option, however, there would be a significant cost involved for the Township. With a permitted CUP, there would be conditions that need to be met and enforcement for those conditions. The Township has had no complaints with her current CUP operation over the past 15 years, which also weighed into their decision to recommend approval of the request.

Kellen Schmidt asked the applicant if she had a plan in place if all 28 dogs were to get out at one time.

Ms. Kaiser stated she has extra fencing in place and illustrated how the exits from the building would allow the dogs to go into a fenced dog run area in the event of a fire or other emergency. She stated proper fencing should keep the dogs contained in the areas they should be. They are kept in kennels inside the building.

Vice-Bielefeldt asked Ms. Kaiser if she has ever had a horse get away from her property.

Ms. Kaiser stated she has not had any horses escape from her property; however, she has helped a neighbor retrieve their horse from her property.

A motion was made by Smith to approve and issue Order PZ20210057 allowing for reduced setback to a commercial kennel operation from 10 or more homes within a ½ mile of the operational area and including a condition for additional tree plantings to the south and east of the barn, and the following conditions:

1. Prior to the commencement of the proposed Commercial Kennel business operation, the permittee shall obtain the required Conditional Use Permit and applicable building permit(s). All work shall be done in accordance with the submitted plan. The business activity shall meet all other requirements of the Carver County Zoning Code and other Carver County Code of Ordinances, if applicable. If the Conditional Use Permit request were to be denied by the County Board, this variance request shall be considered null and void.
2. If the future CUP application is approved, the approved operational area shall not be located closer than a ½-mile from more than 12 neighboring residences (i.e. homes).

Kvitek seconded the motion. Vice-Chairman Bielefeldt conducted a roll call vote. Smith, Bielefeldt, and Kvitek voted aye. Stender, Schmidt, and Polunc voted nay.

Mielke stated one of the board members was unable to attend the meeting, resulting in the 6 board members present. According to Robert's Rules of Order, a motion for approval resulting in a tie vote, is a denial of the request since there was not a majority vote for approval.

Jennifer Tichey, Carver County Attorney's Office, confirmed that information is correct. She stated that it does not prevent anyone from reconsidering the motion and offering an alternative motion. The current motion has failed and results in a denial of the request.

Vice-Chairman Bielefeldt asked if there was another motion from the Board. Hearing no other motion, the result for this request is a denial.

Public Hearing - File # 20210059 – David & Margaret Wecker – Vice Chairman Bielefeldt called the public hearing to order at 7:43 p.m. to consider the application of David & Margaret Wecker pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for an accessory structure which would exceed the allowable structure size, height and total square footage on a parcel in a Residential Cluster Zoned District pursuant to Chapter 152 of the County Code. The property is in Section 17 of San Francisco Township.

The following were present: David Wecker, Peggy Wecker, Scott Selken, Andy Olson, Mark Dauwalter, Mike Pieper, Roxanne Pieper, Dan Toma, Wayne Jellison, Larry Schmidt, Courtney Schmidt

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 October 22, 2021

Exhibit F – Staff Report addressed to the Board of Adjustment and San Francisco Township dated November 22, 2021 and all attachments

Exhibit G – Affidavits of support from neighbors received on November 30, 2021

Exhibit H – Diagram of neighbors in support of the variance request

Hart explained the applicants recently purchased a vacant lot in a Residential Cluster District, which is relatively flat and partially wooded. The applicants are proposing to construct a new residence with an approximate 804 square-foot attached garage and an approximate 3,088 square-foot detached accessory structure. The proposed accessory structure would be approximately 20 feet in height. The request is for an increase in the total allowable personal storage space (from 2,000 to 3,892 square feet), an increase in the total maximum allowable accessory structure size (from 1,250 to 3,088 square feet), and an increase in the total structure height (from 17 feet to 20 feet), and therefore, a variance has been requested. Hart stated the variance is related to the zoning district of the Residential Cluster development. The Residential Cluster District was a zoning classification used in the 1990's under which approximately 16 – 20 housing developments were established. In January of 2000, the County Board prohibited the creation of additional Residential Cluster Districts throughout the County. At that time, San Francisco Township opted to return to the Wooded Lot amenity option for additional residential density. The Residential Cluster District had limits for the size of accessory structures and therefore, the need for this variance request. The Zoning Code states that the District standards “apply to those areas that were rezoned to the Residential Cluster District prior to January 1, 2000,” and “All approvals, conditions, designation of buildable areas, approval of building lots occurring in the preliminary/final platting process under the previous District regulations shall remain in effect.” Regarding the accessory structure size, the Residential Cluster District regulations (152.178C) state “a total square footage of 2,000 square feet is permitted in a combination of a garage and one accessory structure. No single structure shall exceed 1,250 square feet in area. The maximum sidewall height shall be 12 feet and the total height from the average grade shall not exceed 17 feet.” Hart explained that the Residential Cluster District was created in 1987 – 1988 when the County Board began to look at options to allow limited residential development on lands that were not primarily suitable for agricultural use. He stressed that this lot is within the Residential Cluster District and is not just another residential lot in the Agriculture District. A recent Zoning Code revision expanded the size of accessory structures within the Ag Zoning District, and do not apply to the Residential Cluster District. This lot was created under the provisions of the Residential Cluster District zoning in 1998 and remains bound by the applicable standards for that District. The applicants have submitted a narrative which does not identify to any unique situation related to the physical conditions of the property. An amended Covenants and Restrictions document dated September 28, 2020, was submitted for recording which supersedes the original Protective Covenants and Restrictions previously filed for the San Francisco Acres plat, which released the property from previous restrictions and lists current restrictions as “in addition to other requirement as so stated in Carver County Zoning Code Chapter 152.” The variance is not consistent with one of the purposes of the Residential Cluster District to provide a setting with which limited residential development & commercial agriculture can co-exist. The applicants have proposed an accessory structure which is nearly two and half times the maximum size allowed within this District. The variance request is related to a situation created by the landowner since they were aware of the restrictions prior to purchasing the lot. If granted, the variance would alter the

essential character of the locality since the standards that limit the size of accessory structures would still be in place. He noted that the majority of additional documents of support were submitted from residents who are in the Agriculture Zoning District which has different restrictions from a Residential Cluster District. The San Francisco Town Board reviewed the request and recommended approval at their November 15, 2021, meeting without any additional conditions. Staff received a telephone call from a neighboring parcel owner on November 18, 2021, commenting about the structure size, stating their appeal for a variance for an accessory structure size was not granted. Hart read the proposed conditions for consideration if the Board finds a practical difficulty has been identified and the request meets the requirements for a variance. He also noted that if the Board determines a practical difficulty has not been identified, he stated that reasons to support denial of the request would need to be identified.

Mr. Wecker described the property as having a treeline along the eastern edge, a wooded hill area on the western edge and an open field to the south. The house will be eight feet taller than the proposed shed. He stated the shed will not be visible from County Rd 52 or County Rd 40.

Dan Toma, 8195 County Rd 52, expressed concerns with the identified septic area on the property, noting wet areas along a marsh and discussing the water and drainage flow.

Mr. Wecker pointed out that the only wet area on the property is to the north and the proposed septic location is on the south side. He stated that the septic locations have been reviewed and approved by the Environmental Services Department.

Roxanne Pieper, 8485 County Rd 52, stated she and her husband, Mike, are the developers of the plat of San Francisco Acres and also own an adjoining lot and the agricultural land to the west. She explained that they began the development of the plat in 1998 when they were informed that there was a high probability that the cattle on their farm would no longer be able to cross the creek to access pastureland. They worked with a County Commissioner and the director of Planning & Zoning to plat that property. Until recent activity on these lots, they did not realize that in 2000, the County Board eliminated the creation of new lots within the Residential Cluster District. The plat of San Francisco Acres, which was a Residential Cluster Development, was filed in February of 2002, two years after the elimination of that development district. The plat met all of the requirements for the development at that time. She stated the Weckers are looking to utilize the additional storage space to store their three classic cars to use and enjoy their property as they refurbish these vehicles in their retirement. As a neighbor, they appreciate that they want to keep their vehicles in a shed and maintain the neat appearance of the property. A storage shed of ample size will enable them to keep their vehicles, tools, restoration equipment and other personal property out of the elements and out of sight to maintain the esthetics and landscape of San Francisco Acres. She believed it would be better to have a larger shed to store these items than have the alternative. She noted the reference to a telephone call from a neighboring parcel owner. She and Mike spoke to several of the neighbors about this request, including Mrs. Behnke. She stated that Mrs. Behnke was not necessarily opposed to the Weckers' request, but rather her own disappointment that their shed size was limited. Mrs. Behnke told them that in a subsequent year, they were permitted to construct a large addition to the attached garage, which far exceeds the size of their detached shed. Mrs. Pieper stated the Behnke's have signed a statement in support of the Weckers' request, along with many other parties, which information has been supplied to each commission member. She noted that the development of San Francisco Acres was done in good faith, and a thoughtfully and carefully planned development process, under the advice and direction of Carver County Planning & Zoning. Seeking this variance is also done with integrity and good faith. She reiterated the recommendation for approval by the San Francisco Township Board and noted that all adjoining property owners to the Weckers' lot, with the exception of one who had a concern, are in support of granting the variance. She felt the Weckers' would maintain the property in a respectful and honorable manner to be compatible with their neighbors and stated she and

her husband fully support the variance request.

Mrs. Pieper read a letter submitted by Carol Santovi, a neighbor who was unable to attend, which stated she and her husband were fully in support of the variance requests.

Larry Schmidt, San Francisco Town Board Chairman, confirmed the Weckers' attendance at their meeting and stated the Board voted unanimously to approve the request. The board stated the county recently increased the maximum size for personal storage structures, which did not include the Residential Cluster Districts. Their board felt that personal storage space is a need that fits the countryside. He stated the information that was presented by Mrs. Pieper also reflects the values of San Francisco Township and its residents, and the San Francisco Township Board is in full support of the request.

Wayne Jellison, 2074 Clover Ct, stated he is the owner of the adjacent lot in this plat, and has no objection to the request. He stated they will also want increased storage space when they build on their lot. He stated larger storage space is a common expectation for a residential lot in the country.

Mark Dauwalter, 17590 County Rd 40, owns and lives on the adjacent lot to the east of the Weckers' parcel. He echoed the same information as presented by Mrs. Pieper, especially noting an appropriate shed size to keep things neatly stored. He would rather see a building than having items scattered around on a property.

Andy Olson, San Francisco Town Board, reiterated the recommendation of support from the San Francisco Township Board.

A motion was made by Stender to close the public hearing. The motion to close was seconded by Smith. Vice-Chairman Bielefeldt conducted a roll call vote on the motion. All voted aye. The public hearing was closed at 8:08 p.m.

Kvitek asked the applicant why they purchased the lot if they were aware of the building limitations.

Mr. Wecker stated they like the location and he was hoping to obtain a variance.

Mrs. Wecker stated she had done much of the preliminary work. They wanted to construct a shop on the lot prior to construction of a house, because they couldn't afford both and wanted to remove their items from the current storage location. She learned that this was not allowed and then realized they might be facing some other issues.

Vice-Chairman Bielefeldt noted the staff report presented two options for the Board Considerations and noted this was different from previous reports.

Hart stated the information was written to offer the Board the two options that are available in their decision-making process.

Vice-Chairman Bielefeldt noted the applicants had invested in the property, and surveying costs for the proposed buildings and plans from a contractor. He asked if that was done in a way to have an understanding to approve the variance.

Mrs. Wecker stated they were working with a lack of knowledge and did not fully understand the Residential Cluster District zoning. They have never owned land outside of city limits.

Vice-Chairman Bielefeldt acknowledge the Residential Cluster District and Ag zoning district differences, stating this lot would likely not be in existence except for the Residential Cluster development. He also noted the criteria for granting a variance is if the plight of the landowner is due to unique circumstances unique to the property and not created by the landowner. He was unable to identify this request with this standard. He asked the applicants for more information.

Mrs. Wecker stated they are invested in the property as the building permit for their house has been issued. They like the property and the location and want to enjoy it as they feel necessary.

Vice-Chairman Bielefeldt stated that a 1,200 square-foot structure would be allowed on the property and expressed concern for granting a variance to increase that size, knowing that it would allow for similar requests in the future on other lots in a Residential Cluster District.

Polunc asked staff about any opportunity to vacate the Residential Cluster restrictions.

Mielke replied this zoning was used in the 1990's as a way to allow landowners an additional density option to the base density of '1 per 40'. He stated Laketown and San Francisco Townships had adopted this option of rezoning residential lots in their chapters of the Comprehensive Plan. As it was noted, any new Residential Cluster developments were prohibited by the County Board in January 2000. He used a map to illustrate the established Residential Cluster Districts. He noted the other high-density development options which are currently available. He stated the Residential Cluster District was specified as a zoning district at one time, the zoning code district has remained in the zoning code and cannot be eliminated.

Schmidt stated he would be in full support of granting the variance. He noted that an accessory structure is never built large enough in the country. He stated if additional storage space is needed, landowners will opt for cargo containers, which are undesirable. He noted the full support of all the surrounding neighbors also and again stated his support for the variance.

Stender echoed the sentiment about building a shed large enough.

Mielke commented on the use of cargo containers, citing a recent change in the zoning code to allow one cargo container on a property with a maximum size. The square foot total is considered a part of the total storage allowed on a parcel and a building permit must be obtained. He also noted the change in size for total personal storage for properties in the Ag zoning district, stating that any requests to exceed the total allowable personal storage space will come before the Board of Adjustment as variance requests.

Vice-Chairman Bielefeldt reiterated his previous comments about the Residential Cluster District, stating this lot was created because of that district development option. If it had been created as a lot in the Ag Zoning District, the parcel would be allowed a larger shed. He encouraged the board to recognize the Residential Cluster district limitations and vote to deny the variance request.

Polunc recognized the statements to build a shed large enough; however, this request is to exceed the maximum allowable size by approximate two and a half times. He felt that exceeded a reasonable request considering the established limitations.

Kvitek also noted the applicants purchased the lot with the knowledge of the restrictions in place.

A motion was made by Kvitek to deny the variance request citing the findings listed in numbers 5 – 8 of the staff analysis. Polunc seconded the motion for denial. Vice-Chairman Bielefeldt conducted a roll call vote. Kvitek, Polunc, and Bielefeldt voted aye. Schmidt, Stender, and Smith voted nay. The result was a tie vote resulting in a denial of the request.

Mielke referred to the previous public hearing (i.e. Terry Kaiser) for the commercial kennel and asked the Board members who voted nay to state the reason for their vote for the record.

Schmidt stated he voted to deny because of the lack of a policing contract with Benton Township, the number of dogs requested on site, and lack of County control in enforcement.

Stender echoed the same concerns expressed by Schmidt, knowing the experience San Francisco Township is having.

Polunc stated that tree lines or extension of tree lines would not mitigate any noise nuisance, and the number of homes from which the variance was requested was subjective.

Adjournment

A motion was made by Kvitek to adjourn the meeting. Bielefeldt seconded the motion for adjournment. Kvitek, Smith, Polunc, Stender, and Bielefeldt voted aye. Schmidt voted nay. Motion carried. The meeting was adjourned at 8:40 p.m.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

January 24, 2022

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

FROM: The Land Management Department

SUBJECT: Application for a Variance (additional personal storage square footage)

FILE #: PZ20220001

APPLICANTS: Damon & Katie Klein

PROPERTY OWNERS: Damon & Katie Klein

SITE ADDRESS: 15150 County Road 50 NYA, MN 55368

VARIANCE TYPE: Personal Storage Square Footage

PURSUANT TO: Carver County Zoning Code: Section 152.073 (A)(3) & (8)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 11-025-0320

BACKGROUND:

1. Damon and Katie Klein own an approximate 3-acre parcel in the Southwest Quarter (SW¼) of Southwest Quarter (SW¼) of Section 25, Young America Township. The property is currently improved with the existing house, detached garage, hog barn, milk house and machine shed. The property is located within the Agricultural Zoning District and the CCWMO (Bevens Creek Watershed).
2. The applicants, Damon and Katie Klein, are requesting a variance to exceed the total allowable personal storage square-footage area on their property. The proposed 2,400 square-foot (60' x 40') shed would result in a total of 4,228 square feet of total personal storage area on the parcel. The request would exceed the permitted personal storage square-footage by 228 square feet; therefore, a variance application has been requested pursuant to § 152.073 (A)(3) of the Zoning Code.
3. Previously, applicant requests for accessory structures exceeding the allowable square-footage area pursuant to the Zoning Ordinance were processed as Conditional Use Permits (CUP's) and were reviewed by the Carver County Planning Commission. As part of the recent Zoning Code update process, which followed the enactment of the 2040 Comprehensive Plan, these types of requests were re-categorized as a variance. As a variance application, it is now reviewed by the Board of Adjustment with the application evaluated using the "grounds for variance" criteria found in § 153.215 (D) & (F).

LEGAL BACKGROUND:

§ 152.073 PERMITTED ACCESSORY USES AND STRUCTURES.

Within the agriculture district the following uses shall be permitted uses and/or accessory uses [Note—Certification of zoning compliance is required for any structure subject to the State Building Code and any structure or land use specifically requiring an administrative permit, certificate of zoning compliance, conditional use permit or any other type of certification by the Department. The Department may provide certification of zoning compliance for those structures and/or land uses that do not typically require certification when requested by a landowner for his or her own property.]:

(A) Accessory storage structures including sheds, attached and detached garages, detached porches, detached recreational buildings and detached hobby structures: These structures shall be used only by the occupants of the residence for personal storage, hobbies, recreation, entertainment, family uses, private maintenance and repair activities, and for the keeping of animals and appurtenant equipment and supplies, and as otherwise regulated by this chapter. Guest quarters and/or additional dwelling units are strictly prohibited. No products or services shall be offered for sale or pay or similar remuneration except as permitted for a home occupation or as otherwise regulated by this chapter. The following standards apply unless a conditional use permit was issued prior to August 1, 2021 or a variance has been issued allowing for additional square footage:

- (3) Parcels greater than two acres and less than or equal to five acres – a total of 4,000 square feet of area is permitted in a combination of garage and accessory structures.
- (8) Each residential parcel in the county shall be given a personal storage credit of 624 square feet to represent a standard (24 feet by 26 feet) two-car garage. This credit shall not be included in the calculation for personal storage.

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. As shown in the submitted site map (dated: 1/7/22) the current accessory square footage on the property is approximately 2,356 square feet. This includes the detached 528 square-foot garage (approx. 24' x 22' - labeled as "Building E"). Given that the Zoning Code allows a credit for garage space up to 624 square feet, the total amount of existing accessory storage square-footage is 1,828. The Zoning Code allows a parcel of this size a total of 4,000 square feet of personal storage area to be permitted in a combination of garage and accessory structure(s). The proposed 40' x 60' accessory structure would increase the amount of personal storage square footage to 4,228 square feet; or approximately 228 square feet more than the Zoning Code allows without a variance on a property of this size.
2. The applicants' letter (received: January 13, 2022) requests a variance of 250 square feet and describes the intended use of the accessory structures, which would be only for personal use/storage (i.e. truck, collector vehicles, etc.). The narrative states that "the reason for wanting to build a shed of this size is for the space to be versatile." The Klein's write, "We really like this site, location, and the existing outbuildings which is why we don't want to remove any of the remaining outbuildings." In email correspondence with staff, the applicant confirmed that there would be no business use of the structure.
3. The applicant's desire to retain existing small accessory structures, which formerly were used for commercial agricultural purposes (with previous specific ag uses listed on the site plan), is consistent with a Comprehensive Plan Fundamental Land Use Goal to "Maintain the County's unique and rural agricultural character."
4. The proposed structure would be located north of the house between existing sheds and would meet all required setbacks.
5. The submitted site plan shows the proposed shed in a location that does not conflict with drain tile that bisects the property.
6. The plight of the landowner is due to circumstances unique to the property, not created by the landowner. The existing accessory structures, which in their current configuration do not provide the desired storage space in a larger structure, were not constructed by the Klein's. To reduce the square footage of an additional accessory structure may result in the need to purchase or construct a custom shed, which would increase the cost.
7. On January 18, 2022, this request was reviewed by Joe Enfield, the County's Senior Environmentalist. Mr. Enfield stated that the existing SSTS on the subject parcel was compliant and the proposed structure did not appear to impact that system.
8. The Young America Town Board reviewed and recommended approval of the request during their December 14, 2021, Town Board meeting. The Town board did not request any conditions along with their recommendation.

BOARD CONSIDERATION:

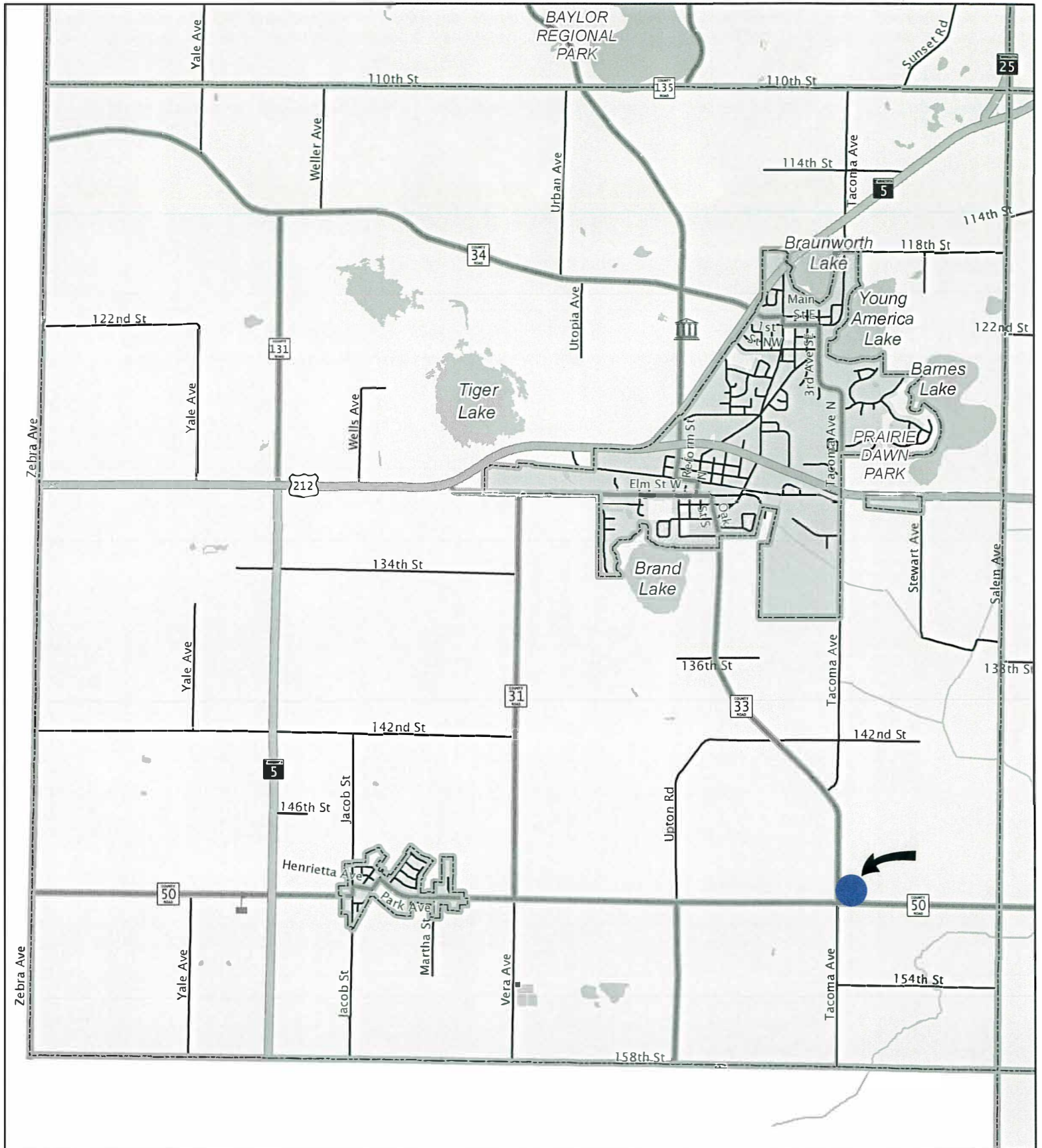
If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance would serve in the interest of justice, the following conditions should be attached to the approved variance:

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. Appropriate building permits shall be obtained prior to any construction activity. No additional personal storage structures shall be allowed, based on the total personal structure square footage currently on the property, without the approval and issuance of a new 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

S 1/2 SEC. 25, T.115, R.26



1/13/22

Board of Adjustments:

I am asking for a variance of an additional 250 square foot storage space.

The reason for wanting to build a shed of this size is for the space to be versatile. We own a coffee truck that will be stored in this building and will take a large amount of space. We also have collector vehicles and will utilize the space for storing these vehicles.

We planned to move to this location with the hope of building this shed. We really like this site, location, and the existing outbuildings which is why we don't want to remove any of the few remaining buildings. This is our dream and forever home and love the charm. Making this place clean and beautiful while adding an attractive new shed is our goal. A shed of this size will keep our yard clean and well kept.

Thank you for your consideration.

Damon and Katie Klein

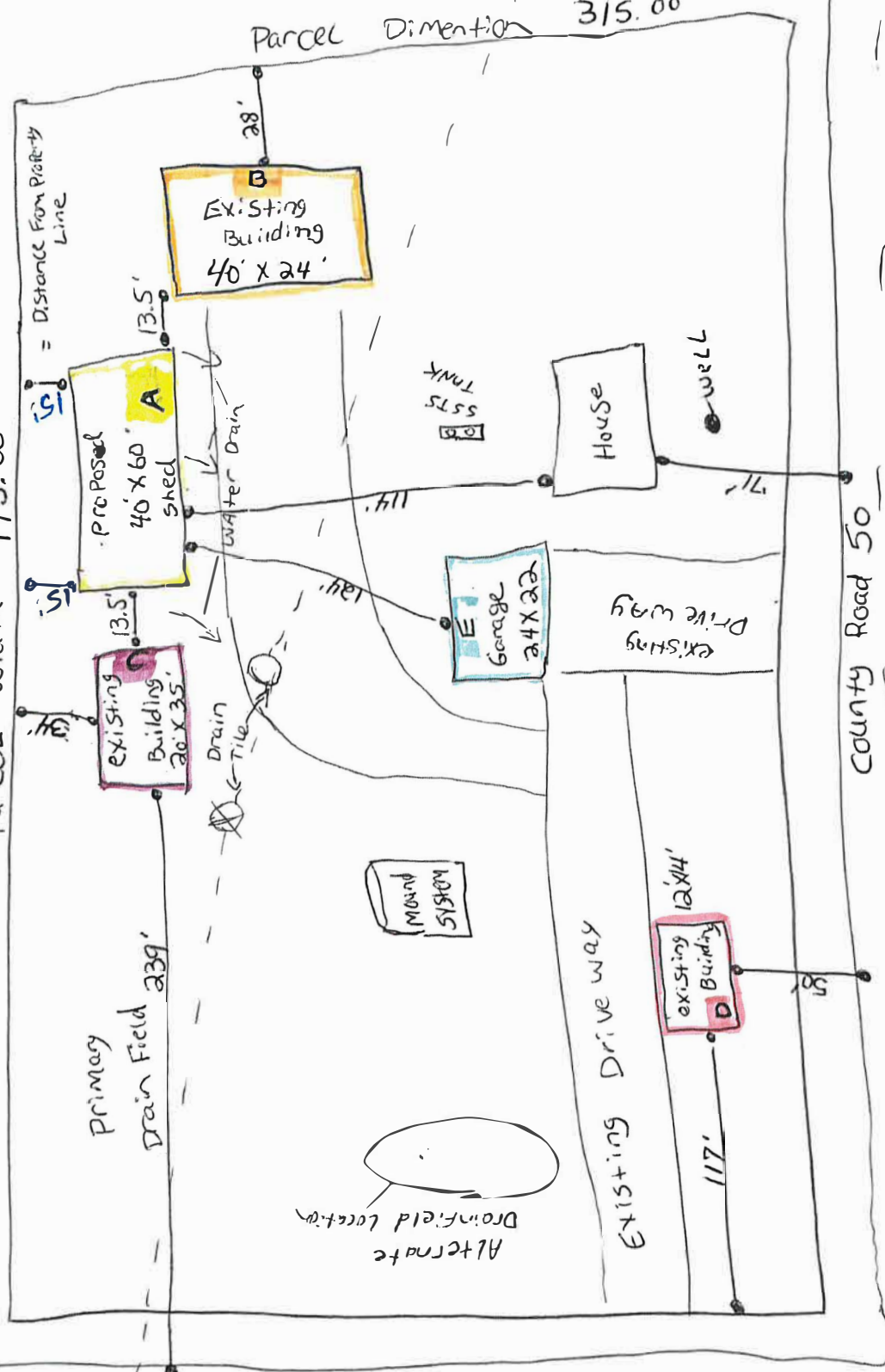
1-7-22

TOTAL ACES 3

Parcel width 4 1/5.00

Parcel Dimention 315.00

= Distance From Property Line



County Road 33

County Road 50

3 Acres

1-7-22

Parcel 315.00 x 415.00

Building A = 2,400 sq. Ft. (Proposed Shed)

Building B = 960 sq. Ft. (Wood Storage shed)

Building C = 700 sq. Ft. (Hog Barn)

Building D = 168 sq. Ft. (Milkhouse)

Building E = 528 sq. Ft. (House-garage) ^{Allowed per Zoning Code.}

TOTAL 4,756 sq. Ft.

Allowed - 4,000 sq. Ft. -- 2 car garage

OVER BY 228 sq. Ft.

Distance Between C + A = 13.5 Ft.

Distance Between B + A = 13.5 Ft.

Distance From house + A = 114 Ft.

Distance From E + A = 124 Ft.

Side Set Back on B = 28 Ft.

Side Set Back on A = 15 Ft.

Side Set Back on C = 34 Ft.

House Set Back is = 57 Ft.

Distance From D to Cord 33 = 117 Ft.

Distance From D to Cord 50 = 50 Ft.

Distance From House to Cord 50 = 71 Ft.

Distance From C to Cord 33 = 239 Ft.



Township Presentation & Recommendation Form

PARCEL #	110250320	Permit #	2220220001
Owner's Name:	Damon + Katie Klein	Owner's Mailing Address:	15150 Cord St
City:	NYA	Owner State:	MN
		Owner Zip:	55368
Applicant (if other than owner):		Site Address:	15150 Cord St NYA MN 55368

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

Description of Request:

ASKING For a Variance OFF 250 sq Ft. For outside Storage.
Installing A 40x60 Pole Shed. Currently Have 2400 sq.Ft. OF Storage

Date of County Public Hearing: 1-5-'22 Date of Township Meeting: 12-14-21

Actions:

Township Action Taken:

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

Township approves both the variance of over 250 sq ft to a 40x60 building &

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

[Signature]

Date 11-20-2021

Signature of Applicant

[Signature]

Date 12/14/21

Signature of Township Official

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 11-025-0320

File# PZ20220001

APPLICANTS/OWNERS: Damon Klein & Katie Klein

* * * * *

The South 315.00 feet of the West 415.00 feet of the Southwest Quarter of the Southwest Quarter of Section 25, Township 115, Range 26, Carver County, Minnesota, as measured along and parallel with the South and West lines of said Southwest Quarter, Carver County, Minnesota.

DRAFTED BY: Carver County Land Management Department

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

January 24, 2022

TO: Carver County Board of Adjustment & Benton Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (Reduce setback to neighboring residences from a Commercial Kennel)

FILE #: PZ20220002
APPLICANT: Terry Kaiser
PROPERTY OWNER: Terry Kaiser
SITE ADDRESS: 9775 County Road 140, Cologne MN 55322
VARIANCE TYPE: Commercial Kennel Setback
PURSUANT TO: County Code Section 152.079 (C)(4)(a)
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 01-001-0825

BACKGROUND:

1. Ms. Kaiser owns an approximate 57-acre parcel located in the North Half (N½) of the Northeast Quarter (NE¼) of Section 1, Benton Township. The parcel is improved with an existing house, barn, several outbuildings and was granted Conditional Use Permit (PZ20080022) for a public equestrian facility. The property is located in the Agricultural Zoning District and the CCWMO (Carver Creek watershed).
2. The applicant, Terry Kaiser, is requesting a variance which would allow her to apply for a Conditional Use Permit (CUP) to operate a commercial kennel. The proposed commercial kennel operation would be located within the 1,000-foot setback from a neighboring residence (i.e. 765 feet) as required by the Zoning Code; therefore, a variance (i.e. approx. 235 feet) has been requested pursuant to Section 152.079 (C)(4)(a) of the Zoning Code.
3. A different variance request was brought to the December 1, 2021, Board of Adjustment for public hearing, for a variance to be located within a ½-mile of 13 neighboring residences, and said neighbors expressed concerns of noise due to barking dogs. That variance request was denied; therefore, leading Ms. Kasier to request a new variance with a different location. The new location is further west and has additional fencing and vegetation screening.

LEGAL BACKGROUND:

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

(C) Activities.

(4) Commercial kennels under the following conditions:

- (a) The facility is 1,000 feet from any residence except that of the owner and a minimum of ½-mile from ten or more homes existing prior to application for a permit under this provision;
- (b) An appropriate manure and waste treatment system shall be provided for the kennel operation;
- (c) Confinement and shelter is provided through the use of fences and structures.

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 M.S. § 216C.06, subd. 14, when in harmony with the official controls.

(4) The Board of Adjustment may impose conditions on the granting of any variance pursuant to § 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)

§ 152.218 REHEARING.

An applicant cannot request the re-hearing of a variance request or appeal for a period of one year. An applicant may request the re-hearing of a request for a variance or an appeal that has been denied when substantial new information is obtained which is relevant to the issue. The Board of Adjustment shall then re-hear the issue at another duly called public hearing.

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

STAFF ANALYSIS:

1. The County Code requires the nearest corner of the operational area for a commercial kennel to be placed a minimum of 1,000 feet from any residence except that of the owner. If approved, Ms. Kaiser would be allowed to apply for a commercial kennel CUP request within 1,000 feet of the neighboring residence to the west of her proposed operational area.

2. Ms. Kaiser purchased the property in 2006, which contains the original homestead with house and outbuildings that were built in the 1890's. She currently resides on the property and operates a public boarding equestrian facility from the property which was approved as a CUP in 2008 (i.e. CUP-PZ20080022).
3. The business would be family owned and operated and would include 28 kennels at the inception of the business. Future endeavors would require additional employees and at full capacity may consist of up to 68 kennels. Status of the operational details would be dependent upon the approval of a CUP. The proposed commercial kennel operational area would encompass an area of land which is currently in agricultural production. Ms. Kaiser plans to construct a new building with indoor kennels, a grooming area, office space, etc., as well as provide for outdoor dog runs. Parking would be located north of the proposed building. Ms. Kaiser notes that the proposed operational area including outdoor runs would be screened with privacy fence and trees. Specifically providing screening from the neighbor to the west, as well as Co Rd 140 to the north. The proposed kennel operational area has been chosen due to it being identified as the furthest location from the majority of the closest residences located to the north, east, and south.
4. The applicant's letter, dated January 7, 2022, described the unique situation affecting this property and provides some details to how the property would be utilized. According to the applicant's analysis there is a conforming location for the kennel operation on the property (e.g. northwest of the house location), but it is located in a low lying area of the farm field west of the existing driveway. The letter notes that the proposed location would be outside of the required ½-mile setback from 10 or more neighboring homes; however, a location outside of the 1,000-foot setback would require more intensive grading and filling. The resulting location is approximately 765' from the neighbor to the west; therefore, a variance of 235' is requested. In order for Ms. Kaiser to apply for the conditional use permit for a commercial kennel facility, the approval of a variance is required.
5. The granting of the variance would not conflict with the intent of the Comprehensive Plan. The Comprehensive Plan allows for limited non-agricultural / non-residential uses in the rural area. County Policy LU-19 allows for small scale business activities centered around a residential or residential/farmstead use of a property. Operating a small-scale business from a parcel with a residence is a permitted activity in the Comprehensive Plan. Overall, the request does not appear to be in conflict with the intent of the Comprehensive Plan.
6. The granting of the variance is in harmony with the general purpose and intent of the official control. The official control pertaining to the request is the separation distance of 1,000 feet from the operational area to any residence not on the same property. The intent of these regulations is to lessen the potential for negative impacts from activities or sounds associated with a business in an area developed as residential. In addition, the applicant has stated that any parking or outdoor dog runs associated with the business would be shielded from the view of the neighbors and privacy fencing would be utilized to minimize noise. Although this request does not meet the specific standards, it appears to meet the intent of the regulations.
7. The neighborhood is comprised of large agricultural uses, home-based commercial uses, and several small acreage residences. This request would not cause a substantial change in the character of the neighborhood, nor would it have a negative impact on government services.
8. The granting of the variance would not materially or adversely affect the safety of persons residing or working in the area adjacent to the property and would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.
9. If the variance is approved, the applicant would be required to apply to the Planning Commission for a Conditional Use Permit (CUP) for the establishment of a new Commercial Kennel pursuant to the Zoning Code. The site plan of the kennel operation would be reviewed by the Planning Commission as part of a CUP request. The conditions of the CUP would address the specific requirements for the project. If the CUP is denied, the variance would be considered null & void.
10. On January 18, 2022, this application was reviewed by Joe Enfield, Senior Environmentalist for Carver County. Mr. Enfield stated that there are no issues related to the existing home SSTS, but Environmental Services would require a holding tank for dog kennel waste.

11. The Benton Town Board has reviewed the request and recommended approval at their January 13, 2022, Town Board meeting. The Town Board did not ask for any conditions to be attached to their recommendation.

BOARD CONSIDERATION:

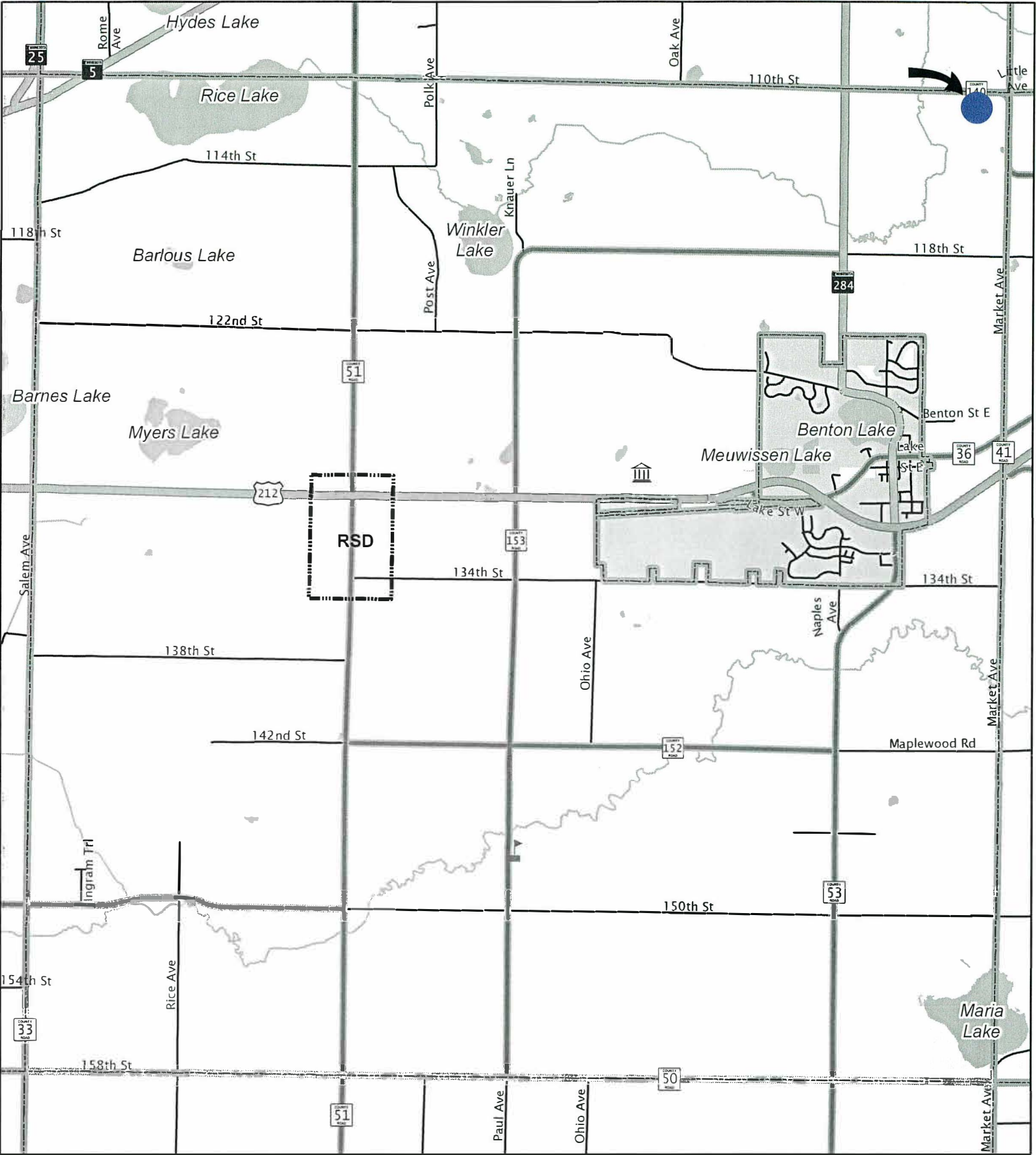
If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance would serve in the interest of justice, the following condition should be attached to the approved variance:

1. Prior to the commencement of the proposed Commercial Kennel business operation, the permittee shall obtain the required Conditional Use Permit and applicable building permit(s). All work shall be done in accordance with the submitted plan. The business activity shall meet all other requirements of the Carver County Zoning Code and other Carver County Code of Ordinances, if applicable. If the Conditional Use Permit request were to be denied by the County Board, this variance request shall be considered null and void.
2. If the future CUP application is approved, the approved operational area shall not be located closer than 765' from the neighboring residence.

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.

BENTON TOWNSHIP



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Map Created by Carver County GIS

THIS IS NOT A LEGALLY RECORDED PLAT.
THIS MAP IS A COMPILED OF RECORDS
AS THEY APPEAR IN THE CARVER COUNTY
OFFICES AND OTHER SOURCES. THIS MAP
IS ONLY TO BE USED FOR REFERENCE
PURPOSES. THE COUNTY AND ITS AGENTS
ARE NOT RESPONSIBLE FOR ANY
INACCURACIES CONTAINED THEREIN.



10/29/21 ①

Dear Planning Commission/Board of adjustment (variance),

I would like to operate a dog boarding facility on my 50 acre farm located at 9775 Co. Rd. 140, Cologne, Mn. 55322 (Benton township) PID# 01.0010800, I have filled out the CUP application to the best of my knowledge and am including the requested details in this letter. My meeting with Terry Bruefchoff, Benton township clerk, is scheduled for 11/13/22.

There is one Road Hwy 140, which is adjacent to my property. It runs along the North + East sides. My driveway, which is class 5, is located on the north side. The existing well, septic system + buildings are shown on attached ariels and drawings. The barn is used for horse stalls, tack room, hay storage and tools. The paddocks and lean tos are for horse use. The tractor shed houses equipment + tools. The garage is for the house + vehicle. The house is my residence. The 40'x60' shed to the south is used for equipment + hay storage.

Water drains via a slope to the wetland on the east side and then drains North under Hwy 140. When we started the horse business 15 years ago, we used fabric logs + Silt Fences for erosion control. The grass has grown in now and the area is in good condition. If the parking area needs work, we will hire an erosion control group to help with any potential problem. The fencing for screening is indicated on pictures. The building itself will screen from Hwy 140 to the west and North. The trees and privacy fences will screen everything else.

This business will be a family run operation at 1st with myself and my 2 adult children. We plan to start with 28 Kennels. If I expand to approaching full capacity, I will hire employees accordingly. Full capacity would be 68 units. I plan to Build to code a 60'x80' building which I will equip with proper ventilation, insulation, climate control, adequate windows/door, lighting, restroom, a grooming station, drainage for cleaning, etc. I am working with Dan Morris from Morris builders out of Glenco, Mn. I have spoken with Chip Hentges about starting with a holding tank to be pumped and later having drainage going into a septic mound if needed. I have

had Andy Kleindl come out to my farm and he inspected my septic mound and he said the mound is in compliance and this info has been recorded with the county. Chip has inspected 2 alternate septic mound sites that have been approved, one just to the east of present mound and one just to the west of present mound. I contacted Randy's garbage disposal about any solid waste removal that comes from Kennel.

My proposed hours of operation drop^{off}/pickup will be M-F 7:30-10:30am and 3:00-6:30pm Sat. 7:30-10:30am and 3:00-4:30pm, Sun. 7:30-8:30am and 5-6:30pm. The trips generated would mostly be for dog owners dropping off and picking up during those hours I mentioned. Some people will bring dogs for only day care while they are at work so they will come 2 times a day where some dog owners leaving the dog a week for overnights, would only come 2 times that whole week. My one son would live on property with me so I would not be coming + going much. The number of trips all depends on how long we stay at 28 dogs and how many of those dogs will be day care or prolonged stays for overnight weeks/month stays. The vehicles for the business would be a Ford van and the 2 cars of my children. If the business grows, then the other workers I hire would make 2 trips per day when they work.

There are 26+ spots for parking. The equipment I use now is stored in my tractor shed and my 40'x60' shed. Any additional equipment needed will be in the new 60'x80' building. The signage being used is a 3'x3' hand made wooden sign which will be 3' to west and east of driveway.

My farm was approved for a horse boarding cup by Carver county and Benton township 15 years ago and has been in operation since then. It is a small operation and I wanted to start this dog Kennel as I see more influx of people to this area.

I'm working with Carver land management group and I found out that I need to meet 2 requirements. I meet the 1st requirement of having less than 9 residences within a 1/4 mile radius. There are only 8 now. The other requirement was that there be no residences within 1000' of my operation. There is one residence within that distance so I am applying for a variance. This neighbor's residence is to the south west. I have spoken with them and they said they have no objections. They are the Burkarts who just opened their new Butcher Shop.

I have been working with Christina, Mary + Jason at Carver Land management. They have been giving me guidance and trying to help me navigate all that I have to do to be in compliance. Please let me know what else I need to do. I began research on doing this dog boarding with my family about 2 years ago. I will work to make this facility a good experience for the dogs, dog owners, workers and neighbors and one that carver planning commission would be pleased to have in the county.

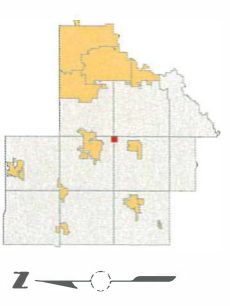
Thank you for considering my project

Terrell Kaiser
612-328-5024

T. KAISER SETBACK



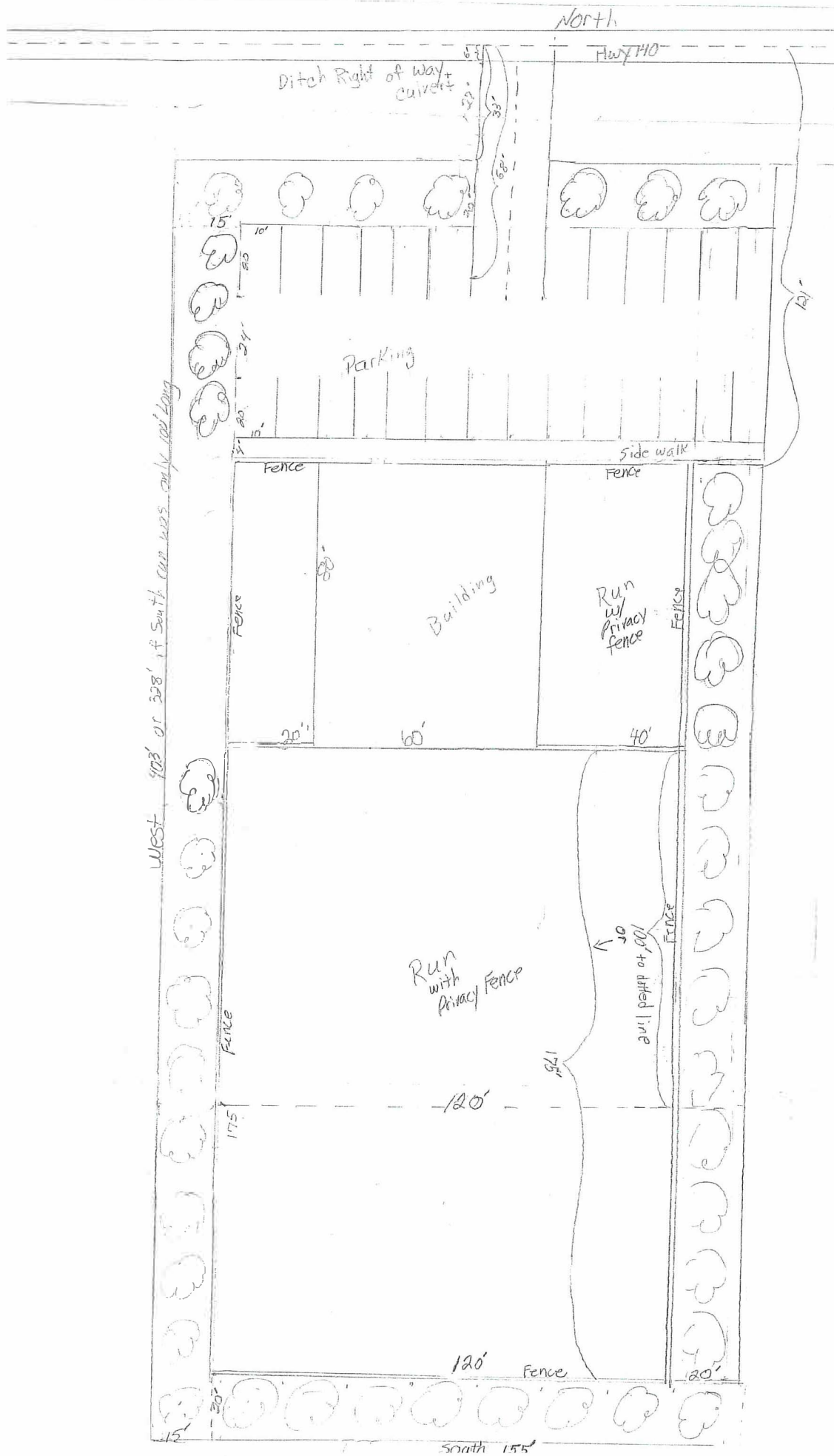
Carver County GIS

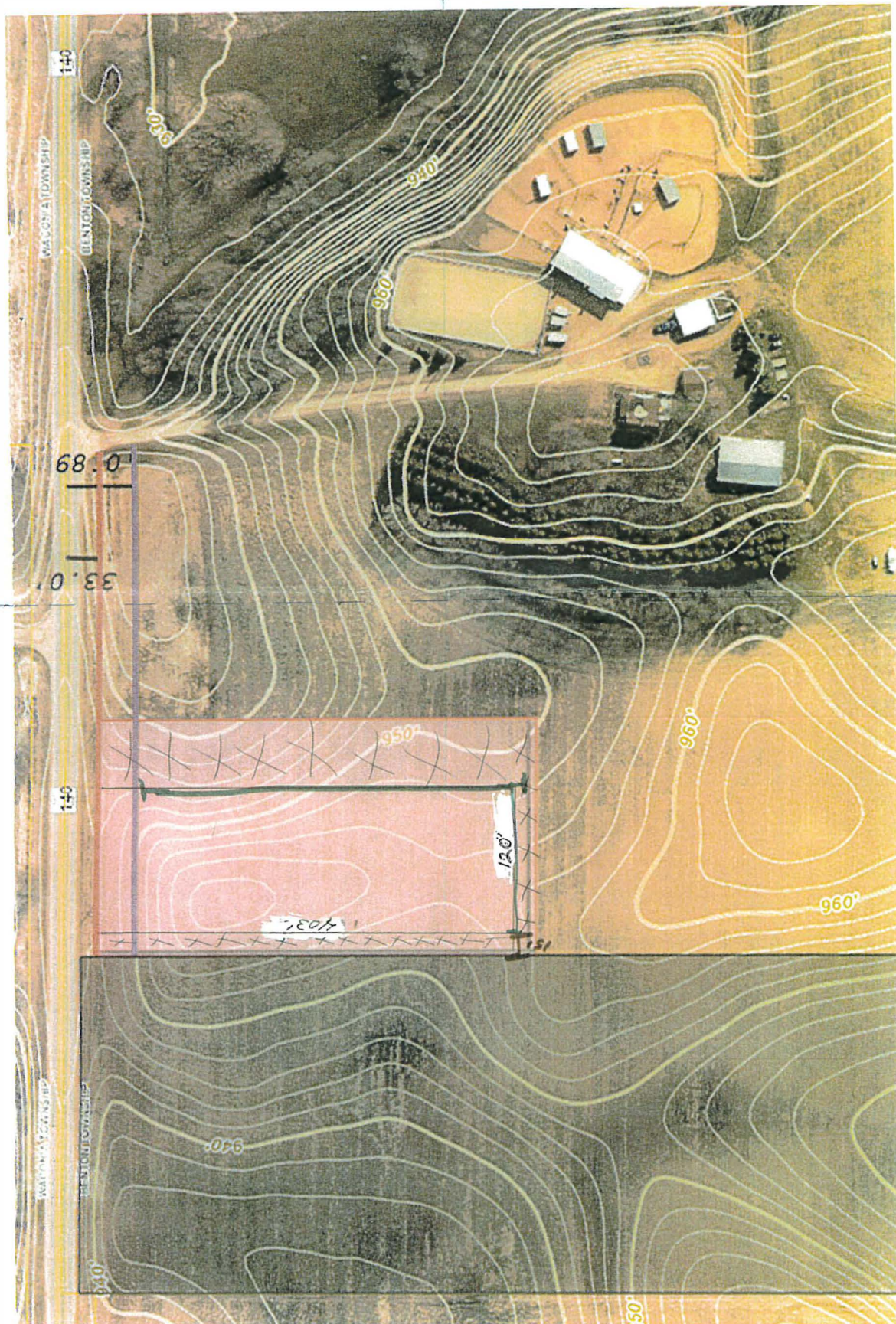


Date: 1/24/2022

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 here in.







**Note: Operations area is within 1000' of neighbor to the west, will require a variance.



Township Presentation & Recommendation Form

PARCEL # 01.0010800	Permit # P220220002	
Owner's Name: Terry Kaiser	Owner's Mailing Address: 9775 CO Rd. 140	
City: Cologne	Owner State: Mn.	Owner Zip: 55322
Applicant (if other than owner):	Site Address: 9775 CO Rd. 140, Cologne, Mn 55322	

Type of Request: ☒ CUP ☐ IUP ☐ Preliminary Plat ☐ Final Plat ☒ Variance ☐ Appeal	
Description of Request: Dog boarding facility on my farm. variance for 1000'	
Date of County Public Hearing: 2/2/2022.	Date of Township Meeting: 1/13/22

Actions:

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

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

Signature of Applicant Signature of Township Official 	Date 1/13/22 Date 1/13/22
--	----------------------------------

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 01-001-0825

File# PZ20220002

APPLICANT/OWNER: Terry B Kaiser

* * * * *

That part of the North Half of the Northeast Quarter (N1/2 of NE1/4) of Section 1, Township 115, Range 25, lying east of the West 1,002.83 feet of said north Half; EXCEPT THAT PART THEREOF described as follows: Commencing at the northeast corner of said Northeast Quarter; thence on an assumed bearing of North 89 degrees 24 minutes 49 seconds West, along the north line of said Northeast quarter, 1,147.22 feet to the point of beginning of said Exception; thence South 00 degrees 35 minutes 11 seconds West, 33.00 feet; thence South 08 degrees 56 minutes 40 seconds East, 278.50 feet; thence South 26 degrees 19 minutes 47 seconds West, 247.00 feet; thence South 05 degrees 13 minutes 47 seconds East, 83.15 feet; thence South 84 degrees 04 minutes 08 seconds East, 74.28 feet; thence South 05 degrees 55 minutes 52 seconds West, 83.00 feet; thence South 31 degrees 48 minutes 11 seconds West, 88.00 feet; thence South 01 degree 29 minutes 39 seconds East, 63.64 feet; thence North 87 degrees 23 minutes 53 seconds East, 92.40 feet; thence North 21 degrees 59 minutes 18 seconds East, 103.00 feet; thence South 89 degrees 38 minutes 25 seconds East, 359.68 feet; thence North 58 degrees 08 minutes 01 seconds East, 249.00 feet; thence North 09 degrees 23 minutes 33 seconds West, 515.00 feet; thence North 00 degrees 35 minutes 11 seconds East, 98.00 feet to said north line of the Northeast Quarter; thence North 89 degrees 24 minutes 49 seconds West, along said north line, 580.57 feet to the point of beginning.

AND

That part of the North Half of the Northeast Quarter of Section 1, Township 115, Range 25, Carver County, Minnesota, lying east of the West 1,002.83 feet of said North Half described as follows: Commencing at the northeast corner of said Northeast Quarter; thence on an assumed bearing of North 89 degrees 24 minutes 49 seconds West, along the north line of said Northeast Quarter, 1,147.22 feet to the point of beginning; thence South 00 degrees 35 minutes 11 seconds West, 33.00 feet; thence South 08 degrees 56 minutes 40 seconds East, 278.50 feet; thence South 26 degrees 19 minutes 47 seconds West, 247.00 feet; thence South 05 degrees 13 minutes 47 seconds East, 83.15 feet; thence South 84 degrees 04 minutes 08 seconds East, 74.28 feet; thence South 05 degrees 55 minutes 52 seconds West, 83.00 feet; thence South 31 degrees 48 minutes 11 seconds West, 88.00 feet; thence South 01 degree 29 minutes 39 seconds East, 63.64 feet; thence North 87 degrees 23 minutes 53 seconds East, 92.40 feet; thence North 21 degrees 59 minutes 18 seconds East, 103.00 feet; thence South 89 degrees 38 minutes 25 seconds East, 359.68 feet; thence North 58 degrees 08 minutes 01 seconds East, 249.00 feet; thence North 09 degrees 23 minutes 33 seconds West, 515.00 feet; thence North 00 degrees 35 minutes 11 seconds East, 98.00 feet to said north line of the Northeast Quarter; thence North 89 degrees 24 minutes 49 seconds West, along said north line, 580.57 feet to the point of beginning.

DRAFTED BY: Carver County Land Management Department

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

January 24, 2022

TO: Carver County Board of Adjustment

FROM: The Land Management Department

SUBJECT: Extension Request for Approved Variance (reduced road frontage and width/depth ratio).

FILE #: PZ20200062
PROPERTY OWNER: John & Joyce Heiland
APPLICANT: Tim Heiland
SITE ADDRESS: TBD County Road 43, 55318
VARIANCE TYPE: Width/Depth Ratio and Reduced Road Frontage
PURSUANT TO: Carver County Zoning Code: Section 152.033 (D)
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 04-014-0410

BACKGROUND:

1. John & Joyce Heiland own a property in Dahlgren Township outside the City of Carver. In a Board Order dated February 22, 2021, the Board of Adjustment granted a variance to the applicant Tim Heiland for reduced road frontage and excessive width/depth ratio for a new parcel that would utilize a building eligibility from the existing parcel. The attached Order and map provide additional details.
2. Due to the unique configuration of the proposed lot in a wooded area located far from a public road, and the difficulty in obtaining access from adjacent County Road 43 or Highway 212, the applicant negotiated, but did not execute, an access easement agreement to use a driveway on a neighboring parcel for access to the proposed lot.
3. A condition of variance approval stipulated that the applicant would obtain an access easement to allow the use of the existing driveway on the south side of the proposed driveway, and that after review and Land Management Department approval, the easement would be recorded with the County Recorder's Office.
4. In a letter dated January 6, 2022, Mr. Heiland informed Land Management that due to a foreclosure action on the neighboring parcel he has been unable to obtain the required easement. The letter states that the redemption period ends September 2022 and requests an extension until April 1, 2023, to meet the required variance conditions. Following the redemption deadline, Mr. Heiland would presumably be able to obtain an easement from the new property owner.
5. Normally, if the work permitted by a variance is not completed within one year of variance approval, the variance becomes null and void. However, the Zoning Code provides for an applicant to request an extension of the Board if the written request is received and placed on a Board agenda prior to the expiration of the variance. Land Management received the extension request and placed it on the Board's agenda within the allowable time period for the Board's consideration.

LEGAL BACKGROUND:

§ 152.217 EXPIRATION/EXTENSION OF VARIANCE.

If the work, as permitted by the variance, is not completed within one year after the granting of the variance, then the variance shall become null and void, unless a request for extension of time in which to complete the work has been granted by the Board of Adjustment. In order to obtain an extension, the applicant must file a written request with the Department at such time as the request can be placed on the Board of Adjustment agenda prior to the expiration of the variance. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance. There shall be no charge for the filing of the request.

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

STAFF ANALYSIS:

1. Mr. Heiland has made a good faith effort to obtain the required access easement, but it appears that due to circumstances beyond his control, he has not been able to comply with that variance approval condition of obtaining the easement.
2. Mr. Heiland requests an extension that is greater than a year. Staff recommends a year extension, which is a time period consistent with the Zoning Code expiration deadline. Also, this will give the applicant a total of two years to meet the required conditions of the original variance approval.

BOARD CONSIDERATION:

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

1. A Minor Subdivision application shall be submitted and approved prior to the recording of any deed(s). The parcels shall be subdivided in accordance with the County Zoning Code requirements including but not limited to, a completed minor subdivision application, a survey and SSTS compliance.
2. Prior to the Minor Subdivision completion, an access easement allowing for the use of the existing driveway on the south side of the proposed parcel shall be approved by Land Management and recorded at the County Recorder's Office.
3. The access easement shall be recorded and property minor subdivision process completed by February 2, 2023.



1/6/22

Carver County
600 East 4th St.
Chaska, MN 55318

To Whom it May Concern:

RE: File # 20200062

I am sending this letter request an extension for the variance for the property at parcel 04-014-0410 owned by John & Joyce Heiland.

One of the conditions of the variance is that we receive an access easement from the adjoining property to the east parcel # 04-014-1240. We have not been unable to obtain that said easement from the landowner due to the fact they are going through foreclosure. The redemption period is due September of 2022.

As a result, we are requesting an extension for the approved variance until April 1, 2023. That hopefully will give us enough time to work with either the bank or the new owner on the easement and get the necessary applications into the county. Please let us know if you have any questions or concerns.

Sincerely

A handwritten signature in black ink, appearing to read "Tim R. Heiland", written over a horizontal line.

Tim R. Heiland



COUNTY OF CARVER
State of Minnesota

**CARVER
COUNTY**

FILE #: PZ20200062

PROPERTY OWNER: John & Joyce Heiland

APPLICANT: Tim Heiland

SITE ADDRESS: TBD County Road 43, 55318

VARIANCE TYPE: Width/Depth Ratio and Reduced Road Frontage

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

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 04-014-0410

Drafted by: Land Management

BOARD OF ADJUSTMENT FINDINGS OF FACT AND ORDER

A public hearing was held on this matter on February 3, 2021, 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. John & Joyce Heiland own approximately 63.02 acres in part of the Northwest Quarter (NW¼) of Section 14, Dahlgren Township. The property currently has one, 1 per 40, building eligibility that can be used to create a new residential dwelling. The subject parcel consists primarily of crop production land, and also has a large wooded area on top of a bluff in the southeast corner of the property. The property is located within the Agricultural Zoning District, the Transition Overlay District for the City of Carver, and the CCWMO (Carver Creek watershed).
2. The applicant is requesting a variance that would allow for a Minor Subdivision to create a new residential parcel in the wooded area. The remnant agricultural parcel would be approximately 46 acres and would meet all County regulations for agricultural parcels. The residential parcel would not meet the required road frontage or the width/depth standard; therefore, a variance has been requested pursuant to the Carver County Zoning Code – Section 152.033 (D).
3. The County Code typically requires the platting process (Major Subdivision) be completed for any subdivision request that does not meet the criteria for the Minor Subdivision as follows: the subdivision must meet the frontage requirement on an existing road; and the subdivision would not require the construction of any public improvements or new road. The approval of the variance would negate the Major Subdivision requirement.
4. The existing 63.02-acre parcel was part of a larger tract of land; however, a minor subdivision approval in 2006 created the create acreage. That property split separated the tillable acreage, wooded area, and one building eligibility from the existing farmstead and agricultural buildings.
5. The Zoning Code requires all newly created parcels to have a minimum of 125 feet of road frontage to a publicly dedicated road and a minimum depth of 125 feet. As the depth of a proposed parcel increases, the width must also increase so that the depth does not exceed five times the width of the proposed parcel. A width of 500 feet, will support any depth. In addition, all newly created parcels must maintain the required width for the entire depth of the lot.

6. The applicant is proposing to split off the wooded area from the tillable by creating an approximate 16.23-acre parcel with a maximum depth of approximately 2,015 feet. Based on the Zoning Code regulations, this depth would require a minimum of 403 feet to meet the County's standards. If the applicant were to include the required 403 feet of road frontage, the new lot configuration would split off an additional 8 acres of tillable ground, with approximately 5 acres of that tillable being categorized as prime agricultural soil.
7. The applicant has stated that the practical difficulty in this case is related to the existing lot configuration and the classification of the surrounding roadways. Access to the wooded high ground is extremely limited based on the topography of the location. In addition, it is unlikely that a new access point would be granted from either of the surrounding roadways. The applicant has stated that an easement agreement is being finalized between the property owner and an adjacent landowner to the southeast. This access easement would allow for the wooded high ground to be accessed using the driveway to the south of the subject parcel.
8. The granting of the variance is in harmony with the general purpose and intent of the official control. The official control in this request is the width to depth regulations and road frontage standards. The intent of these regulations is to prohibit the development of parcels that do not have adequate frontage to accommodate future needs and to prohibit the creation of a parcel configuration which would not meet the future SSTS needs of a location. This parcel is being proposed with approximately 133 feet of road frontage and maintains a width no less than 125 feet for the entire depth of the parcel. Although it does not meet the specific standards, it appears to meet the intent of the regulations.
9. The granting of the variance would not conflict with the intent of the Comprehensive Plan. In the Comprehensive Plan, the preservation of agriculture land is listed as one of the major themes. If the proposed land split were to be done in a manner consistent with County guidelines, it would result an additional 8 acres of tillable land being fragmented from the parent parcel.
10. The applicant is proposing to use the property in a reasonable manner, not permitted by an official control. The property does have an existing 1 per 40 building eligibility. Trying to use the existing B.E. in a wooded area that would not reduce the amount of tillable acreage on the remnant is a reasonable use of the property that would not be permitted by the official control.
11. The plight of the landowner is due to circumstances unique to the property, not created by the landowner. This property is bounded by Highway 212, and County Road 43. Both roads are classified in a manner that makes new access points difficult to obtain. In addition, this parcel has a ravine and a wooded area that happens to be at the top of a steep slope. The wooded area is the best option for residential development without fragmenting the tillable acreage. The surrounding road classifications combined with the natural formations on this property create a unique set of circumstances not created by the landowner.
12. The neighborhood is comprised of agricultural uses and residences, and the request would not cause a substantial change in the character of the neighborhood, nor would it have a negative impact on government services.
13. 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.
14. This request has been reviewed by the City of Carver. On July 30, 2020, staff spoke with Erin Smith, the Planner for the City of Carver. During that conversation, Ms. Smith indicated that the City of Carver would not object to this request. She also stated that in her opinion, the City of Carver would not extend to this area in the next 40 years.
15. This request has been reviewed by the Carver County Public Works department. On January 27, 2021, staff spoke with Angie Stenson, a Senior Transportation Planner with Carver County. Ms. Stenson stated that Public Works would not object to this request provided the conditions were met. Ms. Stenson also stated that the Public Works department recommended the property owner's grant themselves an access easement to their tillable acreage from the future driveway easement to insure no access issues in the future.

16. This request has been reviewed by the County's Environmental Services department. On January 19, 2021, this request was reviewed by Joe Enfield, Senior Environmentalist for Carver County. Mr. Enfield stated the applicant has submitted a design for a future septic system. This design has been reviewed and approved. In addition, the soils for this location have been reviewed and approved by County Environmentalist II, Lori Brinkman.
17. The Dahlgren Town Board has reviewed and recommended approval of the request during their November 9, 2020, Town Board meeting.
18. The Board has considered all the factors required by Section 152.215 of the Carver County Code and finds that the grounds for a variance are hereby satisfied.

ORDER # PZ20200062

IT IS HEREBY ORDERED: That the application of Tim Heiland for a variance to reconfigure existing parcel with reduced lot requirements pursuant to Section 152.033 of the Carver County Zoning Code, for the property legally described on the attached Exhibit "A", is hereby approved. The Board of Adjustment further orders approval 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 but not limited to, a completed minor subdivision application, a survey and SSTS compliance.
2. Prior to the Minor Subdivision completion, an access easement allowing for the use of the existing driveway on the south side of the proposed parcel shall be approved by Land Management and recorded at the County Recorder's Office.

DocuSigned by:

Gerald Bruner

32ABC884227243A
Gerald Bruner, Chairman
Carver County Board of Adjustment

Date 2/22/2021 | 12:05:15 PM PST

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.

04.014.0410 - PROPOSED SITE MAP

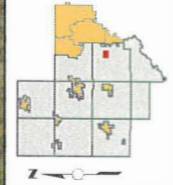


EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 04-014-0410/part of

File# PZ20200062

APPLICANT: Timothy R Heiland

OWNERS: The John J Heiland Revocable Trust

John J Heiland and Joyce M Heiland, Trustees

* * * * *

That part of the Northwest Quarter of Section 14, Township 115, Range 24, Carver County, Minnesota, that lies:

- 1) North of the Northerly line of the former railroad right of way,
- 2) West and Southerly of a line described as follows:
Commencing at the Southeast corner of said Northwest Quarter; thence on an assumed bearing of North 88 degrees 40 minutes 39 seconds West, along the South line of said Northwest Quarter, a distance of 660.00 feet to the point of beginning of said line; thence North 00 degrees 17 minutes 34 seconds West, a distance of 983.40 feet; thence North 02 degrees 27 minutes 26 seconds East, a distance of 208.00 feet; thence North 65 degrees 21 minutes 03 seconds West, a distance of 405.54 feet; thence South 79 degrees 08 minutes 47 seconds West, a distance of 200.14 feet; thence North 60 degrees 29 minutes 49 seconds West, a distance of 114.32 feet; thence South 83 degrees 08 minutes 12 seconds West, a distance of 401.88 feet to a line drawn parallel with and 125.00 feet Northeasterly of the Northerly right of way line of said former railroad; thence Northwesterly along said parallel line to the West line of said Northwest Quarter and said line there terminating.

DRAFTED BY: Carver County Land Management Department