

CARVER COUNTY BOARD OF ADJUSTMENT

Regular Meeting – **Wednesday, February 1, 2023**

Commissioners' Meeting Room

2nd Floor Human Services Bldg

Government Center – Chaska

AGENDA

- 7:00 p.m. **Meeting call to order** by Zoning Official
- A. Organization of the Board
 - B. Election of Chair
 - C. Election of Vice-Chair
 - D. Appointment of Land Management Staff as Secretary
1. Approve minutes of November 2, 2022 Pages 1-1 through 1-9
2. **File #20230001** Public hearing on request by Timothy Anderson for a
variance. (Accessory Structure)
Waconia Township Pages 2-1 through 2-11
Issue Order #20230001 – Timothy Anderson

Other Business

CARVER COUNTY BOARD OF ADJUSTMENT
Regular Meeting November 2, 2022
Minutes

Members Present: Gerald Bruner, Robin Bielefeldt, Joe Polunc, Virgil Stender, Amanda Gorra,

Members Absent: Frank Mendez

Members Late: None

Staff Present: Jason Mielke, Donovan Hart, Christina Neel

Pursuant to due call and published notice thereof, the November 2, 2022, meeting of the Carver County Board of Adjustment was called to order by Chairman Bruner at 7:00 p.m.

Chairman Bruner announced the roll call indicated five members are present with Frank Mendez not in attendance.

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

Minutes – Chairman Bruner asked if there were any corrections to the minutes from the October 5, 2022, meeting. A motion was made by Bielefeldt to approve the minutes of the October 5, 2022, meeting as written. Gorra seconded the motion for approval. All voted aye. Motion carried.

Public Hearing - File #20220044 – Larry Davis – Chairman Bruner called the public hearing to order at 7:01 p.m. to consider the application of Larry Davis pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for reduced front yard setback and expand a non-conforming structure pursuant to Chapter 152 of the County Code. The property is in Section 21 of Watertown Township.

The following were present: Larry Davis

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 5, 2022

Exhibit F – Staff Report addressed to the Board of Adjustment and Watertown Town Board dated October 24, 2022, and all attachments

Hart stated the applicant owns an approximate 4.6-acre parcel improved with a single-family dwelling

and a detached accessory structure. He is proposing to construct additions to the existing single-family dwelling which would result in a setback of 85 feet from a Minor Arterial Road in the Shoreland Overlay District. The required setback for a structure from the road in this case is 125 feet. The reduction of the required setback and the addition to a non-conforming structure constitutes the expansion of a legal non-conforming structure which also requires a variance. Hart used an aerial photo to illustrate the structure location and proposed setbacks. The applicant received a variance for this exact request in April 2021, however; no action was taken on the approved variance, and after one year, the variance became null and void. The applicant is submitting the same request for the Board's consideration. The plight of the landowner is due to circumstances unique to the property and not created by the landowner. Granting the variance is in harmony with the general purpose and intent of the official control and does not conflict with the intent of the Comprehensive Plan. The neighborhood is comprised of residential development and agricultural uses. Granting the variance would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property and it would not be materially detrimental or injurious to property or improvements in the area adjacent to the property. The request was reviewed by the Environmental Services Department with the comment that an SSTS design has been submitted for the expansion of the house which accommodates the number of bedrooms identified in the submitted building permit application. An alternate SSTS site has also been identified. On October 11, 2022, the request was reviewed by Angie Stenson, Carver County Senior Transportation Planner, who commented that the proposed setback would maintain enough space to meet future highway right-of-way needs. The request was sent to Taylor Huinker from the DNR who responded stating she had no comments. The Watertown Town Board heard the request at their October 3, 2022, meeting and recommended approval of the request. Hart read the conditions for consideration if the request is approved. He stated if the request is denied, the board members must identify reasons to support denial of the request.

Mr. Davis stated he is requesting approval again for the same request which expired. Due to the Covid virus and rising costs and shortage of housing materials, he waited to act on the project and the one-year period lapsed.

Gerald Bruner, speaking as the representative of the Watertown Town Board, confirmed the Township's unanimous recommendation for approval of the request. He also acknowledged the variance had been requested and approved in 2021.

A motion was made by Stender and seconded by Bielefeldt to close the public hearing. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 7:07 p.m.

Bielefeldt stated he visited the site and felt the reduced setback was reasonable and expanding the structure is appropriate. He would support the request.

Gorra agreed with those comments.

A motion was made by Bielefeldt to **approve and issue Order PZ20220044** allowing expansion of a legal non-conforming structure and reduced front yard setback, pursuant to Sections 152.009, 152.135 (C), and 152.034 of the Carver County Code, for property legally described on the attached Exhibit "A", is hereby **approved** with the following conditions:

1. Prior to commencing any construction related activities on-site, the permittee shall obtain the appropriate building permit(s) and shall not encroach any closer than 85 feet from the center of County Road 10.
2. Prior to the issuance of a Building Permit, the landowner/contractor shall obtain the appropriate SSTS (septic system) approval(s) and submit all required documentation.

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

Public Hearing - File #20220040 – Randall Stender – Chairman Bruner called the public hearing to order at 7:08 p.m. to consider the application of Randall Stender pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for a minor subdivision creating a parcel with reduced road frontage and reduced width/depth ratio pursuant to Chapter 152 of the County Code. The property is in Section 18 of Hollywood Township.

The following were present: Randy Stender, LuAnn Stender, Mark Strader, Sue Stender, Cindy Engle, Pat Engle, Terry Stender

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 4, 2022

Exhibit F – Staff Report addressed to the Board of Adjustment and Hollywood Town Board dated October 24, 2022, and all attachments

Hart stated the applicant is requesting to subdivide an 80-acre parcel which would result in an approximate 40-acre parcel with reduced road frontage and reduced width to depth ratio. He illustrated the proposed subdivision with an aerial map showing the proposed minimum of 66 feet of road frontage. He explained that the proposed subdivision is a result of dividing an estate among three siblings and the applicant's letter identifies a hardship in that Yale Avenue does not extend southward beyond 32nd Street, leaving the southerly 40 acres without adequate road frontage. There is an existing field approach which will be used as long as the parcel remains in agricultural production. The applicants are proposing to create 66 feet of public road frontage for this parcel for future use, if the parcel is developed beyond its agricultural use. The immediate intention is to keep this 40-acre parcel in the Agricultural Preserve program. The proposed minor subdivision will require septic compliance for the existing septic system for the residence (farmstead) on the northerly 40-acre parcel. The process for septic replacement for the residence is already in progress. The plight of the landowner is due to circumstances unique to the property, in that Yale Avenue does not extend southward for the length of the 80-acre parcel and was not created by the landowner. Granting the variance would not conflict with the intent of the Comprehensive Plan nor the Carver County Zoning Code. The proposed parcel would have a reasonable road frontage to a public road. The request would not cause a substantial change in

the character of the neighborhood, nor would it have a negative impact on government services. The proposed 40-acre parcel is considered 'land only' as there is no building eligibility currently on the property. The Hollywood Town Board reviewed the request at their September 12, 2022, meeting and provided a recommended stating; *"as long as the property stays Ag Preserve, including allowing the variance as needed of current Strader driveway so land cannot be landlocked."* Hart read the proposed conditions for consideration if the request is approved. He explained that if a practical difficulty is not identified, reasons supporting denial of the request would need to be stated.

Mr. Stender had no additional comments.

Mielke stated there was no one present representing the Hollywood Town Board but acknowledged the recommendation for approval with the comment on the submitted Township Recommendation form. This is only a recommendation for the Board of Adjustment.

Pat Engle, 18715 31st St, confirmed the installation of the septic system at the existing residence was completed today (November 2, 2022) by the licensed septic contractor.

Mark Strader, 3206 Yale Av, expressed concerns with water drainage, snow removal, and traffic with the proposed 66-foot public road access location. He stated that in the proposed 66-foot field access, there is a road sign, an electrical box and a drain tile which runs under his driveway. He felt that traffic to access the proposed parcel would be detrimental to him because of the drain tile that runs underneath the location. He asked for clarification on the 66-foot access, stating it seemed to encroach on the parcel to the north.

Mielke responded by explaining the Zoning Code requirements for road frontage on a new lot. He stated this proposed parcel currently has no building eligibility. The applicants would like to have public road frontage (and are required to have some sort of road frontage) to the parcel. In the event that they will no longer be using Mr. Strader's driveway to access the field an access would be needed. He stated the access at this time would likely be only a field approach and not a full residential access, due to the lack of a building eligibility. He stated the Township board is the road authority in this request and they will work with the applicant to find a suitable and appropriate location for the access from the Township road (Yale Ave). The aerial view was use for illustration only and a survey will accurately indicate the location of the 66-foot width for road frontage. It may need to move northward a bit due to the section lines and current road location.

Mr. Strader asked about an easement across the northerly parcel to access the south 40-acre piece.

Mielke stated a recorded easement is between two landowners and the County is not a party to the easement agreement. If the applicant and the property owner decide to allow for a field access further to the north, encroaching on the northerly property, the time to record a document would be during the minor subdivision approval process.

Mr. Strader stated that if this access is allowing traffic to access the parcel, the proposed location will be detrimental to his property because of the existing drain tile.

Mielke stated if there is a ditch in the location of the proposed field access, the Township board may require a culvert to be installed to continue the water flow pattern to the tile. A culvert may be required for a field access as well as if it were a residential access.

Mr. Engle stated the tile in that location shouldn't cause any water issues. It has been an agreement for a very long time between the two farmers for their fields to drain to the peat ground. He presumed a culvert would alleviate any potential water issues. He was uncertain as to why the electrical box is at that location, as there is another one further to the north also.

Mielke stated the utility companies typically put their utilities in the road right-of-way and the County doesn't have any influence on the location.

Mr. Strader wanted to clarify that there are drain tile and also three culverts in this area. The culverts are from the Jopp land, his land, and underneath the Stender property.

Mielke asked if the culverts drain water from the northeast toward the south, crossing through the Township road.

Mr. Strader used the aerial map to describe the location of the culverts.

Hart stated when he visited the property, it appeared that the best location for a field approach would be further to the north and away from the electrical box and the culverts.

A motion was made by Bielefeldt and seconded by Polunc to close the public hearing. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 7:26 p.m.

Bruner stated he visited the site and felt an area further north would be better suited for the field approach to keep it away from the electrical box. He stated he would rely on the location recommendation of the Hollywood Town Board for the approach. He mentioned the electrical box was unlike any he had seen and questioned its use.

Virgil Stender stated the electrical box could be moved.

Randy Stender, 5945 118th St SE, stated he thought it could be an electrical splitter. The unit further north is also like this one.

Mr. Strader stated the voltage on that box is 9200 or 9600 volts. He stated the electrical wires can only run so far and then a new run begins. This is the junction box for the wires.

Bielefeldt stated the proposed parcel has no building eligibility and would not generate any construction traffic or daily trips. He understood a practical difficulty has been identified as circumstances unique to the property and would support the request.

Gorra asked if it would be appropriate to require an easement from the north parcel to access the south 40-acre parcel. Currently, it appears that the parcel is farmed as one unit and it may well remain this

way as long as the ownership is still family. If one parcel is sold, it would be better to have an easement for access in place.

Mielke stated language for an easement requirement could be added to Condition #1 and included as a part of the Minor Subdivision process.

Gorra felt an easement over the property would allow for a more favorable location for the access.

Mielke stated an easement would also alleviate using the neighboring parcel for access to the wooded area of the proposed parcel, as has been done in the past. He offered draft language which would include requirement for an easement to be recorded as a part of the Minor Subdivision process.

A motion was made by Bielefeldt to amend Condition #1 to include language for a recorded easement on the north property for access to the south parcel. Stender seconded the motion to amend the condition. Bruner called for a vote on the motion. All voted aye. Motion carried.

Bruner asked about the use of the approach and if winter weather and snow plowing would affect the neighbor's property.

Mr. Stender stated the access would be used in spring for planting and in fall for harvesting. The land is rented to a local farmer.

A motion was made by Bielefeldt to **approve and issue Order PZ20220040** allowing a variance for reduced road frontage and reduced width-to-depth ratio and pursuant to Section 152.034 (D) (1-2 and 4) of the Carver County Zoning Code on 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 recorded (ingress/egress) easement to Yale Avenue (if crossing an adjacent property), a survey and SSTS compliance, if applicable.
2. The proposed parcel shall contain a minimum of 40 acres in order to remain eligible to be in the Agricultural Preserve program.

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

Public Hearing - File #20220045 – Charles YoungBird – Chairman Bruner called the public hearing to order at 7:35 p.m. to consider the application of Charles YoungBird pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for exceeding the allowable personal storage space pursuant to Chapter 152 of the County Code. The property is in Section 35 of Laketown Township.

The following were present: Gregg Machemehl, Maggie YoungBird, Pete Parris

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant dated October 4, 2022

Exhibit F – Township Recommendation form received on Oct 27, 2022

(copies distributed to all Board members)

Exhibit G – Staff Report addressed to the Board of Adjustment and Laketown Town Board dated October 24, 2022, and all attachments

Neel explained the YoungBird's own an approximate 30.79-acre parcel improved with a single-family dwelling, attached garage and an existing detached 58' x 100' pole shed. The parcel is partially wooded with two ponds, deep and shallow marshland and seasonally flooded basins. The applicant, Gregg Machemehl, of RAM Buildings, is requesting a variance to exceed the maximum allowable personal storage space on the subject property. The proposed building would be 40' x 96' with a 10' x 40' open lean-to on one side. The property owners are willing to remove two 'wings' or open-air lean-to additions from the existing structure. This change and the addition of the proposed structure would increase the total personal storage space on the property to approximately 9,200 square feet. The Zoning Code allows a maximum of 7,000 square feet of personal storage on a parcel of this size. Neel used an aerial view to illustrate the property, existing buildings, and the location of the proposed building. The applicant's letter states the owners are currently storing equipment under the lean-tos and wish to keep their equipment indoors and remove them from public view. The proposed building would include a bathroom and a space for a groomer to groom the owner's animals. They are not proposing to conduct any commercial activity from the property. The additional space would be for vehicles and equipment for personal use only. The proposed structure location would meet all setbacks from property lines and wetlands on site. The plight of the landowner is caused by the landowner. Granting the variance would not conflict with the intent of the Comprehensive Plan's Fundamental Land Use, nor would it alter the character of the neighborhood or have a negative impact on government services. It would not materially, adversely affect the health or safety of persons residing or working in the area and would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property. On October 18, 2022, the request was reviewed by Kristen Larson, Carver County Water Resources Program Specialist, with comments concerning typical requirements for construction near wetlands. On October 18, 2022, Jacob McLain, Senior Environmentalist, stated an as-built or documentation of a septic system would be needed prior to issuance of any building permit. He updated his information on November 2, 2022, stating a septic compliance would be required of the existing system prior to issuance of any building permit, as there was no compliance inspection done at the time of the property transfer in 2015. Laketown Town Board heard and reviewed the request at their October 24, 2022, meeting and recommended approval with no additional comments. Neel read the proposed conditions for consideration if the request is approved. She stated if the Board determines a practical difficulty has not been identified, then reasons supporting denial of the request must be stated.

Mr. Machemehl had no additional comments.

Ms. YoungBird asked for clarification on the statement about what needed to be done when the property transferred in 2015.

Neel explained that a septic compliance inspection should have been completed at the time of the property transfer, but there was no record that this had been completed.

Pete Parris, Laketown Town Board supervisor, confirmed they had reviewed the request and recommended approval.

A motion was made by Bielefeldt and seconded by Gorra to close the public hearing. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 7:43 p.m.

Bielefeldt asked about the proposed building size and why a structure that would not create a variance could not be constructed.

Mr. Machemehl explained the size of the structure is necessary due to the quantity and size of the equipment which is currently stored under the lean-tos of the existing shed, and other equipment which will be purchased in the future. Maintenance for a parcel of this size requires equipment. The landowners have carefully reviewed their options and chosen this building to suit their needs.

Stender stated he felt the space was necessary considering current sizes of equipment and wanting to keep it stored inside.

Gorra stated there are many large storage sheds within the agricultural area and felt this would not be unusual or unreasonable for equipment storage on a 30-acre parcel.

Polunc recognized the cost of equipment and stated it is better to keep it stored inside and felt the size is warranted. It also gives the property a neat appearance by keeping equipment indoors and not sitting outside.

Mielke noted with the recent Zoning Code changes, a request for exceeding personal storage space is now heard by this board as a variance, which puts more burden on the applicant or property owner to explain the need for the additional size. He recognized the landowner's compromise to remove the wings from an existing structure to reduce the overall storage space and allow for that equipment to be kept indoors. He also noted that on a parcel of this size, an agricultural structure could be constructed to with no limit to the size of the structure. He stated this is for personal use and no commercial activity will be conducted from the property.

Gorra asked staff about the process to obtain an agricultural permit.

Mielke explained a parcel has to be greater than 20 acres in size and the only things allowed to be stored in an agricultural building is farm equipment, crop storage, or livestock. All other storage is considered personal storage. Each applicant is asked as to the use of the structure.

Bruner stated he would rely on the expertise of the Laketown Board's recommendation for approval of the request.

Bielefeldt felt the circumstance was created by the landowner and would not support the request.

A motion was made by Stender to **approve and issue Order PZ20220045** allowing a variance for an increase in allowable personal storage square-footage on the property pursuant to Section 152.073 (A)(5) of the Carver County Zoning Code on property legally described on the attached Exhibit "A", is hereby **approved**. The Board of Adjustment further orders approval with the following condition:

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

Polunc seconded the motion for approval. Bruner called for a vote on the motion. Stender, Polunc, Bruner, and Gorra voted aye. Bielefeldt voted nay. Motion carried.

Adjournment

Having completed the agenda items and seeing no other business, a motion was made by Bielefeldt and seconded by Stender to adjourn. All voted aye. The meeting was adjourned at 7:55 p.m.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

January 24, 2022

TO: Carver County Board of Adjustment & Waconia Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (Additional Personal Storage Square Footage)

FILE #: PZ20230001
APPLICANT: Timothy Anderson
PROPERTY OWNER: Timothy Anderson
SITE ADDRESS: 13775 74th Street, Mayer, MN 55360
VARIANCE TYPE: Personal Storage Square Footage
PURSUANT TO: County Code Section 152.073 (A)(3)
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 09-007-0620

BACKGROUND:

1. Timothy Anderson owns a parcel of an approximate 3.21 acres located in the Northeast Quarter (NE¼) of the Southeast Quarter (SE¼) of Section 7, Waconia Township. The property has been improved with a single-family home with attached garage measuring 20' x 20' (400 square feet), and an existing pole shed measuring 30' x 50' (1,500 square feet). The property is located in the Agricultural Zoning District and the CCWMO (Carver Creek & Crow River Watersheds).
2. Mr. Anderson requests a variance to exceed the total allowable personal storage square footage area on the subject property. The proposed building would be 60' x 80' (4,800 square feet) and would result in a total of 6,300 square feet of personal storage area on the parcel. The request would exceed the permitted personal storage square-footage by 2,300 square feet for a parcel of this size; therefore, a variance has been requested 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 in 2021, 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 § 152.215 (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.
- (6) Existing agricultural structures are not included in the area calculations for the total square footage of accessory structures unless the agricultural buildings (such as a machine shed) are suitable for use as garages or residential accessory structures.
- (7) The area calculation for an attached garage shall be made using the outside dimensions (footprint or foundation) of the structure only. The area calculation for a detached structure shall include the gross area for all levels of the building.
- (8) Each residential parcel in the County shall be given a personal storage credit of 624 square feet to represent a standard (24' x 26') 2-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 on the attached site map (dated: November 14, 2022) the current personal storage square-footage on the property is approximately 1,900 square feet. This includes the attached garage (400 square feet) and detached pole shed (30' x 50' = 1,900 square feet). Given that the Zoning Code allows a credit for attached garage space up to 624 square feet, the total amount of existing personal storage square-footage is 1,500. 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 attached garage and accessory structure(s). The proposed 60' x 80' (4,800 square-foot) accessory structure would increase the amount of personal storage square footage to 6,300 square feet; or approximately 2,300 square feet more than the Zoning Code allows without a variance on a property of this size.
2. The applicant's letter (dated November 14, 2022) states that Mr. Anderson currently does not have storage space on the property to adequately store within an enclosed building a number of personal items listed in the narrative, which includes various vehicles and equipment. The letter states: "I recently inherited some additional equipment from my father's estate which are all housed in the existing building, leaving no space for items listed above. For security purposes, property aesthetics and longevity of equipment it would be ideal to be able to store everything inside a building. Therefore, I am asking for a variance to build a second storage building." In a January 9th phone conversation, the applicant confirmed that the vehicles and equipment to be stored in the new building would be for personal use only.
3. The proposed structure would be located north of the existing shed in a location that would meet all required setbacks to property lines and the property's septic system.
4. The plight of the landowner is due to circumstances created by the landowner. The applicant purchased the property in 2020 and the lot acreage only provides a limited amount of personal storage space. The standard established in the Zoning Code is 4,000 square feet maximum for allowable personal storage square footage for parcels greater than two acres and less than or equal to five acres. However, each variance application request is based on its own merit and reasons.
5. The granting of the variance would not conflict with the intent of the Comprehensive Plan's Fundamental Land Use Goal to "Maintain the County's unique and rural agricultural character." The proposed building would not alter the character of the neighborhood, nor would government services be negatively impacted by the additional storage structure.
6. The granting of the variance would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicants and would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
7. This request was reviewed by Jacob McLain, Senior Environmentalist with Carver County Environmental Services. In an email dated January 10, 2023, Mr. McLain stated: "The system was installed in 2020, and therefore the system is still within the 5 years of compliance window. The sketch provided placed the shed quite a distance from the septic so there should be no problems with setbacks or cause a worry during construction."
8. The Waconia Town Board reviewed and recommended approval of the request during their November 14, 2022, Town Board meeting. The Town Board's recommendation includes the statement: "Board past (sic) the 2,300 ft. variance for storage use! Setbacks are good! Also neighbors need to be all informed!"

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance to exceed the personal storage square-footage on the property pursuant to Section 152.073 (A)(3) of the Carver County Zoning Code, would serve in the interest of justice, the following condition should be considered and attached to the approved variance:

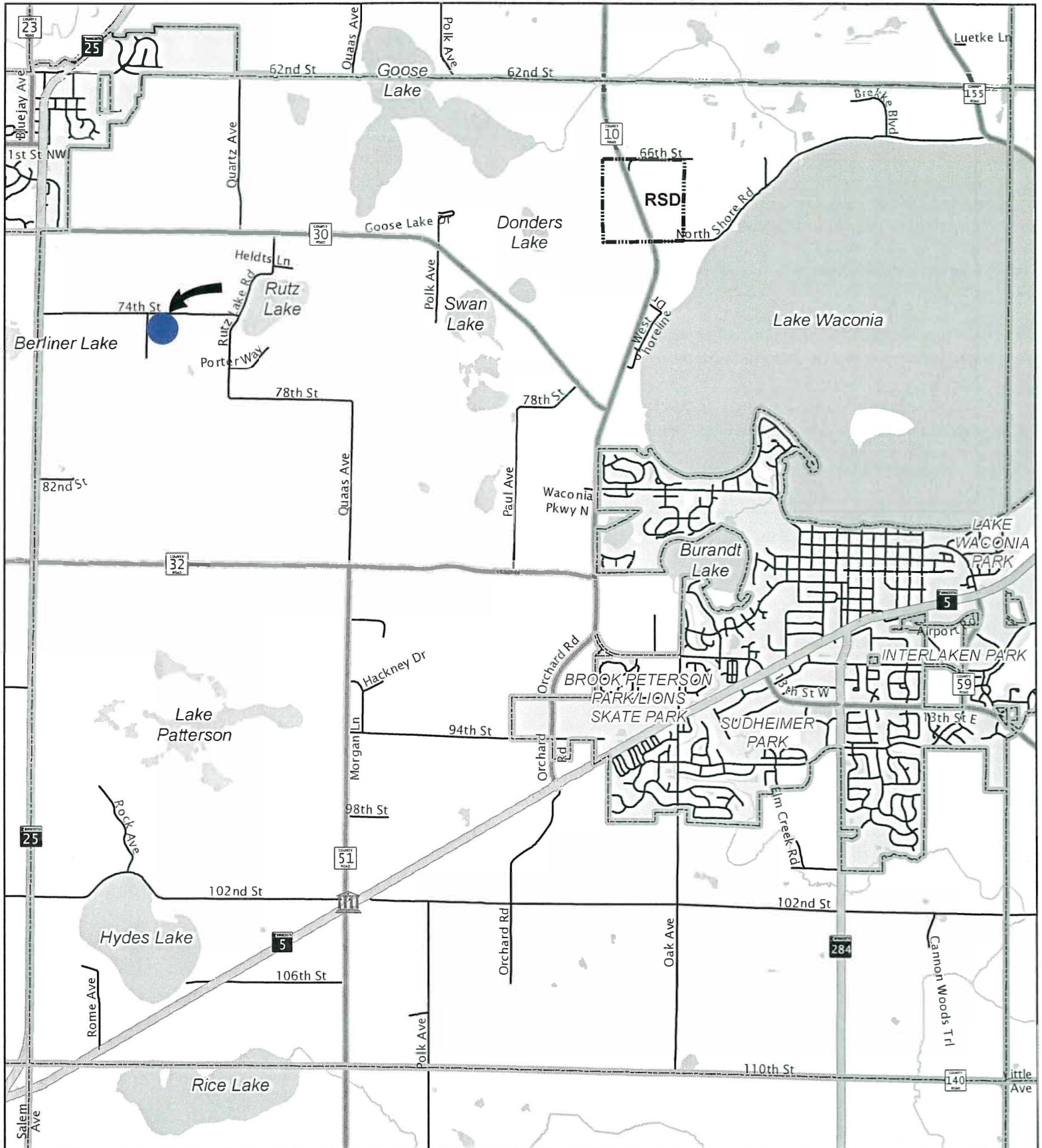
1. The permit is subject to administrative review. The proposed structure shall be used only by the occupant(s) of the residence for personal storage, hobbies, recreation, entertainment, family uses, private maintenance and repair activities, and as otherwise regulated by this Ordinance. Guest quarters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

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

OR

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

WACONIA TOWNSHIP

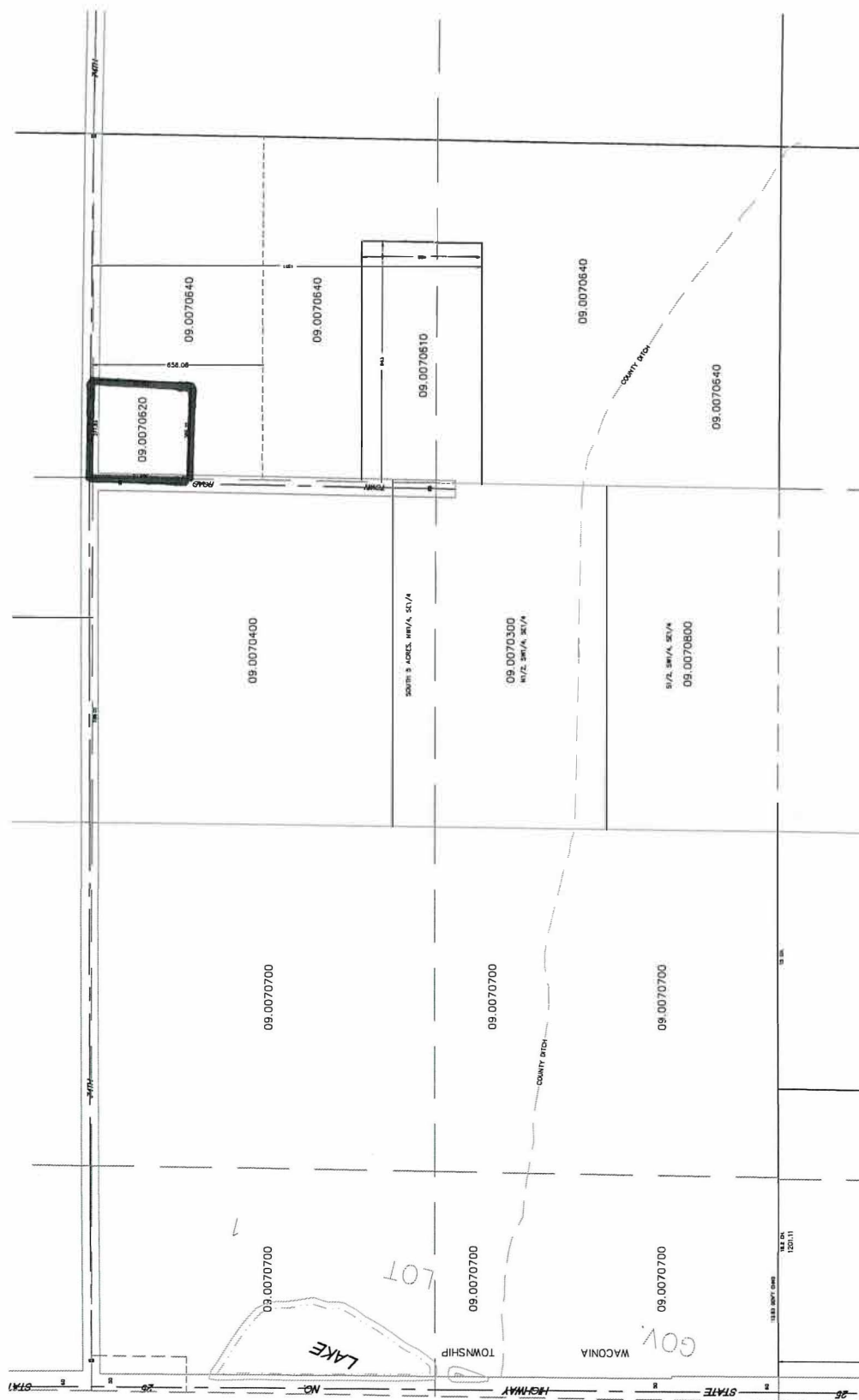


This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible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



Map Created by Carver County GIS

S 1/2 SEC. 7, T.116, R.25



Dear Board of Adjustment and or/Planning commission,

I am writing this letter requesting a variance to build a pole shed storage building on my property at 13775 74th street in Mayer, MN.

I am looking to build a 60X80 shed with a concrete floor and finished on the inside. The building will be used to store my family's personal items such as our 43' 5th wheel toy hauler, 30' ice castle fish house, a Polaris Ranger UTV, personal watercraft, Pontoon, skid steers, multiple skid steer attachments, snowplow, pickup truck, equipment trailer, dump trailer and enclosed trailer. Currently the property has an existing 30x50 shed that was built by the previous owners. I recently inherited some additional equipment and tools from my father's estate which are all housed in the existing building, leaving no space for items listed above. For security purposes, property aesthetics and longevity of equipment it would be ideal to be able to store everything inside a building therefore I am asking for a variance to build a second storage building.

The existing detached structure is 30x50 (1500sqft), the proposed 60x80 building would add an additional 4800 sq ft of personal storage space for a total of 6300 sq ft. The current zoning allows for 4000 sq ft of storage at my property, I am asking for a variance to allow for an additional 2300 sq ft of personal storage space.

I have a planned location for the building, and I have attached a sketch showing the location I have chosen along with the layout of the property and current setbacks. I have spoken with neighbors, and all have had a positive response after being shown my plans.

I appreciate your time and consideration in relation to this matter.

Sincerely,



Tim Anderson

13775 74th St

Mayer, Mn 55360

11/14/22



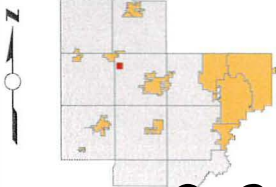
11-14-22

ANDERSON - 13775 74TH ST MAYER, MN 55360



Date: 1/19/2023

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Township Presentation & Recommendation Form

PARCEL # <u>09-007-0620</u>	Permit # <u>PZ20230001</u>
Owner's Name: <u>Timothy Anderson</u>	Owner's Mailing Address: <u>13775 74th St</u>
City: <u>Mayer</u>	Owner State: <u>MN</u>
	Owner Zip: <u>55360</u>
Applicant (if other than owner): <u></u>	Site Address: <u></u>

Type of Request: ☐ CUP ☐ IUP ☐ Preliminary Plat ☐ Final Plat ☒ Variance ☐ Appeal
Description of Request: <u>Requesting a Variance to build a 60x80 Accessory Structure with 4800 sq ft of Personal Storage</u>
Date of County Public Hearing: <u>1-4-23</u> Date of Township Meeting: <u>11-14-22</u>

Actions:

Township Action Taken:
☒ Recommends approval and use of the Township Road (if applicable) with the following comments: ☐ Recommends denial for the following reasons: ☐ No recommendation, but will comment on the request at the Planning Commission or Board of Adjustment hearing:
<u>Board passed the 2300ft variance for storage use! Set backs are good! Also neighbors need to be all informed!</u>

****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 <u>[Signature]</u>	Date <u>11-21-22</u>
Signature of Township Official <u>[Signature]</u>	Date <u>11-21-22</u>

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 09-007-0620

File# PZ20230001

APPLICANT/OWNER: Timothy A Anderson

* * * * *

That part of the North 656.06 feet of the East Half of the Southeast Section 7, Township 116, Range 25, Carver County, Minnesota, described as follows: Beginning at the northwest corner of said East Half of the Southeast Quarter; thence North 89 degrees 47 minutes 34 seconds East, assumed bearing, along the north line of said Southeast Quarter, a distance of 377.62 feet; thence South 01 degree 54 minutes 34 seconds West, a distance of 380.36 feet; thence North 88 degrees 29 minutes 43 seconds West, a distance of 369.35 feet to the west line of said East Half; thence North 00 degrees 39 minutes 55 seconds East along the west line of said East Half, a distance of 369.13 feet to the point of beginning.