

CARVER COUNTY BOARD OF ADJUSTMENT
Regular Meeting October 2, 2024
Minutes

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

Members Absent: Andy Steinhagen

Members Late: None

Staff Present: Jason Mielke, Donovan Hart, Christina Neel, Paul Moline

Pursuant to due call and published notice thereof, the October 2, 2024, 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 six members are present with the absence of Andy Steinhagen.

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

Minutes – Chairman Bruner asked if there were any corrections to the minutes from the September 4, 2024, meeting. Hearing none, he asked for a motion to approve the agenda. A motion was made by Bielefeldt to approve the minutes of the September 4, 2024, meeting. Selken seconded the motion for approval with the correction. All voted aye. Motion carried.

Public Hearing - File #20240039 – Matt Yaeck – Chairman Bruner called the public hearing to order at 7:01 p.m. to consider the application of Matt Yaeck for a variance pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request to exceed the allowable personal storage space pursuant to Chapter 152 of the County Code. The property is in Section 29 of Camden Township.

The following were present: Matt Yaeck

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 September 4, 2024

Exhibit F – Staff Report addressed to the Board of Adjustment and Camden Town Board dated September 19, 2024, and all attachments.

Neel stated the applicant owns an approximate 20.4-acre parcel improved with a single-family dwelling and attached garage along with tilled acreage, wooded acreage, and a shallow marsh. The applicant is currently in the process of exchanging approximately 2.5 acres with the adjacent property to the north (Klaustermeier) in order to construct a personal storage structure. The site plan illustrates the location for the proposed 60-foot x

120-foot structure on the land to be added to this parcel. The applicant understands that a building permit cannot be issued until the land is subdivided and combined to his parcel. The proposed structure will also increase the total personal storage space to approximately 7,976 square feet, which is 976 square feet larger than allowed by the Zoning Code for a parcel of this size. The applicant's letter states the proposed structure would shelter *"a boat, trailers, RV, fish house, skid loader and attachments."* The applicant also explained their children are involved in athletics and a portion of the structure would contain a batting cage and basketball court. The applicant confirmed the structure would be used for personal use only and not any commercial reasons. The proposed location of the structure would be screened by trees on three sides and will meet all required setbacks to property line, the wetland and the property's septic system. Jacob McLain, Senior Environmentalist, reviewed the application materials and stated, *"The narrative doesn't include any plans for water/sewer in the new shed, so no concerns."* Tim Sundby, Water Resources Program Supervisor, reviewed the request and commented, *"This might trip our Stormwater permit, with the existing house and driveway plus the new garage/sports complex building, the impervious is 0.76 acres. If they add 10,000 square feet of driveway and parking, they will need to get a stormwater permit."* The plight of the landowner is due to circumstances created by the landowner. Each variance request is based on its own merit, property uniqueness, and reasons described by the applicant. Granting the variance would not conflict with the intent of the Comprehensive Plan and would not alter the character of the neighborhood, nor would government services be negatively impacted by the storage structure. The Camden Town Board reviewed the materials at their September 12, 2024, meeting and recommend approval without any additional comments or conditions. Neel read the proposed conditions for consideration if the request is approved. If the Board of Adjustment determines that a practical difficulty has not been identified, the reasons supporting the denial would need to be identified.

Chairman Bruner asked the applicant if he had any additional comments.

Matt Yaeck, 9950 County Rd 33, stated he had no comments.

There was no one present representing the Camden Town Board for comments.

There was no one present from the public to make any comments about the request.

A motion was made by Bielefeldt and seconded by Selken to close the public hearing. Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 7:06 p.m.

Bielefeldt asked the applicant to describe the practical difficulty for which this variance is requested, which was not created by the landowner.

Mr. Yaeck stated he is requesting the size of the shed for adequate space for a batting cage, and he also has items and equipment that he wants to store inside and away from the winter elements.

Thompson asked if the reference to obtaining a stormwater permit has any bearing on their decision for this request.

Neel stated the stormwater permit would be something that would be obtained at the time of the building permit.

Thompson asked the applicant if he was aware of the stormwater permit requirement.

Mr. Yaeck stated he was aware of the permit requirement.

Mielke confirmed that with any construction involving creating or increasing impervious surface, the Water Management Organization (WMO) regulations are reviewed. Most typically, an erosion sediment control permit is required and with larger development activity it can become more involved. It is noted with each building project as something to be reviewed.

Bruner stated he visited the site and talked with the applicant about his plans. He saw the property was neat and well-kept and agrees with the desire to have things stored indoors as well as giving children the opportunity to be active in the winter months. He is in favor of granting the request.

Bielefeldt stated he will not support the request as he did not find a practical difficulty which was not created by the landowner.

Gorra understood the desire for space for children's activities, as well as noting the indoor storage to keep the property looking neat and orderly.

A motion was made by Washburn to **approve and issue Order #PZ20240039** to exceed the allowable personal storage square-footage pursuant to Section 152.073 (A)(5) of the Carver County Zoning Code with the following conditions:

1. The permit is subject to administrative review. The proposed structure shall be used only by the occupant(s) of the residence for personal storage, hobbies, recreation, entertainment, family uses, private maintenance and repair activities, and as otherwise regulated by this Ordinance. Guest quarters and/or additional dwelling units are strictly prohibited. No products or services shall be offered for sale for pay or similar remuneration except as permitted for a home occupation or as otherwise regulated by this Code.
2. A Minor Subdivision application and combination form shall be submitted and approved, as well as deeds recorded prior to the issuance of a building permit for the proposed accessory storage structure. The subdivision and combination shall be in accordance with the County Zoning Code and County Recorder's Office requirements including but not limited to a completed minor subdivision application, a survey, SSTS compliance and appropriate deeds.
3. 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, existing buildings, Subsurface Sewage Treatment System (SSTS) locations, and CCWMO standards and required permitting.
4. No additional accessory structures or additions shall be allowed, based on the total personal structure square footage currently allowed on the property, without the approval and issuance of a new variance.

Thompson seconded the motion for approval of the request. Chairman Bruner called for a vote on the motion. Washburn, Bruner, Gorra, Thompson, and Selken voted aye. Bielefeldt voted nay. Motion carried.

Public Hearing - File #20240038 – Mike Lueth – Chairman Bruner called the public hearing to order at 7:11 p.m. to consider the application of Mike Lueth for a variance pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request to exceed the allowable personal storage space, side wall and total structure height, and reduced rear yard setback pursuant to Chapter 152 of the County Code. The is in Section 22 of Camden Township.

The following were present: Mike Lueth

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 September 3, 2024

Exhibit F – Staff Report addressed to the Board of Adjustment and Camden Town Board dated September 19, 2024, and all attachments.

Hart stated the applicant owns and approximate .89-acre parcel which, until recently, was improved with a single-family dwelling which has been removed and a new house is being constructed. The applicant is requesting a variance to construct an accessory structure that would exceed the allowable total personal storage space, sidewall height, total structure height, and be placed within the required minimum setback of the rear property line. The proposed structure would be 2,048 in size with 16-foot sidewalls, a total structure height of 22 feet, and be placed 15 feet from the rear property line. The County Code allows a maximum of 1,250 square feet of personal storage, maximum sidewall height of 12 feet, maximum total structure height of 17 feet, and a minimum rear yard setback of 30 feet. There is no attached garage being constructed on the house, so the accessory structure would constitute the entire personal storage for the parcel. The site plan indicates the location of the structure in the northwest corner of the parcel. The south driveway access will be removed, and the northerly driveway access will be retained as it lines up with the location of the proposed structure. The driveway location does not meet the required 660-foot distance from the intersection with 94th St, but it is existing and will remain a legal non-conformity of the parcel. The applicant's letter states the proposed structure would be used for *"personal vehicles, yard maintenance equipment, and a semi tractor, all personally owned. The shed will be for personal and not commercial use."* The applicant stated he tried to purchase additional adjoining land to reduce the need for the variances but was unsuccessful. He stated the structure size is necessary *"to accommodate the height of my semi-truck."* And the reason for reduced rear yard setback is *"so that when I have a truck + trailer at home overnight, there is more room between the front of the parked vehicle and County Rd 135, allowing better visibility as vehicles approach the intersection."* Jacob McLain, Senior Environmentalist, reviewed the applicant and commented, *"A compliance inspection was completed for the site September 1, 2024, the Certificate of Compliance is valid until September 1, 2026. The current SSTS system is sized as a 3 bedroom so the new home should not be sized any larger. Any plumbing in the proposed shed will need to be reviewed and approved by Environmental Services."* Whitney Schroeder, Carver County Traffic Engineer, reviewed the request materials and replied, *"The application was reviewed for the proposed building and the elimination of one of the accesses on CR 135. The County has determined the request is reasonable due to the landowner's needs and constraints of the parcel's boundaries. The proposed variances do not pose any risk to traffic safety or operations."* The plight of the landowner is due to circumstances created by the landowner. The applicant purchased the property in 2012 *"with the intent to be near my aging parents and the family farm."* The Zoning Code standards restrict structure size for a parcel of this size, but each variance application request is based on its own merit, property uniqueness and reasons described by the applicant. Granting the variance would not conflict with the intent of the Comprehensive Plan and would not alter the character of the neighborhood, nor would government services be negatively impacted by the storage structure. The Camden Town Board reviewed and recommended approval of the request at their September 12, 2024, meeting without additional comments or conditions. Hart read the proposed conditions for consideration if the request is approved. If the Board of Adjustment determines that a practical difficulty has not been identified, the reasons supporting the denial would need to be identified.

Chairman Bruner asked the applicant if he had any additional comments.

Mike Lueth, 9360 County Rd 135, replied he had no comments.

There was no one present representing the Camden Town Board for comments.

There was no one present from the public to make any comments about the request.

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 7:21 p.m.

Bielefeldt asked the applicant to describe the practical difficulty for which the variances are requested.

Mr. Lueth explained he would like to keep everything stored indoors to keep the property neat and clean and the structure size is necessary to accommodate his semi-tractor.

Bielefeldt asked staff if the subject parcel is currently a conforming parcel.

Hart replied the parcel is a non-conforming parcel because the parcel size is less than the minimum of 1.5 acres for a residential parcel.

Mielke further explained the parcel is a legal non-conforming parcel because it was in its current configuration when it was purchased by the applicant, which was not created by the applicant.

Gorra asked about the size/length of the semi-tractor and trailer.

Mr. Lueth replied he pulls different sized trailers, typically the longer ones are 48-feet and with the tractor the total length is around 65 feet.

Gorra asked staff if there are weight restrictions on County Rd 135.

Mielke replied that County Rd 135 is a county road and the weight restrictions do apply.

Gorra stated he visited the site and spoke to the applicant and the request appears to be reasonable and makes good sense.

Selken stated his initial reaction to the request was shock at the number of variance requests, but after reviewing the property and further understanding the circumstances, he feels this is a practical improvement for the parcel.

Gorra asked if there was any comment about the request from the property owner to the west of this parcel.

Hart replied no public comments were received about the application.

A motion was made by Bielefeldt to **approve and issue Order #PZ20240038** for a variance to construct an accessory structure exceeding personal storage square footage, sidewall height, total structure height, and reduced rear setback as required by Sections 152.034 (D) and 152.073 (A)(1) of the Carver County Code with the following conditions:

1. The permit is subject to administrative review. The proposed structure shall be used only by the occupant(s) of the residence for personal storage, hobbies, recreation, entertainment, family uses, private maintenance and repair activities, and as otherwise regulated by this Ordinance. Guest quarters and/or

additional dwelling units are strictly prohibited. No products or services shall be offered for sale for pay or similar remuneration except as permitted for a home occupation or as otherwise regulated by this Code.

2. The permittee shall obtain the appropriate building permit(s) prior to the construction of the proposed structure. All work shall be done in accordance with the submitted plan and shall comply with the approved variance and plans. The proposed structure shall comply with all required setbacks from property lines, existing buildings, subsurface sewage treatment system (SSTS) locations, and CCWMO standards and required permitting.
3. Any work within the public right-of-way shall require proper permitting from Carver County Public Works.
4. No additional accessory structures or additions shall be allowed, based on the total personal structure square footage proposed on the property, without the approval and issuance of a new variance.

Selken seconded the motion for approval of the request. Chairman Bruner called for a vote on the motion. All voted aye. Motion carried.

Public Hearing - File #20240040 – Todd Hoerter – Chairman Bruner called the public hearing to order at 7:25 p.m. to consider the application of Todd Hoerter for a variance pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request to reconfigure two legal non-conforming parcels resulting in two non-conforming parcels pursuant to Chapter 152 of the County Code. The property is in Section 31 of Watertown Township.

The following were present: Todd Hoerter

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 September 6, 2024

Exhibit F – Staff Report addressed to the Board of Adjustment and Watertown Town Board dated September 19, 2024, and all attachments.

Hart explained the applicant owns an approximate .46-acre parcel improved with a single-family dwelling. Carver County owns an adjacent parcel consisting of woods and wetlands. The applicant is requesting a variance to allow for land from the County-owned parcel to be added to his residential parcel. The intent of the lot line adjustment would be to relocate the legal non-conforming parcels' common boundary line to increase the upland area of the residential parcel, which would decrease the size of the County-owned parcel. The proposed parcel reconfiguration would result in a residential parcel that does not meet the County's requirements for a minimum 1.5-acre lot area, and the vacant County-owned lot under 20 acres without a dwelling, buildable area, or building eligibility does not possess a reasonable use; therefore, a variance has been requested. The vacant legal non-conforming parcel, located almost entirely in the Crow River floodplain and containing wetlands and forested lands, was obtained by the County as a tax-forfeited parcel. The CCWMO had an interest in preservation of this parcel to create stormwater credits (i.e., a reasonable use) and to preserve the wetlands on the site. Preserving this environmentally sensitive land would be a significant shift from a historical use of the site, which was to illegally dispose of solid waste and demolition material. County enforcement action in the 1980s facilitated the removal of some junk from the property, but further cleanup is needed. The applicant has had discussions with the County and indicated his interest in obtaining the non-

floodplain area (approximately .67-acre in size) which abuts his parcel. On August 20, 2024, the Carver County Board of Commissioners adopted Resolution #74-24 authorizing the sale of the upland portion of the property to the adjacent landowner. The additional land would result in a residential lot size of 1.13 acres for the applicant. The applicant acknowledged the parcel size will still be non-compliant but *“will allow us to have a possibility of a future alternative septic site. Also, this will give us more land to use for gardening and other uses.”* Jacob McLain, Senior Environmentalist, reviewed the materials and commented, *“A compliance inspection was completed for the site October 12, 2022. The Certificate of Compliance is valid until 10/12/2025. It’s a good idea to add more land for upgrading the septic system when needed in the future.”* Tim Sundby, Water Resources Supervisor, reported that the proposed lot line adjustment will not require a permit from his department. The plight of the landowner is due to circumstances unique to the property and not created by the landowner. The County-owned parcel boundary lines have been largely consistent since 1974. The applicant is proposing to use the property in a reasonable manner not permitted by an official control, which is to ensure adequate lot size for property improvements and an alternative septic site. Granting of the variance does not appear to conflict with the intent of the Comprehensive Plan and would not cause a substantial change in the character of the neighborhood or have a negative impact on government services. It would not materially or adversely affect the health or safety of persons residing or working in the area adjacent to the property. The Watertown Town Board reviewed the request and recommended approval at their September 3, 2024, Town Board meeting without additional comments or conditions. Hart read the proposed conditions for consideration if the request is approved. If the Board of Adjustment determines that a practical difficulty has not been identified, the reasons supporting the denial would need to be identified.

Paul Moline, Carver County Public Services Deputy Director, explained the history of how the County acquired the tax forfeiture parcel in 2022. The Water Management Organization had an interest in purchasing this property for use as upland preserve or preserve credits. It was always the intent of the County Board to return any buildable area of this parcel to the tax rolls. As was mentioned in the staff report, the County Board passed a resolution in August to allow the subdivision of the buildable area from this parcel to be added to the adjacent parcel to increase the size of that parcel to make it more useable.

Chairman Bruner asked the applicant if he had any additional comments.

Todd Hoerter, 5815 County Rd 123, expressed his thanks to Mr. Moline for his work in coordinating this with the County Board to get the approval for the subdivision. He really appreciates that it can now be completed.

Chairman Bruner, speaking as Watertown Town Board supervisor, confirmed the unanimous vote of the Town Board to approve the request for the subdivision to increase Mr. Hoerter’s lot.

There was no one present from the public to make any comments about the request.

A motion was made by Bielefeldt to close the public hearing. Selken seconded the motion to close. Chairman Bruner called for a vote on the motion. All voted aye. Motion carried. The public hearing was closed at 7:37 p.m.

Washburn referred to the aerial photo of the property and asked about the available buildable area.

Mielke stated there are areas that are not in the floodplain area but are not buildable because of the steep slopes. The area could be added to an adjacent parcel to increase its useable space since it is outside the floodplain, but it would not be buildable because of the terrain. Typically, a parcel needs to produce a 1-acre area to be used as a buildable site to support a house, primary and alternate septic sites, and the County-owned parcel cannot meet that requirement. So, using the buildable area to increase the size of the adjacent non-conforming parcel

appears to be a reasonable use for the area outside of the floodplain.

Washburn asked about the possible locations for septic sites in the potential subdivided portion of property.

Mielke used the aerial photo to illustrate the topography of the land and noted the contours where a septic site may fit if the soils allow. Currently, Mr. Hoerter's backyard is encompassed with the mound system. If it would need replacement in the future, it would have a chance to be located on the newly acquired land.

Bielefeldt asked the applicant if he had read and agrees with the proposed condition for consideration.

Mr. Hoerter said he agrees with the condition.

A motion was made by Bielefeldt to approve and **issue Order PZ20240040** for a variance to reconfigure two existing legal nonconforming parcels with limited size and lacking reasonable use as required by Sections 152.009 (M) & 152.033 (B) of the Carver County Code with the following conditions:

1. A Minor Subdivision application and Combination Form shall be submitted and approved prior to the recording of any deeds. The parcel shall be subdivided and combined in accordance with the County Zoning Code and County Recorder's Office requirements including by not limited to, a completed minor subdivision application, a survey, SSTS compliance and appropriate deeds.

Washburn seconded the motion to approve the request. Chairman Bruner called for a vote on the motion. All voted aye. Motion carried.

Other Business

Mielke introduced Kenny Famakinwa as a new staff member to Land Management. Mr. Famakinwa's title is Land Management Planner/Code Enforcement. He explained the position is a hybrid position helping Land Management with land use code enforcement and working with the Planning and Water Department with site reviews and doing erosion sediment control and stormwater management review. He has experience with wetland delineation and code enforcement in his former position. This position is new to Carver County. Welcome Kenny!

Adjournment

A motion was made by Thompson and seconded by Bielefeldt to adjourn. All voted aye. The meeting was adjourned at 7:43 p.m.