

CARVER COUNTY BOARD OF ADJUSTMENT

Regular Meeting – **Wednesday, October 2, 2024**

Commissioners' Meeting Room

2nd Floor Human Services Bldg

Government Center – Chaska

AGENDA

7:00 p.m.

1. Approve minutes of September 4, 2024 meeting
Pages 1-1 through 1-5
2. **File #20240039**- Public hearing on request by Matt Yaeck for a variance.
(Exceed Personal Storage Space)
Camden Township Pages 2-1 through 2-13
Issue Order #PZ20240039 – Matthew Yaeck
3. **File #20240038**- Public hearing on request by Michael Lueth for a variance.
(Exceed Personal Storage Space, Structure Height, Sidewall Height &
Reduced Setback)
Camden Township Pages 3-1 through 3-13
Issue Order #PZ20240038 – Michael Lueth
4. **File #20240040**- Public hearing on request by Todd Hoerter for a variance.
(Reconfigure Non-Conforming Parcels & Reasonable Use)
Watertown Township Pages 4-1 through 4-13
Issue Order #PZ20240040 – Todd Hoerter

Other Business

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.

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

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Exhibit E - Letter from the Applicant dated September 6, 2024

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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.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

September 19, 2024

TO: Carver County Board of Adjustment & Camden Town Board

FROM: The Land Management Department

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

FILE #: PZ20240039

APPLICANTS: Matt Yaeck

PROPERTY OWNERS: Matthew Yaeck & Sara Yaeck

SITE ADDRESS: 9950 County Road 33, Norwood Young America, MN 55397

VARIANCE TYPE: Exceed allowable Personal Storage Square Footage

PURSUANT TO: County Code Section 152.073 (A)(5)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 02-029-1110

BACKGROUND:

1. Matt & Sara Yaeck own an approximate 20.4-acre parcel located in the Northeast Quarter (NE¼) of the Southeast Quarter (SE¼) of Section 29, Camden Township. The property is currently improved with a single-family house and contains tilled acreage, wooded acreage, and a shallow marsh. The property is located in the Agricultural Zoning District and the Carver County Water Management Organization (CCWMO) – Crow River Watershed.
2. The Yaecks are requesting a variance to exceed the total allowable personal storage square footage on the subject property. The proposed building would be 60 feet x 120 feet (7,200 square feet) and has 776 square feet of attached garage space exceeding the allowed 624 square feet. The total personal storage square footage on the parcel would be a total of 7,976 square feet. The request would exceed the permitted personal storage square-footage by about 976 square feet for a parcel of this size; therefore, a variance has been requested pursuant to Section 152.073 (A)(5) of the Carver County Zoning Code.
3. Previously, applicant requests for accessory structures exceeding the allowable square-footage area pursuant to the Zoning Code were processed as Conditional Use Permits (CUP's) and were reviewed by the Carver County Planning Commission. As part of the 2021 Zoning Code updates, 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 Section 152.215 (D) & (F) of the Zoning Code.

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.
- (5) Parcels greater than ten acres – a total of 7,000 square feet of area is permitted in a combination of a 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.
- (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.
- (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. Mr. and Mrs. Yaeck are currently in the process of swapping approximately 2.5 acres with the property directly north, owned by Marian Klaustermeier. The site plan (dated August 21, 2024) shows the location of the proposed personal storage shed on the 2.5 acres that are to be added to the Yaeck property. The applicant understands that a building permit for the accessory structure cannot be issued until the land is subdivided, then combined with the existing property. The resulting parcels will conform with lot requirements for parcels in the Agriculture Zoning District.
2. The site plan also identifies the existing house and attached garage, as well as the proposed shed. The proposed shed is 60 feet x 120 feet in size and the house includes a 1,400-square foot attached garage for a total of 8,600 proposed personal storage square footage. Given that the Zoning Code allows a credit for attached garage space up to 624 square feet, the total amount of existing attached garage personal storage space contributing to the parcel total is 776 square feet. The Zoning Code allows a parcel of this size a total of 7,000 square feet of personal storage area to be permitted in a combination of attached garage and accessory structure(s). The proposed 7,200-square foot accessory structure would increase the amount of personal storage space to 7,976 square feet; or approximately 976 square feet more than the Zoning Code allows without a variance on a property of this size.
3. The applicant's letter (dated September 4, 2024) states the proposed accessory structure would shelter a *"boat, trailers, RV, fish house, skid loader and attachments."* The applicant also stated they have two children who are involved in athletics, and a portion of the structure would contain a batting cage and basketball court. Mr. Yaeck also stated, *"The building will be used for personal use only and will not be used for commercial reasons."* The applicant notes that the proposed structure will be screened by trees on three sides.
4. The proposed structure would be constructed in the northwest corner of the property in a location that would meet all required setbacks to property lines, the wetland, and the property's septic system.
5. Jacob McLain, Carver County Senior Environmentalist – Subsurface Sewage Treatment Systems (SSTS), reviewed the application materials and in an email dated September 11, 2024, noted: *"The narrative doesn't include any plans for water/sewer in the new shed, so no concerns."*
6. Tim Sundby, Carver County Water Resources Program Supervisor, reviewed the materials and in an email dated September 11, 2024, 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."*
7. The plight of the landowner is due to circumstances created by the landowner. The standard established in the Zoning Code is 7,000 square feet maximum for allowable personal storage square footage for parcels greater than ten acres. However, each variance application request is based on its own merit, property uniqueness, and reasons described by the applicant.
8. 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.
9. 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 it would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
10. The Camden Town Board reviewed and recommended approval of the request during their September 12, 2024, Town Board meeting. The Board did not have any additional comments or conditions.

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)(5) 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:

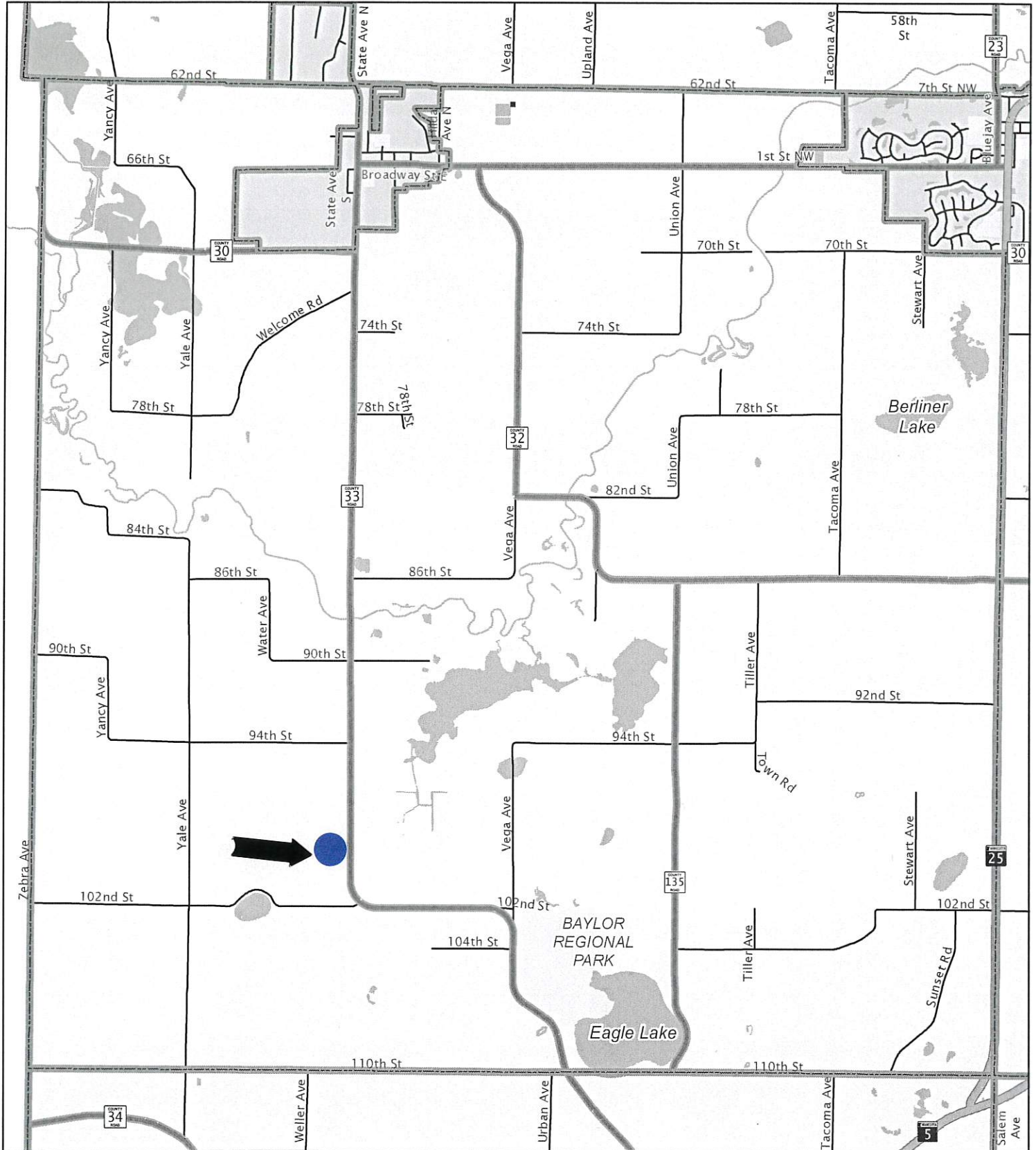
1. The permit is subject to administrative review. The proposed structure shall be used only by the occupant(s) of the residence for personal storage, hobbies, recreation, entertainment, family uses, private maintenance and repair activities, and as otherwise regulated by this Ordinance. Guest quarters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

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.

CAMDEN TOWNSHIP



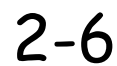
This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible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

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Map Created by Carver County GIS 25

THIS MAP IS A COMPILATION OF RECORDS AS THEY APPEAR IN THE CARBON 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.



Matt and Sara Yaeck
9950 County Road 33
NYA, MN 55397
(612) 363-8329
matt@choiceelec.com

9/4/2024

Board of Adjustment,

I am requesting a variance to go over the 7,000 square foot rule of a shed space on my property located at 9950 County Road 33 in NYA. I currently have 776 square feet of attached garage (over 624 sq ft) which is a total of 1400 square feet. I am requesting to put up an additional 60' x 120' pole shed on the northwest corner of the property to increase my personal storage amount to 7,976 sq ft. This is a variance request to go over 976 sq ft over the allowable 7,000 sq ft.

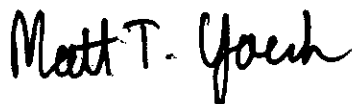
I am looking to add this space to store my boat, trailers, RV, fish house, skid loader, and attachments. With having two young children that are involved in athletics, I also want to construct a batting cage and basketball court in part of the building. With the lack of gym space in the city it is hard to find a place to train and would like to have space for them to practice.

This building will be used for personal use only and will not be used for commercial reasons.

The area of my property where the shed will be located has tree cover on three sides of it.

Thank you for your time and consideration in this matter. Feel free to reach out and let me know if additional information is needed

Sincerely,



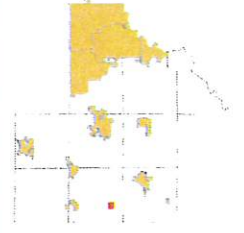
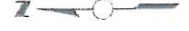
Matt Yaeck

YAECK/KLAUSTERMEIER SPLIT



Date: 8/21/2024

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Carver County GIS



Township Presentation & Recommendation Form

PARCEL #	02-029-1110	Permit #	PT20240039
Owner's Name:	Owner's Mailing Address:		
Marion Klaustermeier	9610 County Road 33		
City:	Owner State:	Owner Zip:	
NVA	MN	55397	
Applicant (if other than owner):	Site Address:		
Matt Yaeck	9950 County Road 33, NVA, MN 55397		

Type of Request:	☐ CUP	☐ IUP	☐ Preliminary Plat	☐ Final Plat	☒ Variance	☐ Appeal
Description of Request:						
To build a 60' x 120' Shed for personal use only						
Date of County Public Hearing:			Date of Township Meeting:			
10/2/2024			9/12/2024			

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.

Matt T. Yaeck

Signature of Applicant

Date 9/4/24

William Devine

Date 9-12-24

Signature of Township Official

COUNTY OF CARVER
CERTIFICATE OF ZONING COMPLIANCE
FOR LAND PREPARATION
(Grading, Excavating and/or Filling Permit)

DATE ISSUED: August 22, 2024

CERTIFICATE #: A20240165

File #: A20240165

Certificate Holder/Applicant: Matt Yaeck

Property Owner: Marian Klaustermeier

Applicant Address: 9950 Co Rd 33, Norwood Young America

Pursuant To: County Code, Chapter 152, Section 152.074 B4 and 152.126

Legal Description: See attached Exhibit "A"

Parcel #: 02-029-1100 and 02-029-1110

This certificate (permit) is issued for use of the property legally described on the attached Exhibit A, pursuant to the Carver County Zoning Code, Chapter 152. The certificate is issued to **Matt Yaeck** and is not transferable to another person/company and/or to another parcel of property.

Purpose of Certificate: To certify up to 5,000 cubic yards of soil material may be brought to the site, as well as existing material on site may be moved/graded, for the purpose of stabilizing the site for a future shed, in accordance with Section 152.074 B4 and 152.126 of the Carver County Zoning Code. The area impacted is approximately 0.8 acre.

THE FOLLOWING CONDITIONS ARE ATTACHED TO THIS CERTIFICATE AND MUST BE COMPLIED WITH:

General Requirements:

1. The certificate holder agrees they will defend, indemnify and hold harmless the County, its officers and employees against any and all liability, loss, costs, damages and expenses which the County, its officers or employees may hereafter sustain, incur, or be required to pay arising out of the certificate holder's performance or failure to adequately perform its obligations pursuant to this certificate.
2. The project shall be implemented in accordance with the submitted application and site plans (dated: 8/19/2024). These plans as submitted and approved shall be attached to and become part of this permit. The re-sloped/restored area shall not impact the existing drainage for adjacent properties or right-of-way, and/or the existing ditch or wetlands located on the subject property.
3. Site work shall be implemented according to Camden Township's recommendations/comments, if applicable.
4. The primary and alternate SSTS sites shall be roped or marked in a way that prevents any impact to the existing soils. No vehicles may be driven within the primary and alternate SSTS sites as shown on site plan.
5. The project is subject to periodic monitoring by Carver SWCD and the Carver County Public Services Division staff. (The SWCD will be monitoring the site and the County will be enforcing implementation of the erosion and sediment control measures as well as Wetland Conservation Act standards.)

Operation Requirements:

1. The hours of operation shall be from 7:00 a.m. to 7:00 p.m. Monday through Saturday. No operations shall occur on Sundays and/or any nationally observed holiday.

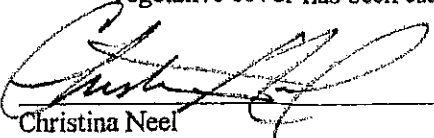
2-10

2. The construction area shall be limited to an area of approximately 0.8 acres. Fill material cannot be deposited in the protected wetland. Any material that was previously placed in the wetland must be removed.
3. Fill should not be placed within fifteen (15) feet of any property line and/or road right-of-way without a legal survey or the written consent of the neighboring property owner. Any plans to place fill or to excavate material on slopes over 18% must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30% or greater. The placement of fill or excavation of material must not be conducted in a manner that creates an unstable slope.
4. Any areas of County Road 33 which will be utilized as part of this Administrative Permit shall receive access approval prior to commencing construction activities on the property. It is the certificate holder's responsibility to contact the state to determine if any additional permits or restrictions are applicable.
5. No trash, garbage, waste, construction debris or similar materials shall be deposited in or near the permitted area(s).
6. The operation shall be conducted so that the area can be filled while disturbing a minimum area and permit restoration at the earliest possible time.
7. Existing drainage patterns shall not be altered, unless reviewed and approved by the Carver County Water Management Organization and the Land Management Department.
8. Temporary stockpiling and/or berming of soil on-site must be done accordingly, so the sediment does not migrate into the road right-of-way, ditch areas and/or neighboring properties. Stockpiling of soil must be covered with temporary seed and/or mulch if it is to remain longer than two (2) weeks on the property.
9. Erosion control (i.e. silt fencing or bio logs) is required as part of the land preparation project. Silt fencing and/or fiber rolls shall be placed on the edge of the hill from the south side of the house to the north side as indicated in the site plan and narrative. In addition, if future problems occur, the Carver County Land Management Department and/or Planning & Water Management and/or Carver SWCD may require installation of additional fencing within problem area(s). Silt fencing shall be trenched into the ground at a minimum of six (6) inches and property maintained until a vegetative ground cover has been effectively established. Appropriate perimeter control measures shall be discussed with SWCD staff (Tom Genelin 952-466-5259) prior to beginning any construction activities on-site.
10. Final landscape grading must be done as soon as construction is complete or weather permitting. Final permanent cover must be placed within 72 hours of final grading. Ground cover must be protected as much as possible to prevent erosion. Weeds and other unsightly vegetation shall be cut or sprayed as necessary to present a neat appearance and to prevent seeding of adjacent properties. (All standards of the Zoning Code and Water Rules apply.)
11. It is the Permittee's responsibility to ensure that there is no erosion from filling and grading entering the right-of-way, neighboring properties and/or any natural drainage ways located on the property.
12. Deadlines for completion of the subject project shall be as follows:
 - A. All work shall be completed by November 1, 2024, unless an extension is approved by Public Services Division. If additional time is needed the Permittee shall contact the Carver County Land Management Department to inform staff as to what still needs to be completed. Permittee is responsible for contacting the Carver County Land Management Division when all work has been completed. All seeding, mulching and any other means of erosion/sediment control shall be completed by August 1, 2024, as well.

13. Failure to comply with any/all of the above conditions will result in the permit becoming null and void.

Restoration Requirements:

1. The design of the restored areas must be in accordance with the Zoning Code and the Water Management Rules. To the extent possible, restoration shall be staged such that the exhausted areas are stabilized, and turf established as soon as possible. Said design may be subject to revisions and modifications by the Land Management Department and Carver SWCD. Prior to the final inspection, all restoration shall be completed and be in accordance with Carver County Zoning Code & Water Management Rules. In addition, the following need to be completed:
 - A. All disturbed areas and upland areas shall be restored at the completion of the project. The restoration shall include the application of a minimum of 6 inches of topsoil or similar material that will support plant growth (seeding after project completion). The permittee is required to stockpile an adequate amount of top soil on-site, in order to restore the entire disturbed area with the minimum of 6 inches.
 - B. Final grades shall be in conformity with the topography of the surrounding land.
 - C. Final grade along property lines and right-of-way(s) shall maintain a slope of 3:1 or flatter.
 - D. Contact the Carver County Land Management Department & Carver SWCD prior to moving equipment off-site.
 - E. All areas disturbed as part of any grading/filling activities will need to be reviewed for turf establishment prior to Administrative Permit being considered completed. (The project is not considered to be completed until a vegetative cover has been established on all disturbed areas.)

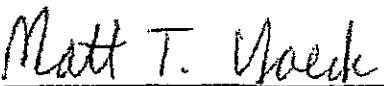

Christina Neel
Land Management Planner
Carver County Land Management Department

Date

8/22/24

THIS CERTIFICATE IS NOT EFFECTIVE UNTIL SIGNED BY THE CERTIFICATE HOLDER.

I HAVE READ THE ABOVE CONDITIONS AND AGREE TO FOLLOW THEM. I REALIZE THAT FAILURE TO ABIDE BY THE CONDITIONS IS A VIOLATION OF THE ZONING ORDINANCE. I AGREE THAT THE ZONING ADMINISTRATOR OR A DESIGNATED REPRESENTATIVE MAY ENTER UPON THE SUBJECT PROPERTY TO CHECK FOR COMPLIANCE OR FOR REVIEW PURPOSES. I ALSO UNDERSTAND THAT THIS IS NOT A BUILDING PERMIT AND THAT OTHER PERMITS MAY BE REQUIRED.


Signature of Certificate Holder

Date

8/22/24

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 02-029-1110

File# PZ20240039

APPLICANTS/OWNERS: Matthew T Yaeck & Sara J Yaeck

*** * * * ***

The South 674.64 feet of the Northeast Quarter of the Southeast Quarter, Section 29, Township 116, Range 26, Carver County, Minnesota.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

September 19, 2024

TO: Carver County Board of Adjustment & Camden Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (Personal Storage Square Footage, Sidewall Height, Total Structure Height, Rear Setback)

FILE #: PZ20240038

APPLICANT: Michael Leuth

PROPERTY OWNERS: Michael & Linda Leuth

SITE ADDRESS: 9360 County Rd 135

VARIANCE TYPE: Excessive Personal Storage Square Footage, Tall Sidewall & Structure Height, Reduced Rear Setback

PURSUANT TO: County Code Sections 152.034 (D), 152.073 (A)(1)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 02-022-0200

BACKGROUND:

1. Michael & Linda Lueth own an approximate 0.89-acre parcel located in the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of Section 22, Camden Township. The property was until recently improved with a single-family home that has since been demolished (new house to be constructed). The property is located in the Agricultural Zoning District, Shoreland Overlay District of a protected water, and the Carver County Water Management Organization (CCWMO) – Crow River Watershed.
2. The Lueths are requesting a variance to construct an accessory structure that would exceed the total allowable personal storage square footage, maximum structure sidewall height, total structure height, and have a reduced rear setback on the subject property. The proposed building would be 32 feet x 64 feet (2,048 square feet), which would constitute the total personal storage square footage on the parcel. The request would exceed the permitted personal storage square-footage by about 798 square feet for a parcel of this size. In addition, the applicant has proposed a location of the shed that would encroach upon the required setback by 15 feet, rather than the required 30 feet (15-foot variance). The proposed structure would also have 16-foot sidewalls and a total 22-foot height, taller than the allowable 12-foot sidewalls (4-foot variance) and maximum 17-foot height (5-foot variance) for a structure on a parcel of this size. Therefore, variances have been requested pursuant to Sections 152.034 (D) and 152.073 (A)(2) of the Carver County Zoning Code.

LEGAL BACKGROUND:

§ 152.034 SETBACKS.

(D) *Table of setback requirements.* All structures unless exempted above; and signs and parking areas near a public right-of-way:

Rear Lot Line Setback	All Districts	30 feet
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§ 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.

- (1) Parcels of less than one and a half acres – a total square footage of 1,250 square feet is permitted in a combination of a garage and accessory structures. For detached accessory structures, the maximum sidewall height shall be 12 feet and the total height from the average grade shall not exceed 17 feet. The roof and exterior of the structure shall be new material or material with the appearance of new material; the material shall be painted, stained, coated, or otherwise finished.

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.

- (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.

(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. The application regards an accessory structure, which would measure about 32 feet by 64 feet in size, constituting the entire personal storage square footage for the property. There is no attached garage included in the new house, for which a building permit has been applied. The Zoning Code allows a parcel of this size a total of 1,250 square feet of personal storage area to be permitted in a combination of attached garage and accessory structure(s). The proposed 2,048-square foot accessory structure would be approximately 798 square feet more than the Zoning Code allows without a variance on a property of this size. The height of the proposed structure prompts two additional variance requests. For a parcel of this size – less than 1½ acres – an accessory structure is required to have a maximum 12-foot-tall sidewall and a maximum 17-foot structure height. The proposed shed has a 16-foot sidewall and a total height of 22 feet. The proposed location of the shed is in the northwest corner of the lot with a conforming (15 foot) side yard setback and a rear setback of 15 feet. This location encroaches upon the required 30-foot required read setback.
2. The applicants' letter (dated September 3, 2024) states the proposed accessory structure would shelter "*personal vehicles, yard maintenance equipment, and a semi tractor, all personally owned.*" Regarding the use, Mr. Lueth's narrative states: "*The shed will be for personal use and not commercial use.*" Mr. Lueth offers the reasons and circumstances involving the variance requests. First, he attempted to purchase additional land from the neighboring landowner to increase the parcel size, which would make a variance unnecessary. However, he reports that this effort was unsuccessful. He states the reason for the 16-foot sidewalls and 22-foot total height, and thus the taller than allowable structural component and taller than allowable structure height, is "*to accommodate the height of my semi-truck.*" Regarding the reduced rear yard setback, he writes: "*I am requesting a 15-foot setback instead of the 30-foot setback be allowed so that when I have a truck + trailer at home overnight there is more room between the front of the parked vehicle and C.R. 135, allowing better visibility as vehicles approach the intersection.*"
3. The Site Plan (dated: September 8, 2024) identifies the location of the future dwelling, which a building permit has been applied for, and the proposed shed. The proposed structure would be constructed in the northwest corner of the property, with the proposed rear 15-foot seatback and a conforming 15-foot side setback to the north. Mr. Lueth proposes to close the existing southern access to Co Rd 135 and retain the northern driveway, which would be lined up with the proposed shed. This proposal increases the access conformity, reducing the number of access points from two to one, but the property still retains the legal nonconforming approximate 200-foot separation between the property access and the intersection of Co Rd 135/94th Street to the south. Public Works separation policy requires a 660-foot separation between a driveway access and an intersection.
4. Jacob McLain, Carver County Senior Environmentalist, reviewed the application materials and in an email dated September 11, 2024, noted: "*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.*"
5. Carver County is the road authority for Co Rd 135 and reviews all applications that impact road access points. Whitney Schroeder, Traffic Engineer with Carver County Road Public Works Department, was sent the application materials. In a review comment letter dated September 18, 2024 (attached), she wrote: "*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.*"

6. 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 lot acreage only provides a limited amount of personal storage space. The standard established in the Zoning Code is 1,250 square feet maximum for allowable personal storage square footage for parcels less than 1.5 acres. However, each variance application request is based on its own merit, property uniqueness, and reasons described by the applicant.
7. 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.
8. The granting of the variance would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicants and it would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
9. The Camden Town Board reviewed and recommended approval of the request during their September 12, 2024, Town Board meeting. The Board did not have any additional comments or conditions.

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 and construct an accessory structure would exceed maximum structure sidewall height, total structure height, and have a reduced rear yard setback on the property pursuant to Sections 152.034 (D) and 152.073 (A)(1) 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:

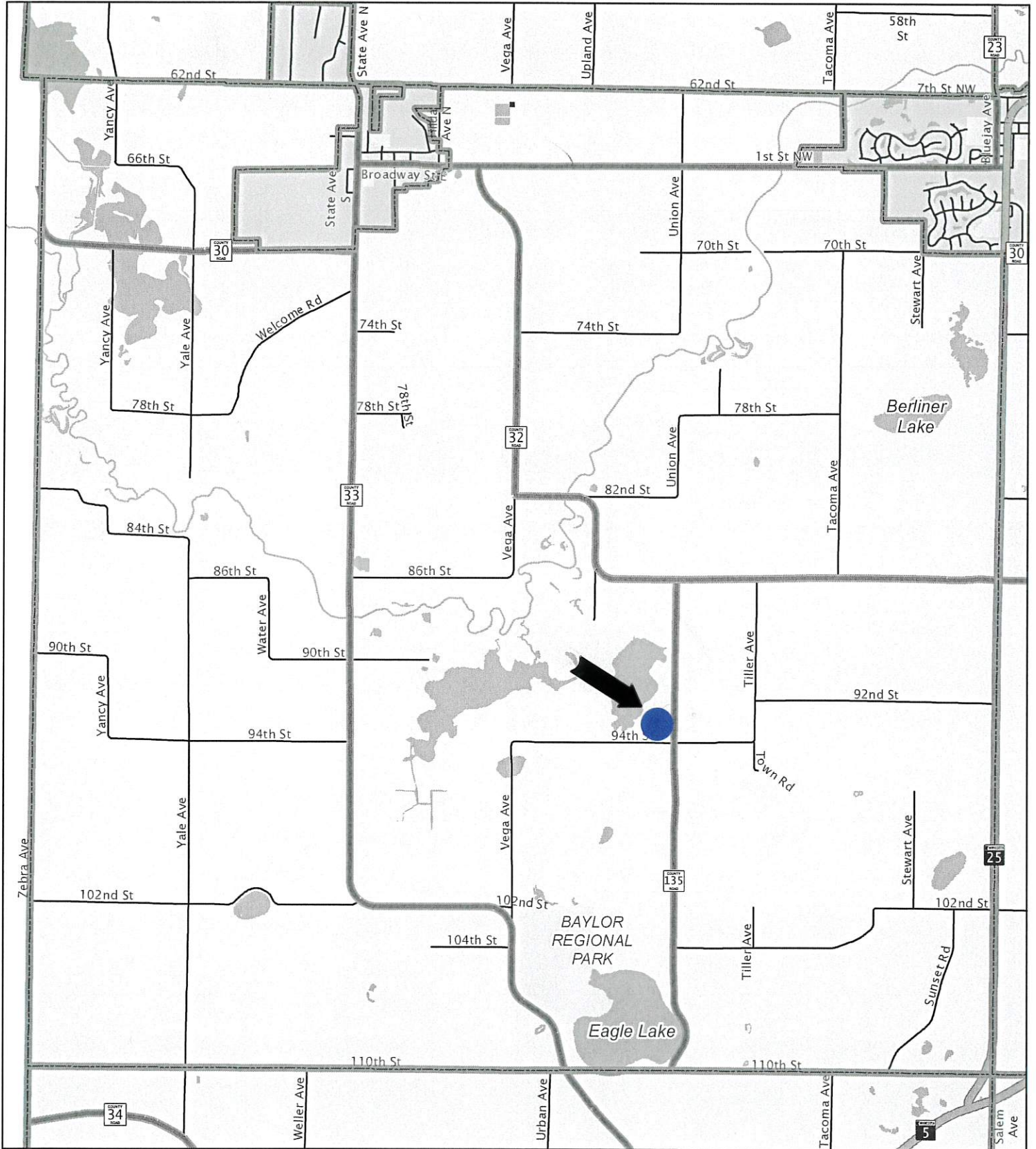
1. The permit is subject to administrative review. The proposed structure shall be used only by the occupant(s) of the residence for personal storage, hobbies, recreation, entertainment, family uses, private maintenance and repair activities, and as otherwise regulated by this Ordinance. Guest quarters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

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.

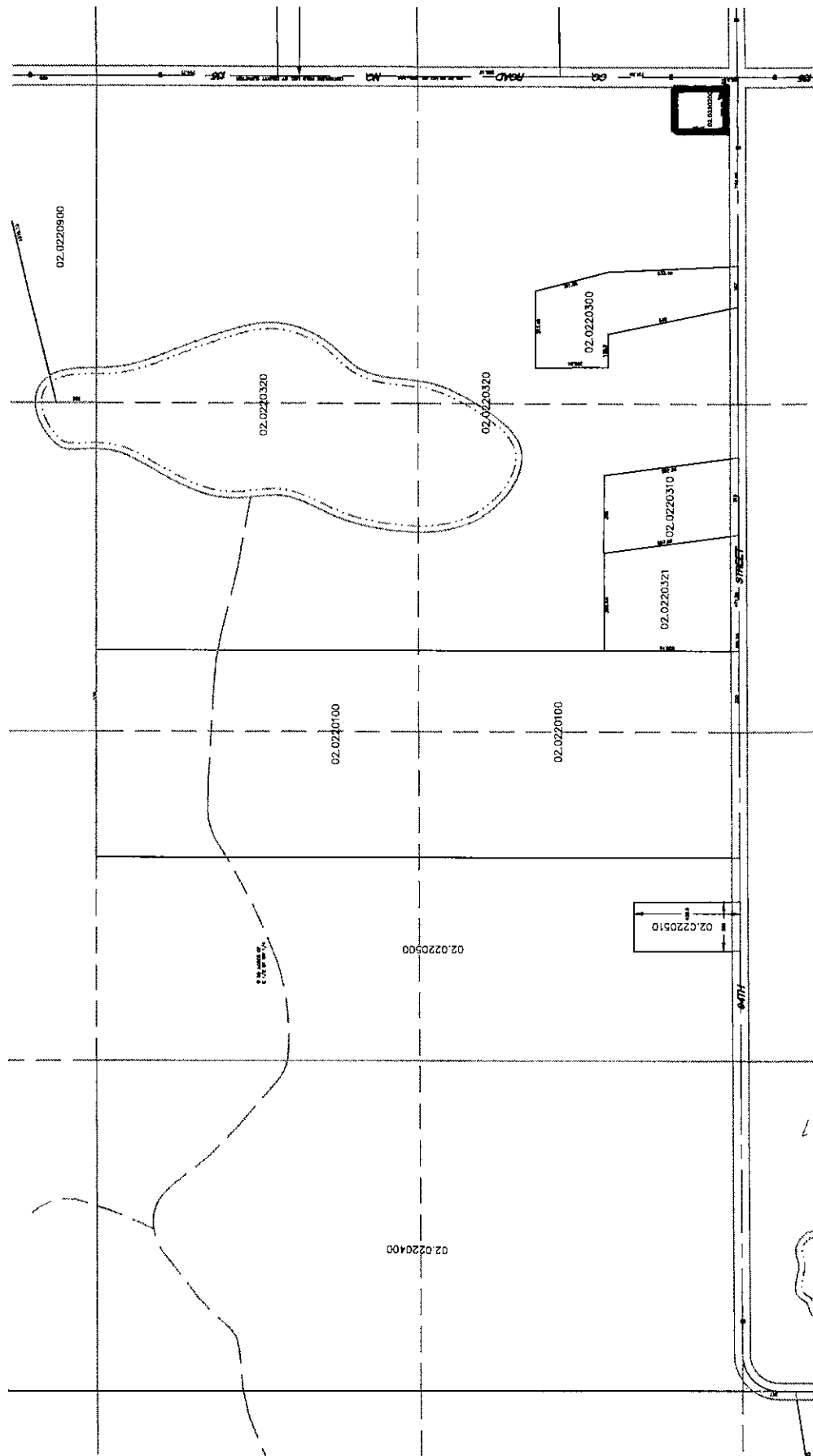
CAMDEN TOWNSHIP



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.



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



Surveying & Mapping Office
Carver County Gov. Center
 1600 East Fourth Street
 Chaska, MN 55318

To the Members of the
Carver County Board of Adjustment

9-3-2024

I purchased the property at 9360 Co. Rd. 135, Young America in Camden Township in 2012 with the intent to be near my aging parents + the family farm. I am in the process of moving a house onto this property and would like to construct a 32'W X 64' L X 16' H post frame shed to house our personal vehicles, yard maintenance equipment and semi tractor, all personally owned. This shed will be for personal use and not commercial use. My wife + I will occupy the house.

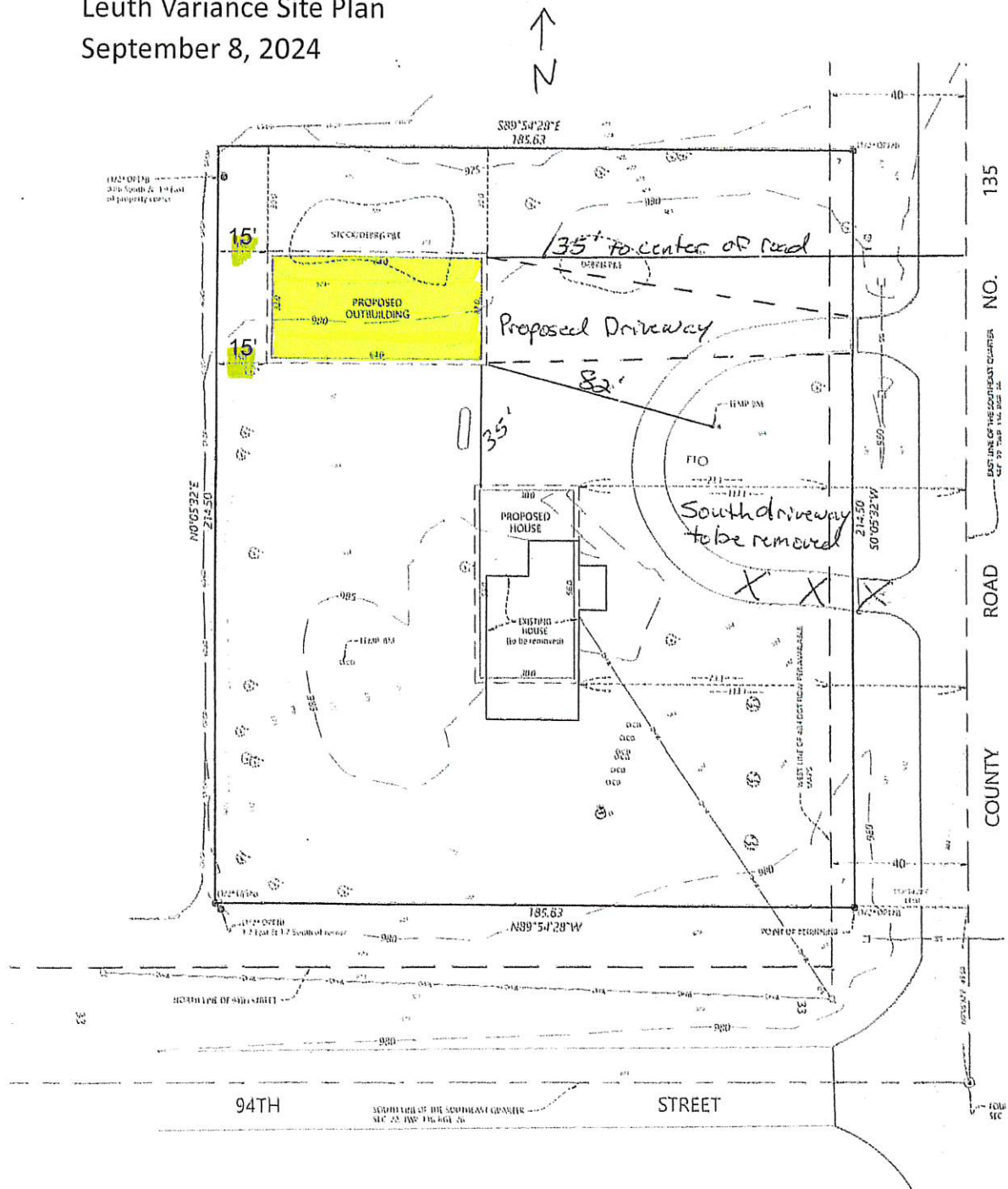
I am requesting a variance for the following reasons.

- 1) The shed will be 2048 SF which is larger than the 1250 SF that the lot size allows, which would be a variance of 798 square feet. I have talked to my neighbor about purchasing more land to increase the allowed square footage, but they are not interested at this time.
- 2) The shed will have 16' side walls, which exceeds the 12' limit, to accommodate the height of my semi truck, and will be approximately 22' at the peak.
- 3) I am requesting a 15' setback from the west property line ~~to~~ instead of the 30' setback allowed so that when I have a truck + trailer at home overnight there is more room between the front of the shed and C.R. 135 allowing better visibility as vehicles approach the intersection.

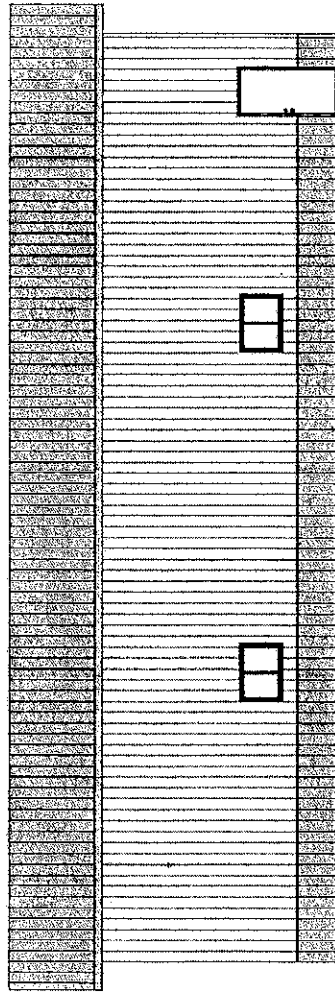
Thank you for considering this request

Respectfully,
Michael Fureth

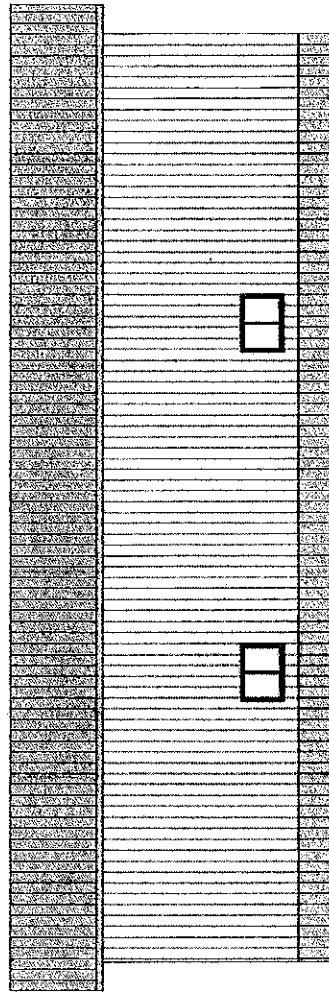
Leuth Variance Site Plan
September 8, 2024



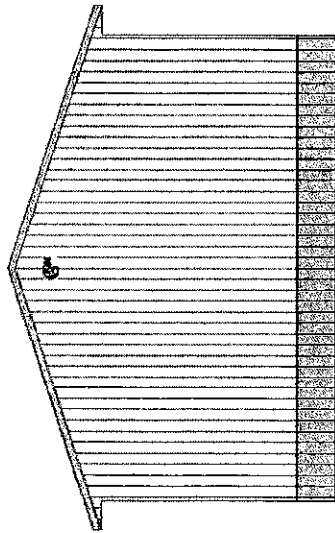
DRAWN BY: JESSICA B. DATE: 11/2/2024 SHEET 1 OF 2	PROJECT NAME: MIKE LUETH PROJECT NUMBER: (24-) BUILDING DESCRIPTION: 32'-0" X 64'-0" X 16'-0" DESIGN NUMBER: P24506		 RAM BUILDINGS INC. 303-465-7814 FAX: 303-435-3415 www.rambuildings.com 10100 W. 10th Avenue, Suite 100, Denver, CO 80202
	PROJECT NUMBER: (24-) BUILDING DESCRIPTION: 32'-0" X 64'-0" X 16'-0" DESIGN NUMBER: P24506		



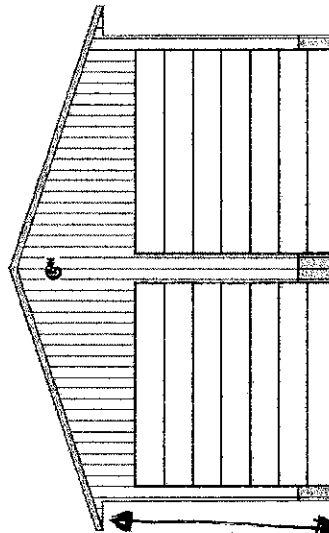
SIDEWALL 1



SIDEWALL 2



ENDWALL 1

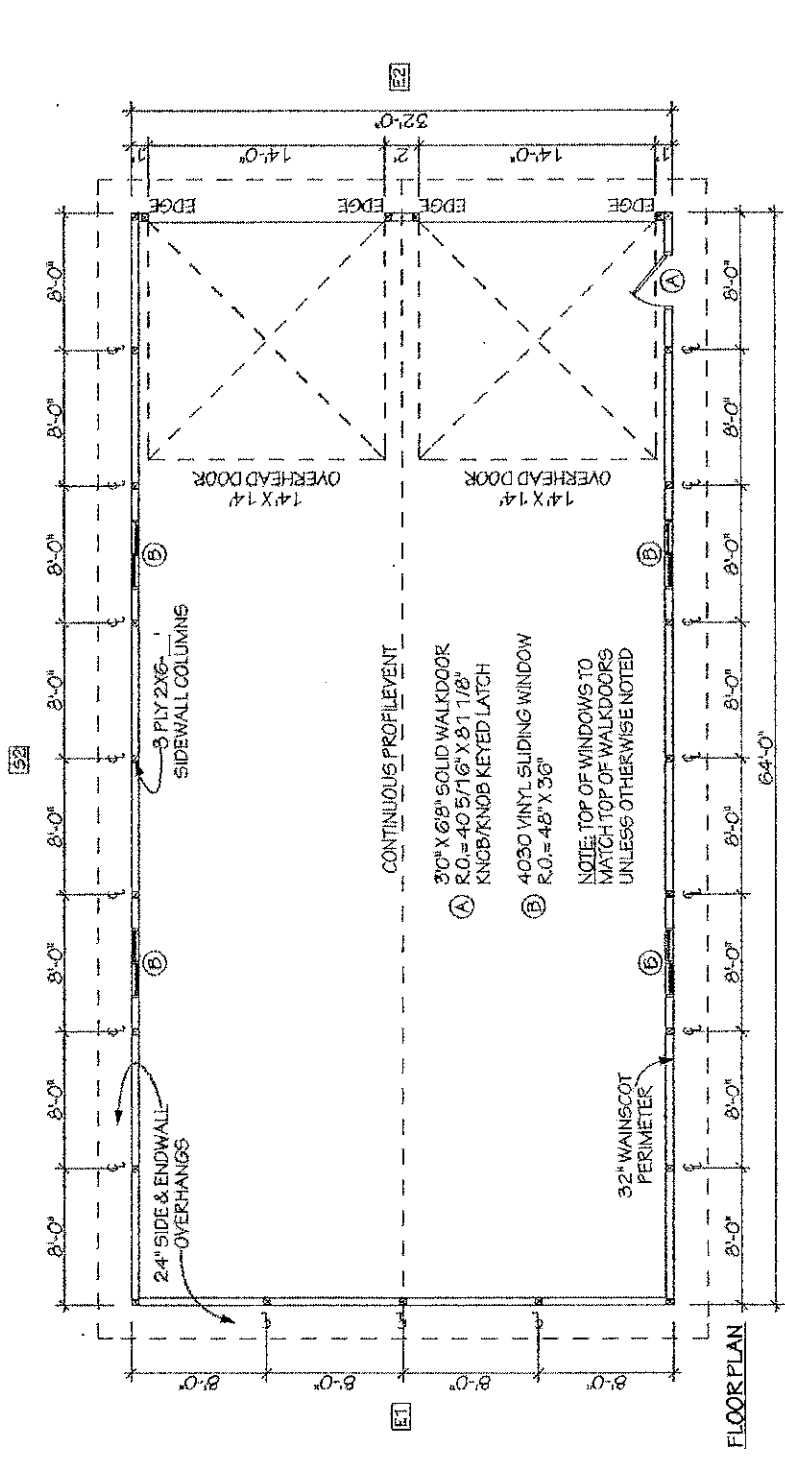


ENDWALL 2

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CUSTOMER SIGNATURE _____
 DATE _____
 BY SIGNING THIS DRAWING YOU ARE AGREEING TO THE LAYOUT AND DESIGN OF YOUR NEW RAM BUILDING.

DRAWN BY: JEREMY B. DATE: 7/2/2024 SHEET: 2 OF 2	PROJECT NAME: _____ PROJECT NUMBER (24-): _____ BUILDING DESCRIPTION: _____ DESIGN NUMBER: 24508		 320-455-0814 1700 1st Ave. S. Grand Rapids, MI 49503 2024-2025 Building Year
	MIKE LUETH 32'-0" X 64'-0" X 16'-0"		





Township Presentation & Recommendation Form

PARCEL # <u>020220200</u>	Permit # <u>PZ 20240038</u>	
Owner's Name: <u>Michael H. Lueth</u>	Owner's Mailing Address: <u>9540 County Road 135</u>	
City: <u>Norwood Young America</u>	Owner State: <u>Minnesota</u>	Owner Zip: <u>55397</u>
Applicant (if other than owner): <u></u>	Site Address: <u>9360 County Road 135, NYA, Mn. 55397</u>	

Type of Request: ☐ CUP ☐ IUP ☐ Preliminary Plat ☐ Final Plat ☒ Variance ☐ Appeal
Description of Request: <u>Variance to build 32x64x16 shed</u> <u>See attached letter</u>
Date of County Public Hearing: <u>10-2-2024</u> Date of Township Meeting: <u>9-12-2024</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:

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

<u>Michael H. Lueth</u> Signature of Applicant	Date <u>9-3-2024</u>
<u>William Devine</u> Signature of Township Official	Date <u>9-12-24</u>



**Carver County
Public Works**

11360 Highway 212, Suite 1
Cologne, MN55322

September 18, 2024

Christina Neel

Delivered via email: cneel@carvercountymn.gov

Re: 9360 CR 135 Variance Request

Thank you for the opportunity to review Michael Lueth's variance request for 9360 County Road (CR) 135 located in Norwood Young America.

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 County has no further comments and approves the requested variance application.

If you have any questions or need further assistance, please contact the staff noted below:

Whitney Schroeder, PE PTOE
Traffic Engineer
Carver County Public Works
952.254.6818

wschroeder@carvercountymn.gov

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 02-022-0200

File# PZ20240038

APPLICANTS/OWNERS: Michael H Lueth & Linda K Lueth

* * * * *

That part of the Southeast Quarter of Section 22, Township 116 North, Range 26 West, Carver County, Minnesota, described as follows:

Commencing at the Southeast corner of Section 22, Township 116 North, Range 26 West, thence North 01 degree 23 minutes 01 seconds East along the East line of Section 22, a distance of 49.5 feet to a point; thence North 88 degrees 36 minutes 59 seconds West, a distance of 33 feet to the actual point of beginning of the tract to be described; thence continuing North 88 degrees 36 minutes 59 seconds West, a distance of 185.625 feet; thence North 01 degree 23 minutes 01 seconds East, a distance of 214.50 feet; thence South 88 degrees 36 minutes 59 seconds East, a distance of 185.625 feet; thence South 01 degree 23 minutes 01 seconds West, a distance of 214.50 feet to the point of beginning.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

September 19, 2024

TO: Carver County Board of Adjustment & Watertown Town Board

FROM: The Land Management Department

SUBJECT: Changes to Non-Conforming Parcels, Reasonable Use

FILE #: PZ20240040

APPLICANTS: Todd & Jennifer Hoerter

PROPERTY OWNERS: Todd Hoerter & Jennifer Wolbeck and Carver County

SITE ADDRESS: 5815 Co Rd 23, Mayer 55360; unaddressed

VARIANCE TYPE: Change of Legal Non-Conforming Lots, Reasonable Use

PURSUANT TO: County Code Sections 152.009 (M) & 152.033 (B)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCELS #: 10-031-1100 & 10-031-1000

BACKGROUND:

1. Todd & Jennifer Hoerter reside at and own an approximate .46-acre parcel. Carver County owns an approximate 4.38-acre adjacent parcel. Both parcels are located in Northwest Quarter (NW¼) of the Southwest Quarter (SW¼) of Section 31, Watertown Township. The Hoerter property is improved with a single-family dwelling. The County-owned property consists of woods and wetlands, with an overwhelming portion of the property in the Crow River Floodplain Overlay District. The properties are located within the Agricultural Zoning District and the Carver County Water Management Organization (CCWMO) - Crow River watershed.
2. The applicants are requesting a variance that would allow for additional land to be added to their small 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. The County-owned parcel, also legal non-conforming, would decrease in size; however, the proposed lot line adjustment would not create two conforming lots. The proposed parcel re-configuration 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.

LEGAL BACKGROUND:

§ 152.009 NON-CONFORMING USES AND STRUCTURES.

(M) A residential parcel of land with existing structures on the effective date of this chapter because of its dimensions or because it does not have sufficient road frontage is considered a legal lot. The lot may be expanded provided a variance is approved, and the new lot meets all chapter criteria except the minimum road frontage standard.
(Ord. 47, passed 7-23-02; Am. Ord. 70-2010, passed 1-25-11; Am. Ord. 88-2018, passed 11-20-18)

§ 152.033 LOT REQUIREMENTS.

(B) Reasonable use. All new lots created must have a reasonable use as defined by this chapter. If there is no reasonable use, the lot shall not be created.

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.

(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.

(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. The applicant is proposing the reconfiguration of existing legal nonconforming parcels with limited size and lacking reasonable use. The residential property (5815 County Road 23) does not have conforming lot area. The vacant County-owned parcel does not have a reasonable use. 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.
2. The vacant legal non-conforming parcel, 10-031-1000, is located almost entirely in the Crow River floodplain and contains wetlands and forested lands. Staff generated an exhibit, dated September 13, 2024, which illustrates the extent of the floodplain on this parcel. It was a tax-forfeited property whose ownership was conveyed by the State to the County. It is largely unbuildable without substantial floodplain fill activity. 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 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.

3. Current CCWMO rules allow developers to meet rule standards through alternative compliance options, one of which is to pay an in-lieu fee to the CCWMO. The CCWMO can use this fee to construct stormwater practices or create stormwater credit banks. This parcel could create such a bank through the establishment of upland preservation credits by a permanent conservation easement. Using fee-in-lieu funds collected from a City of Mayer development, Carver County purchased the vacant parcel in September 2022. The neighbor adjacent to this parcel has expressed interest in purchasing all or a portion of the tax forfeiture parcel. In discussions with the landowners, they have indicated their primary interest is in the non-floodplain area (approx. 0.67 acres) abutting their property.
4. On August 20, 2024, the Carver County Board adopted Resolution #74-24 (attached) which authorized the sale of the upland portion of the property to the adjacent landowners. The resolution referenced the authority granted to the County to “sell real property it owns that cannot be improved because of its noncompliance with local ordinances, to adjacent landowners without advertising for bids and further encourages the sale of nonconforming real property to promote its return to tax rolls.” The proposed residential lot expansion is shown in the exhibit titled “Potential Lot Split Boundary” (dated March 15, 2023). The proposed residential lot would be about 1.13 acres in size.
5. The applicant has submitted a narrative, dated September 6, 2024, that describes the proposal to purchase additional land from the County for their residential lot. The narrative acknowledges that the resulting parcel size would still be non-conforming. However, the size *“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.”*
6. The application materials were reviewed by Jacob McLain, Senior Environmentalist for Carver County, who wrote in an email dated September 11, 2024: *“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.”*
7. Tim Sundby, Water Resources Supervisor with Carver County Planning and Water Department, reported in an email (dated September 11, 2024) that the proposed lot line adjustment will not require a permit from his department.
8. The plight of the landowner is due to circumstances unique to the property, not created by the current landowner. The Hoerters purchased the property in 2000, long after the lots were created. The County-owned parcel’s boundary lines have been largely the same since 1974.
9. The applicant is proposing to use the property in a reasonable manner, not permitted by an official control. The official control in this matter is to ensure adequate lot size for property improvements and an alternative septic site.
10. The granting of the variance does not appear to conflict with the intent of the Comprehensive Plan and/or County Code. The neighborhood is comprised of residences, some agricultural production land, wooded upland, and floodplain. The request would not cause a substantial change in the character of the neighborhood, nor would it have a negative impact on government services.
11. The granting of the variance will not materially or adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and 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.
12. The Watertown Town Board has reviewed and recommended approval of the request during their September 3, 2024, Town Board meeting without the addition of further conditions or comments.

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance to allow for the re-configuration of two existing legal nonconforming properties would serve in the interest of justice, the following condition should be attached to the approved variance:

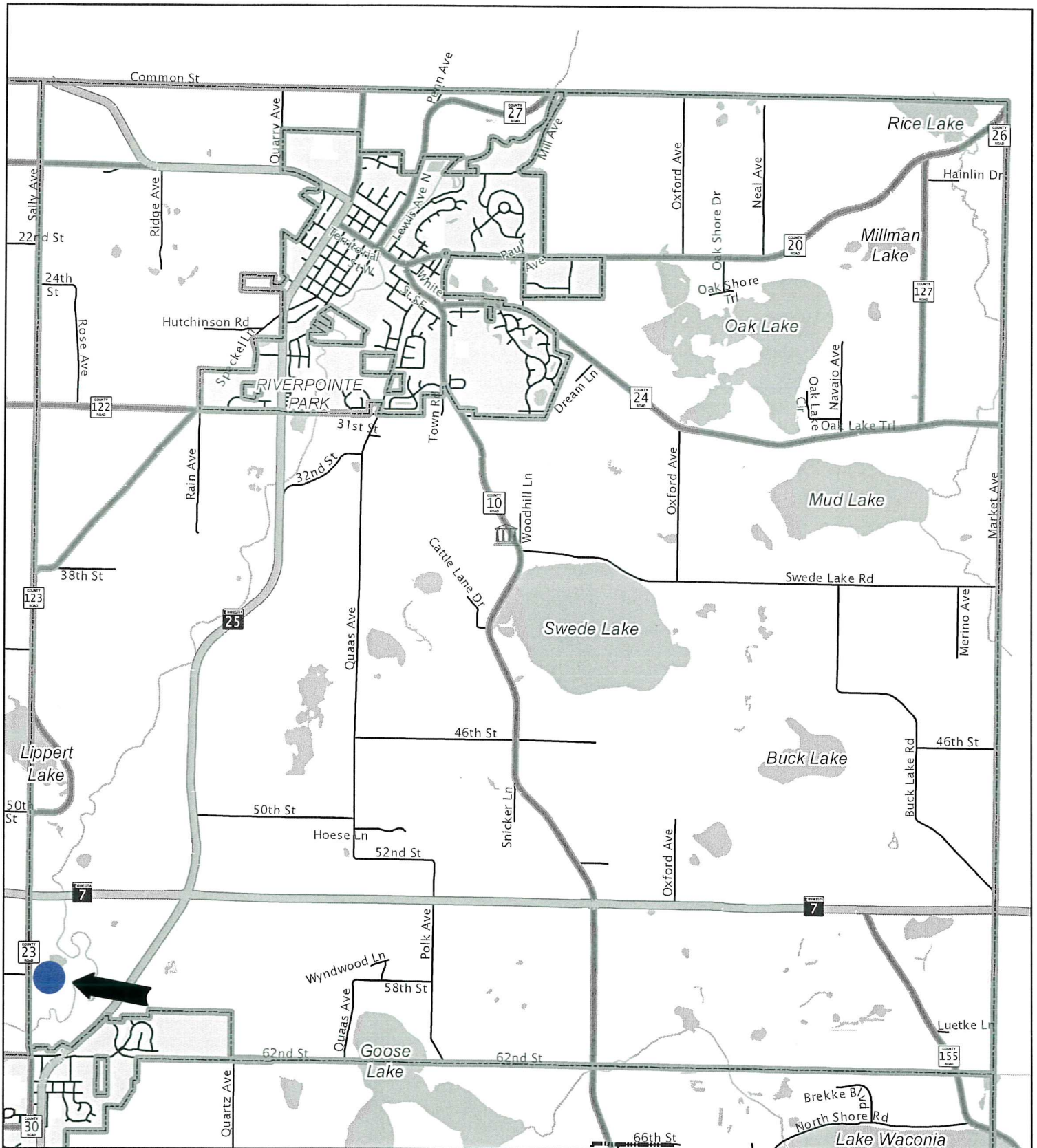
1. A Minor Subdivision application and Combination Form shall be submitted and approved prior to the recording of any deeds. The parcel shall be subdivided and combined in accordance with the County Zoning Code and County Recorder's Office requirements including by not limited to, a completed minor subdivision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

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

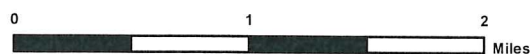
OR

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

WATERTOWN TOWNSHIP

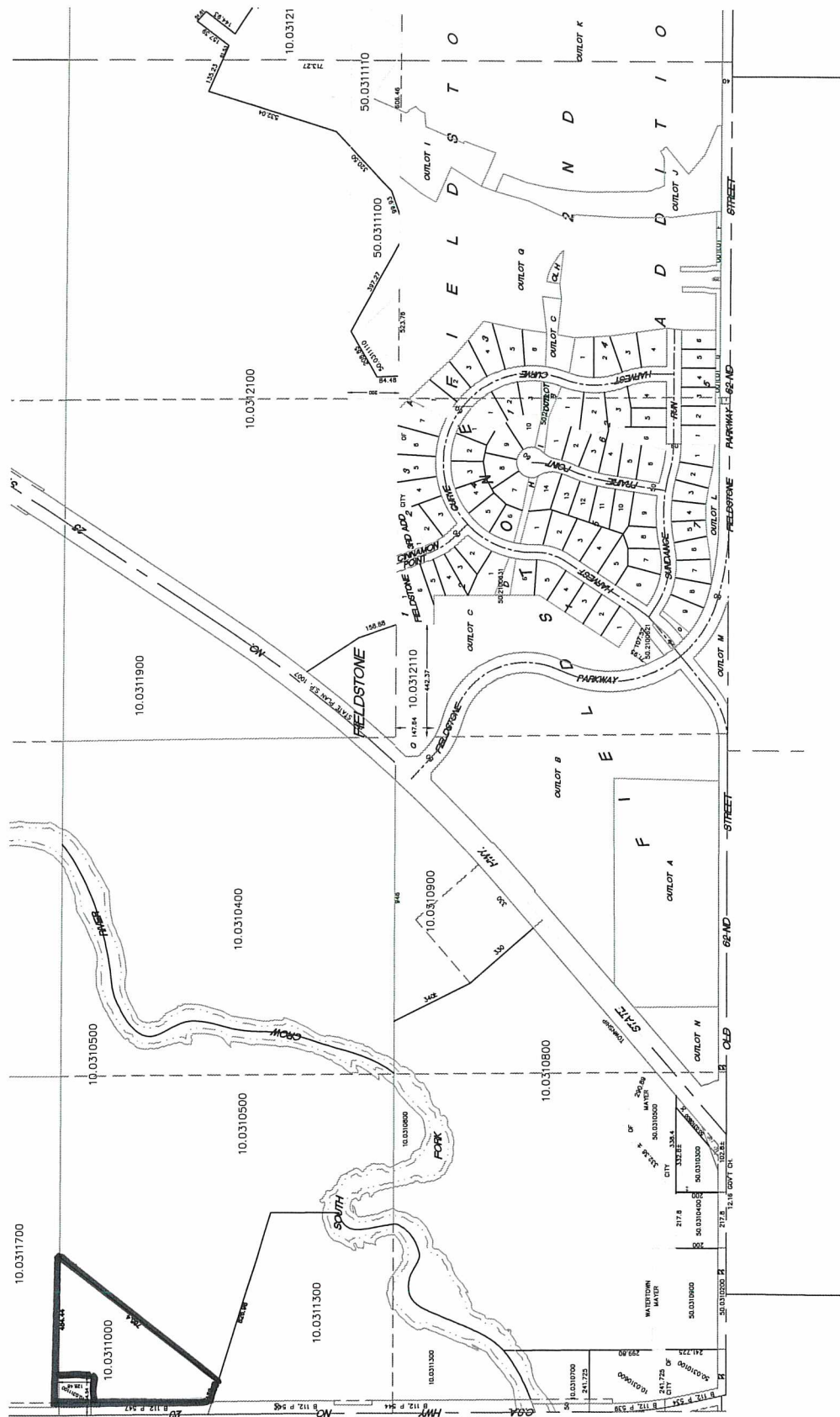


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S 1/2 SEC. 31, T.117, R.25

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FROM THE PUBLIC RECORDS OF THE
COUNTY OF CARVER, MINNESOTA, AND
OTHER SOURCES. THIS MAP IS FOR
INFORMATIONAL PURPOSES ONLY. THE
COUNTY AND ITS AGENTS
MAKES NO WARRANTY AS TO THE
ACCURACY OF THE INFORMATION
CONTAINED HEREIN.



Board of Adjustments,

We desire and would like to purchase an additional piece of property, 0.67 acre as shown in the attached Exhibit A and add to our existing half acre of land due to our existing land being small in size. Our parcel is already not in compliance with the 1.5 acre minimum and thus this will not get us there. However, it will get us closer to satisfying the non-conforming land requirement. This 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.

Parcel # 100311100 / 100311000 Acres: .46 / 4.38

Thank you,

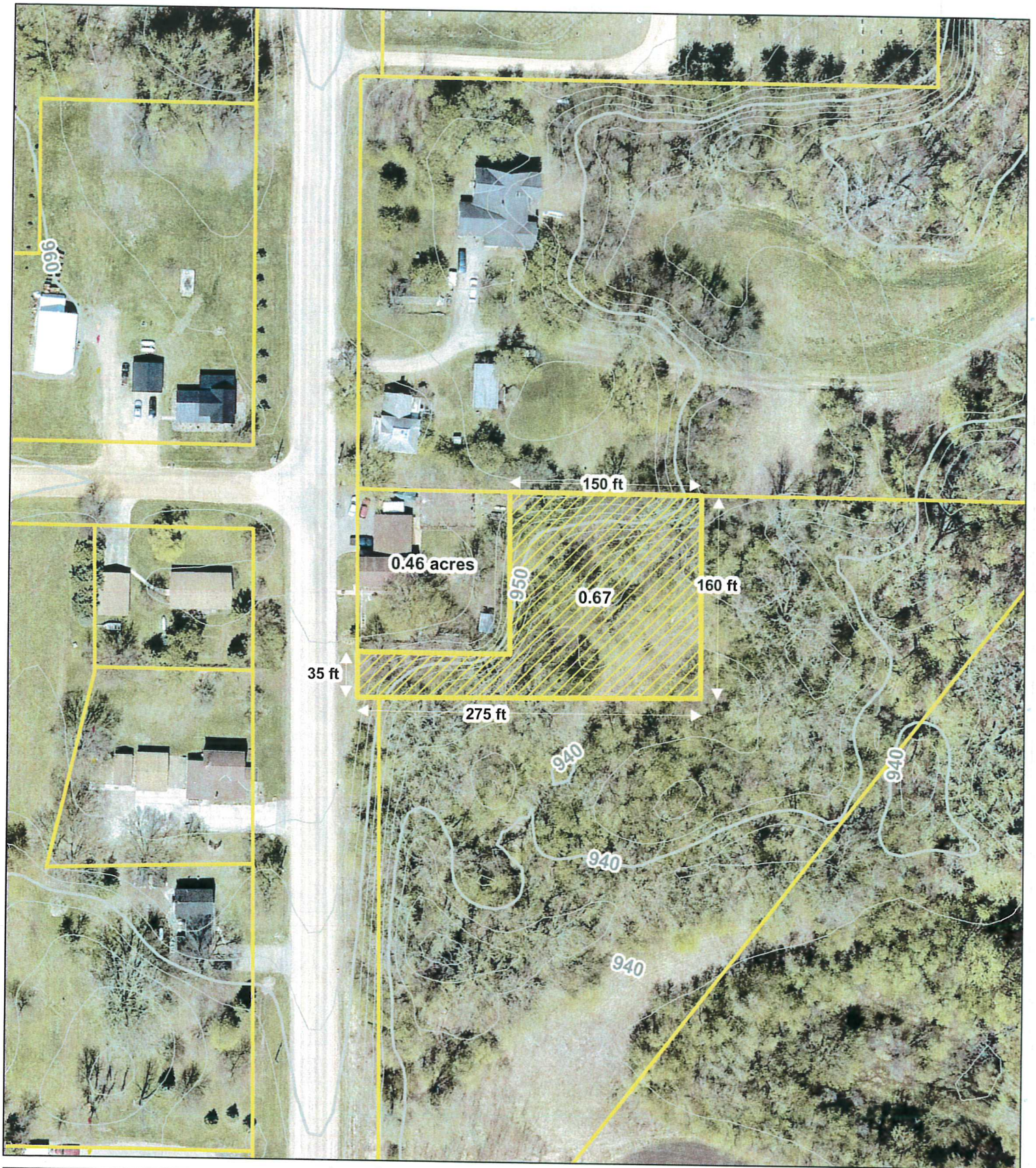
Todd & Jennifer Hoerter

612-860-2446/612-998-9241

5815 County Road 23

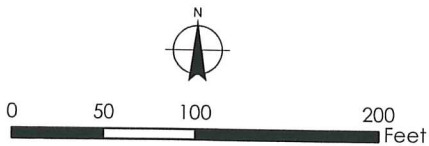
Mayer, MN 55360

September 6, 2024



Legend

-  Lot split boundary
-  Parcels - General Use
-  2 Ft Intervals
-  10 Ft Intervals



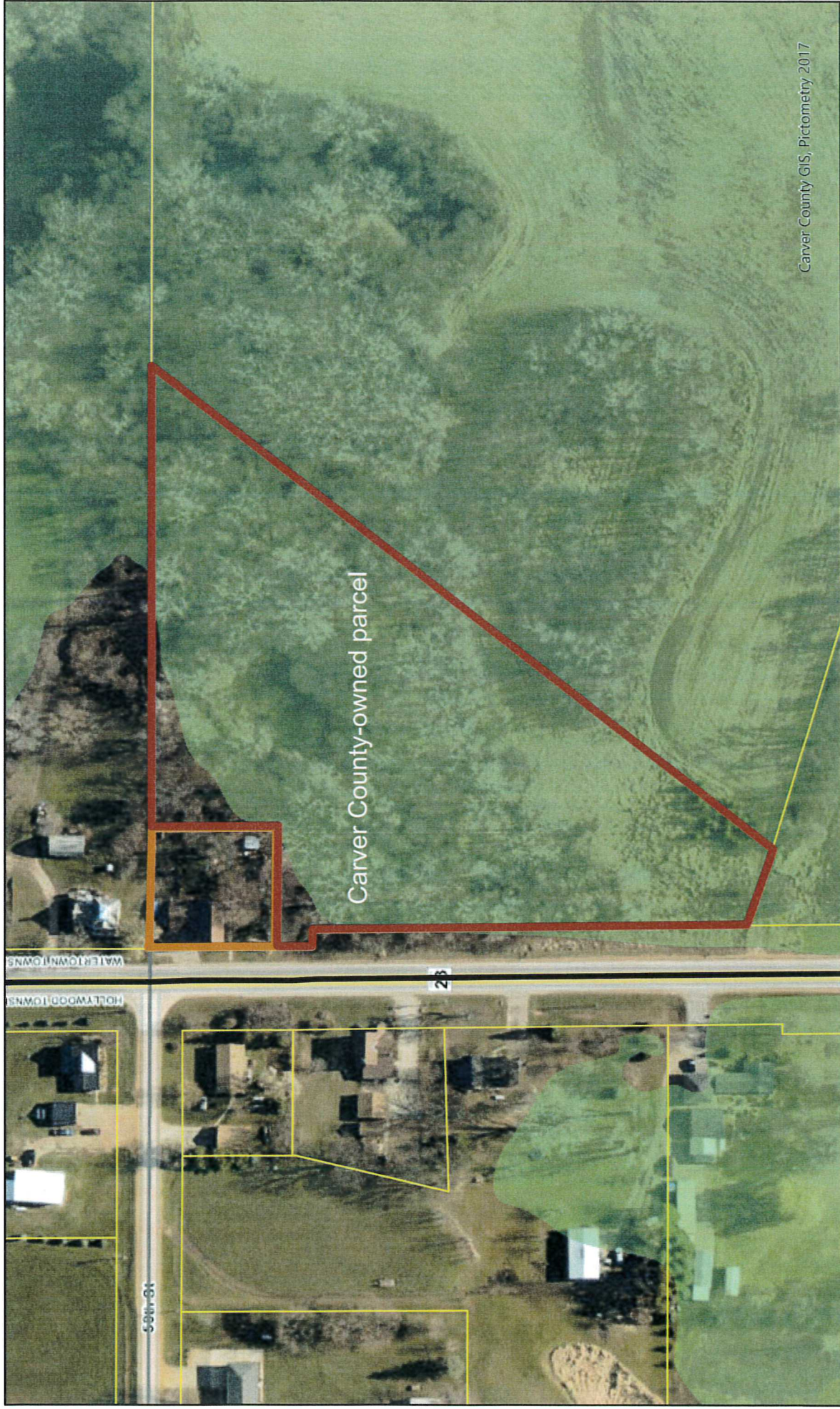
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Potential Lot Split Boundary Mayer Floodplain Site

Map Date: 5/15/2018

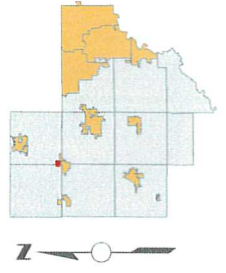
4-8

EXISTING CONDITIONS, WITH EXTENT OF FLOODPLAIN



Date: 9/13/2024

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.





Township Presentation & Recommendation Form

PARCEL # <u>100311000(100311000)</u>	Permit # <u>PZ20240040</u>
Owner's Name: <u>Carver County</u>	Owner's Mailing Address:
City: <u>Mayer</u>	Owner State: <u>Minnesota</u>
	Owner Zip: <u>55360</u>
Applicant (if other than owner): <u>Todd/Jennifer Hoerter</u>	Site Address:

Type of Request: ☐ CUP ☐ IUP ☐ Preliminary Plat ☐ Final Plat ☒ Variance ☐ Appeal	
Description of Request: <u>See attached potential lot split boundary. This has also went through and approved by the County Board per Paul Moine Submitted paperwork See exhibit A</u>	
Date of County Public Hearing: <u>10-2-2024</u>	Date of Township Meeting: <u>9-3-2024</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:

****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]

Signature of Applicant

[Signature]

Signature of Township Official

Date 9/3/2024

Date 9-3-24

4-10

BOARD OF COUNTY COMMISSIONERS CARVER COUNTY, MINNESOTA

Date: August 20, 2024
Motion by Commissioner: Lynch

Resolution No: 74-24
Seconded by Commissioner: Fahey

Resolution Approving Lot Split of County Owned Property and Sale of Lot to Adjacent Landowner

WHEREAS, on August 16, 2022, the Carver County Board of Commissioners (“County Board”) approved the County’s purchase of an approximately 4.25-acre parcel of tax-forfeited vacant land in Watertown Township, identified by Tax PID Number 10.0311000, from the State of Minnesota pursuant to Chapter 282; and

WHEREAS, said parcel was conveyed to Carver County on September 7, 2022, per the Conveyance of Forfeited Land instrument, which was recorded in the Recorder’s Office as Document Number A751661 (“County parcel”); and

WHEREAS, the predominance of the Crow River floodplain on the County parcel renders most of the parcel unbuildable and the parcel is therefore designated as a legal non-conforming parcel; and

WHEREAS, Minnesota Statute §373.01 allows the County to sell real property it owns that cannot be improved because of its noncompliance with local ordinances, to adjacent landowners without advertising for bids and further encourages the sale of nonconforming real property to promote its return to tax rolls; and

WHEREAS, pursuant to County deed recording requirements, limiting ability to combine parcels in different taxing districts, only two adjacent landowners are eligible to combine a portion of the County parcel with their parcel; and

WHEREAS, County staff sent inquiries to each of those two adjacent landowners regarding their interest in purchasing an estimated 0.67 acre portion of the County parcel; and

WHEREAAS, only one adjacent landowner, Todd W. Hoerter, the owner of an improved 0.46-acre parcel of land identified by Tax PID Number 100311100, (“Hoerter Parcel”), expressed an interest in purchasing the estimated 0.67 acre portion of the County parcel; and

WHEREAS, since Hoerter’s parcel also is legal non-conforming, Hoerter is required to obtain a variance from the Carver County Board of Adjustment to acquire and combine the County parcel with the Hoerter parcel; and

WHEREAS, the Carver County Assessor’s Office estimated the fair market value of the estimated 0.67 acre portion of the County parcel to be \$3,500 in April 2024 (“FMV”); and

WHEREAS, County staff recommend that the County Board approve a lot split of the County parcel as listed, and described in Exhibit A, attached hereto, and incorporated herein, and sell the lot of the County

parcel to Hoerter upon satisfaction of the following conditions: 1) Hoerter obtains a survey for the proposed combined lot; 2) Obtains a legal description for the proposed combined lot; 3) Obtains a variance from the Carver County Board of Adjustment to acquire the portion/lot of the County parcel from Carver County; and 4) Obtains approval for a minor subdivision to combine the portion/lot of County parcel with Hoerter Parcel following its purchase.

NOW, THEREFORE BE IT RESOLVED, the Carver County Board of Commissioners approves a lot split of the County parcel as listed and described in Exhibit A; and

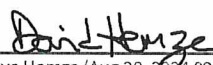
BE IT FURTHER RESOLVED that the Carver County Board of Commissioners approves the sale of the estimated 0.67 acre portion/ lot of the County parcel, as listed and described in Exhibit A, for its FMV to Hoerter, pending later approval of the County Board by Resolution of a purchase agreement; conditioned upon Hoerter's receipt of the required variances from the Carver County Board of Adjustment; and conditioned upon County staff providing all adjacent landowners of the land to be sold with written notice at least 30 days before the sale, as required by Minn. Stat. § 373.01.

YES	ABSENT	NO
DEGLER	_____	_____
FAHEY	_____	_____
LYNCH	_____	_____
UDERMANN	_____	_____
WORKMAN	_____	_____

STATE OF MINNESOTA
COUNTY OF CARVER

I, Dave Hemze, duly appointed and qualified County Administrator of the County of Carver, State of Minnesota, do hereby certify that I have compared the foregoing copy of this resolution with the original minutes of the proceedings of the Board of County Commissioners, Carver County, Minnesota, at its session held on August 20, 2024, now on file in the Administration office, and have found the same to be a true and correct copy thereof.

Dated this 20th day of August 2024


 Dave Hemze (Aug 20, 2024 09:49 CDT)

Dave Hemze

County Administrator

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 10-031-1100

File# PZ20240040

10-031-1000

APPLICANTS: Todd W Hoerter & Jennifer M Wolbeck

**OWNERS: Todd W Hoerter & Jennifer M Wolbeck (10-031-1100)
County of Carver (10-031-1000)**

* * * * *

10-031-1100

The North 128.48 feet of the West 154.54 feet of the Northwest Quarter of the Southwest Quarter of Section 31, Township 117, Range 25, located in Carver County, Minnesota.

10-031-1000

Part of the Northwest Quarter of the Southwest Quarter, Section 31, Township 117, Range 25, Commencing at a post on the West line of Section 31, Township 117, Range 25, at a distance of 1 chain 64.37 links south of the Quarter Section post on West line of said Section 31; thence East 2.06 chains to a post; thence North 1 chain 64.37 links to a post on the North line of the Southwest Quarter of said Section; thence East along said North line 7.34 chains to a post; thence South 49 degrees West 11.90 chains to a post in the center of the Helvetia Road; thence North 70 degrees West 2.0 chains to a post in the West line of said Section; thence North along Section line 7 chains 32.13 links to the place of beginning. Situated in the Northwest Quarter of the Southwest Quarter Section 31, Township 117, Range 25, and containing 4.5 acres, more or less.

EXCEPT the North 128.48 feet of the West 154.54 feet of the Northwest Quarter of the Southwest Quarter of Section 31, Township 117, Range 25, and ALSO EXCEPT Section 31, Township 117, Range 25, .34 acres commencing at the Northwest corner of the Northwest Quarter of the Southwest Quarter, then South 108.48 feet, then East 135.96 feet, then North 108.48 feet, then West 135.96 feet to beginning.