

CARVER COUNTY BOARD OF ADJUSTMENT

Regular Meeting – **May 7, 2025, 7:00 PM**

Commissioners' Meeting Room
2nd Floor Human Services Bldg
Government Center – Chaska, Mn

AGENDA

1. Convene

- 1.1. Call to Order
- 1.2. Pledge of allegiance
- 1.3. Attendance
- 1.4. Agenda review and adoption
- 1.5. Approve Minutes from April 2, 2025.....**2-4**

2. Agenda

- 2.1. File #PZ20250009 - Public hearing request by Roy Widmer
for a variance.
(Reduced Setback to Lot Line for Feedlot Expansion)
Benton Township.....**5-14**
- 2.2. File #PZ20250011 - Public hearing request by Michael Hoverson
for a variance.
(Exceed Allowable Personal Storage Space)
San Francisco Township**15-24**
- 2.3. File #PZ20250014 - Public hearing request by James Sultany
for a variance.
(Reduced Rear Yard Setback)
San Francisco Township**25-39**
- 2.4. File #PZ20250015 - Public hearing request by Alexandra Akins
for a variance.
(Reduced Structure Setback from OWHL)
Watertown Township**40-52**

3. Other Business

4. Adjourn

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Environmental Services

April 24, 2025

TO: Carver County Board of Adjustment & Benton Town Board

FROM: The Environmental Services Department

SUBJECT: Application for a Variance (Reduced Setback to a Property Line for the Expansion of an Existing Animal Feedlot)

FILE #: PZ20250009

APPLICANT: Roy Widmer

OWNER: Roy D. Widmer and Laura A. Widmer Revocable Trust

SITE ADDRESS: 13955 138th St, Norwood Young America, MN 55368

VARIANCE TYPE: Reduced Setback to a Property Line for the Expansion of an Existing Animal Feedlot of 10 Animal Units or More

PURSUANT TO: Carver County Code Section 54.46 (D)(1)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 01-019-0700

BACKGROUND:

1. Roy and Laura Widmer own an approximately 80-acre parcel located in the West Half (W½) of the Southeast Quarter (SE¼) of Section 19, Benton Township. The property is improved with an existing farmstead consisting of numerous agricultural buildings and two residences. The parcel consists of crop production land and a small, wooded area surrounding the northwest of the building site. The property is located within the Agricultural Zoning District and the CCWMO (Bevens Creek Watershed).
2. The applicant is requesting a variance that would allow him to expand an existing animal feedlot of 10 animal units or more (cattle) by establishing an approximate 125' x 55' (6,875 square foot) earthen lot approximately 50 feet from the west property line. Chapter 54 of the County Code may allow modifications and/or expansions of existing animal feedlots, that are located within 200 feet of existing property lines, if they do not further encroach on the established setback (165 feet). Therefore, a variance for a reduced setback pursuant to Chapter 54 – Section 54.46 (D)(1) has been requested.

LEGAL BACKGROUND:

§ 54.04 DEFINITIONS.

EXISTING ANIMAL FEEDLOT. An animal feedlot that has registered with Carver County or the MPCA prior to July 7, 2003 and has been utilized for livestock production within the past five years.
(Ord. 49, passed 7-7-03; Am. Ord. 101-2022, passed 7-19-22)

§ 54.46 SETBACKS.

(D)(1) The modifications and/or expansions of existing animal feedlots, that are located within 200 feet of existing property lines, may be allowed if they do not further encroach on the established setback.
(Ord. 49, passed 7-7-03; Am. Ord. 101-2022, passed 7-19-22)

BOARD OF ADJUSTMENT

§ 152.210 CREATION.

The Board of Adjustment is hereby established and invested with the authority as is hereinafter provided and as provided by M.S. §§ 394.21 through 394.37, as they may be amended from time to time.
(Ord. 47, passed 7-23-02; Am. Ord. 97-2021, passed 7-20-21)

§ 152.215 VARIANCES.

(D) *Grounds for variance.* The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall be granted in accordance with M.S. Chapter 394, as it may be amended from time to time, in cases where the applicant establishes that there is a practical difficulty in the way of carrying out the strict letter of any official control.

(1) A variance shall only be permitted when the following can be found as fact:

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

(2) In addition, a variance may be granted when the applicant establishes a practical difficulty in complying with the official control. A practical difficulty is established when the following items are found as fact:

- (a) The property owner proposes to use the property in a reasonable manner not permitted by an official control.
- (b) The plight of the landowner is due to circumstances unique to the property, not created by the landowner.
- (c) The variance will not alter the essential character of the locality.
- (d) The practical difficulty includes more than economic considerations alone.

(F) *Other provisions related to variances.*

- (1) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.
- (2) Inadequate access to direct sunlight for solar energy systems is considered a practical difficulty.
- (3) Variances shall be granted for earth shelter construction as defined in MN State Statute section 216C.06, subdivision 14, when in harmony with the official controls.
- (4) The board of adjustment may impose conditions on the granting of any variance pursuant to subsection 152.216 (B).
- (5) Granting of the variance shall not have the effect of violating a state or federal rule or law.
- (6) *Floodplain standards.* A variance issued to property within the Floodplain Overlay District must meet the requirements set forth in §§ 152.143 through 152.156.
- (7) *Shoreland Overlay District.* A variance issued to property within the Shoreland Overlay District must meet the requirements set forth in §§ 152.108 and 152.135.
- (8) That the granting of the variance will not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.

(Ord. 47, passed 7-23-02; Am. Ord. 70-2010, passed 1-25-11; Am. Ord. 80-2015, passed 6-16-15; Am. Ord. 88-2018, passed 11-20-18; Am. Ord. 97-2021, passed 7-20-21)

STAFF ANALYSIS:

1. Roy Widmer, the applicant, and his brother, Gary Widmer, purchased the property in 1976 and established a feedlot operation, which was permitted for 389.80 animal units (cattle & swine) on May 16, 1991. Mr. Widmer increased the number of head on site to 460.5 animal units in 1999, and again expanded the herd size to 475.5 animal units in 2003. The producer maintained the same number of animals through successive registration updates until significantly reducing animal numbers and re-registering the feedlot for 260 animal units in 2024. As shown in the site plan (dated April 23, 2025) the feedlot operation consists of a 46' x 76' partial confinement barn (Barn 1), a 36' x 163' partial confinement barn (Barn 2), a 24' x 60' partial confinement barn (Barn 3), a 36' x 104' partial confinement barn (Barn 4), 3 discontinued total confinement barns with underground concrete liquid manure storage areas (Barns 5-7), 2 concrete lots (Lot 1 & Lot 2), and 3 earthen lots (Lots 3-5). The applicant would like to expand the existing operation by establishing a new earthen lot to accommodate his cattle.

2. The applicant's letter (dated March 28, 2025) describes a practical difficulty exists based on the need of additional outdoor space for livestock to feed, lie, and rest comfortably after concerns for animal welfare have occurred due to illness among the herd. In his letter, Mr. Widmer states, *"At the direction of our vet, we would like to implement a new feedlot extending within 50 feet of property lines. The vet has informed us we need more outdoor area for the animals to lay due to concerns of pneumonia."* In order to keep livestock healthy, it's essential for the cattle to spend more time outdoors. If the applicant is not allowed to expand his feedlot, it will be detrimental to the health of the animals and the farming operation.
3. The establishment of a new earthen lot in the proposed location is particularly suitable because of the presence of existing trees and vegetation, which will provide shade and grass for grazing. In addition, the proposed location is closest to the existing configuration (Barn 1 & Lot 1) while the remaining lots and barns are operating at capacity. Chapter 54 of the County Code may allow modifications and/or expansions of existing animal feedlots, that are located within 200 feet of existing property lines, if they do not further encroach on the established setback. The established setback from the west property line is 165 feet and the applicant would like to establish the lot within approximately 50 feet of the property line, reflecting a 115-foot variance.
4. A routine compliance inspection conducted by Environmental Services staff on June 3, 2024, determined the feedlot operation to be non-compliant with Minnesota Rules Chapter 7020.2225 subp. 5(A) (recordkeeping requirements) and Section 54.46 (D)(1) (setback requirements) of the County Code. During the inspection, staff discovered a new open lot was established approximately 105 feet from the west property line. Mr. Widmer returned to compliance with recordkeeping requirements on June 3, 2024, after submitting adequate manure application records. In addition, the applicant returned to compliance with property line setback requirements by vegetating the earthen lot, which was verified by staff on October 11, 2024.
5. Abigail Ernst, Water Resources Program Analyst, and Kristen Larson, Planner, with the Carver County Planning & Water Management Department, conducted a wetland review of the property on April 17, 2025, and did not identify any wetlands classified as Type III or greater (circular 39 wetland classification system) or a special protection area where setbacks would apply for a new feedlot.
6. The granting of the variance would not conflict with the intent of the Comprehensive Plan and/or County Ordinances and would not alter the character of the neighborhood, nor would government services be negatively impacted by the establishment of the feedlot.
7. The granting of the variance would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicants and would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
8. The Benton Town Board reviewed and recommended approval of the request at their February 13, 2025, Town Board meeting without any additional conditions.

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance for the reduced feedlot setback to a property line pursuant to Section 54.46 (D)(1) of the Carver County Feedlot Ordinance, would serve in the interest of justice, the following conditions should be considered and attached to the approved variance:

1. The permittee shall operate the facility in full compliance with MPCA Feedlot Rules.
2. The applicant must operate and maintain the short-term manure stockpile such that the manure is removed from the site and land applied in accordance with Minn. Rules 7020.2225, within one year of the date when the stockpile was initially established pursuant to Minn. Rules 7020.2125 (A). A vegetative cover must be established on the site for at least one full growing season prior to reuse as a short-term stockpiling site.

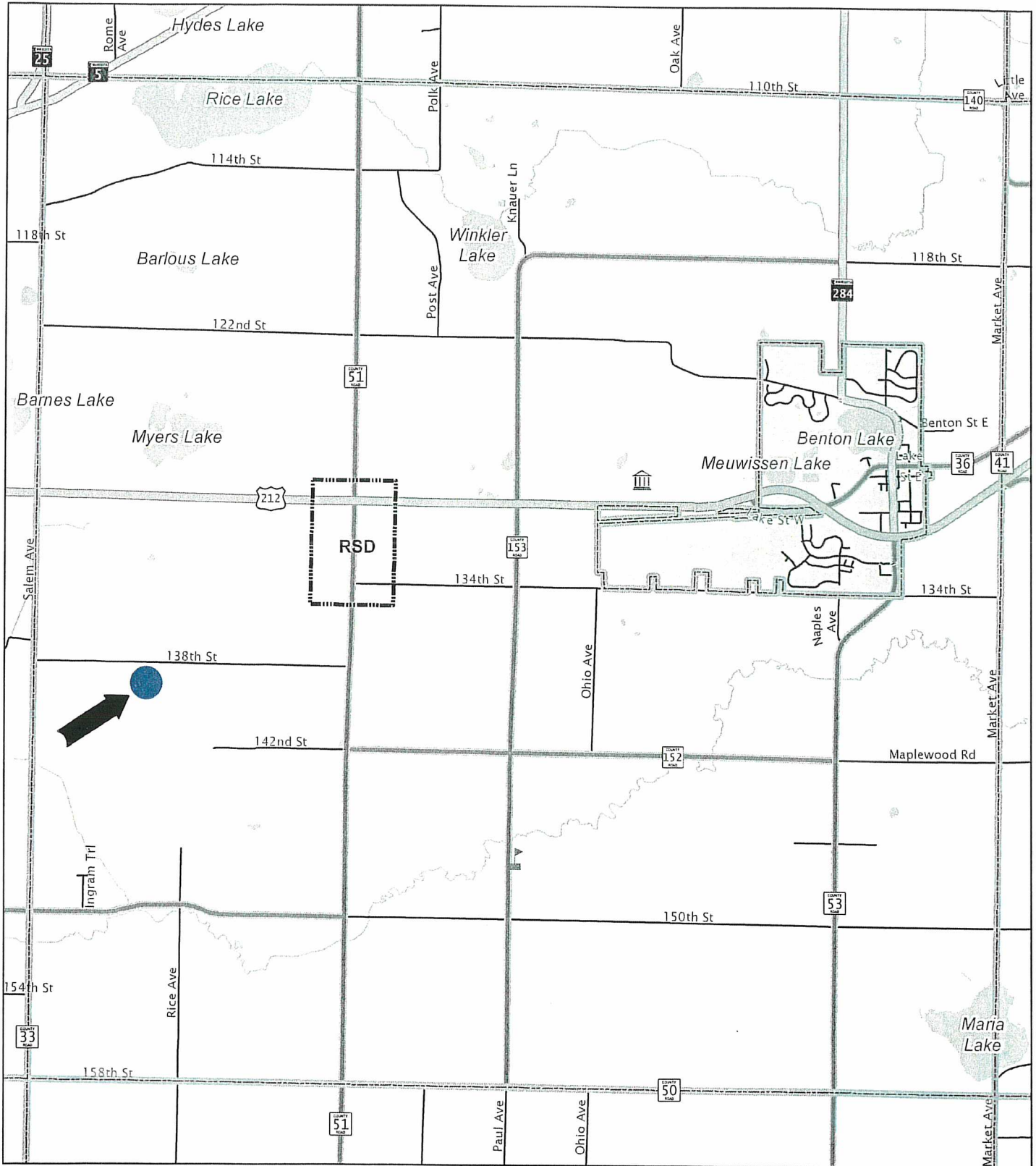
3. Pursuant to Minn. Rules 7020.2125 (C), the manure stockpile site must not be located within 300 feet of flow distance and at least 50 feet horizontal distance, to waters of the state, sinkholes, rock outcroppings, open tile intakes, and any uncultivated wetlands which are not seeded to annual farm crops or crop rotations involving perennial grasses or forages.
4. All feedlot activities shall be done in accordance with the submitted site plan(s). Expansion of the existing feedlot shall not encroach any closer to the west property line than as approved as part of this permit application. (Approx. 50 feet).

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.

BENTON TOWNSHIP



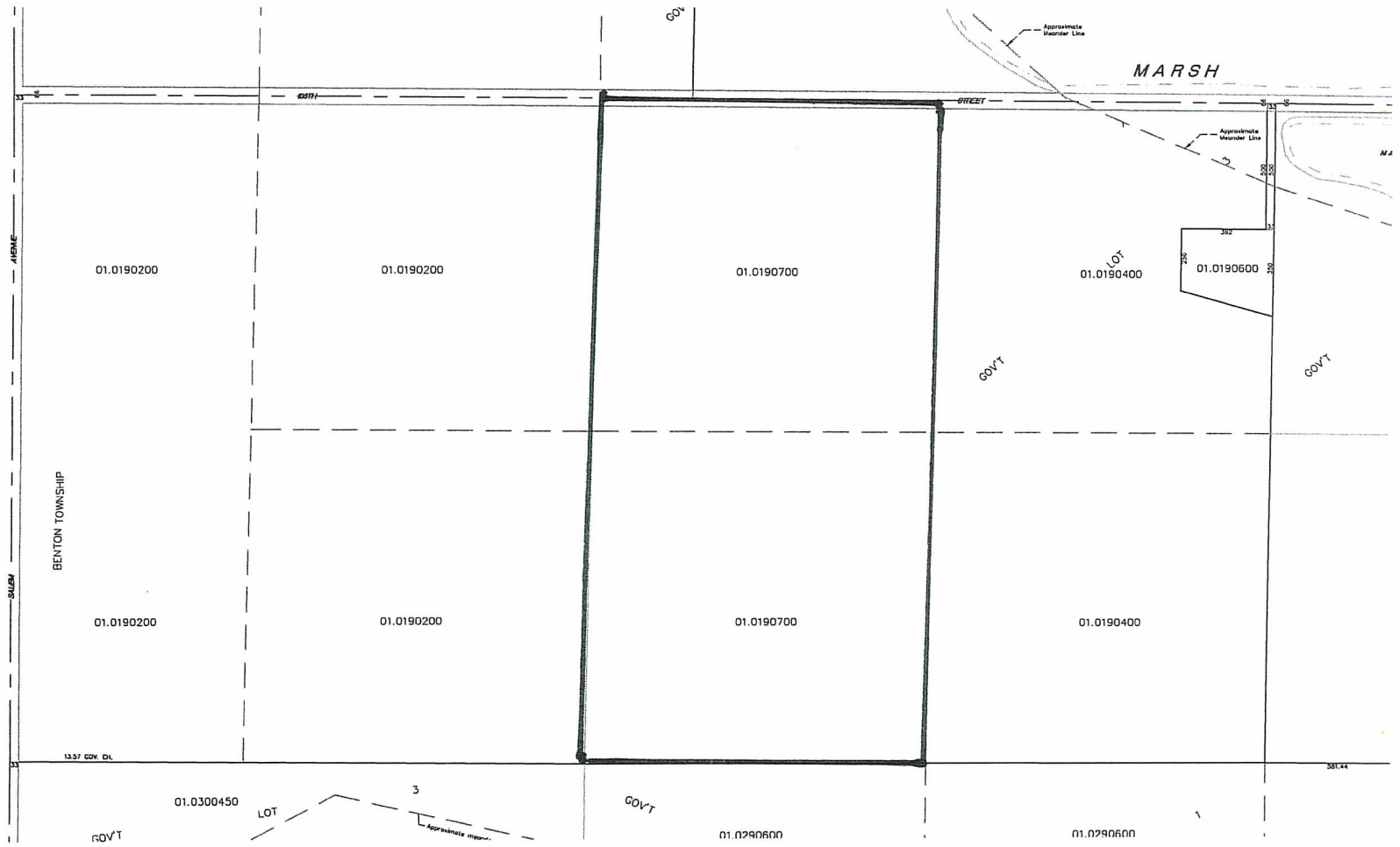
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THIS MAP IS A COMPILATION OF RECORDS
AS THEY APPEAR IN THE CARVER COUNTY
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S 1/2 SEC. 19, T.115, R.25



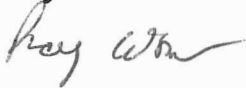
Board of Adjustment,

I am writing to request a permanent variance on my feedlot.

Carver County Ordinance 54.46.C(1) states a setback of 200 feet shall apply to all new feedlots of ten animal units or more from rear, front, and side property lines. At the direction of our vet, we would like to implement a new feedlot extending within 50 feet of property lines. The vet has informed us we need more outdoor area for the animals to lay due to concerns of pneumonia. This new feedlot is the nearest and most feasible area we can provide since it is currently treed and grassy. The property nearest to it is used as cropland. The inability to expand our feedlot will be detrimental to the health of our animals and our farming operation.

Thank you for considering my request.

Roy Widmer

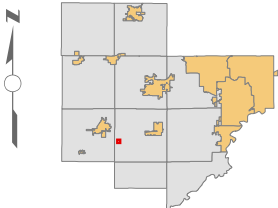


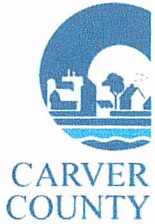
WIDMER - REDUCED FEEDLOT SETBACK TO A PROPERTY LINE



Date: 4/23/2025
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Exhibit A





Township Presentation & Recommendation Form

PARCEL # 010190700	Permit # P220250009
Owner's Name: Roy Widmer	Owner's Mailing Address: 13975 138th St
City: Norwood M	Owner State: MN Owner Zip: 55368
Applicant (if other than owner): 	Site Address: 13975 138th St

Type of Request:	☐ CUP	☐ IUP	☐ Preliminary Plat	☐ Final Plat	☒ Variance	☐ Appeal
Description of Request: Want to Extend a Feed lot to within 50' of Property line						
Date of County Public Hearing: 5/7/25			Date of Township Meeting: 2/13/25			

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.

Roy Widmer	Date 2/13/25
Signature of Applicant	
Andy Hoff	Date 2-13-25
Signature of Township Official	

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 01-019-0700

File# PZ20250009

APPLICANT: Roy Widmer

**OWNER: Roy D Widmer Revocable Trust &
Laura A Widmer Revocable Trust**

*** * * * ***

The West Half of the Southeast Quarter (W $\frac{1}{2}$ of SE $\frac{1}{4}$) of Section 19, Township 115, Range 25,
Carver County, Minnesota, containing approximately 80 acres of land, more or less.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

April 23, 2025

TO: Carver County Board of Adjustment & San Francisco Town Board

FROM: The Land Management Department

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

FILE #: PZ20250011

APPLICANT: Michael Hoverson

PROPERTY OWNERS: Michael & Teresa Hoverson

SITE ADDRESS: 17545 Market Avenue, Belle Plaine, 56011

VARIANCE TYPE: Exceed Allowable Personal Storage Square Footage

PURSUANT TO: County Code Section 152.073 (A)(3)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 08-018-0600

BACKGROUND:

1. Michael and Teresa Hoverson own and reside on an approximate 5-acre parcel located in the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section 18, San Francisco Township. The property is improved with a single-family dwelling, horse stable structure, and a metal shed. It is located within the Agricultural Zoning District and the Carver County Water Management Organization (CCWMO) – Bevens Creek Watershed.
2. Mr. Hoverson is requesting a variance to exceed the maximum allowable square footage for personal storage structures on their property. The proposed accessory structure would measure 40 feet by 60 feet (2,400 square feet) and would be added to the existing 2,404 square feet of personal storage currently on the property, not including a metal shed that is proposed to be demolished. The combined total would exceed the 4,000-square-foot limit permitted for a parcel of this size by approximately 804 square feet. As a result, a variance is being requested pursuant to Section 152.073(A)(3) of the Carver County 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.

- (3) **Parcels greater than two acres and less than or equal to five acres – a total of 4,000 square feet of area is permitted in a combination of garage and accessory structures**
- (6) Existing agricultural structures are not included in the area calculations for the total square footage of accessory structures unless the agricultural buildings (such as a machine shed) are suitable for use as garages or residential accessory structures.
- (7) The area calculation for an attached garage shall be made using the outside dimensions (footprint or foundation) of the structure only. The area calculation for a detached structure shall include the gross area for all levels of the building.
- (8) Each residential parcel in the County shall be given a personal storage credit of 624 square feet to represent a standard (24' x 26') 2-car garage. This credit shall not be included in the calculation for personal storage.
- (Ord. 47, passed 7-23-02; Am. Ord. 58-2007, passed 3-27-07; Am. Ord. 70-2010, passed 1-25-11; Am. Ord. 80-2015, passed 6-16-15; Am. Ord. 97-2021, passed 7-20-21; Am. Ord. 108-2024, passed 11-19-24)

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. Hoverson is requesting permission to construct a 2,400 square-foot accessory structure in a conforming location on the property. The proposed structure would result in total personal storage exceeding the allowable 4,000 square feet, plus the 624-square-foot credit for an attached garage, for a parcel of this size.

2. In the applicant's letter dated March 5, 2025, Mr. Hoverson states that the proposed accessory structure would be used for personal storage, specifically to house a tractor, tractor implements, horse trailer, utility trailer, Ice Castle fish house, truck, and various outdoor tools. He explains that "currently, most of these items are stored outside and scattered around the property." He further notes that the construction of the accessory structure would "improve the appearance of the property by consolidating storage in one location" and would protect the equipment and tools from weather-related damage.
3. The site plan, dated April 7, 2025, illustrates the existing single-family residence with attached garage, horse stable, and metal shed, along with the location of the proposed pole barn. The proposed structure is positioned approximately 75 feet from the centerline of Market Avenue and 40 feet from the southern (side) property line, meeting all required structural setbacks as outlined in the zoning code.
4. The proposed pole barn would measure 40 feet by 60 feet, totaling 2,400 square feet. The existing home includes a 676-square-foot attached garage, which exceeds the 624-square-foot credit typically applied toward allowable personal storage. When combined with the existing 2,352-square-foot stable, the total personal storage on the property would increase to approximately 4,804 square feet. The Carver County Zoning Code permits a maximum of 4,000 square feet of personal storage on parcels of this size, which may include both attached garage space and accessory structures. Assuming the applicant follows through with the demolition of the existing metal shed, as noted in the submitted narrative, the proposed structure would exceed the permitted storage allowance by approximately 804 square feet. The site is surrounded by mature trees, and based on available imagery, the proposed shed would be largely screened from public view and neighboring properties.
5. The proposed structure is planned for the southwest corner of the property, in a location that complies with all required setbacks from property lines and the on-site septic system. The height of the proposed accessory structure would not exceed the maximum allowable height for accessory structures on parcels of this size, as outlined in the Carver County Zoning Code. Additionally, no new driveway access to Market Avenue is proposed as part of this request.
6. Jacob McLain, Carver County Senior Environmentalist – Subsurface Sewage Treatment Systems (SSTS), reviewed the application materials and, in an email dated April 18, 2025, confirmed that the property is not located within a designated shoreland area and that no plumbing was proposed as part of the application. Therefore, a septic compliance inspection is not required. He further stated, *"Proposed storage building will not interfere with where the septic system is located."*
7. Tim Sundby, Carver County Water Resources Program Supervisor, reviewed the application materials and, in an email dated April 15, 2025, indicated that he had no specific review comments regarding the proposal. However, he noted that if any grading is to occur, the applicant must implement appropriate sediment and erosion control best management practices (BMPs).
8. The plight of the landowner is a result of circumstances they have created. The Zoning Code establishes a standard maximum of 4,000 square feet for allowable personal storage on parcels up to five acres in size. However, each variance application is evaluated based on its own merits, the uniqueness of the property, and the reasons provided by the applicant.
9. Granting the variance would not conflict with 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 neighborhood's character, nor would it negatively impact government services due to the additional storage structure.
10. Granting the variance would not materially or adversely affect the health or safety of those residing or working in the area adjacent to the applicants' property. It would also not be detrimental to the public welfare or injurious to nearby properties or improvements.
11. The San Francisco Town Board has reviewed the variance request at their March 10, 2025, meeting and recommended approval. The board's decision was unanimous, as noted in their comment: "Township unanimously approved."

BOARD CONSIDERATION:

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

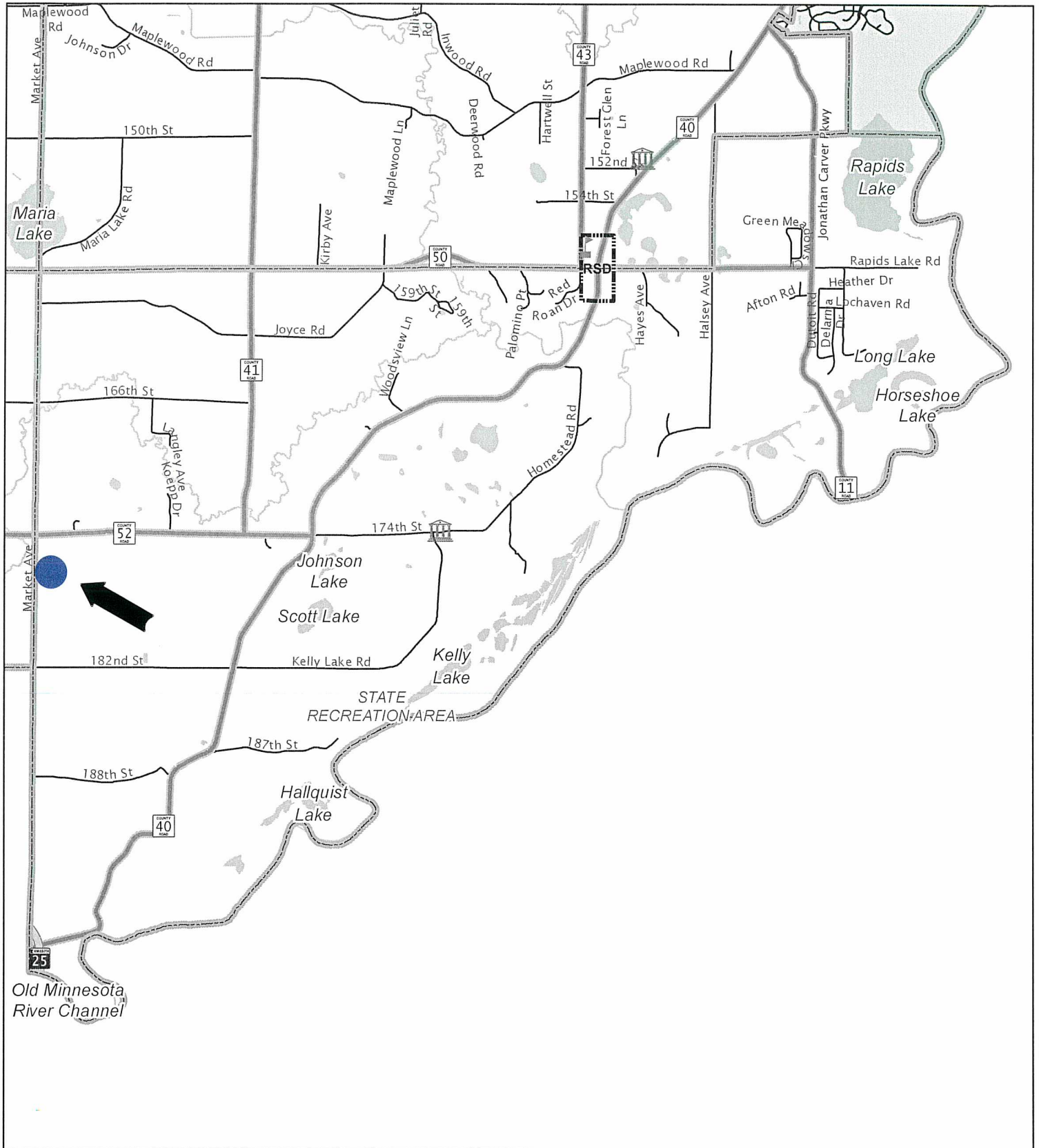
1. The permit is subject to administrative review. The proposed structure shall be used solely by the occupant(s) of the residence for personal storage, hobbies, recreation, entertainment, family activities, and private maintenance and repair, as regulated by this Ordinance. Guest quarters and additional dwelling units are strictly prohibited. No products or services shall be sold for pay or other remuneration, except as permitted for a home occupation or as otherwise regulated by this Code.
2. The permittee shall obtain the necessary building permit(s) prior to constructing the proposed structure. All work must adhere to the submitted plans and comply with the approved variance. The proposed structure shall meet all required setbacks from property lines, Subsurface Sewage Treatment System (SSTS) locations, and comply with Carver County Water Management Organization (CCWMO) standards and necessary permitting.
3. No additional accessory structures or expansions shall be permitted based on the current total allowable personal storage square-footage on the property, unless a new variance is approved and issued.

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.

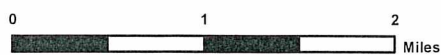
OR

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.

SAN FRANCISCO TOWNSHIP



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N 1/2 SEC. 18, T.114, R.24



Page 20 of 52

March 5, 2025

Carver County Board of Adjustment
600 E. 4th Street
Chaska, MN 55318

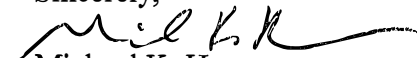
Dear Board of Adjustment:

I am planning to build a new 40' x 60' x 16' pole barn on the Southwest corner of my property. It would be situated 75 feet from the center line of Market Avenue and 40 feet from my neighbor James Forberg's property line. The pole barn will be used for my personal use storage to include my tractor, tractor implements, horse trailer, utility trailer, ice castle fish house, truck, and various outdoor tools. Currently most these items are outside scattered around my property. The pole barn will allow me to clean up the appearance of my property and make it look more aesthetic by storing the above-mentioned items in it; and, keep the stored items out of the weather elements.

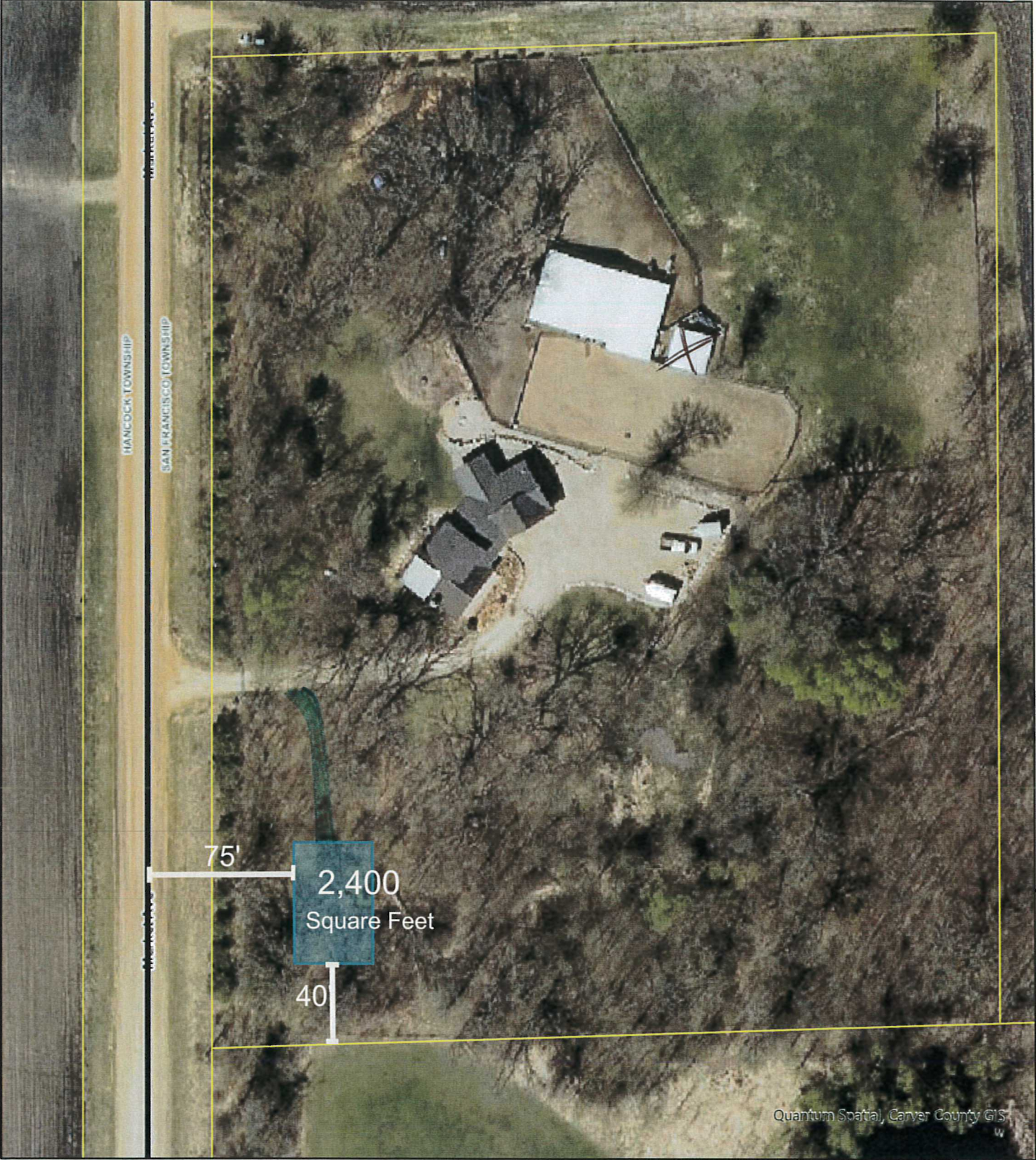
Pursuant to Carver County Zoning Code 152.073(A)(3), parcels greater than two acres and less than or equal to five acres are allowed a total of 4,000 square feet of area for a combination of garage and accessory structures. My property is 4.62 acres. My existing horse pole barn is 2352 square feet. Pursuant to Carver County Zoning Code 152.073(A)(3) my garage is over the 624 square feet credit by 52 square feet. (I also have a detached metal car port next to my horse pole barn that will be taken down and removed from my property. This structure is not included in my total square foot area calculations).

Thus, my current total square feet structure total is 2404. The proposed 40'x60' pole barn will be 2400 square feet. This will put my total square feet at 4804. This will exceed the allowed 4800 square feet by 804 square feet. Thus, I am seeking a variance of 804 square feet.

Sincerely,

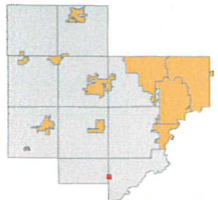

Michael K. Hoverson

HOVERSON VARIANCE SITE PLAN



Date: 4/7/2025

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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Township Presentation & Recommendation Form

PARCEL # 080180600	Permit # PZ20250011	
Owner's Name: Michael K. Hoverson	Owner's Mailing Address: 17545 Market Avenue	
City: Belle Plaine	Owner State: MN	Owner Zip: 56011
Applicant (if other than owner):	Site Address: 17545 Market Avenue, Belle Plaine, MN 56011	

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

Description of Request:

I am planning to build a new 40' x 60' x 16' pole barn on the Southwest ^{west} corner of my property. To do so, I need an 804 square foot variance. See attached letter to Carver County Board of Adjustment for specific details.

Date of County Public Hearing: May 7, 2025 **Date of Township Meeting:** March 10, 2025

Actions:

Township Action Taken:

☒ Recommends approval and use of the Township Road (if applicable) with the following comments:

☐ Recommends denial for the following reasons:

☐ No recommendation, but will comment on the request at the Planning Commission or Board of Adjustment hearing:

Township Unanimously approved

****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.

Date 3/5/2025

Signature of Applicant

Date 3/10/2025

Signature of Township Official

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 08-018-0600

File# PZ20250011

APPLICANTS/OWNERS: Michael K Hoverson & Teresa A Hoverson

*** * * * ***

The West 435.83 feet of the South 499.74 feet of the Northwest Quarter of the Northwest Quarter (NW¼ of NW¼) of Section 18, Township 114 North, Range 24 West, Carver County, Minnesota.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

April 23, 2025

TO: Carver County Board of Adjustment & San Francisco Town Board

FROM: The Land Management Department

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

FILE #: PZ20250014

APPLICANT: James Sultany

OWNER: James and Jessica Sultany

SITE ADDRESS: 6175 County Road 50, Carver 55315

VARIANCE TYPE: Reduced Rear Yard Setback

PURSUANT TO: County Code Section 152.034 D

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 08-002-2210

BACKGROUND:

1. James and Jessica Sultany own and reside on an approximate 2.24-acre parcel located in the Northeast Quarter (NE¼) of Northwest Quarter (NW¼) of Section 2, San Francisco Township. The property is improved with a single-family dwelling, an attached garage, and an accessory structure. It is located within the Agricultural Zoning District and the Carver County Water Management Organization (CCWMO) – Bevens Creek Watershed.
2. Mr. Sultany is requesting a variance to reduce the required rear yard setback from 30 feet to 15 feet to accommodate a proposed expansion of their residence. A previously existing, conforming deck has been removed, and the applicant now plans to construct a three-season porch in its place to enhance rear-yard privacy. The proposed addition would extend approximately 15 feet into the required rear yard setback area. According to the Carver County Zoning Code, all structures in any zoning district must maintain a minimum 30-foot setback from the rear property line. Because the proposed expansion does not meet this standard, the applicant is seeking a variance under Section 152.034 (D) of the Carver County Zoning Code to allow the reduced rear setback.

LEGAL BACKGROUND:

§ 152.034 SETBACKS.

(D) *Table of setback requirements.*

Rear Lot Line Setbacks	All Districts	30
------------------------	---------------	----

(Ord. 47, passed 7-23-02; Am. Ord. 70-2010, passed 1-25-11; Am. Ord. 97-2021, passed 7-20-21; Am. Ord. 108-2024, passed 11-19-24)

BOARD OF ADJUSTMENT

§ 152.210 CREATION.

The Board of Adjustment is hereby established and invested with the authority as is hereinafter provided and as provided by M.S. §§ 394.21 through 394.37, as they may be amended from time to time.

(Ord. 47, passed 7-23-02; Am. Ord. 97-2021, passed 7-20-21)

§ 152.215 VARIANCES.

(D) *Grounds for variance.* The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall be granted in accordance with M.S. Chapter 394, as it may be amended from time to time, in cases where the applicant establishes that there is a practical difficulty in the way of carrying out the strict letter of any official control.

(1) A variance shall only be permitted when the following can be found as fact:

(a) The variance is in harmony with the general purpose and intent of the official control. (b) The variance is consistent with the intent of the comprehensive plan.

(2) In addition, a variance may be granted when the applicant establishes a practical difficulty in complying with the official control. A practical difficulty is established when the following items are found as fact:

(a) The property owner proposes to use the property in a reasonable manner not permitted by an official control.

(b) The plight of the landowner is due to circumstances unique to the property, not created by the landowner.

(c) The variance will not alter the essential character of the locality.

(d) The practical difficulty includes more than economic considerations alone.

(F) *Other provisions related to variances.*

(1) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.

(2) Inadequate access to direct sunlight for solar energy systems is considered a practical difficulty.

(3) Variances shall be granted for earth shelter construction as defined in MN State Statute section 216C.06, subdivision 14, when in harmony with the official controls.

(4) The board of adjustment may impose conditions on the granting of any variance pursuant to subsection 152.216 (B).

(5) Granting of the variance shall not have the effect of violating a state or federal rule or law.

(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 applicants are proposing to construct an approximate 550 square-foot addition (22' x 25') to their home, which was originally constructed in 1990 and has a finished area of 1,278 square feet. The existing home is located approximately 40 feet from the rear (south) property line. To accommodate the proposed expansion, the applicant is requesting a variance to encroach 15 feet into the required 30-foot rear yard setback.

2. In the submitted narrative dated April 7, 2025, Mr. Sultany described the practical difficulties associated with the property. He noted: "*Relocating the septic system presents significant financial challenges. Preserving the large, mature trees on the property is a priority. Avoiding the relocation of the natural gas line and meter is necessary to minimize costs and disruptions.*" These conditions are unique to the site, were not created by the landowners, and significantly limit the available space for construction. The proposed expansion—replacing a previously existing deck with a three-season porch to enhance backyard privacy—represents a reasonable residential use of the property. Aside from the requested reduction in the rear yard setback, the expansion complies with all other applicable zoning requirements. Mr. Sultany also noted that the neighboring property to the rear is a vineyard, which is expected to remain in that use for the foreseeable future.

3. The submitted site plan, dated April 9, 2025, shows the proposed addition at the southeast corner of the property. The addition would be positioned approximately 15.9 feet from the rear property line, 79.6 feet from the east property line, and 223.4 feet from the west property line. An accompanying aerial image dated March 17, 2025, illustrates the overall layout of the property, including the existing home and septic system, both located in the southeast corner. Access to the home is provided by a gravel driveway connected to a shared access and bordered by tall pine trees along the northern edge of the parcel. The proposed expansion area is clearly marked as a blue rectangle on the site plan. The aerial image also highlights limited space for expansion around the home-particularly in the side, front, and rear yards-due to the proximity of the well and septic system, which are shown by a red line and rectangle. These site constraints significantly restrict where expansion can occur on the site.
4. The applicant has submitted a series of picture exhibits dated April 7, 2025, to support the practical difficulties outlined in the narrative.
 - Exhibit 1 shows the location of the well in front of the house.
 - Exhibits 2, 3, and 4 depict the natural gas meter, A/C condenser, septic tank, and mature trees located on the west side of the property, facing south.
 - Exhibit 5 provides a view of the mature trees at the rear of the house, looking east.
 - Exhibit 6 illustrates the adjacent vineyard, emphasizing the agricultural character of the surrounding area.Additionally, the applicant submitted house plans dated March 6, 2025, which include the proposed elevation for the new building expansion.
5. Jacob McLain, Carver County Senior Environmentalist – Subsurface Sewage Treatment Systems (SSTS), reviewed the application and provided feedback via an email on April 18, 2025. He confirmed that the proposed addition would avoid both the primary and alternate septic system sites. The property is not located within a shoreland district. As a result, a compliance inspection is not required and no further action regarding septic compliance is necessary at this time.
6. The Land Management Department received a letter from Mr. Wendell Schott, the owner of the neighboring vineyard property. In the letter, dated March 15, 2025, Mr. Schott expressed full support for the variance request and affirmed that the proposed project would not have any adverse effect on his property.
7. The plight of the landowner is due to circumstances not created by the current owner. The home, constructed in 1990 by a previous owner, was placed approximately 40 feet from the rear property line. This original placement significantly limits expansion options and makes it difficult to construct a house addition without encroaching into the required 30-foot rear yard setback.
8. Granting the variance is in harmony with the general purpose and intent of the official control. In this case, the applicable control is the required rear yard setback as outlined in the Carver County Zoning Code. Although the request does not meet the strict dimensional standard, it appears to align with the broader intent of the regulation by maintaining compatibility with surrounding land uses and preserving the character of the area.
9. Granting the variance would not conflict with the goals or intent of the Carver County Comprehensive Plan. It would not alter the character of the neighborhood, nor would it negatively impact the provision of government services. The surrounding area is predominantly agricultural with scattered residential development, and the proposed expansion is consistent with existing land uses and patterns.
10. The variance, if granted, would not materially or adversely affect the health or safety of persons residing or working in the area adjacent to the applicant's property. Furthermore, it would not be detrimental to the public welfare or injurious to neighboring properties or improvements. The proposed addition reflects a reasonable residential use that maintains the rural character of the area.

11. The San Francisco Town Board has reviewed the variance request at their April 14, 2025, meeting and recommended approval. The board's decision was unanimous, as noted in their comment: *"Approval by unanimous board decision."*

BOARD CONSIDERATION:

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

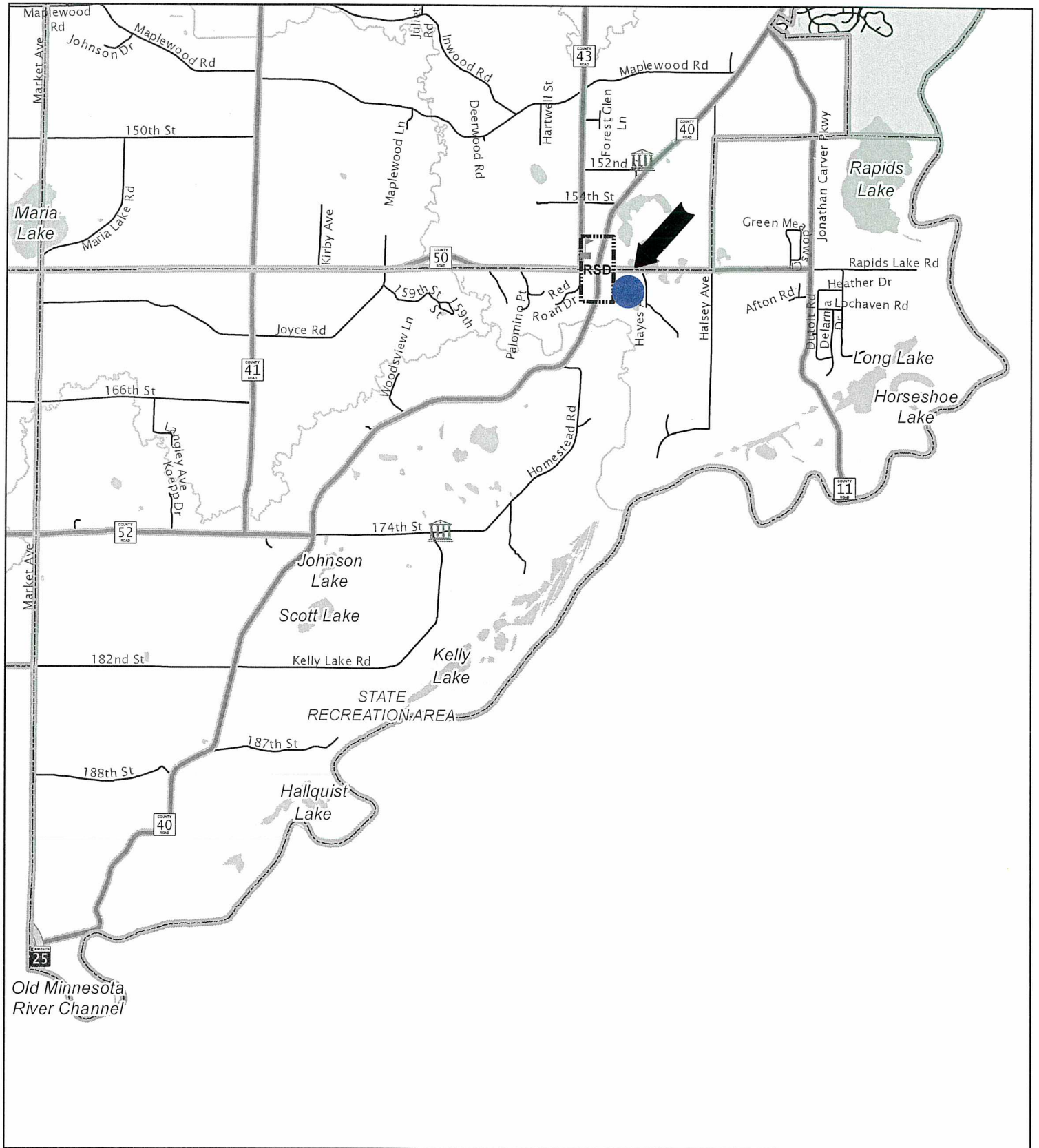
1. The permittee shall obtain all required building permits prior to the commencement of construction for the proposed expansion of their residence. All construction activities must be done in accordance with the plans submitted and approved as part of the building permit application.
2. All construction activities shall be done in accordance with the submitted site plan. The expansion of the residence shall not encroach any closer than 15 feet to the rear property line, as approved as part of this variance request. The rear property line shall be clearly staked on-site prior to the issuance of the building permit for the addition.

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.

SAN FRANCISCO TOWNSHIP



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

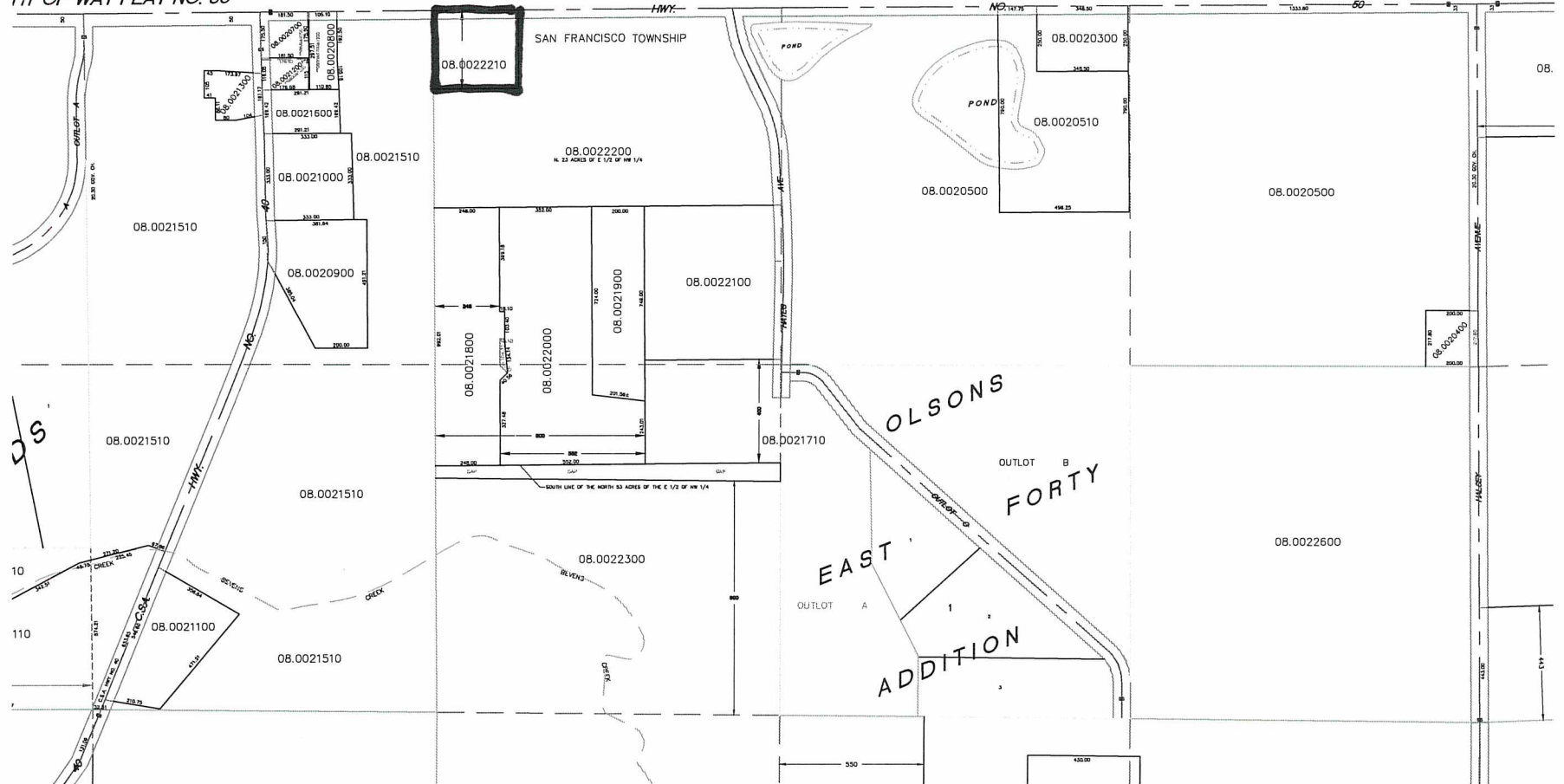


Map Created by Carver County GIS

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

N 1/2 SEC. 2, T.114, R.24

HT OF WAY PLAT NO. 30



James S. Sultany
Jessica I. Sultany
6175 County Road 50
Carver, MN 55315
April 7, 2025

Carver County Board of Adjustments
600 E Fourth Street
Chaska, MN 55318

Subject: Variance Request for Property at 6175 County Road 50, Carver, MN 55315

Dear Board of Adjustments,

I am writing to formally request a variance for the property located at 6175 County Road 50, Carver, MN 55315, owned by James and Jessica Sultany. We are seeking approval to reduce the rear setback requirement from 30 feet to 15 feet to accommodate an expansion of the residence on this property.

This request is based on the following considerations:

1. Relocating the septic system presents significant financial challenges.
2. Preserving the large, mature trees on the property is a priority.
3. Avoiding the relocation of the natural gas line and meter is necessary to minimize costs and disruptions.
4. The neighboring property to the rear is a vineyard, expected to remain as such for the foreseeable future. The vineyard owners are fully supportive of this request and will provide a letter of consent to this effect.

Attached, you will find the site plan and building plans detailing the proposed changes for your review. We believe this variance is the most logical and responsible solution given the circumstances, and we are committed to adhering to all other applicable regulations.

Thank you for your time and consideration of this request. Please let us know if additional information or documentation is required.

Sincerely,

James and Jessica Sultany

~for~ Sultany Residence & New Generation Construction
~part of~ NE1/4 - NW1/4, Sec.2, T.114, R.24, Carver County, Minnesota
6175 County Road 50, Carver, Minnesota



Survey map of Section 2, T. 114, R. 24, showing an existing house and a proposed addition. The map includes bearings and distances for all boundaries, a right-of-way (R/W) line, and a well location.

Section Information:
 Section 2, T. 114, R. 24
 NE 1/4 - NW 1/4

Boundaries and Distances:
 - North Boundary: S89°28'41"W 325.00
 - South Boundary: S89°28'41"W 325.00
 - East Boundary: S0°22'41"E 300.00
 - West Boundary: S0°22'41"E 300.00

Right-of-Way (R/W) Line:
 - North: 33.00
 - South: 15.50

Internal Distances:
 - From North Boundary to R/W: 33.00
 - From R/W to South Boundary: 15.50
 - From West Boundary to R/W: 223.4
 - From R/W to East Boundary: 79.6

Existing House:
 - Width: 39.4
 - Height: 25.0

Proposed Addition:
 - Width: 22.0
 - Height: 15.5

Well Location:
 - (W) WELL

Other Labels:
 - NW COR., SEC. 2-114-24
 - N1/4 COR., SEC. 2-114-24
 - FND TP 14343

SCALE IN FEET

● DENOTES IRON MONUMENT FOUND AS LABELED
○ DENOTES IRON MONUMENT SET, MARKED RLS# 45356/52705
⊕ DENOTES CARVER COUNTY CAST IRON MONUMENT

- Field survey was completed by E.G. Rud and Sons, Inc. on 04/08/25.
- Bearings shown are on the Carver County Coordinate System.
- Parcel ID Number: 080022210.
- This survey was prepared without the benefit of title work. Additional easements, restrictions and/or encumbrances may exist other than those shown hereon. Survey subject to revision upon receipt of a current title commitment or an attorney's title opinion.

The North 300.00 feet of the West 325.00 feet of the Northeast Quarter of the Northwest Quarter of Section 2, Township 114, Range 24, Carver County, Minnesota.

By: *Sam N. Hand*
Minnesota License No. 52705
Dated 9th day of April 2025.

CREW: 1WM/LAD



Sultany Site Map

Septic

Well

Addition

225

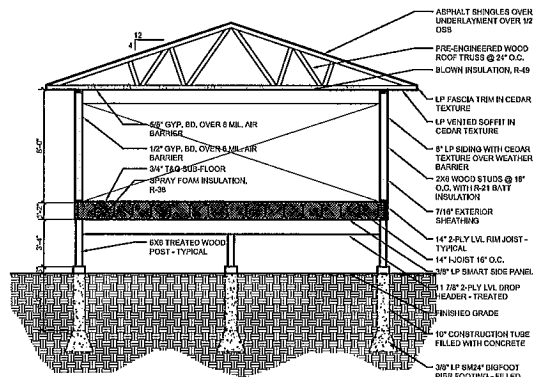
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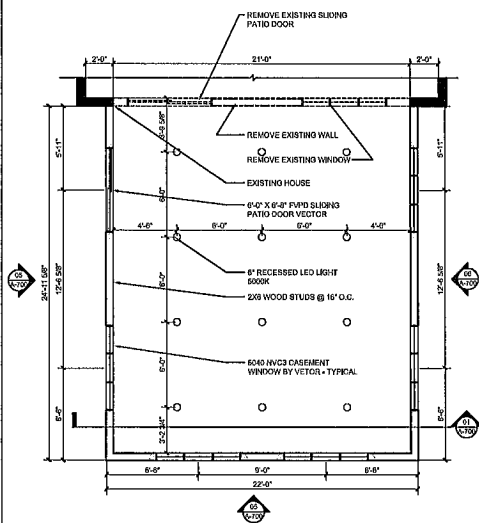
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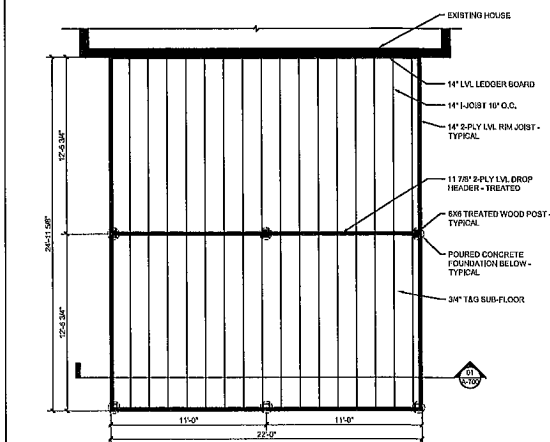
Map Date: 3/17/2025



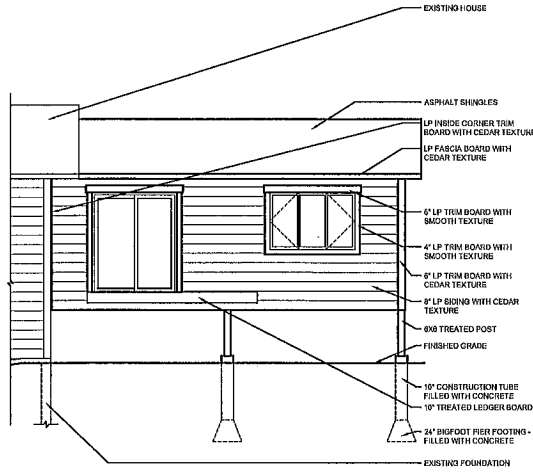
01 BUILDING SECTION
SCALE: 1/4" = 1'-0" A-700



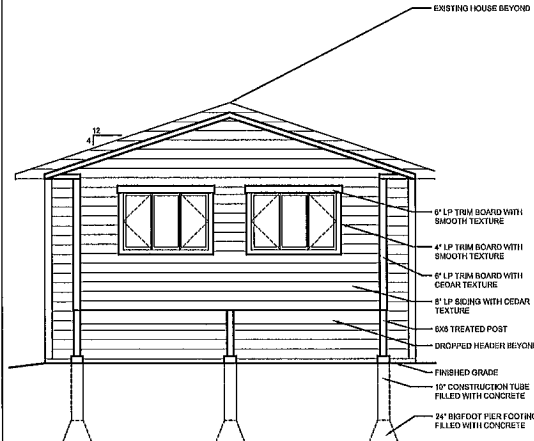
02 FLOOR PLAN
SCALE: 1/4" = 1'-0" A-700



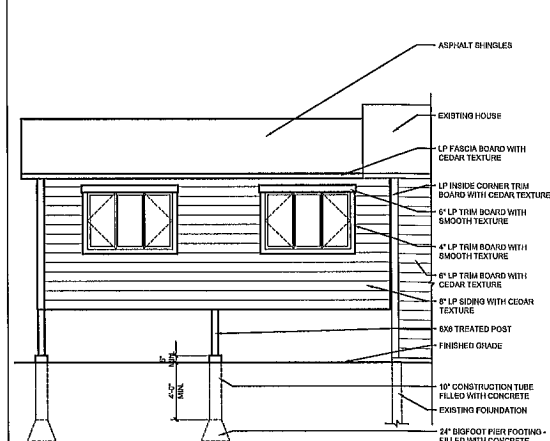
03 FOUNDATION AND FLOOR FRAMING PLAN
SCALE: 1/4" = 1'-0" A-700



04 WEST ELEVATION
SCALE: 1/4" = 1'-0" A-700



05 SOUTH ELEVATION
SCALE: 1/4" = 1'-0" A-700



06 EAST ELEVATION
SCALE: 1/4" = 1'-0" A-700



CLIENT

JIM AND JESSICA SULTANY
6175 COUNTY ROAD 50
CARVER, MN 55315

PROJECT INFORMATION

SULTANY ADDITION
6175 COUNTY ROAD 50
CARVER, MN 55315

DATE

NOT FOR CONSTRUCTION

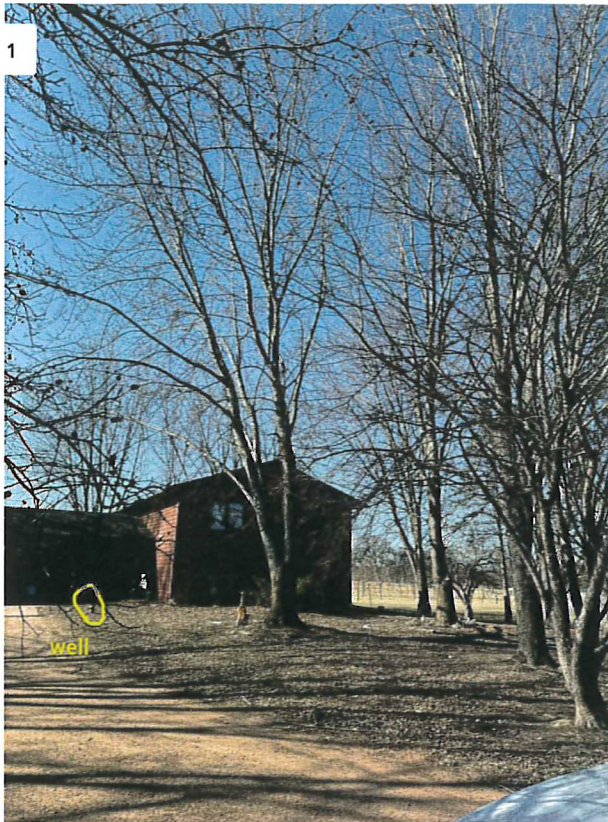
PROJECT NO.:
DRAWN BY: JSS
CHECKED BY: JSS

DATE: 2023.03.08

REVISION: DATE:

TITLE:
EXTERIOR ELEVATIONS

SHEET NUMBER:
A-700

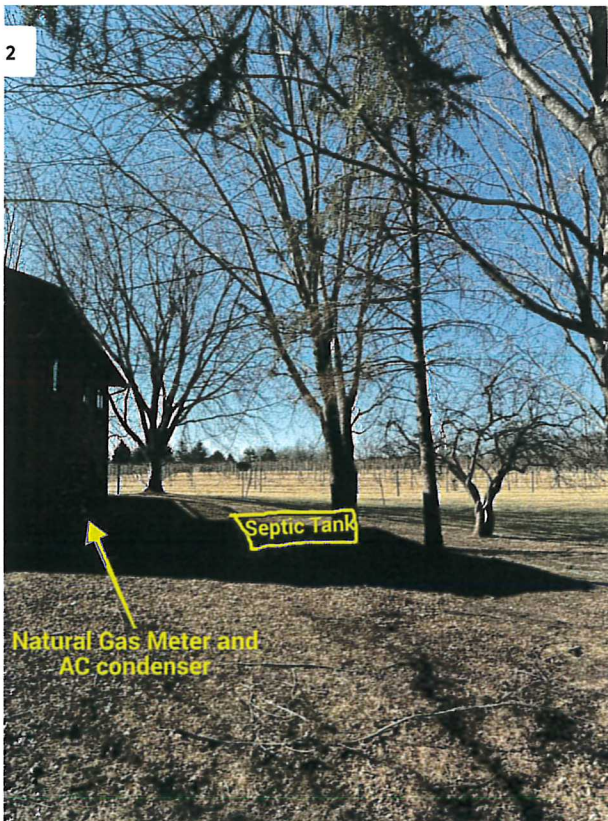


Front of House

Project: Sultany 2nd Floor Addition

Date: Apr 7, 2025, 9:40 AM

Creator: Bobby Olson

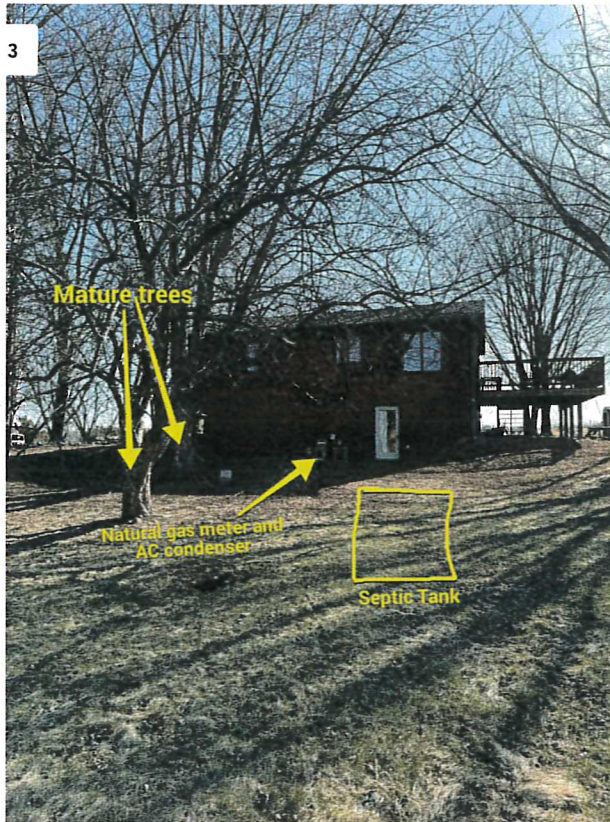


West side facing south

Project: Sultany 2nd Floor Addition

Date: Apr 7, 2025, 9:40 AM

Creator: Bobby Olson

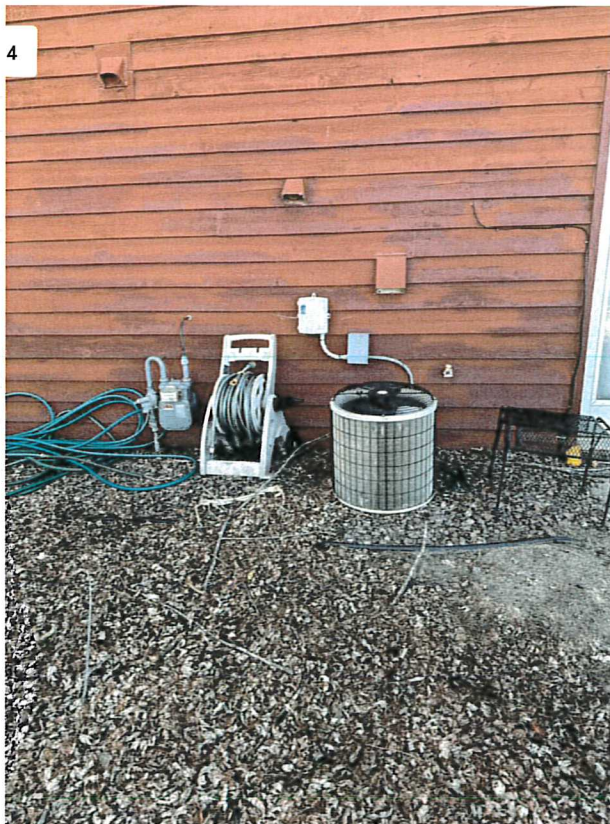


West elevation

Project: Sultany 2nd Floor Addition

Date: Apr 7, 2025, 9:41 AM

Creator: Bobby Olson

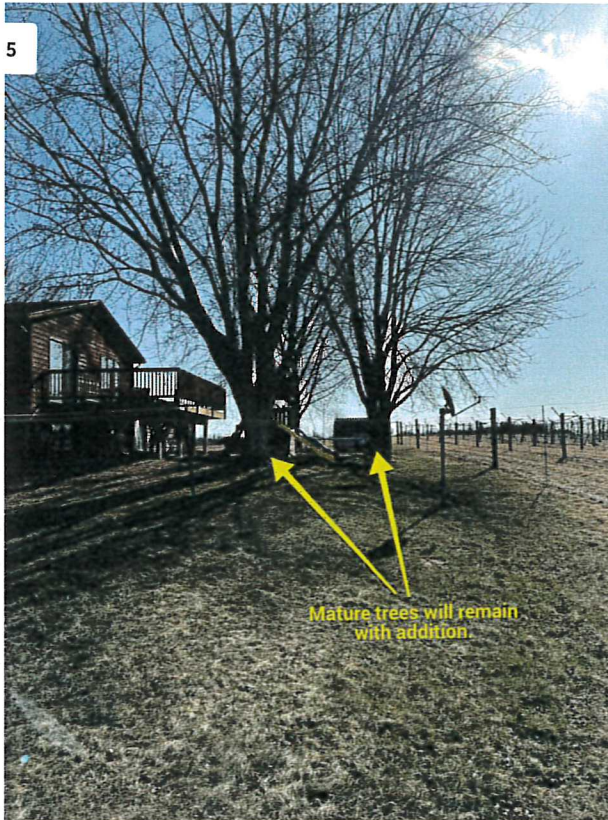


Natural gas meter and AC condenser

Project: Sultany 2nd Floor Addition

Date: Apr 7, 2025, 9:42 AM

Creator: Bobby Olson

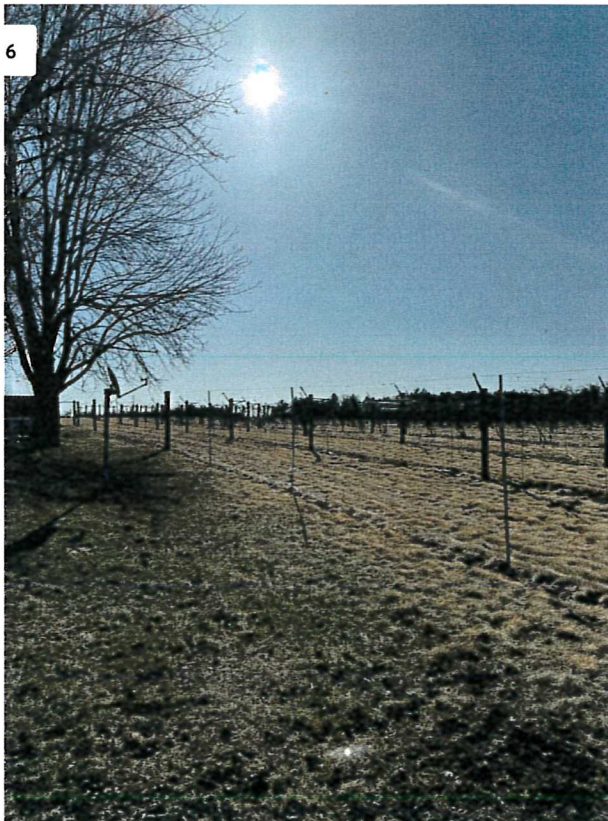


Rear of house looking east

Project: Sultany 2nd Floor Addition

Date: Apr 7, 2025, 9:42 AM

Creator: Bobby Olson



Vineyard surrounding property

Project: Sultany 2nd Floor Addition

Date: Apr 7, 2025, 9:42 AM

Creator: Bobby Olson



Township Presentation & Recommendation Form

PARCEL # <u>080022210</u>	Permit # <u>PZ 20250014</u>	
Owner's Name: <u>James and Jessica Sultany</u>	Owner's Mailing Address: <u>6175 County Road 50</u>	
City: <u>Carver</u>	Owner State: <u>MIN</u>	Owner Zip: <u>55315</u>
Applicant (if other than owner): <u></u>	Site Address: <u>Same</u>	

Type of Request:	☐ CUP	☐ IUP	☐ Preliminary Plat	☐ Final Plat	☒ Variance	☐ Appeal
Description of Request: <u>Variance to Reduce Rear Setback from 30' to 15' to accomodate 4 Season Porch addition</u>						
Date of County Public Hearing: <u>May 7, 2025</u>			Date of Township Meeting: <u>April 14, 2025</u>			

Actions:

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

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

Signature of applicant: [Signature]

Signature of Township Official: [Signature]

Date: 4-14-25

Date: 4/14/25

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 08-002-2210

File# PZ20250014

APPLICANTS/OWNERS: James S Sultany & Jessica I Sultany

*** * * * ***

The North 300.00 feet of the West 325.00 feet of the Northeast Quarter of the Northwest Quarter of Section 2, Township 114, Range 24, Carver County, Minnesota.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

April 24, 2025

TO: Carver County Board of Adjustment & Watertown Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (Reduced Setback to OHWL)

FILE #: PZ20250015

APPLICANT: Alexandra Akins

OWNER: Alexandra Akins

SITE ADDRESS: 10480 Swede Lake Rd, Watertown, 55388

VARIANCE TYPE: Reduced Structure Setback from OHWL

PURSUANT TO: Carver County Code: Section 152.034 (D)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 10-014-2000

BACKGROUND:

1. Alexandra Akins owns an approximate 2-acre residential parcel located in Government Lot 5 of the Northeast Quarter (NE¼) of the Southeast Quarter (SE¼) of Section 14, Watertown Township. The property is currently improved with an approximate 1,200-square-foot accessory structure. It is located within the Agricultural Zoning District, the Shoreland Overlay District (Mud Lake), and the Carver County Water Management Organization (CCWMO) - Crow River watershed.
2. The applicant is requesting a variance to allow her to apply for building permits to construct a house on the property. The proposed house would not meet the required 150-foot setback from the Ordinary High Water Line (OHWL) of a Department of Natural Resources (DNR) Protected Natural Environment Lake (Mud Lake). Therefore, a reduced setback of approximately 92 feet has been requested, pursuant to Section 152.034 (D) of the Carver County Zoning Code.
3. The property was previously improved with a nonconforming dwelling constructed at the edge of the slope. That home was the subject of a 1979 variance (#3782) to build a pool within the shoreline and bluff setbacks, and a 2001 variance (#12557) to construct an attached garage within the OHWL setback. In 2014, a former property owner received a variance to build a home within the OHWL and SSTS setbacks; however, the home was never constructed, and the variance subsequently became null and void.

LEGAL BACKGROUND:

§ 152.034 SETBACKS.

(D) Table of setback requirements.

<i>Setbacks from Ordinary High Water Level in Shoreland District</i>	<i>Setback Required for Structures</i>	<i>Setback Required for SSTS</i>
Natural environment lake	150	as required by Chapter 52

(Ord. 47, passed 7-23-02; Am. Ord. 70-2010, passed 1-25-11; Am. Ord. 97-2021, passed 7-20-21; Am. Ord. 108-2024, passed 11-19-24)

BOARD OF ADJUSTMENT

§ 152.210 CREATION.

The Board of Adjustment is hereby established and invested with the authority as is hereinafter provided and as provided by M.S. §§ 394.21 through 394.37, as they may be amended from time to time.

(Ord. 47, passed 7-23-02; Am. Ord. 97-2021, passed 7-20-21)

§ 152.215 VARIANCES.

(D) *Grounds for variance.* The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall be granted in accordance with M.S. Chapter 394, as it may be amended from time to time, in cases where the applicant establishes that there is a practical difficulty in the way of carrying out the strict letter of any official control.

(1) A variance shall only be permitted when the following can be found as fact:

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

(2) In addition, a variance may be granted when the applicant establishes a practical difficulty in complying with the official control. A practical difficulty is established when the following items are found as fact:

- (a) The property owner proposes to use the property in a reasonable manner not permitted by an official control.
- (b) The plight of the landowner is due to circumstances unique to the property, not created by the landowner.
- (c) The variance will not alter the essential character of the locality.
- (d) The practical difficulty includes more than economic considerations alone.

(F) Other provisions related to variances.

- (1) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.
- (2) Inadequate access to direct sunlight for solar energy systems is considered a practical difficulty.
- (3) Variances shall be granted for earth shelter construction as defined in MN State Statute section 216C.06, subdivision 14, when in harmony with the official controls.
- (4) The board of adjustment may impose conditions on the granting of any variance pursuant to subsection 152.216 (B).
- (5) Granting of the variance shall not have the effect of violating a state or federal rule or law.
- (7) Shoreland Overlay District. A variance issued to property within the Shoreland Overlay District must meet the requirements set forth in §§ 152.108 and 152.135.
- (8) That the granting of the variance will not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.

(Ord. 47, passed 7-23-02; Am. Ord. 70-2010, passed 1-25-11; Am. Ord. 80-2015, passed 6-16-15; Am. Ord. 88-2018, passed 11-20-18; Am. Ord. 97-2021, passed 7-20-21)

STAFF ANALYSIS:

1. Ms. Akins recently purchased the subject property, which is considered a legal non-conforming lot of record under the Carver County Zoning Code due to its lack of public road frontage. The property is located approximately one-third of a mile from the nearest public road (Swede Lake Road). While the parcel is of conforming size for a shoreland property, the previous home was located in a nonconforming location. That nonconforming status was eliminated when the house was demolished in 2014.
2. Section 152.034 of the County Zoning Code requires a 150-foot setback from the OHWL of a natural environment lake. The applicant has proposed a structure located 92 feet from the OHWL, resulting in an approximate 58-foot variance. According to the Minnesota Department of Natural Resources (MNDNR), the established OHWL elevation for Mud Lake is 938.7 feet. In the shoreland area, the lowest floor of a structure must be at least 3 feet above the OHWL. The proposed home's lowest floor is expected to be approximately 19 feet above the Mud Lake OHWL.

3. The submitted narrative, dated April 10, 2025, outlines the circumstances prompting the variance request. It notes that the 150-foot setback requirement is based on the lake's classification as a Natural Environment Lake. (Notably, a 1979 variance for a pool referenced a 200-foot setback, indicating a reduction in required distance over time.) The Minnesota DNR has revised these setbacks periodically, setting them according to the lake classification in the Public Waters Inventory. The narrative cites existing drainage patterns—downslope and located within the currently tilled portion of the property—as a limiting factor. The applicant believes that relocating the home would require additional site preparation; however, the referenced earthwork appears typical for many residential construction projects. The narrative also references the existing shed and a desire for convenient access to its east-side door as additional site constraints.
4. The provided site plan, dated April 11, 2025, shows the proposed building layout overlaid on a survey. Although the property features a steep, wooded slope, the surveyor notes in the existing conditions survey (dated March 13, 2025) that “no bluff was documented on the property that would impose a setback restricting construction on the proposed building site.” The site layout includes a driveway that would serve both the attached garage of the proposed home and the existing shed. The site plan also identifies a proposed septic field located in the southeast corner of the property.
5. Jacob McLain, Carver County Senior Environmentalist – Subsurface Sewage Treatment Systems (SSTS), reviewed the application and provided comments via an email dated April 18, 2025. He provided the following statement:

“The septic area identified on the site plan should include the layout of the primary and secondary septic system. Just to make sure there is adequate room for a primary and alternate sites since the lot is not very large in size, and with property line and lake setbacks further limiting suitable area. Also, they will want to keep in mind the setback of both the tanks, and the drainfield when designing the new system. Additionally, the existing system that was on site was never confirmed to be abandoned, so when the new system is installed, they will want to make sure that anything existing is properly abandoned and documented.”
6. Tim Sundby, Carver County Water Resources Program Supervisor, reviewed the application materials and, in an email dated April 15, 2025, indicated that an Erosion & Sediment Control (ESC) permit is not required unless the area of disturbance exceeds one acre. He stated, *“If there was there is over an acre total of impervious outside that 50-foot buffer, they will need an ESC Permit.”*
7. David DePaz, South Metro Area Hydrologist at Minnesota Department of Natural Resources (MNDNR) reviewed the application materials and provided comments on April 24, 2025. The MNDNR recommended denial of the variance, stating the following:

“The applicant has requested a variance to build a house 100 feet back from Mud Lake (10-94) OHWL 963.7 feet (NGVD29), including a deck which would be 92 feet setback from OHWL. This is a significant deviation of 50 feet, or 67% from the required setback of 150 feet for a new structure on classified Natural Environment Lake.

In addition to the setback variance, the slope from the OHWL to the location of proposed home building is potentially a bluff and should be evaluated to determine if bluff setbacks are required.

Although attempting to utilize the historic building footprint could save earthwork, there is plenty of room to accommodate other designs that meet all setback standards and avoid impacts to sensitive steep slopes or bluffs.

This criterion is about what is reasonable given the purpose of the ordinance, NOT what is reasonable to the property owner. Variance requests should only be the minimum necessary to achieve the purposes of the ordinance.”
8. The plight of the landowner arises from both circumstances created by the landowner and unique characteristics of the property. While the parcel is of adequate size (2 acres) for a shoreland lot, the 150-foot shoreland setback, an existing shed, and drainage patterns in the southeast portion of the lot limit the available buildable area. The large footprint of the proposed home, including decks (approximately 4,900 square feet), combined with the applicant's desire for a walkout-style home and the angled shape of the building footprint, further complicate the identification of a conforming building site. Additionally, the applicant's decision not to improve the existing drainage patterns on the currently tilled portion of the lot (which constitutes over 1/3 of an acre) further restricts the buildable area. Each variance request is evaluated based on its own merits and specific attributes.

9. The granting of the variance is in harmony with the general purpose and intent of the official control, specifically the required shoreline setback of the County Zoning Code. While this request does not meet the exact standard, it aligns with the intent of the regulations by not significantly impacting the shoreland area.
10. The neighborhood consists of agricultural uses and residences. Granting the variance would not materially or adversely affect the health or safety of those residing or working in the surrounding area, nor would it be detrimental to the public welfare or injurious to nearby properties or improvements.
11. Granting the variance would not conflict with the intent of the Carver County Comprehensive Plan. It would not alter the character of the neighborhood or negatively impact the provision of government services.
12. The Watertown Town Board has reviewed the variance request at their April 7, 2025, meeting and recommended approval. The board noted the following comment: *"The recommended variance is approved by the Township Bd."*

BOARD CONSIDERATION:

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

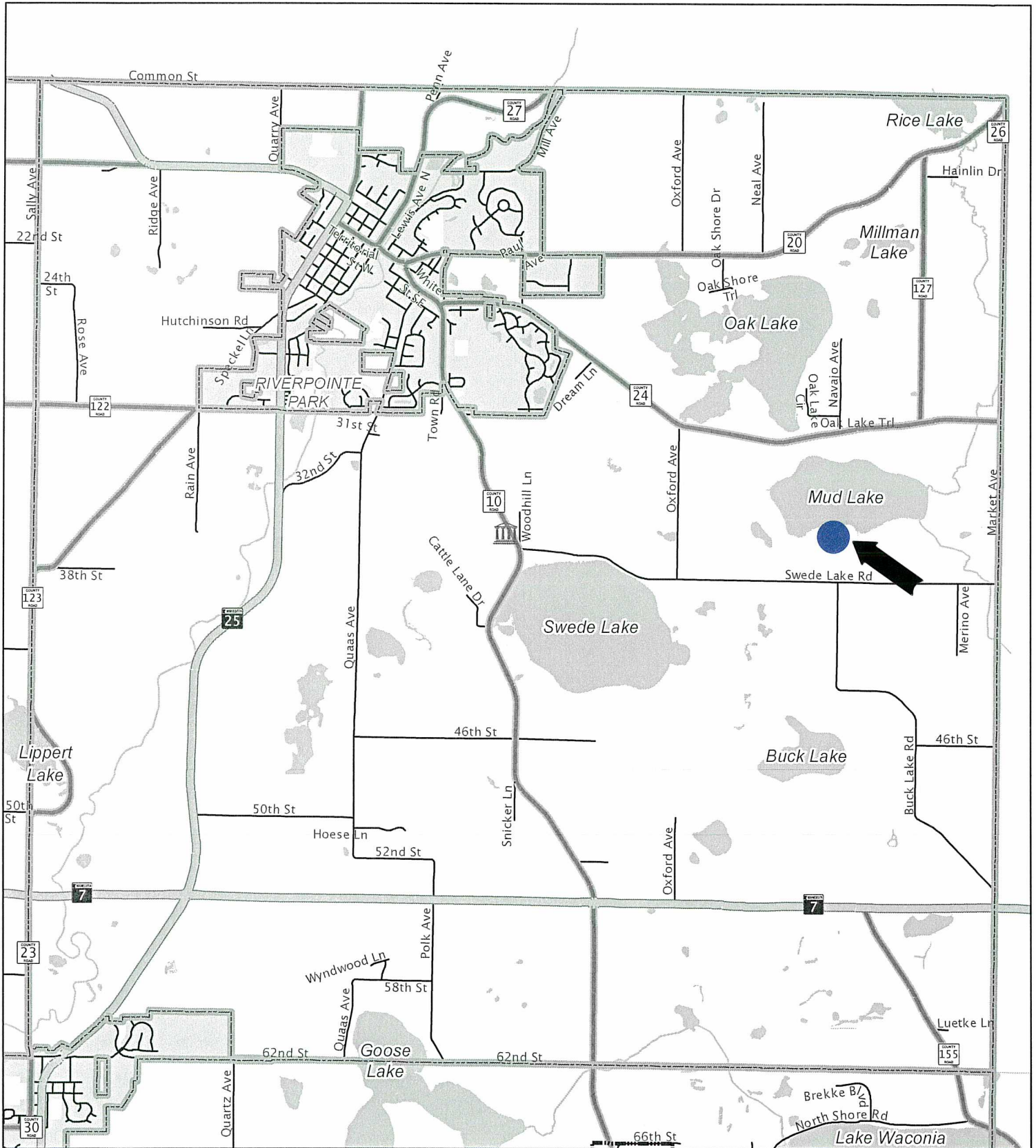
1. The permittee shall obtain all required building and septic permits prior to the commencement of construction for the proposed new house.
2. All construction activities shall be conducted in accordance with the submitted site plan, as confirmed by a certificate of survey. The new construction shall not encroach any closer to the OHWL of Mud Lake than the approved setback (approximately 92 feet). All work shall comply with the approved building permit plans.
3. The permittee shall obtain any necessary permits from the Carver County Water Management Organization (CCWMO), if applicable.
4. The permittee shall comply with all Shoreland Overlay District regulations, including restrictions on intensive vegetation removal within the shore impact zone and on steep slopes.
5. No additional expansions shall be permitted without obtaining all necessary building permits and/or variances.

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

OR

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

WATERTOWN TOWNSHIP



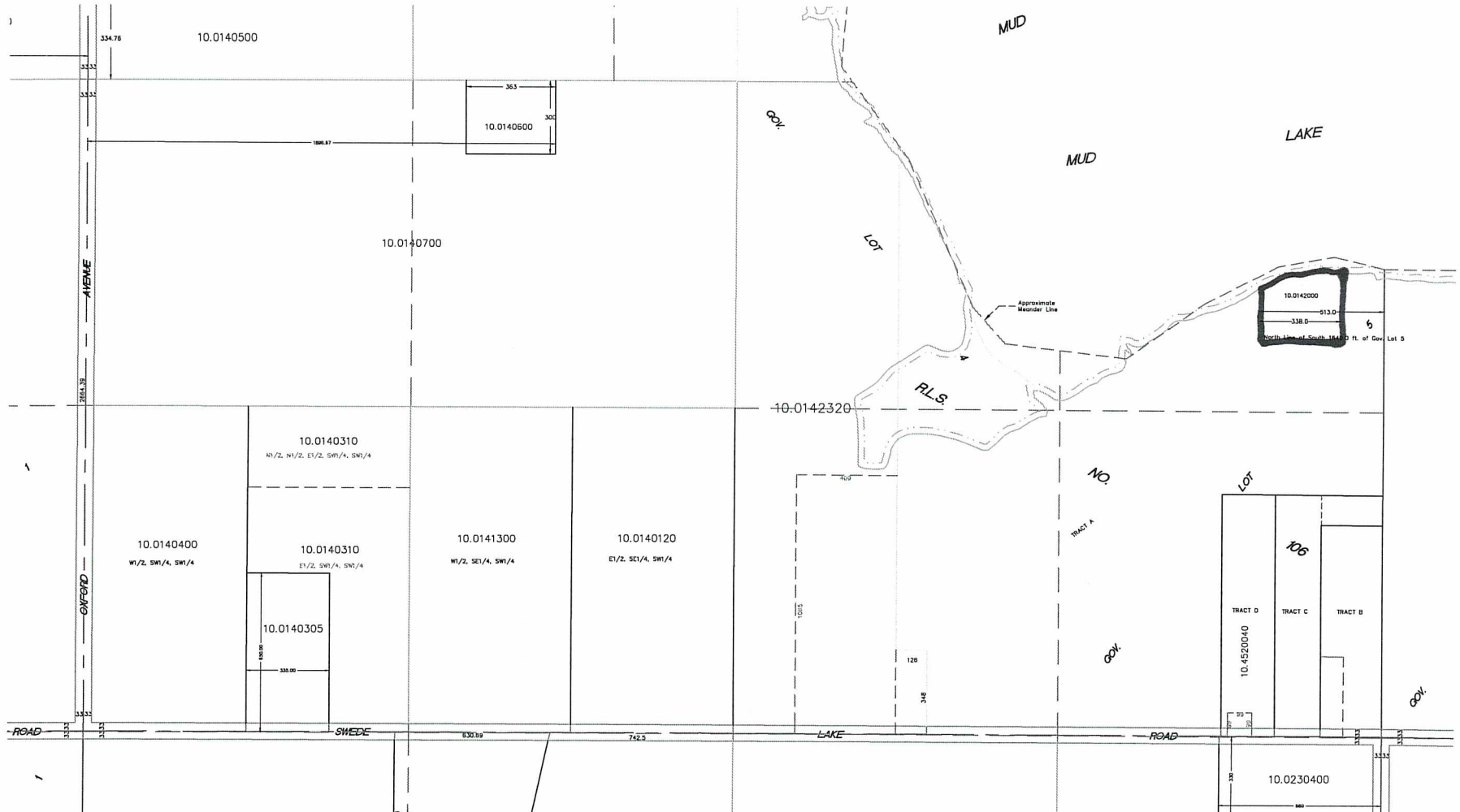
This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible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



Map Created by Carver County GIS

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

S 1/2 SEC. 14, T.117, R.25



Alexandra Akins
28135 Boulder Bridge Dr
Shorewood, MN 55331
alexakins@mchsi.com
612-655-0147

April 10, 2025

Jason Mielke
Land Use Manager
600 E 4th St
Chaska, MN 55318

Board of Adjustment,

The application for Variance for the Property located at 10480 Swede lake Rd is in relation to the lake setback ordinance of new building being 150ft from the high water line. The lake was redesignated as a "Natural Lake" during the lake's inventory era. At which time there was already an existing home that was built 75 feet from the shore line on this property. The existing home was vacated in the 1990s and then later torn down in 2013. The structure had to be torn down due to the inability to keep vandals and trespassers out, it otherwise would likely still be standing today. When the structure was removed the well and a graded hole of what used to be the basement was left (as seen in attached picture).

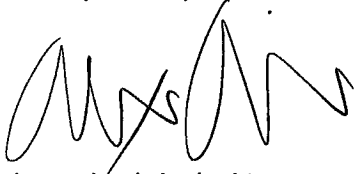
The Application for variance is simply to build a new home using this graded basement hole as the walk out for the new home. This would mean that the north wall of the new house would sit at exactly 100 feet from the high water set back at the corners of the house. The decks and porch extend closer to the water with the closest deck being 92 feet from the high water mark. (indicated on the attached survey). At this distance due to the slope of the hill going to the lake the basement floor will be 19 feet above the high water mark.

The benefits of building at this location are the greatest for many factors. The first of which is the least environmental impact in building the new structure. This location will allow for the least amount of dirt and grade work to have to be done in relation to the new structure unless the structure was even closer to the water. If the house was placed at 150 feet in its current design it would be very close to the 15 foot setback from the property boundary. Moving to 150 feet would also mean more dirt would have to be removed in order to make the walk out. An argument could be made to change to house plan then to not have a walk out if moved to 150 feet however a change in house designs would have even greater implications. The footprint

would have to be larger and it would have to be taller in order to encompass the same amount of usable bedrooms. Placing a home at the 150 foot line would require working with the neighboring property owner and its agricultural lessee to regrade ditches and slopes in order to keep water from intruding the house. This would be the case no matter what type of home was built. Another factor in the benefit of the placement is the usability of the current existing shed that is on the property. This shed sits 130 feet from the high water line on the east side where the garage door is. Placing a home at 150 feet would mean having to push the new home as far east on the lot as possible in order to try to maintain accessibility to the shed. This would only increase the need for regrading the neighboring property as the home would sit in the current drainage ditch. A Home placed at 150 feet would also require the existing driveway to need to be regraded a substantial amount in order to make access possible. The house at the proposed location also gives room for a septic system to be placed south of the house with no variance necessary. Based on the size of the proposed house the septic system with a tank will need 2000 square feet of space (shown on map). If the house were to be at 150 feet the septic system would require a variance for being inside the lakeshore setback, and possibly the building or property line setback.

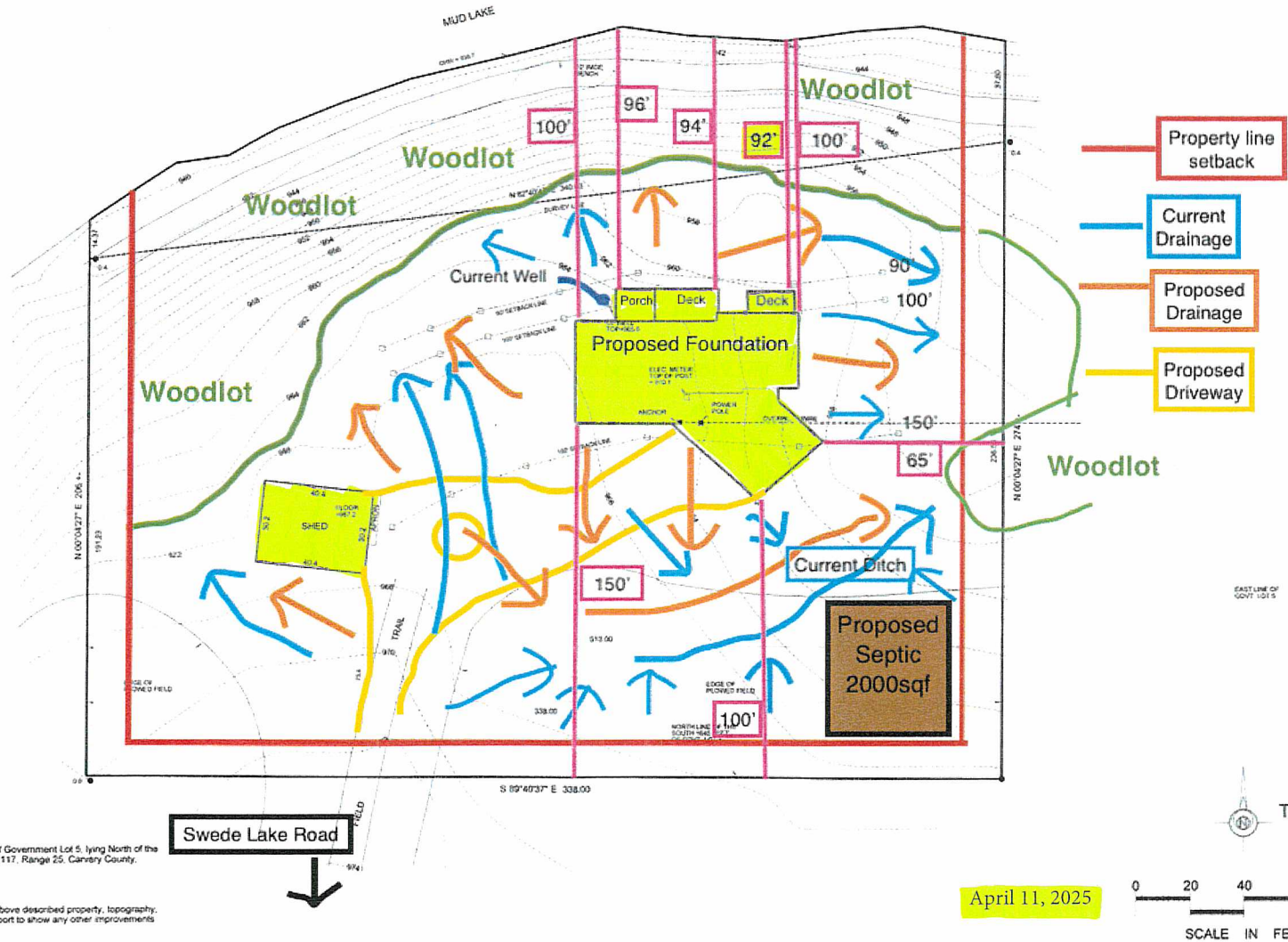
Given the circumstances of the challenging lot we find the proposed location to be the ideal location for the new home. That will allow for the least amount of variance to build and the least amount of site preparation to build. Prior to attending the meeting in regards to this application I would be available to further discuss the plan at any time via phone or email.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read 'Alex Akins', with a stylized, flowing script.

Alexandra (Alex) Akins

CERTIFICATE OF SURVEY FOR
ALEX AKINS
 IN GOVT. LOT 5, SEC. 14-117-25
 CARVER COUNTY, MINNESOTA



LEGAL DESCRIPTION

The West 338 feet of the East 513 feet of that part of Government Lot 5, lying North of the South 1540 feet thereof, all in Section 14, Township 117, Range 25, Carver County, Minnesota

• Denotes found iron marker

This survey intends to show the boundaries of the above described property, topography, and the location of an existing shed. It does not purport to show any other improvements or encroachments.

Gronberg & Associates, Inc.
 CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS
 445 N. WILLOW DRIVE LONG LAKE, MN 55358
 PHONE: 952-473-4141 FAX: 952-473-4435



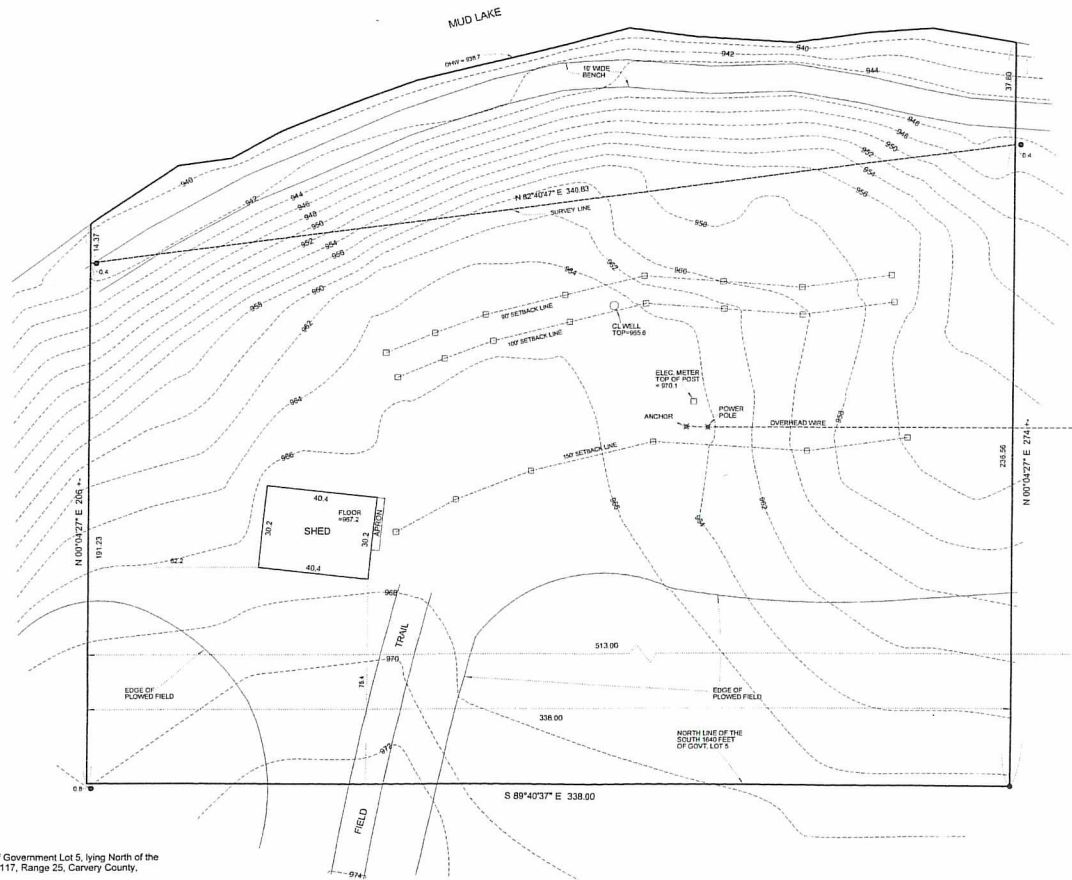
3-13-25
 1-1-25
 2-2-25
 3-13-25
 1-1-25
 2-2-25

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.
Mark J. Gronberg
 DATE: 3-13-25 MISSISSIPPI SURVEY #1212

REVISIONS
 DATE
 BY
 CHECKED

REVISIONS
 DATE
 BY
 CHECKED

CERTIFICATE OF SURVEY FOR
ALEX AKINS
 IN GOVT. LOT 5, SEC. 14-117-25
 CARVER COUNTY, MINNESOTA

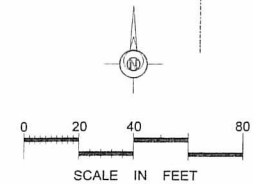


LEGAL DESCRIPTION:

The West 338 feet of the East 513 feet of that part of Government Lot 5, lying North of the South 1640 feet thereof, all in Section 14, Township 117, Range 25, Carver County, Minnesota.

• : Denotes found iron marker

This survey intends to show the boundaries of the above described property, topography, and the location of an existing shed. It does not purport to show any other improvements or encroachments.



GRONBERG & ASSOCIATES, INC.
 CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS
 445 N. WILLOW DRIVE LONG LAKE, MN 55356
 PHONE: 952-473-4141 FAX: 952-473-4435



DATE: 3-13-25
 TIME: 1:00 PM
 SHEET: 25409

I hereby certify that the plan, specification, or report was prepared by me or under my direct supervision and that I am a duly licensed professional engineer or land surveyor in the State of Minnesota.
Michael J. Gronberg
 DATE: 3-13-25 MINN. LICENSE NUMBER: 25409

REVISIONS	REMARKS
DATE	
REVISION	
CHECKED	



4/24/2025

Carver County
Land Management Department
Government Center, Admin Bldg
600 East 4th Street Chaska, MN 55318-2101

Re: Akins OHWL Structure Setback Variance – 10480 Swede Lake Road, Watertown, MN 55388

Members of the Board of Adjustment,

Thank you for the opportunity to comment on this application requesting a OHWL setback variance. My comments and recommendation are based on an evaluation of the facts presented, against the criteria in Minn. statute [§394.27](#). Based on this evaluation, the **DNR recommends denial** of the variance.

Summary of variance request

The applicant has requested a variance to build a house 100 feet back from Mud Lake (10-94) OHWL 963.7 feet (NGVD29), including a deck which would be 92 feet setback from OHWL. This is a significant deviation of 50 feet, or 67% from the required setback of 150 feet for a new structure on classified Natural Environment Lake.

In addition to the setback variance, the slope from the OHWL to the location of proposed home building is potentially a bluff and should be evaluated to determine if bluff setbacks are required.

Although attempting to utilize the historic building footprint could save earthwork, there is plenty of room to accommodate other designs that meet all setback standards and avoid impacts to sensitive steep slopes or bluffs.

This criterion is about what is reasonable given the purpose of the ordinance, NOT what is reasonable to the property owner. Variance requests should only be the minimum necessary to achieve the purposes of the ordinance.

Please send the decision to me within ten days of making the decision, including “findings of fact.” If you have any questions, please call, or email me.

Sincerely,

David De Paz

Area Hydrologist
David.Depaz@state.mn.us
651-259-5775

8/9/24



Township Presentation & Recommendation Form

PARCEL #	100142000	Permit #	PZ20250015
Owner's Name:	Alexandra Akins	Owner's Mailing Address:	28135 Boulder Bridge Dr
City:	Shorewood	Owner State:	MN
		Owner Zip:	55331
Applicant (if other than owner):		Site Address:	10480 Swede Lake Rd Watertown, MN 55388

Type of Request: ☐ CUP ☐ IUP ☐ Preliminary Plat ☐ Final Plat ☒ Variance ☐ Appeal
Description of Request: Applying for variance to build house at 100 ft from high water line with deck off north side of house, towards lake. Current designation of lake is 150 ft. Previous house, now torn down from lot was at 75 or 80 ft from high from water line.
Date of County Public Hearing: May 7th, 2025 Date of Township Meeting: April 7th, 2025

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:
<i>The recommended variance is approved by the township Bd</i>

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

 Signature of Applicant

Date: 4/7/2025

 Signature of Township Official

Date: 4/7/2025

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 10-014-2000

File# PZ20250015

APPLICANT/OWNER: Alexandra Akins

The West 338.00 feet of the East 513.00 feet of that part of Government Lot 5, lying North of the South 1,640.00 feet thereof, all in Section 14, Township 117, Range 25, Carver County, Minnesota.

DRAFTED BY: Carver County Land Management Department