CARVER COUNTY BOARD OF ADJUSTMENT

Regular Meeting – **June 4, 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 May 7, 2025 ..... **3-11**

2. **Agenda**

    2.1. File #PZ20250022 - Public hearing on request by Erik Loomis for a variance.
    (Exceed Total Personal Storage Space)
    San Francisco Township..... **12-26**

    2.2. File #PZ20250019 - Public hearing on request by Carson Erickson for a variance.
    (Reduced Access Separation for Residential Driveway from County Road)
    Watertown Township..... **27-36**

    2.3. File #PZ20250023 - Public hearing on request by James Kappel for a variance.
    (Reduced Front Yard Setback & Total Structure Height)
    Dahlgren Township **37-47**

2.4. File #PZ20250016 - Public hearing on request by Matt Dunn for a variance.
(Exceed Maximum Sign Size)
Dahlgren Township..... **48-57**

2.5. File #PZ20250021 - Public hearing on request by Troy Williams for a variance.
(Reconfigure Non-Conforming Parcel - Exceed Tillable Prime Ag Soils)
Waconia Township **58-71**

2.6. File #PZ20250026 - Public hearing on request by Charles Levine for a variance.
(Operate Cannabis Business Activity on Land in Ag Preserve & Shoreland Overlay District)
Laketown Township..... **72-86**

2.7. File #PZ20250024 - Public hearing on request by Paul Wenner for a variance.
(Adaptive Re-Use of Existing Non-Conformity - Non-Homestead Business & Contractor's Yard)
Young America Township..... **87-117**

3. **Other Business**

4. **Adjourn**

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

May 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 #: PZ20250022
APPLICANT: Erik Loomis
PROPERTY OWNERS: Erik Loomis
SITE ADDRESS: 17185 Koepp Dr, Carver MN, 55315
VARIANCE TYPE: Exceed Allowable Personal Storage Square Footage
PURSUANT TO: County Code Section 152.073 (A)(5)
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 08-007-1300

BACKGROUND:

1. Erik Loomis owns and resides on an approximate 20-acre parcel located in the Northeast Quarter (NE¼) of the Southeast Quarter (SE¼) of Section 7, San Francisco Township. The property is improved with a single-family dwelling with an attached garage. It is located within the Agricultural Zoning District, Shoreland Overlay District of a Minnesota Department of Natural Resources (MNDNR) Protect Watercourse (i.e., Silver Creek), and the Carver County Water Management Organization (CCWMO) – Bevens Creek Watershed.

2. Mr. Loomis is requesting a variance to exceed the maximum allowable square footage for personal storage on his property. The proposed accessory structure would measure 54 feet by 100 feet (5,400 square feet) and would include additional overhangs totaling 297 square feet, as well as a mezzanine level of 1,890 square feet. Combined with the existing 1,343-square-foot attached garage, of which 719 square feet is used for personal storage, the total personal storage area would be approximately 8,306 square feet. This exceeds the 7,000-square-foot limit for parcels over ten acres by 1,306 square feet. Therefore, a variance is being requested pursuant to Section 152.073(A)(5) 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.

(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.

(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. Loomis is requesting permission to construct a 7,587-square-foot accessory structure in a conforming location on his property. The proposed structure would result in total personal storage exceeding the allowable 7,000 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 May 6, 2025, Mr. Loomis states that the structure would be used to store personal equipment, a fifth-wheel camper, vehicles, a motorcycle collection, and to provide a shop area for maintaining personal and hobby-related equipment. He notes that the parcel's size and existing screening ensure the structure will not encroach on setbacks or alter drainage patterns. Impervious surface coverage would remain within allowable thresholds.

3. The site plan, dated February 12, 2025, depicts the existing single-family residence with attached garage, in-ground pool, screen porch, driveway, septic system, and metal shed, along with the location of the proposed structure. The proposed building is positioned approximately seventy feet from the centerline of Koepp Drive and one hundred ten and one-half feet from the southern (rear) property line, meeting all required structural setbacks outlined in the zoning code. A second driveway to Koepp Drive is shown.

4. The applicant proposes a 54-foot by 100-foot (5,400 square feet) shop that also includes two small overhangs, 8 feet by 27 feet (216 square feet) and 3 feet by 27 feet (81 square feet), plus a 27-foot by 70-foot (1,890 square feet) mezzanine, resulting in a new-build subtotal of 7,587 square feet. The existing residence includes a 1,343-square-foot attached garage, subtracting the County's standard 624-square-foot personal-storage credit leaves 719 square feet of countable existing storage. Adding the 7,587 square feet of new space to the 719 square feet of existing storage results in a total of 8,306 square feet, which exceeds the 7,000-square-foot limit for parcels of this acreage by 1,306 square feet. The 20-acre parcel is heavily screened by mature trees, and aerial imagery indicates that the proposed structure would be screened from public view and neighboring properties.

5. The proposed structure would be located near the center of the southern portion 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 such structures on parcels of this size, as defined in the Carver County Zoning Code. Additionally, no new driveway access to Koepp Drive is proposed as part of this request.

6. Lori Brinkman, Carver County Senior Environmentalist – Subsurface Sewage Treatment Systems (SSTS), reviewed the application materials and, in an email dated May 15, 2025, confirmed that the home's approved SSTS design can accommodate a bathroom connection from the proposed shop. She also noted that the design sketch for the residence includes a floor-drain holding tank, and that a separate floor-drain holding-tank design which permits have already been issued.

7. Tim Sundby, Carver County Water Resources Program Supervisor, reviewed the application materials and, in an email dated May 21, 2025, indicated that he had no review comments regarding the proposal.

8. The plight of the landowner is a result of circumstances created by the applicant. The Zoning Code establishes a standard maximum of 7,000 square feet for allowable personal storage on parcels greater than 10 acres in size. However, each variance application is evaluated based on its individual 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 character of the neighborhood, nor would it negatively impact government services because of the additional storage structure square footage.

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 reviewed the variance request at their May 12, 2025, meeting and recommended approval. The board's decision was unanimous with a comment stating: *"Vote was unanimously with staff 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 conditions should be considered:

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 all required building permits prior to constructing the proposed structure. All work must conform to the submitted plans and comply with the approved variance. The proposed structure shall meet all required setbacks from property lines, the Subsurface Sewage Treatment System (SSTS) locations, and comply with Carver County Water Management Organization (CCWMO) standards and permitting requirements, if applicable.

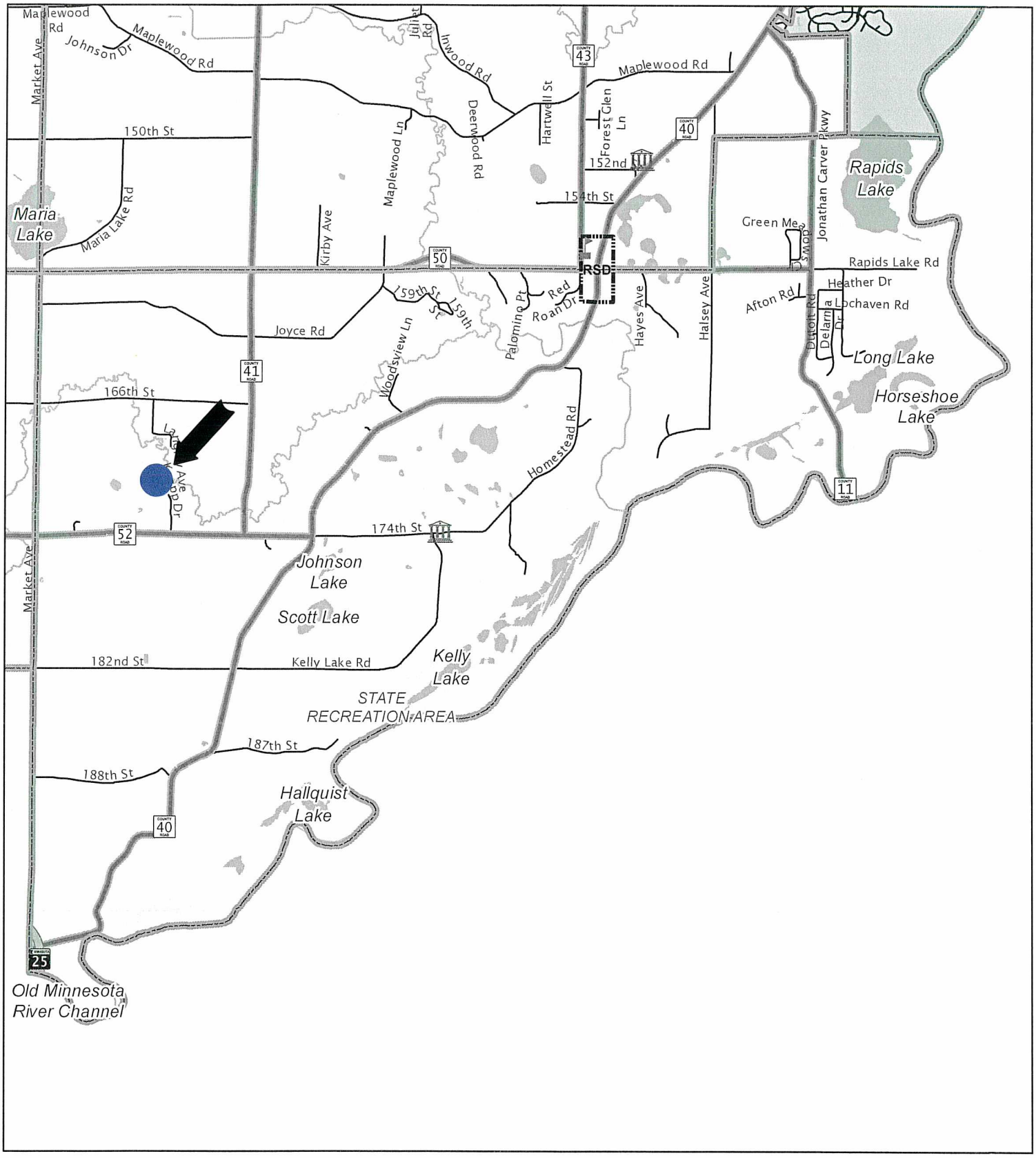
3. No additional accessory structures or expansions shall be permitted beyond the approved 8,306 square feet, unless a new variance is reviewed and approved.

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



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.

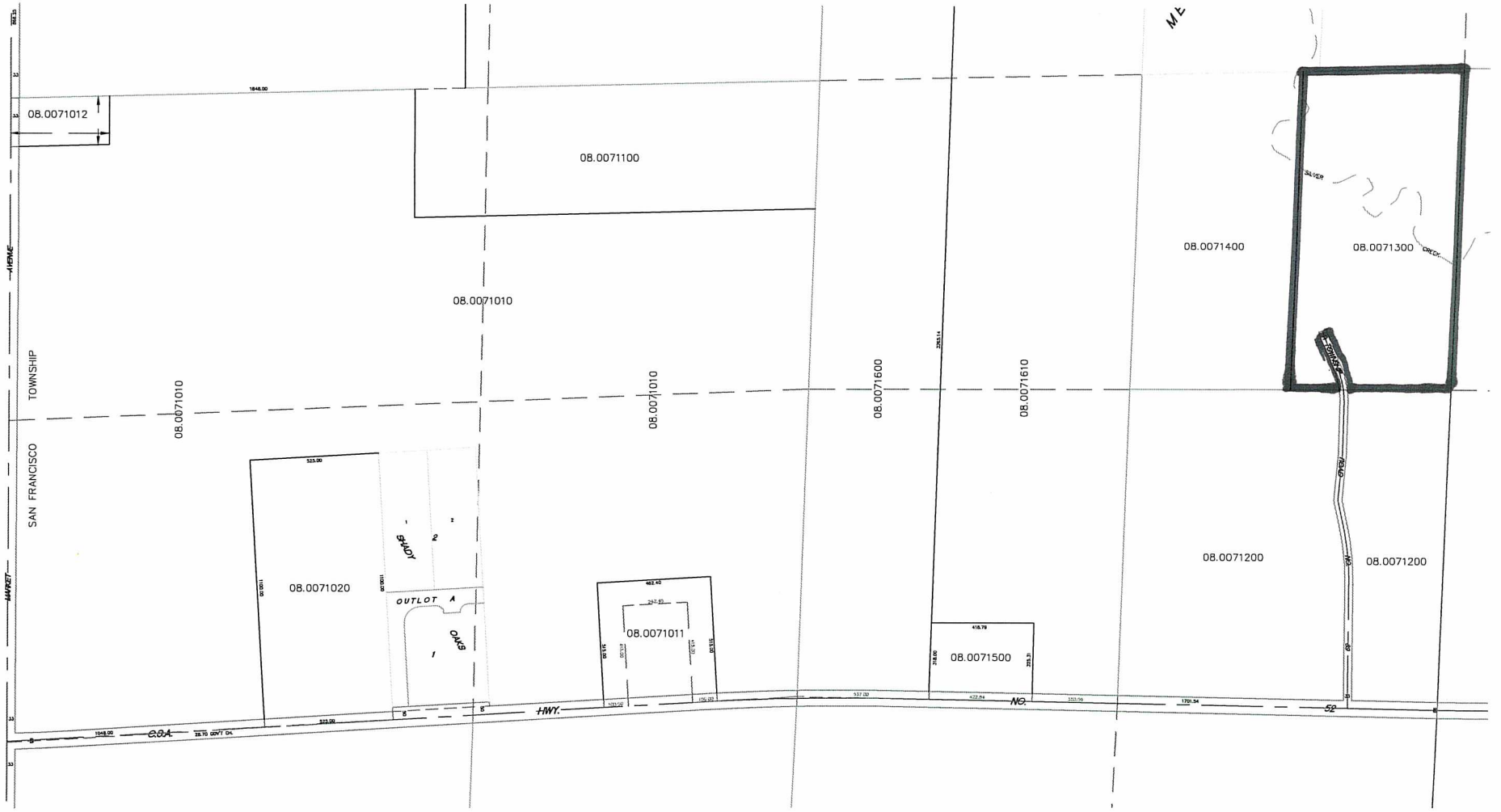
0 1 2 Miles

N W E S

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.

S 1/2 SEC. 7, T.114, R.24



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

Mar 04, 2025

Erik Loomis
17185 Koepp Drive
Carver, MN 55315
Erik@loomis-homes.com
952-994-6924

Date: May 6, 2025

To:
Carver County Board of Adjustment
Carver County Land Management Department
600 East 4th Street
Chaska, MN 55318

Subject: Request for Variance – Personal Use Shop Exceeding 7,000 sq. ft. Maximum Allowance
Property Address: 17185 Koepp Drive, Carver, MN

Dear Members of the Board,

I am writing to respectfully request a variance from the Carver County Land Use Ordinance regarding the square footage limit for a personal use accessory structure on my property located at 17185 Koepp Drive, Carver, MN.

Proposed use of Shop
The primary use of the oversized shop is to store personal use equipment and attachments, 5th wheel camper, trucks/cars and collection of motorcycles as well as a shop area to repair and maintain personal equipment.

Proposed Request and Applicable Ordinance
Under the current Land Use Ordinance, personal use accessory structures are limited to a maximum of 7,000 square feet. I am proposing to construct a personal use shop with a total square footage of 8,306 square feet, which exceeds the ordinance limit by 1306 square feet. This variance request is submitted in accordance with Section 152.057 of the Carver County Code, which addresses accessory structures and variance procedures.

- New storage structure: 54' x 100' = **5,400 sq. ft.**
- Overhangs: 8' x 27' = **216 sq. ft.** and 3' x 27' = **81 sq. ft.**
- Mezzanine: 27' x 70' = **1,890 sq. ft.**
- **Subtotal**: 5,400 + 216 + 81 + 1,890 = **7,587 sq. ft.**

Existing

- 7,587 + 719 = **8,306 sq. ft.**

Land-Related Practical Difficulty
The primary practical difficulty stems from the specific needs associated with the property's intended use and layout. The shop is intended solely for personal use – for storage of personal equipment, tools, and vehicles, including recreational and hobby-related machinery.

Additionally, the parcel is 19.78 Acres and has ample space to accommodate a building of this size without encroaching on setbacks, neighboring properties, or altering drainage or topography. The increased square footage will not increase impervious surface area beyond allowable thresholds and will not impact surrounding land uses.

Conclusion
In light of the above, I respectfully request approval of this variance to allow the construction of a 8,306 sq. ft. personal use shop. The request is modest, the conditions on the property support the variance, and granting it will not negatively affect public interest or the intent of the ordinance.

Sincerely,
Erik Loomis

CERTIFICATE OF SURVEY

~for~ Erik Loomis
~of~ E1/2 - NE1/4 - SE1/4, SEC. 7, TWP. 114, R. 24,
SAN FRANCISCO TWP., CARVER CO., MN.

GRAPHIC SCALE
60 0 30 60 120 240
SCALE IN FEET

NORTH

BENCHMARK

BENCHMARK: MNDOT GSID STATION #109701
MNDOT NAME: SANTOVI
ELEVATION = 908.312 NAVD88

PROPOSED ELEVATIONS

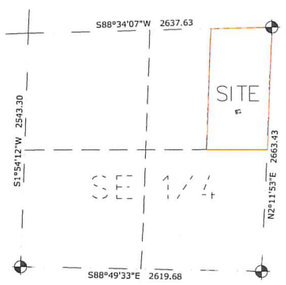
TOP OF WALL =	898.8
GARAGE FLOOR =	898.4
LOWEST FLOOR =	889.1
TOP OF FOOTING =	888.8

10-FOOT POURED WALLS

NOTES

- Field survey was completed by E.G. Rud and Sons, Inc. on 02/28/24.
- Bearings shown are based on the Carver County Coordinate System NAD83 1986 adjustment.
- Parcel ID Number: 080071300.
- 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.
- Due to field work being completed during the winter season there may be improvements in addition to those shown that were not visible due to snow and ice conditions characteristic of Minnesota winters.

SECTION BREAK DOWN
SE1/4 SEC. 7 - 114 - 24

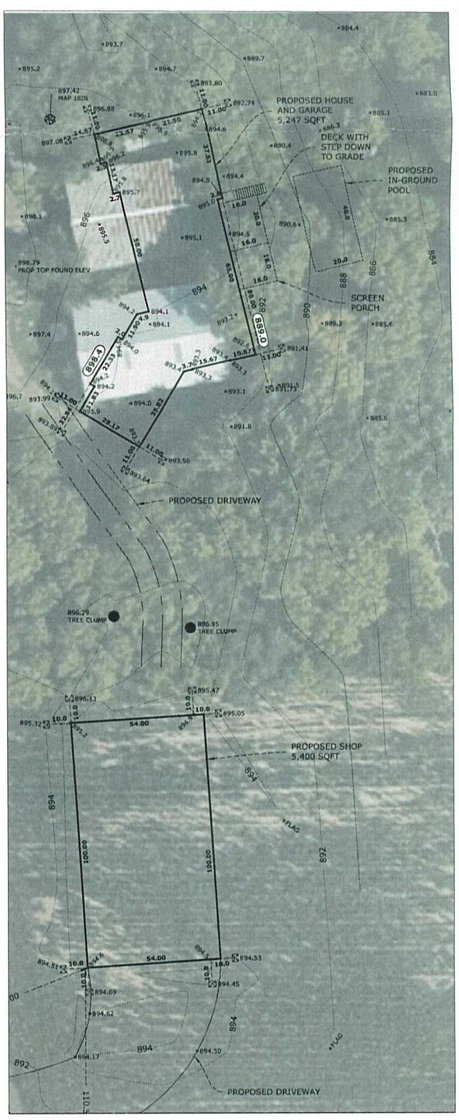


LEGEND

- DENOTES IRON MONUMENT FOUND AS LABELED
- x 952.36 DENOTES EXISTING SPOT ELEVATION
- DENOTES OFFSET SPIKE
- DENOTES EXISTING CONTOURS
- DENOTES GRAVEL SURFACE

BUILDING DETAIL

SCALE 1:30



E. G. RUD & SONS, INC.
EST. 1977
Professional Land Surveyors
990 5th Ave SE, Suite 2
Hutchinson, MN 55350
Tel. (320) 587-2025
www.egrud.com

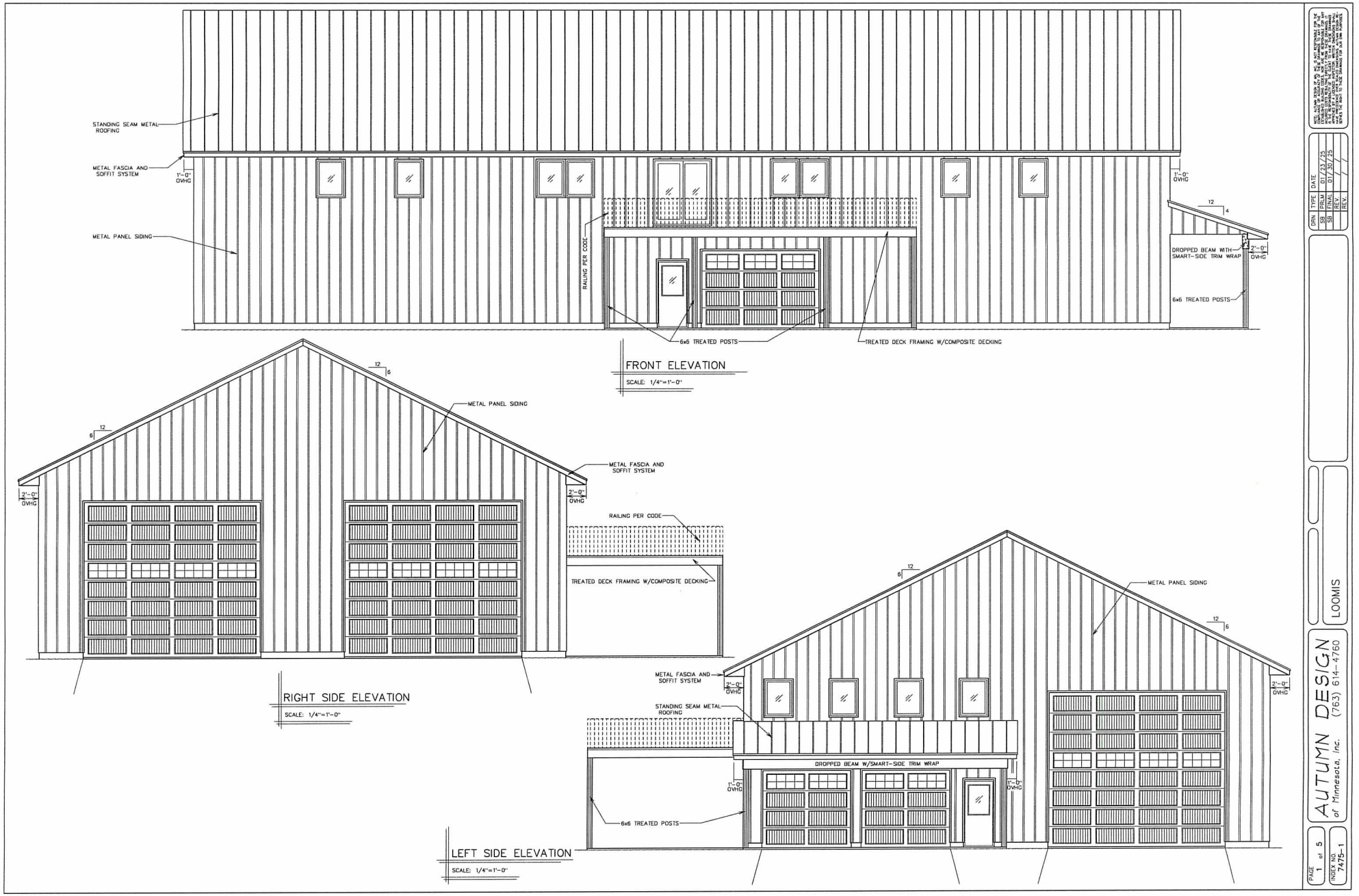
I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

KURT D. NELSON
Date: 03/07/24 License No. 45356

DRAWN BY: CBS	JOB NO: 240109HS	DATE: 03/07/24	
CHECK BY: KDN	FIELD CREW: JWM		
1	26MAR24	UPDATE PROP. ELEV., ADD LABELS	CBS
2	12FEB25	UPDATE SHOP SIZE AND SEP. LOC.	CBS
3	16MAY25	UPDATE LINEWEIGHTS	CBS
NO.	DATE	DESCRIPTION	BY

O:\CIVIL 3D PROJECTS\1 2024 PROJECTS\240109HS\CURRENT\240109HS.DWG

240109HS



DRN	TYPE	DATE
SSB	PRELIM	01/23/25
SSB	FINAL	01/30/25
	REV.	/ /
	REV.	/ /

LOOMIS

AUTUMN DESIGN of Minnesota, Inc. (763) 614-4760

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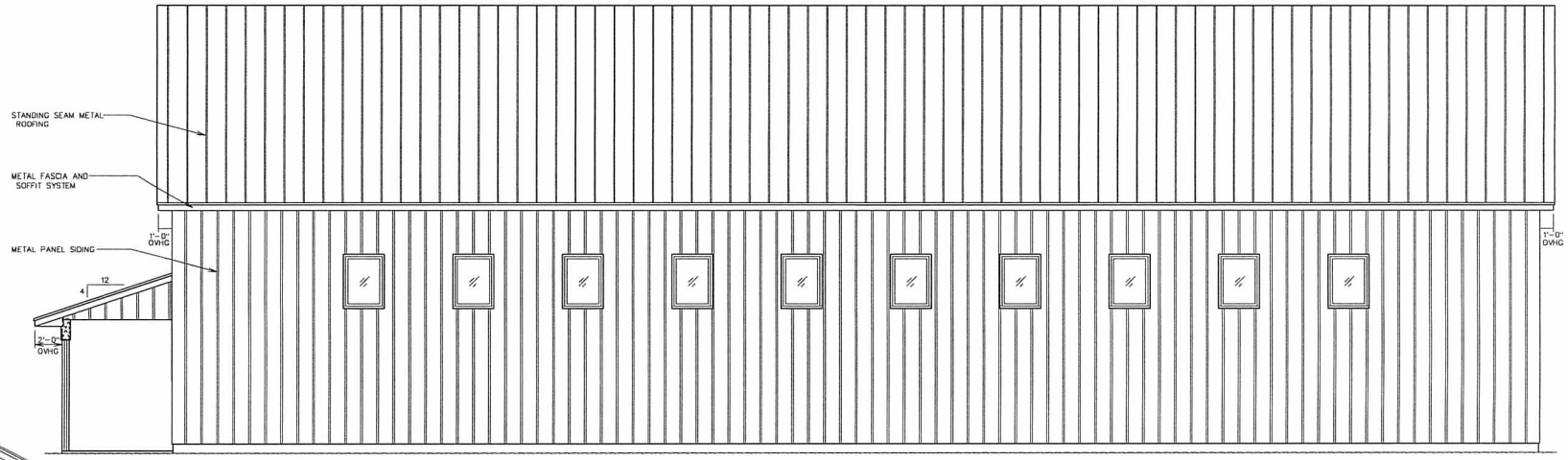
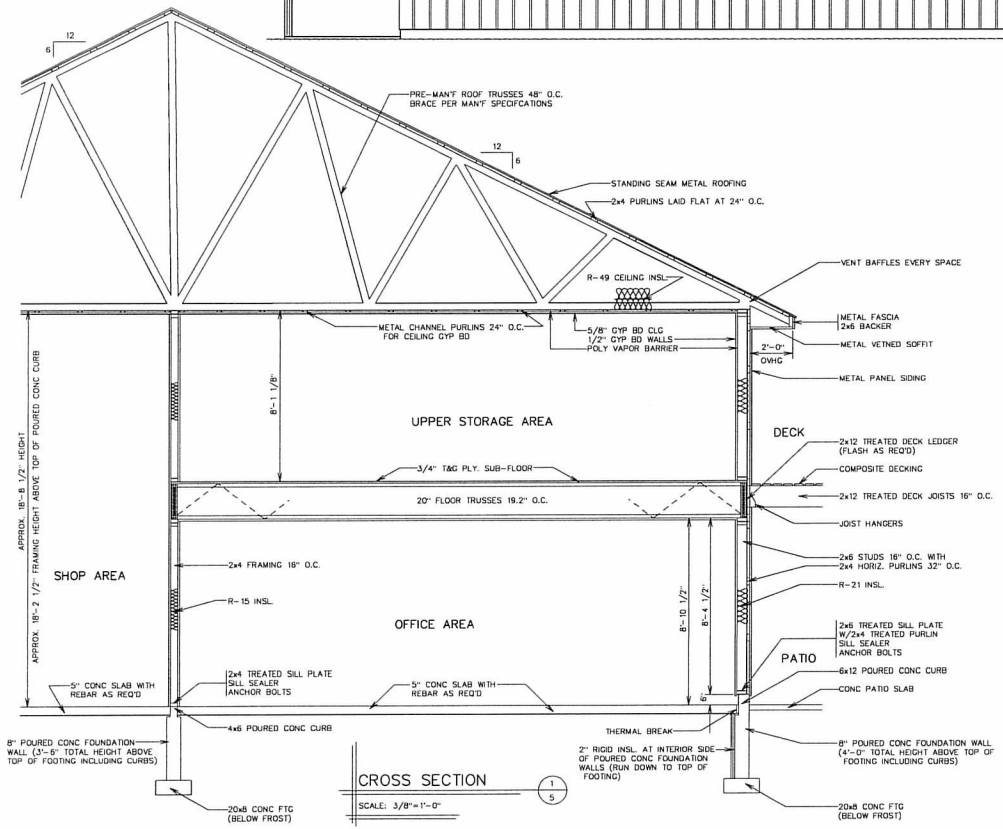
INDEX NO. 7475-1



REAR ELEVATION

SCALE: 1/4"=1'-0"



CROSS SECTION (1/5)

SCALE: 3/8"=1'-0"

DRN	TYPE	DATE
SB	PRLM	01/23/25
SB	FINAL	01/30/25
	REV.	/ /
	REV.	/ /

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of Minnesota, Inc. (763) 614-4760

LOOMIS

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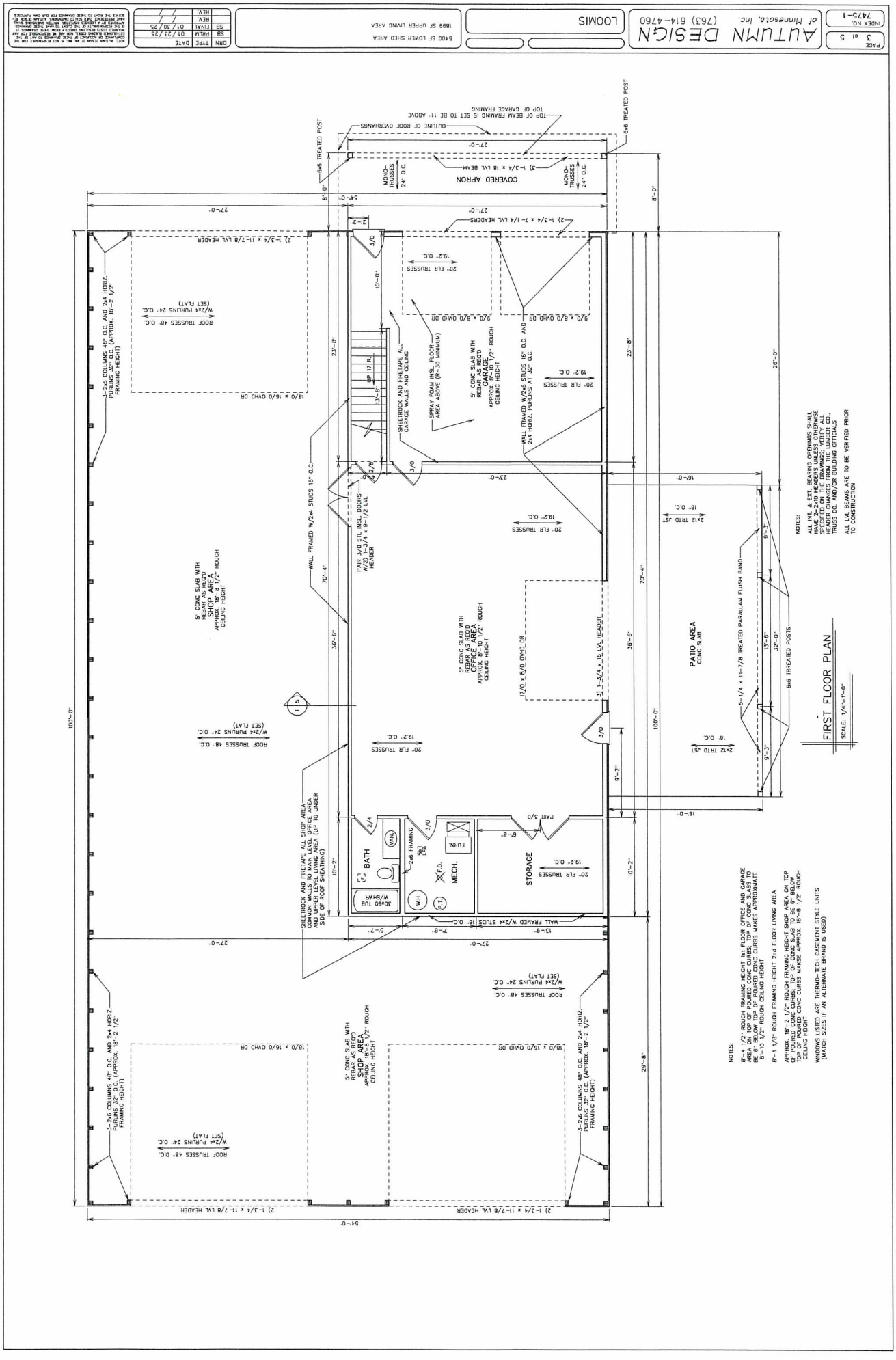
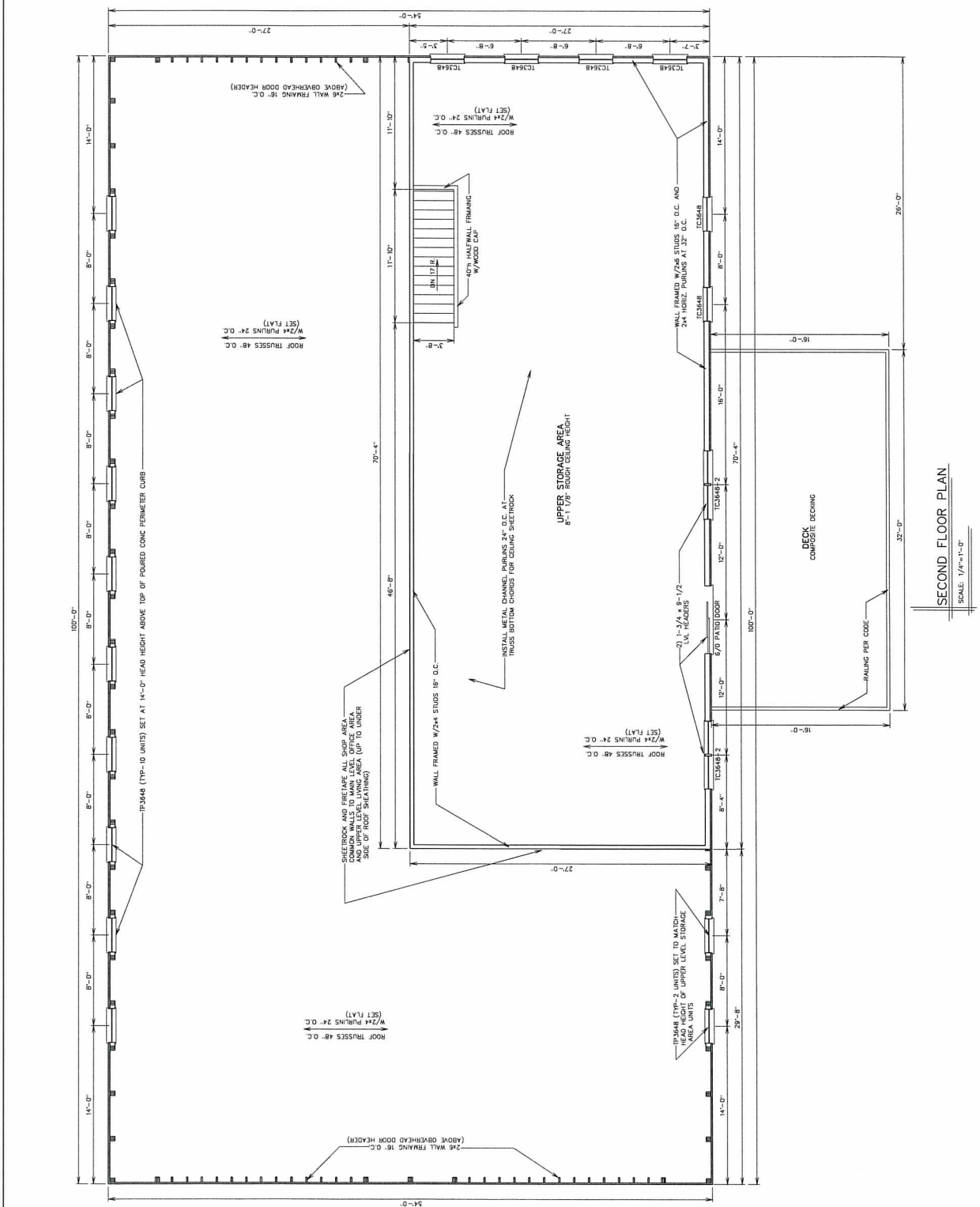

AUTUMN DESIGN
of Minnesota, Inc.
(763) 614-4760
LOOMIS
5400 SF LOWER SHED AREA
1899 SF UPPER LIVING AREA
PAGE 3 of 5
INDEX NO. 7475-1
DRN TYPE DATE
SB PRLM 01/23/25
SB FINAL 01/30/25
REV
REV
REV
FIRST FLOOR PLAN
SCALE: 1/4"=1'-0"
NOTES:
ALL INT. & EXT. BEARING OPENINGS SHALL HAVE 2-2x10 HEADERS UNLESS OTHERWISE SPECIFIED ON THE DRAWINGS. VERIFY ALL HEADER CHANGES FROM THE LUMBER CO., TRUSS CO. AND/OR BUILDING OFFICIALS
ALL LVL BEAMS ARE TO BE VERIFIED PRIOR TO CONSTRUCTION
NOTES:
8'-4 1/2" ROUGH FRAMING HEIGHT 1st FLOOR OFFICE AND GARAGE AREA ON TOP OF POURED CONC CURBS. TOP OF CONC SLABS TO BE 8" BELOW TOP OF POURED CONC CURBS MAKE APPROXIMATE 8'-10 1/2" ROUGH CEILING HEIGHT
8'-1 1/8" ROUGH FRAMING HEIGHT 2nd FLOOR LIVING AREA
APPROX. 18"-3 1/2" ROUGH FRAMING HEIGHT SHOP AREA ON TOP OF POURED CONC CURBS. TOP OF CONC SLAB TO BE 6" BELOW TOP OF POURED CONC CURBS MAKSE APPROX. 18'-8 1/2" ROUGH CEILING HEIGHT
WINDOWS LISTED ARE THERMO-TECH CASEMENT STYLE UNITS (MATCH SIZES IF AN ALTERNATE BRAND IS USED)


SECOND FLOOR PLAN
SCALE: 1/4"=1'-0"
UPPER STORAGE AREA
8'-1 1/8" ROUGH CEILING HEIGHT
DECK
COMPOSITE DECKING
RAILING PER CODE
6/0 PATIO DOOR
2) 1-3/4 x 8-1/2 LVL HEADERS
INSTALL METAL CHANNEL PURLINS 24" O.C. AT TRUSS BOTTOM CHORDS FOR CEILING SHEETROCK
WALL FRAMED W/2x4 STUDS 16" O.C.
WALL FRAMED W/2x6 STUDS 16" O.C. AND 2x4 HORIZ. FABLNS AT 32" O.C.
40"h HALFWALL FRMAING W/ACCID CAP
SHEETROCK AND FIRETAPE ALL SHOP AREA DEMISING WALLS TO MAIN LEVEL OFFICE AREA AND UPPER LEVEL LIVING AREA (UP TO UNDER SIDE OF ROOF SHEATHING)
TP3648 (TYP- 10 UNITS) SET AT 14'-0" HEAD HEIGHT ABOVE TOP OF POURED CONC PERIMETER CURB
TP3648 (TYP-2 UNITS) SET TO MATCH HEAD HEIGHT OF UPPER LEVEL STORAGE AREA UNITS
ROOF TRUSSES 48" O.C.
W/2x4 PURLINS 24" O.C.
(SET FLAT)
2x6 WALL FRAMING 16" O.C.
(ABOVE OBVERHEAD DOOR HEADER)
54'-0"
27'-0"
100'-0"
70'-4"
46'-8"
11'-10"
14'-0"
8'-0"
16'-0"
32'-0"
26'-0"
18'-0"
12'-0"
8'-4"
7'-8"
29'-8"
3'-5"
6'-8"
3'-7"
TC3648
TC3648-2

CARVER COUNTY

Township Presentation & Recommendation Form

PARCEL # 080071300 **Permit #** PZ20250022

Owner's Name: Erik Loomis

Owner's Mailing Address: 17185 Koepp Drive

City: Carver

Owner State: MN

Owner Zip: 55315

Applicant (if other than owner):

Site Address:

Type of Request: ○ CUP ○ IUP ○ Preliminary Plat ○ Final Plat ○ Variance ○ Appeal

Description of Request:

Variance to build a 54'x100' square foot shop with a total square footage of 7290 Sq Ft

Date of County Public Hearing: 6/4/25 **Date of Township Meeting:** 5/12/2025

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:

Vote was unanimous with Staff conditions

Would like to see neighbors approval

**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 5/12/25

Scott Sell Date 5/12/25

Signature of Township Official

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 08-007-1300 File# PZ20250022

APPLICANTS/OWNERS: Erik G Loomis

* *

The East Half of the Northeast Quarter of the Southeast Quarter of Section 7, Township 114, Range 24, Carver County, Minnesota.

DRAFTED BY: Carver County Land Management Department

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

May 23, 2025

TO: Carver County Board of Adjustment & Watertown Town Board

FROM: The Land Management Department

SUBJECT: Variance application to construct driveway with reduced access separation from intersection

FILE #: PZ20250019
APPLICANT: Carson Erickson
OWNERS: Carson & Julie Erickson
SITE ADDRESS: 14XX Penn Ave, Watertown, MN 55388
VARIANCE TYPE: Reduced Access Separation - Intersection
PURSUANT TO: Carver County Zoning Code: Section 152.036 (G)(1)
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 10-004-0300

BACKGROUND:

1. Carson and Julie Erickson own an approximate 12.18-acre parcel located in the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section 4, Watertown Township. The parcel consists of grasslands and wetland and currently contains no structures. It is situated within the Agriculture Zoning District, a portion of the Floodplain Overlay District of the Crow River and lies within the Carver County Water Management Organization (CCWMO) – Crow River Watershed.

2. The parcel has limited road frontage on Penn Avenue and is located at the intersection of Penn Avenue and County Road 27. The applicant, Carson Erickson, is requesting a variance to allow construction of a driveway with reduced access separation from the intersection of the county road and a local township road. If approved, the variance would enable the applicant to apply for an Administrative Permit to construct a driveway, either independently or in conjunction with a future home construction project.

LEGAL BACKGROUND:

§ 152.036 ACCESS REQUIREMENTS.

(A) Relation to road authority. Nothing in this chapter shall abrogate the ability of a road authority to approve, deny, or require modification of an access, require a permit for an access, develop and impose standards and conditions for an access. Approval by the Department of an access pursuant to this chapter shall not constitute approval by the road authority nor shall approval by the Department require that the road authority approve the access.

(B) Number of accesses limited. With the exception of field access drives, any principal use of land requiring access to a public road shall be limited to a single access connection. All parcels shall be limited to a single access, unless through the conditional, interim, or accessory use permitting process an additional access is supported by the operational plan and/or site plan, it is approved by the road authority, and it meets the standards of this chapter.

(G) In addition to the required minimum lot area and dimensions contained in this chapter, all corner lots shall be of adequate dimension to accommodate corner clearances specified below. When a private access is requested near the intersection of two roads the following shall apply:

(1) For a County Road and Township Road, access on the Township Road shall be at least 1/8 mile (660 ft.) from the intersection of the County Road and shall not be located within any turn lake serving the County Road intersection.

(5) Accesses shall not be located within any turn lane or bypass lane.

(Ord. 47, passed 7-23-02; Am. Ord. 58-2007, passed 3-27-07; Am. Ord. 80-2015, passed 6-16-15

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. The subject property was established as a Lot of Record prior to 1974 and was considered a conforming parcel at that time. At the time of its creation, Carver County Public Works did not have a formal access separation policy. However, with the adoption of current access separation standards in 2021, the parcel has become legal nonconforming due to inadequate frontage along Penn Avenue to meet the required separation from County Road 27. The parcel maintains public road frontage on both Penn Avenue and County Road 27.

2. The Carver County Zoning Code requires a minimum separation of 1/8 mile (660 feet) between the centerline of a driveway and the intersection of a County Road and a Township Road. The applicant, who recently purchased the property, is proposing a residential driveway to be located approximately 530 feet north of the intersection of Penn Avenue and County Road 27, requiring a 130-foot variance. The proposed location corresponds with an existing informal access to the property. The submitted site plan (dated May 1, 2025) identifies the proposed driveway location. In alignment with Carver County Public Works policy, the proposed access is located on the road with the lower functional classification and is not within 100 feet of any other driveway on the same side of the road.

3. In a letter dated May 2, 2025, the applicant outlines the basis for the variance request, citing practical difficulties due to the parcel's unique status. "The practical difficulty is being encountered as this is a unique property created prior to 1974, before the current access separation rules were adopted. We have not made any changes to the property that would have triggered the need for a variance. We are reasonably requesting to utilize Penn Avenue to construct a driveway leading to the front of our proposed garage and home, and to avoid the added safety concerns associated with accessing the site from County Road 27."

4. The landowner's plight stems from circumstances unique to the property and not of their own making. The limited frontage on Penn Avenue, combined with the parcel's proximity to County Road 27, presents a practical difficulty in identifying a driveway location that complies with current intersection separation requirements. The applicant is seeking to use the property in a reasonable manner, which is not permitted under existing zoning regulations.

5. As the variance application does not include any proposed building construction or the installation of a subsurface sewage treatment system (SSTS), review by the Carver County Water Management Organization (CCWMO) and Carver County Environmental Services was not required.

6. On May 14, 2025, Drew Pflaumer, Transportation Planning Manager for Carver County Public Works, reviewed the variance request. In an email, he stated: *"We're happy to support the variance request as this is the most viable solution to keep the access off County Road 27."*

7. Granting the variance would not conflict with the intent of the Comprehensive Plan or the Carver County Zoning Code. The parcel would retain reasonable access to a public roadway and remain a conforming lot under existing zoning regulations.

8. The surrounding neighborhood is characterized by agricultural land, woodlands, and scattered residential properties. The proposed variance would not substantially alter the area's character and is not expected to negatively impact government services.

9. The granting of the variance would not materially or adversely affect the health or safety of individuals residing or working near the subject property, nor would it be detrimental to public welfare or injurious to adjacent properties or improvements.

10. The granting of the variance is consistent with the general purpose and intent of the official control. This regulation governs access separation at the intersection of township and county roads to ensure adequate spacing for potential future improvements, such as turn lanes. Although the proposed driveway does not meet the exact separation standard, it reasonably satisfies the intent of minimizing traffic safety risks.

11. The Watertown Town Board reviewed and recommended approval of the request without additional conditions or comments during their May 5, 2025, Town Board meeting.

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance for reduced access separation from an intersection pursuant to Section 152.036 (G)(1) of the Carver County Zoning Code would serve in the interest of justice, the following conditions should be considered:

1. The driveway location shall comply with all applicable standards of the local road authority, Watertown Township. All necessary permits must be obtained prior to commencing any work within the right-of-way. Construction shall be completed in accordance with the submitted site plans and the approved variance

2. If the driveway is constructed before issuance of a building permit for new residential construction, the applicant must submit, have reviewed, and receive approval for a separate Land Management Administrative Permit before beginning any driveway construction activities.

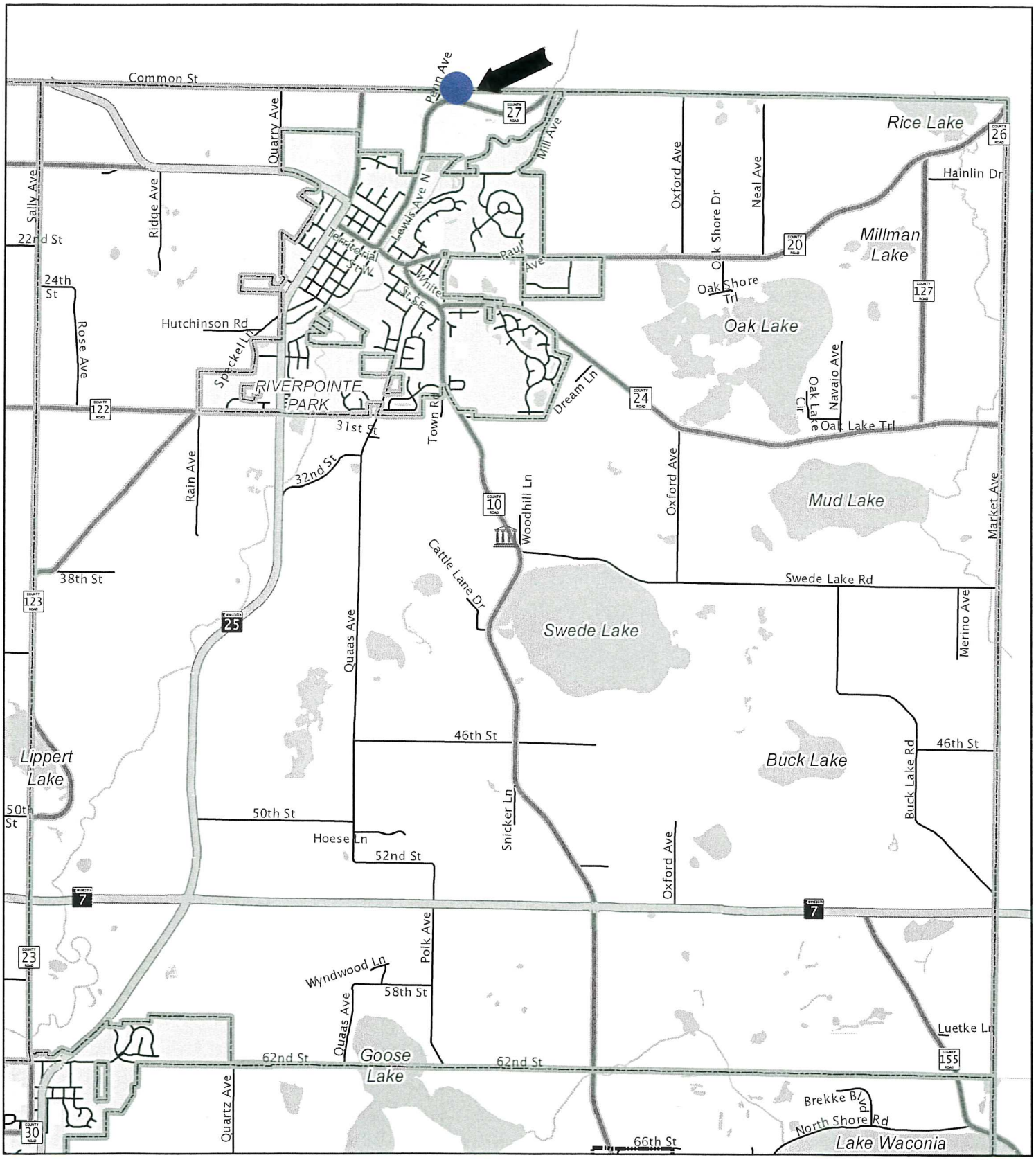
3. The centerline of the driveway shall maintain a minimum distance of 530 feet from the County Road 27 public right-of-way. Any encroachment closer than this distance will require an additional variance approval.

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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0 1 2 Miles

N W E S

Map Created by Carver County GIS

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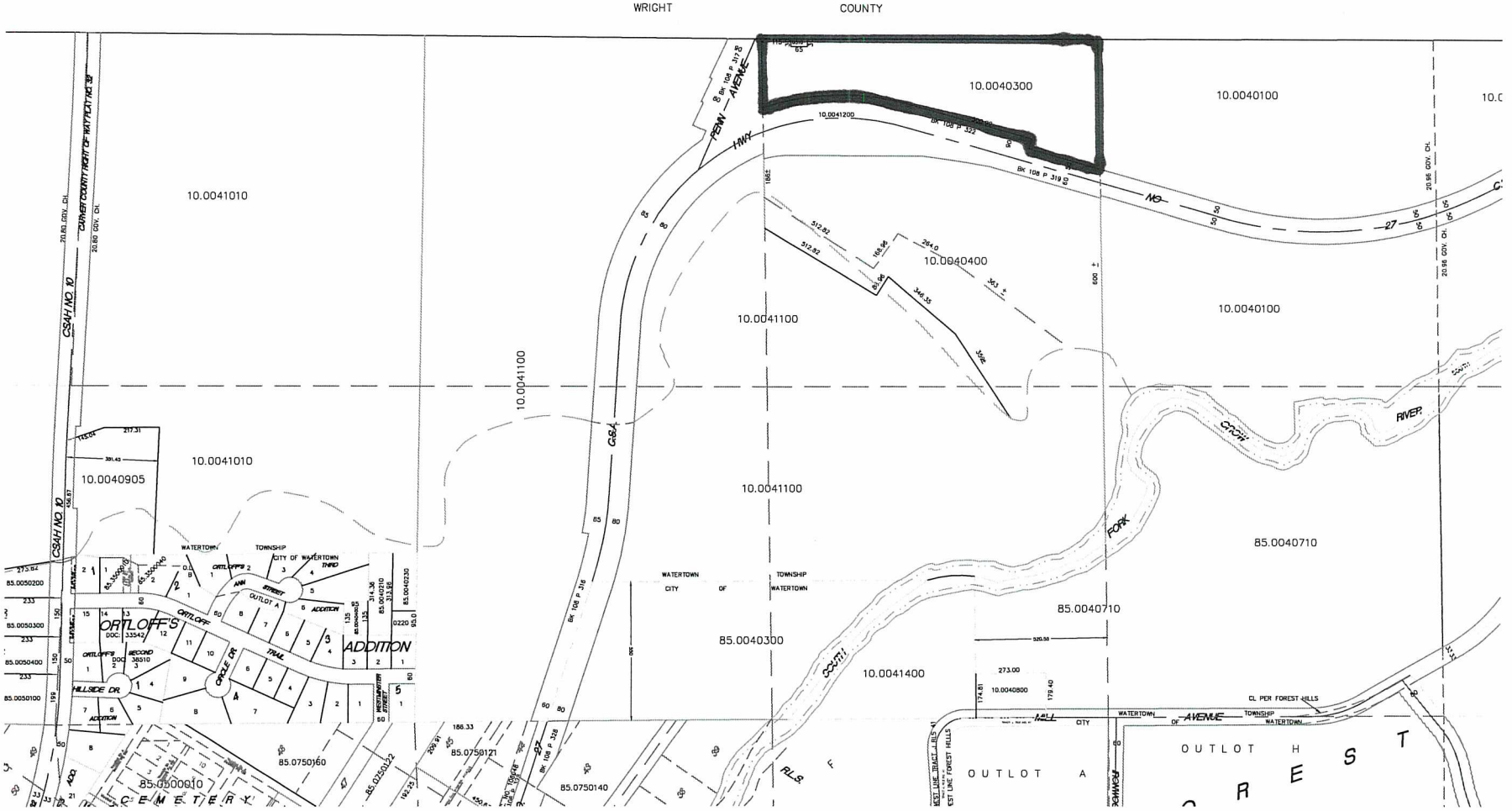
N 1/2 SEC. 4, T.117, R.25



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

Mar 04, 2025

Dear Board of Adjustment Members,
5/2/2025

We are Carson and Julie Erickson and are seeking a variance approval as we have encountered practical difficulty establishing a driveway to gain access to our property and homesite, where our new home will be built in Watertown (PID 10-004-0300). Our property is a Lot of Record that was created prior to 1974 well before the Access Separation was adopted and we are seeking access from the lower classification Township Road, Penn Ave, as the heavy traffic from Co Rd 27 could increase safety and vehicle hazards.

Access separation rules require a driveway has a minimum separation of 1/8 mile (660') from the intersection of a County Road. We have surveyed the separation distance from Co Rd 27 and our proposed driveway at about 530' **so we are asking for about 130' variance from the required 660' to build our driveway**. Additionally, no other driveways would be built in this area as our property connects to Co Rd 27 right of way.

Please consider:

1)The variance, if approved will not alter the general purpose and intent of the control and remains consistent with the intent of the comprehensive plan.

2)Practical difficulty is being encountered as this is a unique property having been created prior to 1974 prior to the separation rules and we have not altered the property in any way that would have created the need for a variance.

3) We are reasonably asking to use Penn Ave to build a driveway to the front of our garage/house and avoid the added safety dangers from Co Rd 27.

4) If approved, the variance will not change the character of the area.

In summary, as we plan the site work for our new home, we need variance approval for the location to gain drive way access to the property as we have run up against a practical difficulty, and if approved our request will not alter the local surrounding, and it is necessary, it also addresses traffic hazard and safety concerns, and is reasonable and consistent with intent and general purpose of control. Additionally, we attended the May 5 Watertown Township meeting, at which they reviewed the application and signed off with their approval for use of Township Rd. Penn Ave.

Thank you for your consideration.

Respectfully Submitted,

Carson and Julie Erickson

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Date: 5/1/2015

CARVER COUNTY

Township Presentation & Recommendation Form

PARCEL # 10.0040300

Permit # PZ20250019

Owner's Name: Carson Erickson

Owner's Mailing Address: 37056 Lakeview Dr.

City: Warroad

Owner State: MN

Owner Zip: 56763

Applicant (if other than owner):

Site Address: Corner of Co Rd 21 & Penn Ave

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

Description of Request:

Variance application to the Township Road (Penn Ave) and Install our driveway to gain access to our property - Parcel # 10.0040300.

Date of County Public Hearing: 6/4/2025

Date of Township Meeting: 5/5/2025

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:

**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 5-5-25

(*) Signature of Township Official — Date 5-5-25

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 10-004-0300 File# PZ20250019

APPLICANTS/OWNERS: Carson Erickson & Julie Erickson

* *

That part of the Northwest Quarter of the Northeast Quarter (NW¼ of NE¼) of Section 4, Township 117 North, Range 25 West, which lies Northerly of the Northerly right-of-way line of Carver County State Aid Highway No. 27, Carver County, Minnesota.

Also, that part of the Northwest Quarter of the Northeast Quarter (NW¼ of NE¼) of Section 4, Township 117 North, Range 25 West, which is subject to a Highway Easement given to the County of Carver on May 1, 1972, said Highway Easement having been filed for record as Document Number 15939 in the office of the Carver County Recorder on September 8, 1972, in Book 108 of Deeds on pages 322-324.

For the purpose of this description, the right-of-way of Carver County State Aid Highway No. 27 is more particularly described in Highway Easement recorded in the office of the Carver County Recorder as Document Number 15939 as recited above.

Except for that portion more particularly described in United States Marshal's Quite Claim Deed recorded in the office of the Carver County Recorder as document No. 122262.

DRAFTED BY: Carver County Land Management Department

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

May 23, 2025

TO: Carver County Board of Adjustment & Dahlgren Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (Reduced Front Setback, Total Building Height)

FILE #: PZ20250023
APPLICANT: Jim Kappel
PROPERTY OWNER: JD & SL Kappel Trust
SITE ADDRESS: 7055 Sarah Drive, Chaska, MN 55318
VARIANCE TYPE: Reduced Front Setback, Total Building Height
PURSUANT TO: County Code Sections 152.034 (D), 152.073 (A)(2)
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 04-088-0020

BACKGROUND:

1. James and Stephanie Kappel own an approximate 1.5-acre parcel located in the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section 15, Dahlgren Township. The property is improved with a single-family home and a 12-foot by 16-foot shed. The property is located in the Agricultural Zoning District and the Carver County Water Management Organization (CCWMO) – Carver Creek Watershed.

2. Mr. Kappel is requesting a variance to construct an accessory structure that would exceed the maximum allowable building height and encroach upon the required front yard setback on the subject property. The proposed structure. Measuring 38 feet by 52 feet (1,976 square feet), would have a total height of 19 feet, exceeding the permitted maximum height of 17 feet for a parcel of this size, thus requiring a 2-foot height variance. Additionally, the applicant proposes to locate the structure 15 feet from a cul-de-sac, rather than the required 35-foot setback, resulting in a 20-foot setback variance. Accordingly, 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:

Front Lot Line Setback	In a case where a cul-de-sac is present, the front setback shall be measured from the center of the cul-de-sac. No structure shall be closer than 35 feet from the exterior radius of a cul-de-sac.

§ 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.

(2) Parcels of one and a half acres or less than or equal to two acres– a total square footage of 2,500 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 has proposed an accessory structure for personal storage, measuring approximately 38 feet by 52 feet, with 2-foot-tall sidewalls and an overall height of approximately 19 feet. At the western edge of the property, Sarah Drive terminates in a cul-de-sac. Mr. Kappel proposes to locate the structure 15 feet from the right-of-way and construct a second driveway from the township road to provide access the structure.

2. The Zoning Code allows a parcel of this size a maximum of 2,500 square feet of personal storage space, which may be distributed between an attached garage and accessory structure(s). The existing attached garage measures 1,127 square feet, of which 503 square feet counts toward the personal storage maximum. The applicant proposes to demolish the existing shed if the variance is approved. Therefore, the proposed 1,976-square-foot accessory structure, combined with the 503 square feet from the attached garage, would total 2,479 square feet, within the allowable limit for a property of this size. The proposed structure meets all other required setbacks and complies with the maximum 12-foot sidewall height.

3. The height and location of the proposed structure require a variance. On a parcel of this size, 1½ acres, the Zoning Code limits the maximum height of an accessory structure to 17 feet. The proposed shed would have an overall height of 19 feet. The applicant has proposed to locate the shed in the northwest corner of the lot, meeting the required 15-foot side yard setback. However, the proposed 15-foot front setback encroaches upon the required 35-foot setback from the right-of-way line of the cul-de-sac.

4. The applicants' letter dated May 7, 2025, states that the proposed accessory structure would be used to shelter a 30-foot trailer, provide personal storage, recreation space, and support hobby-related use. It will not be used as a dwelling. Mr. Kappel outlines the reasons for the variance requests, noting that the pie-shaped lot has limited buildable area due to the existing septic system, mature trees, a golf course easement, and required setbacks on the west side. He also mentions a desire to reserve space for a future in-ground pool. Mr. Kappel explains that a north-south orientation is necessary to accommodate the 30-foot trailer, with a garage door on the north side leading to the proposed new driveway connected to the Sarah Drive cul-de-sac. He adds that the proposed location preserves mature trees on the property, which offer aesthetic value and help protect both the home and the proposed structure from stray golf balls. "The house does get hit occasionally," he writes, "but the existing trees, plus the ones we've planted, help to mitigate that problem." Regarding the height variance request, Mr. Kappel states that the increased building height is necessary to accommodate the size of the garage door, a car lift, and the ceiling clearance needed for the planned storage uses. He also notes that there is only one other home on the cul-de-sac.

5. The site plan, dated May 1, 2025, identifies the location of the proposed garage, the triangular-shaped golf course easement, the septic field, the boundaries of the adjacent right-of-way, and the required setbacks. The proposed structure would be located in the northwest corner of the property, with a proposed 15-foot front setback and a conforming 15-foot side setback on the west side. A ten-foot-wide access easement for golf course maintenance vehicles runs within that side setback. Existing trees on the lot provide some visual screening from neighboring properties, the public right-of-way, and the golf course.

6. Jacob McLain, Carver County Senior Environmentalist, reviewed the application materials and, in an email dated September 11, 2024, stated: "A compliance inspection was completed for the site on September 1, 2024. The Certificate of Compliance is valid until September 1, 2026. The current Subsurface Sewage Treatment System (SSTS) is sized for a three-bedroom home, so the new home should not exceed that size. Any proposed plumbing in the accessory structure will require review and approval by Environmental Services."

7. Abigail Ernst, Water Resource Program Analyst with the CCWMO, reviewed the application materials and, in an email dated May 20, 2025, indicated that she had no review comments regarding the proposed garage.

8. The plight of the landowner is primarily due to circumstances unique to the property, including the configuration of the lot, the irregular shape of the Sarah Drive cul-de-sac, existing site improvements, and the presence of a golf course easement that occupies approximately 10 percent of the parcel. The proposed garage's size and orientation are influenced by the homeowner's need to store a large trailer; however, there is no feasible alternate location for the structure without removing mature trees that provide both aesthetic value and protection from errant golf balls.

9. The granting of the variance would not conflict with the intent of the Comprehensive Plan. The proposed structure would not alter the character of the surrounding neighborhood, nor would it negatively impact government services.

10. The proposed variance would not materially or adversely affect the health or safety of individuals residing or working in the vicinity of the subject property. Additionally, it would not be detrimental to the public welfare or injurious to adjacent properties or improvements.

11. The Dahlgren Town Board reviewed the variance request at their May 12, 2025, meeting and recommended approval. The Board did not provide additional comments or conditions. Mr. Kappel's narrative also notes that the Town Board previously approved a driveway connection to the cul-de-sac in 2019, although the driveway was not constructed.

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance to a reduced front yard setback and increased total structure height for an accessory structure on the property pursuant to Sections 152.034 (D) and 152.073 (A)(2) of the Carver County Zoning Code, would serve in the interest of justice, the following conditions should be considered:

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 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 completed in accordance with the submitted plans and must comply with the approved variance and all applicable regulations. The structure shall meet all required setbacks from property lines, existing buildings, Subsurface Sewage Treatment System (SSTS) locations, and must comply with Carver County Water Management Organization (CCWMO) standards and permitting requirements.

3. Any work within the public right-of-way shall require the appropriate permitting from Dahlgren Township.

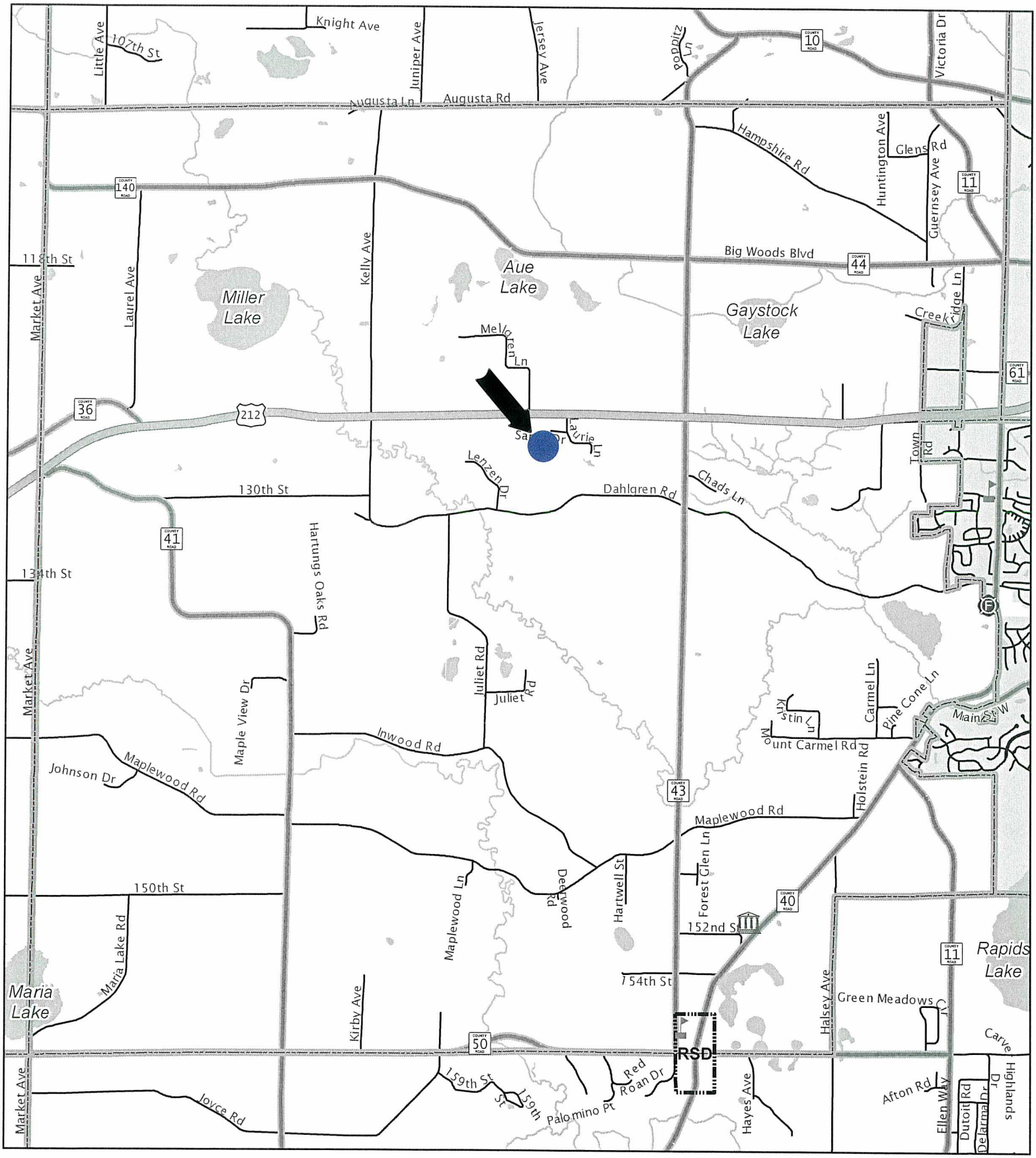
4. No additional accessory structures or expansions shall be permitted beyond the approved personal structure square footage without obtaining and receiving approval through a new variance.

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.

DAHLGREN TOWNSHIP



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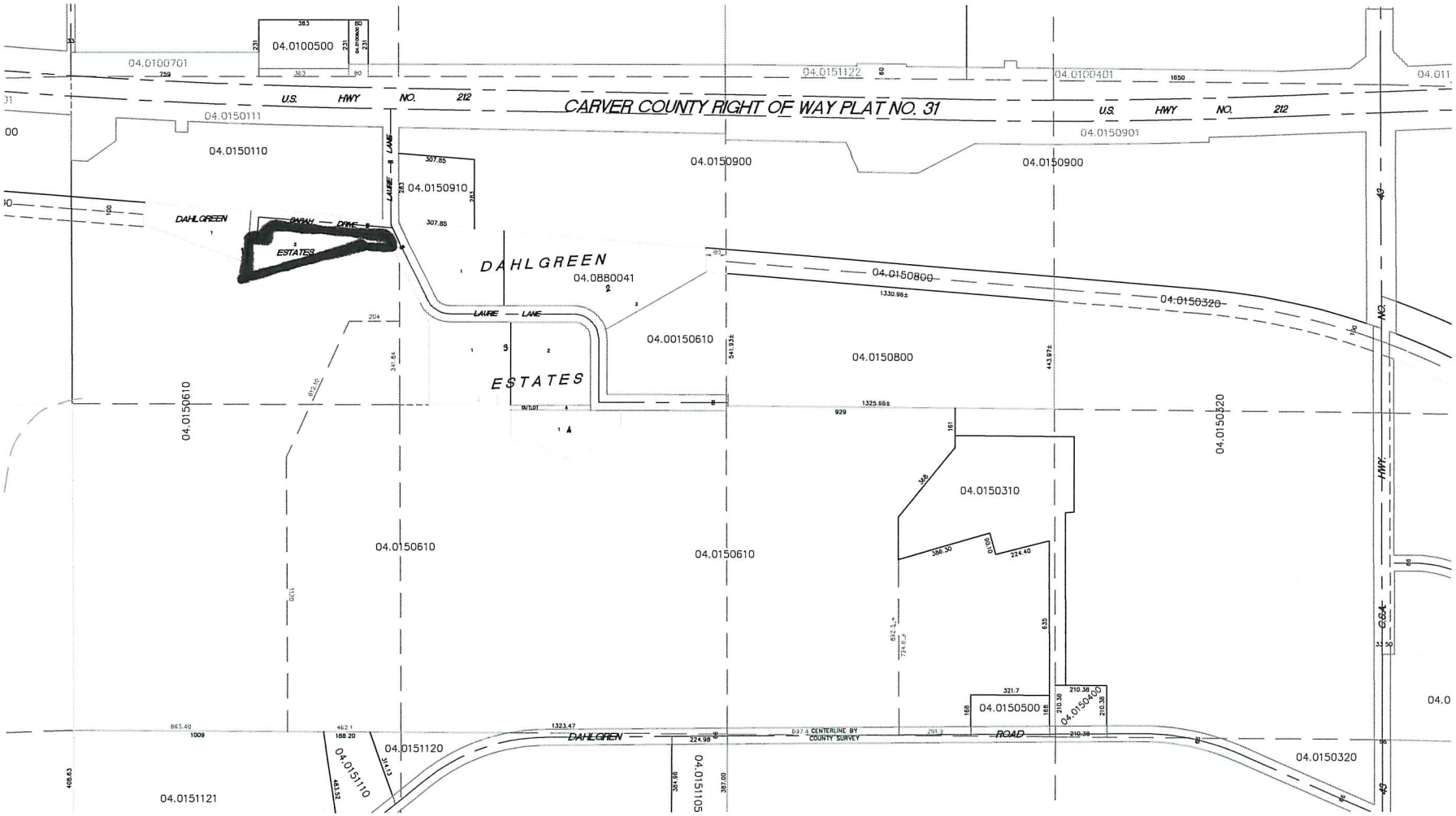
N 1/2 SEC. 15, T.115, R.24



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

Mar 13, 2025

James D. & Stephanie L. Kappel
7055 Sarah Drive
Chaska, MN 55318

May 7, 2025

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

Subject: Variance Request for Property at 7055 Sarah Drive, Chaska, MN 55318

Dear Board of Adjustment,

We are writing to formally request a variance for the 1.5-acre property located at 7055 Sarah Drive, Chaska, MN 55318, owned by James D. and Stephanie L. Kappel.

Pursuant to § 152.073 PERMITTED ACCESSORY USES AND STRUCTURES (A) (2):

> *Parcels of one and a half acres or less than or equal to two acres– a total square footage of 2,500 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.*

We are seeking approval to reduce the front setback requirement from 35 feet to 15 feet and increase the allowable total building height from 17’ to 19’ to accommodate an accessory garage structure of 1,976 square feet (38’ x 52’) with 12’ tall sidewalls. We plan to build within all other pertinent guidelines and limitations.

Our existing attached garage space is 1,127 square feet. Accounting for the 2,500 square foot allowance for a property of our size (1.50-acres), and the personal storage credit of 624 square feet, we have up to 1,997 square feet remaining to utilize. We would be building within this limit (38’ x 52’ = 1,976 square feet) for a proposed total of 2,479 square feet of personal storage space on the property. An existing 12’ x 16’ shed will be removed or demolished and will NOT be calculated in our total square footage allowance. We would also be seeking approval to install a driveway from the ROW on Sarah Drive (a Township Road) to the entry of the garage door (approximately 10’ x 35’). This cul-de-sac has only 1 other home on it to the west of us.

Said structure will be for: storage of a 30’ long trailer, personal storage, recreation space, and hobby related use. It will not be used as a dwelling.

This request is based on the following considerations:

1. We have an irregularly shaped lot (pie shaped) with a very narrow area on the east side where our alternate septic layout is located. We have limited area to build with our existing septic, mature trees, golf course easements, and setbacks on the west side. Additionally, we are looking to reserve some space for a future inground pool.
2. With the proposed structure on the west side of the property, the entry to the garage would be from the northwest Right of Way on the irregularly shaped cul-de-sac of Sarah Drive. An email dated 4/19/2019 from Mary Olson states the board approved this once back in 2019. We seek approval to install a driveway from the ROW to the entry of the garage door (approximately 10' x 35' pending final design and layout). There is only 1 home on the cul-de-sac (Sarah Drive/township road).
3. Having a large enough garage door to allow access for the storage of a trailer (30' long) would need to be on the gable (north) end of the building. The layout of the building will have 12' tall sidewalls and yields trusses and a roof (4/12 pitch) that are above the 17' height limit (proposed up to 19') to accommodate the size of the garage door, car lift, and ceiling heights needed. See the attached plan for truss and building dimensions.
4. The orientation of the structure allows for the optimal hip roof design (the south end of the building may be a hip roof – pending design limitations). This makes the structure have an overall better aesthetic, functional layout, and one that best matches the home.
5. Placement of the structure helps preserve the large, mature trees on the property. These trees protect the house from golf balls hitting the home. We have a minimum of 5+ golf balls in the yard daily during the entire golf season. The house does get hit occasionally, but the existing trees, plus the ones we've planted, help to mitigate that problem. Even if we were to remove the protecting trees, there is a triangle-shaped golf course easement over the southwestern portion of the property prohibiting development in that area – see site plan.
6. The proposed structure would match the home's siding style, color, shingles, and overall look (if possible, we plan to have a hip roof on the south end, pending truss design limitations). The maximum height would be below the house height by quite a bit based on our measurements.
7. There are 5 out of 9 properties in our development with garages larger and/or taller than what we propose – they are 2+ acre properties – so this proposed structure would fit in with the layout of the other properties in the Dahlgren Estates development.

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 any additional information or documentation is required.

Sincerely,

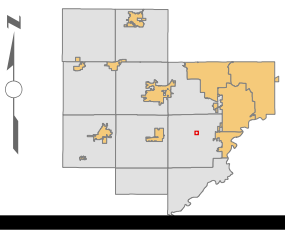
Jim and Stephanie Kappel

KAPPEL VARIANCE SITE PLAN

CARVER COUNTY

Date: 5/1/2025

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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CARVER COUNTY

Township Presentation & Recommendation Form

PARCEL #	040880020	**Permit #**	PZ20250023
Owner's Name:	James & Stephanie Kappel	Owner's Mailing Address:	7055 Sarah Drive
City:	Chaska	Owner State: MN	Owner Zip: 55318
Applicant (if other than owner):		Site Address:	

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

Description of Request:

We are seeking approval to reduce the front setback requirement from 35 feet to 15 feet, increase the allowable total building height from 17' to 19' to accommodate an accessory garage structure to be built on the west portion of our irregular shaped lot (pie shape).

Date of County Public Hearing: 6/4/2025 **Date of Township Meeting:** 5/12/2025

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:

**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.

James D Kappel — Date 05/05/2025

Signature of Applicant

Date 5-12-25

Signature of Township Official

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 04-088-0020 File# PZ20250023

APPLICANTS/OWNERS: J.D. and S.L. Kappel Trust (James D. Kappel & Stephanie L. Kappel, Trustees)

* *

Lot 2, Block 1, Dahlgreen Estates, Carver County, Minnesota.

DRAFTED BY: Carver County Land Management Department

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

May 23, 2025

TO: Carver County Board of Adjustment & Dahlgren Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (Increased Allowable Square Footage for Signage).

FILE #: PZ20250016
APPLICANT: Matt Dunn
OWNERS: SSP Holdings LP
SITE ADDRESS: 7410 Highway 212, Chaska, MN 55318
VARIANCE TYPE: Increased Square Footage for Signage
PURSUANT TO: Carver County Code: Chapter 154.20
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 04-009-0600

BACKGROUND:

1. SSP Holding LP owns an approximately 189.42-acre parcel located in the North Half (N½) and South Half (S½) of Section 9, Dahlgren Township. The subject property is situated on the northerly side of Highway 212 and the westerly side of Mellgren Lane. The parcel includes agricultural production land, wooded areas, an apple orchard, the Highway 212 corridor, and a seasonal commercial business, Scream Town and The Abandoned Hayride, operating under Conditional Use Permit #PZ20230020. The property is located within the Agriculture Zoning District and the Carver County Water Management Organization (CCWMO) - Carver Creek watershed.

2. Matt Dunn, on behalf of SSP Holding LP, is requesting a variance to exceed the maximum allowable signage square footage on the property by installing a temporary freestanding sign measuring 160 square feet. The purpose of the sign is to more clearly identify the location of the Scream Town seasonal attraction. The proposed temporary sign would exceed both the maximum standard of 32 square feet of surface area per sign and the maximum total allowable signage of 36 square feet per property. Therefore, a variance has been requested pursuant to Section 154.20 of the Carver County Sign Ordinance.

LEGAL BACKGROUND:

§ 154.20 SIZE.
(A) No sign shall exceed 32 square feet of surface area. The size of a two-sided sign shall be calculated based on the surface area of only one of the sides, provided the sign surfaces are completely flush (i.e. back-to-back).
(B) No parcel shall have signage exceeding a total aggregate of 36 square feet of surface area for all signs.
(Ord. 58-2007, passed 3-27-07; Am. Ord. 70-2010, passed 1-25-11)

§ 154.22 ELECTRICAL SIGNS.
(A) Electrical signs may be permitted, but devices giving off intermittent, flashing or rotating beam of light shall be prohibited. Flood lighting shall be focused upon the sign. No lighting for signs shall directly reflect light beams onto any public street or residential structure. Signs may not be illuminated beyond any lot line.
(B) Electrical signs must be installed in accordance with the current electrical code and a separate permit from the building official must be obtained prior to placement.
(Ord. 58-2007, passed 3-27-07)

STAFF ANALYSIS:

1. In August 2023, the County Board approved Conditional Use Permit PZ20230020, authorizing Matt Dunn to operate a Large-Scale Activity. The business has been in operation since 2008. A condition of the CUP required compliance with the Carver County Sign Code. Mr. Dunn erected a compliant 32-square-foot sign near the Scream Town driveway access, adjacent to the Highway 212 right-of-way.

2. The applicant proposes a seasonal sign measuring 10 feet by 16 feet (160 square feet) to be displayed near the Highway 212 corridor from the second weekend of September through the second weekend of November. The Scream Town CUP establishes an operating period extending from the last full weekend in September through the first full weekend of November. A smaller 4-foot by 8-foot (32 square feet) sign is currently installed and would be removed during the seasonal sign's display period. Based on the calculation method described in Section 154.25 of the County's Sign Ordinance, the proposed sign would exceed the maximum allowed area for a single sign by approximately 128 square feet and the total allowed signage on the property by approximately 124 square feet.

3. The applicant's letter, dated March 26, 2025, provides justification for the variance request, citing the following practical difficulties:
   - The speed limit on Highway 212 was increased from 55 miles per hour to 65 miles per hour in 2022.
   - Highway reconstruction in 2022 increased the distance between approaching vehicles and the sign, from approximately 50 feet to approximately 100-125 feet.
   - Eastbound traffic approaches along sloped terrain, reducing sign visibility.
   - A decreased police presence has reduced visibility and awareness of the event entrance.
   - The reconfigured highway and addition of J-turns have created confusion, leading to frequent wrong turns, as reported by nearby residents.

4. The proposed sign would be mounted on a permanent wooden framework constructed of pressure-treated telephone poles and 2x4 framing. A vinyl banner would be affixed during the seasonal display period. The sign face would be removed outside of the event season, though the framework would remain in place year-round. The sign would be illuminated during the operating period in accordance with Section 154.22. The applicant intends to comply with all applicable electrical codes and permitting requirements for the installation.

5. The site plan, dated May 19, 2025, identifies the following sign setbacks: the permanent 4-foot by 8-foot sign would be relocated to a point 3 feet north of the Highway 212 right-of-way line, while the proposed 10-foot by 16-foot temporary sign would be positioned 14 feet north of the right-of-way line. This staggered placement is designed to maximize visibility for eastbound traffic while maintaining required ordinance setbacks.

6. The plight of the landowner is due to circumstances unique to the property and not entirely created by the landowner. The reconstruction of Highway 212 has increased vehicle speeds and altered sightlines, necessitating earlier and clearer notification of the attraction's location. Although Scream Town has operated successfully with a conforming-sized sign for 16 years, a larger seasonal sign may now enhance safety by reducing driver uncertainty.

7. The granting of the variance does not appear to conflict with the intent of the Comprehensive Plan or County Ordinances and should not alter the character of the surrounding neighborhood.

8. The surrounding neighborhood consists of agricultural uses and scattered residences. Granting the variance should not materially or adversely affect the health or safety of persons residing or working nearby, nor should it be detrimental to the public welfare or injurious to surrounding properties or improvements. A larger sign may improve driver safety by reducing confusion.

9. Granting the variance is in harmony with the general purpose and intent of the official controls. While the request exceeds the square footage standards for signage, the seasonal nature of the display, its location, and its intent to improve public safety suggest it aligns with the broader goal of maintaining rural character without unduly distracting drivers.

10. The Dahlgren Township Board reviewed the request at their April 14, 2025, meeting and recommended approval, stating: *"Approve temporary sign improvement."*

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been demonstrated, and that approving the variance for a temporary increase in individual sign square footage and total sign square footage on the parcel, pursuant to Section 154.20 of the Sign Ordinance, would serve the interests of justice, the following conditions should be considered:

1. The permittee shall obtain the appropriate building permits prior to the construction of the proposed sign. All work shall be completed in accordance with the submitted plan. NOTE: Signage with internal illumination must be installed in accordance with the current electrical code, and a separate electrical permit must be obtained from the State prior to installation.

2. The seasonal sign measuring 10 feet by 16 feet (160 square feet), may be displayed only between the second weekend in September and the second weekend in November. Outside of this period, the 4-foot by 8-foot (32-square-foot) sign may remain in place at its approved 3-foot setback.

3. The framework for the seasonal sign may remain in place year-round; however, the vinyl banner and associated lighting must be removed immediately following the seasonal display period.

4. All lighting must be fully shielded and directed solely at the sign face. No light shall spill onto adjacent properties or public roadways. Sign lighting must be turned off no later than 10PM each day.

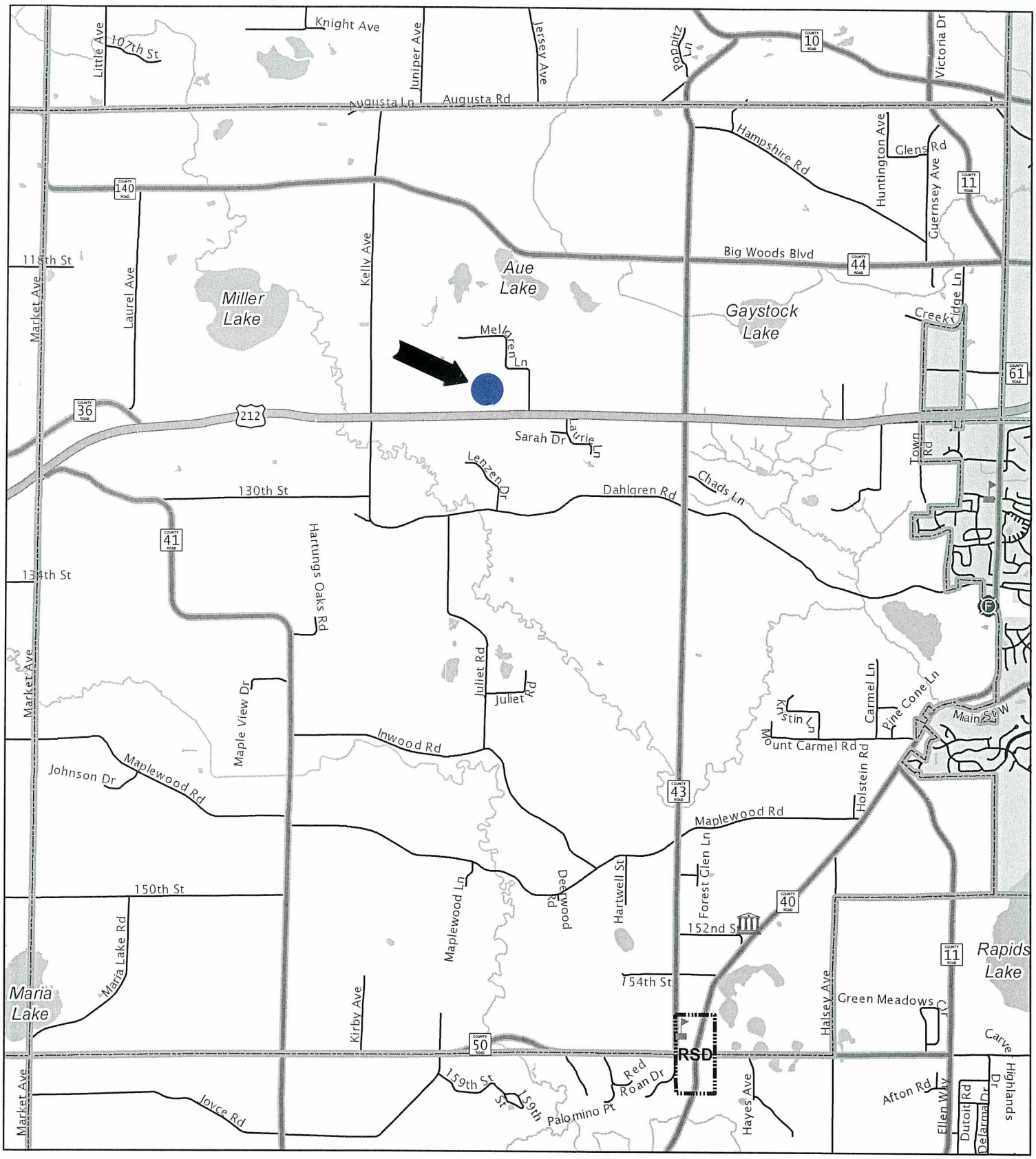
5. No additional signage or expansion of signage related to the primary use of the property shall be permitted without first obtaining all required building permits and/or variance approvals, if applicable.

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.

DAHLGREN TOWNSHIP



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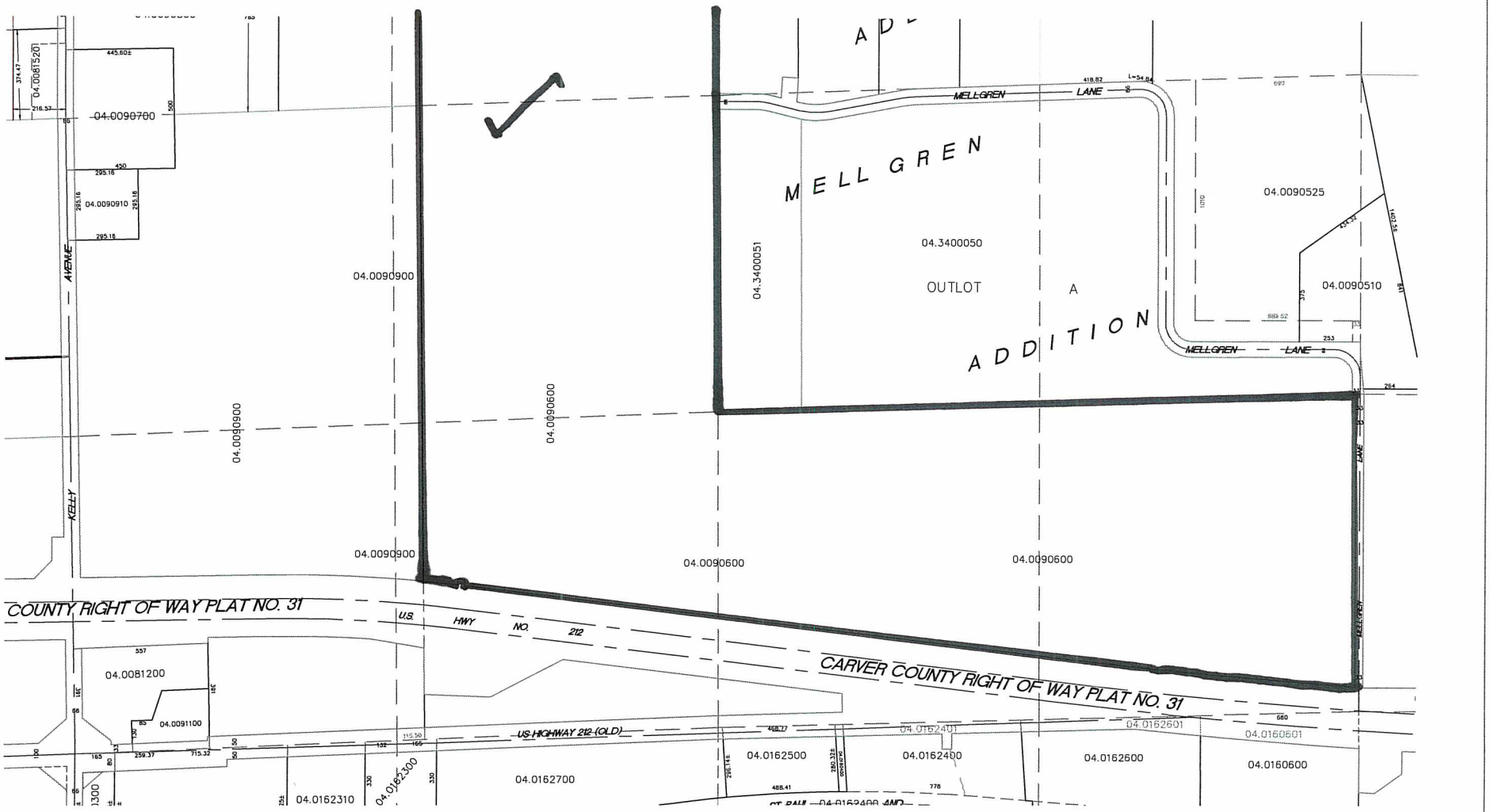
Map Created by Carver County GIS

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.

S 1/2 SEC. 9, T.115, R.24



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

Mar 13, 2025

3/26/ 2025

Dear Board of Adjustment,

I Matt Dunn, the Owner/ Renter of Scream Town & The Abandoned Hayride located at 7410 Hwy 212, Chaska MN 55318 am requesting a temporary larger highway sign on 212 during the duration of our seasonal fall Halloween Attraction. (Owner – SSP Holdings – Mitch Michaelson)

Background:
Scream Town & The Abandoned Hayride are entering 21 years of operation, 17 years in Carver County. We are a Halloween themed Agri-tainment festival and hayride that attracts people from all over the world.

Request:
A temporary sign, size 10x16 feet, to be placed near Hwy 212, adjacent to our current sign (4x8 feet – which will be removed during operation if this request is granted, and put back up when off season). ***Currently the ordinance only allows for a 32 square foot sign*.**

We would like to have a framework structure for this sign that stays in place year round. This sign would be constructed out of telephone poles and 2x4 framing with plywood. However, the actual sign, made of vinyl, would be removed during the off season, and our previous 4x8 foot sign, put back into place. We would work with Carver County Land Management to apply for any applicable building permits needed for this temporary sign.

- During the "Duration" period requested, the sign would be lit with warm white lights.

Duration of temporary Sign.
The second weekend in September to the second weekend in November. Scream Town operates from the last weekend in September to the first weekend in November

Practical Difficulty:
About 65% of the traffic to the event comes from the east. The current sign, size 4x8 feet, is challenging to read due to its small size and the hill leading up to the events turn lane into the property. Since the new highway expansion in 2022, the sign has become increasingly difficult to read, especially at night, despite being lit. Traffic approaching from the east has a significantly more difficulty due to the distance away from the sign after the highway expansion (previously guests were 50 feet from sign, now 100-125 feet away from sign).

PRACTICAL DIFFICULTY DETAILS

- Increase in speed from 55mph to 65mph (2022)
- Sloped hill/ Hwy approaching the event from the East allows less time to see or read sign as the hill/ slope creates a blind spot
- Sloped hill/ Hwy going downhill when passing sign heading west, likely increases speed of car, making the sign more difficult to read.
- Loss of police presence on 212. Police no longer have the man power/ staffing ability to work events, and can no longer place a patrol car with flashing lights on 212 (as in the past), making it harder to identify the driveway for west bound guests.

- ***Main Concern*** – Highway expansion in 2022 moved cars further south with another lane, and the increase in speed have cars moving more quicky.
- Guests approaching the event from the west are now much further away from the sign (previously guests were 50 feet from sign, now 100-125 feet away from sign)
    - Significant other highway signage assisting these east bound visitors to the property are in place, however the increased distance, small sign, and J turns continue to cause a percentage of confusion. Nearby residents living near Scream Town have expressed continued "wrong turns" from guests as to where exactly to access the event.
- Google Maps, Apple Maps, etc may still not be fully updated showing the new 212 vs old 212.

EXACT SIZING DETAILS AND BUILDING DETAILS:

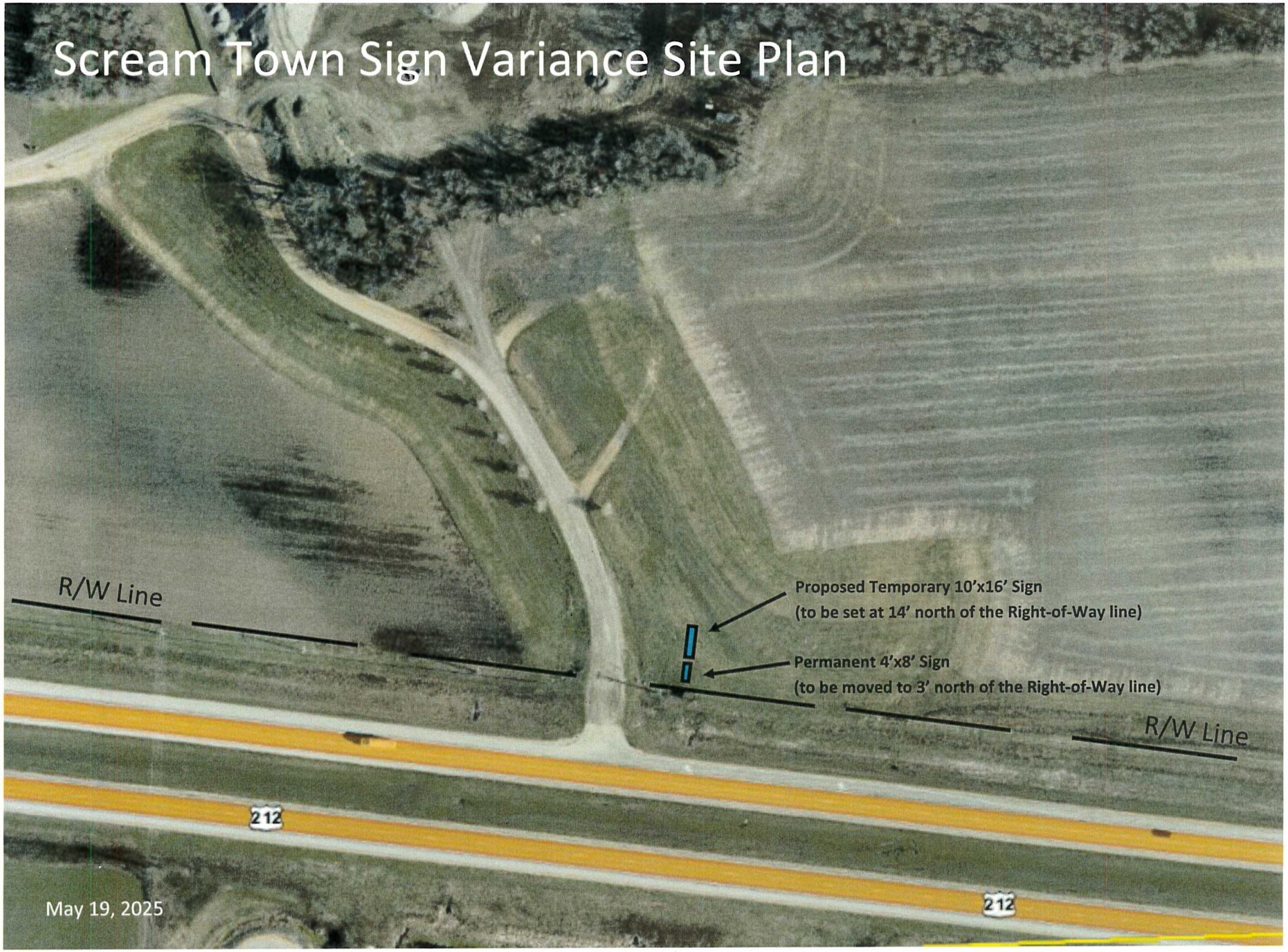
- 10x16 feet (160 square feet)
- Wood construction, pressure treated, perhaps painted black. Telephone pole supports
- Base of sign, 4-6 feet off ground.
- Vinyl banner
- Compliant location (more than 3' from right of way line

We respect the current sign ordinance, but with the significant changes to the highway slopes, distance away from sign, and increased speed, we hope the board can find justification in our reasoning in a temporary larger sign for our seasonal business.

On April 15, 2025, the Dahlgren Township board unanimously approved this request with two board members saying, "I think this is really a good idea, and needed."

Out entire team thanks you in advance for your consideration and hope you will be able to attend out 2025 event!

Matt Dunn
612-518-0364


Scream Town Sign Variance Site Plan
R/W Line
Proposed Temporary 10'x16' Sign
(to be set at 14' north of the Right-of-Way line)
Permanent 4'x8' Sign
(to be moved to 3' north of the Right-of-Way line)
R/W Line
212
212
May 19, 2025

CARVER COUNTY

Township Presentation & Recommendation Form

PARCEL # 04009060 Permit # PZ20250016

Owner's Name: SSP Holdings / Mitch Michaelson

Owner's Mailing Address:

City:

Owner State: MN

Owner Zip:

Applicant (if other than owner):

Site Address: 7410 Hwy 212 Chaska, MN 55318

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

Description of Request:

see Attached

Date of County Public Hearing: 6/4/25 Date of Township Meeting: 4/14/25

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:

Approve temporary Sign improvement

**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 4/14/25

Signature of Township Official Date 4-14-25

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 04-009-0600 File# PZ20250016

APPLICANT: Matt Dunn
OWNER: SSP Holdings, LP, a MN limited partnership (9/10ths interest)
Kathleen Peterson (1/10th interest)

* *

The East Half of the Southwest Quarter (E½ of SW¼); and the Southeast Quarter of the Northwest Quarter (SE¼ of NW¼) EXCEPTING THEREFROM the West 10½ acres, Section 9, township 115, Range 24. ALSO, the South Half of the Southeast Quarter (S½ of SE¼) of Section 9, Township 115, Range 24, according to the plat thereof on file or of record in the office of the County Recorder, Carver County, Minnesota.

DRAFTED BY: Carver County Land Management Department

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

May 27, 2025

TO: Carver County Board of Adjustment & Waconia Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (Exceed Prime Ag Land in New Lots)

FILE #: PZ20250021
APPLICANT: Troy Williams
PROPERTY OWNER: Troy Williams, Todd Williams, and Scott Williams
SITE ADDRESS: 10XXX 102nd St. and 10545 102nd St. Waconia, MN 55387
VARIANCE TYPE: Exceed the Maximum Allowed Prime Ag Land
PURSUANT TO: Carver County Zoning Code: Section 152.033 (F)
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 09-035-0200 and 09-035-0210

BACKGROUND:

1. The Williams Family owns an approximate 16.31-acre parcel located in the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section 35, Waconia Township. The Swiggum Family owns and homesteads an adjacent parcel consisting of approximately 3.5 acres in Section 35, Waconia Township. The Williams property consists of tillable farmland and currently contains no structures, although the property has one (1) building eligibility (B.E.) available due to a B.E. transfer in 2020. The Swiggum property is improved with a single-family house and two (2) detached accessory structures. Both properties are located in the Agricultural Zoning District and the Carver County Water Management Organization (CCWMO) – Carver Creek watershed.

2. The applicant, Troy Williams, is requesting a variance to allow for a minor subdivision that would create two (2) new non-conforming residential parcels:
   - A reconfigured residential parcel containing the existing Swiggum building site (3.5 acres) plus an additional 8.1 acres of tillable farmland (total of 11.6 acres); and
   - An 8.2-acre parcel (with one B.E.) consisting entirely of tillable farmland.

   Both parcels would consist of less than 20 acres and would exceed the maximum of two (2) acre of tillable prime ag soils permitted in newly created lots. While both parcels would meet all other County regulations for residential parcels, a variance is required for the excess amount of tillable prime ag soil, pursuant to Section 152.033 (F) of the County Zoning Code.

LEGAL BACKGROUND:

§ 152.033 LOT REQUIREMENTS.

(F) *Use of prime AG land.* Lots of less than 20 acres created for a new residential building site shall contain no more than 2 acres of prime agricultural land under till. No land subdivision involving an existing residential parcel shall result in the parcel containing more than two acres of land with prime agricultural soils. The setbacks as required by this chapter shall not be included in the calculation.
(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.

(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. A variance was granted in 2019 (PZ20190013) that allowed the Williams Family to subdivide a conforming 20-acre parcel into two parcels – a 3.5-acre residential parcel with the existing house and a 16.5-acre agricultural parcel without a reasonable use. The agricultural parcel did not meet the minimum acreage for agricultural use under the Zoning Code.

2. The 2040 Comprehensive Plan allows townships to determine whether B.E. transfers can occur to adjacent or non-adjacent parcels. Waconia Township allows both. Mr. Williams acquired one B.E. through the administrative transfer process (File A20200158), which was placed on the 16.5-acre parcel making the site buildable, but still legal non-conforming due to exceeding the prime ag standard.

3. County Code typically requires a major subdivision (platting process) for subdivision requests that do not meet minor subdivision criteria. However, if the variance is approved, the major subdivision requirement would not apply.

4. The applicant proposes a minor subdivision as shown in the site plan (dated May 5, 2025) and County aerial map (dated May 26, 2025). Although the proposed 8.2-acre parcel meets road frontage, width-to-depth ratio, and all setbacks, it, along with the reconfigured Swiggum parcel, exceeds the 2-acre maximum for prime ag soils under till. Specifically, the applicant is requesting variances of 2.4 acres (east lot) and 3.8 acres (west lot). All residential lots created after July 1, 1974, must comply with the 2-acre maximum for prime ag soil.

5. In the applicant's letter dated May 1, 2025, he states that the 2019 variance allowed subdivision of the building site for Mr. and Mrs. Swiggum, family members. The 16.5-acre remnant was later granted a B.E., making it buildable. Now, another family member is interested in building a home. The applicant proposes dividing the 16.1 acres south of the Swiggum property into two parcels: an 8.1-acre portion to be sold to the Swiggums, and an 8.2-acre parcel (with a B.E.) to be sold to another family member.

6. The applicant has received letter of support from three adjacent landowners (dated May 6, 2025):
   - Joyce Johnson – 10555 102nd St., Waconia, MN 55387
   - Steve Wagener – 11275 102nd St., Cologne, MN 55322
   - Mark Wickenhauser – 10975 102nd St., Cologne, MN 55322

7. The plight of the landowner arises from a self-created condition. While the 16.5-acre parcel is already buildable due to the 2019 variance and B.E. transfer, the applicant is proposing a configuration that results in both new parcels exceeding the prime ag soil limitation. The 1 per 40 B.E. transfer has made the parcel more conforming than it was previously.

8. The proposed subdivision is not in harmony with the general purpose and intent of official controls. These controls aim to preserve prime ag soil and prevent residential development on high-quality farmland. Additionally, the proposal contradicts the intent to preserve larger, contiguous agricultural parcels for viable farming operations and to promote larger remnant acreages for future city growth needs. Subdivision of the 16.5-acre field reduces its farmability and is inconsistent with the stated purpose of the Subdivision Code – Section 151.003 (C).

9. Approval of the variance would conflict with the Comprehensive Plan. A major goal of the Plan is to preserve agricultural land. Policy LU-17B supports maintaining large, farmable parcels. This proposal would fragment tillable land and reduce its agricultural utility, conflicting with the Plan's intent for residential, combination, and agricultural lots.

10. Although the neighborhood includes both agricultural and residential uses, the applicant does not appear to have demonstrated a land-related practical difficulty requiring subdivision. The current parcel is buildable and usable under existing regulations. The proposed subdivision would alter the character of the area by introducing two non-conforming parcels, though it would not negatively impact government services.

11. The variance, if granted, would not adversely affect public health or safety, nor would it be detrimental to public welfare or neighboring properties.

12. The Waconia Town Board reviewed the variance request at their April 28, 2025, meeting and recommended approval with the following comments:
    - *"Approve variance for allowing a building site on more than 2 acres of prime ag."*
    - *"Building eligibility will go on 8.2-acre parcel."*
    - *If 8.1-acre parcel is not transferred to Scott Swiggum. There needs to be access to this property."*
    - *Feedlot permit is revoked"*
    - *Approval of subdivision does not exceed allowable building density sites (1/40)."*

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance to exceed the prime ag land standard on the properties pursuant to Section 152.033 (F) of the Carver County Zoning Code, would serve in the interest of justice, the previous Variance #PZ20190013 (recorded as Doc. No. A675667) would be terminated upon final approval (and recording) of the new Variance #PZ20250021. Therefore, Variance #PZ20250021 would supersede any prior approvals, and the following conditions should be considered:

1. A Minor Subdivision application shall be submitted, reviewed, and approved prior to the recording of any deed(s). The parcels shall be subdivided in accordance with the County Zoning Code and Subdivision requirements including but not limited to, a completed minor subdivision application, a survey, and SSTS compliance.

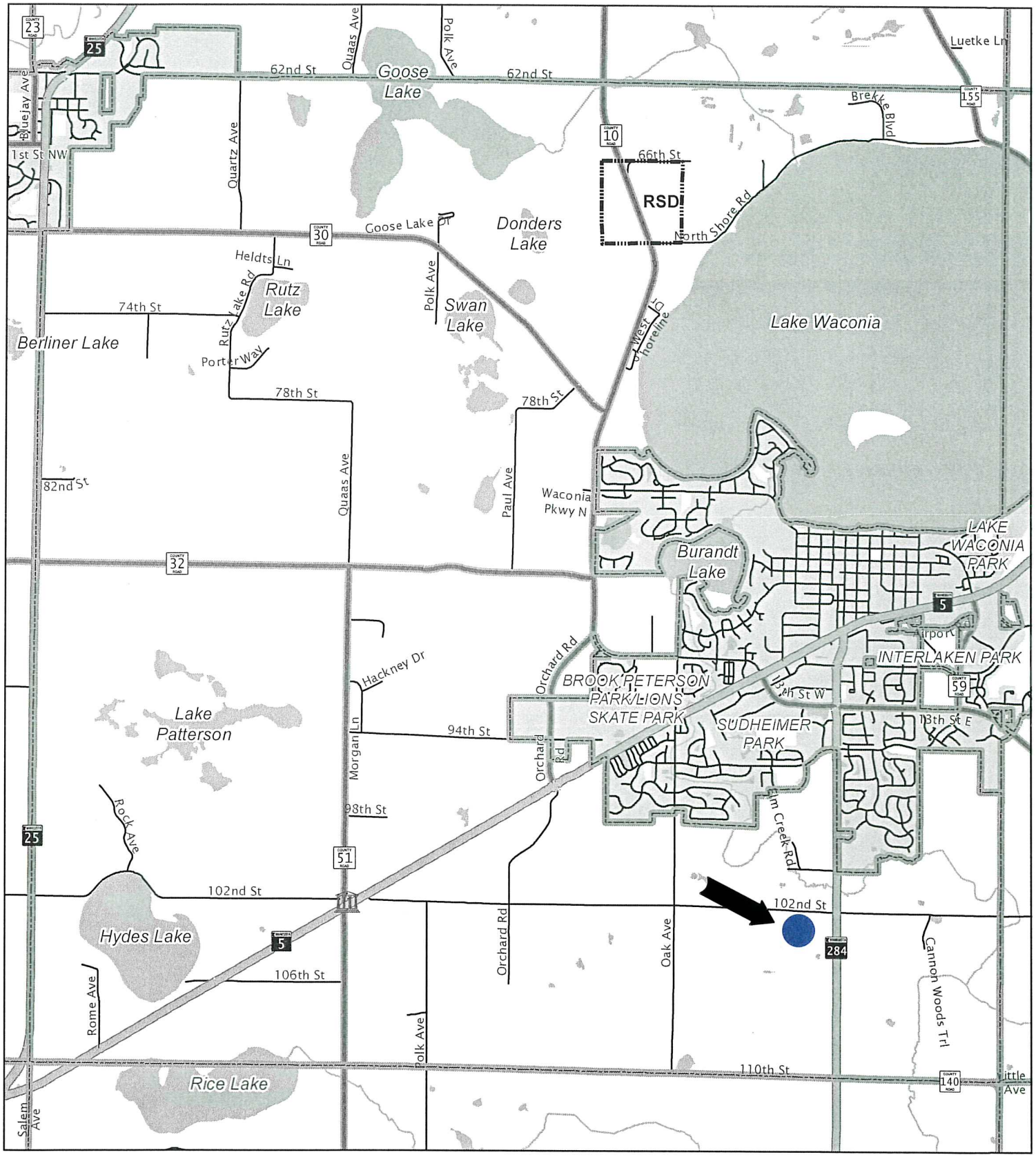
2. Permittee shall contact Waconia Township regarding an access location from 102nd Street and comply with all Township driveway access permit standards and requirements.

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

OR

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

WACONIA TOWNSHIP



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

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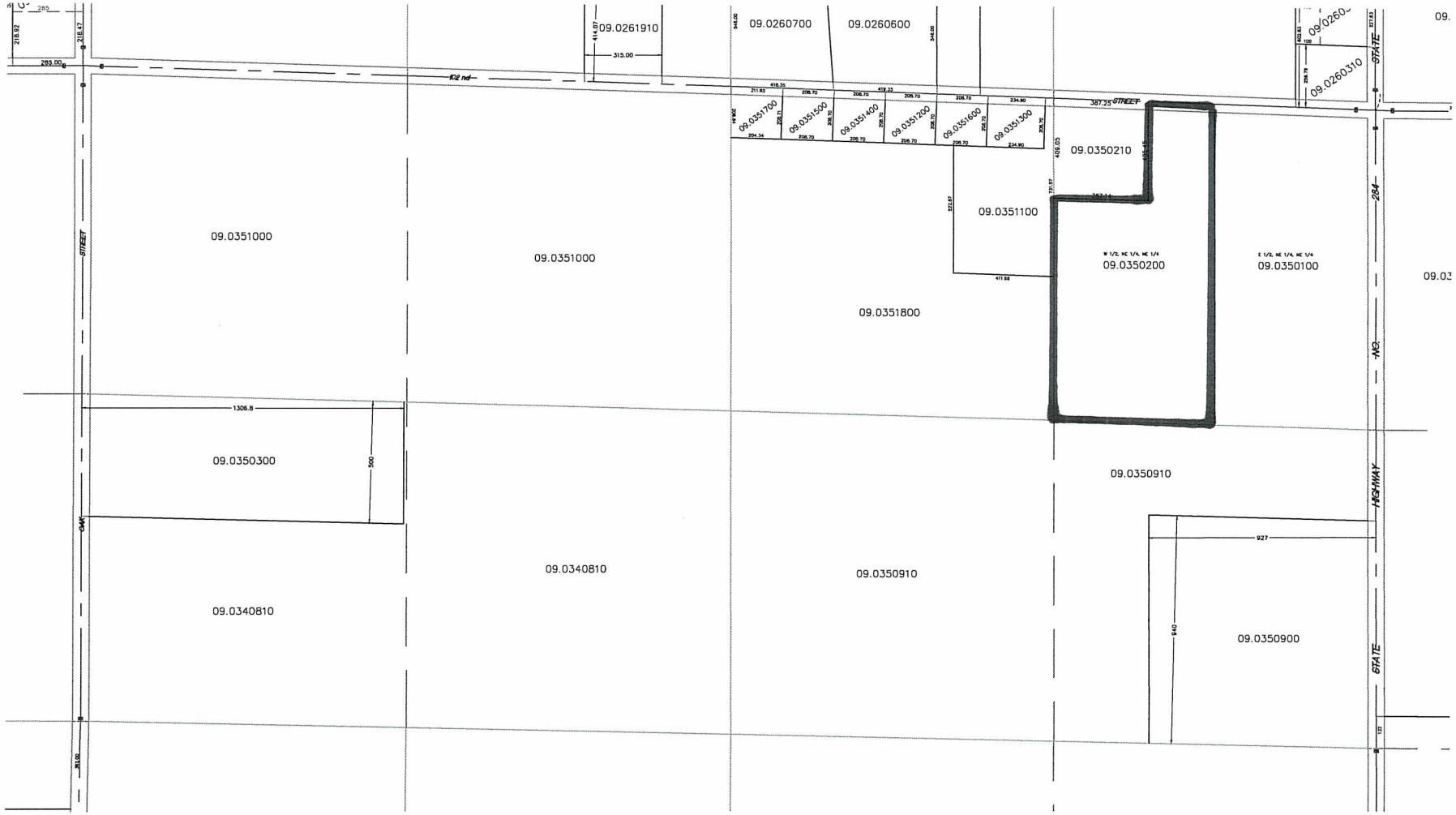
N W E S

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. 35, T.116, R.25



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

Mar 04, 2025

Date 5/1/2025 Request for Variance

To: Carver County

Variance request for Prime Ag soils exceeding 2 acres.

History on Parcel # 09-035-0200 Thomas Williams (deceased)

In April of 2019 the Williams family received a variance to sell off the building site of 3.36 acres to a family member, Ashley and Scott Swiggum. The remaining 16.1 acres would remain in the ownership of the three sons of Tom and Annette Williams. Also, the 16.1 acres remained in ag at that time. Please see attached copy of the variance order #PZ20190013 for more details. September of 2020 after a change in the 2040 Comprehensive Plan the Williams family purchased a building eligibility for the 16.1 acres parcel. See attached copy of File # A20200158 Notice of Building Eligibility Transfer.

Forward to May 2025, another family member is looking at the possibility of building a house on Grandma and Grandpa's land in the future. Here is what the Family would like to propose and the reason for a need for a variance. To split the 16.1 acres at the east side of the Swiggum property straight back to the south property line. This would make two parcels one of about 8.1 acres and one of about 8.2 acres. The 8.1 acres parcels behind the Swiggum property would be sold to them creating one parcel of about 11.46 in size. The remaining 8.2 acres parcel would have the building eligibility on it and be sold to a family member. Both parcels have enough road frontage on 102ND Street to support the depth of the lot.

Thank you for your time regarding this matter.

Troy Williams

WILLIAMS PROPERTY - 102ND STREET

CARVER COUNTY

Date: 5/25/2025

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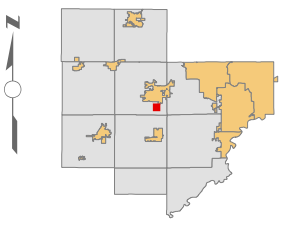
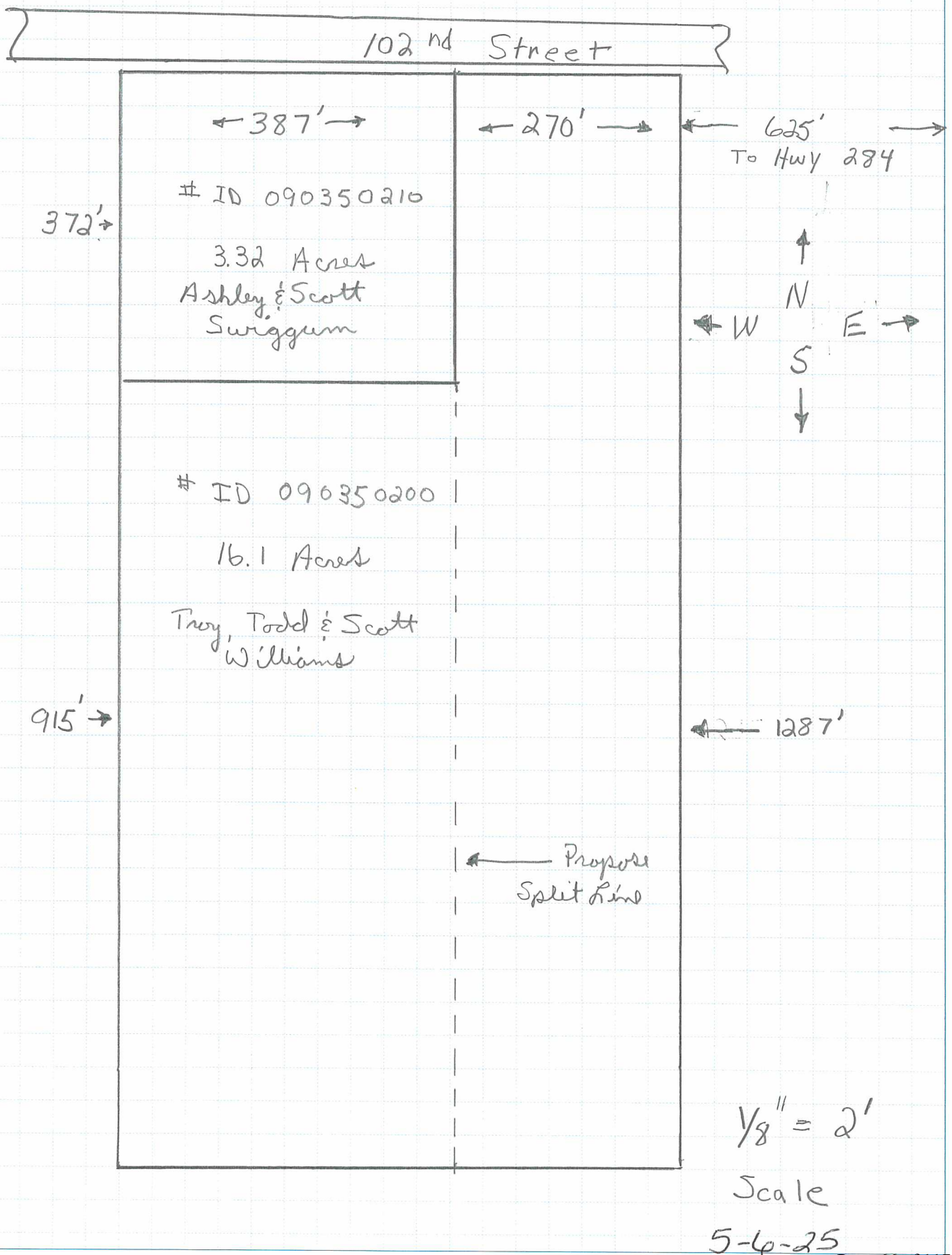



102 nd Street
387'
270'
625'
To Hwy 284
ID 090350210
372'
3.32 Acres
Ashley & Scott
Swiggum
N
W
E
S
ID 090350200
16.1 Acres
Troy, Todd & Scott
Williams
915'
1287'
Propose
Split Line
1/8" = 2'
Scale
5-6-25

CARVER COUNTY

Township Presentation & Recommendation Form

PARCEL # 09035020O **Permit #** PZ20250021

Owner's Name: Troy Williams

Owner's Mailing Address: 9075 Island View Rd

City: Waconia

Owner State: MN

Owner Zip: 55387

Applicant (if other than owner):

Site Address:

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

Description of Request:

Split the 16.1 parcel into two Parcel. (See map for details

Date of County Public Hearing:

Date of Township Meeting: 4-28-2025

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:

1) Approve Variance for allowing a Building site t more than 2 acres of prime Ag.
2) Building eligibility will go on 8.2 acre parcel.
3) If 8.1 acre parcel is not transferred to Scott Swiggum, There needs to be access to this property
4) Feedlot permit is revoked
5) Approval of subdivision does not exceed allowable building density sites (1/40).

**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.

Troy Williams Date 4-28-25

Signature of Applicant

Date 4-28-25

Signature of Township Official

Date 5-6-2025

Planning Commission

We as land owners that are directly next to the Willliams property, do support the variance to split the property into two parcels. Our support is for, as we understand this. The property would be split about in half. The west half to be sold and add to the existing parcel of Ashley and Scott Swiggum. And the east half with a building eligibility to be sold to another family member.

Joyce M Johnson # 090351100

10555 102nd Street, Waconia MN 55387

Joyce M. Johnson

Steven J Wagener # 090350100

11275 102nd Street, Cologne 55322

Steven Wagener

Mark F Wickenhauser # 090351800

10975 102nd Street, Cologne 55322

Voiced his support as a Township Supervisor at the meeting 4/28/2025

DocuSign Envelope ID: 293085CD-49D5-4217-86D3-313F3DCC6227

CARVER COUNTY

COUNTY OF CARVER
State of Minnesota

FILE #: PZ20190013
APPLICANT/OWNER: Troy Williams/Thomas Williams (deceased)
SITE ADDRESS: 10545 102nd St. Waconia Township 55387
VARIANCE TYPE: Lot requirements concerning reasonable use
PURSUANT TO: Carver County Code: Section 152.033 (B)(C)
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 09-035-0200

***Drafted by:* Land Management**
Return to: Land Management

BOARD OF ADJUSTMENT
FINDINGS OF FACT AND ORDER

A public hearing was held on this matter on April 3, 2019 by the Carver County Board of Adjustment. Upon the evidence presented at said hearing by the applicant and other persons named and all the files, records, and proceedings herein, the Board makes the following:

FINDINGS OF FACT

1. Thomas Williams (deceased) owns approximately 20 acres in the S ½ of the NW ¼ of Section 35, Waconia Township. The 20±-acre parcel consists of crop production land, a home and several accessory structures. The property is located within the Agricultural Zoning District and the CCWMO (Carver Creek watershed).

2. The applicant, Troy Williams, is requesting a variance that would allow a subdivision to create two (2) parcels – a residential parcel with the existing house (3.5± acres) and an agricultural parcel without reasonable use (16.5± acres). The agricultural parcel would not meet the minimum area for a parcel where agriculture is the only reasonable use.

3. The applicant is requesting to subdivide the existing parcel (i.e. minor subdivision) with an approximate 3.5±-acre farmstead and a 16.5±-acre parcel (tillable only). This proposed parcel configuration would not create a reasonable use necessary for the creation of a lot; therefore, a variance has been requested.

4. The tillable land according to the code must be at least 20 acres to be considered a reasonable use and the applicant's tillable land is 16.5± acres. The use of the agricultural parcel in the requested subdivision would not be considered a reasonable use due to the size and its primary purpose as agricultural land. If the variance is approved, the 16.5± acres parcel would be considered a land only parcel with no building eligibility.

5. The applicant has indicated that a practical difficulty exists because the parcel owner would like to sell the farmstead (3.5± acres) to a family member, but still own the land surrounding the home which is not allowed due to the parcel size and reasonable use requirement. This prohibits the ability to subdivide a conforming agricultural parcel. The

applicant also stated that the 16.5± acre parcel is used as the same unit with the adjacent 20± acre parcel and will continue to be used as the same unit in the foreseeable future.

6. The board discussed the use of agricultural buildings as well a building eligibility on the proposed 16.5±-acre parcel and determined that additional conditions were warranted.

7. The granting of the variance would not conflict with the intent of the Comprehensive Plan or the County Zoning Code. The proposed parcels would continue to have reasonable access to a public road and the proposed township.

8. The granting of the variances 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. Neighboring properties and the character of the neighborhood will not see substantial change due to the variance.

9. The granting of the variances 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.

10. The Waconia Town Board has reviewed and recommended approval of the request during their February 25th, 2019, Town Board meeting and with the following comment:
    - We the town board supported the family wishes.

11. The Board has considered all the factors required by Section 152.215 of the Carver County Code and finds that the grounds for a variance are hereby satisfied.

ORDER # PZ20190013

IT IS HEREBY ORDERED: That the application of Troy Williams for a variance to subdivide an existing parcel with a parcel without reasonable use pursuant to Section 152.033 of the Carver County Zoning Code, for the property legally described on the attached Exhibit "A", is hereby approved. The Board of Adjustment further orders approval with the following conditions:

1. A Minor Subdivision application shall be submitted and approved prior to the recording of any deed(s). The parcels shall be subdivided in accordance with the County Zoning Code requirements including but not limited to, a completed Minor Subdivision application, septic system compliance, and survey.

2. Agricultural structures shall not be permitted on the 16.5±-acre parcel unless the property is brought into conformity of the zoning code.

3. If a building eligibility is transferred to the 16.5±-acre parcel, the owner must return to the Board of Adjustment to be permitted unless the parcel is in conformance with the zoning code.

DocuSigned by:
Scott Hoese
0160CB749BF544D...
Scott Hoese, Chair
Carver County Board of Adjustment

4/8/2019 | 6:31:27 PM PDT
Date

IF ANY WORK OR ACTION, AS PERMITTED BY THIS ORDER IS NOT COMPLETED WITHIN ONE YEAR OF THE ISSUANCE OF THIS ORDER, THEN THIS ORDER SHALL BECOME NULL AND VOID UNLESS

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 09-035-0200 File# PZ20250021

APPLICANT/OWNER: Troy T Williams Revocable Trust (1/3 Interest)
Todd J Williams (1/3 Interest)
Scott A Williams (1/3 Interest)

* *

The West Half of the Northeast Quarter of the Northeast Quarter of Section 35, Township 116, Range 25, Carver County, Minnesota, EXCEPT that part of the West Half of the Northeast Quarter of the Northeast Quarter described as follows: Beginning at the northwest corner of said Northeast Quarter of the Northeast Quarter; thence on an assumed bearing of South 88 degrees 08 minutes 36 seconds East, along the North line of said Northeast Quarter 387.25 feet; thence South 00 degrees 12 minutes 39 seconds East 405.45 feet; thence North 88 degrees 40 minutes 32 seconds West 387.14 feet to the west line of said Northeast Quarter of the Northeast quarter; thence North 00 degrees 12 minutes 39 seconds West, along the last describe line 409.05 feet to the point of beginning

DRAFTED BY: Carver County Land Management Department

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

May 23, 2025

TO: Carver County Board of Adjustment & Laketown Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance to allow the operation of a Cannabis Business in Shoreland and on land enrolled in the Agricultural Preserve Program

FILE #: PZ20250026
OWNER: Levine Farm LLC
APPLICANT: Charles Levine
SITE ADDRESS: 8420 County Rd 10 E, Waconia, MN 55387
VARIANCE TYPE: Allow a Cannabis Business in Shoreland and on land enrolled in the Agricultural Preserve Program
PURSUANT TO: Carver County Code: Section 152.079 (A)(3) & (C)(10)(b)
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 07-029-0700

BACKGROUND:

1. Charlie Levine owns and resides on an approximate 178.2-acre parcel located in the Northeast Quarter (NE¼) & North Half (N½) of Southeast Quarter (SE¼) of Section 29, Laketown Township. The property is homesteaded and includes a residence, several accessory and agricultural buildings, as well as a structure used for manufacturing hemp cannabinoid and ingredient manufacturing. The site is situated within the Agriculture Zoning District, the Shoreland Overlay District of an unnamed Minnesota Department of Natural Resources (MNDNR) Protected Watercourse and lies in the Carver County Water Management Organization (CCWMO) – Carver Creek watershed.

2. The applicant is requesting a variance to allow the operation of a Cannabis Business (specifically, a Cannabis Microbusiness) on land located within the Shoreland Overlay District and enrolled in the Metropolitan Agricultural Preserve program, which strictly limits non-agricultural business uses. If approved, this variance would allow the applicant to apply for an Interim Use Permit (IUP) to operate the Cannabis business at this location. According to Sections 152.079(A)(3) and (C)(10)(b) of the County Zoning Code, a Cannabis Business may not have its operational area within a shoreland district. Additionally, commercial activity associated with a Home/Farm-Based business is prohibited on land enrolled in the Metropolitan Agricultural Preserve program. Therefore, a variance has been requested to allow the business under these circumstances.

LEGAL BACKGROUND:

§152.079 INTERIM USES–ACTIVITIES CENTERED AROUND A HOME OR A HOME/FARM COMBINATION.
(A) Minimum criteria for issuance of permit:
(1) Minimum five-acre lot size; unless another size is specified under a particular provision;
(2) Sewage can be managed in accordance with Chapter 52 of this code of ordinances;
(3) **Land is not subject to the land use restrictions of an AG preserve covenant;**
(4) The activity shall be located on a hard surfaced (blacktop or concrete) road unless written approval for location on a township road is given by the affected township or townships. The town board may condition its approval of access to a gravel road on agreements with the applicant regarding dust control, maintenance, or similar issues. The terms of the agreement shall be such that the agreement is in force so long as the permit is in effect;
(5) There is a single-family home on the parcel occupied as a homestead by a principal of the activity; or a single-family home will be constructed or homesteaded before the IUP for the activity is issued;

(6) The scale and operational characteristics of the proposed activity shall be such that it can be operated on the proposed site and within the current levels of support services and infrastructure. Activities that will have service needs–traffic capacity or roads, waste disposal or management, fire or police protection, sewage disposal–that will exceed those available in the area should locate in municipalities where the services are available.

(B) Minimum conditions:

(1) Permit shall be subject to administrative review or compliance review as set by the permit. A change in ownership, operations or operator shall be cause for the permit to be reviewed to determine whether an application for an amendment or similar consideration is necessary.

(2) The activity must operate in conformance with the approved site plan and operational plan and other provisions of this chapter. The operational plan and site plan shall become part of the permit.

(3) Outside storage is prohibited unless the storage area is adequately screened from nearby roads and residences.

(4) The operational plan and site plan shall become part of the permit.

(5) The applicant must submit a copy of workers' compensation insurance or sign an affidavit stating that he or she will not have any employees.

(6) All buildings utilized by the operation must meet the State Building Code.

(D) Activities allowed as an interim use. Cannabis business, lower-potency hemp edible manufacturer.

(1) The business must adhere to all applicable state cannabis ordinances, Office of Cannabis Management license standards and county cannabis registration requirements established by ordinance. The license standards include, but are not limited to, Office of Cannabis Management rules regarding security, standard operating procedures, wastewater, odor and filtration, solid waste disposal, water standards, and energy use.

(2) The business operational area shall not be within 1,000 feet of the nearest property line of a parcel containing a school, church, day care, residential treatment facility, or an attraction within a public park that is regularly used by minors, including a playground or athletic field; or within 500 feet of a neighboring residence not on the same parcel of property existing at the time of application for the permit.

(3) All exterior lights on a parcel with a cannabis business shall be shielded or use a hood and lens that cast light downward to minimize the amount of light cast onto adjacent properties or upward into the night sky.

(4) All outdoor growing areas shall be surrounded by a commercial grade fence at least six feet in height.

(5) **The operational area of the business shall not be located within the Shoreland Overlay District or the Floodplain Overlay District.**

(6) These standards do not apply to cannabis retailer, lower-potency hemp edible retailer, medical cannabis cultivator, medical cannabis combination business, medical cannabis retailer, and cannabis testing facility license holders. The land use standards for these cannabis businesses are regulated by §§ 152.080 and 152.098.

(Am. Ord. 58-2007, passed 3-27-07; Am. Ord. 70-2010, passed 1-25-11; Am. Ord. 97-2021, passed 7-20-21; Am. Ord. 108-2024, passed 11-19-24) (***bold*** *font added for emphasis*)

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.

(A) Prior to submission of a variance application, the person applying for a variance shall submit a concept plan and meet with the Department to discuss the application. Through the pre-application, the Department may summarize the informational requirements and issues related to the specific variance request.

(B) *Application.* The person applying for a variance shall submit to the Department a completed variance application stating the practical difficulty present, and provide all other information required by the Department. The Department shall prepare a report and refer the application to the County Board of Adjustment for consideration.

(C) *Public hearing.* The Board of Adjustment shall hold a public hearing on the request pursuant to § 152.285.

(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.

(E) In consideration of an after-the-fact variance request, and in addition to the criteria listed in § 152.215(D), the Board of Adjustment shall take into consideration and weigh the following:
(1) Whether or not the applicant acted in good faith or attempted to comply with this chapter.
(2) Whether a substantial investment of money has been made.
(3) Whether the construction is fully completed.
(4) Whether there are similar structures or similarly situated structures in the area.
(5) Whether the benefit to the county is outweighed by the burden on the applicant, if the applicant is required to comply with this chapter.

STAFF ANALYSIS:

1. In 1982, the Legislature passed the Metropolitan Agricultural Preserve Act. The program is designed to encourage the protection of farmland from premature conversion to non-agricultural uses. Participation is strictly voluntary; the landowner must actively enroll in the program. Most land in Carver County outside of incorporated cities is eligible, provided it meets additional detailed criteria. A landowner enters the program by placing a restrictive covenant on the property—through this covenant, the landowner agrees to certain land-use restrictions in exchange for specific benefits.

2. The applicant seeks to operate a business permitted as an interim use, identified as "Activities Centered Around a Home or a Home/Farm Combination." However, such uses are restricted from operating cannabis businesses on land enrolled in the Agricultural Preserve program, a condition that applies to all home/farm-based businesses within the Agricultural Zoning District. Additionally, when the County adopted its Cannabis Ordinance standards in 2024, it included a stipulation prohibiting cannabis businesses from operating in shoreland areas. This restriction is similar to those placed on new Contractor's Yards and Feedlots. The proposed operational area for Mr. Levine's cannabis business is located within a designated Shoreland area—defined in this case as land within 300 feet of a DNR-protected waterway. If approved, the requested variances would allow the applicant to proceed with applying for an Interim Use Permit (IUP), which would be reviewed by the County Planning Commission, to operate a Cannabis Microbusiness on the property.

3. Mr. Levine has submitted a narrative, dated May 4, 2025, outlining the context of the variance request and providing detailed justification. The applicant currently operates a hemp cultivation and processing business on the property, made legal by the 2018 Farm Bill. Following that change in federal regulations, the business—which includes an extraction lab for manufacturing hemp-derived cannabinoids and ingredients—was recognized as a farming activity. However, according to the narrative, the Carver County Zoning Code prohibits Conditional Use Permit (CUP) or Interim Use Permit (IUP) businesses on land enrolled in the Agricultural Preserve program. Mr. Levine asserts that this regulation *"places our long-standing, compliant business at risk of being shut down simply due to a regulatory technicality, not because of any physical incompatibility or land-use conflict."*

   The applicant identifies a practical difficulty in relocating the business outside the shoreland area or to land not enrolled in the Agricultural Preserve program, stating: *"The practical difficulty stems from the fact that the site has already been developed as a specialized agricultural manufacturing facility. We have made significant investments in equipment, security, infrastructure, and regulatory compliance based on the longstanding assumption that cannabis would be regulated similarly to hemp. The terms of the current ordinance, if applied rigidly, would create unnecessary and disproportionate economic harm to our farm without protecting any broader land use interest."*

   As a proposed solution, Mr. Levine states: *"Once the Ag Preserve ceases in 7 years, Laketown Farms, LLC would not be allowed to re-enroll into the program after the recorded expiration date, May 17, 2032."*

4. The 2023 adoption of state regulations legalizing recreational cannabis cultivation, processing, and sales in Minnesota prompted Carver County to implement reasonable land use controls for cannabis businesses in unincorporated areas (townships). The State's Cannabis Ordinance also extended regulatory requirements to low-potency hemp products, incorporating them into the broader cannabis regulatory framework. As a result, these products were no longer classified solely as agricultural businesses.

5. To maintain consistency with other Conditional Use Permit (CUP) and Interim Use Permit (IUP) commercial operations within the Agricultural Zoning District, the County adopted similar requirements for cannabis businesses. These requirements address factors such as setbacks, access from County roads, and include a provision that prohibits the operational area from being located on land subject to Agricultural Preserve covenants. The relevant covenant states:

   The land herein described shall be kept in agricultural use. Agricultural use, as used herein, means the production for sale of livestock, dairy animals, dairy products, poultry or poultry products, fur-bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, or bees and apiary products. Wetlands, pasture, and woodlands accompanying land in agricultural use shall be deemed to be an agricultural use.

   Unaware that the County was considering applying this restriction to cannabis businesses, Mr. Levine enrolled the property in the Agricultural Preserve program on May 17, 2024, several months before the Cannabis Ordinance was adopted in November 2024.

6. In addition, recognizing the anticipated scale and intensity of cannabis operations, the County prohibited such businesses from operating in Shoreland areas. Mr. Levine proposes to locate the cannabis microbusiness in the same structure where he currently operates his hemp business. He has applied for an Interim Use Permit (IUP), which is scheduled for review by the County Planning Commission on June 17, 2025.

7. The variance site plan, dated May 19, 2025, identifies the location of the existing hemp processing building, which is also the proposed site for the Cannabis Microbusiness processing facility. The building is approximately 30 years old. The proposed outdoor cultivation area is located to the northeast of the building and outside of the shoreland overlay area. Areas shaded in green on the plan indicate land designated as Shoreland. The site plan also identifies a designated area for worker and delivery vehicle parking.

8. If the variance requests are approved, the applicant intends to proceed with a Planning Commission review for an Interim Use Permit (IUP) to establish a Cannabis Microbusiness in accordance with the Zoning Code. The variance narrative outlines the primary cultivation and manufacturing activities, which include a one-acre outdoor grow area and the continued use of a food-grade lab ("The Shop") for cannabis extraction and product manufacturing. This facility includes a walk-in cooler and a milling room.

   According to the submitted IUP narrative, the approximately 1,600-square-foot building is currently used for oil extraction and seed processing related to industrial hemp. Proposed hours of operation are Monday through Saturday, from 7:00 AM to 6:00 PM. Staffing would vary seasonally, with between 2 and 8 employees on-site. No retail activity is proposed. Access to the property is provided via a township cartway. Mr. Levine proposes an expansion of the building's front vestibule to comply with state permitting requirements. The IUP narrative and site plan will be reviewed by the Planning Commission as part of the IUP application process. The operational area on the 178-acre property would be screened by existing trees, additional proposed vegetation, and the site's natural distance from neighboring properties and public view. The operational area is located more than a quarter-mile from any residences on adjacent parcels.

   If the variance is not granted, the Planning Commission would not conduct a review during the June 17, 2025, meeting.

9. Jacob McLain, Senior Environmentalist with Carver County Environmental Services, reviewed the application materials and, in an email dated May 14, 2025, stated: *"We would require a compliance inspection on the holding tank that services the processing lab, since it is located in Shoreland, and they are adding on to the building."*

10. Tim Sundby, Water Resources Supervisor with Carver County Planning & Water Department, reviewed the application materials and in an email dated May 14, 2025, stated that the area of disturbance appears to be less than one acre; therefore, a stormwater permit is not required.

11. The plight of the landowner is a result of circumstances created by previously established language passed through the State Legislation under the 2018 Farm Bill. That allowed Mr. Levine as a farming activity to grow, process, and manufacture hemp derived products from the property. This activity was viewed by Carver County as a farming activity and allowed him to utilize an existing accessory structure only through a building permit process. Keep in mind that each variance application is evaluated based on its individual merits, the uniqueness of the property, and the reasons provided by the applicant.

12. The granting of the variance does not appear to conflict with the intent of the Comprehensive Plan or County Ordinances and is not expected to alter the character of the neighborhood.

13. The neighborhood consists primarily of agricultural uses and scattered residences. Granting the variance is not anticipated to materially or adversely affect the health or safety of persons residing or working adjacent to the property, nor should it be detrimental to the public welfare or injurious to property or improvements in the surrounding area.

14. The Laketown Town Board reviewed the application request during their May 12, 2025, meeting and recommended approval, stating: *"The Board supports the applicant's ability to expand the existing hemp operation (manufacturing and cultivation) by adding one acre for cannabis cultivation on their 178-acre property. The applicant is currently in the licensing process under the new State of Minnesota Cannabis rules. The Board supports the proposed plan."* The recommendation was approved with a unanimous 3-0 vote.

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance to allow a Cannabis Microbusiness operational area in the Shoreland Overlay District and on land enrolled in the Agricultural Preserve program would serve in the interest of justice, the following conditions should be considered:

1. An Interim Use Permit (IUP) application for a Cannabis Microbusiness shall be submitted, reviewed, and approved. If the County Board denies the IUP application, the variance shall become null and void. The Cannabis Microbusiness and the property must comply with all other applicable requirements of the Carver County Zoning Code and the Minnesota State Building Code.

2. If the future IUP application is approved, the operational area shall not encroach upon any required setbacks within the Shoreland Overlay District.

3. Upon expiration of the current Agricultural Preserve program enrollment on May 17, 2032, the property shall not be re-enrolled in the program while the Cannabis Microbusiness or any other Home/Farm-based business operates on the site.

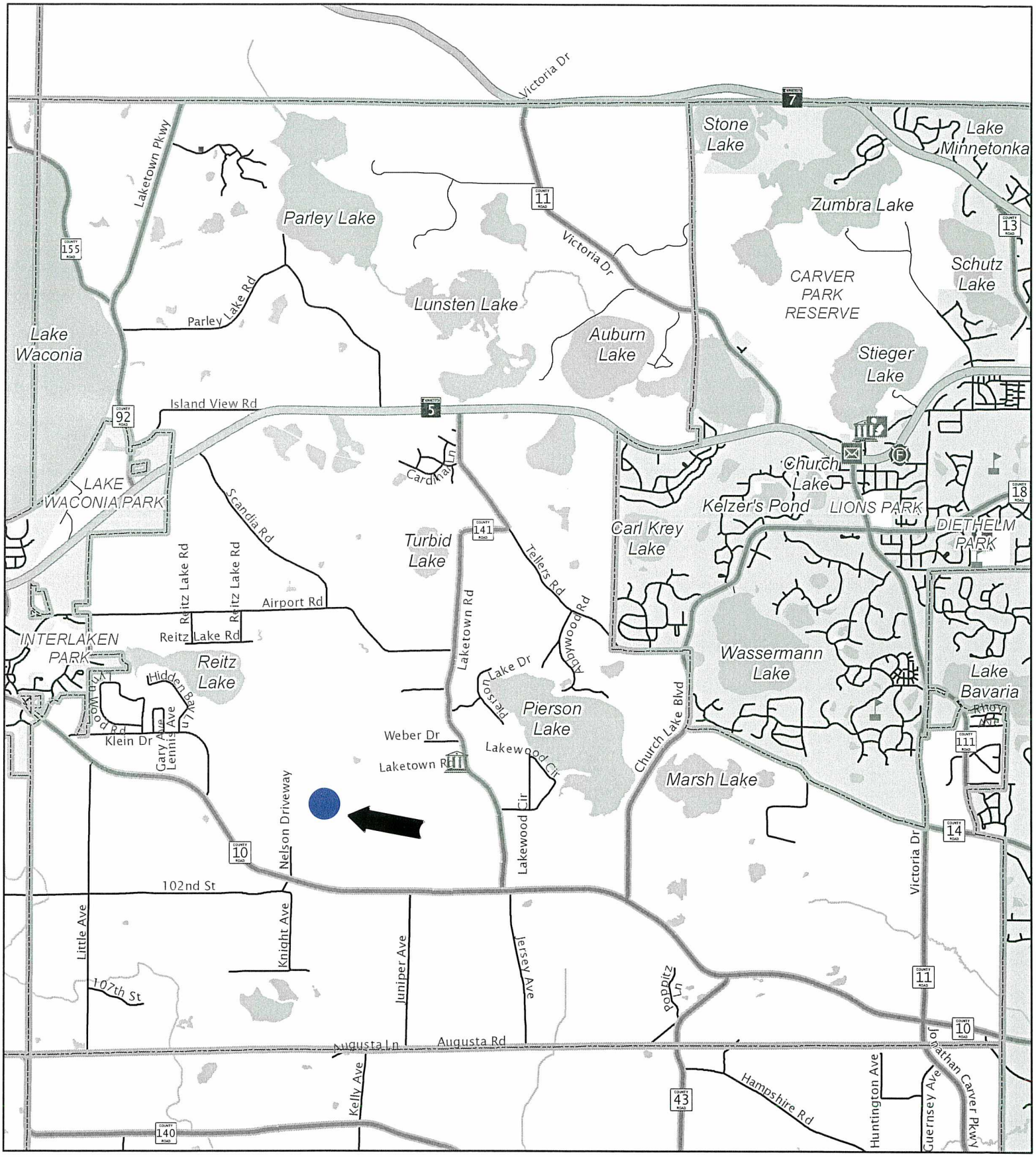
4. No additional Home/Farm-based commercial activities shall be conducted on the property.

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.

LAKETOWN 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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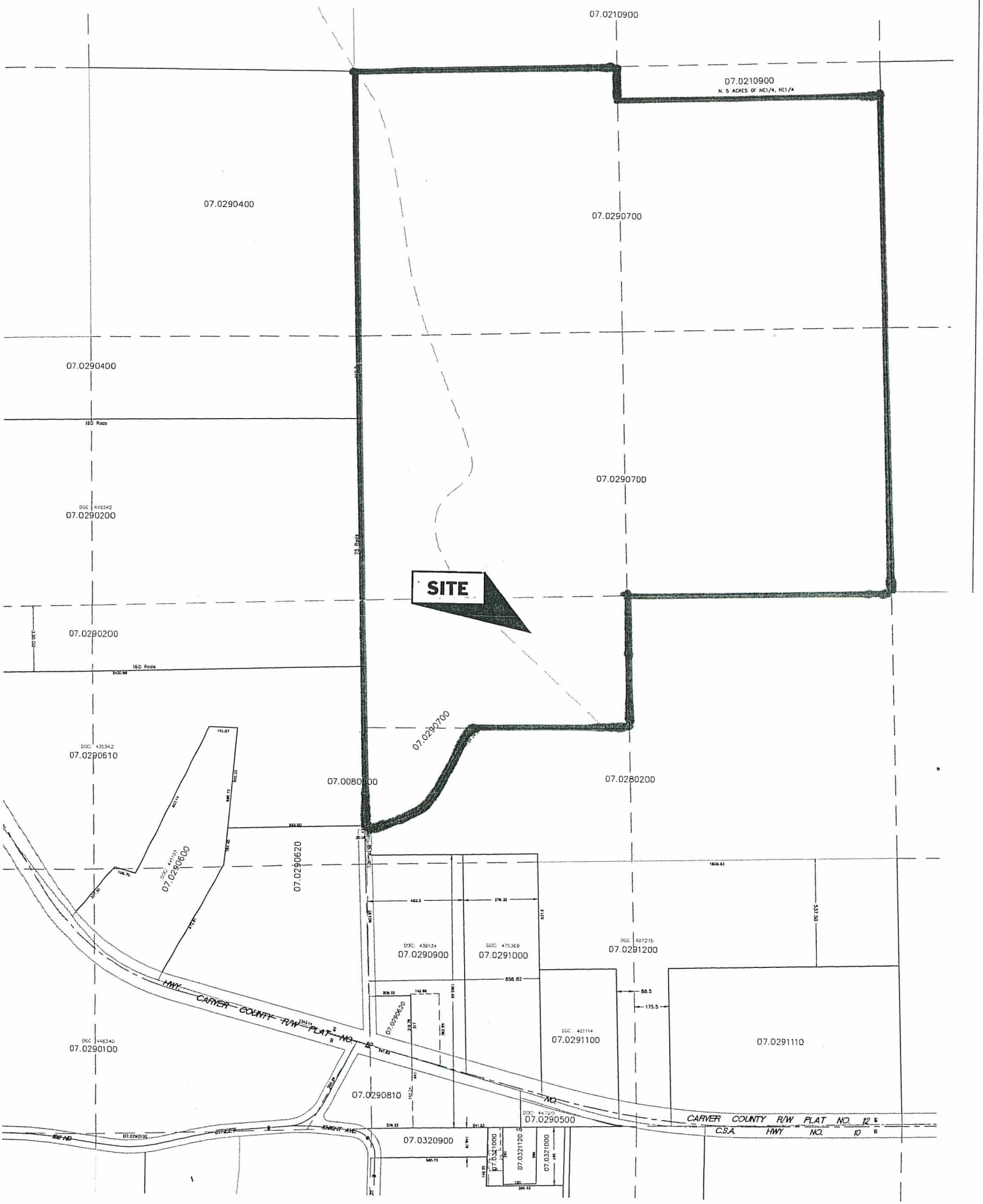
N W E S

Map Created by Carver County GIS

SEC. 29, T.116, R.24



Charlie Levine
Laketown Farms, LLC
8420 County Road 10 E
Waconia, MN 55387

Date: 5/4/2025

Board of Adjustment
Carver County Land Management Department
600 East 4th Street
Chaska, MN 55318

RE: Variance Request for Cannabis Operations in Agricultural Preserve

Dear Board of Adjustment,

On behalf of Laketown Farms, LLC (formerly known as Hemp Acres, LLC), I am writing to formally request a variance under the Carver County zoning code. This request pertains to **Section 152.079 – Conditional/Interim Uses – Activities Centered Around a Home or a Home/Farm Combination**, which restricts the ability to conduct a cannabis operation on land enrolled in the Agricultural Preserve program.

Our property, located at **8420 County Road 10 E, Waconia**, has operated in full compliance as a **hemp processing and cultivation business for the past eight years** which is viewed as a farming activity under the 2018 Federal Farm Bill. The farm currently includes a food-grade extraction lab and related infrastructure used for hemp cannabinoid and ingredient manufacturing. With Minnesota's legalization of adult-use cannabis and the establishment of the Office of Cannabis Management (OCM), our business has taken the appropriate steps to transition into the legal cannabis industry under state regulations.

However, due to Carver County's interpretation and enforcement of Section 152.079, cannabis operations are now prohibited in Agricultural Preserve areas—Despite those same areas having historically allowed hemp operations under the state program. This shift places our long-standing, compliant business at risk of being shut down simply due to a regulatory technicality, not because of any physical incompatibility or land-use conflict. A solution is once the Ag preserve ceases in 7 years, Laketown Farms, LLC would not be allowed to re-enroll into the program after the recorded expiration date, May 17th, 2032.

We are therefore requesting a variance to allow **cannabis cultivation and manufacturing activities** to continue at our current location, where all necessary infrastructure and security already exist. The proposed activities include:

- **Outdoor cannabis cultivation** within a fenced one-acre plot

- **Continued use and expansion** of our existing food-grade lab (“The Shop”) for cannabis extraction and product manufacturing, including a **walk-in cooler, milling room**, and **front vestibule expansion** to comply with OCM requirements

The practical difficulty stems from the fact that the site has already been developed as a specialized agricultural manufacturing facility. We have made significant investments in equipment, security, infrastructure, and regulatory compliance based on the longstanding assumption that cannabis would be regulated similarly to hemp. The terms of the current ordinance, if applied rigidly, would create unnecessary and disproportionate economic harm to our farm without protecting any broader land use interest.

Our operation is located on a **180-acre rural property** and is **over a half-mile from any neighboring residence**. There are no retail sales or public traffic. We believe that this site presents no conflict with the spirit of the ordinance, which is intended to preserve the agricultural character of the area—something we are committed to maintaining.

We respectfully ask for your support in granting this variance to allow us to continue operating at our historic location, in alignment with Minnesota’s newly regulated cannabis program and in continuity with our past eight years of compliant agricultural business.

Sincerely,
Charlie Levine
Owner, Laketown Farms, LLC
charlie@laketownmills.com | 612-240-5440

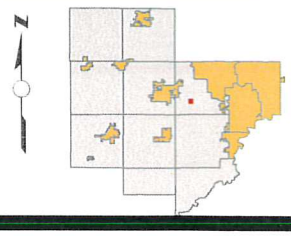
LEVINE VARIANCE SITE PLAN

CARVER COUNTY

Date: 5/19/2025

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.

Area shaded green is in Shoreland



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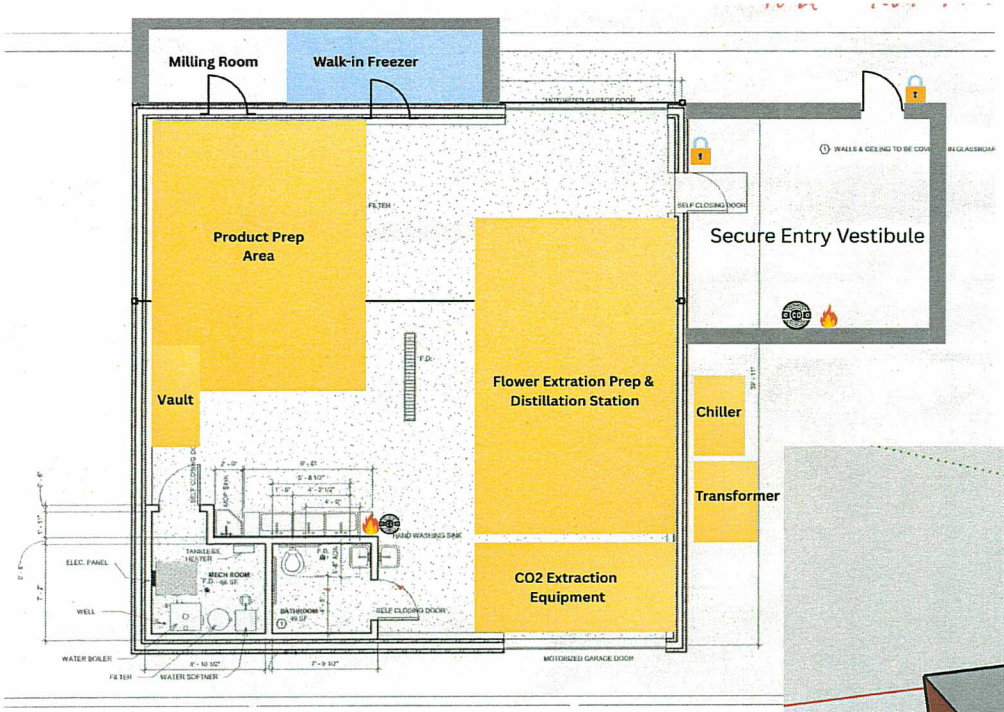
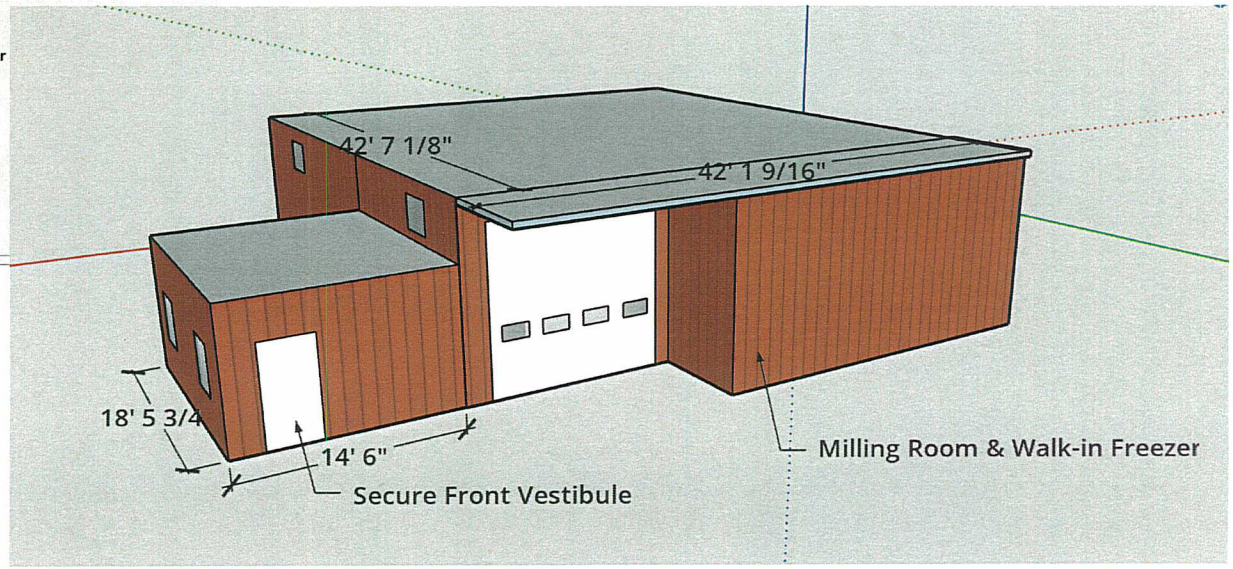
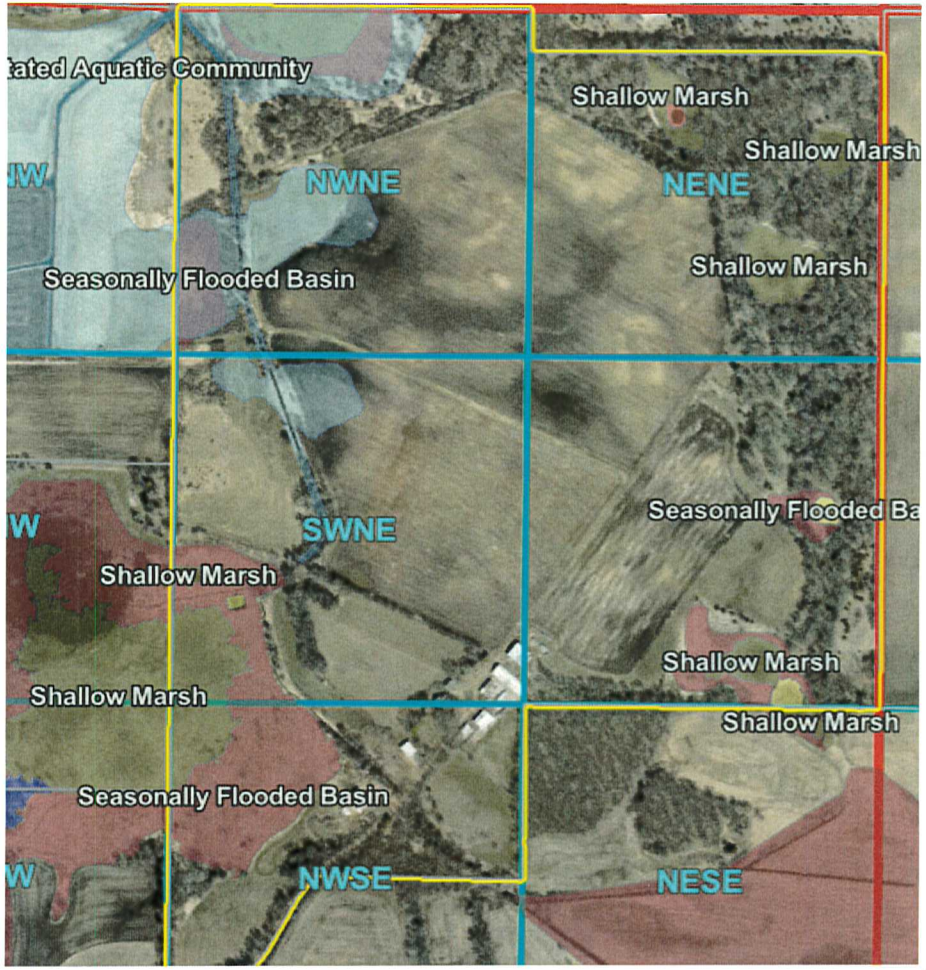
Variance Site Plan
Date: 5/9/25

Proposed Extraction Lab Expansion

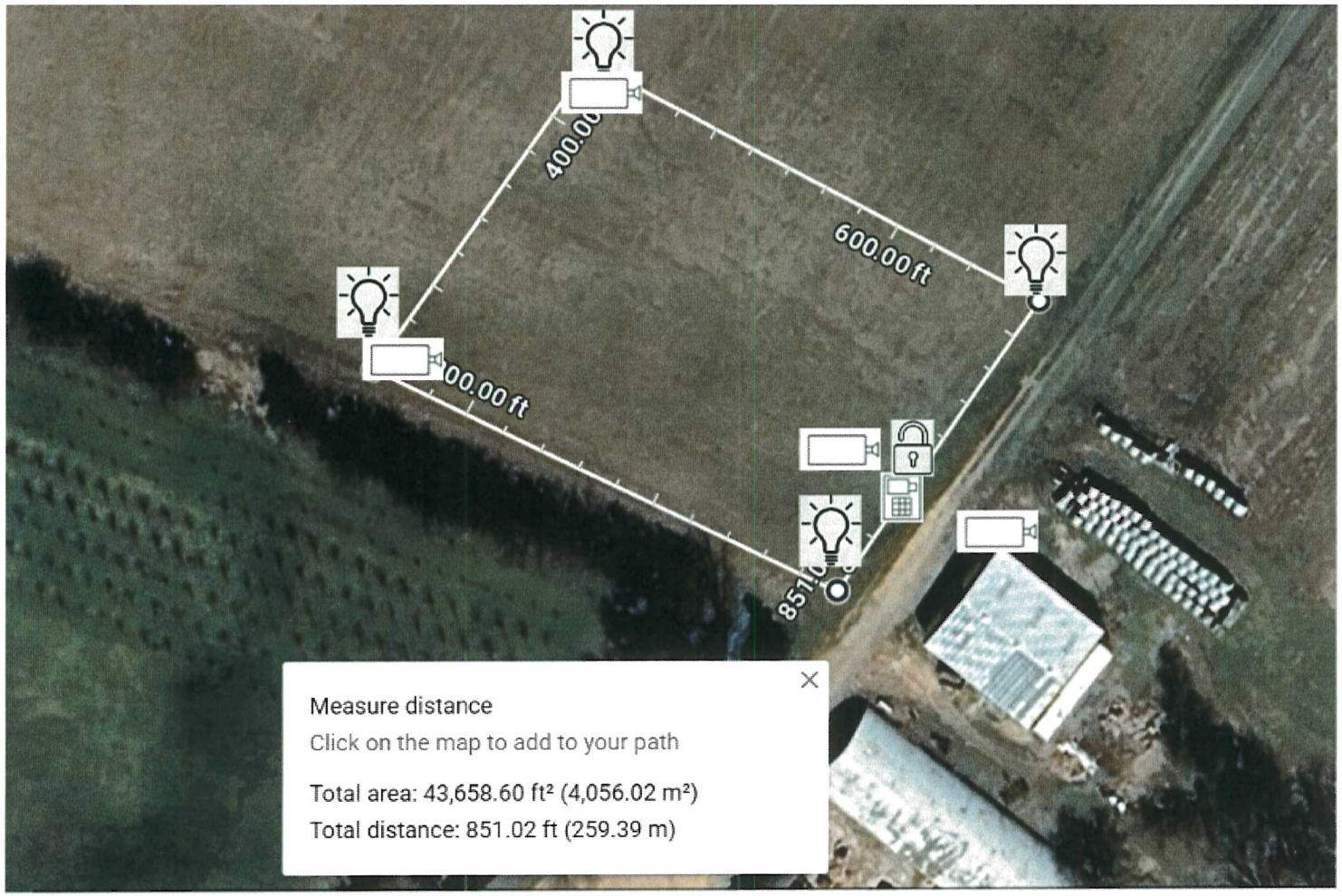




Laketown Farms Site Plan



Proposed Outdoor Cultivation Plan



CARVER COUNTY

Township Presentation & Recommendation Form

PARCEL # 070290700 **Permit #** V-PZ20250026

Owner's Name: Charles Levine

Owner's Mailing Address: 8420 County Road 10 E

City: Waconia

Owner State: MN

Owner Zip: 55387

Applicant (if other than owner):

Site Address:

Type of Request: ○ CUP ○ IUP ○ Preliminary Plat ○ Final Plat ◉ Variance ○ Appeal

Description of Request:

Cannabis operations in Agricultural Preserve

Date of County Public Hearing: 6-4-25 **Date of Township Meeting:** 05-12-25

Actions:

Township Action Taken: 05/12/25 Board recommended approval. 3-0 in favour

☒ 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:

Has been operating hemp processing + cultivating for several years at this location. Now that cannabis is regulated in State of MN, will require variance as hemp operation was under the Fed. Farm Bill.

- one (1) acre plot
- remain compliant
- add vestibule (secure) to existing food-grade lab

**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.

Charles Levine

Signature of Applicant

Date 5/4/25

Joanne Kunze Town Clerk

Signature of Township Official

Date 05-12-25

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 07-029-0700 File# A20250027

APPLICANT/OWNER: Levine Farm, LLC
(Charles Levine, President)

* *

The West Half of the Northeast Quarter (W½ of NE¼), containing 80 acres.

ALSO, The Southeast Quarter of the Northeast Quarter (SE¼ of NE¼), containing 40 acres.

ALSO The North Half of the Northwest Quarter of the Southeast Quarter (N½ of NW¼ of SE¼), containing 20 acres.

ALSO The Northeast Quarter of the Northeast Quarter (NE¼ of NE¼) EXCEPTING THEREFROM the North 5 acres, all in Section 29, Township 116, Range 24, Carver County, Minnesota, containing in all 175 acres, more or less, according to the United States Government Survey thereof.

AND ALSO All that part of the South Half of the Northwest Quarter of the Southeast Quarter of Section 29, Township 116, Range 24, Carver County, Minnesota, lying Northwesterly of a line described as follows: Commencing at the Southwest corner of said South Half; thence on an assumed bearing of North 1 degree 22 minutes 25 seconds West along the West line of said South Half, a distance of 44.65 feet to the North line of the South 1362.92 feet of the West 858.82 feet of the Southeast Quarter of said Section 29; thence North 89 degrees 02 minutes 57 seconds East along the North line of said South 1362.82 feet, a distance of 7.00 feet to the point of beginning of the centerline to be described, thence North 3 degrees 33 minutes 49 seconds West, a distance of 44.59 feet; thence North 10 degrees 36 minutes 44 seconds East, a distance of 71.04 feet; thence North 54 degrees 40 minutes 01 seconds East, a distance of 78.07 feet; thence North 73 degrees 28 minutes 08 seconds East, a distance of 51.74 feet; thence North 68 degrees 05 minutes 20 seconds East, a distance of 126.27 feet; thence North 50 degrees 30 minutes 30 seconds East, a distance of 77.20 feet; thence North 34 degrees 42 minutes 29 seconds East, a distance of 94.81 feet; thence North 27 degrees 36 minutes 11 seconds East, a distance of 230.21 feet; thence North 36 degrees 39 minutes 28 seconds East, a distance of 71.04 feet; thence North 45 degrees 44 minutes 54 seconds East, a distance of 24.32 feet to the North line of said South Half of the Northwest Quarter of the Southeast Quarter and there terminating.

DRAFTED BY: Carver County Land Management Department

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

May 27, 2025

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

FROM: The Land Management Department

SUBJECT: Application for a variance (Adaptive reuse of an existing non-conformity)

FILE #: PZ20250024
APPLICANT: Paul Wenner
OWNER: Paul Wenner
SITE ADDRESS: 17550 Hwy 212, NYA, MN 55368
VARIANCE TYPE: Adaptive reuse of an existing non-conformity
(Similar to Contractors Yard and Farm Related Business)
PURSUANT TO: Carver County Code: Section 152.009, 152.079, 152.213
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 11-016-0700

BACKGROUND:

1. Paul Wenner owns an approximately 6.57-acre property (a former truck stop), located in the Southwest Quarter (SW¼) of the Northwest Quarter (NW¼) of Section 16, Young America Township. The property is improved with the original truck stop building (formerly a gas station/convenience store and café), which has since been converted into a commercial facility used for farm-related business and contractor's yard operations. The site also features a large paved and gravel parking area. These business activities were previously approved under Variance PZ20170041, allowing for the adaptive reuse of a non-conforming use. The property is located within the Agricultural Zoning District and falls under the jurisdiction of the Carver County Water Management Organization (CCWMO) - Crow River watershed.

2. Mr. Wenner is now requesting a new variance to allow for the continued and expanded adaptive reuse of the former truck stop site for business purposes. The proposed expansion includes the construction of new buildings for sales, service, storage, as well as the expansion of the outdoor equipment display and parking. The request is required because:
   - The expansion of the non-conforming use requires a new variance. Variance PZ20170041 also stated any expansion beyond Phase I would require an amendment to the Order.
   - The Zoning Code does not permit contractor's yards or farm-related businesses on parcels without a homesteaded single-family dwelling.
   - Sales and consignment activities are not permitted under the current code without a variance.

   The variance is requested pursuant to §152.009 (Non-Conforming Uses), §152.079 (Conditional Uses), and §152.213 (Variance Authority).

LEGAL BACKGROUND:

152.009 NON-CONFORMING USES AND STRUCTURES.

(A) Any structure or use of a structure, or use of land lawfully existing upon the effective date of this chapter may be continued at the size and in the manner of operation existing upon the date, notwithstanding the certain classes pursuant to M.S. § 394.36, except as hereinafter specified.

(1) *Certain classes of property.* This division applies to homestead and non-homestead residential real estate and seasonal residential real estate occupied for recreational purposes. Except as otherwise provided by law, a nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an official control under this chapter, may be continued, including through repair, partial replacement, restoration, maintenance, or

improvement, but not including physical expansion, substantial improvement, complete replacement, and intensification of use. If the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50% of its estimated market value, as indicated in the records of the County Assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises must be a conforming use or occupancy. If a nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50% of its estimated market value, as indicated in the records of the County Assessor at the time of the damage, the Board may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the Shoreland District with less than 50% of the required setback from the water is destroyed by fire or other peril to greater than 50% of its estimated market value, as indicated in the records of the County Assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

(B) Nothing in this chapter shall prevent the placing of a structure in a safe condition when the structure is declared unsafe by the Building Inspector, providing the necessary repair shall not constitute more than 50% of fair market value of the structure as shown in the records of the County Assessor.

(C) When any lawful non-conforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to a non-conforming use.

(D) A lawful non-conforming use of a structure or parcel of land may be changed to a similar non-conforming use or to a more restrictive nonconforming use.

(E) Whenever a lawful non-conforming structure shall have been damaged by fire, flood, explosion, earthquake, war, riot, or act of God, it may be reconstructed and used as before if it can be reconstructed within 12 months after the calamity, unless the damage to the building or structure is 50% or more of its fair market value of the entire nonconforming use, in which case the whole thereof shall be demolished, and any construction thereafter shall be for a use in accordance with the provisions of this chapter.

(F) Whenever a lawful non-conforming use of a structure or land is discontinued for a period of 12 months, any future use of the structure or land shall be in conformity with the provisions of this chapter.

(G) Any lawful non-conforming use of land not involving a structure and any lawful nonconforming use involving a structure with an assessor's true and full valuation upon the effective date of this chapter of $1,000 or less, may continue for a period of one year from the date of adoption of this chapter, whereupon the non-conforming use shall cease unless brought into conformity.

(H) Any proposed structure which will under this chapter become non-conforming, but for which a building permit has been lawfully granted not more than six months prior to the effective date of this chapter, may be completed in accordance with the approved plans provided construction is started within six months of the effective date of this chapter and continues to completion within two years of that date. The structure shall thereafter be a legally existing non-conforming structure.

(I) Normal maintenance of a building or other structure containing or related to a lawful non- conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.

(J) Alterations may be made to a building containing lawful, nonconforming residential units when they will improve the livability thereof, provided they will not increase the number of dwelling units. The bulk of the building may be increased if the Department rules that the increase in bulk will not intensify the non-conformity.

(K) Non-conforming uses which would or could be conforming if they were under the provisions of a conditional use permit, shall file for the permit. Should the permit be denied, a non- conforming use certificate shall be issued by the County Board defining the use, scale and operational limits in detail.

(L) A structure existing on the date of the adoption of this chapter that intrudes upon a required setback may be expanded provided a variance is approved, and the expansion does not decrease the distance between the structure and the applicable lot line.

(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; Am. Ord. 97-2021, passed 7-20-21; Am. Ord. 108-2024, passed 11-19-24)

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

(A) Minimum criteria for issuance of permit:

(1) Minimum five-acre lot size; unless another size is specified under a particular provision;

(2) Sewage can be managed in accordance with Chapter 52 of this code of ordinances;

(3) Land is not subject to the land use restrictions of an AG preserve covenant;

(4) The activity shall be located on a hard surfaced (blacktop or concrete) road unless written approval for location on a township road is given by the affected township or townships. The town board may condition its approval of access to a gravel road on agreements with the applicant regarding dust control, maintenance, or similar issues. The terms of the agreement shall be such that the agreement is in force so long as the permit is in effect;

(5) There is a single-family home on the parcel occupied as a homestead by a principal of the activity; or a single-family home will be constructed or homesteaded before the CUP for the activity is issued;

(6) The scale and operational characteristics of the proposed activity shall be such that it can be operated on the proposed site and within the current levels of support services and infrastructure. Activities that will have service needs–traffic capacity or roads, waste disposal or management, fire or police protection, sewage disposal–that will exceed those available in the area should locate in municipalities where the services are available.

(B) Minimum conditions:

(1) Permit shall be subject to administrative review or compliance review as set by the permit. A change in ownership, operations or operator shall be cause for the permit to be reviewed to determine whether an application for an amendment or similar consideration is necessary.

(2) The activity must operate in conformance with the approved site plan and operational plan and other provisions of this chapter. The operational plan and site plan shall become part of the permit.

(3) Outside storage is prohibited unless the storage area is adequately screened from nearby roads and residences.

(4) The operational plan and site plan shall become part of the permit.

(5) The applicant must submit a copy of workers' compensation insurance or sign an affidavit stating that he or she will not have any employees.

(6) All buildings utilized by the operation must meet the State Building Code.

(C) Activities.

(2) Farm-related businesses.

(a) A business directly related to the conduct of agriculture that involves: retail sales beyond the scope of a roadside stand or yard sale, including "pick your own" sales; or operational limits exceeding that of a home occupation; or a commercial structure that would be constructed according to State Building Code.

(b) The following specific standard must be met: the business is 70% farm-related under one or more of the following criteria:

1. The business provides a repair or maintenance service for equipment unique and necessary to agricultural operations;
2. The business produces a product or involves a process that utilizes locally grown or produced commodities; or
3. The business involves sales and/or purchasing of products of the local agricultural economy or of goods unique and necessary to agricultural operations.

(10) Contractor's yards.

(a) This subsection is intended to provide for contractor's yards established after January 1, 1989. A contractor's yard is a site used for storage of equipment and supplies by a contractor in the operation of his or her business. For purposes of this subsection a contractor is a person whose business is contracting work in any of the building trades, landscaping, road building, sewer installation, or has at least two trucks, but fewer than ten used to supply a service to local communities.

(b) The business shall be located at least 500 feet from neighboring residences not on the same parcel of property existing at the time of application for the permit.

(c) Site shall not be located within the Shoreland Overlay District or the Floodplain Overlay District.

(d) Employees, except office personnel, report to the site only for the purpose of picking up equipment and supplies, necessary fabrication and general maintenance.

(Am. Ord. 58-2007, passed 3-27-07; 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)

152.213 AUTHORITY POWER OF VARIANCE AND APPEALS.

The Board of Adjustment shall have the exclusive power to:
(A) Order the issuance of variances from the terms of any official control including restrictions placed on nonconformity;

§ 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 site has been in continuous commercial use since the 1960s, primarily as a truck stop. Between 2007–2015, it was mostly used as a parking area for semi-trailers. Mr. Wenner purchased the tax-forfeited property on September 6, 2016, with the intention of operating an equipment sales, rental, and service business, along with a seasonal landscaping and tree care operation. In August 2017, he was granted a variance for the adaptive reuse. The current business includes sales (including consignment, auction, new equipment), rental, and servicing of farm, construction, and landscaping equipment, such as agricultural equipment, aerial lifts, trailer, forestry and landscape tools, and general construction equipment. Mr. Wenner asserts that the non-conforming use (sales and service of agricultural and construction equipment) remains an appropriate for the site. Due to compacted soils and a preexisting septic system, establishing a residence may not be feasible necessitating the current variance request. A condition of the prior variance was that any future expansion (Phase 2 – new building) must receive new variance approval.

2. The applicant's narrative letter dated May 9, 2025, outlines the proposed operational details, describing how the property would be utilized. Accompanying site plans, also dated May 9, 2025, visually depict the proposed improvements. Planned enhancements include construction of a new building west of the existing office, retail, and repair building, expanded parking and display areas (new impervious surface) along Hwy 212, and stormwater drainage features on both ends of the property. Mr. Wenner also intends to place fill material across much of the site to maximize useable space. Future plans show a second accessory structure and a full build-out plan.

3. Mr. Wenner plans to continue regular business hours, operating Monday through Friday from 7:30 AM to 6:00 PM, and Saturday hours from 8:00 AM to 1:00 PM during spring–fall, and Monday through Friday from 8:00 AM to 5:00 PM in winter. Occasional appointments may occur outside these hours. Business operations include regular online auctions and occasional in-person auctions, with no significant increase in traffic expected during such events. Hours may be adjusted to accommodate local industry needs. The workforce includes approximately eight full-time and three part-time employees for the equipment business, as well as two additional employees for the landscaping operations. All employees report to the site daily.

4. Phase 1 of site development involved using the existing building for sales, service, and rentals. Mr. Wenner is now pursuing Phase 2 – his 3 to 5-year plan - which includes constructing a building approximately 100-foot by 160-foot (or slightly larger), with service bays and retail space to consolidate operations indoors. A second structure is also planner for the future to expand storage and repair capabilities. Until the new building is constructed, the original building would continue to serve multiple functions. All structures must comply with Minnesota State Building Code requirements prior to occupancy. Materials stored on site include mulch, rock, dirt, sand, logs, tree debris, and various equipment. Outdoor display areas would be sale and rental equipment. The entire parcel is proposed to be utilized for storage and operational purposes. Auto-related services would be restricted per zoning regulations.

5. Mr. Wenner anticipates up to 50 vehicle trips per day during peak season and approximately 20 trips daily in winter. The site benefits from two Minnesota Department of Transportation (MNDOT) approved access points along Highway 212 and Wells Avenue. As part of a state project, these entrances will be upgraded to "J-turns". Parking capacity is extensive, in part due to the site's history as a truck stop.

6. Initially, Mr. Wenner will continue using the existing building for sales, service, rental, and storage until he secures funding to construct a larger, multi-bay facility. This would allow him to consolidate both business operations within a single building and conduct more indoor service work year-round. Any existing or proposed structures being used in the operation must meet Minnesota State Building Code standards before being occupied.

7. The landscaping operation would store products used for constructing and maintaining residential and commercial properties. utilized to construct and maintain residential and commercial properties. Materials stored on-site would include mulch, black dirt, landscaping rock and sand, all in bulk/contractor quantities. Other items would include farm and tree care equipment, along with trucks and trailers of various sizes. Mr. Wenner's adaptive reuse plan would allow for outdoor display of equipment for sales, rental, consignment purposes.

8. Site improvements continue, including mowing, weed control, tree trimming, and repainting. According to Mr. Wenner, installation of security fencing, chain-link with optional barbed wire, is planned and may include privacy screening if required. However, visibility from Highway 212 is essential for sales and would be maintained where feasible.

9. The applicant is proposing signage located along Hwy 212. Any signage would be subject to Chapter 154 of the County Code and must not exceed 32 square feet in surface area. For two-sided signs, the total area will be calculated based on one side only, provided both sides are completely flush. Additional applicable requirements from Chapter 154 will also be observed.

§ 154.04 DEFINITIONS.

ABANDONED SIGN. Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because

of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of ***ABANDONED SIGN***.

§ 154.35 NONCONFORMING SIGNS; COMPLIANCE.

It is recognized that signs exist within the county which were lawful before this chapter was enacted, which would be prohibited, regulated or restricted under the terms of this chapter or future amendments. It is the intent of this chapter that nonconforming signs shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other signs or uses otherwise prohibited by this chapter. It is further the intent of this chapter to permit legal nonconforming signs existing on the effective date of this chapter, or amendments thereto, to continue as legal nonconforming signs provided such signs are safe, are maintained so as not to be unsightly, and have not been abandoned or removed subject to the following provisions:

(A) No sign shall be enlarged or altered in a way which increases its nonconformity.

(B) Should such sign or sign structure be destroyed by any means to an extent greater than 50% of its replacement cost and no building permit has been applied for within 180 days of when the property was damaged, it shall not be reconstructed except in conformity with the provisions of this chapter.

(C) Should such sign or sign structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the requirements of this chapter.

(D) No existing sign devoted to a use not permitted by the zoning code in the zoning district in which it is located shall be enlarged, extended or moved except in changing the sign to a sign permitted in the zoning district in which is it located.

(E) When a structure loses its nonconforming status all signs devoted to the structure shall be removed and all signs painted directly on the structure shall be repainted in a neutral color or a color which will harmonize with the structure.

(Ord. 58-2007, passed 3-27-07)

10. The submitted variance materials were sent to Minnesota Department of Transportation (MNDOT), the Highway 212 road authority, for review. As of the date of this report no comments or objections have been received.

11. According to Lori Brinkman, Carver County Septic Inspector, the SSTS (Subsurface Sewage Treatment System) at 17550 Hwy 212 was originally designed and installed in 2005. It was designed as a performance system which included septic tanks, a pretreatment unit, a lift tank, and a drain field; however, much of the previous system is no longer in operation. The pretreatment unit was never installed, three of the original septic tanks have been abandoned after failing a compliance inspection, and three additional tanks were allowed to remain in place for future reuse as the business expanded. Two tanks were certified for reuse as holding tanks and a connect permit was issued in 2018. A maintenance agreement was required to be submitted to Carver County as part of the SSTS holding tank permit. A signed maintenance agreement was not received until November 2022 and only three maintenance records have been received since 2018. Due to expiration of SSTS compliance, all SSTS components must be inspected by a licensed SSTS inspector, and it is required that a SSTS design which includes a drainfield be completed and submitted by a licensed SSTS designer and installed for wastewater treatment. Portions of the previous septic system may be used if they are found to meet MPCA and Carver County SSTS compliance requirements.

12. Paul Moline, Deputy Division Director for Public Services and Manager of the Carver County Water Management Organization (CCWMO), reviewed the application materials and, in an emailed memo dated May 2, 2025, stated that a CCWMO permit is required. Stormwater Management standards would need to be met because the impervious area has been increased by more than one-acre since 2002 with no stormwater treatment. Mr. Wenner has requested that CCWMO approval be granted in phases, corresponding with the stages of site expansion. Current approval review by the CCWMO only pertains to Phase 1 of the applicant's stormwater management plan. The CCWMO permit would be issued once all other permitting requirements have been satisfied and the required surety for the permit has been submitted. Future phases would need to be approved by the CCWMO prior to filling, grading, and construction activities.

13. The plight of the landowner is due to the circumstances unique to the property and not entirely created by the landowner. The property's long-standing commercial use, as a truck stop from the 1960s through the mid-2010s, established its legal non-conforming status. Following its tax-forfeiture and subsequent sale, the property presented an opportunity for a new, adaptive use. Mr. Wenner is pursuing a business plan that seeks to redevelop and utilize the non-conforming property in a way that provides commercial services to Carver County and surrounding communities.

14. Granting of the variance would not be in conflict with the intent of the Comprehensive Plan and would not alter the character of the neighborhood. The proposed use would not negatively impact government services.

15. The surrounding area is characterized by agricultural uses, scattered residences, public hunting land, a major railroad corridor, and state highway. Approval of the variance is not expected to adversely affect the health or safety of individuals living or working nearby. Furthermore, the proposed use would not be detrimental to the public welfare or injurious to adjacent properties or improvements.

16. The Young America Town Board reviewed the request at their May 15, 2025, meeting and recommended approval. The Town Board stated: *"Township approves variance as presented plus use of Wells Ave ditch."*

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance to expand upon the adaptive reuse of an existing non-conformity (Similar to a Farm-Related Business and Contractor's Yard) on the property pursuant to Section 152.009, 152.079, and 152.213 of the Carver County Zoning Code, would serve in the interest of justice, the previous Variance #PZ201700421 (recorded as Doc. No. A649846) would be terminated upon final approval (and recording) of the new Variance #PZ20250024. Therefore, Variance #PZ20250024 would supersede any prior approvals, and the following conditions should be considered:

1. The permitted activities are subject to administrative review. This order allows for an adaptive reuse of the property on the approximate 6.50 acres. A change in ownership, operations or operator shall be cause for the permit to be reviewed by Land Management for a determination as to whether an application for an amendment or other action is required. Prospective owners and/or operators are strongly encouraged to contact Land Management as early as possible in the planning process.

2. The Permittee shall conduct all activities in accordance with the submitted operational plan (narrative), site plans, and supporting documentation dated May 9, 2025. These materials are considered binding components of this Order. No expansion of business activities - including additional sales, services, or new buildings beyond the structure west of the current sales and repair building - shall occur without an approved amendment to this Order.

3. Items offered for sale, rental, etc. shall be associated with farm-related activities, landscaping projects, and construction activities. A maximum of six (6) cargo containers may be offered for sale or rental. Cargo containers currently used for storage purposes on the property must be removed following the construction and issuance of a Certificate of Occupancy of the new accessory structure. The sale or rental of semi-tractors or semi-trailers is prohibited.

4. All structures associated with business activities must comply with the Carver County Zoning Code and State Building Code. Remodeling of existing structure is not permitted without prior review by the Carver County Building Official and approval of appropriate permits. Construction of any new structure intended for business shall only proceed after issuance of all required building permits. No personal storage structures are allowed on the commercial property.

5. In addition to sale or rental items, a maximum of nine (9) landscaping-related commercial vehicles (e.g., trucks, dump trucks) and nine (9) Highway 212-related vehicles **(**e.g., trucks, semi-trucks) may be stored on the site. Outdoor storage shall be located to minimize visual impact from public roads, and all business-related vehicles, equipment, and supplies must be placed in an organized and orderly manner within the approved operational area.

6. Due to expiration of SSTS compliance, all SSTS components must be inspected by a licensed SSTS inspector, and an SSTS design that includes a drainfield be completed by a licensed SSTS designer and installed for wastewater treatment. Portions of the previous septic system may be used if they are found to meet MPCA and Carver County SSTS compliance requirements. No fill material may be placed over existing SSTS tanks or drainfield areas. To preserve future commercial expansion capacity, the area north and west of the existing SSTS components shall remain free of fill placement.

7. The permitted activity is subject to all applicable MnDOT standards regarding access and right-of-way use. Appropriate MnDOT permits must be obtained before any work commences within the road right-of-way or prior to the start of construction activities.

8. All grading and/or filling activities must comply with the CCWMO Rules and the Wetland Conservation Act (WCA), as applicable. All site improvements shall conform to Chapter 153 – Water Resource Management. Stormwater management review and approvals are required prior to the issuance of any construction or building permits. No grading and or filling activity may occur across the property line on the DNR property.

9. A vegetative cover must be maintained on all areas outside the operational plan, including steep slopes along the perimeter of the property. The permittee is responsible for maintaining all ground cover—such as trees, grasses, weeds, and native vegetation, the duration of the operation.

10. The permitted activity shall remain in full compliance with applicable County and State regulations, including:
    - Chapter 50 – Solid Waste Management
    - Chapter 51 – Hazardous Water Management
    - Chapter 52 – Subsurface Sewage Treatment Systems
    - Chapter 152 – Zoning Code
    - Chapter 153 – Water Resource Management
    - Chapter 154 – Sign Regulations
    - Minnesota State Building Code.

11. The Permittee must obtain and maintain a Non-Generator Certificate or, if applicable, a Hazardous Waste Generator License through the Environmental Services (E.S.) Department.

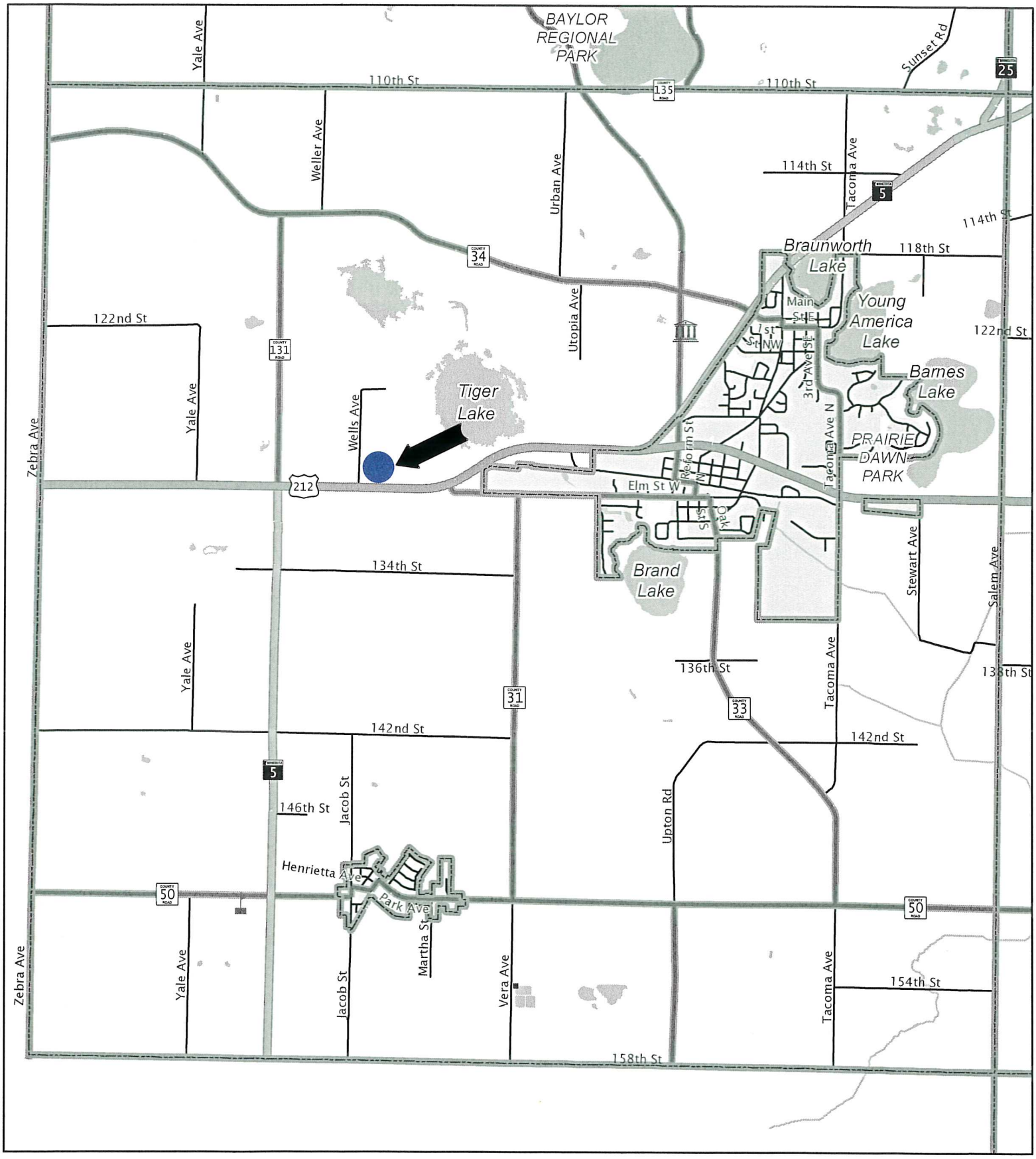
12. The Permittee shall submit a valid Certificate of Workers' Compensation Insurance and/or appropriate affidavit to the Land Management Department, annually.

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.

YOUNG AMERICA TOWNSHIP



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

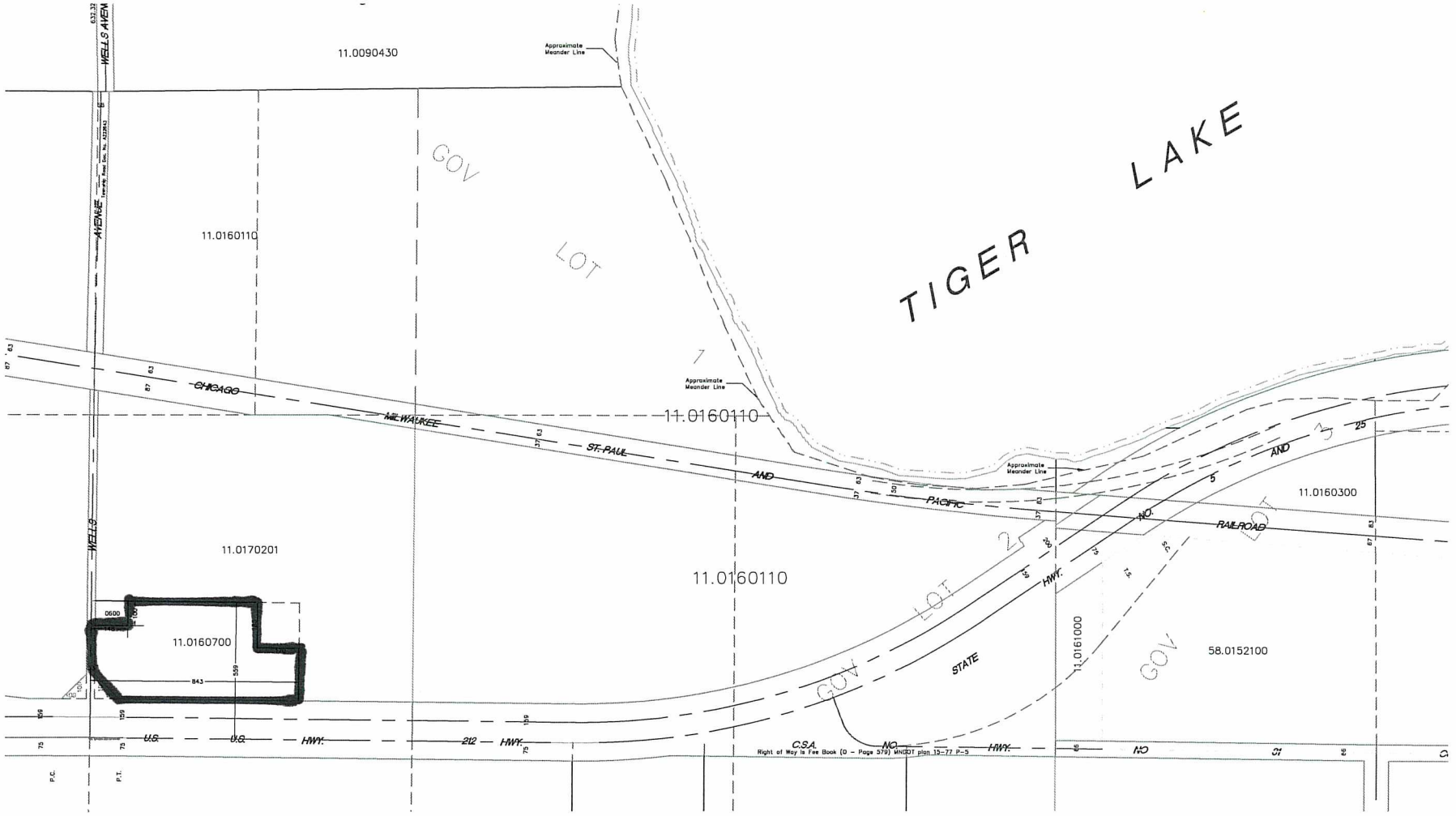
0 1 2 Miles

N W E S

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. 16, T.115, R.26



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

Mar 04, 2025

5-9-25

Please provide a brief description of how operations are conducted on-site. If you have any questions, feel free to reach out to Jason for further assistance.

- A description of the activity/operation being proposed and related section of the Ordinance:

We intend to provide the sales, rental and servicing of, but not limited to farm, agricultural, aerial lifts, trucks, trailers, landscape, tree/forestry equipment, and general construction equipment. These pieces will be here in the form of consignments, business owned items, and auction goods to name a few. We plan to run our seasonal landscaping and tree business from this site as well. These operations, days, times, and employees will directly correlate with the sales, rentals and services side of the business. We plan on conducting regular online and occasional in-person auctions to sell items that are located on the property. These days and times will not differ from "regular business hours" and will not create a large variance in the volume of visitors to the site. We will also have by appointment times available for customers to come to the site to see items they are interested in.

- Hours of operation (i.e. start/end time, days of week, winter hours and summer hours):

We are open Monday through Friday 7:30 am. to 6:00 p.m.; Saturdays we are open from 8:00 am. to 1:00 p.m. (Spring-Fall). Winter hours will be from 8:00 am. to 5:00 pm. These are the proposed hours of operation, but we do offer sales appointments outside of normal “open hours” as well. As with any business, we may adjust hours to better suit the local agricultural/construction population and overall workload.

- # of employees, # of employees reporting to the site & number of family members working in operation:

We have a fantastic team of employees. We employee local, skilled and unskilled labor, mechanics, salespeople, and operators for both the landscaping and sales/rental businesses. We currently employ around 8 full-time employees for the sales and rental side of the business as well as 3 part-time. For the seasonal landscape side of the business, we have an additional 2 employees. All employees will report to the property location once in the morning and are on-site all day, unless they take a lunch break off-site. Landscape/ tree employees return to our property at the end of the work day. No additional family members are planning on being employed at the property.

- Number and types of business-related vehicles & personal vehicles:

We have all types of business-related vehicles. Located on-site we will have vehicles related to the landscape, agricultural, repair services, and construction industries.

These, in broad terms, would be pickup trucks, dump trucks, plow trucks, passenger cars, and miscellaneous service vehicles that they utilize or may be working on. We currently have approximately 20 trucks, some sale, some service trucks, and some landscape and tree/ landscape service trucks. We also have semi-trucks on site as well, both for sale and for use.

- Number of trips generated in & out of site each day (one vehicle would generate two (2) trips per day):

We anticipate approximately 50 trips per day during the high season and 20 trips during the winter season. We cannot control or estimate what quantities of general "passerby" traffic will occur. Local traffic is something we desire, but with the various agricultural/construction equipment drawing different levels of interest, we are unaware of the numbers of people stopping. We have not had any issues with any volume over the past 8 years. The new Minnesota Department of Transportation ("MNDOT") turn lanes / "J" turns will provide safe and proper access to the site from both Wells Avenue to the west, and the second turn lane from the east side of the property. We anticipate the amount of traffic to be still far less than the 57 years of previous daily truck stop visitor volume.

- Number of parking spaces available on the site:

The Property currently has a number of designated parking places for visitors and employees. Many of these are on a paved surfaces and due to the large gravel footprint, there are many areas for parking, (the entire lot is for parking) Again, with the previous 57 years of use, this property was a truck stop allowing trucks to park overnight and utilize the large open area for parking for extended periods of time, utilizing its commercial characteristics is something we will continue to do. Main employee/ visitor parking will surround the building with marked locations on the asphalt, concrete, and gravel with varying types of identification, paint, signs, cones etc.

- Use of proposed and existing structures including type and size:

We are currently using the original truck stop building as a sale, rental, storage, and repair facility. We plan to continue to use the building as we are. We are in the process of getting bids to construct a new building to the west of our current building. This will allow us to offer additional capacity to serve the local community. This new building will be approximately 100'x160' but could vary in size and orientation. This will have a bit of retail, storage, and service bays for working on the equipment we sell and rent and customer repairs. Along with this structure, we are looking to construct a large storage, service and repair type building to the northeast of the current truck stop structure. (shown in site plan). We plan to continue cleaning up and utilizing the property as we are and making a good business for the local community.

- Storage needed as part of operation (indoor & outdoor) and location of operational area(s):

We have a large lot that we use for storage. We use the property to the property boundaries. We will use the new building for indoor storage and maintenance of the equipment stored on site. Operational areas are the entire property to its current boundaries.

- Materials stored on the site (list types and indicate storage area on the site plan):

We store a variety of materials on site. We sell dirt, rock, mulch and other landscape supplies. We also store logs, branches, and other tree debris. See site plan- (listed as miscellaneous material storage)

- Water services, sewage disposal and waste management used:

We have a well on the property that was checked over and a new pump and pipe were installed by a local well company, so it works well. We have a septic system on the property. It is a holding tank system that was approved by a recent and former septic inspection as well as by the county. The septic will have a new inspection on the week of 5/12/25. It will be freshly certified at that point. We have hired a septic pumping company to empty the tanks as needed in the past. Due to our low water usage for simply washing hands and using the bathroom in the last 8 years, this has and will continue to work well for us.

- Area & capacity of parking area, access to site:

The parking area for the property is the entire lot. We have and continue to utilize the entire property for parking and storage of our equipment, trucks, trailers, and materials. Access to the property is easy utilizing the two MNDOT entrances off of Highway 212 and Wells Ave. These entrances are to be changed from "cross-over" 212 entrances/ exits to "J" turns for entering/exiting the property. These changes will occur as the State of Minnesota/MNDOT performs these traffic/ highway safety projects. We don't have a set date/time as of 5/9/2025, but we know it will be in the next two years.

- Screening proposed

We are not doing any screening of the property as that would jeopardize the view of our sales and rental equipment. We will possibly fence the property when funds and final lot is done and laid out as we need.

- Signage being utilized including size, type, locations:

Current signage used is the original signage that the truck-stop had. We will work with the county when we decide on new property signage as well as our new building signage.

- Describe in detail, person(s) other than owner who would access the site (i.e. customers, employees, public).

People entering the site are general public, passersby, employees, rental/sales/service customers.

- Soil and water management/ fill permits/ constraints:

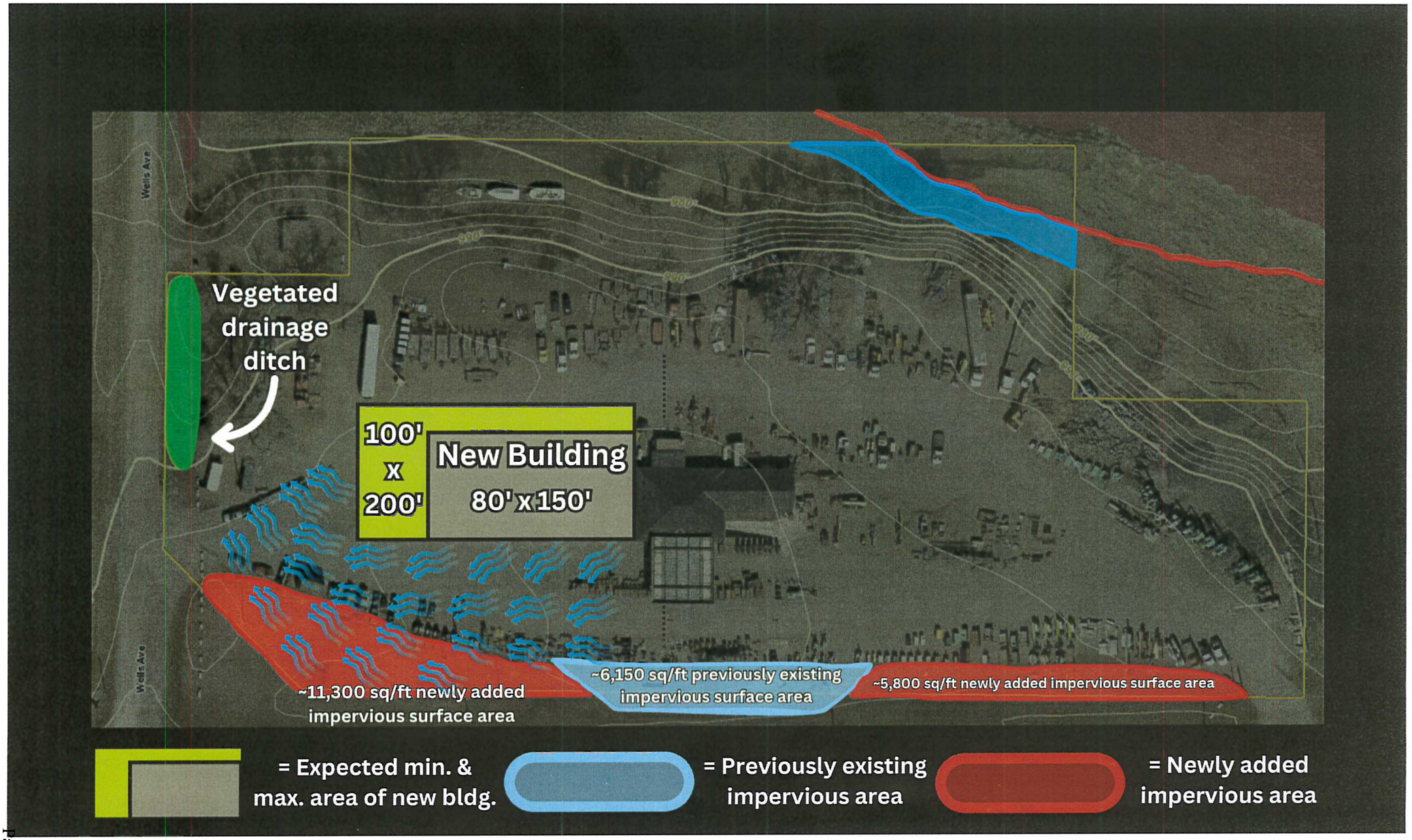
We have worked closely with Carver county on all the items laid out here, they have been on site numerous times and inspected us on a regular basis. They have had our erosion control measures checked and re-checked by additional county staff. We are following their guidelines and will continue to do so. We have installed silt fence around the property as well as erosion/ sediment logs in areas discussed with county staff. We have These have all been checked and approved. We have had difficulty getting a permit for the additional fill needed for our property, so with all this laid out, we ask that we are permitted so we can use the property we own. We have a well executed plan for all of this and will have it attached so the board can see the lengths we have gone through to continue operating at our site while binging in fill to help level our lot to a more desirable height. There are no issues with neighbors, or the local community in what we are doing at 212 Equipment and Quick N' Clean located at 17550 Highway 212, Norwood Young America, MN 55368 (See Memo with additional detailed watershed and site plan info attached)

- Township Recommendation:

We met with the Township at their monthly meeting in April 2025. We discussed our building plans and asked if they had any objections. At the time of the meeting, there were no objections to what we discussed. Paul Wenner (owner) plans to attend the monthly meeting in May 2025 to get written approval for what we have on this plan. We will get in writing that they have no objection to us using the West ditch going north and south along Wells Ave. for water drainage. At the April meeting, this was discussed, and no objections were made. We will attach that as soon as we have that signed and approved by the township board.

4

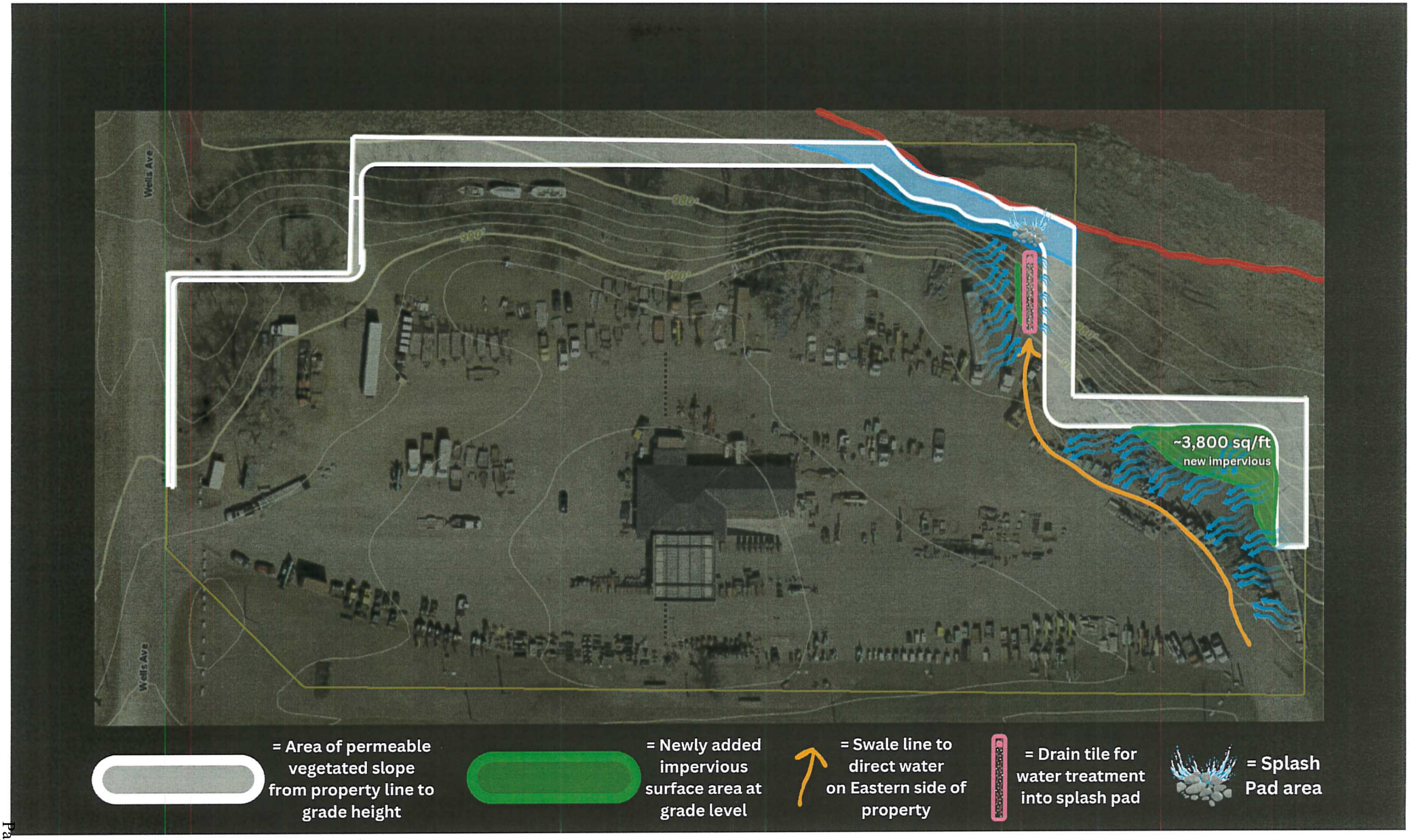
5-9-25



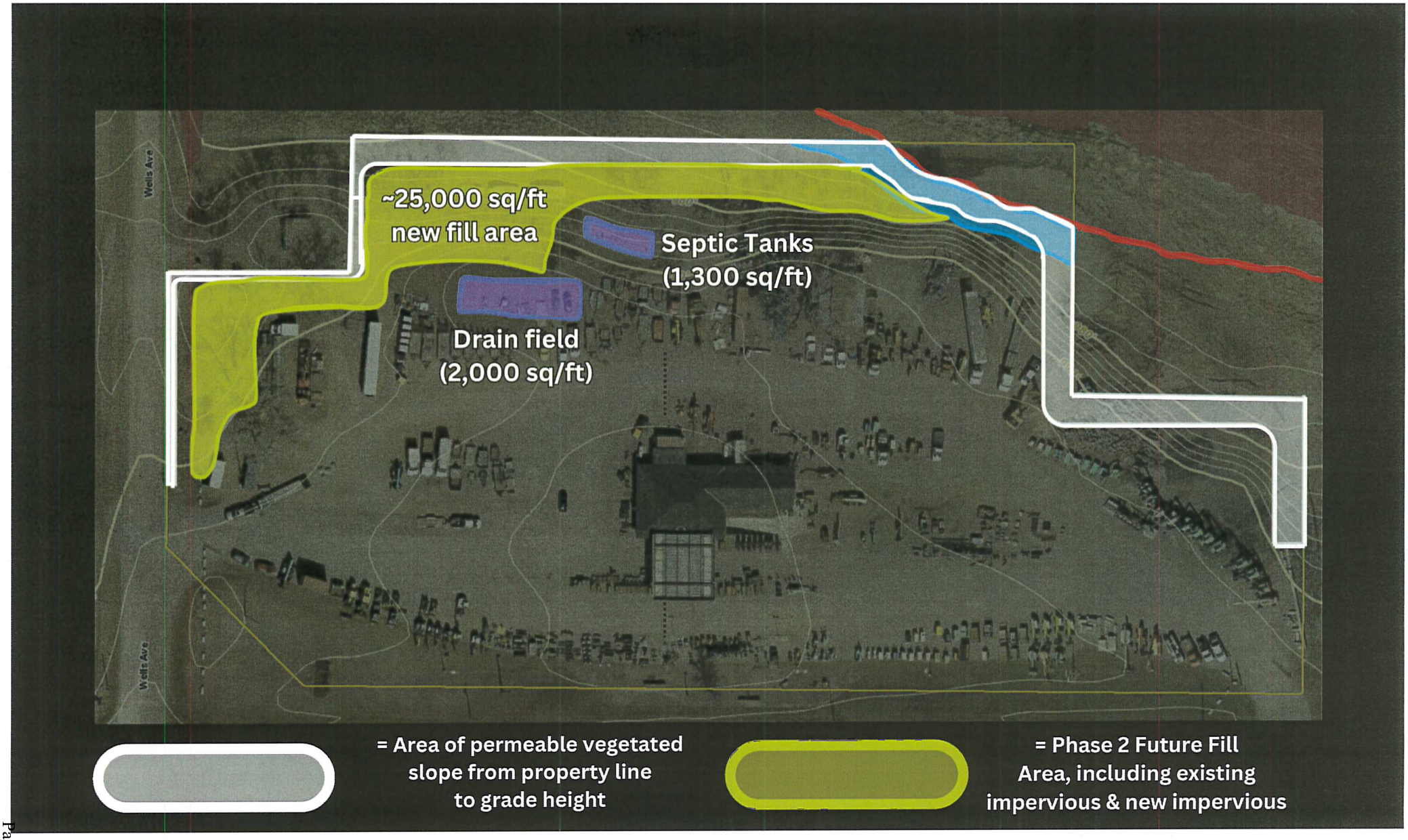
New proposed building 1

2

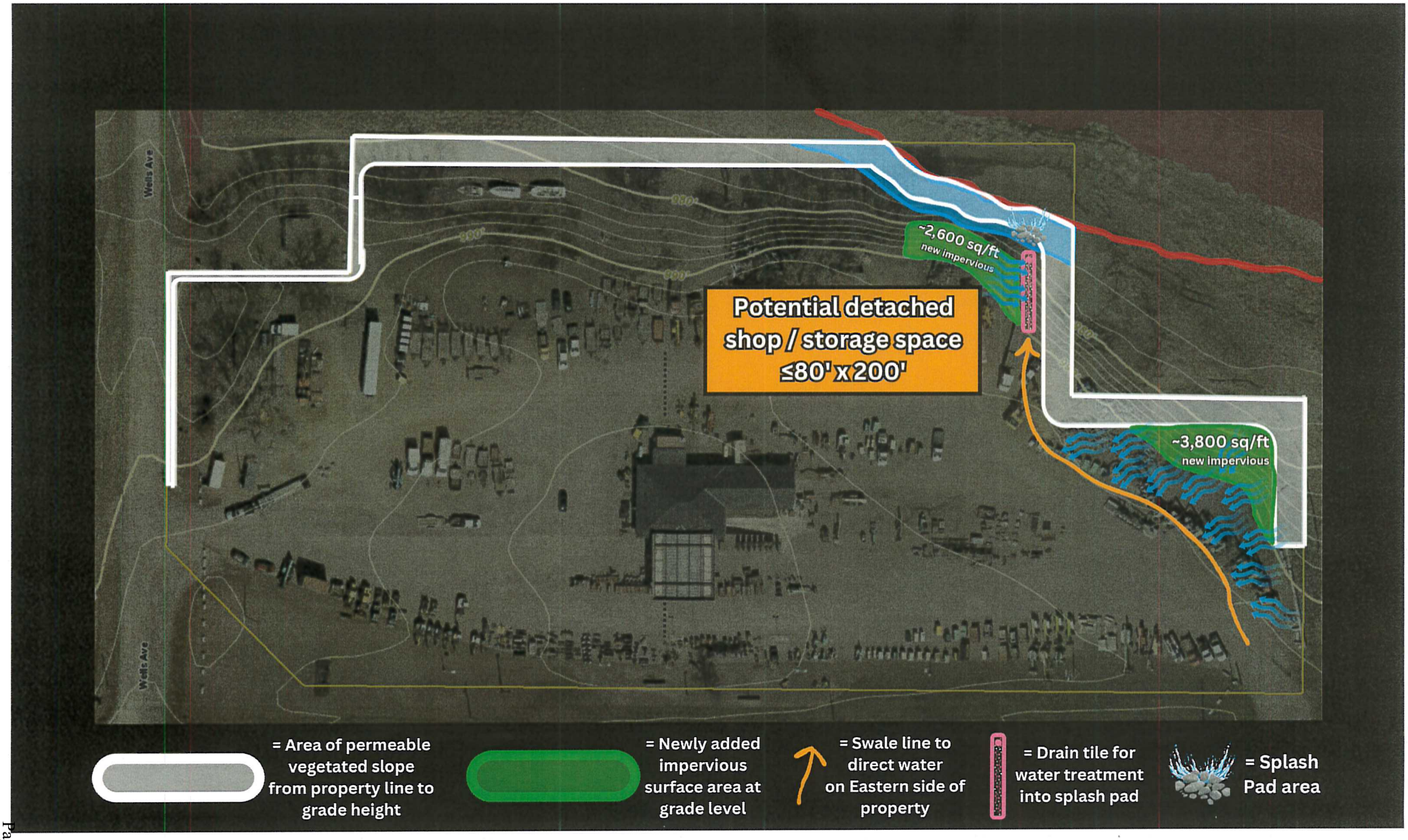
Proposed building location



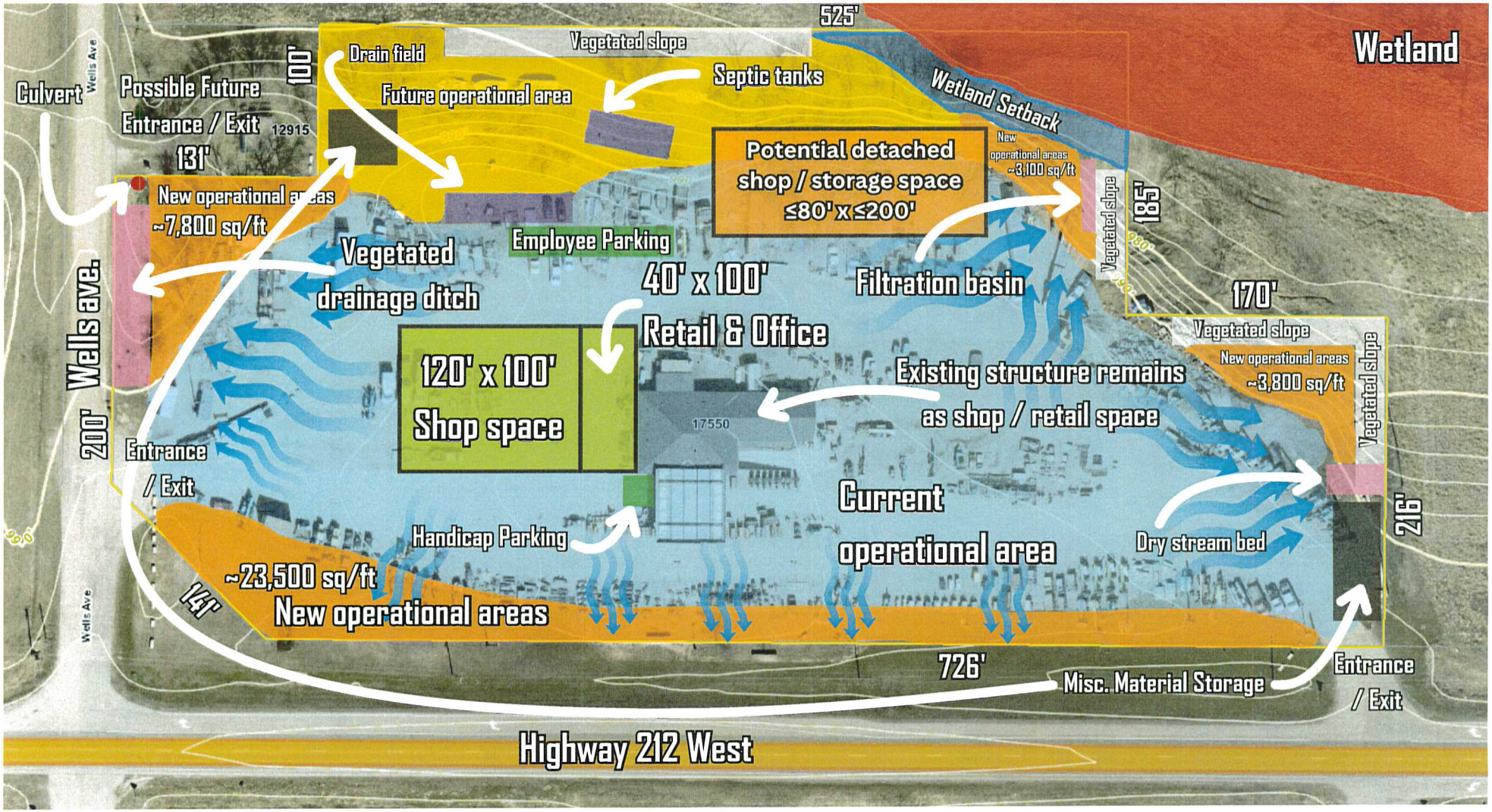
Stormwater drainage improvements East end. 3



New Filling locations 4



Proposed second building 5



Master Plan 6

WENNER PROPERTY - SSTS PRESERVATION AREA

Date: 5/27/2025

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.

CARVER COUNTY

0 50 100 200 300 400 ft

N

CARVER COUNTY

Township Presentation & Recommendation Form

PARCEL # 11016070 00 Permit # PZ20250024

Owner's Name: Paul Wenner

Owner's Mailing Address: 17550 Highway 212

City: Norwood Young America

Owner State: MN

Owner Zip: 55368

Applicant (if other than owner):

Site Address:

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

Description of Request:

Variance Approval for Property use & ditch use along Wells Ave.

Date of County Public Hearing: 6/4/25 Date of Township Meeting: 5/13/25

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:

Township approves Variance as presented - & use of Wells Ave Ditch.

**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 5/13/25

Signature of Township Official Date 5/13/25

Carver County Water Management Organization
Planning and Water Mgmt Dept
Government Center – Administration Building
600 East 4th Street
Chaska, Minnesota 55318
Phone: (952)361-1820
Fax: (952)361-1828
www.co.carver.mn.us/water

Memo

To: **Paul Wenner**
From: Paul Moline, Carver County Water Management
Date: May 2, 2025
Re: **212 equipment site –responses to 4/22/25 submittal**
File: WP20240051

cc: Noah Stevens, 212 equipment
Tim Sundby, CCWMO
Tom Genelin, Carver SWCD
Jason Mielke, County Land Mgmt.

Enclosures: none

This letter is to follow up on your submittal of revised information on April 22, 2025. It is understood that you are seeking approval for the revised Phase 1 work only. County comments are broken into the areas as follows:

- Immediate site compliance
- Phase 1

Immediate site compliance

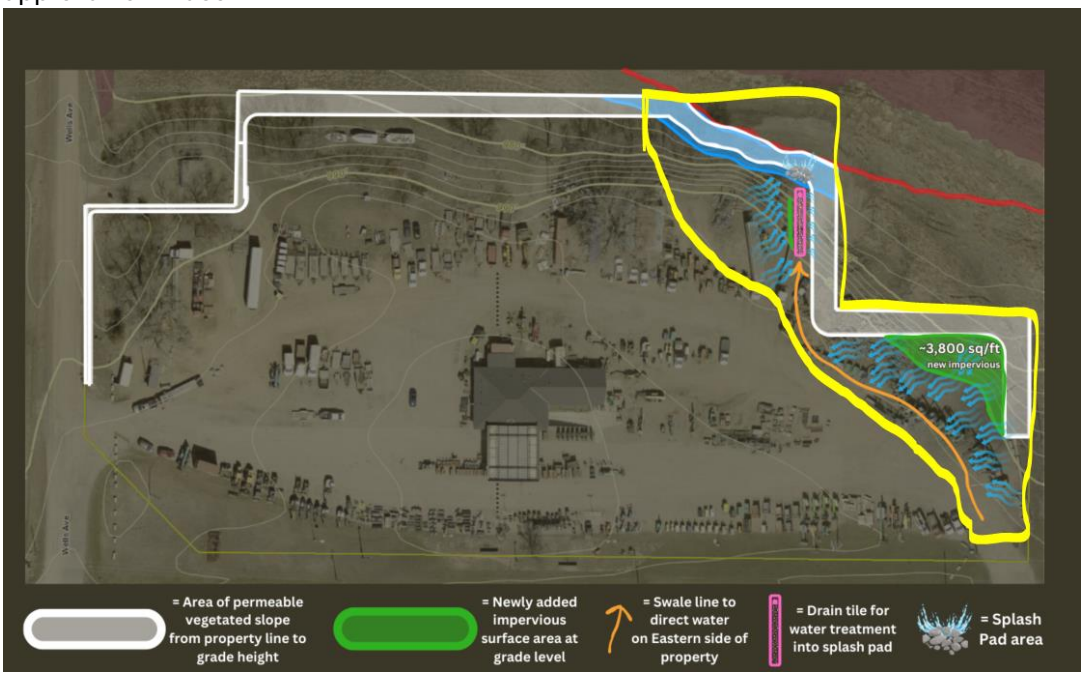
Remaining issues that need to be addressed immediately to bring site into CCWMO compliance:

1. Silt fence to be repaired on east side of property
2. No new fill areas are approved – if additional material is brought on site, it can be stockpiled in an identified location on existing impervious but cannot be placed as additional fill without prior approval. Stop-work orders will be instituted if additional fill areas occur.
3. Install redundant perimeter control in NE corner upgradient of wetland. Redundant perimeter control is required when disturbing within 50' of a surface water. (see figurebelow)
4. Install perimeter control downgradient of fill material along Western perimeter of site and Wells Ave. (see figure below)
5. Install culvert inlet protection on upgradient end of culvert in NW corner of site (see figurebelow)

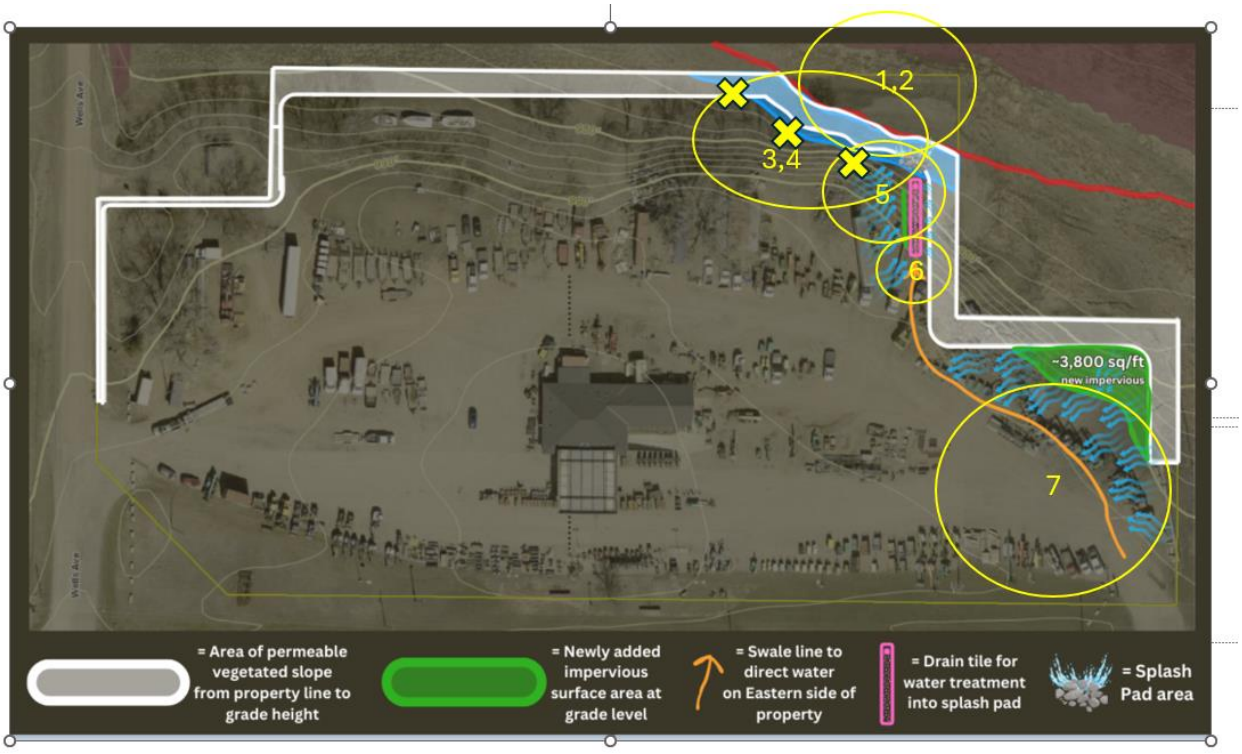
Figure 1 Blue Lines = Perimeter Control Red Dot = Culvert Inlet Protection

Phase 1

Items needed prior to approval of proposed Phase 1 work – this is identified as the area in yellow below. If this boundary needs to be adjusted, please clarify. Work in other areas will not included in any approval for Phase 1.



1. Place topsoil 6+ inches, seed and blanket north side slope. Show on plans.
2. Show redundant biologs and/or silt fence at bottom of slope including stilling basin.
3. Place topsoil 6+ inches, seed and stabilize the wetland setback area 35' from wetland boundary. Show on plans
4. Setback line (35' from delineated wetland boundary) should be flagged & signed when complete. Show sign location on plans. Approximate locations shown on figure below with an X. County has signs for purchase if desired.
5. Flow on north side should be directed away from steep slope and toward the filtration swale. Arrows on plan should show directional flow away from slope and towards swale.
6. Add a pretreatment area on the south side of swale for easier clean out. Show on plan. Size at approx. 10% of swale size.
7. Revise flow arrows and on east side per site visit discussion and recent work (rip rap spillway).
8. Add dimensions (area and depth) of spilling basin/splash area. Approx. area should be 5' wide and 1' depth. Show on plans.
9. Add swale dimension notes to the swale plan graphic.
10. Add date and name to plans. (plan profile sheet and graphic)
11. Financial Assurance (Surety) of $5,000 is due per County Water Management Rules and Fee Schedule. This needs to be received prior to final approval and any additional work.



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CARVER COUNTY, MINNESOTA

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649846

David Frischmon
County Recorder

CARVER COUNTY

COUNTY OF CARVER
State of Minnesota

FILE #: PZ20170041
APPLICANT/OWNER: Paul Wenner
SITE ADDRESS: 17550 Hwy 212 Norwood Young America MN 55368
VARIANCE TYPE: Adaptive reuse of an existing non-conformity
(Similar to Contractors Yard and Farm Related Business)
PURSUANT TO: Carver County Code: Section 152.009, 152.079, 152.213
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 11-016-0700

Drafted by: Land Management
Return to: Land Management

BOARD OF ADJUSTMENT
FINDINGS OF FACT AND ORDER

A public hearing was held on this matter on August 2, 2017 by the Carver County Board of Adjustment. Upon the evidence presented at said hearing by the applicant and other persons named and all the files, records, and proceedings herein, the Board makes the following:

FINDINGS OF FACT

1. Paul Wenner owns 6.57 acres (former truck stop), which is located in the Southwest Quarter (SW¼) of the Northwest Quarter (NW ¼) of Section 16, Young America Township. The property is improved with the original truck stop (gas station/convenience store and café building) and a large paved/gravel parking area. The parcel is located in the Agricultural Zoning District and CCWMO – (Crow River watershed).

2. The applicant is requesting a variance that would allow for the adaptive reuse of the former truck stop property for business activities, with consideration given to restrictions placed on non-conformities. Mr. Wenner is proposing to use the parcel for sales, rental, and servicing of agricultural and construction equipment, and for a landscaping operation. The Zoning Code does not allow for business or contractors yard activities on a parcel without a residence (homestead); therefore, a variance has been requested pursuant to Sections 152.009 (Non-Conforming Uses and Structures), 152.079 (Conditional Uses – Contractors Yard & Farm Related Business), and 152.213 (Authority power of Variance and Appeals).

3. The former truck stop had been in existence since the early to mid-1960's as a legal non-conforming use. There have been different owners of the property that have utilized the site as a truck stop; however, since 2007-2008 the property has been utilized more as a parking lot for local semi tractor-trailers.

4. On September 6, 2016, Mr. Wenner purchased the subject property which had been tax forfeited to the State of Minnesota. Mr. Wenner purchased the property with intensions to operate his business venture(s) from the site. He intends to provide the sales, rental and servicing of, but not limited to, farm, agricultural, and construction equipment. The sales would be in the form of consignments, business owned items and auction goods. He also has plans to

operate a seasonal landscaping business from the site. These types of proposed use(s) of the property would typically require the homesteading and occupancy of a single family dwelling on the property; however, due to the prior land use with compacted soils for an appropriate SSTS (Subsurface Septic Treatment System) Mr. Wenner may not be able to purse the construction of a single family dwelling on the site (therefore, the reason for one variance). Mr. Wenner's sales/consignment business is an activity which is not allowed pursuant to the Zoning Code (therefore, the reason for a second variance request). Mr. Wenner states the non-conforming use (sales and service of agricultural and construction equipment) would be a good fit for the property, as well as the ability to utilize the site where few alternative uses would be allowed.

5. The operation – days, times and employees will directly correlate with the sales and service side of the business. He plans to conduct regular online and occasional in-person auctions to sell items that are located on the property. These days and times will differ from regular business hours, but should not create larger volumes of activities to the site. General business hours of operation would include Monday – Friday (7:30 am – 6:00 pm/year round); Saturdays (8:00 am – 1:00 pm/Spring-Fall and 8:00 am – 5:00 pm/Winter). He also indicates that days and times may be adjusted to better suit the local agricultural/construction workload. Mr. Wenner anticipates having four (4) full-time (year-round employees) the first year. The seasonal landscaping business would employ four (4) additional employees.

6. Pursuant to the operational plan, the development of the site would be completed in phases, with the first phase consisting of the establishment of the business activities and the potential remodeling of the existing truck stop building to create a usable sales and rental location. Activities taking place during Phase 1 would include: sales/rental, repair, service of agricultural and construction equipment as well as for the operation of his existing landscaping business. During the Phase 1 activities, Mr. Wenner would be operating under the normal business hours and days. Phase 2 activities (3-5 year plan) would potentially include the construction of a larger multiple bay building which would allow for expansion of business activities beyond Phase 1. Phase 2 activities would include the construction of a new building as described in his operational plan. The potential for other business activities including sales, service and repair of auto related activities would be restricted.

7. Mr. Wenner anticipates 16 trips per day during the high traffic season and 8 trips per day during the winter months. The applicant does not foresee any issues with traffic volumes due to the convenient Minnesota Department of Transportation (MnDOT) turn lanes and access from Wells Avenue to the site. The existing access points have been in existence since the pervious truck stop business. There is ample parking (paved and gravel) on the site for employees, the public, and staging of equipment for sale. According to the applicant, the parking of equipment will be done in an organized logistical manner to enhance aesthetics and allow for easy access and removal.

8. Mr. Wenner's initial plan is to utilize the existing building for sales, service, rental and storage, until he has the capital to construct a larger multiple bay building that would enable him to operate both of his business activities from one (1) building; therefore, keeping many of the service activities indoors for year-round work. Any existing and/or proposed structures being utilized as part of the operation will need to meet MN State Building Code standards prior to being occupied.

9. The landscaping operation would store many products utilized to construct and maintain residential and commercial properties. On-site storage of supplies would include: mulch, black dirt, landscaping rock and sand. All materials would be in contractor/bulk quantities. Other items stored on-site as part of this business activity would include: farm and landscape/tree care machinery and truck/trailers of various sizes.

10. Mr. Wenner plans to clean-up the property by trimming trees, spraying weeds, mowing the lawn and painting where needed. Based on the proposed use of the property, Mr. Wenner does not plan to immediately add any screening to the site, unless required by the county. The site would have security fencing surrounding some or all of the property and would consists of chain link and possibly include barbed wire at the top. According to the applicant, this fencing could easily incorporate privacy screening, if required; however, with sales activities screening would obstruct visibility from Hwy 212.

11. The applicant is proposing signage located along Hwy 212. Any signage would be permitted pursuant to Chapter 154 of the County Code, not to exceed 32 square feet of surface area. The size of a two-sided sign shall be calculated based on the surface area of only one of the sides, provided the sign surfaces are completely flush.

12. The Minnesota Department of Transportation (MnDOT) was notified, and the County has not received any comments and/or concerns with regard to the proposed request.

13. According to Lori Brinkman, Carver County Septic Inspector, the SSTS (Subsurface Sewage Treatment System) at 17550 Hwy 212 was designed and installed in 2005. It was designed as a performance system providing waste treatment for a café serving 50 seats and 5 employees for a total flow of 1255 gallons per day. A pretreatment unit was to be installed due to the strength of the waste generated. Since then, the building has been vacant for several years and the SSTS has been unused. Carver County is unaware whether the components of the previously installed SSTS remain or whether the previously installed soil treatment area is adequate for the proposed future use. Therefore, a SSTS design must be submitted by a licensed SSTS designer to Carver County which specifies the waste treatment requirements for the future use at the property. Portions of the previous septic system may be used if they are found to meet MPCA and Carver County SSTS compliance requirements.

14. The applicant describes a practical difficult based on the fact that the property has been sitting vacant and has been an "eyesore" for many years since the closing of the truck stop which has been considered a non-conforming use dating back to the 1960's. Mr. Wenner's adaptive reuse of the property would allow for the outside display of equipment for sales, rental, consignment, etc.

15. The granting of the variance should not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicants, and should not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.

16. The granting of the variance would not be in conflict with the intent of the Comprehensive Plan and will not alter the character of the neighborhood.

17. The granting of the variance would not alter the character of the neighborhood. Government services should not be negatively impacted by the proposed use.

18. The Young America Town Board reviewed and recommended approval of the request at their July 11, 2017 regular meeting.

ORDER #PZ20170041

IT IS HEREBY ORDERED: That the application of Paul Wenner for the adaptive reuse of the former truck stop property for business activities, with consideration given to restrictions placed on non-conformities pursuant to Sections 152.009, 152.079 and 152.213 of the Carver County Code, for property legally described on the attached Exhibit "A", is hereby approved with the following conditions:

1. The permitted activities are subject to administrative review. This order allows for an adaptive reuse of the property on the approximate 6.50 acres. A change in ownership, operations or operator shall be cause for it to be reviewed by Land Management for a determination as to whether an application for an amendment or similar consideration is necessary. Proposed owners and/or operators are encouraged to contact Land Management as early on in the timeline of the proposed change as possible.

2. The landowner/operator shall operate in accordance with the submitted Application, Supporting Documentation (operational plan & site plan) submitted on July 11, 2017. These plans shall be considered a requirement of this Order. The potential for expanded business activities including sales, service and repair of auto related activities, pursuant to Phase 2, shall not be permitted until this Order is amended.

3. All structures used in conjunction with the business activities shall meet the applicable requirements of the Carver County Zoning Code and State Building Code. Any future remodeling to the existing structure shall be prohibited until such time as the structure is reviewed by the Carver County Building Official, and appropriate permits have been approved. Construction of a future new structure, to be utilized as part of the business, shall be permitted upon the review and issuance of appropriate building permit(s) prior to construction.

4. In addition to items offered for sale, a maximum of nine (9) landscaping commercial vehicles (including, but not limited to: trucks, dump trucks, etc.) may be stored and/or permitted on the site. All outside storage located on the site shall be placed in locations to reduce the visual impact from the public road and all business related trucks, equipment and supplies shall be located on the site in such a way to be next and orderly to reduce the visual impact of the approved operational area.

5. The permitted activity shall be subject to any/all MnDOT standards pertaining to access requirements. The appropriate permit(s) shall be obtained before any work commences within the road right-of-way and/or prior to commencing commercial activities.

6. Any grading and/or filling activity on the property shall be completed in accordance with the Carver County Water Management Rules and the Wetland Conservation Act (WCA), if applicable. Any and all site improvements shall be completed pursuant to Chapter 153 – Water Resource Management. Stormwater Management review and approvals are required prior to the issuance of construction and/or building permits.

7. A vegetative cover shall be maintained on areas not included as part of the operational plan. The Permittee shall be responsible for maintaining any/all vegetative ground cover (trees, weeds, etc.) for the duration of the operation.

8. The permitted activity shall comply at all times with the County standards as detailed in Chapter 152 – Zoning Code and Chapter 154 – Sign Regulations.

9. The landowner/operator shall obtain and maintain a Non-generator's Certificate or contact the Environmental Services (E.S.) Department to obtain a Hazardous Waste Generator's License, if required.

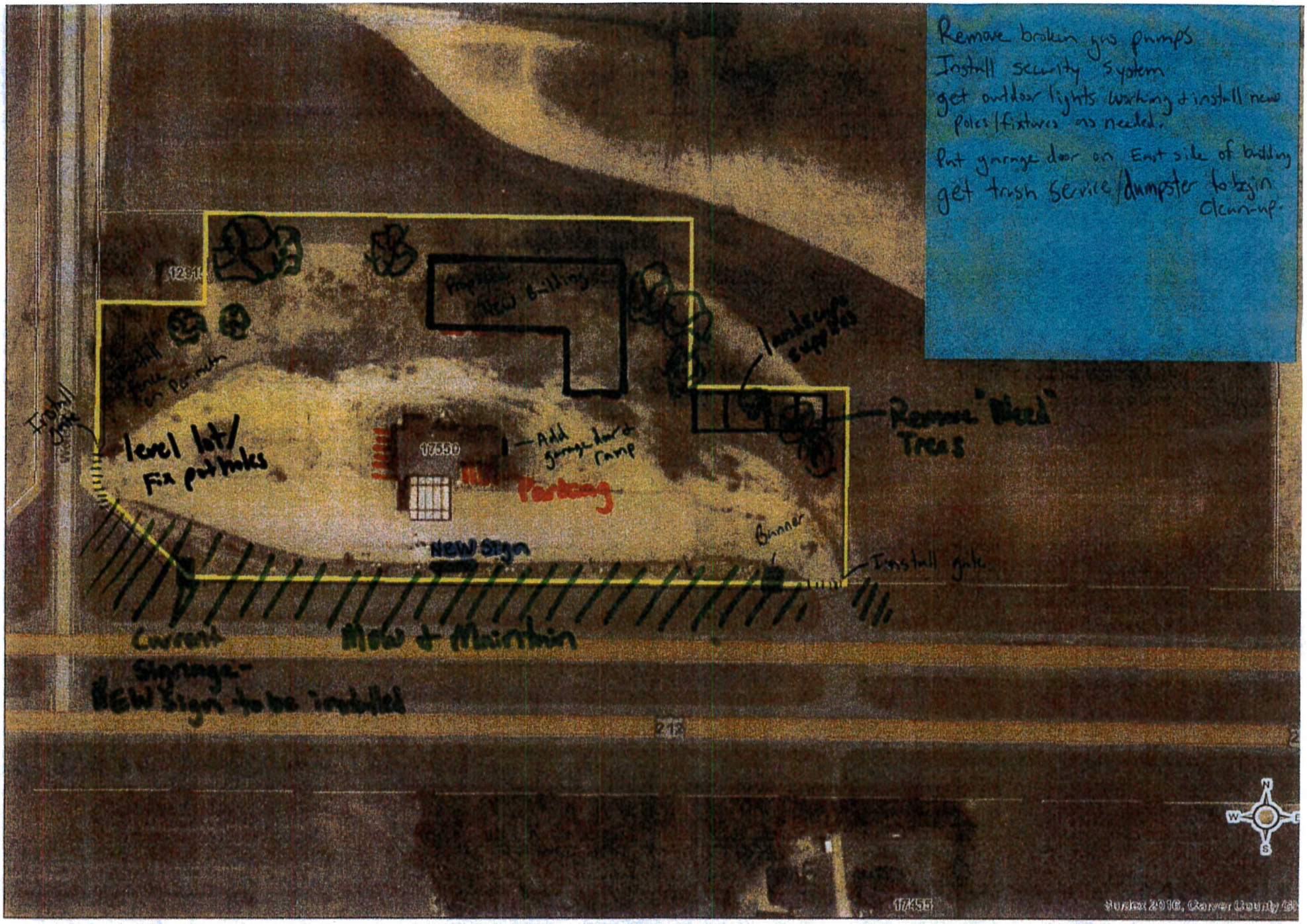
10. The landowner/operator shall submit a Certificate of Workers' Compensation Insurance and/or proper affidavit to the Land Management Department.

DocuSigned by:
Scott Haese

Scott Haese, Chairman
Carver County Board of Adjustment

8/4/2017 | 5:28:03 AM PDT
Date

IF ANY WORK OR ACTION, AS PERMITTED BY THIS ORDER IS NOT COMPLETED WITHIN ONE YEAR OF THE ISSUANCE OF THIS ORDER, THEN THIS ORDER SHALL BECOME NULL AND VOID UNLESS AN EXTENSION OF TIME IN WHICH TO COMPLETE THE WORK IS GRANTED BY THE BOARD OF ADJUSTMENT



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 Date: 2/9/2017

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 11-016-0700 File# PZ20250024

APPLICANT/OWNER: Paul Michael Wenner

* *

The South 559.00 feet of the West 842.9 feet of the Southwest Quarter of the Northwest Quarter of Section 16, Township 115, Range 26; EXCEPT the South 159.0 feet taken for State Highway No. 212; and EXCEPT the North 185.0 feet of the South 559.0 feet of the East 170.0 feet of the West 842.9 feet thereof; and ALSO EXCEPT the West 148 feet of the North 100 feet of the South 559 feet of the West 842.9 feet of said Southwest Quarter of the Northwest Quarter, Carver County, Minnesota.

DRAFTED BY: Carver County Land Management Department