



CARVER COUNTY BOARD OF ADJUSTMENT

Regular Meeting – **July 2, 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 June 4, 2025.....**2-26**

2. **Agenda**

- 2.1. File #PZ20250032 - Public hearing on request by Marcia Brand for a variance.
(Reduced SSTS setback from a bluff, structure, and property line)
Laketown Township.....**27-35**
- 2.2. File #PZ20250030 - Public hearing on request by Gary and Donna Schmitt for a variance.
(Reduced SSTS setback from a DNR protected watercourse)
Laketown Township.....**36-44**
- 2.3. File #PZ20250031 - Public hearing on request by Dale Gestach for a variance.
(Declare a platted parcel as a buildable lot)
Laketown Township.....**45-57**
- 2.4. File #PZ20250028 - Public hearing on request by Greg Wickenhauser for a variance.
(Reduced lot width in Shoreland District)
Benton Township.....**58-66**

3. **Other Business**

4. **Adjourn**

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Environmental Services

June 24, 2025

TO: Carver County Board of Adjustment & Laketown Town Board

FROM: The Environmental Services Department

SUBJECT: Application for a Variance (SSTS Setback)

FILE #: PZ20250032

APPLICANT: Robert Billiet, Mid MN Septic Services

OWNER: Marcia Brand

SITE ADDRESS: 7150 County Road 155, Waconia, MN 55387

VARIANCE TYPE: Reduced setback to a Bluff, Property Line, and Structure for the Installation of a Type IV Mound

PURSUANT TO: Carver County Code Section 52.022

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 07-007-1000

BACKGROUND:

1. Marcia Brand owns an approximately 0.96-acre parcel located in Government Lot 2 in the South Half (S½) of Northwest Quarter (NW¼) of Section 7, Laketown Township. The property is improved with a single-family residence and a detached garage and is located adjacent to the shoreline of Lake Waconia. The parcel is located in the Agricultural Zoning District, Shoreland Overlay District (Lake Waconia), and the Carver County Water Management Organization (CCWMO) - Carver Creek watershed.
2. The applicant is requesting a variance that would allow her to install a new Type IV Subsurface Sewage Treatment system (SSTS), consisting of a 500-gallon septic tank / 1000-gallon pump tank (2 compartment tank), 600-gallon MultiFlow, 500-gallon dosing tank, and 145 lineal feet of pressurized trenches. The proposed pressurized trenches would be placed approximately 15 feet from a bluff, and the tanks would be installed approximately 5 feet from an existing structure and the east property line. Section 52.022 of the SSTS Ordinance requires a minimum setback of 50 feet to a bluff, and setback of 10 feet from a structure and property line. Therefore, a variance for reduced setbacks has been requested.

LEGAL BACKGROUND:

§ 52.022 SSTS SETBACKS.

SSTS must be designed and installed to comply with the following minimum setback distances measured in feet:

Feature	Tank(s)/Sealed Privy	Soil Treatment and Dispersal Area/Unsealed Privy	Building Sewer or Supply Pipes
Structure(s)	10	20	-
Property lines & road rights-of-way	10	10 Above grade systems will be measured from the toe of the slope.	

Bluff (Average grade 25% slope and has a 25' rise in elevation)	50	50	
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(Ord. 67-2010, passed 5-17-11; Am. Ord. 90-2018, passed 12-18-18)

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.

(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.

(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. Marcia Brand purchased the property and has occupied the existing residence. The property was purchased with the existing house and a detached garage. The current septic system was installed in 1982 to service a new house. Now over 40 years old, the system no longer complies with County and State requirements and must be replaced.
2. The owners' letter, dated June 10, 2025, describes a practical difficulty exists based on the limited size of the property, and the required setbacks to a bluff, property lines, and structures. Due to the numerous setbacks, there is insufficient space to install a new septic system while meeting current setback requirements. Carver County Chapter 52 of the County Code requires a 50-foot setback to a bluff, and a 10-foot setback for tank(s) to a structure and property lines. Approval of the proposed variances would allow Ms. Brand to install a system in compliance with state and local rules. Further, approval of the variance would allow the pressurized trenches to be installed approximately 15 feet from a bluff, the new tanks to be placed approximately 5 feet from a structure, and 5 feet from the east property line reflecting an approximate 35-foot, 5-foot, and 5-foot variance respectively.
3. The submitted site plan, dated June 3, 2025, shows the location of the system and its proximity to the bluff, structure, and property line. The site plan shows the pressurized trenches 15 feet from the bluff, and tanks 5 feet to a structure, and 5 feet from the east property line. Other than these variances, the proposed system meets minimum required setbacks to property lines, structures, and wells.
4. At the time of writing this staff report, the Minnesota Department of Natural Resources (MNDNR) had not provided any review comments on the variance application.
5. The granting of the variance would not conflict with the intent of the Comprehensive Plan and/or County Ordinances and would not alter the character of the neighborhood.
6. The granting of the variance would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicants and would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
7. The Laketown Town Board reviewed and recommended approval of the Brand request at their June 23, 2025, meeting. The Township expressed support for the licensed septic contractor's design and the County's approval under the SSTS program.

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variances for reduced SSTS setbacks would serve in the interest of justice, the following conditions should be considered:

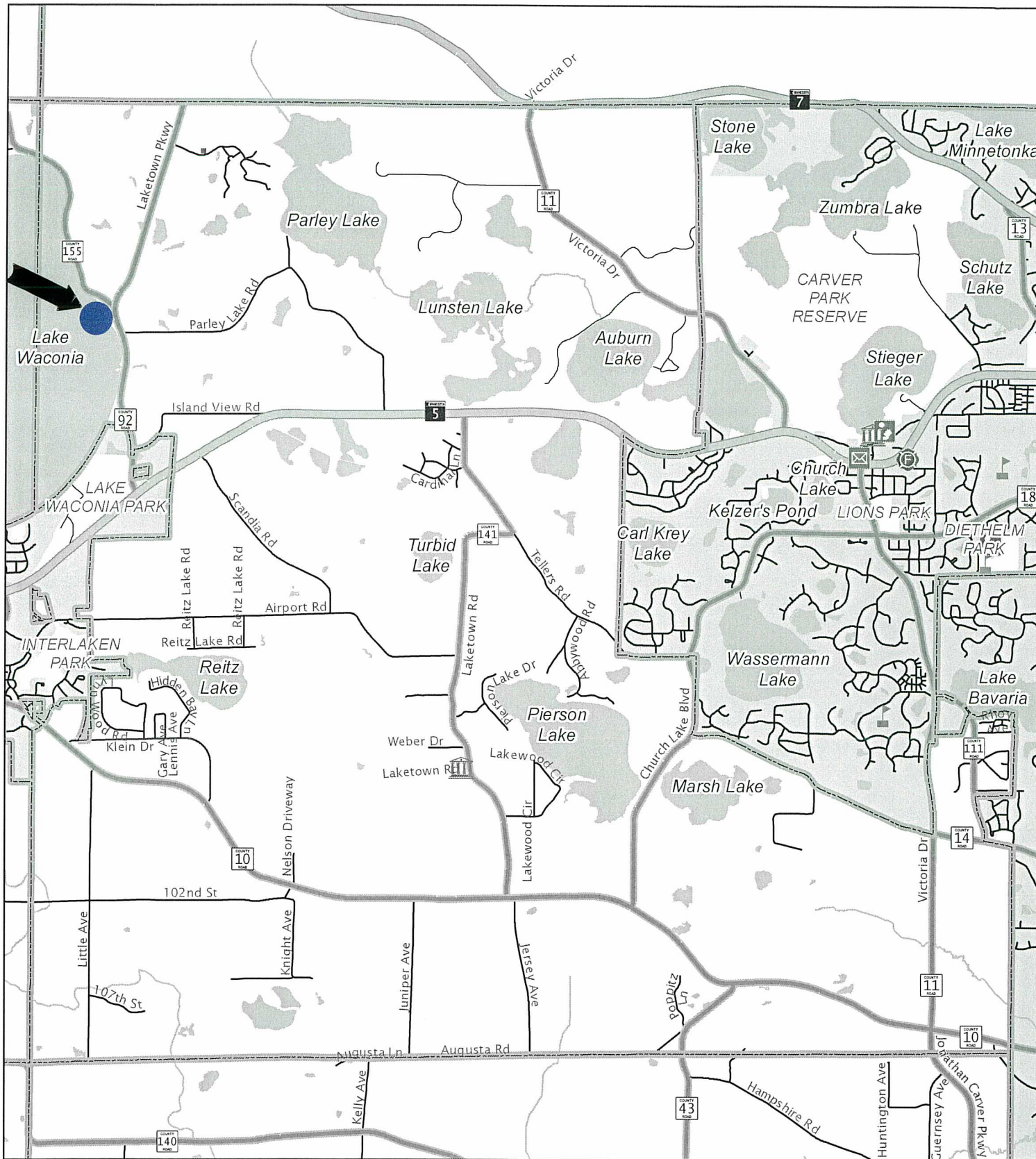
1. The SSTS shall be located according to the final design approved by Carver County Environmental Services.
2. The new septic system shall not encroach any closer to the bluff, structure, and property line than as approved as part of this variance application (Approx. 15 feet from the bluff, and 5 feet from the structure and east property line).

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.

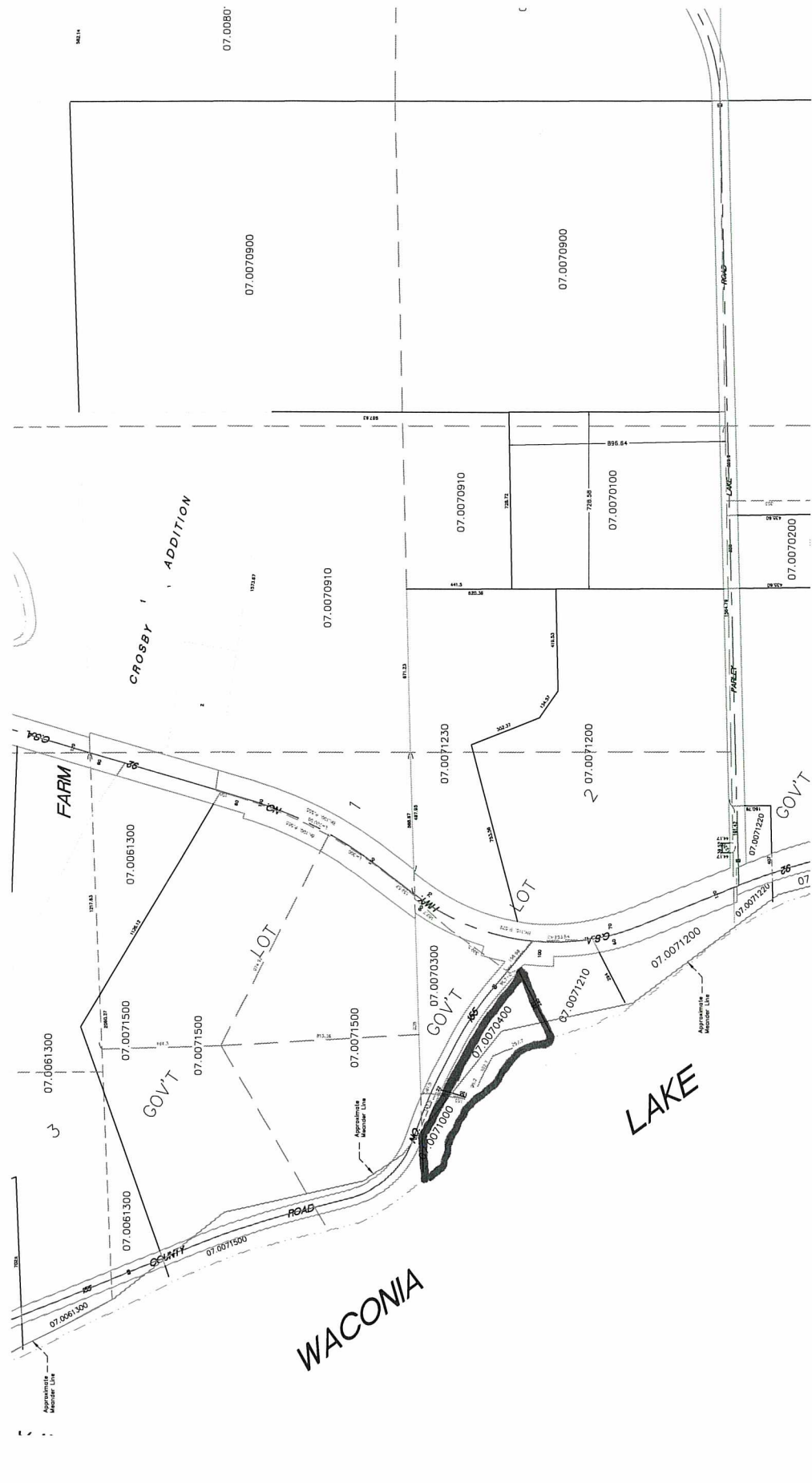
0 1 2 Miles



Map Created by Carver County GIS

THIS IS NOT A LEGALLY RECORDED PLAT.
 IT IS A PRELIMINARY SURVEY MAP.
 AS THEY APPEAR IN THE CARVER COUNTY
 RECORDS, THEY ARE NOT TO BE USED FOR
 ANY PURPOSES, AND ANY AGENTS
 ARE NOT RESPONSIBLE FOR ANY
 INACCURACIES CONTAINED THEREIN.

N 1/2 SEC. 7, T.116, R.24



Marcia Sue Brand

7150 County Road 155

Waconia, MN 55387

6/10/2025

Dear Board of Adjustment and Waconia Township:

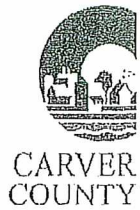
My current septic system is comprised of a 2000 gallon septic tank, and a 9' x 60' rockbed trench with 3 laterals in gravel. I plan to install a new Subsurface Sewage Treatment System (SSTS). A Type IV mound system with a new 500 gallon septic tank / 1000 gallon pump tank (2 compartment tank), 600 gallon MultiFlow, 500 gallon dosing tank, and 145 lineal feet of pressurized trenches. Due to the small lot size, and setbacks require per Carver County SSTS Ordinance this is the only sufficient site available on the property.

As previously stated due to the small lot size, and required setbacks I am requesting 3 variance. The pressurized trenches would be install approximately 15' from a bluff, and the proposed tanks would be placed approximately 5' from the east property line, and structure (garage). Therefore I am requesting variance to reflect the setbacks above.

In reading the practical difficulty from the ordinance I feel we are using the property in a reasonable manner and the variance will not alter the character of the property except to comply with Carver County and Chapter 7080 requirements. The new system will not impact any neighbors.

Thank you for your consideration in this matter.

Marcia Brand



Township Presentation & Recommendation Form

PARCEL #	07.0071000	Permit #	PZ 20250032
Owner's Name:	Marcia Brand	Owner's Mailing Address:	7150 CR 155
City:	Waconia	Owner State:	MN
		Owner Zip:	55387
Applicant (if other than owner):	Robert Billiet Mid MN Septic Service	Site Address:	7150 CR 155

Type of Request:	☐ CUP	☐ IUP	☐ Preliminary Plat	☐ Final Plat	☒ Variance	☐ Appeal
Description of Request:						
A Variance for installation of a Type 4 SSTS system (Septic System) with less than 36 inch's of separation to the Seasonally saturated soil level. A Variance of 35 feet to the Bluff on lake Waconia.						
Date of County Public Hearing:	July 2 nd 2025	Date of Township Meeting:	June 23 rd 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:	
There does not appear to be adequate space for mound system w/alternative site due to unique lot lines and slope to lake. This design is recommended by contractor and they are working closely with Lori Brinkman @Carver County to ensure compliance. Board recommends 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.

Robert Billiet Pres. Mid MN Septic Service Signature of Applicant	Date 6-3-2025
[Signature] [Signature], Town Clerk	Date 6-6-25 6-23-25

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 07-007-1000

File# PZ20250032

APPLICANT/OWNERS: Marcia Sue Brand

* * * * *

All that part of U. S. Government Lot 2, Section 7, Township 116, Range 24, Carver County, Minnesota, described as follows: Commencing at a point in the center of State Aid Road No. 17, which point is located 1405 feet west of the Northeast corner of said U. S. Government Lot 2 and 61.5 feet at right angles south of the North line of said Lot 2, which is the place of beginning; thence south 10 degrees 45 minutes West, a distance of 153.0 feet to the shore of said Waconia Lake; thence North 57 degrees 00 minutes West along the shore of said Waconia Lake, a distance of 394.5 feet to the North line of said Lot 2, produced to the shore of said Waconia Lake; thence East along the said north line of said Lot 2, a distance of 227.7 feet to the center of said State Aid Road No. 17; thence South 66 degrees East along the center of said State Aid Road No. 17, a distance of 147.8 feet to the place of beginning, containing 0.93 acres of land.

ALSO, starting at a point in the center of State Aid Road No. 17, which is located 1405 feet West of the Northeast corner of said U. S. Government Lot 2, and 61.5 feet at right angles South of the North line of said Lot 2, thence South 10 degrees 45 minutes West, a distance of 33 feet to the South line of said State Aid Road No. 17, for the place of beginning; thence South 10 degrees 45 minutes West, a distance of 120 feet to the shore of Waconia Lake; thence Northeast to a point on the South side of said State Aid Road No. 17, which point is 22 feet East of the place of beginning; thence along the South side of said Road, 22 feet Northwest to the place of beginning. Said tract being a triangular piece 120 feet in length on the west side and 22 feet wide at the base. Containing 03/100 acres, more or less.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Environmental Services

June 24, 2025

TO: Carver County Board of Adjustment & Laketown Town Board

FROM: The Environmental Services Department

SUBJECT: Application for a Variance (SSTS Setback)

FILE #: PZ20250030

APPLICANT: Gary and Donna Schmitt

OWNER: Gary and Donna Schmitt

SITE ADDRESS: 9335 Lynn Wood Rd., Waconia, MN 55387

VARIANCE TYPE: Reduced setback to the OHWL of a Protected Watercourse

PURSUANT TO: Carver County Code Section 52.022

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 07-600-0160

BACKGROUND:

1. Gary and Donna Schmitt own an approximately 2.28-acre parcel located in the Southeast Quarter (SE¼) of Section 19, Laketown Township. The property is improved with a single-family residence and attached garage. The parcel is part of Schmittville Creek-View Addition, which was platted in 1973, and is located in the Agricultural Zoning District, Shoreland Overlay District of a Minnesota Department of Natural Resources (MNDNR) Protected Watercourse and the Carver County Water Management Organization (CCWMO) - Carver Creek watershed.
2. The applicant is requesting a variance to install a new Type III Subsurface Sewage Treatment system (SSTS) approximately 33 feet from the Ordinary High Water Level (OHWL) of a MNDNR Protected Watercourse. Section 52.022 of the SSST Ordinance requires a minimum setback of 75 feet from the OHWL of a Protected Watercourse. Therefore, a variance for a reduced setback has been requested.

LEGAL BACKGROUND:

§ 52.022 SSTS SETBACKS.

SSTS must be designed and installed to comply with the following minimum setback distances measured in feet:

Feature	Tank(s)/Sealed Privy	Soil Treatment and Dispersal Area/Unsealed Privy	Building Sewer or Supply Pipes
Ordinary high watermark of recreational development lakes and protected water courses	75	75	-

(Ord. 67-2010, passed 5-17-11; Am. Ord. 90-2018, passed 12-18-18)

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.
- (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.
- (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. Gary and Donna Schmitt purchased the property in 1977 and built the existing residence. The septic system was inspected on July 29, 2022, in anticipation of future building permits for window replacement, residing, and a deck addition. The system was determined to be non-complaint and identified as failing to protect groundwater (FTPGW) as it did not meet the required 3-feet of vertical separation for sewage treatment. Systems that are FTPGW carry a 3-year timeline for upgrade or replacement.; A septic escrow was established to allow for the issuance of pending permits.

2. The owners' letter dated May 12, 2025, describes a practical difficulty due to the limited size of the property and the required setbacks to the OHWL. There is insufficient space to install a new septic system that meets current setback requirements. Gary and Donna wish to install a new SSTS to comply with Carver County and State Rules. Chapter 52 of the County Code requires a 75-foot setback from a DNR protected watercourse. Approval of the variance would allow the owners to install a system that complies with state and local rules. Approval of the variance would allow the new system to be placed approximately 33 feet from the OHWL of a DNR protected watercourse, representing a 42-foot variance respectively.
3. The submitted design/site plan, dated April 25, 2025, shows the location of the mound system approximately 33 feet from the OHWL. Other than the requested variance, the proposed system meets setback requirements for property lines, structures, and wells.
4. At the time of writing this staff report, the Minnesota Department of Natural Resources (MNDNR) had not provided any review comments on the variance application.
5. The approved SSTS design will place the new soil treatment area in a location that will allow it to function properly.
6. The granting of the variance would not conflict with the intent of the Comprehensive Plan and/or County Ordinances and would not alter the character of the neighborhood.
7. The granting of the variance would not materially, adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicants and would not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the properties.
8. The Laketown Town Board reviewed and recommended approval of the request at their May 12, 2025, Town Board meeting without any additional conditions.

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance for the reduced setback from the ordinary high water level would serve in the interest of justice, the following conditions should be considered:

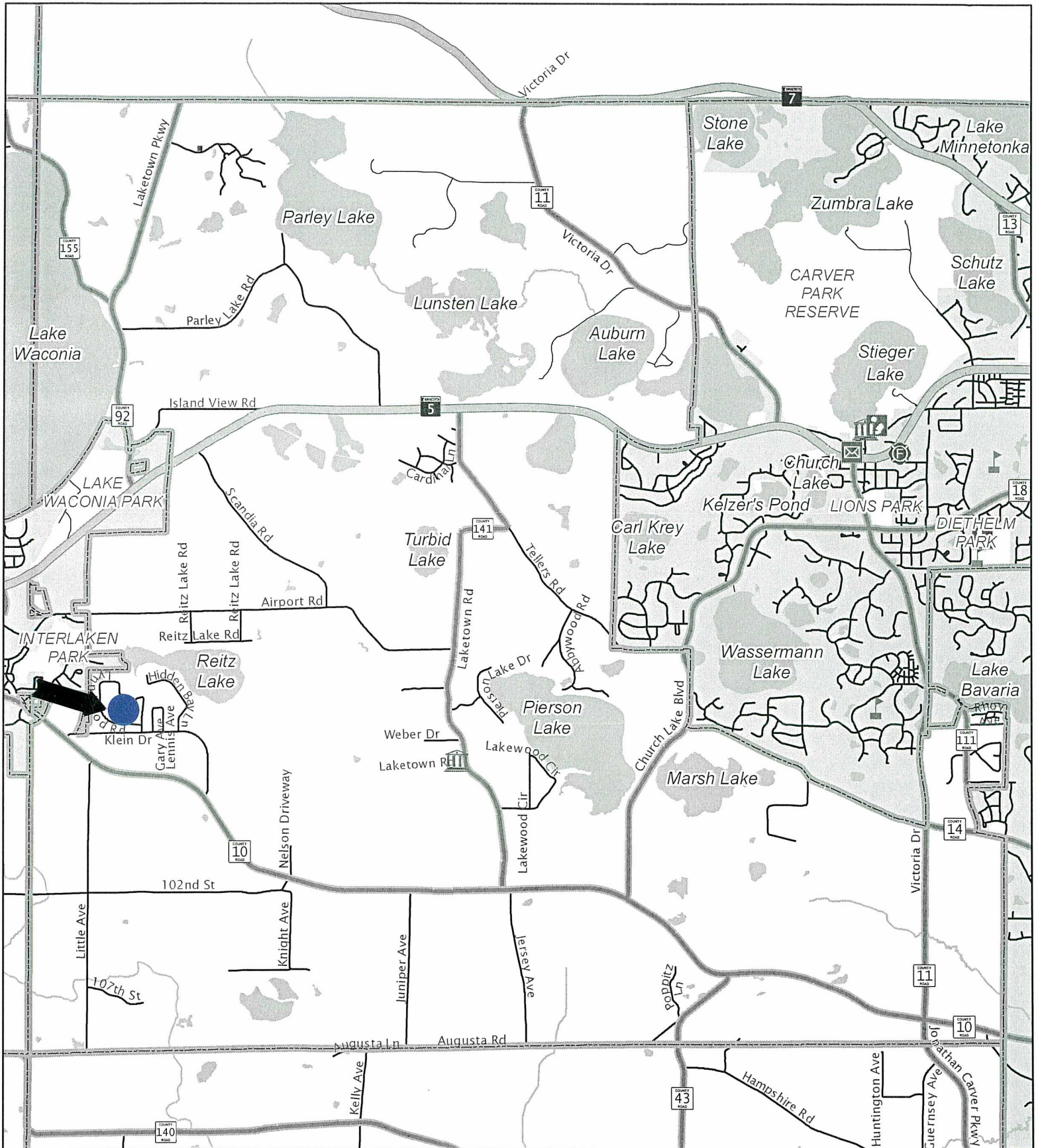
1. The SSTS shall be located according to the final design approved by Carver County Environmental Services.
2. The new septic system shall not encroach any closer to the ordinary high water level than as approved as part of this variance application (approx. 33 feet from the OHWL of a MNDNR Protected Watercourse).

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.

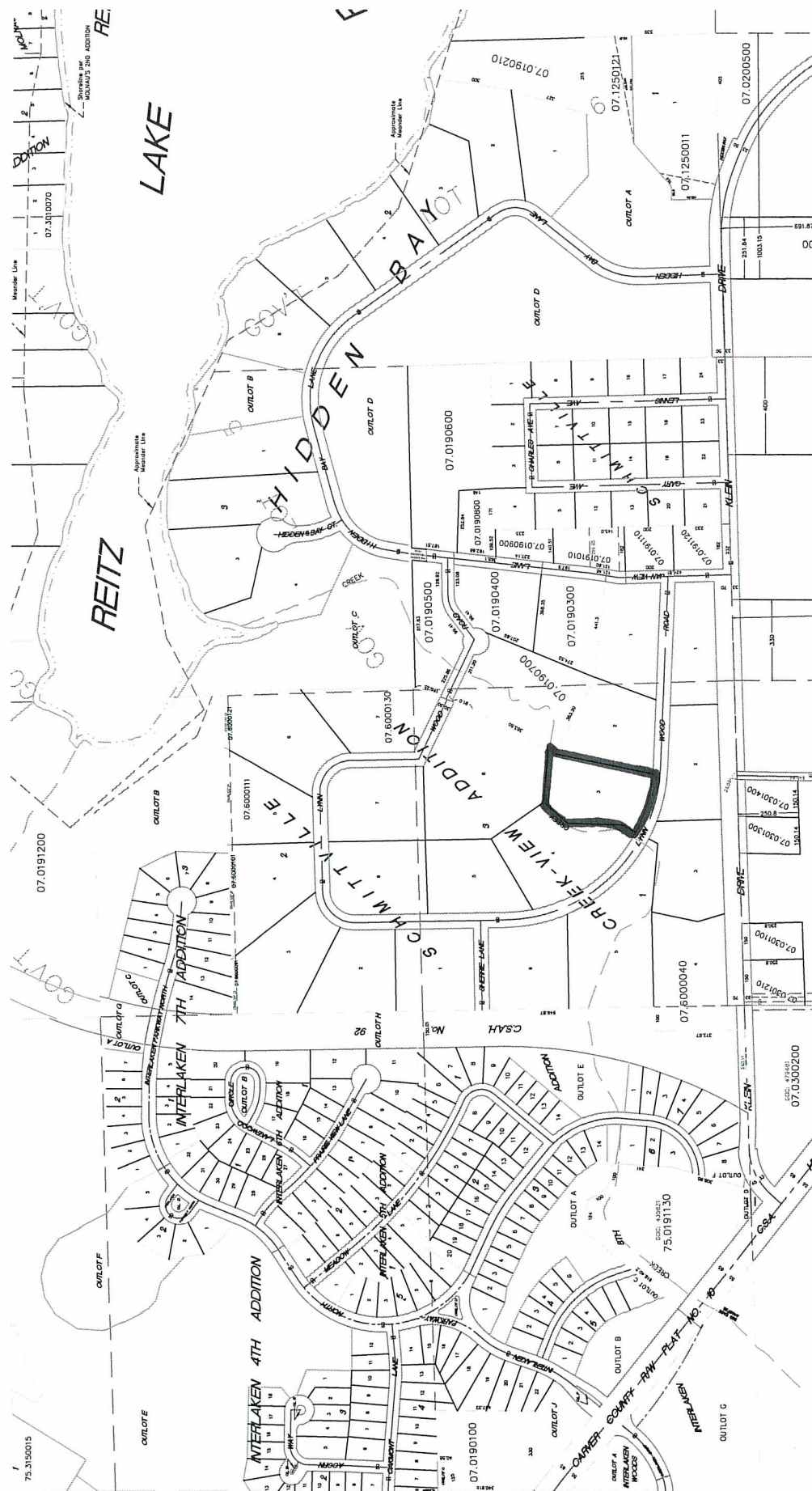
LAKETOWN TOWNSHIP



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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
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INACCURACIES CONTAINED THEREIN.



5-12-25

The design for a new septic system will not meet the setback to the ordinary high-water mark to the stream that is near the proposed system. Code § 152.034 and § 152.035. Any possible site for the mound will not meet the set back as the only other options will not meet setback to the well and the other has a slope percentage too high to allow a mound. The current system is non-compliant and a new septic is needed. Please approve the variance application for a new septic system.

^{Dona}
Gary & ~~Debra~~ Schmitt

9335 Lynn Wood Rd W + E

scale - 1" = 50'

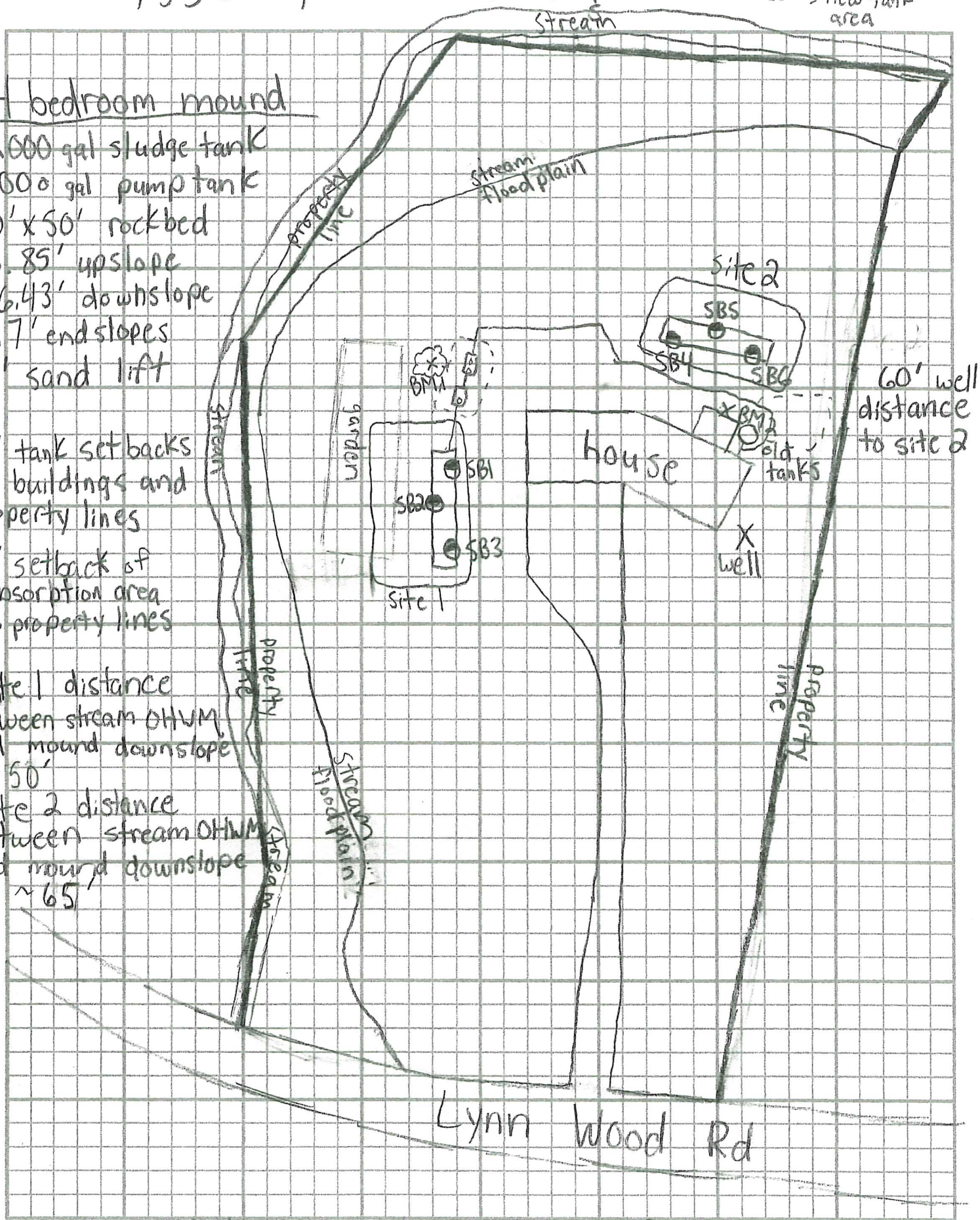
● = soil boring
--- = new tank area

- 4 bedroom mound
- 2000 gal sludge tank
- 1000 gal pump tank
- 10' x 50' rock bed
- 10.85' upslope
- 26.43' downslope
- 17.7' end slopes
- 3' sand lift

- 10' tank setbacks to buildings and property lines
- 10' setback of absorption area to property lines

Site 1 distance between stream OHWM and mound downslope ~ 50'

Site 2 distance between stream OHWM and mound downslope ~ 65'



60' well distance to site 2

MusePrintables.com	site 1	SB1 - 98.8	site 2	SB4 - 98.9
	NW 97.6 NE 99	SB2 - 97.7	NW - 98.75 NE - 98.75	SB5 - 98.8
	SW 97.5 SE 99	SB3 - 98.5	SW - 98.9 SE - 98.9	SB6 - 99



Township Presentation & Recommendation Form

PARCEL #	07.6000, 160	Permit #	SP20240038
Owner's Name:	Owner's Mailing Address:		
Schmitt, Gary & Donna	9335 Lynn Wood Rd		
City:	Owner State:	Owner Zip:	
Waconia	MN	55322	
Applicant (if other than owner):	Site Address:		
	Same		

Type of Request:	☐ CUP	☐ IUP	☐ Preliminary Plat	☐ Final Plat	☒ Variance	☐ Appeal
Description of Request:						
Variance application to allow new septic which will NOT meet setback to ordinary high water mark of stream. Mound site will be about 33' feet from OHWM.						
Date of County Public Hearing:	June 4 th		Date of Township Meeting:		Mon 5/12	
	July 2 nd					

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:

Board considered as part of their May 12, 2025 agenda. Gary + Donna Schmitt provided explanation of their variance request due to the requirement to install new septic system (discovered when issued a building permit). Alternate site location is 33' from floodplain line for creek in yard. Board recommends 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.

X Gary & Schmitt

Date 5-12-25 ?

Signature of Applicant

Shanne Kunge Town Clerk

Date 5-12-25

Signature of Township Official

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 07-600-0160

File# PZ20250030

APPLICANT/OWNER: Gary E Schmitt & Donna M Schmitt

*** * * * ***

Lot 3, Block 3, Schmittville Creek-View Addition, according to the plat of record and on file in the office of the county Recorder, Carver County, Minnesota.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Land Management Department

June 24, 2025

TO: Carver County Board of Adjustment & Laketown Town Board

FROM: The Land Management Department

SUBJECT: Application for a Variance (Nonconforming Shoreland Lot, Building Eligibility)

FILE #: PZ20250031

APPLICANT: Randy Kubes

OWNER: Dale Gestach

SITE ADDRESS: Lot north of 9340 Pierson Lake Dr, Chaska MN 55318

VARIANCE TYPE: Nonconforming Shoreland Lot, Building Eligibility

PURSUANT TO: Carver County Code: Sections 152.033 (C)(1) & (D)(5), 152.135 (B)(1)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 07-200-0340

BACKGROUND:

1. Dale Gestach owns an approximately 1.42-acre residential parcel located in the South Half (S½) of the Southeast Quarter (SE¼) of Section 21, Laketown Township. The parcel was created in 1967 as part of the Laketown Shores development. It is improved with an accessory structure and is located within the Agricultural Zoning District, Shoreland Overlay District (Pierson's Lake), and the Minnehaha Creek Watershed District.
2. The applicant, Randy Kubes, is requesting a variance to enable a future owner to apply for building permits on the subject property. The proposed home would be located on a nonconforming lot that has not been previously developed and has, for the majority of its history, been in common ownership with the adjacent parcel containing a residence (9340 Pierson Lake Drive). Therefore, a determination has been requested to confirm that building eligibility exists pursuant to Section 152.135(B)(1) of the Carver County Zoning Code.

LEGAL BACKGROUND:

§ 152.033 LOT REQUIREMENTS.

- (A) *Generally.* A new lot shall not be created unless it conforms to all of the following requirements. Any action that changes the size, configuration, or shape of a lot is considered to be creating a new lot. The only exception is where changes are being made to correct discrepancies in a legal description or to recognize actual occupation.
- (B) *Reasonable use.* All new lots created must have a reasonable use as defined by this chapter. If there is no reasonable use, the lot shall not be created.
- (C) *Minimum lot area requirements.*
 - (1) Lots for a dwelling unit under the 1/40 (one per quarter-quarter) provision shall have the following minimum lot sizes: 1½ acres in non-shoreland; **1½ acres in shoreland of rivers or watercourse, general or recreational development lakes**; 2 acres in shoreland of natural environment lakes.
 - (2) Lots for a dwelling unit under the density options and all conditional use provisions shall have the following minimum lot size: 2½ acres unless a different size is specified in the requirements for a permit.
 - (3) A parcel for which agriculture is the only reasonable use as defined by this chapter must be a minimum of 20 acres.
- (D) *Road frontage, lot width and depth.*

- (1) *Road frontage.* All new lots shall have frontage on a public road or be attached to an adjacent parcel having the required road frontage; minimum road frontage is 125 feet.
- (2) *Minimum width.* One hundred twenty-five feet with 125 feet of frontage on a public road existing at the time of application or the minimum width required to maintain width to depth ratio, whichever is greater. The required minimum width of a specified lot must be maintained for the entire depth of the lot except where the lot is located on a cul-de-sac.
- (3) *Minimum lot depth.* One hundred twenty-five feet.
- (4) *Width to depth ratio.* Depth of the lot shall not exceed five times the width. Road frontage of 500 feet or more will support a lot of any depth.
- (5) *Minimum width for lots in the Shoreland Overlay District.*
 - (a) Natural environment lakes - 200 feet;
 - (b) **Recreational development lakes - 150 feet;**
 - (c) General development lakes - 150 feet;
 - (d) Protected rivers and watercourses - 150 feet.

§ 152.135 NONCONFORMITIES.

- (A) All legally established nonconformities as of the date of this ordinance may continue, but will be managed according to M.S. §394.36, subd. 5 and other regulations of this county for alterations and additions; repair after damage; discontinuance of use; and intensification of use.
 - (B) Construction on nonconforming lots of record is subject to the following criteria:
 - (1) Lots of record in the Office of the County Recorder on the date of July 1, 1974, that do not meet the minimum lot size and width standards specified by § 152.033 may be allowed as building sites without variance from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this chapter are met.
 - (2) A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
 - (3) **If, in a group of two or more contiguous lots under the same owner, any individual lot does not meet the minimum lot size and width standards specified by § 152.033, the lot must not be considered a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the minimum lot size and width standards as much as possible.**
 - (C) Additions/expansions to nonconforming structures. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback and other requirements of § 152.034. Any deviation from these requirements must be authorized by a variance.
- (Ord. 97-2021, passed 7-20-21)

§ 152.034 SETBACKS.

(D) *Table of setback requirements.*

Setbacks from Ordinary High-Water Level in Shoreland District	Setback Required for Structures	Setback Required for SSTs
Recreational development lake (Pierson's)	100	as required by Chapter 52

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

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 created as a legal lot when Laketown Shores was platted in 1967. It was established prior to the adoption of the County's zoning standards and was, therefore, considered a conforming lot at that time—predating both the “1 per 40” density standard and the “lot of record” requirements. The Shoreland provision regarding contiguous lots was enacted around 1991, after the applicant acquired the adjacent parcels. The subject property is approximately 135 feet wide and 1.42 acres in area, whereas a conforming shoreland lot must be at least 200 feet wide and 2 acres in area.
2. The applicant's letter, dated June 2, 2025, outlines the circumstances prompting the variance request. Mr. Gestach, along with his brother, purchased the adjacent property with a house (Lot 7) in 1984. Shortly thereafter, the applicant purchased the neighboring vacant lot (Lot 6). Upon Mr. Gestach's marriage, ownership of the house lot transferred to him and his wife. Following the dissolution of the marriage in 2011, Mr. Gestach retained ownership of both adjacent parcels. The narrative notes that Lot 6 was assessed at \$235,000 in 2024, which Mr. Gestach interpreted as an indication that the lot was buildable. The letter also states that he was unaware of the requirement to combine nonconforming, commonly owned lots in the Shoreland Overlay District.
3. County records show that the total assessed value of the unbuilt lot was \$76,400 in 2023, which represents a 127% increase from its 2022 value. The assessed value of the property had steadily decreased over the previous decade, reaching a low of \$52,300 in 2015. This trend suggests that the lot was considered unbuildable, which aligns with Land Management records identifying it as such. The Assessor's Office has no record of Mr. Gestach having

questioned the assessed value of the property, either recently or in prior years. On April 11, 2024, the applicant, Mr. Kubes, contacted the Land Management Department and was informed that the subject property was not buildable due to Shoreland regulations regarding nonconforming adjacent lots in common ownership.

4. In 1997, building eligibility research concluded that the lot had been under the same ownership as the adjacent lot with a house since 1974. Therefore, pursuant to Section 152.135(B)(3) of the Carver County Zoning Code, the lot does not have building eligibility. With several accessory structures on the parcel and the storage of equipment and materials resembling a contractor's yard, Mr. Gestach appears to have made reasonable use of the property despite the absence of building eligibility.
5. An aerial photo, dated May 14, 2025, shows the subject property (Lot 6) alongside the adjacent parcel with a home, both owned by Mr. Gestach. The applicant also submitted a portion of the plat map, dated June 2, 2025, which depicts the existing home on the neighboring lot and highlights the subject property in yellow.
6. At the time of writing this staff report, Environmental Services had not received a soils report to determine the suitability of the soils on the subject property for compliance with the SSTS Ordinance. If it is determined that suitable soils cannot be identified for an SSTS system, the variance shall be considered null and void.
7. At the time of writing this staff report, the Minnesota Department of Natural Resources (MNDNR) had not provided any review comments on the variance application.
8. At the time of writing this staff report, the Minnehaha Creek Watershed District (MCWD) had not provided any review comments on the variance application.
9. The granting of the variance is not in harmony with the general purpose and intent of the official control. In this case, the official control aims to prevent over-development of nonconforming lots in the shoreland area to reduce the amount of impervious surface surrounding the water body. The overwhelming majority of parcels in the subdivision have been developed on lots of similar size.
10. The plight of the landowner results from both their decisions and the circumstances of the property, which contribute to the need for this variance. The lots were platted prior to the County adopting zoning regulations, thereby creating legal nonconforming lots. The requirement to combine nonconforming lots in common ownership was enacted after Mr. Gestach acquired both parcels. The applicant's narrative does not cite a practical difficulty as the basis for the variance request. Instead, it notes the owner's long-term economic interest in assuming that the lot could be sold as a buildable parcel.
11. The neighborhood consists of residential lake homes, with other properties in the immediate area feature similarly situated houses and accessory structures. This request would not result in a substantial change to the character of the neighborhood.
12. The granting of the variance would not conflict with the intent of the Comprehensive Plan, nor would it negatively impact government services, given the location of the proposed additions.
13. The granting of the variance would not materially or adversely affect the health or safety individuals residing or working in the adjacent area, nor would it be detrimental to public welfare or injurious to surrounding properties or improvements in the surrounding area.
14. The Laketown Town Board reviewed and recommended approval of the Gestach request during their June 9, 2025, meeting. The township comments stated: *"Board voted in favor of motion to support maintaining/achieving building eligibility for each parcel, Lot 6 and 7."*

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance to declare a building eligibility exists on the subject property pursuant to Section 152.135 (B)(3) of the Carver County Zoning Code would serve in the interest of justice, the following conditions should be considered:

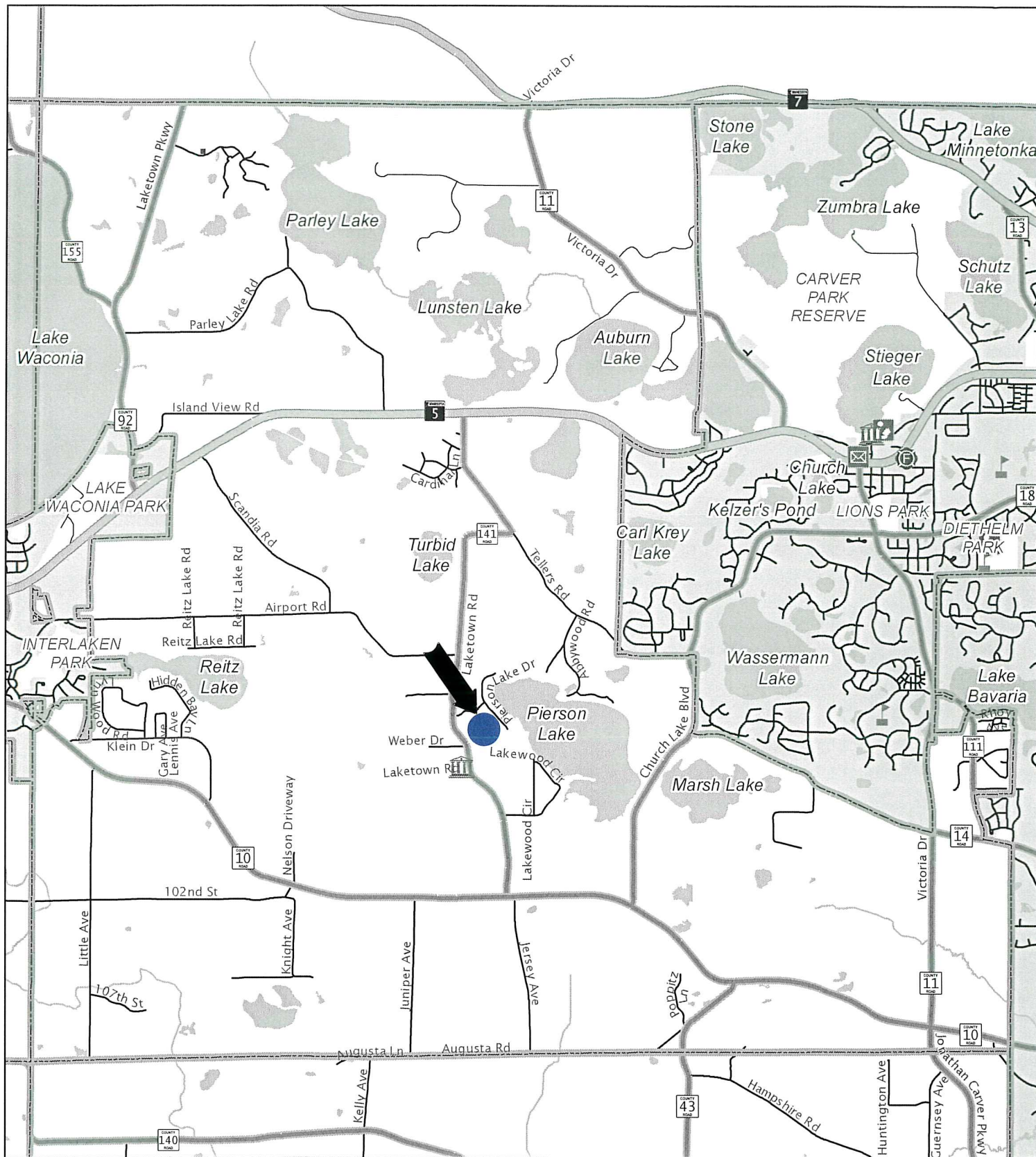
1. If the subject property cannot accommodate a Subsurface Sewage Treatment System (SSTS) due to unsuitable soils, as determined in accordance with the Carver County SSTS Ordinance, the variance is null and void.
2. The landowner is responsible for protecting both the primary and secondary (alternate) on-site sewage treatment sites. These areas must remain undisturbed and in a natural state until a treatment system is installed. Heavy equipment shall be kept off these areas, and trees shall not be planted on designated drainfield sites.
3. All construction on the property must comply with applicable Subsurface Sewage Treatment System (SSTS) requirements.
4. The permittee shall obtain all required building and septic permits prior to the construction of any dwelling on the property.
5. The permittee shall comply with all zoning code requirements related to driveway access.
6. The permittee shall obtain any necessary permits from the Minnehaha Creek Watershed District, if applicable.
7. No construction shall be permitted on the property without first obtaining all required building permits and any applicable variances.

NOTE: The Board of Adjustment may consider it necessary to protect the public health, safety, and welfare by imposing additional conditions on the variance. Any conditions imposed should be roughly proportional 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 the interest of justice, the Board of Adjustment must provide reasons to support the denial.

LAKETOWN TOWNSHIP



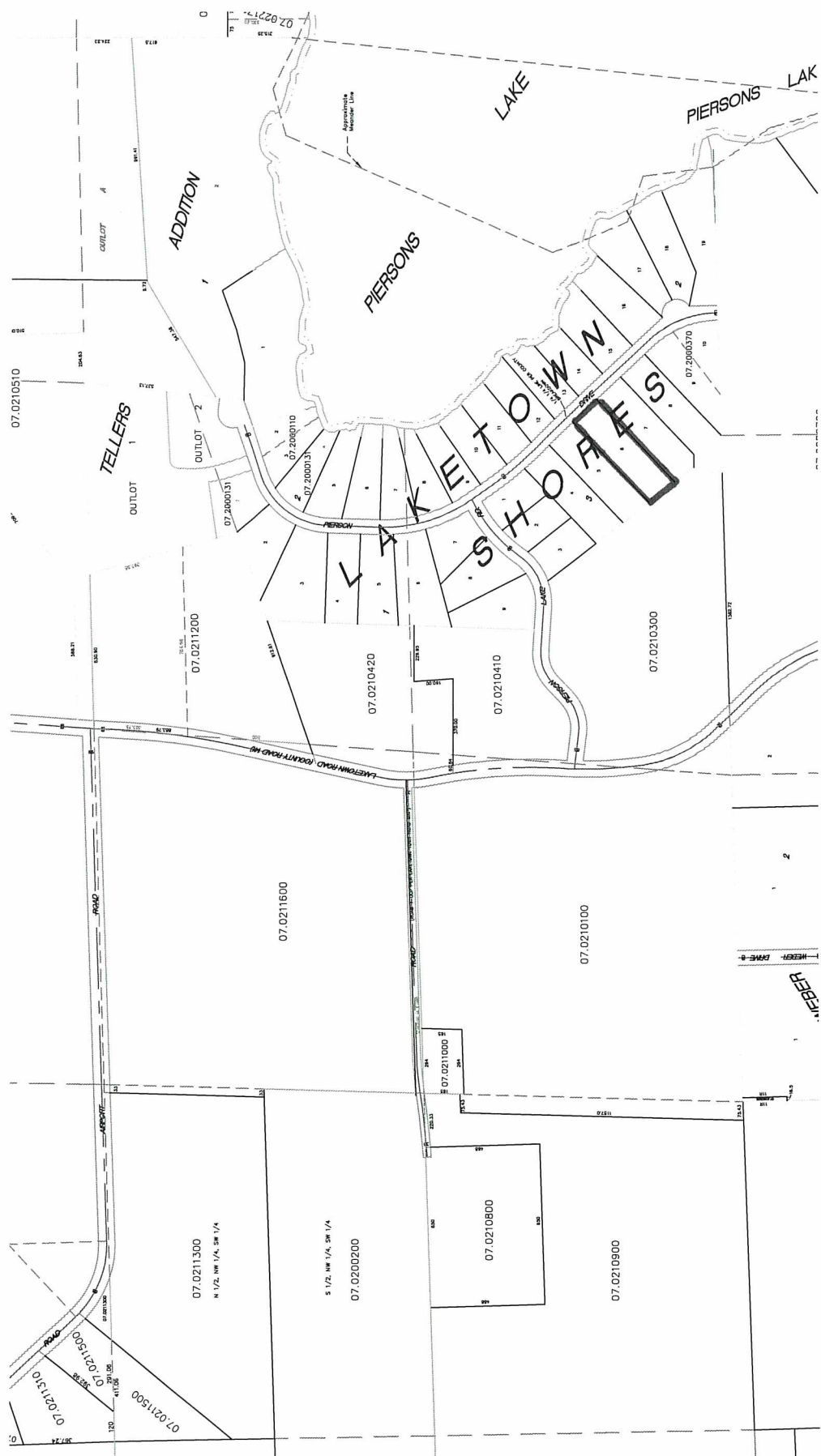
This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible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



Map Created by Carver County GIS

THIS IS NOT A LEGALLY RECORDED PLOT.
 THE INFORMATION CONTAINED HEREIN IS FOR INFORMATIONAL PURPOSES ONLY.
 IT IS NOT TO BE USED FOR ANY OTHER PURPOSE.
 THE INFORMATION CONTAINED HEREIN IS NOT A GUARANTEE OF ANY KIND.
 THE INFORMATION CONTAINED HEREIN IS NOT A WARRANTY OF ANY KIND.
 THE INFORMATION CONTAINED HEREIN IS NOT A REPRESENTATION OF ANY KIND.

S 1/2 SEC. 21, T.116, R.24



Surveying & Mapping Office
 Carver County Gov. Center
 600 East Fourth Street
 Chaska, MN 55318
 Mar 04 2025

June2, 2025

Carver County Board of Adjustment and Lake Township

RE: Variance Application to make Lot 6 Block 3 Laketown Shores buildable again.

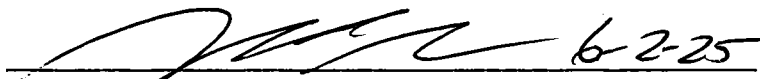
It has been brought to the owner's attention, Dale Gestach, that the lot is in the shoreline district of Pierson Lake and in the shoreline district there was a rule created that any lot that remained vacant needed to be maintained in separate ownership, in order for it to remain buildable.

On August 27, 1984, Dale P. Gestach and his brother Steven B. Gestach bought a house on Lot 7 Block 3 Laketown Shores, to live in. Shortly after that, on September 25, 1984, Dale P. Gestach bought Lot 6 Block 3 Laketown Shores on his own. Then on January 19, 1990, Steven B. Gestach Quit Claim deeded out of the property on Lot 7 to Dale & Deanne Gestach, as husband and wife. So, the ownership of Lot 6 and Lot 7, still remains separate. Later in time, Dale Gestach got divorced from Deanne Gestach, and that is where the ownership of Lot 6 and 7 now at that time are completely the same owner. Dale had no idea that this rule existed in the shoreline district, that the ownership needed to stay separate. Like many regular people they don't understand the zoning codes and ordinances.

Dale remained living and still does live in the house located on Lot 7. All along during the time he owned Lot 6, he had planned on selling that separately, because he was using that value of a buildable lot as part of his financial planning for his future, and the value of Lot 6 has also been placed on the tax statement for \$235,000, so Dale thought he had a nice buildable lot to sell. Currently there is a road project for Pierson Lake Drive, which he had received information on that each of Lot 6 and Lot 7, would be assessed separately, approximately \$6000 each for said road improvement. This also confirms that the governing bodies were looking at this lot as being separate from the house.

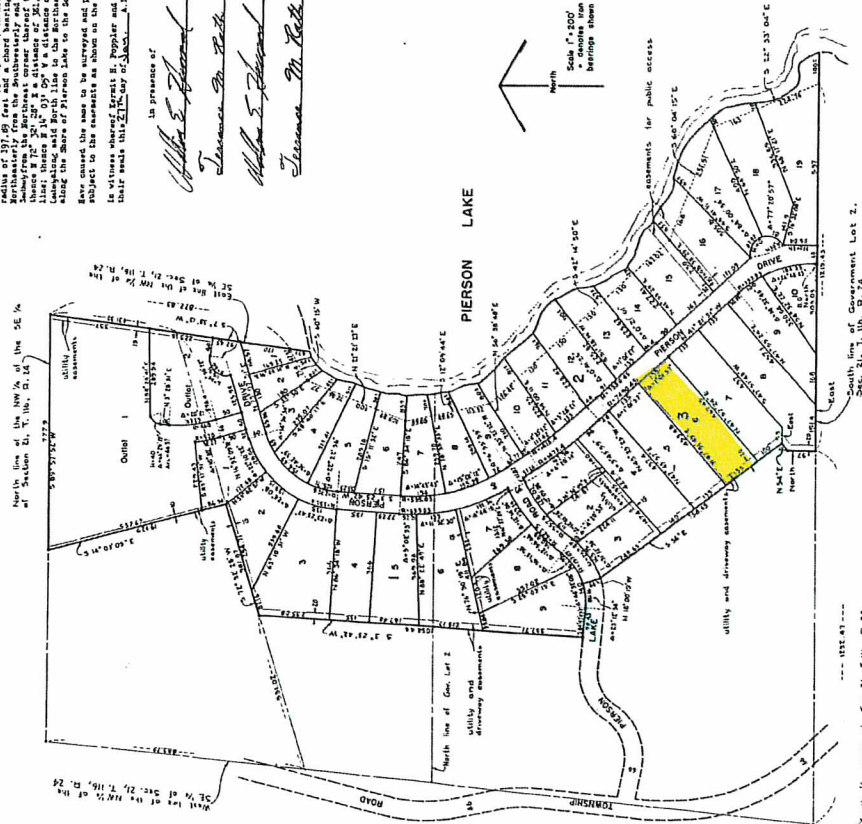
It is the request of the owner Dale Gestach and applicant Randy Kubes to clarify that Lot 6 Block 3 Laketown Shores is buildable, for the above reasons.

Attached are the maps, tax statements, property information sheets, the plat of Laketown Shores, a sketch drawing of Lot 6 and 7, showing the existing house and a possible new house location, and the deeds related to when Dale went into title, along with a few pages out of the zoning ordinance book.


Randolph J. Kubes, Applicant Date

LAKETOWN SHORES
CARVER COUNTY, MINNESOTA

North line of the NW 1/4 of the SE 1/4

[illegible]

State of Minnesota On May 27th 1967 before me, a Notary Public, within and for said County and State of Minnesota, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and said _____, husband and wife, and Frank S. Cederholm and John Cederholm, husband and wife, to me, as Notary Public, acknowledged that they executed the foregoing instrument and acknowledged that they desired to be bound by its terms and contents.

Kenneth L. Thomsen
Notary Public
My Commission Expires _____

I hereby certify that I have surveyed and platted the property described in this plat as Jackson Shores; that this plat is a correct representation of said survey; that all distances are correctly shown on the plat in feet and decimals of a foot; that the outside boundary lines are correctly designated on the plat; and that there are no wet lands or public highways to be designated other than as shown hereon.

State of Minnesota
County of Hennepin
A. D. 1967.

The foregoing plat of Laketown Shores was approved and accepted by the County Board of Carver County, at a regular meeting thereof held this 14th day of June, A.D. 1967.

Approved as to form and execution this 14th day of Feb. A.D. 1967.

County Attorney W.R. Blaney

The foregoing plat of Laketown Acres was approved and accepted by the Planning Commission of the Town of Laketown, Carver County, Minnesota at a regular meeting thereof held this 27th day of Feb. D. 1957.

The foregoing plat of Laketown Acres was approved and accepted by the Town Board of the Town of Laketown, Carver County, Minnesota at a regular meeting thereof held this 27 day of Feb, A.D. 1967.

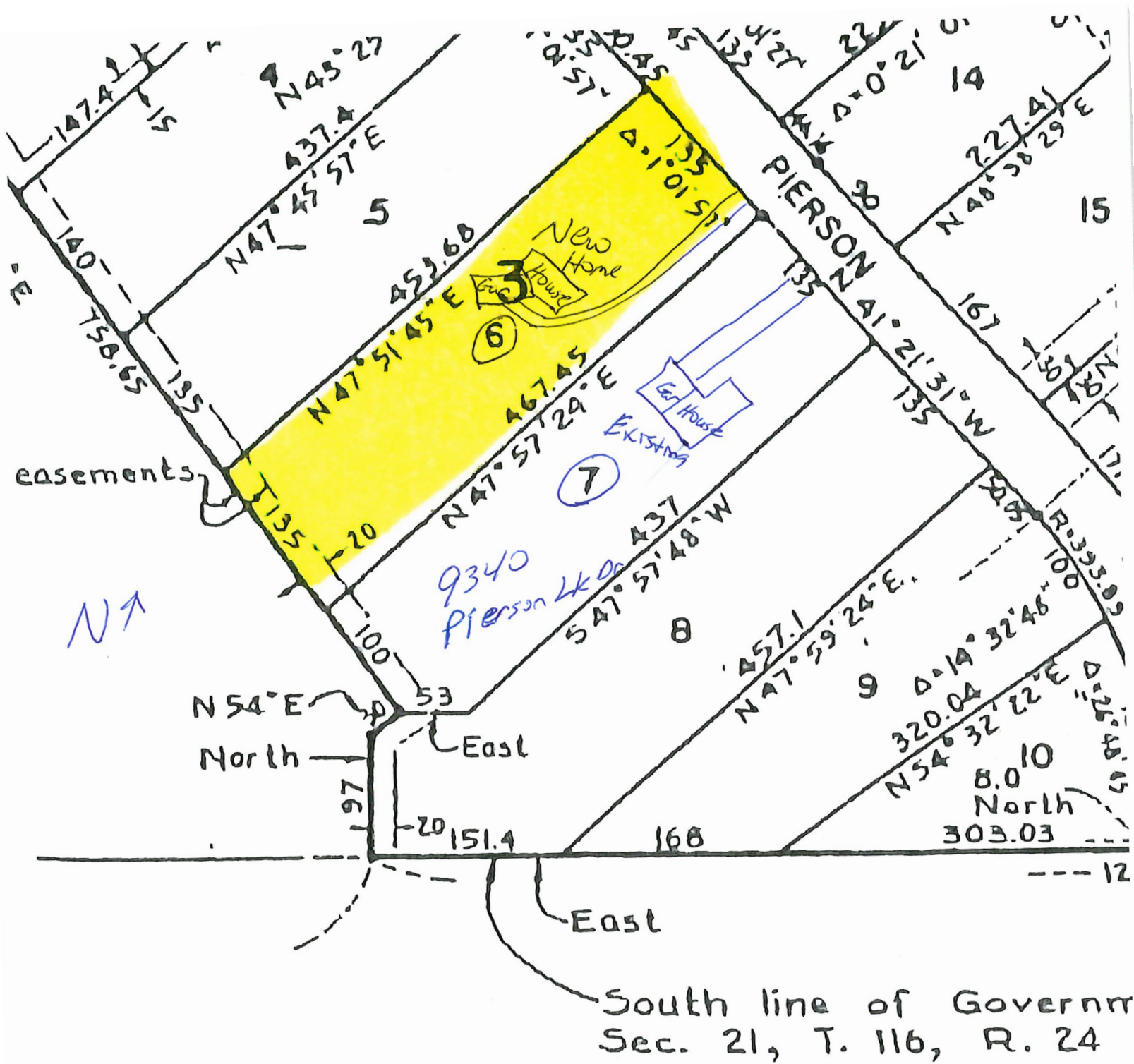
The foregoing plat of Laketown Acres was approved and accepted by the Planning Commission of Carver County, Minnesota at a regular meeting thereof held this 20th day of June, A.D. 1967.

The boundaries of this plat and the boundaries of the blocks therein have been mathematically checked and approved. Dated this 8 day of Feb. A.D. 1967.

By James H. Lindsay
Clerk County Surveys

Gestach Variance -
Aerial Photo





Gestach Variance - Plat Map

Received June 2, 2025



Township Presentation & Recommendation Form

PARCEL #	072 000 340	Permit #	PZ 2025 0031
Owner's Name:	Dale Gestack	Owner's Mailing Address:	9340 Persson Lake Dr.
City:	Chaska	Owner State:	MN
		Owner Zip:	55318
Applicant (If other than owner):	Randy Kubes	Site Address:	9340 Persson Lake Dr.

Type of Request:	☐ CUP ☐ IUP ☐ Preliminary Plat ☐ Final Plat ☒ Variance ☐ Appeal
Description of Request:	See Attached. But in general want to have Lot 6 have a Building Eligibility
Date of County Public Hearing:	7-2-25
Date of Township Meeting:	6-9-25

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:

Board voted in favor of motion to support maintaining / achieving building eligibility for each parcel → Lots 6 and 7

Board member will attend Board of Adjustment.

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

Date 6-2-25

Signature of Applicant

Shawn Kunge, Clerk-Treasurer

Date 06-09-25

Signature of Township Official

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 07-200-0340

File# PZ20250031

APPLICANT/OWNER: Dale Paul Gestach

* * * * *

Lot 6, Block 3, Laketown Shores, according to the map or plat thereof on file and of record in the Office of the Register of Deeds, Carver County, Minnesota.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Department of Land Management

June 24, 2025

TO: Carver County Board of Adjustment & Benton Town Board

FROM: The Land Management Department

SUBJECT: Variance application to create a Shoreland parcel with reduced lot width

FILE #: PZ20250028

APPLICANTS: Greg Wickenhauser

OWNERS: Charles & Greg Wickenhauser

SITE ADDRESS: 11425 110th Street, Cologne 55322

VARIANCE TYPE: Shoreland Lot Width

PURSUANT TO: Carver County Zoning Code: Section 152.033 (D)(5)(a)

LEGAL DESCRIPTION: See attached Exhibit "A"

PARCEL #: 01-003-0800

BACKGROUND:

1. Charles and Greg Wickenhauser own an approximately 79.9-acre parcel located in the West Half (W½) of the Northeast Quarter (NE¼) of Section 3, Benton Township. The parcel includes a residence, multiple agricultural buildings, and land used for crop production. It is located within the Agricultural Zoning District, the Shoreland Overlay District of the Schneewind Wildlife Management Area (DNR 10-187), and the Carver County Water Management Organization (CCWMO) – Carver Creek Watershed.
2. The applicant is requesting a variance that would allow for the creation of a new 2.1-acre lot with reduced road frontage to separate his existing residence from the ag buildings and tilled field. A variance, if obtained, would allow the applicants to apply for a Minor Subdivision to execute the proposed lot split pursuant to the County Zoning Code.

LEGAL BACKGROUND:

§ 152.033 LOT REQUIREMENTS.

(D) Road frontage, lot width and depth.

- (1) Road frontage. All new lots shall have frontage on a public road or be attached to an adjacent parcel having the required road frontage; minimum road frontage is 125 feet.
- (2) Minimum width. One hundred twenty-five feet with 125 feet of frontage on a public road existing at the time of application or the minimum width required to maintain width to depth ratio, whichever is greater. The minimum width must be maintained for the entire depth of the lot except where the lot is located on a cul-de-sac.
- (3) Minimum lot depth. One hundred twenty-five feet.
- (4) Width to depth ratio. Depth of the lot shall not exceed five times the width. Road frontage of 500 feet or more will support a lot of any depth.
- (5) Minimum width for lots in the Shoreland Overlay District.
 - (a) Natural environment lakes - 200 feet;

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

STAFF ANALYSIS:

1. The Carver County Code typically requires the platting process (i.e., a Major Subdivision) for any subdivision that does not meet the criteria for a Minor Subdivision. To qualify as a Minor Subdivision, the proposal must meet the minimum frontage requirement on an existing road and must not require the construction of any public improvements or new roads. Approval of the variance would waive the requirement for a Major Subdivision.
2. The subject property is located on 110th Street within the Shoreland Overlay District. The Zoning Code requires a minimum of 200 feet of frontage on a public road for any new lot in the Shoreland area. The proposed 2.1-acre parcel meets the required lot area and conforms to the permitted width-to-depth ratio. If the proposed land subdivision were approved, the remnant parcel containing the agricultural buildings and tilled fields would remain a conforming lot.
3. The submitted narrative, dated May 20, 2025, describes the variance request and outlines the difficulty of locating a proposed parcel line that would meet the required building setbacks.
4. The site plan, dated June 11, 2025, shows the current property with the proposed 2.1-acre parcel highlighted in the northeast corner of the approximate 79.9-acre parcel. The proposed parcel contains a residence and two accessory structures. The proposed lot lines would result in conforming structure setbacks for all existing buildings. No new access to 110th Street is proposed.
5. Lori Brinkman, Carver County Senior Environmentalist for Subsurface Sewage Treatment Systems (SSTS), reviewed the application and provided comments via email dated June 23, 2025. She noted that new lots containing a use shall not be created unless the existing SSTS has a valid certificate of compliance. The current system was issued a replacement system certificate of compliance on October 12, 2018; however, that certificate has since expired. Therefore, an SSTS compliance inspection is required for the existing system. Soil borings have been submitted to identify a suitable alternate septic system location, which has been approved by Carver County.
6. At the time of writing this staff report, the Minnesota Department of Natural Resources (MNDNR) had not provided any review comments on the variance application.
7. The plight of the landowner results from circumstances unique to the property and not caused by the landowner. While the parcel is of adequate size (2 acres) to qualify as a shoreland lot, a conforming lot width of at least 200 feet would place the western lot line uncomfortably close to multiple agricultural buildings. A 1937 aerial photo shows a cluster of structures in this location. The only viable option to place the western lot line in compliance with the required 15-foot side structure setback would be on the opposite side of a grouping of approximately sixteen agricultural buildings, which would defeat the applicant's intent to separate the residence from the agricultural buildings and tilled field. The applicant is proposing a reasonable use of the property that is currently not permitted by official control.
8. The granting of the variance would not conflict with the intent of the Comprehensive Plan or the Carver County Zoning Code. The proposed parcel would retain reasonable access to a public road, and the remnant parcel (i.e., the agricultural buildings and farm field) would remain a conforming lot. Given that the remnant parcel exceeds 77 acres, it qualifies as an agricultural parcel; therefore, the requirement limiting residential parcels to no more than 2 acres of prime agricultural soils does not apply.
9. The neighborhood consists of agricultural uses and residences with a variety of lot sizes. This request would not result in a substantial change to the character of the neighborhood, nor would it negatively impact government services.

10. The granting of the variance would not materially or adversely affect the health or safety of persons residing or working adjacent to the subject property, nor would it be materially detrimental to the public welfare or injurious to property or improvements in the surrounding area.
11. The granting of the variance is in harmony with the general purpose and intent of the official control, specifically the Shoreland lot width standard. The intent of this regulation is to prevent development on parcels without adequate frontage to meet future needs and to avoid creating lot configurations that cannot accommodate future SSTS requirements. Although the proposal does not meet the specific lot width standard, it appears to satisfy the underlying purpose of the regulation.
12. The Benton Town Board reviewed and unanimously recommended approval of the Wickenhauser request at their June 12, 2025, meeting. The Township approved the request with the condition that county staff recommendations be followed.

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance for reduced lot width for a parcel located in Shoreland pursuant to Section 152.033 (D)(5)(a) of the Carver County Zoning Code would serve in the interest of justice, the following conditions should be considered:

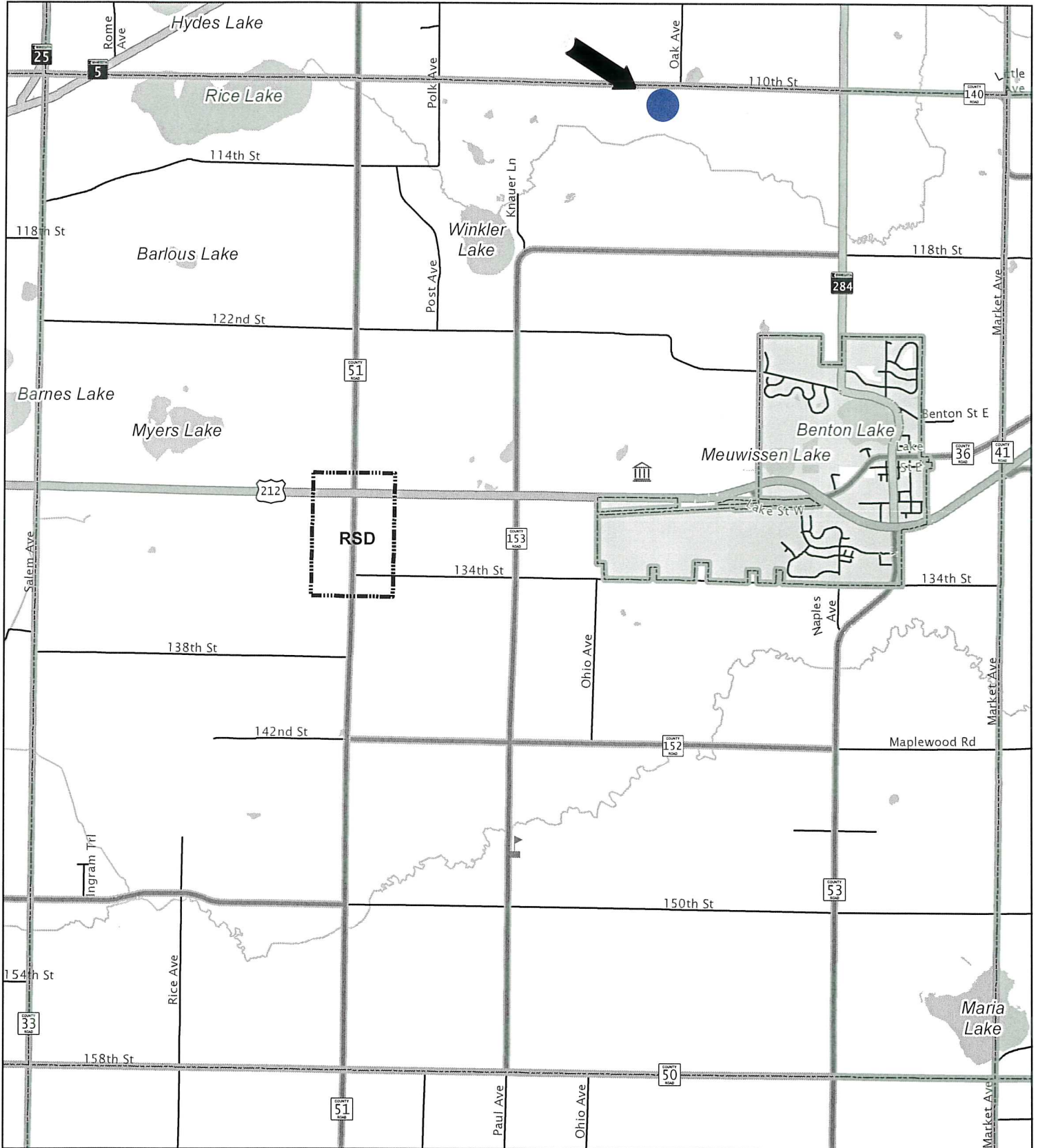
1. A Minor Subdivision application shall be submitted and approved prior to the recording of any deed(s). The parcels shall be subdivided in accordance with the County Zoning Code requirements including but not limited to, a completed Minor Subdivision application, a survey, SSTS compliance, and an alternate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

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

OR

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

BENTON TOWNSHIP



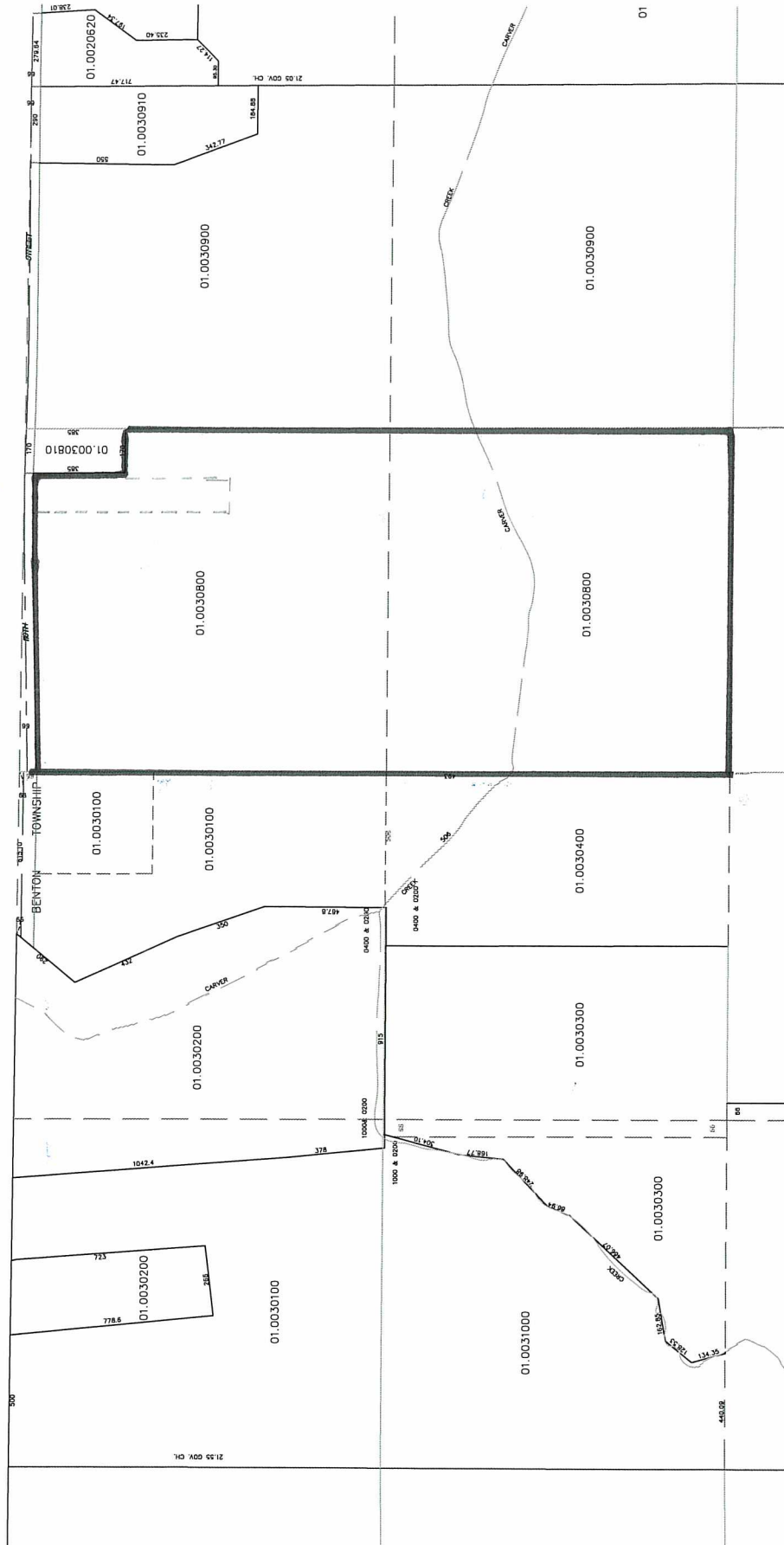
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Map Created by Carver County GIS

THIS IS NOT A LEGALLY RECORDED P.L.A.T.
 IT IS A PRELIMINARY MAP OF THE PROPERTY
 AS THEY APPEAR IN THE CARVER COUNTY
 RECORDS. IT IS NOT TO BE USED FOR REFERENCE
 PURPOSES. THE CARVER COUNTY AGENTS
 ARE NOT RESPONSIBLE FOR ANY
 INACCURACIES CONTAINED THEREIN.

N 1/2 SEC. 3, T.115, R.25



May 20, 2025

Dear Board Members,

Wickenhauser Holsteins (Charles & Greg Wickenhauser) started with estate planning and wanted to subdivide the house with a 1.5-acre lot for the farm site at 11425 110th Street in Cologne. When checking with the Land Management Department, we found that all criteria was not met with the plan we had as far as the property line.

Land Management told us that the property falls in the Shoreland area, which has different requirements. This becomes an issue with property line setbacks from other buildings on the farm. At that point we were told that a variance would be needed to do a subdivision.

I'm seeking a variance to the Shoreland area requirement for total lot width. We propose a lot width of 150 feet where the required minimum Shoreland area lot width is 200 feet.

Thanks for your consideration,

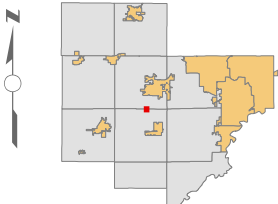
Greg Wickenhauser

WICKENHAUSER VARIANCE SITE PLAN



Date: 6/11/2025

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Township Presentation & Recommendation Form

PARCEL # 01-003-0800	Permit # PZ 2025 0028	
Owner's Name: 	Owner's Mailing Address: 	
City: Cologne	Owner State: MN	Owner Zip: 55322
Applicant (if other than owner): 	Site Address: 11425-110 th St Cologne MN	

Type of Request: ☐ CUP ☐ IUP ☐ Preliminary Plat ☐ Final Plat ☒ Variance ☐ Appeal	
Description of Request: 	
Date of County Public Hearing: July 2 2025	Date of Township Meeting: June 18 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:

We Unanimously Approve the Variance request with Co. Staff recommendations

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

Date 5-29-25

Signature of Applicant

Date 6-12-25

Signature of Township Official

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 01-003-0800

**APPLICANT/OWNER: Charles D Wickenhauser & Ashley
Wickenhauser and Gregory L Wickenhauser & Andrea
Wickenhauser**

*** * * * ***

The West Half of the Northeast Quarter of Section 3, Township 115, Range 25, Carver County, Minnesota, EXCEPTING THEREFROM:

The part of the Northwest Quarter of the Northeast Quarter of Section 3, Township 115, Range 25, Carver County, Minnesota, described as follows: Beginning at the northeast corner of said Northwest Quarter of the Northeast Quarter; thence on an assumed bearing of South 89 degrees 57 minutes 08 seconds West along the north line of said Northwest Quarter of the Northeast Quarter a distance of 170.00 feet; thence South 01 degrees 04 minutes 07 seconds East a distance of 385.00 feet; thence North 89 degrees 57 minutes 08 seconds East a distance of 170.00 feet to the east line of said Northwest Quarter of the Northeast Quarter; thence North 01 degrees 04 minutes 07 seconds West along said east line a distance of 385.00 feet to the point of beginning.

DRAFTED BY: Carver County Planning & Zoning Department