

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY BOARD OF ADJUSTMENT
Commissioner's Room / Government Services Building
Thursday, May 6, 2021 at 6:00 PM**

I. Call to Order

A. Roll Call

The meeting was called to order electronically by Vice Chair Jill Ellingson at 6:00 p.m.

Members present were: Preston Bauer, Charlie Peters, Jill Ellingson, John McCarthy.

Members absent were: Michael Streiff

Staff present were: Director Julie Runkel, Zoning Administrator Trent McCorkell, Planning Technician Julia Hogan, Clerk Pam Carty.

Others present: see Registrant List.

B. Motion by Charlie Peters, seconded by Preston Bauer, Reading of the Notice.

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, Jill Ellingson, John McCarthy, NAYS: None

C. Motion by Preston Bauer, seconded by John McCarthy, Approval of the Agenda.

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, Jill Ellingson, John McCarthy, NAYS: None

D. Motion by Charlie Peters, seconded by John McCarthy, to approve the minutes of April 1, 2021.

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, Jill Ellingson, John McCarthy, NAYS: None

II. New Business

1. Variance/Coleman - Section 35, Webster Township

Jeff and Debra Coleman have applied for an 8-ft variance from the 16-ft accessory structure height limitation for a 40-ft by 28-ft shed with a 24-ft peak height. An additional property line setback request was proposed by the applicant after the notice was distributed. The property is described as: Lot 11 & 12, in Block 1, in Key Paha Ranch, First Subdivision, Webster Township, Rice County, Minnesota. The property address is: 8955 Canby Court, Northfield, MN 55057. PID#: 02.35.3.77.012. The property is Zoned RR, Rural Residential.

Motion by Preston Bauer, seconded by Charlie Peters, to approve the Variance request with the following conditions and findings for Jeff & Debra Coleman. The property is located in Section 35 of Webster Township.

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, Jill Ellingson, NAYS: John McCarthy

CONDITIONS OF APPROVAL – Coleman - Variance

1. The variance is to allow for a 40-ft by 28-ft shed with a 24-ft peak height on the property, subject to compliance with all other Ordinance regulations.

2. Approved site plan shall be followed.

3. The proposed building shall be used for personal onsite accessory use only and will not be used for any residential, business or other uses.

4. Variance shall be void if a building permit for the proposed shed is not obtained within one year of the variance approval.

5. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA).

CP-there is no distance variance-leave where it is?

TM - I believe so, but will want to confirm with applicant

The BOA asked the applicant, Jeff Coleman (JC), to come forward to add comments or answer questions regarding the request.

JC- no plans to go for 2nd variance just the height, the shed for RV which is 12 ½ ft tall needs door 13-14 ft, woods around ,land to the east is part of Keya Paha

JM – other sheds in neighborhood, have they received a variance or not?, seems excessive for that neighborhood, reason for request is not due to land but due to desire of property owner so would not be in compliance with criteria #4

PB – overhead view, is that an old cartway or path to the North?

JC – strip of land is the homeowners association common land

PB – behind house is pretty wooded and screened so neighbors view wouldn't change

JC – similar buildings with same height within 500 feet of distance to this, don't see it as excessive

Vice Chair Ellingson opened the public testimony portion of the item to the public and no one spoke.

Vice Chair Ellingson closed the public testimony portion of the item to the public.

Discussion:

PB – Does staff have any variances of record in the area for height in this development?

TM – not aware of any at this time, that standard goes back to the late 90's, Key Paha plat goes back to 70's so may be older buildings of that height.

PB – Is there a restriction for height for roof of homes in this area

TM – yes, 35 ft.

PB – Asked applicant if he is aware of 5 conditions?

JC – yes

PB – viewpoint pretty secluded, peak roof height for homes 35 ft and this structure is in back and asking for 24 ft. I make a motion to approve.

CP – I second the motion, familiar with neighborhood, very wooded, cannot see house we are talking about - due to the trees being higher.

The Board of Adjustment reviewed the variance application and found that the applicant has established that all of the following criteria from Section 503 of the Zoning Ordinance amendment are met by this proposal:

- *Proposed use is allowed in the property's zoning district;*
- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;*
- *The request stems from circumstances unique to the property, not one created by the landowner;*
- *If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;*
- *This is the minimum variance necessary to afford relief;*
- *Adequate sewage treatment and water capabilities can be provided;*
- *The variance would have no significant impact on public health or safety; and*
- *Special privileges are not conferred to the applicant that are denied owner of other lands,*

The findings were read by Preston Bauer with the conditions as stated above and with the following additions by staff:

TM: The lot size is three (3) times the minimum lot size and the location is well screened by neighboring properties.

Motion made, seconded, and approved.

2. Variance/Ditch Creek Landscape LLC (O'Leary) - Section 18, Wells Township

Ditch Creek Landscape, LLC, on behalf of landowner Janelle O'Leary, has applied for setback variances to allow for a 20-ft high by 60-ft long retaining wall to be 15-ft from French Lake and a 10-ft by 60-ft long retaining wall 55-ft from French Lake and for the retaining walls to be located within a bluff area. The property is described as: Lot 8, Block 1, French Lake Maplewood Shores, Section 18, Wells Township, Rice County, Minnesota. The property address is: 6869 Garfield Trail, Faribault, MN 55021. PID#: 10.18.3.51.003. The property is Zoned GDS, General Development Shoreland.

Motion by Charlie Peters, seconded by John McCarthy, to approve the Variance request with the following conditions and findings for Ditch Creek Landscape LLC (O'Leary). The property is located in Section 18 of Wells Township.

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, Jill Ellingson, John McCarthy, NAYS: None

CONDITIONS OF APPROVAL – Ditch Creek Landscaping - Variance

1. The variance is to allow for a 10-ft high by 60-ft long retaining wall to be located 55-ft from French Lake and a 20-ft high by 60-ft long retaining wall to be 15-ft from French lake with both walls on a Bluff area and in an area with an existing slope exceeding 18%, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed subject to engineering plans
3. A native vegetative buffer, including at least 5 native trees, shall be established and maintained along at least 50% of the lots lakeshore frontage to a landward extent averaging at least 15-ft. Plans for the buffer must be approved by the Rice County Environmental Services department prior to issuance of a permit for the retaining walls.
4. Native vegetation including at least 5 trees of a species native to Rice County, shall be established and maintained as a buffer on the entire disturbed bluff area to provide screening of the walls as viewed from French Lake. Plans for the planting must be approved by the Rice County Environmental Services department prior to issuance of a permit for the retaining walls.
5. Variance shall be considered void if permits are not obtained and construction commenced within one year of the variance approval.
6. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA). TM - Engineered plans are different than what is in the written information submitted by applicant so should be discussed with applicant.

JM – The Engineering plans- they are more complete than what has been submitted to board?

TM – should be part of packet, some dimensions just differ from written distance between the walls.

JM – The site plan doesn't seem to identify where the walls would be and transition to neighboring

properties to ensure it does not impact their properties.

TM – The engineering plans are more the structural part of wall than how it transitions to neighboring properties, it is centered on property as that is where the erosion is, just need to clarify the distance between the walls.

PB – indicated plateaus of retaining walls will be vegetated, correct?

TM – 2 spots vegetative screening, Cond #3 between lake and wall & Cond #4 for the remaining bluff area

The BOA asked the applicant, Ryan O'Leary (RO) to come forward to add comments or answer questions regarding the request.

RO - did not know engineering plans were different between walls, need to go by the engineering drawings, ravine to east side, there are 60 ft on each side of the walls, will tile to make all drainage correct, and plant trees & make site functional. will add the necessary vegetation, and there will not be patios on the retaining walls.

JE – conditions – agree and will comply with all 6?

RO – yes

PB – history of what is going on with previous retaining wall?

RO – why hill is falling?

PB – refresh my memory

RO – every time it rains more than 2 or 3" we lose hillside, have tried to do plantings to help, can't keep ahead of it.

CP – question for staff, engineering drawings would be more favorable than applicant's narrative?

TM – yes could change condition #2 if approved to state site plan to be adjusted for engineering requirements.

Vice Chair Ellingson opened the public testimony portion of the item to the public and the following spoke:

Janelle O'Leary (JO) - I am afraid of losing house down the bank, it is dangerous, can't even use the back yard, dangerous as she has 2 small grandchildren.

Vice Chair Ellingson closed the public testimony portion of the item to the public.

Discussion:

CP – remember this one from last year, in favor of sustaining that hill from further eroding, move to approve with change to condition #2.

JM – second.

The Board of Adjustment reviewed the variance application and found that the applicant has established that all of the following criteria from Section 503 of the Zoning Ordinance amendment are met by this proposal:

- *Proposed use is allowed in the property's zoning district;*
- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;*
- *The request stems from circumstances unique to the property, not one created by the landowner;*
- *If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;*
- *This is the minimum variance necessary to afford relief;*
- *Adequate sewage treatment and water capabilities can be provided;*
- *The variance would have no significant impact on public health or safety; and*
- *Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district*

The findings were read by Charlie Peters with the conditions as stated above and with the following

additions by staff:

TM – site has a very significant erosion issue that needs some resolution to it.

Motion made, seconded, and approved unanimously.

3. Variance/Glanzer - Section 3, Forest Township

Keith Glanzer has applied for a 3,264-sqft variance from the 1,200-sqft structure size limitation and an 8-ft variance from the 16-ft accessory structure height limitation to allow for a 72-ft by 62-ft shed with a 24-ft peak height. The property is described as: Part of the NW1/4 of the SE1/4 of Section 3, Forest Township, Rice County, Minnesota. The property address is: 3240 Union Lake Trail, Northfield, MN 55057. PID#: 06.03.4.25.001. The property is Zoned NES, Natural Environment Shoreland.

Motion by Charlie Peters, seconded by Preston Bauer to approve the Variance request with the following conditions and findings for Keith Glanzer. The property is located in Section 3 of Forest Township.

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, Jill Ellingson, John McCarthy, NAYS: None

CONDITIONS OF APPROVAL – Glanzer - Variance

1. The variance is to allow for a 4,464-sqft agricultural use building with a 24-ft. peak height, subject to compliance with all other Ordinance regulations.
2. Submitted plans shall be followed.
3. A septic system compliance inspection is required by the earlier of, the issuance of the building permit for the shed or September 1, 2021. If the onsite septic system is not in compliance a compliance system must be in place by May 1, 2022.
4. This variance shall be void if a building permit for the proposed shed is not obtained within one year of the variance approval.
5. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA).

PB – Asked to clarify square footage 3,264 sq ft.

TM - 3,264 sq ft is the amount over the 1,200 structure size so a total building of 4,464 sq ft.

The BOA asked the applicant, Keith Glanzer (KG) to come forward to add comments or answer questions regarding the request.

Applicant not on at time - item was tabled to end of meeting.

Applicant now on the zoom meeting

KG - Request to put up pole building 72 x 62 with lean-to on the side.

PB – just change to size of building, correct?

KG – yes, different contractor due to COVID last year and decided it would be better to do the pole building rather than existing foundation.

JE – aware of 5 conditions?

KG – yes

JM – appears to be slightly different size than foundation there

KG – originally was going to go on existing foundation but need more width to get the pole building size

JM – to replace the existing building and now with a size increase?

KG – no both were slightly bigger, height & peak the same.

Vice Chair Ellingson opened the public testimony portion of the item to the public and no one spoke.

Vice Chair Elliingson closed the public testimony portion of the item to the public.

Discussion:

CP – can see why he needs to go bigger to miss the footings that are there from the existing slab, I make a motion to approve.

PB – second the motion

The Board of Adjustment reviewed the variance application and found that the applicant has established that all of the following criteria from Section 503 of the Zoning Ordinance amendment are met by this proposal:

- *Proposed use is allowed in the property's zoning district;*
- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;*
- *The request stems from circumstances unique to the property, not one created by the landowner;*
- *If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;*
- *This is the minimum variance necessary to afford relief;*
- *Adequate sewage treatment and water capabilities can be provided;*
- *The variance would have no significant impact on public health or safety; and*
- *Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district*

The findings were read by Charlie Peters with the conditions as stated above and with the following additions by staff:

TM: Agricultural use shed, very well screened to roads, property lines, and water bodies.

Motion made, seconded, and approved unanimously.

4. Variance/Gryc - Section 5, Cannon City Township

James Gryc has applied for a 6-ft variance from the 16-ft accessory structure height limitation to allow for a 64-ft by 36-ft shed with a 22-ft peak height. The property is described as: Part of the S1/2 of the SW1/4 of Section 5, Cannon City Township, Rice County, Minnesota. The property address is: 2333 158th St E, Faribault, MN 55021. PID#: 11.05.3.75.002. The property is Zoned WS, Wild and Scenic River.

Motion by Charlie Peters, seconded by Preston Bauer to approve the Variance request with the following conditions and findings for James Gryc The property is located in Section 5 of Cannon City Township.

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, Jill Ellingson, NAYS: John McCarthy

CONDITIONS OF APPROVAL – Gryc – Variance

1. The variance is to allow for a 64-ft by 36-ft accessory use shed with a 22-ft peak height, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. Variance shall be considered void if building permits are not obtained and construction commenced within one year of the variance approval.
4. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA).
CP – previous barn taken down with wind storm a couple of years ago?
TM – think that was probably the case, building had been unused and deteriorating,

The BOA asked the applicant, James Gryc (JG), to come forward to add comments or answer questions regarding the request.

JG - barn structure, had been deteriorating and unused for decades, parents owned property and now he and wife own it, have been doing cleanup from storms, have removed all the older structures, most knocked down from tornados, proposed site is just a little south of where barn structure was, all the trees were effected in that area from the storm as well, reason for variance is that we are getting more machinery that we need space to store – tractor, camper, things that need to be stored inside a building, Alison Gryc (AG) – lost a lot of trees on property that is why the river bank is eroding away so want to clear out downed trees to get additional trees planted to keep bank from eroding, trees would then screen proposed shed from the river.

JM – how much larger than the old barn is this building?

JG – I didn't measure old barn, not entirely sure of the sq ft, height wise the old barn was considerably higher as there was a second story loft in the 100 yr old barn

JM – any reason couldn't be turned 90 degrees so that the long side doesn't face river and sits further back in property?

JG – which way back?

JM – towards the house?

JG – If we place closer to house there would be issues with buried electrical lines and gas lines by propane tank and things like that, including the abandoned septic system, so more ideal location is in the S, SW area.

JM - septic appears to be back more behind house, variance is from the setback - not against that, just where building is sited could be turned 90 degrees and back some. or 30' back further from scenic river? If there are service lines, I can understand, but maybe should be located for sure on site plan.

JG – to get outside the scenic restrictions it would need to be 300 ft back, so definitely cannot be moved to meet that. Old septic is just south of circular driveway and not desirable area & gas/electrical, new septic is further away, if not going to be 300 ft away just thought might as well be in desirable area.

PB – aware of 4 conditions?

JG – yes, have read those and agree to

Vice Chair Ellingson opened the public testimony portion of the item to the public and no one spoke.

Vice Chair Ellingson closed the public testimony portion of the item to the public.

Discussion:

CP – understand where John is coming from, I am familiar with the river there, position of shed will need room to move equipment in and out, trees will shield it from river, I make motion to approve.

JE – agree with CP

PB – second, narrow portion of shed to river, not very scenic right now with all trees down along river, there is a barn across road with higher peak height and agricultural in nature in the area.

The Board of Adjustment reviewed the variance application and found that the applicant has established that all of the following criteria from Section 503 of the Zoning Ordinance amendment are met by this proposal:

- *Proposed use is allowed in the property's zoning district;*
- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;*
- *The request stems from circumstances unique to the property, not one created by the landowner;*
- *If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;*
- *This is the minimum variance necessary to afford relief;*
- *Adequate sewage treatment and water capabilities can be provided;*

- *The variance would have no significant impact on public health or safety; and*
- *Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district*

The findings were read by Charlie Peters with the conditions as stated above and with the following additions by staff:

TM: The aerial photo shows old barn to be approx 40 x 60 so similar in size, moving further to east would have topography issues, Replaced old barn and other older structures onsite, very limited visibility to river, taller building across roadway.

Motion made, seconded, and approved unanimously.

5. Variance/Helmers & Moudry - Section 7, Erin Township

Chad Helmers and Christine Moudry have applied for an 80-ft variance from the 100-ft Road Right of Way (ROW) setback limitation for a 36-ft by 12-ft horse shed to be located 20-ft from the Lake Ave Road Right of Way. The property is described as: Part of the E1/2 of the SE1/4 of Section 7, Erin Township, Rice County, Minnesota. The property address is: 11031 Shieldsville Blvd, Montgomery, MN 56069. PID#: 05.07.4.75.001. The property is Zoned A, Agricultural.

Motion by Preston Bauer, seconded by Charlie Peters to approve the Variance request with the following conditions and findings for Helmers & Moudry The property is located in Section 7 of Erin Township.

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, Jill Ellingson, NAYS: John McCarthy

CONDITIONS OF APPROVAL – Helmers & Moudry - Variance

1. The variance is to allow for a 36-ft by 12-ft horse shed to be located 20-ft from the Road Right of Way of Lake Ave, subject to compliance with all other Ordinance regulations.
2. Site plan shall be followed.
3. Variance shall be considered void if building permits are not obtained and construction commenced within one year of the variance approval.
4. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA).
CP – Township or County road where gravel is?

TM – Lake Ave is gravel - township road, paved is Shieldsville Blvd -County road, buildings housing animals requires 100' setback.

PB – house faces paved road?

TM – yes, Shieldsville Blvd, access to shed though is off Lake Ave.

The BOA asked the applicant, Christine Moudry (CM), to come forward to add comments or answer questions regarding the request.

CM - would like to put up horse building to board 2 horses.

PB - Applicant aware of conditions?

CM - yes

JE - What is the location of the barn?

CM - west side huge slope there, property below that is very wet, working on trying to seed and pasture for horses, very wet so not good for the shelter or the horses yet

JM – assuming this is the best location, why can it not be turned 90 degrees to be located further back from road and closer to home?

CM – larger evergreen trees would have to be removed and are hoping to not have to take those out, opening would be towards the horse run facing south.

Vice Chair Ellingson opened the public testimony portion of the item to the public and no one spoke.

Vice Chair Ellingson closed the public testimony portion of the item to the public.

Discussion:

PB – isn't setback typically 70 ft from township road?

TM – yes, if house or other structure but if housing animals then is 100 ft.

CP – if they turned it 90 degrees then would they have setback issue to county road?

TM – not sure the distance – may meet setbacks, but with an open sided animal building usually want it facing south

PB – fairly simplistic, to shelter horses, township road and building to face south makes sense for animals, fits characteristic of area, motion to approve

CP – second

The Board of Adjustment reviewed the variance application and found that the applicant has established that all of the following criteria from Section 503 of the Zoning Ordinance amendment are met by this proposal:

- *Proposed use is allowed in the property's zoning district;*
- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;*
- *The request stems from circumstances unique to the property, not one created by the landowner;*
- *If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;*
- *This is the minimum variance necessary to afford relief;*
- *Adequate sewage treatment and water capabilities can be provided;*
- *The variance would have no significant impact on public health or safety; and*
- *Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district*

The findings were read by Preston Bauer with the conditions as stated above and with the following additions by staff:

TM: no additional comments

Motion made, seconded, and approved.

6. Variance/Nugent - Section 22, Forest Township

Shawn Nugent has applied for a 10-ft variance from the 30-ft bluff setback to allow for construction of a replacement home and garage 20-ft from a bluff. The property is described as: Part of Government Lots 2 and 3 of Section 22, Forest Township, Rice County, Minnesota. The property address is: 3236 124th St W, Faribault, MN 55021. PID#: 06.22.1.00.006. The property is Zoned RDS, Recreational Development Shoreland.

Motion by John McCarthy, seconded by Preston Bauer, to approve the Variance request with the following conditions and findings for Shawn Nugent The property is located in Section 22 of Forest Township.

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, Jill Ellingson, John McCarthy, NAYS: None

CONDITIONS OF APPROVAL – Nugent - Variance

1. The variance is to allow for a replacement house and garage to be located 20-ft from a bluff, subject to compliance with all other Ordinance regulations.
2. The approved site plan shall be followed.

3. Proper building permits shall be obtained prior to any onsite construction.
4. The existing native vegetation on the bluff and lakeshore shall be maintained by the landowner.
5. Variance shall be considered void if building permits are not obtained and construction commenced within one year of the variance approval.
6. Failure to comply with the terms of this variance will result in termination of the Variance.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA).

The BOA asked the applicant, Shawn Nugent (SN), to come forward to add comments or answer questions regarding the request.

JE – does the front of house stay in same location and house is just a little bigger?

TM - existing house is about 10 ft from bluff, new proposed is about an additional 10 ft back.

SN – removing home there and building new structure about same size, just a little bigger, wanted to move back a little away from bluff and towards the center for the driveway, wanted to disturb as little ground as we have to.

PB – familiar with 5 conditions

SN – yes

Vice Chair Ellingson opened the public testimony portion of the item to the public and no one spoke.

Vice Chair Ellingson closed the public testimony portion of the item to the public.

Discussion:

JE – clarify 6 proposed conditions.

JM – in favor of this one, desire to increase the distance from the bluff is consistent with the comp plan and zoning code. Motion to approve

PB – second.

The Board of Adjustment reviewed the variance application and found that the applicant has established that all of the following criteria from Section 503 of the Zoning Ordinance amendment are met by this proposal:

- *Proposed use is allowed in the property's zoning district;*
- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;*
- *The request stems from circumstances unique to the property, not one created by the landowner;*
- *If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;*
- *This is the minimum variance necessary to afford relief;*
- *Adequate sewage treatment and water capabilities can be provided;*
- *The variance would have no significant impact on public health or safety; and*
- *Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district*

The findings were read by John McCarthy with the conditions as stated above and with the following additions by staff:

TM: The replacement home is further back then existing home, limited area on site due to bluff, driveway, and existing shed.

Motion made, seconded, and approved unanimously.

7. Variance/Petricka - Section 21, Richland Township

Joe Petricka, on behalf of landowner Mary Petricka, has applied for a 15-ft variance from the 100-ft stream setback limitation to allow for a 48-ft diameter grain bin with an 80-ft height to be located 85-ft from a stream. The property is described as; The N1/2 of the SW1/4 and the SW1/4 of the NW1/4 of Section 21, Richland Township, Rice County, Minnesota. The property address is: 24531 Ibson Ave, Faribault, MN 55021. PID#: 16.21.3.00.001. The property is Zoned A, Agricultural.

Motion by Charlie Peters, seconded by Preston Bauer, to approve the Variance request with the following conditions and findings for Joe Petricka. The property is located in Section 21 of Richland Township.

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, Jill Ellingson, John McCarthy, NAYS: None

CONDITIONS OF APPROVAL – Petricka - Variance

1. The variance is to allow for a 48-ft diameter by 80-ft high grain bin to be located 85-ft from a protected stream, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. Prior to issuance of a building permit the onsite septic system shall be shown to be in compliance with county regulations.
4. Variance shall be considered void if building permits are not obtained and construction commenced within one year of the variance approval.
5. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA).
PB – protected stream already has a buffer?

TM – yes, appears to be along the whole side there

The BOA asked the applicant, Joe Petricka (JP), to come forward to add comments or answer questions regarding the request.

JP – replacing 2 bins with 1 bin to keep grain storage onsite.

JE – was going to question size, but thank you for clarifying the 2 being replaced by the 1

PB – looks like some extra grass there along the stream, just the larger bin needs buffer?

JP – was pasture, wife just mows and keep cleaner view of property

PB – so plenty of sod to catch runoff for the bin before getting to stream bank.

Vice Chair Ellingson opened the public testimony portion of the item to the public and no one spoke.

Vice Chair Ellingson closed the public testimony portion of the item to the public.

Discussion:

CP – as PB stated nice buffer along stream, have to do what they need for additional bin space, not encroaching further, I motion to approve

PB – second

The Board of Adjustment reviewed the variance application and found that the applicant has established that all of the following criteria from Section 503 of the Zoning Ordinance amendment are met by this

proposal:

- *Proposed use is allowed in the property's zoning district;*
- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;*
- *The request stems from circumstances unique to the property, not one created by the landowner;*
- *If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;*
- *This is the minimum variance necessary to afford relief;*
- *Adequate sewage treatment and water capabilities can be provided;*
- *The variance would have no significant impact on public health or safety; and*
- *Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district*

The findings were read by Charlie Peters with the conditions as stated above and with the following additions by staff:

TM: Replacement grain bin within existing grain handling facility.

Motion made, seconded, and approved unanimously.

8. Variance/Sanders - Section 2, Shieldsville Township

Adam Sanders has applied for a variance to allow for the grading and construction of stairs, a water-oriented accessory structure and changes to an existing driveway in a bluff/steep slope area. The property is described as: Lot 6, Block 1, Corl's First Addition, Section 2, Shieldsville Township, Rice County, Minnesota. The property address is: 15362 Camp Winona Trail, Faribault, MN 55021. PID#: 09.02.2.76.005. The property is Zoned GDS, General Development Shoreland.

Motion by Charlie Peters, seconded by Preston Bauer, to approve the Variance request with the following conditions and findings for Adam Sanders. The property is located in Section 2 of Shieldsville Township.

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, Jill Ellingson, John McCarthy, NAYS: None

CONDITIONS OF APPROVAL – Sanders - Variance

1. The variance is to allow for the grading and construction of stairs, a water-oriented accessory structure and changes to an existing driveway in a bluff/steep slope area, subject to compliance with all other Ordinance regulations.
2. Approved site and grading plans shall be followed.
3. Onsite trees shall be preserved to the maximum extent possible. A tree replacement plan providing for a number of trees equal to those removed shall be submitted to Rice County Environmental Services for approval. The approved tree replacement plan shall be implemented and maintained by the landowner.
4. Variance shall be considered void if building permits are not obtained and construction commenced within one year of the variance approval.
5. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA).

PB – construction of home and driveway is what the variance is required for?

TM –needed for a water accessory storage building by lake.

JE – Is there surrounding properties similar to this that have had approvals or requests for water accessory structures?

TM – don't believe water orientated structures in that area, most have the slope issues, this one is a little unique in that the road down is existing.

The BOA asked the applicant, Adam Sanders (AS), to come forward to add comments or answer questions regarding the request.

AS - the roadway has pretty extensive erosion, every time it rains there are big ruts and gravel goes down to the lake. Plan to turn it into a small S and then direct water back rather than to the lake, stairs will ride the ridge, the structure for water orientated is a gazebo with 4-ft wide shed for canoes to hang on it, mostly open air with small portion shed.

JE – appreciate plan and effort to relieve the runoff issue currently present

PB – has the water Planner talked about type of aggregate to address washing the gravel down the hill?

AS – for the new driveway and existing driveway down to lake I would be open to suggestions on the gravel aggregate or to add as a condition?

PB – town board has found that some gravel erodes easier, so the contractor could probably recommend some coarser aggregate so it doesn't slide down to lake as much.

AS – could we add as a condition and then we would follow that?

PB – not sure it needs to be a new condition

AS – it costs me money if it just goes into lake, so I want to address as best we can.

Vice Chair Ellingson opened the public testimony portion of the item to the public and no one spoke.

Vice Chair Ellingson closed the public testimony portion of the item to the public.

Discussion:

CP – I have worked on that side of lake, challenging slopes in that area, the applicant has done homework on creating switch back in the drive and doing what is right. I Motion to approve

PB – Second the motion

The Board of Adjustment reviewed the variance application and found that the applicant has established that all of the following criteria from Section 503 of the Zoning Ordinance amendment are met by this proposal:

Proposed use is allowed in the property's zoning district;

- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;*
- *The request stems from circumstances unique to the property, not one created by the landowner;*
- *If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;*
- *This is the minimum variance necessary to afford relief;*
- *Adequate sewage treatment and water capabilities can be provided;*
- *The variance would have no significant impact on public health or safety; and*
- *Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district*

The findings were read by Charlie Peters with the conditions as stated above and with the following additions by staff:

TM: Proposed grading is needed to improve existing erosion on the slope.

Motion made, seconded, and approved unanimously.

9. Variance / Sommers - Section 19, Richland Township

Robert Sommers has applied for a 42-ft variance from the 100-ft Road Right of Way setback limitation to allow for a 32-ft by 34-ft attached garage and a 12-ft by 14-ft four season porch addition to an existing home located 58-ft from the Road Right of Way. The property is described as: The S1/2 of the SW1/4 and the W1/2 of the SE1/4 of Section 19, Richland Township, Rice County, Minnesota. The property address is: 24835 Gates Ave, Faribault, MN 55021. PID#: 16.19.3.50.001. The property is Zoned A, Agricultural.

Motion by Charlie Peters, seconded by Jill Ellingson, to approve the Variance request with the following conditions and findings for Robert Sommers. The property is located in Section 19 of Richland Township.

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, Jill Ellingson, John McCarthy, NAYS: None

CONDITIONS OF APPROVAL – Sommers - Variance

1. The variance is to allow for attached garage and porch additions to an existing home located 58-ft from the Road Right of Way, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. Variance shall be considered void if building permits are not obtained and construction commenced within one year of the variance approval.
4. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA).

The BOA asked the applicant, Robert Sommers (RS), to come forward to add comments or answer questions regarding the request.

RS - I would like to build a garage attached to home and a 4-Season porch for entertaining.

PB - Aware of the conditions?

RS - yes

Vice Chair Ellingson opened the public testimony portion of the item to the public and no one spoke.

Vice Chair Ellingson closed the public testimony portion of the item to the public.

Discussion:

JM – ROW is to be verified, any plans for that to occur?

TM – if the addition was encroaching on the roadway then we would require a survey, but generally when going the other way we have not required a survey.

CP – both additions are out of the back and no further encroachment to the road and no additional height. I make a motion to approve

JE – very straightforward on backside of house, second the motion.

The Board of Adjustment reviewed the variance application and found that the applicant has established that all of the following criteria from Section 503 of the Zoning Ordinance amendment are met by this proposal:

- *Proposed use is allowed in the property's zoning district;*
- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;*
- *The request stems from circumstances unique to the property, not one created by the landowner;*

- *If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;*
- *This is the minimum variance necessary to afford relief;*
- *Adequate sewage treatment and water capabilities can be provided;*
- *The variance would have no significant impact on public health or safety; and*
- *Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district*

The findings were read by Charlie Peters with the conditions as stated above and with the following additions by staff:

TM: no additional comments

Motion made, seconded, and approved unanimously.

10. Variance/Reiland - Section 31, Forest Township

Matthew Reiland of Johnson Reiland builders & Remodelers, Inc, on behalf of landowners David Haeckel & Sara Campbell, has applied for a variance to allow grading and vegetation removal within a bluff and bluff impact zone and a 20-ft variance from the 30-ft bluff setback limitation to allow for the grading and construction of a new home. The property is described as: Lot 11, Block 2, Circle Lake Bluffs subdivision, Section 15, Forest Township, Rice County, Minnesota. PID#: 06.15.1.26.013. The property is Zoned RDS, Recreational Development Shoreland

Motion by Preston Bauer, seconded by John McCarthy, to approve the Variance request with the following conditions and findings for Matthew Reiland. The property is located in Section 31 of Forest Township.

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, Jill Ellingson, John McCarthy, NAYS: None

CONDITIONS OF APPROVAL – Reiland - Variance

1. The variance is to allow for a home to be located 20-ft from an existing bluff area and for grading as shown on the submitted site plan, subject to compliance with all other Ordinance regulations.
2. Approved site and grading plans shall be followed.
3. Other than a lake access path, of up to 10-ft in width, land between the approved grading location and Circle lake shall be maintained in its current non-mowed natural vegetative condition.
4. Variance shall be considered void if building permits are not obtained and construction commenced within one year of the variance approval.
5. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA). PB – we have granted variances on lakes for setbacks, this is similar to others?
TM – yes have been several in this area, this one is actually further back than some.

The BOA asked the applicant, Matthew Reiland (MR), to come forward to add comments or answer questions regarding the request.

MR – build medium size house that fits in harmony with the area, we are meeting bluff setback, just constructing the house a little closer to lake to be like the neighboring houses and give a little more room for the septic.

PB - Aware of the Conditions?

MR – yes

JM – site plan adequately describes why variance necessary, site itself creates a reason for the variance needed, and appreciate the completeness of the site plan.

Vice Chair Ellingson opened the public testimony portion of the item to the public and no one spoke.

Vice Chair Ellingson closed the public testimony portion of the item to the public.

Discussion:

PB – I concur with JM comments on site plan and variance request. I motion to approve.

JM – second.

The Board of Adjustment reviewed the variance application and found that the applicant has established that all of the following criteria from Section 503 of the Zoning Ordinance amendment are met by this proposal:

- *Proposed use is allowed in the property's zoning district;*
- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;*
- *The request stems from circumstances unique to the property, not one created by the landowner;*
- *If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;*
- *This is the minimum variance necessary to afford relief;*
- *Adequate sewage treatment and water capabilities can be provided;*
- *The variance would have no significant impact on public health or safety; and*
- *Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district*

The findings were read by Preston Bauer with the conditions as stated above and with the following additions by staff:

TM: No additional comments

Motion made, seconded, and approved unanimously.

III. Adjournment

Hearing no other items before the BOA, a motion was made by Preston Bauer second by Charlie Peters to adjourn the meeting at 7:50 pm. Motion carried 5-0.

Respectfully Submitted

Board of Adjustment Chair

Pamela Carty
Clerk



Michael Streiff