

**OFFICIAL PROCEEDINGS OF THE  
RICE COUNTY BOARD OF ADJUSTMENT  
Commissioner's Room / Government Services Building  
Thursday, April 7, 2022 at 6:30 PM**

**I. Call to Order**

**A. Roll Call**

The meeting was called to order both in-person and electronically by Vice Chair Jill Ellingson at 6:30 p.m.

Members present were: Preston Bauer, Charlie Peters, Jill Ellingson, Julia Hogan  
Members absent were: Michael Streiff

Staff present were: Director Julie Runkel, Zoning Administrator Trent McCorkell, Administrative Coordinator Anna Aguilar, and Planner Jeremy Edwards.

Others present: see Sign-in Sheet and Registrant List.

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

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, Jill Ellingson, Julia Hogan, NAYS: None

**C. Motion by Charlie Peters, seconded by Julia Hogan, Approval of the Agenda.**

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, Jill Ellingson, Julia Hogan, NAYS: None

**D. Motion by Preston Bauer, seconded by Julia Hogan, to approve the minutes of March 3, 2022.**

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, Jill Ellingson, Julia Hogan, NAYS: None

**II. New Business**

**1. Variance/Smith - Section 21, Wells Township**

Michael Smith has applied for a 240-sqft variance from the 1200-sqft building size limitation and a 2-ft variance from the 14-ft height limit to allow for a 1440-sqft shed with a 16-ft peak height. The property is described as: Lot 5 and Part of Lot 4, both in Block One, Chappuis Addition, in Section 21, Wells Township, Rice County, Minnesota. The property address is: 4045 Chappuis Trail, Faribault, MN 55021. PID#: 10.21.1.76.004. 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 Michael Smith. The property is located in Section 21 of Wells Township.**

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, Jill Ellingson, Julia Hogan, NAYS: None

**CONDITIONS OF APPROVAL – Smith**

1. The Variance is to allow for a 1,440-sqft accessory storage structure with a 16-ft peak height on the property, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. Prior to construction, the application must verify compliance with septic regulations.
4. The proposed building shall be used for personal onsite accessory use only.
5. The proposed new driveway must obtain a driveway permit prior to construction.
6. Variance shall be void if a building permit for the proposed shed is not obtained within one year of the variance approval.
7. 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 - what is behind on the south side of the road? Is that a second tier?  
TM - No, there is not a second tier there. It is trees and then it opens up.  
CP - Is it platted as anything back there?  
TM - Not as individual lots. It might be a single lot on a larger piece.

The BOA asked the applicant, Michael Smith (MS), to come forward to add comments or answer questions regarding the request.

MS - My issue is the height of my boat and my fish house. I am having issues getting them in the shed with 10-ft side walls. I am trying to clean up the property by storing stuff inside. My main issue is with the height since I am on riparian because I am on the lake side. I think non-riparian is a 16-ft peak height. My neighbor, the lot across the street from me, is fine with me building it and offered to help me build it. I need more storage and have an issue with the height and would like more depth. I did get the driveway approved through the Township.

JE - You are aware of the 7 conditions.

MS - 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:

CP - I don't see any issues, with there not being a second tier. There are no neighbors here to complain and it doesn't look like any buildings are back there. I will make a motion to approve this with the 7 conditions.

PB - I agree and will second with a comment that it is a fairly minimal request.

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 Peters with the conditions as stated above.

Motion made, seconded, and approved unanimously.

## **2. Variance/Petelinsek- Section 21 Forest Township**

Craig Clarkson, of ISG Inc. on behalf of landowner Dale Petelinsek, has applied for a variance to allow for a public roadway to be constructed within a bluff and bluff impact zone. The property is described as: Part of Government Lot 5 in the SE1/4 of Section 21, Forest Township, Rice County, Minnesota. PID# 06.21.4.00.001. The property is Zoned RDS, Recreational Development Shoreland.

**Motion by Preston Bauer, seconded by Charlie Peters, to approve the Variance request with the following conditions and findings for Craig Clarkson, of ISG Inc. on behalf of landowner Dale Petelinsek. The property is located in Section 21 of Forest Township.**

RESULT: Approved, AYES: Charlie Peters, Preston Bauer, Jill Ellingson, Julia Hogan, NAYS: None

## CONDITIONS OF APPROVAL – Clarkson (Petelinsek)

1. The variance is to allow for a new public roadway to be constructed within a bluff and bluff impact zone area as shown on the submitted site plan. Small adjustments to correct intersection may be allowed. All other Ordinance requirements for roadway and construction of the roadway shall be followed.
2. Approved site plan shall be closely followed.
3. Roadway must be platted
4. The area of lot 3 south of the cul-de-sac shall be separated as an outlot.
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).

The BOA asked the applicant, Dale Petelinsek (DP), to come forward to add comments or answer questions regarding the request.

DP - We have owned the property just short of two years. When we bought it, we were unsure what we were going to do with it. It is a gorgeous piece of property with 450ft of lakeshore. It is 10-acres. I have lived on the lake for almost 30 years and have always thought about building a small retirement community for families after the kids move out of the house. We started talking with TM about a year ago, then hired an engineering firm. We first looked at building a high density development under the Planned Unit Development (PUD) ordinance with 9 or 10 lots, but having lived on the lake as long as I have and being deeply involved with the lake organizations, we decided that adding that density was not the best idea for the lake. We have scaled our plan back to a 3-lot split with 3+ acres on two of the lots with those lots having direct lakeshore and the other lot will have an easement to access the lake. It has taken us quite a bit of time to get to this point. There are 5 neighbors that have lots that touch this property. I have spoken with 4 of them and the fifth one is present here tonight. The feedback has varied from loving the idea to wanting to keep the space vacant and wooded. We are trying to develop this within what the ordinance allows. The variance is for the roadway. The culvert that was placed to cross the ravine required a variance to be put in. It is made out of cement and is 66-ft long. In preparation for tonight's meeting, Craig from ISG (*who is attending via zoom*) had his engineers go out to certify the culvert. They have had surveyors out on the property twice. Craig, in your opinion, is the culvert sufficient to suit the purpose of this development?

Craig Clarkson (CC) - Yes, it is a 36-inch reinforced concrete culvert that is 66-ft long. We included a hydrologic sizing report with the preliminary plat application that shows the culvert passed the 100 year runoff event test.

DP - When I presented this to the Township, I said we did not need a variance because at that point we didn't think we did since there was a variance approved to put it in. We found out about a month later that we did need a variance which is why we are here, but I wanted to correct the statement that I made to the Township and the Township wrote a letter in support of this.

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

Denise Klokow - *read first comment from the 4/7/22 email submission* - The need for a variance as described in this proposal is that there is a naturally occurring drainage-way which blocks access to a property. In 2017 a driveway was constructed on this 10 acre residential lot to access this property from Cyrus Trail. This driveway was constructed across this drainage-way to provide full access to the property using a 36" reinforced concrete culvert to span the drainage-way. This culvert was certified by ISG engineers and was studied in this proposal and deemed adequate for the proposed stormwater load for the development and it concluded that no further stormwater management is required. Why would there be a need to construct a public roadway for access, potentially disturbing an existing slope and

surrounding terrain, when the existing drive is adequate to serve this purpose? A shared drive approach would be least impactful and more typical and in-line with this rural area similar to the neighboring parcels to the West (06214500001) and Northwest (0621425001) and many other rural lots in the area. Construction of a public road in this delicate shoreland area doesn't seem to be warranted based on the need presented.

Chair Streiff closed the public testimony portion of the item to the public.

Discussion:

PB - Can our Forest Township Board member advise on why a public roadway is needed?

CP - Originally, it was one property that only had a driveway to it, but with the three lots being created, it is considered a plat and requires a platted roadway, which is why this variance is also needed. Looking back at the 2009-2010 plat, Cyrus Trail is actually not a Township road. It is a platted road but not a Township road. ISG engineered it and I have not seen much erosion to it. I do not see any issues with this or the conditions as proposed.

PB - Do you see it becoming a Township road?

CP - It is not a Township road, but the public roadway is required because of the lot splits.

TM - The roadway is required because of the multiple lots. If it were being used as a single home site, a driveway would be fine for that. Splitting the lots requires that each lot has public road frontage, which is why a public road is required. I have worked with the applicant to move the road farther away from the Shore Impact Zone than was originally proposed.

*Called applicant back up.*

JE - Are you aware of the 6 conditions?

*DP read through the conditions and agreed.*

DP - We are in an agreement with Johnson Reiland to build the homes but we do not know when the lots will sell. Is the year time frame for the roadway or buildings?

TM - The variance is for the roadway, so you would need to start on the roadway within one year.

DP - So I need to pull a permit and move some dirt within a year?

TM - Yes.

DP - To address the public comment, we would have loved to do a shared driveway but in working with the County, it isn't feasible under the ordinance. Also and with what TM said, we are going to make the property better by pulling the road back from the ravine.

PB - There has been a lot of thought that has gone into this. I will motion to approve this with the 6 conditions.

CP - I will second that.

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*

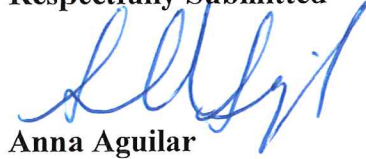
The findings were read by Bauer with the conditions as stated above.

Motion made, seconded, and approved unanimously.

### **III. Adjournment**

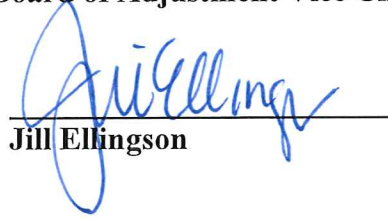
Hearing no other items before the BOA, a motion was made by Bauer, second by Hogan, to adjourn the meeting at 6:58 pm. Motion carried 4-0.

**Respectfully Submitted**



**Anna Aguilar**  
**Administrative Coordinator**

**Board of Adjustment Vice Chair**



**Jill Ellingson**