

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY BOARD OF ADJUSTMENT
Commissioner's Room / Government Services Building
Thursday, May 5, 2022 at 6:00 PM**

I. Call to Order

A. Roll Call

The meeting was called to order both in-person and electronically by Chair Michael Streiff at 6:00 p.m.

Members present were: Michael Streiff, Charlie Peters, Jill Ellingson, Julia Hogan.

Members absent were: Preston Bauer

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

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

B. Motion by Charlie Peters, seconded by Jill Ellingson, Reading of the Notice.

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Jill Ellingson, Julia Hogan, NAYS: None

C. Motion by Jill Ellingson, seconded by Julia Hogan, Approval of the Agenda.

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Jill Ellingson, Julia Hogan, NAYS: None

D. Motion by Charlie Peters, seconded by Jill Ellingson, to approve the minutes of April 7, 2022.

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Jill Ellingson, Julia Hogan, NAYS: None

II. New Business

1. Variance/Skurkay - Section 17, Warsaw Township

Jason Skurkay has applied for a variance to allow grading on a steep slope within a shore impact zone. The property is described as: Lot 11, Block 1, Drapper Addition in Section 17 of Warsaw Township, Rice County, Minnesota. The property address is: 5657 232nd St W, Faribault, MN 55021. PID#: 14.17.2.01.016. The property is Zoned GDS, General Development Shoreland.

Motion by Charlie Peters, seconded by Julia Hogan, to deny the Variance request for Jason Skurkay. The property is located in Section 17 of Warsaw Township.

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Jill Ellingson, Julia Hogan, NAYS: None

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA).
CP - Has there been any other variance approved on adjacent properties in this area?
TM - The last one in the area was a request for a pool and it was not approved. There have been various grading projects done intermittently along that lakeshore in the past but nothing recent.

The BOA asked the applicant, Jason Skurkay (JS), to come forward to add comments or answer questions regarding the request.

JS - I am looking to match the grade to the property to the East of us and gain better access to the lake.

MS - You are aware of the 6 conditions?

JS - Yes.

JE - Have you contemplated other alternatives other than grading?

JS - It is such a steep slope and doesn't allow for much of an access. We are looking to do the minimum to access the lake.

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

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

Discussion:

CP - I looked at this one quite a bit and seeing that the DNR commented on it, I have issues with it.

There are two other shore impact zone (SIZ) variance requests on the agenda tonight that the DNR did not comment on. If we allow it on this lot, it looks like there are two other adjacent lots that could request variances too. It didn't look as steep as I thought it would in the pictures.

MS - I agree.

JH - I know stairs are not always the most desirable but they do give access to the lake.

JE - There are other alternatives that allow for access to the lake.

CP - I motion we deny this variance.

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

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

TM: Grading of this is not required for reasonable use of the property. There is the option of stairs as an alternative. There is not an existing severe erosion issue that needs to be corrected.

Motion to deny was made, seconded, and approved unanimously.

2. **Variance/Wegner - Section 25, Warsaw Township**

Ronald Wegner has applied for a 50-ft variance from the 70-ft Road Right of Way (ROW) setback requirement to allow for an accessory solar energy production structure to be 20-ft from the ROW of Appleton Ave. The property is described as: Part of the NE1/4 of the NW1/4, Section 25, Warsaw Township, Rice County, Minnesota. The property address is: 25156 Appleton Ave., Faribault, MN 55021. PID#: 14.25.2.00.001. The property is Zoned A, Agricultural.

Motion by Jill Ellingson, seconded by Michael Streiff, to approve the Variance request with the following conditions and findings for Ronald Wegner. The property is located in Section 25 of Warsaw Township.

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Jill Ellingson, Julia Hogan, NAYS: None

CONDITIONS OF APPROVAL – Wegner

1. The variance is to allow for a 66-ft long accessory solar equipment panel to be located 20-ft from the Road Right of Way of Appleton Ave, subject to compliance with all other Ordinance regulations.
2. All septic systems located on the subject parcels shall be shown to be in-compliance with County/State standards by not later than September 1, 2022.
3. Approved site plan shall be followed.
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).

The BOA asked the applicant, Ronald Wegner (RW), to come forward to add comments or answer questions regarding the request.

RW - A year ago I put up an 85-ft solar array. I wanted it closer to the road but then it would have been in the right of way, so we put it right in the middle there. I would now like to add 66-ft which should not interfere with any of the neighbors. It is kind of in a spot where it has created a dead spot there for me. We do farm it but we have to come up and around it. It is an ideal spot to put the extra 66-ft.

MS - Are you aware of the 5 conditions?

RW - Yes.

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

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

Discussion:

CP - I does not look like any of the neighbors had issues with the original array. It makes sense with the placement of what is already there and that is a small area to farm.

JE - I agree. There are no comments from neighbors and it is extending what is already there.

TM - In condition #1 there is a spelling error that we will correct; from not form.

JE - I will make a motion to approve this item with that wording correction.

MS - I will 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 Ellingson with the conditions as stated above and with the following additions by staff:

TM: No additional comments from Staff.

Motion made, seconded, and approved unanimously.

3. Variance/Carter - Section 6, Wells Township

Linda Carter has applied for a 4% variance from the 25% lot impervious surface limitation to allow for additions to a lot resulting in a 29% impervious surface coverage. The property is described as: Part of Government Lot 5 in Section 6, Wells Township, Rice County, Minnesota. The property address is: 15412 Shieldsville Blvd., Faribault, MN 55021. PID#: 10.06.2.50.004. The property is Zoned RDS,

Recreational Development Shoreland.

Motion by Charlie Peters, seconded by Julia Hogan, to approve the Variance request with the following conditions and findings for Linda Carter. The property is located in Section 6 of Wells Township.

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Jill Ellingson, Julia Hogan, NAYS: None

CONDITIONS OF APPROVAL – Carter

1. The variance is to allow for a garage addition to be constructed on a lot that would have a 29% impervious surface coverage, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. A 100sq ft rain garden will be constructed on the property and maintained in perpetuity.
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).
JH - That detached garage is on their property as well? And they are wanting to add an attached garage?
TM - Yes, they have a single-stall detached garage that would stay there. There were a couple of other temporary structures that have been removed.

The BOA asked the applicant, Linda Carter & Gordy Kline (LC & GK), to come forward to add comments or answer questions regarding the request.

GK - Linda Carter is my sister who currently lives in Kentucky and bought this property to move back home. Originally there was a tuck-under garage that was 24-ft by 12-ft wide. We took that out and expanded the living area since the existing house was so small. We want to do a 3-stall garage in the back. We did end up running into issues with going over on impervious surface. We are at about 29% after doing the calculations.

MS - Are you aware of the 5 conditions?

GK - Yes.

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

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

Discussion:

JH - It is a pretty small lot and a small house, I can understand why they want to add on.

CP - I don't have any issues either. I remember it from last year and the neighbors haven't commented. I will motion to approve this item.

JH - I will 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 Peters with the conditions as stated above and with the following additions by staff:

TM: The rain garden condition should help offset some of the impervious surface additions and with it being an attached garage, they are minimizing the amount of added impervious surface.

Motion made, seconded, and approved unanimously.

4. Variance/Gedicke - Section 8, Walcott Township

Chad Terpstra, on behalf of landowners Amy and Robert Gedicke, has applied for a 55-ft variance from the 100-ft Road Right of Way (ROW) setback to allow for a home addition to be located 45-ft from the ROW of Cabot Ave. The property is described as: Part of the SW1/4 of the SW1/4, Section 28, Walcott Township, Rice County, Minnesota. The property address is: 25885 Cabot Ave., Faribault, MN 55021. PID#: 15.28.3.50.001. The property is Zoned A, Agricultural.

Motion by Jill Ellingson, seconded by Charlie Peters, to approve the Variance request with the following conditions and findings for Chad Terpstra, on behalf of landowners Amy and Robert Gedicke. The property is located in Section 8 of Walcott Township.

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Jill Ellingson, Julia Hogan, NAYS: None

CONDITIONS OF APPROVAL – Terpstra (Gedicke)

1. The variance is to allow for a 10-ft by 25-ft home addition to be added to a home located 45-ft from the Road Right of Way (ROW) of Cabot Ave., subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. Prior to issuance of a building permit for the addition, and not later than August 1, 2022, the onsite septic system shall be shown to be in-compliance with County septic 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).

The BOA asked the applicant, Chad Terpstra (CT) & Amy Gedicke (AG), to come forward to add comments or answer questions regarding the request.

AG – *owner via zoom* - I just want to remodel and update the house. It was built just before the 1900s. I want to make a couple of the rooms bigger and add closets.

MS - You are aware of the 5 conditions?

AG - Yes.

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

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

Discussion:

JH - It is a pretty narrow lot and the home was built before the current zoning regulations.

JE - They are not really going beyond where the house already is. I motion we approve this item with the 5 conditions.

CP - I will second that 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 Ellingson with the conditions as stated above and with the following additions by staff:

TM: There is little if any increase in the encroachment from what is already there. It is not a significantly large addition compared to the house and they are adding on to an existing home that has been there for many years.

Motion made, seconded, and approved unanimously.

5. **Variance/Hovland - Section 22, Wells Township**

Amy Hovland has applied for a 5-ft variance from the 75-ft Lake setback and a 3% variance from the 25% lot impervious surface limitation to allow for the addition of a shed 70-ft from Roberds Lake and resulting in a lot with a 28% impervious surface coverage. The property is described as: Lot 14, Manley Park subdivision in Section 22, Wells Township, Rice County, Minnesota. The property address is: 3577 Chappuis Tr., Faribault, MN 55021. PID#: 10.22.2.76.016. The property is Zoned GDS, General Development Shoreland.

Motion by Charlie Peters, seconded by Julia Hogan, to approve the Variance request with the following conditions and findings for Amy Hovland. The property is located in Section 22 of Wells Township.

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Jill Ellingson, Julia Hogan, NAYS: None

CONDITIONS OF APPROVAL – Hovland

1. The variance is to allow for a 100-sqft personal use storage building to be located 70-ft from Roberds Lake on a lot that will have a 28% impervious surface percentage, subject to compliance with all other Ordinance regulations.
2. Submitted plans shall be followed.
3. The onsite septic system shall be shown to be in compliance with County regulations or a permit obtained for a replacement system before issuance of a building permit for the shed and by not later than November 1, 2022.
4. At least 50% of the lot lake frontage to a 10-ft landward extent shall be established and maintained as a natural vegetative buffer.
5. This variance shall be void if a building permit for the proposed shed is not obtained 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, Amy Hovland (AH), to come forward to add comments or answer questions regarding the request.

AH - Our property is long and narrow. We have an attached garage that is currently full of stuff, so we are looking to get an accessory building to store lake-related items that is closer and more easily accessible from the lake. We do not have an accessory structure currently.

MS - Are you aware of the 6 conditions?

AH - Yes.

JE - Is it just a standard accessory shed?

AH - It is 10-ft x 10-ft and we have talked with our neighbors. It will not block any views of the lake.

We would love to put it right on the lake but we know we can't and have pushed it back as far as we can without it running into the house.

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

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

Discussion:

JH - It is another small lake lot and the neighboring variance was approved.

MS - It is good that the variances are in close proximity to each other.

JH - They put it back as far as they could from the lake.

CP - It does not look like it encroaches any closer than the neighboring variance. I will motion to approve this item.

JH - I will 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 Peters with the conditions as stated above and with the following additions by staff:

TM: It is a long narrow lot and this is a rather small setback variance request compared to the overall setback. Plus, there is a lakeshore/vegetative buffer condition to offset the impervious surface request.

Motion made, seconded, and approved unanimously.

6. Variance/Mick-Knish - Section 22, Wells Township

DeAnn Mick-Knish has applied for a 10-ft variance from the 100-ft Stream setback to allow for home deck additions to be located 90-ft from a stream. The property is described as: Part of the NW1/4 of the SE1/4, Section 22, Wells Township, Rice County, Minnesota. The property address is: 18741 Canby Way, Faribault, MN 55021. PID#: 10.22.4.00.001. The property is Zoned UR, Urban Reserve.

Motion by Jill Ellingson, seconded by Charlie Peters, to approve the Variance request with the

following conditions and findings for DeAnn Mick-Knish. The property is located in Section 22 of Wells Township.

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Jill Ellingson, Julia Hogan, NAYS: None

CONDITIONS OF APPROVAL – Mick-Knish

1. The variance is to allow for 8-ft by 8-ft and 8-ft by 16-ft deck additions to be located 83-ft from the stream on the property, 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 decks or August 1, 2022. If the onsite septic system is not in compliance a compliance system must be in place by November 1, 2022.
4. This variance shall be void if a building permit for the decks are 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).

The BOA asked the applicant, DeAnn Mick-Knish (DMK), to come forward to add comments or answer questions regarding the request.

DMK - The rest of that deck is coming off. We had an 8-ft by 10-ft deck there that was damaged by a storm. We are proposing a smaller, 8-ft by 8-ft deck with the addition of 8-ft by 16-ft along the house.

MS - Are you aware of the 5 conditions?

DMK - Yes.

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

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

Discussion:

JE - I can understand the request; taking down the 8'x10' and building an 8'x8' that extends farther along the house and does not get closer to the stream.

CP - I agree.

JE - I motion we approve this item with the 5 conditions.

CP - I will second that 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 Ellingson with the conditions as stated above and with the following additions by staff:

TM: It is replacing an existing deck onsite and they are running the majority of the deck along the house instead of towards the stream and are not getting any closer to the stream than the current deck.

Motion made, seconded, and approved unanimously.

7. **Variance/Watne - Section 15, Forest Township**

Solomon Watne has applied for variances to allow for grading on a steep slope area, and in the bluff and shore impact zones. The property is described as: Lot 11, Block 2, Circle Lake Bluffs Subdivision in Section 15, Forest Township, Rice County, Minnesota. The property address is: 3480 Circle Bluff Ct., Faribault, MN 55021. PID#: 06.15.1.26.013. The property is Zoned RDS, Recreational Development Shoreland.

Motion by Jill Ellingson, seconded by Charlie Peters, to approve the Variance request with the following conditions and findings for Solomon Watne. The property is located in Section 15 of Forest Township.

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Jill Ellingson, Julia Hogan, NAYS: None

CONDITIONS OF APPROVAL – Watne

1. The variance is to allow for grading and filling on the lot in a shore impact area, in an area with an existing slope exceeding 18% and grading within 30 feet of top of bluff as shown on the applied for site plan, subject to all other ordinance requirements.
2. Variance shall be considered void if grading work not completed within one year of approval.
3. Due to proposed water retention structure and severe erosion issues, engineered plans are required to ensure future stability of structure and that proposed grading will not increase erosion on site.
4. Shoreline area must be maintained in current state with no vegetation removal, with exception of proposed areas where rip-rap will be placed. Any bare soils areas created as a result of grading work must be seeded with a native seed mixture and maintained in a natural state in perpetuity.
5. Proper erosion control measures shall be utilized and maintained until area is reseeded and emergent vegetation is in place
6. Onsite trees shall be preserved to the maximum extent practical. Any healthy trees removed will be replaced at a 1:1 ratio.
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 - The variance last year was for the house?

TM - It was for the house construction to be in a bluff area due to the steepness of the sides coming down.

JE - Was there a grading or erosion plan submitted with the house?

TM - There was and they did have silt fence and other stuff out there. The landowner said when he saw the area it was covered in snow and so he is just seeing now what is needed and with stuff drying out enough to start fixing things. It was tough to photograph the ravine area. There is a steeper area further down and one that is closer to the house that is the main one that is going to have some stormwater control put in to help it from eroding and to slow water down.

The BOA asked the applicant, Solomon Watne (SW), to come forward to add comments or answer questions regarding the request.

SW - The goal with the variance is to work with the nature on the property. That sink hole has been there for years. We just moved in two months ago. We have been able to slow down the water flow around the

house but there is still that large sink hole. We are proposing to put boulders in there to try and stabilize it and prevent further erosion up by the house. There is an existing cow path that we plan on using to create an access road to the lake. That requires the least amount of grading and effort to use the existing path. There is an alternative path on the other side of the ravine but it is a 30-ft drop-off. Because the property has never had a house on it or been lived on, there is a lot of erosion down by the shoreline. We are proposing three sections of rip-rap, no more than 25-ft for each. We are really trying to work with nature on the property. There are a lot of reasons why it hasn't been built in 25 years.

MS - You are working with an engineer to help you put this together?

SW - Yes, we are working with ISG engineering on the catch basin and we are also working with a company for placing the boulders in the catch basin, the path and the rip-rap. It will all be done by professionals, not by myself.

MS - What timeframe are you looking at?

SW - I would like to start by end of May if this is approved tonight. This whole build has been a 15-month process. We have only lived there two months but a lot of this we did not see until the snow melted.

MS - Are you aware of the 7 conditions?

SW - I am and understand the need for engineering. It will add some cost but will be good to get a professional opinion on how to stabilize the area.

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

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

Discussion:

JE - I think it is necessary to improve the erosion and decrease the issues. I like that they are using professionals to help improve this property.

CP - I agree and we talked about this last night at the township meeting. This property needs to be addressed.

JE - I motion we approve this item with the conditions as stated.

CP - I will 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 Ellingson with the conditions as stated above and with the following additions by staff:

TM: It is a major existing erosion issue they are trying to deal with. The grading of the access road is minor compared to the topography there and there is a condition requiring engineered plans be put together to help correct the erosion issue.

Motion made, seconded, and approved unanimously.

8. **Variance/Angelow - Section 27, Shieldsville Township**

Ryan Angelow has applied for a 720-sqft variance from the 1200-sqft size limitation, a 5-ft variance from the 16-ft peak height limitation and a 5-ft variance from the 20-ft Road Right of Way (ROW) setback to allow for a 1920-sqft shed with a 21-ft peak height to be 15-ft from the ROW. The property is described as: Lot 4, Block 1 of Cedar Creek Subdivision in Section 27, Shieldsville Township, Rice County, Minnesota. The property address is: 9375 201st Ct W, Faribault, MN 55021. PID#: 09.27.4.51.002. The property is Zoned GDS, General Development Shoreland.

Motion by Charlie Peters, seconded by Julia Hogan, to approve the Variance request with the following conditions and findings for Ryan Angelow. The property is located in Section 27 of Shieldsville Township.

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Jill Ellingson, Julia Hogan, NAYS: None

CONDITIONS OF APPROVAL – Angelow

1. The Variance is to allow for a 1,920-sqft accessory storage structure with a 21-ft peak height on the property, 15-ft from the 201st Ct. W road right-of-way subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. A driveway permit will be required for the expanded driveway.
4. The proposed building shall be used for personal onsite accessory use only.
5. Variance shall be void if a building permit for the proposed shed is not obtained 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, Ryan Angelow (RA), to come forward to add comments or answer questions regarding the request.

RA - I am looking to build a detached garage to store equipment, my fish house, and a future camper or boat. We have stuff sitting outside right now that I would like to store inside. We plan to have it match the house. I am close to the lake but you cannot see the lake because it is wooded. I would like to be able to secure everything inside to keep it locked up.

MS - You are aware of the 6 conditions?

RA - Yes.

TM - Did the township approve the widening of the driveway?

RA - Technically, that road is still considered a private drive and is not managed by the Township. All of the homes that were built there did not need a driveway permit because it is a private road. When there were three homes constructed, it was supposed to convert to a Township road, but the Township has not taken it over yet. I believe that road is still considered private. Once it becomes a Township road it will require a driveway permit.

TM - There is a condition, #3, that requires a permit for the driveway, whether it be from the Township or from the group of homeowners out there.

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

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

Discussion:

CP - It does look like the best site for the shed. It is shielded from the lake and the neighbors. I have no issues with it.

JH - It looks like topography limits their options as well.

CP - I motion we approve this item with the 6 conditions.

JH - I'll 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 Peters with the conditions as stated above and with the following additions by staff:

TM: No further comments from Staff.

Motion made, seconded, and approved unanimously.

9. **Variance/Steve - Section 15, Forest Township**

Corey Steve has applied for a 528-sqft variance from the 1200-sqft size limitation and a 8-ft variance from the 16-ft height limitation to allow for a 1728-sqft shed with a 24-ft peak height. The property is described as: Lot 3, Block 3, Circle Lake Estates in Section 15, Forest Township, Rice County, Minnesota. The property address is: 11465 Circle Ridge Court, Faribault, MN 55021. PID#: 06.15.4.76.018. The property is Zoned RDS, Recreational Development Shoreland.

Motion by Jill Ellingson, seconded by Julia Hogan, to approve the Variance request with the following conditions and findings for Corey Steve. The property is located in Section 15 of Forest Township.

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Jill Ellingson, Julia Hogan, NAYS: None

CONDITIONS OF APPROVAL – Steve

1. The variance is to allow for a 1728-sqft personal use storage building with a 24-ft. peak height, subject to compliance with all other Ordinance regulations.
2. Submitted plans shall be followed.
3. This variance shall be void if a building permit for the proposed shed is not obtained 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). TM - Public comment was submitted about this needing to go through the Home Owners Association (HOA). The County cannot enforce covenants. They are handled privately by the HOA but you can take the comment into consideration.

JH - Have we had any other variance for sheds in the neighborhood prior?

TM - I believe there was one.

JH - Was there an issue with the HOA on that one?

TM - I don't recall any comments from that one. I believe that request was a height variance on the property just to the South.

JH - Were they not aware of the HOA covenants or the variance request?

TM - Notice of variance requests are sent to all neighboring landowners.

The BOA asked the applicant, Corey Stever (CS), to come forward to add comments or answer questions regarding the request.

CS - I am aware of the HOA and that we need to go through that process. I just went through the County first. I have one of the officers of the HOA here with me tonight if you have questions for them. The proposed shop will have all matching building materials including stone and cement, siding and roof line. The variance that was approved two years ago was for Dr. Williams and has almost the identical square foot and a higher peak. The higher side walls are for an RV we are planning to have and to store everything inside and out of the driveway.

MS - You are aware of the 4 conditions?

CS - Yes.

Chair Streiff opened the public testimony portion of the item to the public and the following spoke: Mark Melnychuk (MM) - *HOA Board Member* - My house actually faces the applicant's house. I represent the board for the Circle Lake HOA as the Vice President of the board. The president of the board is on vacation. We do understand that there was another variance that has been approved previously. From that view point, we believe that a precedence has been set to allow for the variance within our neighborhood. We understand the covenants. They were set prior to me moving into the neighborhood. One of the things we wanted to mention is that there is some disagreement among the community regarding the variance and whether it should be allowed. After speaking with a majority of the board within the HOA, the majority agrees, we have reviewed the plan for the shed and plan on approving his request from the HOA perspective. Our goal is not to prevent anyone from having a beautiful home, as long as the shed or the structure is set up in a manner similar to the previous variance that was allowed for Mr. Williams. The siding looks nice and matches the house. It is a wonderful structure. We have all the confidence in the world that CS will do the same. We do not want to prevent that as a board.

CP - Would you have an issue if we added another condition that stated we need a written approval from the HOA?

MM - I would agree with that. From the HOA perspective, CS did come to the County first. We are making plans and he has been in good communication with us. We actually had that condition with CS to begin with that if he went to the County to get the variance first that he would still have to go before the HOA. We are hoping to have a meeting coming up soon. So absolutely.

Dave Swanson - I just have a brief comment about the process. I am a member of Circle Lake Estates but am not on the board. This variance is not allowed under the current covenants. The current covenants do not even allow for a variance like this to be requested. The existing covenants need to be changed to allow for amendments. Right now they do not allow for this. Then an amendment must pass to allow Rice County regulations to be used for outbuildings. As of now, the existing covenants only allow for 200sqft building. A legal opinion was receiving telling the HOA that the existing covenants need to be changed to allow for this kind of situation. It has not been changed yet and that requires a 100% vote to change the covenant. It is something the board has to initiate. Once that change is made, there is a process to follow whereby the architectural control committee must approve it, then it would go to the HOA board for final approval before a variance can be applied for, but the change has to be made to the covenant first. It is 100% requirement to change the covenant and that 200sqft limit is the limit.

Kris Drager - I am the property just North of this. Our covenants rules state what people can have. CS is here requesting a variance from the County, not the HOA. That is a separate issue. Right now we are only allowed a 200sqft outbuilding. We have large lots. Mine is 1.3 acres. We all have deeded access to the lake via a common lot with a dock. We are not allowed to park outside more than 7 days consecutively and no more than 14 days a month per vehicle. We are not allowed to have a boat or anything stored outside. To have a shed that can house a pontoon or an RV would be awesome. I fully agree with this garage. It is pretty hard to have activities without having a place to store them.

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

Discussion:

CP - I have received a number of calls on this being from Forest Township. I agree that you have some big lots out there and it is better to store things under a roof then outside. The HOA covenant was

brought to my attention and I hope that can be changed. I would like to add a fifth condition stating the need for HOA approval.

TM - In the past, we have recommended they do get HOA approval but County regulations are separate from the HOA and it is best to keep them separate.

JE - I believe a precedence has been set and the reason for the shed is relevant to the neighborhood and keeping things put away. With the recommendation to get HOA approval, I motion we approve this item with the 4 conditions.

JH - I will 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 Ellingson with the conditions as stated above and with the following additions by staff:

TM: There is good tree screening between the proposed site and the roadway in that location and the proposed site is quite a long distance from Circle Lake.

Motion made, seconded, and approved unanimously with the recommendation of HOA approval.

10. Variance/Vargo - Section 19, Walcott Township

Jonathan Vargo has applied for a 3-ft variance from the 100-ft Road Right of Way (ROW) setback and a 10-ft variance from the 20-ft side property line setback to allow for a detached garage to be 97-ft from the ROW of 250th St and 10-ft from a side property line. The property is described as: Part of the SW1/4 of the SW1/4, Section 19, Walcott Township, Rice County, Minnesota. The property address is: 1010 250th St E, Faribault, MN 55021. PID#: 15.19.3.50.001. 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 Jonathan Vargo. The property is located in Section 19 of Walcott Township.

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Jill Ellingson, Julia Hogan, NAYS: None

CONDITIONS OF APPROVAL – Vargo

1. The variance is to allow for a 46-ft by 48-ft shed to be located 97-ft from the Road Right of Way of 250th St E and 10-ft from the east property line, 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, Jonathan & Katie Vargo (JV & KV), to come forward to add comments or answer questions regarding the request.

KV - TM covered most of it. We purchased this home last June and with the purchase we gained house size but downsized from a 5-stall garage to a 2-stall garage. We now have the additional expense of storing things offsite. We would really like to keep everything close and remove that additional expense. we take pride in our property by trying to keep everything secured and cleaned up.

MS - Are you aware of the 4 conditions?

KV - We are.

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

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

Discussion:

CP - It looks pretty straight forward and is a nice site instead of going around the back of the house and they don't really have neighbors. I will motion we approve this item with the 4 conditions.

JE - I echo that it is straight forward and it is a minimal variance request. I understand the placement and will 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 Peters with the conditions as stated above and with the following additions by staff:

TM: No further comments from Staff.

Motion made, seconded, and approved unanimously.

11. **Variance/Schak - Section 21, Wells Township**

Amy Schak has applied for a variance to allow for grading on a steep slope and within the shore impact zone of Roberds Lake. The property is described as: Lot 6, Block 1, Chappuis 1st Addition in Section 21, Wells Township, Rice County, Minnesota. The property address is: 4061 Chappuis Trail, Faribault, MN 55021. PID#: 10.21.1.76.005. The property is Zoned GDS, General Development Shoreland.

Motion by Jill Ellingson, seconded by Charlie Peters, to approve the Variance request with the following conditions and findings for Amy Schak. The property is located in Section 21 of Wells Township.

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Jill Ellingson, Julia Hogan, NAYS: None

CONDITIONS OF APPROVAL – Schak

1. The variance is to allow for grading and filling on the lot in a shore impact area, in an area with an existing slope exceeding 18%, as shown on the applied for site plan, subject to all other ordinance requirements.
2. Variance shall be considered void if grading work not completed within one year of approval.
3. Due to potential of slope stability issues and proximity to lake, engineered plans are required to ensure future bank sloughing and erosion will not take place.
4. 50 feet of shoreline to a landward depth of 10 feet must be seeded with a native seed mixture and maintained in a natural state in perpetuity.
5. Proper erosion control measures shall be utilized. All exposed soil areas shall be revegetated.
6. Onsite trees shall be preserved to the maximum extent practical.
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).
MS - We are just approving the grading?

TM - Yes, this is just for grading of the shore. They have applied for a demo permit that is pending the outcome of this. If this is not approved, they will need to look at other options for the lakeshore.

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

AS - *via zoom* - I purchased the home in August 2021 and it was empty before I had it. The previous owners had a hard time keeping up with the shoreline and the sloping. That, along with the tornado damage we have tried cleaning up, it is pretty damaged shoreline there. We have tried several options to try and stabilize the shoreline. We have had engineers and MetCon look at it. There really is no easy fix. It is 20-ft from the lake and 20-ft straight up. I probably have the best view of the lake, but unfortunately, the erosion has moved about 3 inches since I purchased the property and is up to the cement slab on the bottom level which is being held up by limestone that is piled up and overtime has started falling out from underneath it. We need to do something about this. We think this is the best option for the lot, the lake, and us.

MS - You are working with professionals to advise you on this?

AS - Yes. We are currently getting bids from excavators and we have Story Landscaping that we are planning on moving forward with on ground coverage and replanting trees. We also have Chris Bakken that has done all of our cement and is an excavator who is working with us as well.

MS - You are aware of the 7 conditions?

AS - Yes

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

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

Discussion:

MS - It is definitely unique.

CP - I am glad to see they are building a new house further back from the lake. They are going to have to do something when they remove the old house. I want to reiterate the importance of engineering and erosion control.

JH - This property has been a discussion with the County for a while now.

JE - Something has to be done with this. The conditions cover all the concerns but it needs to be reiterated that it needs to be done correctly. I will motion we approve this item with the conditions as stated.

CP - I will second that 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 Ellingson with the conditions as stated above and with the following additions by staff:

TM: The engineering and vegetative buffer should help offset the request. The existing shoreline has significant issues with erosion and removal of the existing house actually creates an opportunity to stabilize that slope.

Motion made, seconded, and approved unanimously.

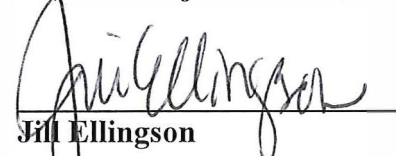
III. Adjournment

Hearing no other items before the BOA, a motion was made by Hogan, second by Ellingson, to adjourn the meeting at 7:25 pm. Motion carried 4-0.

Respectfully Submitted


Anna Aguilar
Administrative Coordinator

Board of Adjustment Vice Chair


Jill Ellingson