

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY BOARD OF ADJUSTMENT
Commissioner's Room / Government Services Building
Thursday, October 6, 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: Charlie Peters, Jill Ellingson, Julia Hogan.

Members absent were: Michael Streiff, Preston Bauer

Staff present were: Director Julie Runkel (*via Zoom*), 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 Julia Hogan, Reading of the Notice.

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

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

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

D. Motion by Charlie Peters, seconded by Julia Hogan, to approve the minutes of September 1, 2022.

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

II. New Business

1. Variance/Polzin - Section 35, Shieldsville Township

David Polzin has applied for a 12-ft variance from the 14-ft peak height limit and a 240-sqft variance from the 1200-sqft building size limitation to allow for a 1440-sqft shed with a 26-ft peak height. The property is described as: Lot 19 in Heines Cedar Lakeview 2nd addition and Part of Government Lot 7 in Section 35, Shieldsville Township, Rice County Minnesota. PID#s: 09.35.2.00.002 & 09.35.2.01.006. 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 David Polzin. The property is located in Section 35 of Shieldsville Township.

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

CONDITIONS OF APPROVAL – Polzin

1. The Variance is to allow for a 1,440-sqft accessory storage structure with a 26-ft peak height on the property, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. A septic system compliance inspection must be submitted to Rice County Environmental Services prior to issuance of a building permit. If the septic system is not in compliance a compliant system shall be installed within one year of the variance approval date.
4. The two areas (PIDs 09.35.2.00.002 and 09.35.2.01.006) of the property shall be combined into a single parcel by recording both areas onto a single deed and then requesting the County to combine into a single tax parcel. Once combined the property shall not be separated/split unless it has been approved under the county subdivision regulations.
5. The proposed building shall be used for personal onsite accessory use only.
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 - How many conditions are there?

TM - 7.

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

DP - I would like to put up a shed for storage for my boat and stuff on that lot that is adjacent to our property.

CP - Are you aware of the 7 conditions?

DP - 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:

JH - The parcel located to the southwest. Did they do the same thing, combine two lots?

TM - I believe that lot is combined with one of the lakeshore lots also.

DP - That property actually just sold and it is not combined, so maybe it was grandfathered-in.

TM - If it is not combined, then it was grandfathered-in and they will have to combine it if they want to do anything with it.

CP - It is a big shed but I don't see a problem with the 2-tier system. It is across the road and they have to combine the lots. I don't have an issue with it. I 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 property is considered a first tier lot even though it is across the roadway. It is well screened to the lake and will not affect views from the existing homes in the area.

Motion made, seconded, and approved unanimously.

2. Variance/Vreeman – Section 31, Forest Township

Roger and Jane Vreeman, on behalf of landowner Lake Mazaska North Shore Cooperative, have applied for an 83-ft variance from the 100-ft lake setback to allow for a covered patio addition to be located 17-ft from Lake Mazaska. The property is described as: Part of Government Lot 1 in the NW1/4 of Section 31, Forest Township, Rice County, Minnesota. PID#: 06.31.2.25.941. The property is Zoned RDS, Recreational Development Shoreland.

Motion by Julia Hogan, seconded by Charlie Peters, to approve the Variance request with the following conditions and findings for Roger and Jane Vreeman, on behalf of landowner Lake Mazaska North Shore Cooperative. The property is located in Section 31 of Forest Township.

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

CONDITIONS OF APPROVAL – Vreeman

1. The variance is to allow for a 12-ft by 20-ft covered patio addition to be located 17-ft from Lake Mazaska, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. Proper permits shall be obtained prior to any onsite construction.
4. At least 10-ft of the shoreline within 10-ft landward of the water shall be established and maintained in a natural condition as an un-mowed native vegetative lake buffer.
5. Variance shall be void if a building permit for the proposed patio 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).

JE - Does the porch addition extend beyond the shed that is there?

TM - I do not believe so. It is listed as 17-ft back. The shed appears to be closer than the proposed porch.

CP - The existing shed will stay?

TM - Yes, I believe the plan is for the shed to stay.

The BOA asked the applicant, Roger & Jane Vreeman (RV & JV), to come forward to add comments or answer questions regarding the request.

RV - We are requesting this because we had a large tree that was taken out, an Elm tree that was dying. Plus, the neighbor had a big soft maple that was taken out. We have no shade now and would really like this to have a covered patio.

JE - You are aware of the 6 conditions?

RV - Yes. The contractor we have is aware of them.

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:

JH - We have seen a number of variances in this area.

JE - It is not getting any closer to the lake than existing structures.

JH - All of these cabins are grandfathered-in and were constructed prior to updated zoning. That leaves owners in a hard position when it comes to additions and updates. The Co-op submitted a letter stating they are fine with it.

CP - It looks like with that lot, there isn't much room to put an accessory structure on the other side of the road. That was my original thought, but looking at the pictures, it really isn't feasible.

JH - I will motion to approve this item.

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 Hogan with the conditions as stated above and with the following additions by staff:

TM: The road does limit the expansion possibilities in that location. It is an addition to an existing cabin and the existing onsite shed is actually closer than the proposed structure. Also, the neighboring deck appears to be in a similar location.

Motion made, seconded, and approved unanimously.

3. **Variance/Adamek – Section 12, Wheatland Township**

Terry Adamek has applied for a 32-ft variance from the 100-ft Road Right of Way (ROW) setback to allow for a home addition onto an existing home located 68-ft from the ROW of Halstad Ave. The property is described as: Part of the NW1/4 of Section 12, Wheatland Township, Rice County, Minnesota. PID#: 01.12.2.25.003. The property is Zoned A, Agricultural.

Motion by Charlie Peters, seconded by Julia Hogan, to approve the Variance request with the following conditions and findings for Terry Adamek. The property is located in Section 12 of Wheatland Township.

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

CONDITIONS OF APPROVAL – Adamek

1. The variance is to allow for 1836-sqft home additions onto the existing home located 68-ft from the Road Right of Way of Halstad Ave., 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, Terry Adamek (TA), to come forward to add comments or answer questions regarding the request.

TA - I am looking to put on an addition for an attached garage. Right now, we have to cross the yard to get to our 3-stall garage and in the winter it gets kind of treacherous. The plan is also to move the master bedroom, which is currently a tiny bedroom upstairs, but would move it to the main level with the laundry room.

JE - Are you aware of the 4 conditions?

TA - Yes.

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

Larry Adamek - I was the original owner of this home and the property. What he is requesting to do is what my wife wanted me to do all along: remodel and add an attached garage. Now my son is trying to

do it. I am all for it.

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

Discussion:

JH - They are not encroaching any closer to the roadway. The home is older, so setbacks were not in place when it was originally built.

CP - I agree. It is out in the rural area and is not encroaching any further. It makes sense. 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: No additional comments from Staff.

Motion made, seconded, and approved unanimously.

4. **Variance/Divine – Section 11, Webster Township**

Jeff Hoehn, on behalf of landowner Mike Divine, has applied for a variance from the steep slope limitation to allow for a driveway to be graded into an existing slope that exceeds 18%. The property is described as: Part of the SW1/4 of Section 11, Webster Township, Rice County, Minnesota. PID#: 02.11.3.25.001. The property is Zoned A, Agricultural.

Motion by Charlie Peters, seconded by Julia Hogan, to approve the Variance request with the following conditions and findings for Jeff Hoehn, on behalf of landowner Mike Divine. The property is located in Section 11 of Webster Township.

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

CONDITIONS OF APPROVAL – Divine

1. The variance is to allow for driveway to be graded in an area with a natural slope exceeding 18%, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. Variance will be void if the site split and transfer of development right is not approved by Rice County.
4. Variance shall be considered void if permits are not obtained and construction of the driveway 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 - They cleared all the trees?

TM - Correct, it was a completely wooded site before.

CP - They do have a driveway permit from Webster Township?

TM - Yes, the applicant indicated they do. That is something we were discussing is to make sure that it's clear to applicants that driveway permits issued by the road authority (Township, County, State) are just for the access.

The BOA asked the applicant, Mike Divine (MD), to come forward to add comments or answer questions regarding the request.

MD - My contractor, Bryan Wolfe (BW) is on Zoom. I do have a driveway permit and the only thing that I am missing is the culvert, which I was told I could extend the deadline on the permit until construction is done because I do not want to crush the culvert. The driveway was completed by another contractor and we tried to keep it as less steep as possible.

BW (via Zoom) - Fieldstone Family Homes - He purchased this site a year or so ago. When we talked about putting in the driveway, we normally try to keep residential under 10%, so it ended up being long and snaking around the area to make it accessible. It is not any steeper than other normal residential driveways. MD has a lot of blood, sweat, and tears into this project. I told him if he could get a driveway in there, I could build a house.

JE - You are aware of the 5 conditions?

MD - Yes.

BW - It sounds like we are doing this a little backwards.

JE - Correct. This should have been approved before constructing the driveway.

BW - Now we know.

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 - My main concern was the end of the driveway on to the Township road, but it sounds like they are putting a culvert in and Webster Township is usually at these meetings if they have a concern. I have no issues with it.

BW - The Township is requiring we maintain erosion control out there which we are aware of and will keep an eye on.

JE - The pictures did show the almost finished driveway.

JH - It is an after the fact.

JH - The road connection does look smooth.

JH - The topography does make it difficult to put a driveway in.

AA read a comment from the Zoom chat box - BW - the culvert 18" is a condition of approval of our driveway completion and building permit.

CP - In our township, there would be a swale before the road so water wouldn't run out onto the road and wash it out. He says he is going to put a culvert in. I assume that Webster Township would have final sign-off on the driveway permit once it is done. 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:

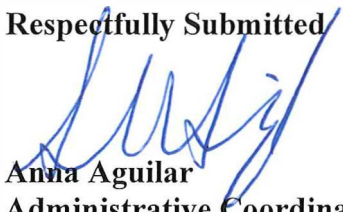
TM: The Township has issued an access permit and there really are no other options for driveway access other than across that short area of the steeper slope. The proposed driveway is trying to follow the contour, minimizing the impact across that slope.

Motion made, seconded, and approved unanimously.

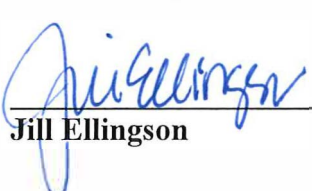
III. Adjournment

Hearing no other items before the BOA, a motion was made by Hogan, second by Peters, to adjourn the meeting at 7:01 pm. Motion carried 3-0.

Respectfully Submitted


Anna Aguilar
Administrative Coordinator

Board of Adjustment Vice Chair


Jill Ellingson