

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY BOARD OF ADJUSTMENT**
*Commissioner's Room / Government Services Building
Thursday, September 1, 2022 at 6:30 PM*

I. Call to Order

A. Roll Call

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

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

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 Preston Bauer, seconded by Jill Ellingson, Reading of the Notice.

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

C. Motion by Charlie Peters, seconded by Jill Ellingson, Approval of the Agenda.

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

D. Motion by Jill Ellingson, seconded by Julia Hogan, to approve the minutes of July 28, 2022.

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

II. New Business

1. Variance/Kopylov - Section 22, Forest Township

Ivan Kopylov has applied for a 40-ft variance from the 75-ft setback requirement to allow for a septic system to be located 35-ft from Circle Lake. The property is described as: Lot 3, Benjamin Addition in Section 22, Forest Township, Rice County, Minnesota. PID#: 06.22.1.51.012. The property is Zoned RDS, Recreational Development Shoreland.

Motion by Preston Bauer, seconded by Jill Ellingson, to approve the Variance request with the following conditions and findings for Ivan Kopylov. The property is located in Section 22 of Forest Township.

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

CONDITIONS OF APPROVAL – Kopylov

1. The variance is to allow for a soil absorption area for a septic mound soil treatment/system be placed 35-ft from Circle Lake, subject to compliance with all other Ordinance regulations.
2. The approved Septic Design/Site plan shall be followed.
3. Proper Septic permits shall be obtained prior to any onsite construction.
4. Erosion control measures to be employed and construction area seeded/mulched to deter erosion until vegetation established.
5. Variance shall be considered void if Septic permits are not obtained and construction commenced within one year of the variance approval.
6. A certificate of survey verifying that the proposed septic system is not in the Floodway area of Circle Lake must be submitted prior to any onsite construction.
7. Failure to comply with the terms of this variance will result in termination of the Variance.
8. Prior to construction, the applicant shall submit plans for access for the construction and maintenance of the system.

Hearing Minutes:

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

JH - Was there no other suitable areas on the property for the septic?

TM - That's my understanding that they did not find any other suitable areas, other than probably the proposed house location. I don't have that information in front of me.

JH - Were there any concerns from Environmental Health Staff?

TM - Any information they passed along was included in the packet. They have been working directly with the designer on the system for this location.

PB - On the criteria form, it states that there is another septic like this nearby.

TM - Yes, I believe there was another septic variance approved near here that our Environmental Health Staff submitted. I do not know the details, but they did say there is one similar nearby.

CP - It is in the floodplain?

TM - Yes, it is in the floodplain and there are special rules for septic systems in a floodplain. That is to protect it from erosion if there was a flood and keeping the contents where it belongs.

PB - Is there any additional input from Environmental Services Staff regarding alternate sites for the septic?

TM - I did not receive any other comments from them on that. This lot was created many years ago, so it is grandfathered. If this were a new lot, they would have been required to identify two suitable sites on the property for housing and a septic system, or for an offsite septic system if needed.

PB - Have there been any issues with similar septs, near the lakeshore, that you know of?

TM - There is nothing really unique with these. They are required to meet MCPA standards and are designed to have that separation and any treatment. With the floodplain, there are concerns and protection requirements should the lake level rise enough to cause problems.

The BOA asked the applicant, Ivan Kopylov (IK), to come forward to add comments or answer questions regarding the request.

Mark Kopylov (MK - *son - translating*) - My dad immigrated here in 1991 and two years ago, they sold their house that they built in Jordan. Since, they have been living with my siblings. Basically, they bought land on the lake. There is an area up top where they want to build the house. When they were doing the soil samples, it was fairly sandy up by the house and the soil got better, closer to the lake. That is essentially the only good place they found to put the septic tank. We have been trying to figure this out since last spring with the septic tank and where it can go. At the end of the day, this location is the best location we can find. Our septic contractor thinks so also.

MS - You have been working with a septic contractor?

MK - Yes, Dahle Enterprise out of Morristown.

MS - Are you aware of the 7 conditions?

MK - Yes.

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

Keith Kluzak - Culver Trail - I live just up the hill from the proposed site. The applicant indicated that they did not find a suitable site up on top of the hill. I guess I cannot speak to that but it would make more sense to have it up on the hill and farther from the lake. I do not want to impede them from building a home. I am wondering if there is some type of ongoing inspection that can be done to make sure nothing is leaching into the lake. It is right by the lake and that is the biggest concern. I have been involved with the Circle Lake Association quite a bit and I thought it prudent to at least come up and voice a concern. I think we need to keep an eye on it if this is allowed to go forward.

Don Brown - Culver Trail - I own the lot to the north of this lot. I have owned this lot since 1983 and there have been times when the water level has been up to the base of that hill, where it is a couple of feet deep or at least a foot deep. I, also, do not have an agreement with them for them to cross my lot to build or maintain the septic which they would have to do.

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

Discussion:

CP - It is an old development out there and all the lots have tough lots with steep slopes to the lake. I would like to add a condition that if a community septic is ever put in, that they have to connect

immediately and not when their septic system fails. I think that day is coming. I agree, I have seen the water that high, so I would like to see the special engineering that they do to ensure it does not leach into the lake water. Those are my concerns.

PB - I know the septic system will be new, but in the past, have we had any requirements for regular inspections along the lakeshore? Septic systems do not have to be that old to fail and it is really close to the lake.

CP - There are other options. They have pea-pods on the other side of the lake and there is a community septic to the south. It is quite a distance away and would be costly to hook into it. The Township septic to the north of them is at capacity. They are limited from that aspect. I do not know if there is land up top that the landowners could share for septic systems in the future. I would feel better if we put a condition in there that requires the system to be inspected, possibly bi-annually, and that if a community septic is put in, they have to immediately connect in not when their septic fails.

MS - By inspection, do you mean by a septic contractor?

CP - Not by the installer, but by County Staff I think would be best. You can tell right away on a mound system if there is a blowout. That does put more on Staff.

TM - It sounds like you are going down the route of compliance inspections which are done by private inspectors, not by the County. For a typical system, those are only required when you are dealing with building permits or zoning requests. Otherwise, a new system, installed properly, is considered fully compliant for 5 years and then compliance inspections are valid for 3 years after that. That is not an inexpensive process if you are considering it as a requirement. If you require this system to be inspected more often, just know it can be fairly expensive. It involves pumping the tank and with that, the cost could be over \$1,000.

PB - So that could work out. Typically, with a 5 year grace period and then the 3 years would probably align with pumping?

TM - That is only triggered if the property is sold or a building permit is submitted. If neither of those things happen, there is not an automatic trigger. Under the septic rules, there are systems that fit into different categories that require operating permits. My understanding is that this is not one of those systems. This is a standard system other than it being in the floodplain. With condition #6, it talks about the floodway area. Along a floodplain, there is the floodway which is the area that is normally under water and there is the flood fringe area. Around Circle Lake, the floodway is defined as the ordinary high water (OHW) mark of the lake. Essentially, if this system is being installed in an area that is normally dry, it is considered in the flood fringe, which is not expected to have water other than on average of 1% annually. Access for construction and maintenance is handled with the septic permit, but it could be added as a condition that they verify access for construction and maintenance of the system.

CP - I know all of those lots are bad, but I will make a motion for approval with the addition of 2 conditions. The first being to have easements for construction, inspection, and maintenance. If he can get that through the neighbor or wherever he is able. The second being if a community septic option becomes available, he has to connect in right away.

PB - It is hard to set a precedence with other septic systems, similar to this, already around the lake and requiring regular inspections. Down the line, I would like to see that.

CP - I think it will be caught faster around Circle Lake than most of the other lakes in the county.

MS - I just wonder how the floodway area and how that is going to work out.

CP - If it's found to be in the floodway, then the septic will not be able to go there.

TM - It sounds like there is still a little confusion with the floodway and the flood fringe. The floodway is the water area of the lake in this case and up to the OHW level. Any area that is dry, or normally dry, is in the flood fringe, which the system can go in. That condition is just stating that they cannot put the system below the OHW mark of the lake. I did draft two potential conditions - 1) *Prior to construction, the applicant shall submit plans for access for the construction and maintenance of the system.* I used the word 'plan' instead of 'easement' because there might be other legal methods for that and thought it would be better to keep that open. It would still have to be legal access. 2) *If a community septic system becomes available, the site shall be connected to that system.* I am a little worried with that language, because what is meant by 'available'? That can be very difficult to define because it is not clear. With existing statutory language, there are triggers for connection to municipal systems. Should that come through, they can be required to connect. This just becomes a little questionable on what is 'available'.
AA read a comment sent via the Zoom chat from Karl Friedrichs - One of the requirements is that it cannot be placed in the floodway area. I thought there have been a few comments during the Staff presentation that it is within the floodplain. Is the floodway different than the floodplain. If no difference, how can they meet this requirement?

TM - The floodplain is made up of the floodway and the flood fringe. They are different. *TM showed on the map to help clarify.*

CP - With that last condition, I know we have community septs where owners have opted out of being hooked in. With this they can't opt out, correct? Going forward, if the Township puts a system in, we are going to require everybody to hook in.

TM - Under whatever rules that system goes in, the Township may have the option to require or not require landowners to hook in or not. It gets difficult to tie to a variance condition.

MS - You are saying that the Township would have authority if that were to happen.

TM - Whatever they have under that authority would apply to everybody, in all situations. Having one tied to a condition on a variance, it's a little difficult to enforce.

MS - Also, what does "available" mean? The second day it's operating or the second year?

TM - That is what will be difficult, deciding what 'available' really is.

PB - There are a couple of neighboring homes nearby. What do they have for septic systems? Are they similar?

TM - I don't know the details of those. Most in this area are on their own systems at this time.

CP - They are. It is an old plat with small, really difficult lots. If any of them want to add on in the future, they will have to look at doing a community septic.

CP - I motion to approve this with the now 8 conditions.

JE - 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.

2. **Variance/Bemis - Section 20, Morristown Township**

Nicholas and Sarah Bemis have applied for a variance from the slope restrictions to allow for a home to be on a slope exceeding 18%. The property is described as: Lot 2, Block 1, Sakatah Shores No. 2 subdivision in Section 20, Morristown Township, Rice County, Minnesota. PID#: 13.20.2.76.002. The property is Zoned NES, Natural Environment Shoreland.

Motion by Preston Bauer, seconded by Charlie Peters, to approve the Variance request with the following conditions and findings for Nicholas and Sarah Bemis. The property is located in Section 20 of Morristown Township.

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

CONDITIONS OF APPROVAL – Bemis

1. The variance is to allow for grading and filling to place a home in an area with an existing slope

between 24-28% 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. Engineered plans are required to ensure future stability of structure and that proposed grading will not increase erosion on site.
4. Proper erosion control measures shall be utilized and maintained until area is reseeded and emergent vegetation is in place
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 - You think the proposed house site is in the grassy area?

TM - Certainly part of it is. I do not know how far it extends into the wooded area, but even the edge of the grassy area is exceeding an 18% slope.

The BOA asked the applicant, Nicholas & Sarah Bemis (NB & SB), to come forward to add comments or answer questions regarding the request.

NB - We are hoping to get our house built this year and this is one of the roadblocks we are trying to get through. If you go back to the one picture, I can explain better where we are planning on building the house. Most of the hill is planning to be cut off and used as fill for our driveway. We will be doing a lot of landscaping on top of this. Timm's trucking is going to be putting the driveway in and Randy Timm has been out there a couple of times to look at the site along with our builder. A lot of this hill will be taken down and made level. It is not on the lake and is back in the woods, so it shouldn't affect the neighbors. The neighbor to the east is my father. Marilee DeGroot has been out to the site with our septic contractor and the septic is planning to go in the lower spot. The plan is to have a walk out to the southeast part of the lot.

MS - Are you aware of the 5 conditions?

NB - I did look at them and the only one I have a concern with is condition #3. I am not sure engineered plans are necessary since we are not on the lake and are planning to cut a lot of the hill off. I am worried that will set us back even further this year as far as getting things going. I agree with the rest of it and making it so we can grade it to a certain percentage that everyone is happy with. If we could go without the engineered plans. With that condition, I would have to get an engineer or architect to come in and draw all of that and I do not know the availability to make that happen.

MS - We will consider it during our discussion.

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:

PB - It is a little vague regarding grading plans and I know the County has stipulations once you get into that. If we are going to grant a variance for the slope, I think condition #3 should remain. We do not know how much they are going to be grading or shaving off the hill. It would give some oversight to it.

MS - It sounds like the work will be substantial.

CP - I agree. I don't think it will take much to draft engineered plans for this. A regular blueprint with the addition of the walkout. I don't know if that will suffice for the County Inspector and building permits.

PB - I will make a motion for approval with the 5 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 Bauer with the conditions as stated above and with the following additions by staff:

TM: The lot is one that was created prior to the current requirements of the ordinance. They are not building on the steepest areas of the property and it will be located out of the wooded area.

Motion made, seconded, and approved unanimously.

3. **Variance/Horsman - Section 29, Morristown Township**

Jason Horsman has applied for a 1360-sqft variance from the 1200-sqft size limitation and a 10-ft variance from the 14-ft peak height limitation to allow for a 2560-sqft shed with a 24-ft peak height. The property is described as: Part of Government Lot 2 in the SE1/4 of Section 29, Morristown Township, Rice County, Minnesota. PID#: 13.29.4.25.002. The property is Zoned NES, Natural Environment Shoreland.

Motion by Jill Ellingson, seconded by Charlie Peters, to approve the Variance request with the following conditions and findings for Jason Horsman. The property is located in Section 29 of Morristown Township.

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

CONDITIONS OF APPROVAL – Horsman

1. The Variance is to allow for a 2,560-sqft accessory storage structure 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 building permit for the accessory building cannot be issued until a permit for a principal structure is issued.
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).

JE - Is there anything across the road that this would obstruct?

TM - From the road, you can't even see the cornfield. It is a fairly steep rise and it is heavily wooded between the two.

PB - This is the first time I have heard of Sprague Lake. How many acres is it?

TM - It is several 100-acres. It is a shallow, natural environment lake that is not actively used for boating or really built on. I believe it is mainly used for hunting activities. It does have a public access on the

south side.

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

JaH - We just bought the property in July and we are trying to create a house plan. To get the storage space we currently have, this is the square footage we will need to store everything. We are trying to see if we can build a detached or to see if we have to go forward with an attached area.

MS - You are aware of the 7 conditions?

JaH - Yes and agree with them. We have already talked to Morristown Township and have approval for the driveway access.

Chair Streiff opened the public testimony portion of the item to the public and the following spoke:
Karl Friedrichs - *via the Zoom chat* - So they need to apply for a house permit first, according to the conditions?

TM - Yes.

CP - The only way they could do it without the house permit would be if it was an Ag structure, correct?

TM - Not necessarily an Ag structure. In this area, it does not allow for livestock. Plus, Ag buildings are still subject to the size limitations. There has to be a principle use permitted on the property to have an accessory building which just means they need to be permitted at the same time.

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

Discussion:

JH - It is a fairly large lot. I understand that it is zoned NES but the larger lots that are technically zoned shoreland don't act like normal shoreland lots where the stipulations were created for.

PB - It is a field and as far as a house site, it looks like it will make a great spot because corn doesn't grow very well with trees all around it.

JE - I have no additional comments so will motion to approve this with the 7 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: The lot is more than 10x the minimum lot size requirement for that area and the proposed building location is near or over 1,000ft from the lake.

Motion made, seconded, and approved unanimously.

4. **Variance/Winjum - Section 16, Wells Township**

Roy and Jon Winjum have applied for a 25-ft variance from the 75-ft lake setback and a 5-ft variance from the 10- ft side property line setback to allow for a 42-ft by 26-ft replacement game

room/laundry/fish cleaning building at an existing resort. The property is described as: Part of Government Lot 5 in the SW1/4 of Section 16, Wells Township, Rice County, Minnesota. PID#: 10.16.3.50.001. The property is Zoned GDS, General Development Shoreland.

Motion by Jill Ellingson, seconded by Preston Bauer, to approve the Variance request with the following conditions and findings for Roy & Jon Winjum. The property is located in Section 16 of Wells Township.

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

CONDITIONS OF APPROVAL – Winjum

1. The variance is to allow for a 26-ft. by 42-ft. resort accessory use building 50-ft. from Roberds lake and 5-ft. from a side property line, 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 building 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).

JH - Do you know why it took them 6 years to come back to request another variance for this?

TM - That is a good question for the applicant.

JE - The new building will be slightly behind where the current buildings are?

TM - Yes, with the variance they are proposing the building to be back 50ft. I think the existing building is closer then that.

The BOA asked the applicant, Roy & Jon Winjum (RW & JW), to come forward to add comments or answer questions regarding the request.

JW - We requested this in 2016. When we got the budget put together, it was out of our range. It was \$65,000 at that time, not it is over \$100,000. My dad is 82 and says he wants this done. It is the last building on the resort that needs to be updated. The current building is falling down. We do not allow anyone in it, but we have not tore it down, mainly for this reason. We have reduced the impervious surface around that area. It will help control the water. It will send it towards our sediment pound before it gets to the lake. Right now, it runs right past the building and washes gravel and everything out. We are on City Sewer now, so that helps control septic stuff. Fish guts won't be a problem anymore. It will make life a lot easier for us and this will allow us to have a laundry facility onsite for our patrons.

MS - You are aware of the 4 conditions?

PB - With condition #3 stating one year?

JW - Yes. It's getting done. The plans have already been submitted for permitting. We planned on doing this back in 2018 but the tornados hit, and then in 2020, Covid hit. At that point, we were questioning if we would even have a restaurant anymore because we had to shut down. Now we are back up and running.

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 - It is a property improvement. It is improving the setback and they already had a variance approved for this.

JH - They are making it one building instead of three.

JE - And the other buildings do need to be taken down. I motion to approve this item with the 4 conditions.

PB - 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: The conditions are exactly the same as the approved 2016 variance other than the typo missing "year" in condition #3 that we did not catch in 2016.

Motion made, seconded, and approved unanimously.

5. **Variance/Pieper - Section 20, Wheatland Township**

Brian Pieper has applied for a 32-ft variance from the 100-ft Road Right of Way (ROW) setback requirement to allow for a home addition that will be located 62-ft from the ROW of County Road 2. The property is described as: Part of the SW1/4 of the SE1/4 of Section 20, Wheatland Township, Rice County, Minnesota. PID#: 01.20.4.50.001. 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 Brian Pieper. The property is located in Section 20 of Wheatland Township.

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

CONDITIONS OF APPROVAL – Pieper

1. The variance is to allow for a 36-ft by 30-ft home addition to be located 62-ft from the Road Right of Way of 70th St W., subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. The onsite septic system shall be shown to be in compliance with County/State regulations prior to issuance of the building permit for the addition.
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, Brian Pieper (BP), to come forward to add comments or answer questions regarding the request.

BP - We would like to put a garage addition on the east side of our house. It will put us 8ft further into the road right-of-way (ROW). The report says 32ft but it is only 36ft x 30ft. There is a door on the east

side of our house where the garage would come off of. You could come out of the garage and go into the house because the door is already there. It goes both down and upstairs. It is a perfect spot for a garage. The house is 90 years old without a family room, so we would like to build a garage with living space above it for a family room with stairs that would go right up into the room.

MS - Are you aware of the 5 conditions?

BP - Yes.

TM - Can you clarify the size?

BP - 36ft x 30ft. 30ft would be north and south and 36ft would go east and west.

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:

PB - MnDOT did not have any concern with the ROW. It is always nice to have a connected garage.

CP - It looks like a good plan. It doesn't encroach on anyone else and the highway department did not have any concerns. I will motion to approve this item.

JE - 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:

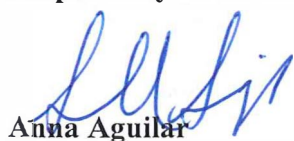
TM: No further comments from Staff.

Motion made, seconded, and approved unanimously.

III. Adjournment

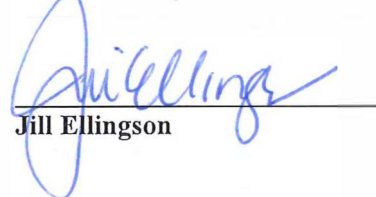
Hearing no other items before the BOA, a motion was made by Bauer, second by Hogan, to adjourn the meeting at 7:35 pm. Motion carried 5-0.

Respectfully Submitted



Anna Aguilar
Administrative Coordinator

Board of Adjustment Vice Chair



Jill Ellingson