

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY BOARD OF ADJUSTMENT
Commissioner's Room / Government Services Building
Thursday, November 3, 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, Zoning Administrator Trent McCorkell, Planner Jeremy Edwards, Administrative Coordinator Anna Aguilar, Clerk Laurie Johnson.

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

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

D. Motion by Charlie Peters, seconded by Jill Ellingson, to approve the minutes of October 6, 2022.

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

II. New Business

1. Variance/Menk- Section 14, Richland Township

Roger Kleese, on behalf of land owner John and Caroline Menk, has applied for a 23-ft variance from the 70-ft Road Right of Way (ROW) setback to allow for a home addition onto an existing home located 47-ft from the ROW of 230th St E. The property is described as: Part of the NE1/4 of the NW1/4, Section 14, Richland Township, Rice County, Minnesota. PID#: 16.14.2.00.003. The property address is: 11301 230th St E, Kenyon, MN 55946. 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 Roger Kleese, on behalf of land owner John and Caroline Menk. The property is located in Section 14 of Richland Township.

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

CONDITIONS OF APPROVAL – Kleese (Menk)

1. The variance is to allow for a 22-ft by 28-ft home addition onto the existing home located 47-ft from the Road Right of Way of 230th St E., subject to compliance with all other Ordinance regulations.
2. A septic system compliance inspection must be submitted to Rice County Environmental Services prior May 1, 2023. If the septic system is not in compliance a compliant system shall be installed within one year of the variance approval date.
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, John Menk (JK), to come forward to add comments or answer questions regarding the request.

JM - *property owner* - I have nothing to add.

MS - Are you aware of the 5 conditions?

JM - 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 - It is not encroaching any closer to the road right-of-way (ROW). They are going to the side so it will be at the same distance as the original house. I don't see any issues. The County had no comments regarding the road.

JE - I agree. It is a very straight forward request with no additional encroachments. I will motion for approval.

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: No further comments from Staff.

Motion made, seconded, and approved unanimously.

2. **Variance/Carlson - Section 16, Wells Township**

Ron Dwyer, on behalf of landowner Suzanne Carlson, has applied for a 27-ft variance from the 75-ft Lake setback to allow for an expansion to an existing Accessory Dwelling Unit that is located 48-ft from Roberds Lake. The property is described as: Government Lot 2 in Section 16, Wells Township, Rice County, Minnesota. PID#: 10.16.1.25.001. The property address is: 4306 172nd St., Faribault, MN 55021. The property is Zoned GDS, General Development Shoreland.

Motion by Preston Bauer, seconded by Charlie Peters, to approve the Variance request with the following conditions and findings for Ron Dwyer, on behalf of landowner Suzanne Carlson. 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 – Dwyer (Carlson)

1. The variance is to allow for a second story addition, an attached garage addition and interior remodeling to an existing Accessory Dwelling Unit located 48-ft from Roberds Lake, 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 construction 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).

The BOA asked the applicant, Ron Dwyer (RD), to come forward to add comments or answer questions regarding the request.

RD - *Builder* - I am working with the Carlson family on this project. This cabin has been in their family a long time. My company originally built this cabin in 1948. The family has grown and has need for additional space when everybody gets together. We want to remodel the cabin so they can have a living space to use. The cabin is located on an isolated 53-acre parcel. It will only be used by the family and it is not going to be used as a regular house.

MS - You are aware of the 4 conditions?

RD - Yes I am.

PB - From the pictures, it looks like the addition is going to be setback 5-ft further than the existing structure?

RD - 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 - When we were initially discussing Accessory Dwelling Units (ADUS), we did not want to approve variances for them. I know this is existing, but that is a discussion we had when talking about adding it to the Zoning Ordinance..

PB - It is a 53-acre parcel and it is an existing structure that has been there for quite a while. It is going to be 5-ft further back than the existing structure. That is our job as the Board of Adjustment, to look at and discuss the gray areas. I don't see an issue with it. I think it fits well.

CP - I remember that discussion too. I took that conversation more towards variances for lot size. This is 53-acre which is a large lot. As long as they are aware of the conditions of an ADU - staying under the one ownership and not being subdivided off and sold as a different lot in the future. It is not encroaching any closer to the lake and looking at this lot, I have no issues with the variance.

PB - I will make a motion for approval with the 4 conditions.

CP - I will second that.

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

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

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

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

TM: It is a very large parcel. It is more than 50 times larger than what we would require for an ADU and it is an existing home and cabin already on the parcel. They are not creating an ADU, they are utilizing what is already there. Also, the remodel is not getting any closer to the lake.

Motion made, seconded, and approved unanimously.

3. Variance/Pietig - Section 21, Wells Township

Joel Pietig has applied for a 35-ft variance from the 120-ft Lake setback to allow for a new home to be located 85-ft from Roberds Lake. The property is described as: Lot 3, Block 2 of Winjum's West Shore Addition in Section 21, Wells Township, Rice County, Minnesota. PID#: 10.21.2.26.004. The property is Zoned GDS, General Development Shoreland.

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

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

CONDITIONS OF APPROVAL – Pietig

1. The variance is to allow for a home to be located 85-ft from Roberds Lake as shown on the submitted site plan, subject to compliance with all other Ordinance regulations.
2. Grading of soil between the proposed home and the shore impact zone (37.5-ft from the lake) is allowed but no grading in the shore impact zone is permitted.
3. Vegetation removal in the shore impact zone shall be limited to that required for a stairway system to access the lakeshore, with a maximum area of 10-ft in width for vegetation removal.
4. Other than the up to 10-ft wide path for lake access the shore impact zone (land within 37.5-ft of the lake) shall be maintained in a non-mowed natural vegetative buffer condition.
5. Variance shall be considered void if building permits are not obtained and construction commenced within one year of the variance approval.
6. Failure to comply with the terms of this variance 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, Joel Pietig (JP), to come forward to add comments or answer questions regarding the request.

JP - *via Zoom* - I think it is pretty simple.

MS - Are you aware of the 6 conditions?

JP - Yes I am.

CP - The shore impact zone (SIZ). It is important in this area and has been encroached on several times. Keep that in mind and watch the area.

JP - Yes, that is 37.5-ft and we do not plan on changing the elevation of that area. We like the flatness of the lot as it is.

PB - Before you do any excavating, contact ES Staff to come out first.

JP - Ok.

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 - Every lot along there has a variance for that setback because of the distance to the road behind them. I have no issues with it as long as they stay out of the SIZ. 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.

4. Variance/Nugent- Section 22, Forest Township

Ryan Nugent has applied for a 5-ft variance from the 14-ft peak height limit and a 528-sqft variance from the 1200-sqft building size limitation to allow for a 1728-sqft shed with a 19-ft peak height. The property is described as: Part of Government Lot 3 in Section 22, Forest Township, Rice County Minnesota. PID#s: 06.22.1.50.001 & part of 06.22.1.00.006. The property address is 3200 124th St W., Faribault, MN 55021. The property is Zoned RDS, Recreational Development Shoreland.

Motion by Charlie Peters, seconded by Preston Bauer, to approve the Variance request with the following conditions and findings for Ryan Nugent. 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 – Nugent

1. The variance is to allow for a 1728-sqft personal use storage building with a 19-ft. peak height, subject to compliance with all other Ordinance regulations.
2. Submitted plans shall be followed.
3. Application shall review wetland compliance with the Rice SWCD prior to any onsite construction.
4. This variance shall be void if a building permit for the proposed shed is not obtained within one year of the variance approval.
5. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

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

TM - It is a very heavily wooded area.

PB - With the proposed pending Planning Commission item to expand the lot size, it is currently at 2.5-acres correct?

TM - I believe that is the final proposed size after adding to the lot. The survey is in the packet.

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

RN - *owner* - I don't have much more to add. I just want to build a larger shed to store the stuff I have acquired.

MS - Are you aware of the 5 conditions?

RN - Yes.

CP - Soil & Water had a comment, just be aware of that wetland.

RN - Yep and Jarrett has already stopped out and looked at the site.

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 am aware of this site. It is back off the lake. You cannot see where he plans on putting the shed. There are a number of these requests around the lake. This is hidden from the lake. I will motion to approve this item.

PB - I concur and understand the need to expand space. 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 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.

5. Variance/Sorgatz - Section 13, Morristown Township

Kathy Taylor, on behalf of landowner David Sorgatz, 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 NW1/4 of the SW1/4 of Section 13, Morristown Township, Rice County, Minnesota. Part of PID#: 13.13.3.00.003. 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 Kathy Taylor, on behalf of landowner David Sorgatz. The property is located in Section 13 of Morristown Township.

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

CONDITIONS OF APPROVAL – Taylor (Sorgatz)

1. The variance is to allow for a 1728-sqft personal use storage building with a 19-ft. peak height, subject to compliance with all other Ordinance regulations.
2. Submitted plans shall be followed.
3. Application shall review wetland compliance with the Rice SWCD prior to any onsite construction.
4. This variance shall be void if a building permit for the proposed shed is not obtained within one year of the variance approval.
5. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA).
PB - You have been out to the site. Does that look like the most feasible location for a driveway based on the slope?

TM - It really depends on where you want the building site. For the proposed location, you pretty much need to do a driveway in this location. There are flatter areas on the property but most of those are cropland.

CP - Does he need a grade and fill?

TM - That would be a part of the house permit or permitting for the driveway if they choose to do that separately. This request is to allow them to apply for that.

PB - With conditions #2, does that mean construction of the driveway to include silt fencing and erosion management? Or will that be part of the building permit process?

TM - Yes, that is part of the building permit process or if they choose to do the driveway separately, it would be part of the grading permit. They did submit fairly detailed plans related to the grading details. It is a fairly wide grade but it looks like what is needed to flatten that slope out.

The BOA asked the applicant, Kathy Taylor (KT), to come forward to add comments or answer questions regarding the request.

KT - I think TM covered everything. The buyer is online if you have any questions for the buyer. His purchase is subject to the approval of this variance and the Waiver of Plat because he wants to build a house there.

MS - Are you aware of the 5 conditions?

KT - Yes, I am and so is the buyer.

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 - Our township has some roads that have more slope than this and if they don't do it right, they will have a tough time maintaining it. I trust in the County to make sure they do it right. Otherwise, they will be dealing with it for quite a while. If they do it right, I do not see any issues with it.

JE - I agree. When you look at the proposed future site's potential, they will need to be on the flatter portion of the lot. I will motion to approve this item.

CP - I agree. I like seeing the development right being moved here and off of decent agricultural land. 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: 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 7:05 pm. Motion carried 5-0.

Respectfully Submitted



Anna Aguilar
Administrative Coordinator

Board of Adjustment Chair



Michael Streiff