

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY BOARD OF ADJUSTMENT
Commissioner's Room / Government Services Building
Thursday, May 25, 2023 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 Julia Hogan at 6:30 p.m.

Members present were: Charlie Peters, Julia Hogan, Matt Purfeerst.

Members absent were: Michael Streiff, Garrett Johnson.

Staff present were: Zoning Administrator Trent McCorkell, Planner Jeremy Edwards, Clerk Laurie Johnson, Clerk Cassy Klumb.

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

B. Motion by Charlie Peters, seconded by Matt Purfeerst, Reading of the Notice

RESULT: Approved, AYES: Charlie Peters, Julia Hogan, Matt Purfeerst, NAYS: None

C. Motion by Matt Purfeerst, seconded by Charlie Peters, Approval of the Agenda

RESULT: Approved, AYES: None, NAYS: None

Item #1 Variance/Drager - Section 15, Forest Township tabled per applicant request for the June 29, 2023 meeting.

D. Motion by Charlie Peters, seconded by Matt Purfeerst, to approve the minutes of May 4, 2023.

RESULT: Approved, AYES: None, NAYS: None

II. Old Business

1. Variance/Zepeda - Section 17, Cannon City Township

Jesus Zepeda, has applied for a 14% variance from the 25% allowable lot impervious surface coverage, 10-ft variances from the 20-ft side and rear property line setbacks to allow for two storage sheds. Also, a 7-ft and 15-ft variance from the 20-ft side property line setbacks, a 14-ft variance from the 70-ft rear property line setback and an 80-ft variance from the 100-ft Road Right of Way is being requested to allow for additions to the existing home. The property is described as: Part of the SW1/4 of the NW1/4, Section 17, Cannon City Township, Rice County, Minnesota. The property address is: 17435 Faribault Blvd, Faribault, MN 55021. PID#: 11.17.2.50.003. The property is Zoned UR, Urban Reserve.

Motion by Charlie Peters, seconded by Matt Purfeerst, to approve as amended the Variance request with the following conditions and findings for Jesus Zepeda. The property is located in Section 17 of Cannon City Township.

RESULT: Approved, AYES: Charlie Peters, Julia Hogan, Matt Purfeerst, NAYS: None

CONDITIONS OF APPROVAL - Zepeda

1. The variance is to allow a 200-sqft shed in the rear corner of the property 10-ft from side and rear property lines and for home additions extending 10-ft closer to the SW side property line with other additions not encroaching more than the existing home, subject to compliance with all other Ordinance regulations. Garage addition is not allowed.
2. Site is allowed to have up to 39% lot impervious surface coverage.
3. Approved site and building plans shall be followed.
4. A Certificate of Survey verifying property lines and setbacks shall be submitted to Rice County Environmental Services prior to issuance of any building permits.
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).

MP - The garage is square with the front of the house?

CP - Are both the sheds in place or built?

TM - I believe the one you see is under construction and the other is being moved, you can see the one on the neighboring property.

CP - The side yard is that encroaching more than when they line up the garage.

TM - On that side, it would stay the same for that garage addition. Where it's getting closer is the rear property line. It is squaring up with the property line there.

JH - MnDOT didn't have any issues as long as it didn't impede the road right of way?

TM - That is correct, if it is not affecting the road of right of way there.

MP - They are just taking that back shed that's there currently off the property line now?

TM - One of the buildings is that one, the other was constructed onsite without a building permit.

The BOA asked the applicant, Jesus Zepeda (JZ), to come forward to add comments or answer questions regarding the request.

JS - Just asking for the permission to be granted to put my two storage sheds in the back and add the addition to the house, due to the house being an old property and is small. The other reason is for more storage and just being really small for me to accommodate everything I have going on.

CP - So there is a two-story section going on?

JZ - I would like to yes. Not going on currently, but that's what I'm asking for on the Variance.

MP - Have you had a discussion with your neighbor on the North side?

ZP - No, I will if it is approved. I would like to talk about covering an area with a tarp to keep debris and garbage off his area. If you look at the wooded area I wouldn't put anything on that side for debris unless needed.

CP - You're aware of the 5 conditions?

ZP - If approved or?

JH - Yes.

JZ - Yes, I'm aware.

CP - Is it a conforming septic then?

MP - He would need to get a building permit and go through that process.

JZ - Just a quick comment, is it ok if I use my own plans? I currently own my own LLC, nothing too big and I have 15 years of experience. I'm asking because getting a professional architect can take months due to the planning I want to do. I know what I'm doing and would build my own plan and provide that to Rice County.

JH - That will be a discussion you can have with Environmental Services staff in regards to the building permit.

JH - Any other questions for the applicant?

Vice Chair Hogan opened the public testimony portion of the item to the public and the following spoke: Sandy Komis - *See public comment #2.*

Sarah Rojas - We own the land that is closer to Faribault, the wooded area and the gravel pit. My concern with the proposed plan is that the previous owners' shed was on our land. This proposal shows that the sheds will be on our land again. This homeowner has never spoken to us about using our land, parking vehicles or using it for who knows what else. My husband has dumpsters that sit on our land with contact information and he has never contacted us to speak about it. I'm concerned about the amount of garbage in the woods, just to preserve the natural area. I'm concerned because I see the appearance of the current property and I don't think it will improve. That is another concern; people drive here and see this. It has looked like the pictures for quite awhile and I want to protect our land.

Lou Degen - I own 140 acres just south of this property, and I have another 20 to the east of it and two more farms across the street. I worked all my life to get that North end cleaned up, it was a mess. My objection is that if he wants to do one project but not five. Do one and inspect it to see how it turns out. You can then move forward, but to put in four or five projects at once I'm totally against that. I have

owned land now for 66 or 67 years, lived on the property to the South but I've seen the North end all my life and how rough it looked. I hope we can do something and make decisions to make that look better. We have three properties in that area, I'm a farmer, I have been in the gravel business. I hope you can get to a decision, do one project and then inspect it.

Timothy Knutson - I live right across the street and my biggest concern is the disrespect from people on this property and that are working on this property. You see the trash and the cars, they are parking in the roadway overnight with trucks and campers which causes a danger to me when turning into my driveway. As Rojas said, this Southern area has all kinds of cars parked there. They have never asked. I just built my house two years ago, I had to get permission before I started construction. The house and shed is already started, there is trash everywhere. They were having huge fires in the front of the yard, burning construction material. My biggest issue is the lack of respect for the neighborhood and the people around it, because it is not there.

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

Discussion:

CP - I tend to agree with that. There seems to be a lot of after the fact with all these projects started, two sheds and the home additions. I would like to see a survey done because, according to the Variance setback, where is that property line to the Northeast? It's going to be on the property line.

JH - It sounds like there was a survey done, so that documentation has to be somewhere. I have an issue potentially with the addition to the garage with it being closer to Highway 3 because it doesn't give much space for cars to be parked without impeding the right of way of the state highway. That is a pretty busy road. I know it is heavily traveled.

MP - I have been on that road when they were parked on the road.

JH - I do understand that this property is smaller and has limitations with impervious surface issues as it was already over. I get why the ask is there to allow for an increase in impervious surface.

CP - I would tend to agree with both of you on the garage addition. They would be parked in the road right of way

JH - It's not like they are getting closer to the property line. It's the fact they are getting closer to Highway 3 which can cause issues with parking.

MP - I have a little trouble with two storage sheds on both sides of the property line. I would agree with one bigger shed, but two right on the property line struggle with.

JH - I get one within the actual property boundary.

CP - So I think we all kind of agree. Maybe the garage addition shouldn't be done, and maybe one storage shed for the time being.

MP - If there is a discrepancy on the north side and they are already close to the north side. Maybe it makes sense to move to the south side of the property with the shed. I don't know how constricted we can be.

CP - Just so it's on the property and not the neighbor's property?

MP - He needs to be on his property.

CP - Question to staff.

TM - We would modify the conditions with an approval motion, stating the reasons for the parts you approved and not approve. I did have some written down, so if you do decide to move forward I can restate those.

CP - Motion to no garage addition on the northwest, addition to the back of the property.

JH - So are we ok with the addition on the back of the property?

MP - Or the two-story addition? He mentioned a two-story. I'm in favor of adding it on to the back if he wants to add on the back. I do understand the property is small if he wants to extend back and not towards Highway 3.

JH - My main issue is not getting closer to Highway 3. I understand the want to increase the garage space, but the lot itself does limit that with the highway. I would be ok with the back addition.

CP - Two stories or not?

JH - Then they can have the storage shed on their property and not the neighbors.

MP - I would be in favor of just one storage shed.

JH - They want the 2 sheds, but we don't want to increase the impervious too much. We do want to try and make this work.

TM - Based on the discussion, condition #1 would be Amended to say: *The variance is to allow a 200-sqft shed in the rear corner of the property 10-ft from side and rear property lines and for home*

additions extending 10-ft closer to the SW side property line with other additions not encroaching more than the existing home, subject to compliance with all other Ordinance regulations. Garage addition is not allowed. Then there would be an additional condition: A Certificate of Survey verifying property lines and setbacks shall be submitted to Rice County Environmental Services prior to issuance of any building permits. Does that reflect the changes?

JH - Yes. Would condition #2 need to be revised then as well, with the total percentage.

TM - It would bring it down, but I would leave that as up to.

JH - Any more discussion?

CP - With the revised conditions, I would approve the new revisions and the 6 new conditions.

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: Adding reasons for non-approval would include parking concerns and encroaching on the road right of way, it is a small property already. Also note that a lot of projects seem to be started without the proper building permits.

Motion made, seconded, and approved unanimously.

III.

New Business

2. Variance/Whipple - Section 15, Wells Township

Bonnie Whipple has requested a 5% impervious lot surface variance from the 25% lot impervious surface limitation to allow for a lot with a proposed 30% lot impervious surface coverage. The property is described as: Part of the SW1/4 of the SE1/4, Section 15, Wells Township, Rice County, Minnesota. PID#: 10.15.4.50.003. The property address is: 17995 Roberds Lake Blvd, Faribault, MN 55021. The property is Zoned GDS, General Development Shoreland.

Motion by Matt Purfeerst, seconded by Charlie Peters, to approve the Variance request with the following conditions and findings for Bonnie Whipple. The property is located in Section 15 of Wells Township.

RESULT: Approved, AYES: Charlie Peters, Julia Hogan, Matt Purfeerst, NAYS: None

CONDITIONS OF APPROVAL - Whipple

1. The variance is to allow for a 10-ft by 20-ft shed to be added to the property resulting in a 30% lot impervious surface coverage, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed, except that the rear property line setback be increase to 20-ft.
3. A 200-sqft raingarden or other short term stormwater retention feature shall be installed and maintained on the parcel. The feature shall be established by not later than August 1, 2023 and

- shall be maintained after that time.
4. Variance shall be considered void if permits are not obtained for the shed 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, Bonnie Whipple (BW), to come forward to add comments or answer questions regarding the request.

BW - I have a two-tiered yard, and I want to put my lawn mower up there, so I want a shed. We did have a carport that we tucked everything under. I sold that last year when I sold my fishing boat so we need an area to put stuff.

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

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

Discussion:

CP - There was just the comment from Soil and Water Conservation District I believe on erosion control.

JH - It looks like there was a condition in regards to water raingarden.

CP - Are you aware of the 5 conditions?

BW - Yes.

MP - No issues with it makes sense as she had a shed or carport there before.

JH - I mean it is not encroaching into the lake by any means.

MP - It doesn't seem to have an effect on neighbors.

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

TM: I want to point out the elevation of the property and the existing small lot which minimizes options.

Motion made, seconded, and approved unanimously.

3. **Variance/Grossman - Section 31, Forest Township**

Tony and Jackie Grossman, on behalf of landowner Lake Mazaska North Shore Cooperative, have

requested a 61-ft variance from the 100-ft Lake setback to allow for a home/cabin to be located 39-ft from Lake Mazaska. The property is described as: Part of the N1/2 of Section 31, Forest Township, Rice County, Minnesota. PID#s: 06.31.2.25.001 & 06.31.2.25.931. The property is Zoned RDS, Recreational Development Shoreland.

Motion by Charlie Peters, seconded by Matt Purfeerst, to table the Variance request until the June 29, 2023 Board of Adjustment for Tony and Jackie Grossman. The property is located in Section 31 of Forest Township.

RESULT: Approved, AYES: Charlie Peters, Julia Hogan, Matt Purfeerst, NAYS: None

CONDITIONS OF APPROVAL - Grossman

1. The variance is to allow for a house/cabin with attached garage, total size being 30-ft by 68-ft, to be located 39-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 25-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 building 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, Tony Grossman (TG) and Jackie Grossman, to come forward to add comments or answer questions regarding the request.

TG - We own this existing cabin and the one right of that. What we want to do is tear this cabin down and build a cabin that 34 x 68 feet. Which will be half cabin half garage, so we have a place to store boats, vehicles, and toys. In order to do that we have to have the 20 foot setback that goes across the driveway. We have to go closer to the lake. Depending on where you have to measure from the lake, when we originally measured, it is was 126 feet deep and the water level right now is approximately 121 feet. We were asking for a 33 foot variance and that depends on where the actual measurement is. We needed to stick a 68 foot long structure house garage on that lot so that why we are asking for the variance to build closer to the lake. I have spoken with my neighbors on the left side and across the street from us and they have no issues.

JG - We own the cabin next to this cabin, so we have also talked to the neighbors on the other side and those neighbors with the cabin you see in the pictures and along the shoreline.

MP - I see the height of the new cabin is not listed currently. How tall are you expecting?

TG - Single story, from the apron to peak it would be 21 feet 6 inches.

MP - It is hard to tell from photos. Is there a cabin behind you that would be restricted from the lake view?

TG - No.

CP - So with the two lots you own the one main cabin would stay? I see there was an association letter with no issues.

JH - Have you seen the 6 conditions? If you could make sure you have seen them and are aware of them.

TG - My only question is that it says I can be located 39 feet from the lake. I guess I'm not sure how you measure that. Is it from the current shore line or?

TM - It is measured by the ordinary highwater mark. It is a defined elevation that it is measured back from. The question of exactly where that sits would require a survey to identify.

JG - We do have a survey scheduled.

TG - Is 39 feet in stone or is that a variable?

MP - It should be set in stone off the survey? Is this correct TM?

TM - Yes, if the variance is approved at 39ft, that's what it would need to be.

JH - Otherwise, you would need to apply for another variance.

TG - Ok, I guess when we filled out the variance we were requesting a 33 foot variance from the lake,

and for some reason it reflects 39 feet? Make sure that it is noted.

JH - I'm guessing from what staff had identified. From what you were requesting from the ordinary highwater line to what your structure would be, they came up with that number. When applicants come forward with requesting variance feet it is not always accurate, planning staff can identify that with their reports and research.

TG - We were not sure on that so we wanted to verify.

TM - The request states 39 feet from the lake in the application. One other thing I did run across was when they applied they listed the wrong parcel number. Not an issue for this but that is why I was off on the address.

TG - We just want to make sure we are talking about the same thing.

JH - That is where the staff got the 39 feet.

MP - You guys ok with that? Either you can have us vote on this now or you can wait until after the survey is complete.

JH - We could table this item until the June 29 Board of Adjustment meeting if you want to be more accurate of the feet you are asking for.

TG - I think we should. I don't want to go through this again. I want to be sure we can put that structure on there and we are not too close to the lake and cause a problem.

JH - Ok, so If we table this it will go to the June 29, 2023 Board of Adjustment meeting.

MP - Then you can get the survey and be sure of where you want to be at.

TG - Ok, we are good with that.

TM - With it being on the Agenda you do want to take any public comments now before you take action.

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

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

Motion made, seconded, and tabled unanimously.

4. **Variance/Lindenfelser - Section 34, T112N, R19W, Northfield Township**

Nick Lindenfelser, on behalf of landowner Paul and M Lindenfelser Trust, has requested a 20-ft variance from the 100-ft Road Right of Way setback to allow for a 100-ft by 60-ft Agricultural business structure to be located 80-ft from the Road Right of Way of State Highway 19. The property is described as: Part of the NW1/4 of the NW1/4, Section 34, Northfield Township, Rice County, Minnesota. PID#: 04.34.2.25.001. The property address is: 10075 Stanton Blvd, Northfield, MN 55057. The property is Zoned A, Agricultural.

CONDITIONS OF APPROVAL - Lindenfelser

1. The applicant is to follow all Federal, State, County and Local rules and regulations.
2. The variance is to allow for a 100-ft by 60-ft storage building for the onsite business to be located 80-ft from the Road Right of Way of State Highway 19, subject to compliance with all other Ordinance regulations.
3. A septic system compliance inspection shall be completed prior to issuance of a building permit for the proposed shed. If the system is found to be non-compliant a compliant system must be installed by not later than May 1, 2024.
4. Approved site plan to be followed
5. Variance shall be void is a building permit for the proposed shed is not obtained within one year of the variance approval.
6. Failure to comply with conditions may result in revocation of the variance.

Hearing Minutes:

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

CP - Will the windbreak be affected by the new building?

TM - That would be a good question for the applicant. I believe much of it was staying to make everything fit there.

The BOA asked the applicant, Nick Lindenfelser (NL), to come forward to add comments or answer

questions regarding the request.

NL - Trying to get a variance to build a cold storage building for our existing business. We are running out of space, so we are trying to free up room and add space. Being this is closer to the road and closer to our existing building for when remove iron in and out, so we are not travelling through the yard. So keeping it close but also add as much space as we can.

CP - Does it go into the wind break?

NL - There are four rows of trees there. The building would be in the middle of the first row. There will be 5 trees that will need to be taken out.

CP - You're aware of the 6 conditions?

NL - Yes.

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

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

Discussion:

CP - Pretty straightforward.

JH - There will still be Highway 19.

MP - It is not affecting any other properties.

JH - I get why they would want it in that location.

MP - Makes sense.

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*

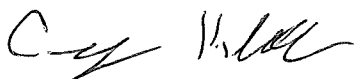
The findings were read by Purfeerst with the conditions as stated above and with the following additions by staff:

Motion made, seconded, and approved unanimously.

IV. Adjournment

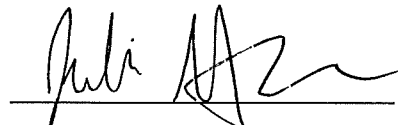
Hearing no other items before the BOA, a motion was made by Peters, second by Purfeerst, to adjourn the meeting at 7:24 pm. Motion carried 3-0.

Respectfully Submitted



**Cassy Klumb
Office Support Specialist**

Board of Adjustment Vice Chair



Julia Hogan