

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY BOARD OF ADJUSTMENT
Commissioner's Room / Government Services Building
Thursday, June 29, 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, Garrett Johnson, Matt Purfeerst.
Members absent were: Michael Streiff

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

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

B. Motion by Matt Purfeerst, seconded by Garrett Johnson, Reading of the Notice

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

C. Motion by Charlie Peters, seconded by Garrett Johnson, Approval of the Agenda

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

D. Motion by Garrett Johnson, seconded by Matt Purfeerst, to approve the minutes of May 25, 2023.

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

II. Old Business

1. Variance/Drager – Section 15, Forest Township

Kristopher Drager has requested a 12-ft variance from the 16-ft peak height limit and a 312-sqft variance from the 1200-sqft size limitation to allow for a 1512-sqft detached shed with a 28-ft peak height. The property is described as: Lot 2, Block 3, Circle Lake Estates, Section 15, Forest Township, Rice County, Minnesota. PID#: 06.15.4.76.019. The property address is: 11435 Circle Ridge Ct, Faribault, MN 55021. The property is Zoned RDS, Recreational Development Shoreland.

Motion by Matt Purfeerst, seconded by Garrett Johnson, to approve the Variance request with the following conditions and findings for Kristopher Drager. The property is located in Section 15 of Forest Township.

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

CONDITIONS OF APPROVAL - Drager

1. The variance is to allow for a 1512-sqft personal use storage building with a 28-ft. peak height, subject to compliance with all other Ordinance regulations.
2. Submitted plans shall be followed.
3. This variance shall be void if a building permit for the proposed shed is not obtained within one year of the variance approval.
4. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

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

The BOA asked the applicant, Kristopher Drager (KD), to come forward to add comments or answer questions regarding the request.

KD - Looking to build a shop for more storage. I live in an HOA. We have requirements for parking outside. We are looking to buy a camper. That's why we are asking for the ceiling height so we can get the camper in there. We use the water quite a bit, so we are looking for storage for a boat. I do have a Classic truck that I have to pay for storage in the winter time because I don't have the current storage.

We are just looking at more storage and a bigger shop.

JH - Did you have any concerns from the HOA regarding this request?

KD - They are still reviewing it. My neighbor to the South of me has an approved shop, and two neighbors down from them already have an approved shop.

MP - This is just for storage purposes?

KD - Yes, we have rules in the HOA and we cannot run a business out of there. It would just be recreational.

JH - You're aware of the 4 conditions?

KD - 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 - I know we approved the neighbor to the North. If the HOA did have concerns, the County couldn't do anything with the HOA and we have allowed two there now and they haven't changed any of the rules. The lot is big enough, it's not towards the lake and not blocking anyone's view.

MP - I would agree. Pretty straight forward. I motion to approve.

GJ – second.

MP read the findings of fact.

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: Yes, adding that there have been several size and height variances nearby approved. Probably 6 or 7 in that area in the last two years. Also pointing out this property is not on the lake, it is actually quite a long distance to the lake and does not affect the view.

Motion made, seconded, and approved unanimously.

2. **Variance/Grossman – Section 31, Forest Township**

Tony and Jackie Grossman, on behalf of landowner Lake Mazaska North Shore Cooperative, have requested a 65-ft variance from the 100-ft lake setback to allow for a home/cabin to be located 35-ft from Lake Mazaska. The property is described as: Part of the N1/2, Section 31, Forest Township, Rice County, Minnesota. PID#s: 06.31.2.25.001 & 06.31.2.25.931. The property address is 6551 143rd St W 32, Lonsdale, MN 55046. The property is Zoned RDS, Recreational Development Shoreland.

Motion by Charlie Peters, seconded by Matt Purfeerst, to approve the Variance request with the following conditions and findings for Tony and Jackie Grossman. The property is located in Section 31 of Forest Township.

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

CONDITIONS OF APPROVAL – Grossman

1. The variance is to allow for a house/cabin with attached garage, total size being 34-ft by 68-ft, to be located 35-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).
CP - Can you go back to the aerial photo?

The BOA asked the applicants, Tony and Jackie Grossman (TG & JG), to come forward to add comments or answer questions regarding the request.

TG & JG - I want to thank the Board for tabling the last time. We got a survey completed so we know exactly what the distance is. What we are asking for is to tear down the existing cabin and build a new cabin, adding a garage to the back of it. To meet the distance requirement from the road, it moves us a little closer to the lake.

JH - You're aware of the 6 conditions?

TG - Yes.

MP - Do you own both cabins on both sides?

JG - We own cabin #32, which will be torn down, and #33.

MP - Any concerns from the neighbor?

JG - No, we spoke with them and no one had any concerns.

Vice Chair Hogan opened the public testimony portion of the item to the public and the following spoke:
James Fisher (JF) - I learned how to swim in Lake Mazaska. The lake has changed in considerable ways over the years. I remember from a 1999 meeting where a cat machine ended up in the lake trying to build a home. I thought the decision was to try and work within the zoning regulations we have. I understand and respect the right to apply for a Variance, but it should be a Variance. I like how the North Shore has maintained what is there. My house was built prior to the current standards in 72' or 73', and I understand if I take it down, I will have to meet the current standards. This footprint seems larger than necessary and the effect on the neighbors. I think we should have to look forward and start working with the rules & regulations we have to see if they are the right direction and if they work.

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

Discussion:

CP - It looks like the cabins on both sides are already closer to the lake shore. I know that the holding tanks are right on the edge of the road and that's why they can't go back any further. I also agree with JF that the Co-op could put up a storage area behind, like a community shed. I see the point that they do want to update.

JH - I do get the concern, the newer home would be 13ft closer to the lake than the current cabin is.

GJ - I was absent from the last meeting. Did you guys discuss the new cabin details? Is the proposed larger?

JH - It is over 1,000sqft larger. They are increasing the size of it quite a bit.

GJ - My thought was if they didn't change too much. This is a group of cabins and it sounds like they are trying to replace it with something that doesn't fit in.

CP - I see what you are saying. MP you were getting at they have two cabins?

MP - Yea, I think they said they own one on one side and the other side had no concerns. They are pretty restricted with the holding tanks and being limited to storage area. It's not like they have a big lot and they are just trying to get closer to the lake.

CP - It is a minimal maintenance road. It does not get plowed all winter. I don't see it becoming an all year round house.

JH - They are encroaching closer to the lake, more than they were previously. That is something to consider.

CP - See it on the overhead screens, they have to move forward because of the holding tanks, and the way they put the septic in. I wish they could do something with the other cabin they own and maybe turn it sideways. You could take two cabins and put in one large one. I know you lose a cabin in the Co-op.

JH - It potentially meets code regulations better that way.

CP - I agree with you there, they are not encroaching on the lake as much that way. The original cabin was further back.

GJ - Could we ask the applicant some additional questions?

JH asked the applicant to come forward.

GJ - Other than the garage addition in the back, I'm wondering why there is such a big expansion on the new cabin.

JG - The present cabin is 24' x 48'. The cabin itself will be 34' x 38'.

TG - The addition is basically the garage.

JG - That road is plowed all year. We do have other cabin owners that live there all year around. There are 3 or 4 cabins the same size, one just added a full garage to his cabin. Back in 2011, on September 18, 2011 our zoning changed from shoreland to residential.

JH - It is still currently zoned to my knowledge as shoreland.

JG - But it is residential according to our paperwork.

TM - I think there is some confusion with tax classification and zoning. The zoning is Recreational Development Shoreland but the tax classification is residential.

JG - Thank you TM.

TG - There presently are cabins along there that are considerably closer than what we are asking.

CP - There are, I have been down there several times.

JH - Those were probably put in prior to updating the ordinance regulations.

JG - There have been a few put in since.

CP - Old cabins are closer, but we have had several Variances to approve them.

MP - Would there be any plan to move this back 5 to 10 feet at all?

JG - Then we would need a Variance from the road.

TM - It would lessen the Variance to the lake but create a Variance needed for the road setback, but is an option.

TG - The 20ft there would be just enough room for a vehicle to pull off the road and be between the structure and the road.

JH - Any other questions?

CP - I understand the concerns but there really isn't much room there.

MP - I agree 20ft is barely enough room for a car especially with plowing in the winter. I am in favor.

CP - I'll motion to approve. MP 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: There are several cabins nearby that are closer to the water, and many of them have had variances in the past. The location is limited by the road and septic. They are replacing an existing cabin and a buffer is required as a condition to help offset views from the lake.

Motion made, seconded, and approved unanimously.

III. New Business

1. Variance/Cihak – Section 10, Erin Township

James and Connie Cihak have requested a 150-ft variance from the 200-ft minimum lot width to create a 3.46-acre parcel with a 50-ft min lot width. The property is described as: Part of the SW1/4 of the NW1/4, Section 10, Erin Township, Rice County, Minnesota. PID#: 05.10.2.50.001. The property address is: 10004 103rd St W, Montgomery, MN 56069. The property is Zoned NES, Natural Environment Shoreland.

Motion by Matt Purfeerst, seconded by Charlie Peters, to approve the Variance request with the following conditions and findings for James and Connie Cihak. The property is located in Section 10 of Erin Township.

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

CONDITIONS OF APPROVAL – Cihak

1. The Variance is to allow for a 3 -acre parcel, containing the existing onsite home, to be separated with a 50-ft min lot width from the current property, subject to compliance with all other Ordinance regulations.
2. The parcel of land remaining, east of the proposed house parcel, shall be combined with the applicant's land north of the subject site or documentation will need to be submitted showing the public roadway extends into the eastern area. Combination shall be completed by recording the pieces onto a single deed.
3. The onsite septic system shall be shown to be in compliance with County/State standards by the earlier of a new deed being recorded for the lot split or before June 1, 2023. If the onsite system is found to not be in compliance a compliant system shall be installed by not later than October 1, 2024.
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 applicants, James and Connie Cihak (JC & CC), to come forward to add comments or answer questions regarding the request.

JC & CC - We are here to request a Variance as TM stated, allowing part of this lot to be 50ft wide instead of 200ft. The classification on this property changed, possibly 3 years ago now, from Ag to NES. If you could please bring up the map? The DNR says it's open water but most is cattails and not open water. If the classification had not changed, we would not be here. We bought this property in 2012. At that time we told the man that he could stay there, but he has now passed away and my son would like to build there. The 50ft is for the driveway.

JH - Are you aware of the 4 conditions?

JC - 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 - It makes sense, he is not cutting into the field. There is no setbacks for driveways on the property line.

MP - Yes, and there is an existing road there, you don't want to be land locked. I motion to approve.

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

TM: Pointing out the property borders Ag which has the 50ft minimum. If this parcel had been separated previously, it would probably be zoned Ag due to its long distance from the lake.

Motion made, seconded, and approved unanimously.

2. **Variance/DeMann – Section 9, Forest Township**

Jacob DeMann has requested a 55-ft variance from the 100-ft Road Right of Way setback to allow for a 48-ft by 40-ft accessory building to be located 45-ft from the Road Right of Way of CSAH 1. The property is described as: Part of the W1/2 of the SE1/4, Section 9, Forest Township, Rice County, Minnesota. PID#: 06.09.4.50.001. The property address is: 4365 Millersburg Blvd W, Lonsdale, MN 55046. The property is Zoned A, Agricultural.

Motion by Charlie Peters, seconded by Garrett Johnson, to approve the Variance request with the following conditions and findings for Jacob DeMann. The property is located in Section 9 of Forest Township.

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

CONDITIONS OF APPROVAL – DeMann

1. The variance is to allow for a 48-ft by 40-ft shed to be located 45-ft from the Road Right of Way (ROW) of County Road 1, 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, Jacob DeMann (JD), to come forward to add comments or answer questions regarding the request.

JD - Looking at a bigger building to put some of my stuff in. The property isn't deep enough, so to put the building back any further I would have to get a variance on the North side.

JH - What about the topography on the West side of your lot?

JD - It is hilly, there is a big grade change on the West side of the property.

GJ - Do you plan on accessing the existing driveway and turning towards the proposed shed?

JD - I'm not sure, I don't know that I will put an actual driveway to it because it is on top of the hill. The little shed will probably get removed.

JH - Any other questions for the applicant?

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

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

Discussion:

CP - I'm really familiar with the property, I drive by it a couple of times a day. To the West, they have an old chicken coop down there with a lot of water runoff in that area, and part of the property does slope. The County has no issue with the right of way. We did a Variance for someone down the road to the West.

JH - The depth of the lot really hinders the location of a larger shed.

CP – I motion to approve.

GJ – 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: Repeating that this has a very wide shallow parcel shape. The topography limits location options and the proposed shed is of similar size to many in the area.

Motion made, seconded, and approved unanimously.

3. Variance/Piper – Section 31, Forest Township

Dennis Piper, on behalf of landowner Dennis D. and Kathryn M. Piper Trust, has requested a 14-ft variance from the 20-ft rear yard setback to allow for a detached garage to be located 6-ft from the rear property line. The property is described as: Lot 5, Block 3, Jen-Wayne Dells First Addition, Section 31, Forest Township, Rice County, Minnesota. PID#: 06.31.4.26.054. The property address is: 6605 Fairfax Way, Faribault, MN 55021. The property is Zoned RDS, Recreational Development Shoreland.

Motion by Charlie Peters, seconded by Matt Purfeerst, to approve the Variance request with the following conditions and findings for Dennis Piper, on behalf of landowner Dennis D. and Kathryn M. Piper. The property is located in Section 31 of Forest Township.

CONDITIONS OF APPROVAL – Piper

1. The variance is to allow for a 46-ft by 26-ft detached garage to be located 6-ft from a rear property line, subject to compliance with all other Ordinance regulations.
2. Approved site plan will be followed except that the applicant will try to reduce the variance setback as much as possible.
3. Proper permits shall be obtained prior to any onsite construction.
4. Variance shall be void if a building permit for the proposed patio 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).
CP - Is the rear property a farm field?

TM - It is a fairly large parcel, some of it is wooded between the field and this site. I believe that was a previous tree farm.

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

DP - When I bought the property there was a tuck under garage and that had to go. Because they put the house on the back lot, it minimizes what I can do. If I use the 20ft setback on the property backline, it would be almost up to the house. I'm trying to put a useable garage for storage and vehicles. We just upgraded the septic in the front yard, so the only place I can put it is in the back.

MP - In that area that we are viewing now, is that where the new septic is?

DP - Correct.

JH - You haven't had any concerns from the neighboring property to the South?

DP - I have not.

JH - Are you aware of the 5 conditions?

DP - Yes.

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

1. Rebecca Carson (RK) - We own the property to the southwest and the Wolfe's own the property that is the farm with the tree buffer there. So I am concerned about the runoff from about 22 acres around. This would add to it. The fact that there is space on the side of the house, I believe this is a lack of imagination and they have room on the side. It is a permanent encroachment, the way the property lines run and distances. I believe overhangs don't count. The overhang could make that distance 4 feet. We don't like it and I believe there is enough space on the side. There is no statement on how high this building is going to be. There is plenty of space on the side of the property to put a building without encroaching on the neighbor's property.
2. James Fisher (JF) - Really quickly I have to say it is much easier on this side of things. The property and request is really close to the Wolfe's property on the South. I have had coffee with the Wolfe's and I can't speak for them, but I know what they want and they planted a tree area because Mr. Wolfe really wants to farm. Those of us who have gone through these meetings over the years know that that's been an issue that comes up and I have to respect the Wolfe's intent for putting that acreage of woods there. It is because they wanted to keep a buffer between those of us that live on the lake and their farming operation. I really have to commend them for that and I ask the Board to keep that in consideration. Advice the County can give, we shouldn't fall in love with our first idea and I think there are creative ways to get DP what he wants and respect the neighbors. A Variance of a percentage maybe, but this is a considerable amount. We don't know the Wolfe's plan for the future and we don't want to tie their children to something now. I think we need to give the zoning consideration too.

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

Discussion:

MP - Initially I was thinking a good place would be right off the driveway. I would like to know more. Are there going to be overhangs on the structure?

JH - I think the location of the house is a hardship and where you can put a garage. It is setback so far so it is a hardship with the location.

CP - Looking at the drawn map, it looks like it could come forward more into the property. I don't know the topography next to the house on that side.

GJ - You could leave it the long way, but you could bring it forward 5-6ft. It is a tight space if you ever have to do service or maintenance to that garage.

JH - They wouldn't be able to move it more east and be in the 10ft setback.

CP - The height is 16ft correct? I would consider it if they could move it at least 5 feet.

JH asked the applicant to step forward.

CP - Is there any consideration to move the garage forward?

DP - I wanted to keep the distance in between the house and garage for safety reasons. I could build it at an angle, but wanted to keep some distance between the house and the garage. The other locations end up in the hill.

CP - I agree, I know the lot and the way you have it positioned. It is a second tier home and it does not impede anyone's view.

MP - I know overhangs were mentioned. Are you planning a big overhang?

DP - No. I just want the distance between the garage and the corner of the house. I could possibly angle it, that might give a little more distance and we can still maintain the distance for maintenance.

MP - You would be Ok with angling it?

DP - As long as I can maintain the side yard setback.

CP - It's hard to write a condition without knowing for sure.

JH - What we approve tonight has to be followed.

DP - I will do my best to angle it as much as I can.

TM - It still sounds like the variance would be the same with the 6ft at the closest point.

CP - I motion to approve with the statement that it should be angled as much as possible with only the corner being at 6ft.

TM - You could amend condition #2 that the approved site plan must be followed with an added sentence saying the applicant will try to meet setbacks as much as possible.

CP - With the corner being at 6ft?

TM - Something showing that intent.

MP - 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: Amended condition #2 - *Approved site plan will be followed except that the applicant will try to*

reduce the variance setback as much as possible. The garage is being proposed to meet all other size requirements. There is no other indoor storage on the property.

Motion made, seconded, and approved unanimously.

4. **Variance/Kes – Section 31, Webster Township**

Timothy and Kimberly Kes have requested a 1-acre variance from the 35-acre minimum lot area to allow for a home to be located on a 34-acre lot. The property is described as: Part of the NE1/4 of the NW1/4, Section 31, Webster Township, Rice County, Minnesota. PID#: 02.31.2.00.002. The property is Zoned UR, Urban Reserve.

Motion by Charlie Peters, seconded by Garrett Johnson, to deny the Variance request with the following findings for Timothy and Kimberly Kes. The property is located in Section 31 of Webster Township.

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

DENIAL FINDINGS OF FACT - Kes

- Due to the size of the lot being 34-acres, this request is not an allowed use in the Urban Reserve district.
- Being that the property is zoned Urban Reserve and has a 35-acre limitation, this request is not in harmony with the general purpose and intent of the Zoning Ordinance and is inconsistent with the Comprehensive Plan.
- If granted, this variance would have changed the value of the property and have a significant impact on the surrounding properties.
- This is not the minimum variance necessary to afford relief.
- Since we have never approved a variance for lot size in the Urban Reserve district, that would confer special privileges to the applicant that are denied to owners of other lands, structures, or buildings in the same district.
- The parcel is fairly close to the City of Lonsdale and Lonsdale is an actively growing city.
- The City of Lonsdale identified this area as needed Urban Reserve area.
- It was unbuildable and zoned as Urban Reserve at the time of purchase.
- The Urban Reserve district is meant to keep large parcels open to allow for city growth.

Hearing Minutes:

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

JH - This type of variance has never been approved before?

TM - I'm not aware of any other similar requests in the UR.

CP - There are no TDR transfers, right? They have no other option to cut out a buildable lot?

TM - Not in the UR. The applicant has tried rezoning but that did not get approved.

The BOA asked the applicants, Timothy and Kimberly Kes (TK & KK), to come forward to add comments or answer questions regarding the request.

KK & TK - What we are trying to accomplish here, and have been for the last 2 years, is we have a handicapped daughter and we are trying to build a handicapped-accessible home for her. The County advised us that we were able to request a variance. We are not trying to do a large development, just a single home.

MP - How long have you owned the property?

TK - Since 2016 I think it was.

JH - Were you aware of those limitations with the purchase of the property?

TK - No, and we are open to any stipulation or conditions you want to put on it.

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 - I have a question for staff? If granted, would it have the same rules as a 35-acre lot as far as building rights and setbacks?

TM - Yes, the setbacks would apply unless they applied for additional variances and it would be a single home site. That would be something that would need to be addressed if approved.

CP - Being they bought it after the fact, it is only 1-acre, but we are opening the door for other UR requests. If we approve, it needs to be a single homestead.

MP - I agree with that, it would need to be a condition that it is only a single family home.

JH - Like you said though, if we start approving this, we could potentially get other requests in the UR. So at what point do we draw the line.

CP - I agree, what is our minimum acreage going to be?

MP - Have you tried to purchase an acre from the neighboring 6-acre lot?

JH - I believe I read they did in the packet and it was unsuccessful.

MP - I think it's 1-acre. It is a distance from the City and it is not ideal farm land.

JH - The property was identified as UR for a reason. I know it's 1-acre but that sets a precedent.

CP - Right, where do we draw the line.

GJ - I can understand the reasoning as to why and I know it's only 1-acre but I agree with JH. We have a lot of variances where "one was granted down the road".

JH - You are changing the property value tremendously by making it a buildable site when it was purchased with the understanding that it was not buildable.

CP - I will motion to deny.

GJ – second.

TM: The parcel is fairly close to the City of Lonsdale and Lonsdale is an actively growing city. The City identified this area as needed UR. The property can still be farmed. It was purchased as unbuildable and as UR and has not been changed. The UR district is meant to keep large parcels open to allow for city growth.

Motion made to deny, seconded, and approved unanimously.

5. **Variance/Bauer – Section 8, Warsaw Township**

Josh Bauer has requested a 3-ft variance from the 16-ft accessory structure height limit and a 420-sqft variance from the 1200-sqft size limit to allow for a 30-ft by 54-ft detached shed with a 19-ft peak height. The property is described as: Part of Government Lot 1, Section 8, Warsaw Township, Rice County, Minnesota. PID#: 14.08.3.25.003. The property address is: 5945 Cannon Lake Trail, 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 Josh Bauer. The property is located in Section 8 of Warsaw Township.

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

CONDITIONS OF APPROVAL – Bauer

1. The variance is to allow for a 1620-sqft personal use storage building with a 19-ft. peak height, subject to compliance with all other Ordinance regulations.
2. The land combination shall be completed prior to issuance of a building permit by recording a new deed containing the full parcel.
3. Prior to issuance of a building permit the onsite septic system shall be shown to be in compliance with applicable regulations.
4. Submitted plans shall be followed.
5. This variance shall be void if a building permit for the proposed shed is not obtained within one year of the variance approval.
6. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

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

The BOA asked the applicant, Josh Bauer (JB), to come forward to add comments or answer questions regarding the request.

JB - Just looking to build a storage shed. I have a growing family with 3 kids under 5. We have started accumulating outdoor toys and stuff. I like to keep a clean and organized yard, so I am just looking for a storage shed to put everything away.

JH - You're aware of the 6 conditions associated with the variance?

JB - 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:

MP - As far as the height, he is surrounded by hills and trees. I'm not too worried about the height. There is no one behind him to block the lake view.

JH - The size of the lots do hinder location as well. Since the depth is pretty short.

CP - I agree with the 3ft height variance. He isn't impeding anyone's view. The County did not have any issues with the road right of way.

MP - I will move to approve.

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

TM: It is a minor height variance request. It is well screened. The topography and surroundings limit the ability for additional buildings on the parcel.

Motion made, seconded, and approved unanimously.

IV. Adjournment

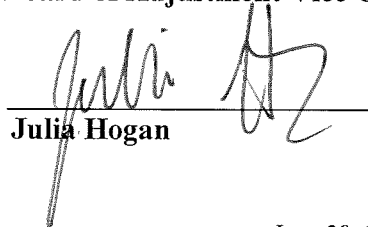
Hearing no other items before the BOA, a motion was made by Johnson, second by Purfeerst, to adjourn the meeting at 7:56 pm. Motion carried 4-0.

Respectfully Submitted



Cassy Klumb
Office Support Specialist

Board of Adjustment Vice Chair


Julia Hogan