

**OFFICIAL PROCEEDINGS OF THE  
RICE COUNTY BOARD OF ADJUSTMENT  
Commissioner's Room / Government Services Building  
Thursday, November 2, 2023 at 6:00 PM**

**I. Call to Order**

**A. Roll Call**

The meeting was called to order both in-person and electronically by Chair Michael Streiff at 6:00 p.m.

Members present were: Michael Streiff, Charlie Peters, Julia Hogan, Garrett Johnson.

Members absent were: Matt Purfeerst

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

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

**B. Motion by Garrett Johnson, seconded by Charlie Peters, Reading of the Notice.**

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Julia Hogan, Garrett Johnson, NAYS: None

**C. Motion by Garrett Johnson, seconded by Julia Hogan, Approval of the Agenda.**

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Julia Hogan, Garrett Johnson, NAYS: None

AA - There is a change from the notice. The Michaelson variance was withdrawn by the applicant following the publication of the notice.

**D. Motion by Charlie Peters, seconded by Garrett Johnson, to approve the minutes of October 5, 2023.**

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Julia Hogan, Garrett Johnson, NAYS: None

**II. Old Business**

**1. Variance/Farmer - Section 21, Walcott Township**

Neriah Farmer has requested the following variance:

- A 45-ft variance from the 70-ft rear property line setback to allow for conversion of an existing shed, located 25-ft from the rear property line into an Accessory Dwelling Unit.

The property is described as: Part of the N1/2 of the NE1/4 of the NE1/4, Section 21, Walcott Township, Rice County, Minnesota. PID#: 15.21.1.00.002. Property address is: 3865 240th St E, Faribault, MN 55021. The property is Zoned A, Agricultural.

**Motion by Garrett Johnson, seconded by Charlie Peters, to approve the Variance request with the following conditions and findings for Neriah Farmer. The property is located in Section 21 of Walcott Township.**

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Julia Hogan, Garrett Johnson, NAYS: None

**CONDITIONS OF APPROVAL – Farmer**

1. The variance is to allow for a shed located 25-ft from the south property line to be converted to an Accessory Dwelling Unit (ADU), subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. Variance shall be void if the building permit is not obtained and construction started within one year of the variance approval.
4. Failure to comply with the terms of this variance may result in termination of the Variance.
5. A septic compliance inspection shall be required before the issuance of any building permits. If the system is noncompliant, a complaint system shall be installed no later than October 1, 2024.

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**Hearing Minutes:**

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA).  
MS - The field off the corner where the variance is being requested, is the ownership the same as this parcel?

TM - No, it is a different owner.

The BOA asked the applicant, Neriah Farmer (NF), to come forward to add comments or answer questions regarding the request.

NF - The reason for this is now that the ordinance allows mother-in-law suites and I need to bring this building into compliance in order to build a new shed. I am working with the neighbor behind me to buy that property. When I bought this 3 years ago, I considered it a bonus room. It could be a full-blown apartment, but we don't use it for that. We will never rent it out, but in the future, if my mother-in-law wants to move in, it would be nice to make it legitimate.

CP - Are you aware of the 4 conditions?

NF - Yep, whatever I need to do to make it legal. I know there is a loft bedroom in there or what could be considered a bedroom, but there are no windows up there, so we would have to put a window in to make it meet code. For the most part, it is good, but whatever we have to do to bring it up to code.

MS - Do you understand the 4 conditions in front of you?

NF - Yes.

TM - I forgot to mention, our Septic Staff wants to add a septic compliance condition.

NF - I actually have Kurt Flom working on that.

MS - Ok, so if we approve this, it would be 5 conditions with the added septic condition.

NF - Yep. The septic for this building and my house was compliant when I bought this site 3 years ago and the new shed will have its own septic system.

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:**

GJ - We have run into this previously where the structure was built by the previous owner. He is trying to bring it into compliance.

JH - ADUs are new to our ordinance though, and I don't think we want to go forward approving a bunch of variances for this new addition to the zoning ordinance. Something to think of going forward.

CP - The shed was compliant for setbacks as a shed, it is the conversion to an ADU that requires the variance.

GJ - I motion to approve this with the 5 conditions.

CP - I second.

TM - *wording for condition #5* - A septic compliance inspection shall be required before the issuance of any building permits. If the system is noncompliant, a compliant system shall be installed no later than October 1, 2024.

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

TM: No additional comment from Staff.

Motion made, seconded, and approved unanimously.

### **III. New Business**

#### **1. Variance/Aldorfer - Section 10, Richland Township**

Michael Aldorfer has requested the following variances:

- A 74-ft variance from the 100-ft property line setback to allow for a chicken coop to be 26-ft from a property line.
- A 20-ft variance from the 100-ft property line setback to allow for a chicken coop to be 80-ft from a property line.
- A 13-ft variance from the 20-ft property line to allow for a storage shed to be 7-ft from a property line.

The property is described as: Part of the NE1/4 of the NW1/4, Section 10, Richland Township, Rice County, Minnesota. PID#: 16.10.2.00.003. Property address is: 22152 Jenkins Ave, Kenyon, MN 55946. The property is Zoned A, Agricultural.

The above entitled matter came to be heard before the Rice County Board of Adjustment on November 2, 2023 on a petition for a variance pursuant to the Rice County Zoning Ordinance.

**Motion by Charlie Peters, seconded by Garrett Johnson, to table the Variance request for Michael Aldorfer until the December 7, 2023 meeting. The property is located in Section 10 of Richland Township.**

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Julia Hogan, Garrett Johnson, NAYS: None

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**Hearing Minutes:**

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA).  
CP - What is the number to be considered a livestock operation?

TM - There is not a set number for that when its for setback purposes. There is when it gets into feedlots buildings. This wasn't a large enough number for that.

The BOA asked the applicant, Michael Aldorfer (MA), to come forward to add comments or answer questions regarding the request.

MA (*via Zoom*) - The 77.5 acres that surround us is my in-law's farm. Their building site is to the northwest of us on the other side of the east-west gravel road. The nearest house to us is about a third to a half mile away. We are not near any other dwellings.

MS - Have you looked at moving the smaller buildings to be in compliance?

MA - We have, but the lot is 2.5 acres, so we would end up being awfully close to the setbacks for the chicken coop. The 4'x8' storage shed has feed in it, so obviously we want that near the chicken coop. These are my kids' 4H chickens. At this time, I think we have about 25 of them from this year's Rice County fair. We aren't selling or advertising them. They are strictly 4H chickens.

MS - You bought the property with the buildings in their current locations?

MA - No, when we built them, we were told that if they were moveable then we didn't need permits for them. That was obviously bad information. The coop is 8' x 8' and is on three 6" x 6" skids, so it is technically able to be moved. But for our property, that location is the best. It keeps them away from us and farther away from any neighbors.

MS - Are you aware of the 3 conditions?

MA - 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 - Can you pull up the close aerial?

*JE displayed the aerial.*

CP - With the setbacks, I can see if he moved it anywhere, but maybe right next to the garage, it would be noncompliant.

JH - But at the same time, he could move it to bring it closer to compliance. I understand that the surrounding land is owned by family, but at the same time, it is more of a hardship that's brought on by the property owner, not from the land itself.

MS - Kind of the classic example of measure twice, cut once.

CP - I have to agree with JH. He could bring it closer to compliance. The rear is the close property line right now.

JH - I get it's not a very deep lot, but there is still some room.

MS - There are still some remedies that could be done that the site would not prohibit.

JH - What do we think would be appropriate for a setback if he can't meet the full setback?

CP - I would like to see him double the distance to the rear line.

MS - Maybe it would make more sense to table and allow the applicant to work with County Staff and bring back a new proposal instead of us trying to come up with something here.

MA (applicant) - The lot is fairly sloped also. This is the most level spot for a building like that to sit.

*MS advised applicant on procedure.*

CP - That is probably the best plan, so the applicant can decide on a site.

MS - He knows the property well and can work with Staff to figure out a new proposal based on this feedback from us that we are not inclined to approve it as presented, but are willing to review and alternative that is closer to compliance.

CP - I motion we table this item until the December 7, 2023 meeting to allow the applicant to adjust the plan to bring it closer to compliance. I understand it will still need a variance.

GJ - I second.

Motion made, seconded, and approved unanimously.

2. **Variance/Lutz - Section 3, Warsaw Township**

Mark Lutz has requested the following variances:

- A 12-ft variance from the 50-ft Road Right of Way (ROW) setback to allow for a deck to be located 38-ft from the ROW.

The property is described as: Part of Government Lot 4 in the SW1/4, Section 3, Warsaw Township, Rice County, Minnesota. PID#: 14.03.3.00.003. Property address is: 21694 Morristown Blvd, Faribault, MN 55021. The property is Zoned GDS, Shoreland.

**Motion by Charlie Peters, seconded by Julia Hogan, to approve the Variance request with the following conditions and findings for Marl Lutz. The property is located in Section 3 of Warsaw Township.**

RESULT: Approved, A YES: Michael Streiff, Charlie Peters, Julia Hogan, Garrett Johnson, NAYS: None

**CONDITIONS OF APPROVAL – Lutz**

1. The variance is to allow for a 22-ft by 30-ft deck addition to be located 38-ft from the Road Right of Way, subject to compliance with all other Ordinance regulations.
2. Submitted plans shall be followed.
3. The existing onsite trees shall be preserved.
4. This variance shall be void if a building permit for the proposed deck 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.

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**Hearing Minutes:**

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA).  
CP - The shed that was previously granted a variance is closer to the road than the proposed deck?  
TM - I believe the deck is back further than the shed. The road does curve there, but the setback would be similar.

The BOA asked the applicant, Mark Lutz (ML), to come forward to add comments or answer questions regarding the request.

ML - The deck is only going to break the right-of-way (ROW) setback in one corner and will not be as close to the road as the existing shed. The road is a very lightly used road.

MS - Are you aware of the 5 conditions?

ML - 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 - It is a unique property in that it is surrounded by two different roadways. It does limit where they can add on.

MS - The floor plan of the house is also kind of kittywampus.

JH - It is an older home, so they have limitations with that.

CP - It doesn't encroach any closer than the shed.

JH - We received no comments from the Rice County Highway department.

CP - Plus, you would want your deck to face the lake. I will motion to approve this item.

JH - I will second.

The Board of Adjustment reviewed the variance application and found that the applicant has established that all of the following criteria from Section 503 of the Zoning Ordinance 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: It is not a major County roadway there. It has fairly low traffic and speeds in that area. It is set back the same or further than the existing onsite shed.

Motion made, seconded, and approved unanimously.

**3. Variance/Leonard (Sammon) - Section 22, Wells Township**

Jake Leonard, on behalf of landowner Brian Sammon, has applied the following variance:

- A 5% variance from the 25% lot impervious surface limitation to allow for a patio/sidewalk addition to a lot that will result in a 30% lot impervious surface.

The property is described as: Lot 7, Manley Park subdivision, Section 22, Wells Township, Rice County, Minnesota. PID#: 10.22.2.76.007. Property address is: 3355 182nd Ct W, Faribault, MN 55021. The property is Zoned GDS, Shoreland.

**Motion by Charlie Peters, seconded by Garrett Johnson, to approve the Variance request with the following conditions and findings for Jake Leonard, on behalf of landowner Brian Sammon. The property is located in Section 22 of Wells Township.**

RESULT: Approved, AYES: None, NAYS: None

#### **CONDITIONS OF APPROVAL – Leonard (Sammon)**

1. The variance is to allow for patio and sidewalk additions resulting in a 30% lot impervious surface coverage, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. 300-sqft of raingarden(s) or other short-term stormwater retention feature(s) shall be installed and maintained on the parcel. The feature(s) shall be established by not later than August 1, 2024 and shall be maintained after that time.
4. Variance shall be considered void if permits are not obtained for the patio and sidewalk 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).

JH - Do you know how much larger the new home is compared to the home that is being replaced?

TM - I do not know the details on that, but I do believe it is quite a bit larger. The Rice County Water Planner asked that we add a raingarden condition, so that has been added.

GJ - Are there other variances similar to this in the area?

TM - With impervious surface, there are some around, especially on the smaller lots. When the smaller lots end up getting converted from cabins to year-round homes, we tend to run into this. None on the existing neighboring properties to this though.

The BOA asked the applicant, Brian Sammon & Jake Leonard (BS & JL), to come forward to add comments or answer questions regarding the request.

BS - In our situation, what we have is the house was built, but my father-in-law is 87 and wheelchair bound. The whole rest of the house, on the main level, is handicap-accessible. We are asking for the extension off the back to allow him to go out the back door and go towards the lake. You can see from the pictures that if they go out the back and to the left, there is a ramp that goes down to the lake.

JL - We are wanting to make it handicap-accessible from the patio door down. I saw on one of the conditions that this is for a paver patio. Is that asking to have a paver patio at the height of the patio door? I'm confused what that condition means?

JH - You mean condition #1?

JL - Yes. We were hoping to have it be concrete from the patio door out.

JH - The condition just states that is what that paver patio and sidewalk would be allowed. The increase in impervious surface, not the actual placement. That condition just allows for those additions to be added over the impervious surface allowance.

JL - Ok, because we are asking for it to be cemented directly from the building for smoother access out.

MS - Are you aware of the 5 conditions?

BS - Yes, as long as we can do it in cement.

JH - How much larger is this new home compared to the previous one?

BS - The previous home was about 1200-sqft. It was built in 1890, but then was wrecked by the tornado that came through four years ago. It was non-repairable.

CP - The whole patio would be poured cement?

JL - That is preferred, 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 - I get that with a smaller lot it is harder to be under the 25% percentage limit, but on their criteria questionnaire, where it says "impervious surface percentage prevents compliance which is not created by the landowner", ultimately this was created by the landowner. That why I was curious about how much larger this new one is than the previous one. I can understand them wanting this additional patio and sidewalk, but the issue was created by the landowner.

CP - Correct, and the pavers would be considered pervious.

JH - Yes, but those permeable pavers only last a few years. You have to keep up on them. They don't stay permeable.

CP - The want to do poured concrete so that is out. Is the small storage shed calculated in the impervious surface?

TM - Yes, it is my understanding that the shed was included in the calculation. Any structure or anything that is not grass should be included.

CP - If that was removed, would that bring it into compliance?

JH - 5% is kind of steep. I don't know the square-footage of the property.

*MS had applicant come forward.*

BS - The old house was 1200sqft with an attached 2-car garage that had a cement extension off of it to the road. The driveway is the same as it was before and the footprint of the home is roughly the same as before, the new one just goes up higher.

MS - Can you go back to the view of how it sits on the lot?

*JE pulled up aerial view of lot.*

JH - It is a narrow lot, so you do have to have a longer driveway which increases the impervious surface.

MS - If you look at this, it looks like this is one of the last lots that came together to where it ended up being so narrow. If you look at the size of lots around it, and tried to put a cabin on this lot, it wouldn't really fit into the feel of the neighborhood. You are limited with the size of it and the handicap-accessibility piece. It doesn't look like any of the other homes had to work with that.

*TM brought up an older map view from 2016.*

MS - That looks like it had multiple additions to it.

CP - This is on the Faribault sewer system, correct?

BS - Yes.

CP - I agree with both JH, but I also agree with MS. I know down farther to the west, we granted some variances back after the storms, especially for shoreland variances. With the added raingarden condition and the handicap situation, I have no issue approving this. I can see where they could make a smaller patio if it were not for wheelchair access. I will motion to approve this with the 5 conditions.

GJ - I will second.

TM - To fit with what the applicant is requesting, we will adjust condition #1 by removing the wording "a paver".

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 are met by this proposal:

- *Proposed use is allowed in the property's zoning district;*
- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;*
- *The request stems from circumstances unique to the property, not one created by the landowner;*
- *If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;*
- *This is the minimum variance necessary to afford relief;*
- *Adequate sewage treatment and water capabilities can be provided;*
- *The variance would have no significant impact on public health or safety; and*
- *Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district*

The findings were read by Peters with the conditions as stated above and with the following additions by

staff:

TM: The raingarden condition should help offset some of the impacts of the increased impervious surface.

Motion made, seconded, and approved unanimously.

4. **Variance/Winter (Hunt) - Section 22, Shieldsville Township**

Jeff Winter, on behalf of landowner Tim Hunt, has requested the following variance:

- A 60-ft variance from the 100-ft Road Right of Way (ROW) setback to allow for an addition to a home located 40-ft from a ROW.

The property is described as: Part of the SW1/4, Section 22, Shieldsville Township, Rice County, Minnesota. PID#: 09.22.3.75.002. Property address is: 9742 Cedar Lake Blvd, Kilkenney, MN 56052. The property is Zoned A, Agricultural.

**Motion by Garrett Johnson, seconded by Michael Streiff, to approve the Variance request with the following conditions and findings for Jeff Winter, on behalf of landowner Tim Hunt. The property is located in Section 22 of Shieldsville Township.**

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Julia Hogan, Garrett Johnson, NAYS: None

**CONDITIONS OF APPROVAL – Winter (Hunt)**

1. The variance is to allow for 24-ft by 36-ft home addition on the south side of the existing home located 40-ft from the ROW of Cedar Lake Blvd., subject to compliance with all other Ordinance regulations.
2. Site plan submitted plan shall be followed.
3. A septic system compliance inspection shall be completed prior to issuance of a building permit for the addition. If the system is found to be non-compliant a compliant system must be installed by not later than November 1, 2024.
4. A building permit for the addition shall be obtained and construction started within one year of the variance approval or the variance will be void.
5. Failure to comply with the terms of this variance may result in termination of the variance.

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**Hearing Minutes:**

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

The BOA asked the applicant, Tim Hunt (TH), to come forward to add comments or answer questions regarding the request.

TH - I'm just putting an addition on the back to add storage and an entertainment room, all ground level and off the back of the house.

MS - Are you aware of the 5 conditions?

TH - Yes, I most certainly am. I have the septic condition covered and the rest is all land stuff.

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:

GJ - We just approved one similar on Highway 60. It's not encroaching any closer to the road, going in the opposite direction and doing what we can to encroach as least as possible.

JH - The road right-of-way (ROW) has increased over time due to changes in the roadway.

GJ - I move to approve with the 5 conditions.

MS - I'll 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 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 Johnson with the conditions as stated above and with the following additions by staff:

TM: No additional comments from Staff.

Motion made, seconded, and approved unanimously.

5. **Variance/Voegele-Section 18, Warsaw Township**

Michele M Voegele, on behalf of landowner Mjvoegele Inc., has requested the following variance:

- A 10-ft variance from the Road Right of Way (ROW) setback to allow a parking area up to the ROW.

The property is described as: Part of Blocks 5 & 7 in Warsaw Village subdivision, Section 18, Warsaw Township, Rice County, Minnesota. PID#: 14.18.2.76.001. Property address is: 23219 Farwell Ave, Warsaw, MN 55087. The property is Zoned VMU, Village Mixed Use.

**Motion by Julia Hogan, seconded by Charlie Peters, to approve the Variance request with the following conditions and findings for Michele M Voegele, on behalf of landowner Mjvoegele Inc. The property is located in Section 18 of Warsaw Township.**

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Julia Hogan, Garrett Johnson, NAYS: None

**CONDITIONS OF APPROVAL – Voegele**

1. The variance is to allow for a 50-ft by 100- ft gravel parking is to be located as shown on the applicants submitted site plan up to the Road Right of Way, subject to compliance with all other Ordinance regulations and setbacks.
2. Approved site plan shall be followed.
3. Variance shall be void if a grading permit is not obtained and construction started within one year of the variance approval.
4. A stormwater plan shall be created and implemented to mitigate the impacts of stormwater from the sites parking lot.
5. Any work to be done within the Road Right of Way must first receive approval from the Rice County Highway Department.
6. Failure to comply with the terms of this variance may result in termination of the Variance.

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**Hearing Minutes:**

Zoning Administrator Trent McCorkell (TM) presented the request to the Board of Adjustment (BOA). JH - The addition would be gravel with the existing part being paved?

TM - That is my understanding. They do have some gravel onsite. That came off the existing area when they paved it and they plan to use that to do the expansion.

JH - There were no issues from the Rice County Highway department regarding them paving that?

TM - No, I didn't receive any comments.

The BOA asked the applicant, Michele Voegelé (MV), to come forward to add comments or answer questions regarding the request.

MV (*via Zoom*) - We are looking to remove part of that white fence to create overflow parking. We just repaved and have done everything the Rice County Highway department requested for the current lot. We are trying to create space to keep cars from parking on the road when we are busy. Leaving the parking lot when there are cars parked on both sides of the road, can be tricky because it is hard to see any oncoming traffic. We would like to try and prevent some of that by using the gravel material we already have to extend the parking lot for overflow parking. It would not be used all the time, just when we are busy.

MS - Are you aware of the 6 conditions?

MV - 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 - They are absolutely correct. They need extra space. I have been there when both sides of the road are lined with cars. I think it would be a good addition for safety.

JH - I like the condition requiring that they have to receive approval from the Rice County Highway department before any work can begin, since their biggest concern would be with how close it is to the road right-of-way.

CP - They are staying within the setback from the lake.

MS - It is not a permanent structure, just parking.

JH - I motion to approve this item.

CP - I will second that.

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

- *Proposed use is allowed in the property's zoning district;*
- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;*
- *The request stems from circumstances unique to the property, not one created by the landowner;*
- *If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;*
- *This is the minimum variance necessary to afford relief;*
- *Adequate sewage treatment and water capabilities can be provided;*
- *The variance would have no significant impact on public health or safety; and*
- *Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district*

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

TM: No additional comments from Staff.

Motion made, seconded, and approved unanimously.

6. **Variance/Labs-Section 34, Erin Township**

Steven and Cheryl Labs have requested the following variance:

- A variance from the requirement that an Accessory Dwelling Unit (ADU) be on a parcel in which the property owner maintains their primary homestead residence.

The property is described as: Part of the NW1/4 of the NE1/4, Section 34, Erin Township, Rice County, Minnesota. PID#: 05.34.1.25.001. Property address is: 9282 & 9286 140th St W, Montgomery, MN 56069. The property is Zoned A, Agricultural.

**Motion by Charlie Peters, seconded by Michael Streiff, to deny the Variance request for Steven and Cheryl Labs. The property is located in Section 34 of Erin Township.**

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Julia Hogan, Garrett Johnson, NAYS: None

#### **DENIAL FINDINGS OF FACT – Labs**

- The proposed use is not allowed in the property's zoning district. At this time, it does not meet the homestead requirements nor is it on the same property as the primary residence.
- The request is not in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan. The intent of the ADU ordinance is to have the property homesteaded for onsite supervision of the ADU.
- If granted, this variance would alter the essential character of the locality and have a significant impact on the surrounding properties. If we allow this, neighbors could put ADUs on other properties.
- This is not the minimum variance necessary to afford relief. There are other options for the property that could be explored. Either to split the parcel, move the structure, or relocate the existing homestead to the property where the primary residence is located.
- Special privileges would be conferred to the applicant that are denied to owners of other lands, structures, or buildings in the same district. We have not granted any variances to the ADU ordinance and this has not been allowed on other properties.

#### **Hearing Minutes:**

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

The BOA asked the applicant, Steven & Cheryl Labs (SL & CL), to come forward to add comments or answer questions regarding the request.

SL - We live directly across the road from this property. We purchased this property last fall with the intention of the kids having horses over there. It is right across the road from where we live. Where we live, there really isn't an open spot for horses. We don't have a barn and it is all wooded. We have 9 children. So we purchased the property and the small building, the ADU, was there when we bought it. The County wasn't aware of it, so we are trying to bring it up to the County specifications. Now we have found out we have to homestead it, so we have been researching through. My mother-in-law just lost her husband about 4 or 5 weeks ago. They were going to move in there, but that is now off the table. Our oldest child is 17, so there is some opportunity there. What we had planned to do was allow some of the kids to live over there because they all have post-traumatic stress, they are all adopted. The plan was to buy this property so they could have horses over there and at some point in time, actually have them live over there.

GJ - What is the purpose of having 2 living units on the property?

SL - It was already there when we bought it and everything is hooked up correctly with the septic, so we figured we would try making it compliant with the County. With 9 kids and the older ones being 16 and 17, at some point in time we would like to let some of them live over there. They are dysfunctional and they have some behaviors and stuff, so the plan would be to have them live over there since it is right across the road. We figured to leave it there as long as it was already there.

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 - My thought is that we just passed the ADU ordinance. Unless the landowner lives there, I don't think we should allow this unless they sell it to one of their kids and they make it their primary residence and want an ADU there, then it would be ok. It looks like the structure could be moved as well. I'm not in favor of this.

MS - I agree. It seems to have a lot of moving pieces. I don't think it fits the spirit of the ADU ordinance and what it was intended for. I am not in favor of this either.

JH - This is a unique one, but similar to what I said to an earlier item, we did just approve ADUs and their standards. Do we want to stick with what those standards are or do we want to start approving variances to allow exceptions to those standards?

CP - There are a lot of standards with the same driveway, same parcel, within 350ft. I think they could make this work if the ownership changed or they got it homesteaded.

JH - If it was homesteaded, it would be different.

CP - I think they need to explore what other options are available or try to move the accessory structure over to their property.

GJ - I think it is a little early to abandon the homestead criteria.

MS - I think there are some alternatives.

JH - With condition #4, they can't occupy both until the property is homesteaded.

GJ - It would allow them to keep the building there, but it doesn't really change anything. Anyone could still live in it.

MS - I think it would be hard to enforce that condition.

CP - I motion to deny this item.

MS - I second the denial.

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 are met by this proposal:

- *Proposed use is allowed in the property's zoning district; No, at this time it does not meet the homestead nor is it on the same primary owners owner's property*
- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan; No, the intent was to have it on the owner's property with same ownership and for relatives*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance; Kind of yes*
- *The request stems from circumstances unique to the property, not one created by the landowner; Yes*
- *If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties; No, if we allow this, neighbors could put ADUs on other properties.*
- *This is the minimum variance necessary to afford relief; No*
- *Adequate sewage treatment and water capabilities can be provided; Yes*
- *The variance would have no significant impact on public health or safety; and Yes*
- *Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district No, it would grant a variance that we have not granted before for ADUs*

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

TM: With Finding #6, there would be options for the property that could be explored, either to split the parcel, move the structure, or relocate the existing homestead to this property. With Finding #9 - this has not been allowed for other properties.

Motion made, seconded, and approved unanimously to deny.

**7. Variance/ Melchert- Section 35, Shieldsville Township**

Dan Melchert, on behalf of landowner Melchert Farms LLC, has requested the following variance:

- A 6480-sqft variance from the 1200-sqft building size limitation with a 9-ft variance from the 16-ft peak height to allow for a 7680-sqft shed with a 25-ft peak height.

The property is described as: Part of the SW1/4, Section 35, Shieldsville Township, Rice County, Minnesota. PID#: 09.35.3.25.001. The property address is: 8875 210th St W, Morristown, MN 55052. The property is Zoned GDS, Shoreland

**Motion by Garrett Johnson, seconded by Julia Hogan, to approve the Variance request with the following conditions and findings for Dan Melchert. The property is located in Section 35 of Shieldsville Township.**

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Julia Hogan, Garrett Johnson, NAYS: None

#### **CONDITIONS OF APPROVAL – Melchert**

1. The variance is to allow for a 7680-sqft Agricultural use building with a 25-ft peak height to be located on the property, subject to compliance with all other Ordinance regulations.
2. Applicant submitted site plan shall be followed.
3. Building is to be used only for agricultural equipment storage.
4. Variance shall be void if a 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).

CP - Can you display the close-up aerial?

*JE pulled up aerial photo.*

CP - The Shed site is to the north?

TM - It is north by the "subject area" label.

CP - And the wider aerial view?

*JE displayed the wider view.*

The BOA asked the applicant, Dan Melchert (DM), to come forward to add comments or answer questions regarding the request.

DM - We are not directly on the lakeshore, but since we are within 1000ft, we are considered lakeshore. The closest part of the shed would be roughly 1500ft from the lake.

MS - Are you aware of the 5 conditions?

DM - 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:

GJ - I think the peak height limit is to not take away views from other properties on the lake, but this is set a distance back from the lake. I don't think there will be a problem with that. It looks like an Ag property.

CP - I agree. You can't have a shed with 8ft side walls and fit farm equipment in it. It doesn't obstruct any views that I can tell.

MS - If anything, it will improve the aesthetics by cleaning up the property. It looks well kept, but storing stuff inside make the property overall look better.

GJ - I motion to approve with the 5 conditions.

JH - I will second.

The Board of Adjustment reviewed the variance application and found that the applicant has established

that all of the following criteria from Section 503 of the Zoning Ordinance 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 Johnson with the conditions as stated above and with the following additions by staff:

TM: The shed is well over 1000ft from the lake. The size and height are needed for modern Ag equipment storage and it is a large parcel that is over 100 times the minimum lot size in that district.

Motion made, seconded, and approved unanimously.

**8. Variance/Jeno - Section 27, Cannon City Township**

Cory Jeno has requested the following variance:

- A 25-ft variance from the 100-ft Road Right of Way (ROW) setback to allow for an addition to a home located 75-ft from the ROW.

The property is described as: Part of the NE1/4 of the SW1/4, Section 27, Cannon City Township, Rice County, Minnesota. PID#: 11.27.3.00.002. The property address is: 4260 197th St E, Faribault, MN 55021. 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 Cory Jeno. The property is located in Section 27 of Cannon City Township.**

RESULT: Approved, AYES: Michael Streiff, Charlie Peters, Julia Hogan, Garrett Johnson, NAYS: None

**CONDITIONS OF APPROVAL – Jeno**

1. The variance is to allow for carport addition to the existing home which is located 75-ft from the Road Right of Way of 197th St E, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. A septic system compliance inspection shall be completed prior to issuance of a building permit for the addition. If the system is found to be non-compliant a compliant system must be installed by not later than November 1, 2024.
4. A building permit shall be obtained and construction started within one year of the variance approval or the variance will be void.
5. Failure to comply with the terms of this variance may result in termination of the variance.

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**Hearing Minutes:**

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

The BOA asked the applicant, Cory Jeno (CJ), to come forward to add comments or answer questions regarding the request.

CJ - We have lived there for quite some time and want to put a roof over the wife when she pulls in with

groceries and the kids.  
MS - Are you aware of the 5 conditions?  
CJ - Yes sir.

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 - He is not encroaching any closer and it makes sense.

JH - Again, right-of-ways (ROWs) and setbacks change, especially when homes are older, so adding additions can be hard.

CP - I will motion to approve this item.

GJ - 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 are met by this proposal:

- *Proposed use is allowed in the property's zoning district;*
- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan;*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance;*
- *The request stems from circumstances unique to the property, not one created by the landowner;*
- *If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties;*
- *This is the minimum variance necessary to afford relief;*
- *Adequate sewage treatment and water capabilities can be provided;*
- *The variance would have no significant impact on public health or safety; and*
- *Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district*

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

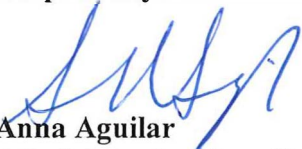
TM: No additional comments from Staff.

Motion made, seconded, and approved unanimously.

#### **IV. Adjournment**

Hearing no other items before the BOA, a motion was made by Hogan, second by Johnson, to adjourn the meeting at 7:23 pm. Motion carried 4-0.

**Respectfully Submitted**

  
**Anna Aguilar**  
**Administrative Coordinator**

**Board of Adjustment Chair**

  
**Michael Streiff**