

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY BOARD OF ADJUSTMENT**
*Commissioner's Room / Government Services Building
Thursday, April 4, 2024 at 6:00 PM*

I. Call to Order

A. Roll Call

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

Members present were: Charlie Peters, Julia Hogan, Garrett Johnson, Matt Purfeerst, Kenneth Engen.

Staff present were: Zoning Administrator Trent McCorkell, Planner Jeremy Edwards, Administrative Coordinator Anna Aguilar, Clerk MacKenzie Klett.

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: None, NAYS: None

C. Motion by Ken Engen, seconded by Garrett Johnson, Approval of the agenda

RESULT: Approved, AYES: None, NAYS: None

D. Motion by Garrett Johnson, seconded by Charlie Peters, to approve the minutes of March 7, 2024.

RESULT: Approved, AYES: None, NAYS: None

II. New Business

1. Variance/Peters - Section 17, Forest Township

Charlie Peters has requested the following variance:

- A 400-ft variance from the 1000-ft livestock operation setback to allow a home to be 600-ft from an existing livestock operation.

The property is described as: Part of the S1/2 of the SE1/4, Section 17, Forest Township, Rice County, Minnesota. PID# 06.17.4.50.002. The property is Zoned A, Agricultural.

Motion by Matt Purfeerst, seconded by Garrett Johnson, to approve the Variance request with the following conditions and findings for Charlie Peters. The property is located in Section 17 of Forest Township.

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

CONDITIONS OF APPROVAL – Peters

1. The variance is to allow for a new home to be located 600-ft from the registered livestock facility located to the southwest of the proposed home location, 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, Charlie Peters (CP), to come forward to add comments or answer questions regarding the request.

CP - Basically we have lived on this quarter section for 35 years, and my wife wants to build a new house back there, so our existing house is straight east about 500 feet if you look at the aerial photo. Our daughter and son in-law want to buy that house. I rent the land to the livestock operation and he has used solid waste since I've been up there, so I assumed it was a 500 foot solid waste feedlot permit, but I guess they have a lagoon that hasn't been used in years, making it a 1000 foot setback, thus the 400 foot variance.

JH - And this part of your site is more ideal for topography reasons, than the eastern portion of this site?

CP - The eastern part across the creek and through the woods is actually the best farm land that I have, and it's pretty flat. To go farther to the north and back, I would have to go through two wetlands to get to a spot and then there would be a really long driveway.

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

James Fisher – *Fairfax Way* - So this is a difficult thing to do especially because I have to appeal to Charlie as my representative of the town board. I couldn't think of a better neighbor to have either direction, the agriculture program or Charlie. The thing is, this is a lagoon that is established, yes it is not being used currently. If the lagoon holder was to abandon it and retire it that would be a different story, but there is nothing to say what will happen in the next generation, 7th generation going forward with that lagoon. What happens if it starts being used as a lagoon again. Part of the Planning and Zoning topics are to protect and preserve agricultural land and I don't want to see a fight starting 3 or 4 generations down the line when Charlie's gone, I am gone, and somebody else is running the land, and the mysterious railhead in Dundas or Bridgewater Township is built and all of the sudden we are moving cattle back and forth or something odd happens in our area. It currently is zoned as this, but I would really like you to consider this carefully, thank you.

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

Discussion:

GJ - I think these setbacks exist so that we don't run in to problems where someone moves out there all the sudden they are complain about smell and other things so I think that is part of it. While the relationship between the livestock owner and land owner matters a lot, obviously the owner is okay with moving within boundaries of that setback. I can understand why there might be some hesitation for future generations.

MP - I like the fact, and CP said it well, not wanting to cross wetlands with a longer driveway and the farmer in me wants to preserve the good farm land. I kind of agree with where he is putting the house.

GJ - I completely agree, why put the house in the best part of the farm when we are trying to preserve that.

MP - I think he had it somewhere in his notes that he will be putting in a windbreak. I will make a motion to approve with the 5 conditions.

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

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

TM: The topography, the stream and wetlands limit the locations on that property. The proposed site is beyond the 500 feet which would have been required if this was just solid manure and the location of the house will not prevent the livestock operation from expanding based on the property line setbacks that are already there.

Motion made, seconded, and approved unanimously.

2. **Variance/Sadergaski - Section 31, Forest Township**

Rich Sadergaski, on behalf of landowner Lake Re LLC, has requested the following variances:

- A 10-ft variance from the 20-ft rear property line setback to allow for a shed 10-ft from a rear property line.
- A 1-ft height variance from the 16-ft height limit to allow for a shed with a 17-ft peak height.
- A 30-ft variance from the 30-ft bluff setback to allow for a home to be located at the bluff line.

The property is described as: Lot 10, Block 3 of Jen-Wayne Dells First Addition, Section 31, Forest Township, Rice County, Minnesota. PID# 06.31.4.26.049. Property address is: 6431 Fairfax Way, Faribault, MN 55021. The property is Zoned RDS, Recreational Development Shoreland.

Motion by Charlie Peters, seconded by Garrett Johnson, to approve the Variance request with the following conditions and findings for Rich Sadergaski, on behalf of landowner Lake Re LLC. The property is located in Section 31 of Forest Township.

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

CONDITIONS OF APPROVAL – Sadergaski

1. The variance is to allow for a 780-sqft shed with a 17-ft peak height to be 10-ft from the east property line and a new home to be located at the bluff line on the west side of the property, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. Trees on the bluff shall be maintained.
4. Proper permits shall be obtained prior to any onsite construction.
5. Variance shall be void if building permits for the proposed shed and house are 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 put the 6 conditions up please?
JE displayed the conditions.

The BOA asked the applicant, Rich Sadergaski (RS), to come forward to add comments or answer questions regarding the request.

RS - It's just that it's so tight because of the bluff and the trees we want to save, and after I put the septic system in. It's huge, so I downsized the shed, but to save the trees I need to move the shed closer to the back line. And the house has to be where it is on that bluff line because there is no room to bring it in 30 more feet, we only have that top area to work with.

JH - The need for the height variance? You are wanting 17 feet instead of 16.

RS - I wanted to get a 10 foot garage door in there, so I have a 12 foot ceiling height. Could that be

changed a little bit, maybe. I just don't want to make it a flatter roof because we are already at a 4 and anything less than that is just a pain.

MP - Have you had discussions with the neighbor that you are getting close to about your plans. Are they okay with it? Have you talked to them what you have going on as far as getting close to the property line?

RS - No, because the septic is going 10 feet from his property line and my shed is going to be further in yet.

JH - Are you aware of the 6 conditions in front of you?

RS - Yes.

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

James Fisher – *Fairfax Way* - I'd like to start with the rear lot setback. The rear lot setback butts up against an agriculture property, currently it's trees, but it doesn't always need to be trees, tomorrow we could decide to take the trees down and grow crop corn and use fertilizer up to that property line. That 20 foot setback on the rear property line provides a buffer zone for not only preserving separation and landscape and isolation between the two properties but it also prevents future conflicts if the current agricultural operator decides to go back to corn and bean rotation like it was when I grew up on the site. I would like to prevent that from being an issue going forward, I think the 20 foot something can be worked out, it's an acre property. All the conditions on the site were there when they bought the site, Dorothy S's cabin was there for 40 + years, it's been there. As far as the height goes, perhaps we should just change the pitch of the roof a little bit. Finally, I'd like to talk about the bluff setback, this particular property on the development here, everything comes down from that hill, goes into a 16 inch pipe at the southwest corner of the property and essentially goes straight under the road and right down a culvert between two properties and straight into the lake, so this is essentially a lake shore property as well. As far as where stormwater runoff goes, the bluff need to be preserved, the setback needs to be preserved in order to preserve the lake, it's really quite that simple. It is an acre lot, maybe some different options need to be explored. Thank you.

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

Discussion:

CP - I am familiar with the lot, it is in our township. It does have a lot of water shed to the road and then to the lake, I don't know if there is anything that can be done with rain gutters or grading to bring it back into the southern part of the lot. It has been a troublesome spot for the township with that roadway at times, otherwise I would not go less than a 4/12 roof pitch for a 17 foot peak, it's 1 foot over. I don't have an issue with that.

KE - 4/12 pretty common?

CP - Yes in Minnesota. And looking where the well is on the property prohibits a lot of movement.

KE - The well is right next to the driveway.

JH - There is quite a bit of tree coverage on the south portion.

MP - The site does look pretty hilly, it would be tough, like he said to find a good spot to build one. And the height variance and rear setback does not bother me.

GJ - We've recently done one we had pushed someone out to 10 feet instead of what they were asking for, so I guess 10 feet from the rear setback, it's close, really close but even if it was to be row cropped they still need to stay on their side of the property line as well.

KE - It looks like it's just a large wooded area to the back there correct?

CP - It's a tree plantation. Maybe we put in a condition just for runoff issues in the future. I don't know how we would word that to control runoff to the west.

MP - It does say that the trees on the bluff must be maintained. I don't know how you would word that or enforce that.

CP - I guess just so all the impervious surface and rain gutters don't run straight west. Other than that I hope he will be considerate of that situation and I will make a motion considering the lot and dynamics of it.

MP - I 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; yes*
- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan; yes*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance; yes*
- *The request stems from circumstances unique to the property, not one created by the landowner; yes, the bluff areas and well location make it hard to move stuff around*
- *If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties; yes, well shielded from both north and south*
- *This is the minimum variance necessary to afford relief; yes*
- *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 yes*

The findings were read by Peters with the conditions as stated above and with no additions from staff.

Motion made, seconded, and approved unanimously.

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

Bryan Flemming, on behalf of landowner Lake Mazaska North Shore Coop, has requested the following variance:

- A 90-ft variance from the 100-ft lake setback to allow for a replacement shed to be located 10-ft from Lake Mazaska.

The property is described as: Part of Government Lots 1 and 2 in the N1/2 of Section 31, Forest Township, Rice County, Minnesota. PID#s 06.31.2.25.001 & 06.31.2.25.909. Property address is: 6551 143rd St W #8, Lonsdale, MN 55046. The property is Zoned RDS, Recreational Development Shoreland.

Motion by Charlie Peters, seconded by Garrett Johnson, to approve the Variance request with the following conditions and findings for Bryan Flemming, on behalf of landowner Lake Mazaska North Shore Coop. The property is located in Section 31 of Forest Township.

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

CONDITIONS OF APPROVAL – Flemming

1. The variance is to allow for a 20-ft by 8.5-ft replacement shed with a 10-ft peak height to be located 10-ft from Lake Mazaska and 8-ft to the east cabin, subject to meeting building code compliance and 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). JH - So that shed is closer to the cabin?

TM - I'm not sure on that, I didn't have that readily available so that will be a question for the applicant. If it doesn't meet 10 feet, they will have to bring it closer to their cabin actually.

CP - Direct replacement basically?

TM - I don't have the size details to this structure, I think he mentioned that it is very similar in size though. The proposed building is 20 feet by 8.5 feet and that seems to be about that size.

The BOA asked the applicant, Bryan Flemming (BF), to come forward to add comments or answer questions regarding the request.

BF - I have a couple questions and comments obviously for my behalf regarding the summary of the application. Basically the 10 foot setback from my neighbor and some questions regarding the conditions of approval and then the height limit. I will get started with what you wanted to know right away with the setback from the neighbor's cabin, as you can see it basically runs right across the "property line" even though it is not a property line. I did measure it last weekend, it's 99 inches from the wall of my shed to the wall of his cabin so it is just over 8 feet. Obviously the setback is 10 feet but moving the shed to the right into my landing would be detrimental to that spot. It doesn't sound like a lot moving it 1.5 feet, but the landing zone now to get to the lake is 11 feet wide so taking a foot and a half out of that would basically eliminate me being able to put a pontoon or anything like that in right there because there is also a large tree you can see right there. One thing that I did want to propose with that if I were able to keep it at that spot is what I assume is your guys main concern would be fire risk from the cabin or the shed. I would propose I could put fire wall in on two sides of the shed to minimize that is if there was a fire with the shed or other cabin. The shed will have steel roof and steel siding on it as well. I had a few other questions and comments regarding some of this other stuff. So I just had a question regarding the max 10ft height limit that is listed on my building details that you guys emailed me. Is that peak height or sidewall height? Just kind of questioning what my limit is on that because obviously by the time I put new block and 8 foot sidewalls and then a roof, I am right there, maybe a little over it. The shed size would be 20' x 8.5', it was going to have a 6/12 pitch. On the front of the shed that faces the lake there is a door that is not usable. I was going to put a 7' by 7' overhead door on and to get that I wanted just a little bit of room above that for roof and attic storage and stuff like that for life jackets. That is all I had on that. The only other question I had was that under the conditions of approval, the 25 feet of natural condition, un-mowed, not more than 10 feet landward. Just what your conditions would be on that, if that was applicable upon approval of something like this. If you go back to the previous picture you can see I had new boulders and landscaping and edging put in on the lakeshore not long ago. The lakeshore before was in horrible condition and I was losing land to the lake as it was cantilevering over as the ice was pushing in. So as you can see I redid most of it very nicely and I just don't want to put a bunch of weeds in my rock, you know what I mean. I am trying to clean the place up and make it look nice. Whatever the conditions of approval might be if we can kind of try to expand on it or try to see it through my eyes a little bit, just kind of all I am asking.

JH - Staff do you want to answer some of his questions?

TM - Yes, a couple things with peak height it is to the peak, there are two height limits 10 feet and 14 feet, the 14 feet are normal buildings that are meeting setback requirements and things, the 10 foot peak height is normally associated with water or accessory building. Certainly the board could say a 12 foot or up to 14 foot essentially and still be fine without needing to do a variance to that portion of it. The distance to neighboring cabin, if the board is fine adding that as part of the variance, I would recommend a condition saying it would be allowed 8.5 feet to the east cabin subject to meeting building code requirements. That is where those fire separation requirements come in and what has to be in certain buildings within that distance. That would be the recommendation I have for the board on that one. With the un-mowed buffer, that is a pretty standard condition that the county has imposed on anything that has a variance on the north shore area there. The idea of that is that the natural unmowed vegetation is going to help with water issues eventually and also a little bit of the visibility from the lake. They are not as concerned about your view of the lake, it's the person on the lakes view of the shore and structures without totally screening it with trees or something like that. Certainly the amount, that is at the discretion of the board or having that condition at all.

GJ - I do have a question here on the reasoning for going less than 10 feet away from that neighboring cabin. You called it a landing, is it like a parking lot? I am wondering what you mean.

BF - I have some pictures if you want to see them. It's a boat landing, you can see in my photos the lift that we have there is pulled out and parked there because that's the only place we can get it. The lift is actually the width, that is where we put the boat or pontoon in. It is tight right now and by moving that shed over it would kind of eliminate the landing, I could maybe get a jet ski in there but it's a little bit of a detriment to that spot.

CP - With the co-op, is there not a community landing spot?

BF - We don't have one. Most cabins actually don't even have a landing area just because of how they are configured.

JH - And the co-op is okay with this?

BF - Yes, I actually have an approval letter submitted and I have a copy of it too of the board approval of said shed with email with a signed okay from the president if you want to see it.

TM - I believe that is part of the packet.

JH - Yes, I see that.

BF - Touching on what you had recommend for building code there was one thing I wanted to ask, being that it is under 200 sq-ft, Minnesota doesn't actually require a building code for it.

TM - The difference in the 200 sq-ft actually has to do with the building permit, the structure still has to meet code and setback requirements, it has to do with the permitting. So lakeshore areas with structures that size that are smaller are required to get a land use permit from our office. It is just kind of a different term, but if we are going to do that closer to something that could be a code issue we will want that reviewed by the building code to make sure we are fulfilling that fire concern, which is the reason for the separation.

CP - When you were talking about your height, 11 feet would make your height to the peak?

BF - Yeah roughly, so obviously if you look at the shed right now it is almost sunken into the ground on the north side. Obviously once new block gets laid and then an 8 foot side wall, depending on what side of the shed you are going to be measuring from, it will be anywhere from 11 to 12 feet right now because of the slope of the land.

MP - The current one right now is 10' right?

BF - That side door is 5 feet 10 inches, the height of that shed is probably 6.5 feet, probably a 3 or 4/12 pitch on it and nothing standard about it when it comes to door size or stud height. Like most things out there they have been pieced together.

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

James Fisher – *Fairfax Way* - I am familiar with the property, my parents don't know this but I was in that cabin as a teenager for a couple parties. My understanding of the zoning regulations and what the intent is that we are slowly trying to get our lakeshore properties into compliance and I would like to continue down that road. That is the main point on this and if there is another way that some of these things can come up. The North shore has some issues, maybe they need to have a meeting and talk about a group storage place back off the lake. As far as the lakeshore landscaping, I just had a contract from Soil and Water dropped off for me to sign to continue on with lakeshore restoration with native plants and stuff and we really need to keep this as part of the conditions regardless of whatever is decided for the rest of this tonight. So I would appreciate if we would stick to that shoreland restoration mandate that the county has.

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

Discussion:

CP - I agree with James and the shoreland restoration piece and having that 25 feet of natural vegetation. I have no issue with the distance from the other cabin as long as it meets building code. And the height issue I could see, but it is just for storage so I think we could make 10ft still work with the shoreland structure. Could do a roll up door instead of a regular garage door on the front.

JH - Pretty much just allow for the 8 foot separation but continue with the 10 foot peak height requirement?

CP - Yes, and the 25 feet of native vegetation. Condition #4.

GJ - I am inclined to agree with leaving condition #4 in there for sure, I guess I am not opposed to leaving the shed where it is, I just kind of feel like there is a public landing to the lake, there are other ways to get on there.

JH - I do understand why moving it a couple feet further would, at least from those pictures he showed us. That tree doesn't give much room.

GJ - The lot is so narrow already.

JH - Ultimately he is leaving it in the same spot that the shed is in currently.

GJ - And if it meets code, it's probably less of a fire hazard than it is now.

MP - One thing I agree with is like CP said about the peak height, I think you have to stay pretty firm with the 10 foot. You are so close in there already, you don't want to block visibility more than we already are. I don't feel the need to go to a 12 or 14 foot peak height.

GJ - And I think the other thing going along with that as well, we are essentially going with replacements for these lots so if that shed is 6 feet, we are already giving 4 feet more. To go 12 or 14 feet would be doubling it.

MP - You guys are okay with the 8.5 feet closer, 1.5 feet closer than the 10 foot setback?

CP - As long as he follows everything.

MP - Would we have to make a new condition?

JH - Yes.

MP - With fire codes?

JH - More so allowing for him to have the shed be 8 feet from the neighboring cabin and then subject to building permit.

KE - So it must meet the fire codes?

JH - Or building code in general which involves fire too.

CP - I will make motion with approval of the 7 conditions if Trent will tell us the 7th condition.

TM - I was thinking of rewriting the first condition so it would remain at 6 conditions, but the 1st condition would say "the variance is to allow for a 20 foot by 8.5 foot replacement shed with a 10 foot peak height to be located 10 feet from lake Mazaska, with the structure also being 8 feet away from the east cabin, subject to building requirements and all other ordinance regulations".

GJ - I 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; yes, it is and old co-op everybody has structures that are doing replacements*
- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan; yes*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance; yes*
- *The request stems from circumstances unique to the property, not one created by the landowner; yes, it is an old existing cabin*
- *If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties; yes*
- *This is the minimum variance necessary to afford relief; yes*
- *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 yes*

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

TM:

Again pointing out it is a replacement shed, it is not a new location or anything. There are several onsite trees that if they were to remove those to meet setbacks closer they would probably have a big impact that way. They are limited due to the distance to the lake and the road. The buffer condition is there to help offset impacts

Motion made, seconded, and approved unanimously.

4. **Variance/Capranos - Section 15, Shieldsville Township**

Timmy Capranos, on behalf of landowner Thomas Capranos, has requested the following variances:

- A 48-ft variance from the 100-ft lake setback to allow for a shed to be locate 52-ft from Hunt Lake.
- A variance from the steep slope limitations to allow placement of a driveway on a slope

exceeding an 18% grade.

The property is described as: Part of Lot 5, Block 1 of Sunrise Views, Section 15, Shieldsville Township, Rice County, Minnesota. PID# 09.15.4.26.005. Property address is: 17555 Isabella Trail, Kilkenny, MN 56052. The property is Zoned RDS, Recreational Development Shoreland.

Motion by Garrett Johnson, seconded by Charlie Peters, to approve the Variance request with the following conditions and findings for Timmy Capranos, on behalf of landowner Thomas Capranos. The property is located in Section 15 of Shieldsville Township.

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

CONDITIONS OF APPROVAL – Capranos

1. The variance is to allow for a 128-sqft shed with a 12-ft peak height to be located 52-ft from Hunt Lake and to allow for regrading of the driveway, subject to compliance with all other ordinance regulations.
2. The application site plan shall be followed.
3. 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.
4. Variance shall be void if a building permit for the proposed shed is not obtained within one year of the variance approval. Regrading of the driveway must also be done within one year.
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).
MP - Shed will be put kind of where the burn pit is?

TM - I believe it is proposed for further back where the dock is, but not totally clear on the exact location.

GJ - So the variance is on existing driveway?

TM - Yes, it is on the existing driveway. I believe they are going to be doing some grading as well with that to make any changes or improvements because it is over that slope, which is why they need the variance for that. I did have some blanks in the conditions there, I think I did talk to the applicant but I don't have those numbers filled in on here. I apologize for that, he will have to re-update us on those numbers.

CP - How much room is to the North of the house in that one aerial?

TM - We can pull up the aerial again, so that doesn't have any dimensions on it. The lot width you are seeing is from one side to the other is about 125 feet so we are probably dealing with about 65-70 feet to the North line.

JH - Leave the aerial up for now.

The BOA asked the applicant, Timmy Capranos (TC), to come forward to add comments or answer questions regarding the request.

TC - We are requesting to replace an asphalt driveway that is falling apart and to replace a tin shed and make it a little bigger. Right now there is an 8 by 10 foot tin shed that is falling apart, we just want to add 6 feet of concrete and build a little bigger shed.

JH - So you'd be getting rid of that existing shed and replacing it with this new proposed one?

TC - Correct.

JH - What are the dimensions and height of the new proposed structure?

TC - 8'x16' and 12 foot peak.

CP - The driveway looks pretty bad are you going to replace?

TC - Yes, we are going to put concrete in.

CP - The only way to get to that shed site it looks like you go around the front of the cabin along the lakeshore.

TC - Yup, its tucked back there, you can't see it from anywhere basically.

CP - And that is just a storage shed for water stuff?

TC - Yes, for the boat stuff and the riding lawnmower.

CP - If you look up on top. I don't know what the grade is up there if it would be better to put a little bigger shed up behind the cabin to the North West. Not sure if that was a thought or not.

TC - We would rather keep it close to the lake, like I said we are just replacing the one that's there.

MP - Would you be clearing out all those trees around the existing shed?

TC - Nope. Nothing is going to be cleared out.

KE - In the one picture there was a burn pit, it looked like that is where it would be going or are you putting it right where the existing one is?

TC - Nope, we are replacing it right exactly where the one is. I can show you where it is from the fire pit.

KE - I can see that.

TC - We just want to put log siding on there like the cabin and update it.

JH - Are you aware of the 5 conditions?

TC - Yes.

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

James Fisher – *Fairfax Way* - The only question I have on this, because this is a variance, will that lake shore buffer be required particularly because this driveway is facing the lake?

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

Discussion:

JH - Condition #3 of this is "at least 25 feet of the shoreland within 10 feet landward of the water shall be established and maintained in a natural condition as an un-mowed native vegetation lake buffer". So that is a condition.

CP - Looks like we can fill in blanks on #1 with 8' x 16' and 12 foot peak height.

TM - 128 sq-ft according to Jeremy's math.

CP - I guess with the buffer thrown in there, the driveway looked to be in rough shape and with all the driving down there by the lakeshore, Condition #3 hopefully that will take care of a lot of that.

MP - I do like the idea of putting the shed up on top but I didn't realize there was an existing shed on the place.

JH - I understand how it would be a little difficult to access it too though as the main driveway into the site goes down the slope to the existing cabin, so I see how that could be a potential issue with moving the accessory structure up.

GJ - Seems to be tucked in nice with the cabin in the spot it is in. Obviously the concrete driveway adds water running towards the lake, but what is there now is just washing to the lake since it's not paved.

GJ - I motion to approve with the conditions and the square footage and 12 foot peak height.

CP - 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; yes*
- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan; yes*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance; 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; yes*
- *This is the minimum variance necessary to afford relief; yes*
- *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 yes

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

TM: Pointing out it is a replacement shed. The hill on site does limit locations and the proposed shed is further back from lake than the existing cabin and backed up to the hill.

Motion made, seconded, and approved unanimously.

5. **Variance/Winjum - Section 21, Wells Township**

Jon Winjum has requested the following variance:

- A 4% variance from the 25% lot impervious surface limitation to allow a shed to be located on the property resulting in a 29% lot impervious surface coverage.

The property is described as: Lot 1, Block 2, Winjums West Shore Addition, Section 21, Wells Township, Rice County, Minnesota. PID# 10.21.2.26.002. The property address is: 17983 180th St W, Faribault, MN 55021. The property is Zoned GDS, General Development Shoreland.

Motion by Charlie Peters, seconded by Garrett Johnson, to deny the Variance request with the following findings for Jon Winjum. The property is located in Section 21 of Wells Township.

RESULT: Approved, AYES: Charlie Peters, Julia Hogan, Garrett Johnson, Ken Engen, NAYS: Matt Purfeerst

Hearing Minutes:

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

JH - With the planned unit development were there any requests for an increase in impervious coverage for these lots?

TM - There was not that request at the time.

JH - Would there be a way to do an amendment for that development to do an increase?

TM - So the 25% is the limit county wide as well. So if they'd want to, and the planned unit development itself overall has a smaller impervious surface limit for the overall development. But on each lot in this case it worked out the 25% is what they are able to go to.

JH - So they wouldn't have been able to ask with the planned unit development for an increase in impervious surface?

TM - It would have needed to add additional land, either to the lots individually or to the development as a whole to do that.

CP - Weren't there several other accessory buildings? I think one we denied or moved one.

TM - I don't recall with the accessory buildings as much out there, it was more with the cabins and homes themselves. Probably half the structures out there have applied or requested variances out there.

JH - Because part of the planned unit development, it was a requirement that the houses had to be set back farther than the required amount. It was what, 120 feet?

TM - I believe it was like 120 or 125, something like that and the normal lake setback is 75 feet.

JH - Yeah, we had gotten multiple variances for setbacks.

TM - Yeah, 120 is the normal set back because of the planned unit development here. The structure is proposed at about 250 feet from the lake.

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

JW - I am trying to build a she-shed for my wife, so most of it is just to get stuff out of garage. It is a 20'x20' shed, that would include maybe a sitting area out front. And then they asked about a rain garden, which actually the picture is pretty good because it would go right out in this area to begin with. That's really all I got, I can meet all the setback requirements, I actually had called the County and asked if I could do this, they said yes, up in that neighborhood you can have up to a 1200 sq-ft shed, and I said all I need is 400 sq-ft. So I thought I was getting a permit and then this popped up.

MP - What's the height going to be?
JW - 8ft sidewalls.
JH - Are you aware of the 5 conditions?
JW - Yes.

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

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

Discussion:

JH - I know we received a letter for the public record as well.

CP - Like JH said, we received a letter, I would have hoped one of them would have spoken tonight from the homeowners association. We have all read the letter, I don't know if you want me to go through it for the public.

JH - You can touch on it if you'd like.

CP - One neighbor was denied a similar variance, I don't remember that. I know of one that we made them move it back I believe, they still have an accessory structure. They had it towards the lake and we had them move it back up beside the house I think.

TM - There was a request a couple of lots to the East, I don't remember which lot, there were two structures proposed I think and it ended up approving one of those but not the other. I don't know if I am remembering right or not, it was a couple of years ago.

JH - I think that was next to the lot that was used as a public landing.

CP - I guess if they are allowed out there, with other requests, there is one comment on "opening the flood gates" for other requests for accessory buildings.

JH - Which I somewhat agree, it's kind of like with the setback requirements for the houses. With the planning development it is 120 feet and then everyone realized that was more than the minimum standard for other shoreland lots, so they came forward and I think pretty much every lot does not meet the 120 so why even go through the planning and development if they are not going to follow the rules. And I do also kind of agree with if we allow this increase in impervious coverage, we are going to start a precedent that everyone else is going to ask for it. So maybe the lots should have been made larger.

GJ - Question for staff, just looking at other properties on some of those aerial views, I am guessing a lot of them started with gravel driveways but it looks like most of them are concrete now. Does anybody know, with the concrete driveway now, those have got to be over the 25% now.

TM - For impervious - gravel, asphalt, concrete are all treated the same.

JH - Same with any sidewalks or accessory structures.

GJ - If he is already 4% over the way it sits now, I guess is what I am getting at.

JH - This is a uniquely shaped lot as well, I'll give him that.

CP - It does have the room right there and he makes all setbacks with the 400 sq-ft proposal. I do see some other accessory structures, little storage sheds like on the neighboring one right now.

MP - I just look at the lot shape, it is a very unique. It looks like it would fit in perfectly right there. I do wish that the person that wrote this letter was here in person to explain what they wrote about. To me it looks like it's the perfect little spot to put a shed at, but I do understand the impervious surface.

JH - See and I understand how some maybe smaller lots that were built in the 1960s that don't have as much, if they request an impervious coverage variance, I am more understanding because it's a unique circumstance, the land itself not so much from the property owner, but you know these are all newly built homes. With the idea that all that was laid out with the planned unit development, this is what is allowed and this is what was required with these new lots. So if you allow for an increase right away, again you are going to see a lot more coming forward with that. Why do we have a zoning code at that point?

CP - I agree with you on that JH, we went through them all with the setbacks, pretty much every one of them. Well I guess, not to set precedent, I am going to make a motion for denial, just on the impervious surface. Not to set the precedent for that planned unit development. I do wish the HOA president was here or at least one of them.

GJ - I will second.

The Board of Adjustment reviewed the variance application and found that the applicant has not 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; yes, for the accessory building but it does not meet the impervious surface limit*
- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan; yes*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance; no, because of the impervious surface and planned unit development guidelines*
- *The request stems from circumstances unique to the property, not one created by the landowner; no, because it is a new home and property and they knew the restrictions*
- *If granted, this variance will not alter the essential character of the locality nor have any significant impact on the surrounding properties; no, because the other properties have some small accessory lake shore structures, but a larger one out front*
- *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, because we have not granted variances before for accessory structures and the impervious surface is already over*

The findings were read by Charlie Peters with the following additions by staff:

TM: Some additional comments, the site is currently over the impervious surface limit and we would be adding more to that. There appears to be some options to possibly reduce the impervious surface, there are two driveways on the piece, so that would be an option. Another option would be to add over some already impervious surface, instead of creating additional.

JW - So if I take out part of the driveway I can do this?

JH - I recommend speaking with staff after this is voted upon.

Motion made, seconded, and approved.

6. **Variance/Stoick - Section 33, Wells Township**

Roger Stoick, on behalf of landowner Stoick Creek LLC, has requested the following variances:

- A 456-sqft variance from the 1200-sqft size limitation to allow for a 1656-sqft agricultural equipment storage building.
- A 7-ft height variance from the 14-ft height limit to allow for an agricultural equipment storage building with a 21-ft peak height.

The property is described as: Part of the W1/2 of the NE1/4, Section 33, Wells Township, Rice County, Minnesota. PID# 10.33.1.25.002. The property is Zoned GDS, General Development Shoreland.

Motion by Matt Purfeerst, seconded by Garrett Johnson, to approve the Variance request with the following conditions and findings for Roger Stoick, on behalf of landowner Stoick Creek LLC.

The property is located in Section 33 of Wells Township.

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

CONDITIONS OF APPROVAL – (Stoick)

1. The variance is to allow for a 2116-sqft agricultural storage shed with a 21-ft peak height, subject to compliance with all other ordinance regulations.
2. The application plans submitted shall be followed.
3. Variance shall be void if a 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). Including an update of the building size from the application.

JH - Where will access to the shed be?

KE - That far set of trees?

TM - Let's go back to the aerial photo and I can try to answer that. I will explain where we were, the first photo where access off of the roadway was is right down by where the mouse is now, then we went through the divide area up on to the hill where the subject site label is. And then that last photo is down closer to where the lake is, looking back up at it. Hopefully that clarifies that more. There are actually two access points to the parcel, one a field access up off the county road and then an access down off of Wells Lake Court.

The BOA asked the applicant, Roger Stoick (RS), to come forward to add comments or answer questions regarding the request.

RS - I have been an active member in this community for a long time, I've owned property on Shields Lake and sold my last parcel of land there to the trust for public land and it has been turned over to the DNR now for public hunting. I wouldn't characterize myself as a tree hugger, but I am kind of a conservative person so I bought this property with the intention of preventing further development along the river. I was on the Cannon River Watershed partnership board for the maximum term I could be on it and spent a lot of time trying to keep Cannon River and Cannon Lake clean. There are no buildings on this property, and we have converted part of the agricultural land to CRP, but I still have part of it farmed by Ben Voegele, who's a local farmer here. So he and I have talked about different activities and we are considering moving part of this land to hay ground and having facilities for needed storage for that product. I also have a project going on with US Fish and Wildlife and with the forestry people to eradicate the buckthorn that is on the property. That is a 5 year program, so I have tractors and disks and drags and a lot of equipment that either currently sits outside or I transport back and forth to the property. We expect to be increasing our activity on the land with more conservation practices and hay operations.

CP - Access to shed, what would be your primary route to and from. Which road?

RS - Well I primarily come in from Cedar Lake Blvd, but I also drive my vehicle through Wells Lake Ct. So I kind of come from both areas depending on what is going on and how the roads are.

JH - Are you aware of the 4 conditions?

RS - No.

JH - Can you put those up JE?

TM - That first one should be amended.

JH - Yup, so that first one will change.

RS - Okay.

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

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

Discussion:

CP - It is a ways off of the lake.

JH - It is a very large parcel.

MP - Great spot for a shed.

KE - It's blocked by everything except the water side and it sits way back.

MP - I will make a motion to approve.

GJ - I 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; yes*

- *Request is in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan; yes, it is a long ways away from lake*
- *Applicant proposes to use the property in a reasonable manner not permitted by the Ordinance; 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; yes*
- *This is the minimum variance necessary to afford relief; yes*
- *Adequate sewage treatment and water capabilities can be provided; yes, I don't believe any is going in*
- *The variance would have no significant impact on public health or safety; and yes, it is a long ways away from the road*
- *Special privileges are not conferred to the applicant that are denied owner of other lands, structures, or buildings in the same district yes*

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

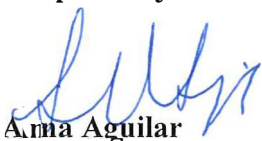
TM: Again pointing out it is a very large parcel, it is actually over 100 times the minimum lot size required out there. As such, it does require equipment to maintain the property. There are many acres of current farmland on the parcel, long distance to the lake and there is good tree screening cover along the lake and to the neighboring properties.

Motion made, seconded, and approved unanimously.

III. Adjournment

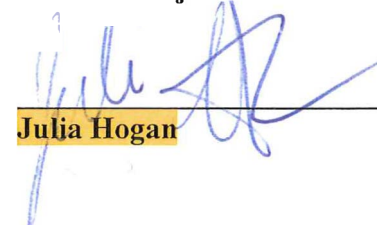
Hearing no other items before the BOA, a motion was made by KE, second by GJ, to adjourn the meeting at 7:25 pm. Motion carried 5-0.

Respectfully Submitted



Anna Aguilar
Administrative Coordinator

Board of Adjustment Chair



Julia Hogan