

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY BOARD OF ADJUSTMENT
Commissioner's Room / Government Services Building
Thursday, August 8, 2024 at 6:00 PM**

I. Call to Order

A. Roll Call

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

Members present were: Charlie Peters, Garrett Johnson, Kenneth Engen.

Members absent were: Julia Hogan, Matt Purfeerst

Staff present were: Zoning Administrator Trent McCorkell, Senior Planner Jeremy Edwards, Clerk Laurie Johnson, Clerk MacKenzie Klett.

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

B. Motion by Ken Engen, seconded by Garrett Johnson, Reading of the Notice

RESULT: Approved, AYES: Charlie Peters, Garrett Johnson, Ken Engen, NAYS: None

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

RESULT: Approved, AYES: Charlie Peters, Garrett Johnson, Ken Engen, NAYS: None

D. Motion by Garrett Johnson, seconded by Ken Engen, to approve the minutes of July 11, 2024

RESULT: Approved, AYES: Charlie Peters, Garrett Johnson, Ken Engen, NAYS: None

II. New Business

1. Variance/Kaul - Section 36, Shieldsville Township

Joe Kaul, on behalf of landowner WWBKD LLC, has requested the following variances:

- A 12-ft variance from the 75-ft lake setback to allow for a cabin/garage to be 63-ft from Cedar Lake.
- A 162-sqft variance from the 144-sqft size limitation to allow for a 306-sqft water orientated accessory structure.

The property is described as: Lot 2 and Cedar Park of Cedar Shores Subdivision and Part of the vacated access within Cedar Shore Subdivision, Section 36, Shieldsville Township, Rice County, Minnesota. PID# 09.36.1.26.003. Property address is: 20120 Geneva Ct, Faribault, MN 55021. The property is Zoned GDS, General Development Shoreland.

Motion by Garrett Johnson, seconded by Ken Engen, to approve the Variance request with the following conditions and findings for Joe Kaul, on behalf of landowner WWBKD LLC. The property is located in Section 36 of Shieldsville Township.

RESULT: Approved, AYES: Charlie Peters, Garrett Johnson, Ken Engen, NAYS: None

CONDITIONS OF APPROVAL – Kaul

1. The variance is to allow for an existing 306-sqft water orientated accessory structure and a proposed 720-sqft cabin structure with the cabin 63-ft to Cedar Lake, 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. The existing water orientated accessory structure shall only be used for water oriented storage.
5. A certificate of survey shall be submitted with the building permit application.
6. Variance shall be void if a building permit for the proposed cabin is not obtained within one year of the variance approval.
7. 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 - So the current building on site would become a water accessory structure?

TM - Yes, it's a building that has been there or at least some version of it has been there for quite some time. Otherwise, we would not allow even that stand-alone type of building, but with the cabin being built on site, it will be conforming as a water-oriented accessory building other than the size that is requested to remain.

CP - Okay.

The BOA asked the applicant, Joe Kaul (JK), to come forward to add comments or answer questions regarding the request.

JK - I grew up in Faribault and myself and my nephew, who is here, Sam Schell, are the owners of the lot. And I also have Corey Jenko, my contractor if we are able to proceed with this, and my neighbor, Steve Grey, from down the line on the shoreline that we live on. My father, Tom Kaul, has owned this property for several decades. The Kaul's have been out on this shoreline for a long time. After my mother and father passed away, Sam and I bought this small lot. The family has been there for a long time. So, basically, what we want to do is, we need a place to store our tools and equipment and to improve the appearance of our lot. Our neighbors, the Grey's, the Carlander's, the Wolfgram's who you saw photos of, have very nice homes, and we want to bring our lot up to the neighborhood standards and have a place to put our lawnmowers without putting tarps over them and things like that. Just to be able to get our equipment inside and also be able to use it as a combination garage/cabin.

CP - Are you aware of the 7 conditions with this variance?

JK - Yes, and I have a copy of that here.

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

Acting Chair Peters closed the public testimony portion of the item to the public.

Discussion:

CP - I agree, that structure has been there a long time. And if he uses it as an accessory structure that's fine, and looking at the neighboring properties, we are not doing anything more on impervious surface or anything.

GJ - It looks like with the way the lot lays and where they have the garage-living area proposed, it's about the only spot it can go.

GJ - I motion to approve with the 7 conditions.

KE - 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, it is a smaller lake lot*
- *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 GJ with the conditions as stated above and with no additions by staff:

Motion made, seconded, and approved unanimously.

2. **Variance/Juskiv - Section 35, Shieldsville Township**

Ian Juskiv, on behalf of landowner Josh Ihlenfeld, has requested the following variance:

- A 6% lot impervious surface variance from the 25% lot impervious surface limitation to allow for two patio additions.

The property is described as: Lot 11, LaCanne Addition, Section 35, Shieldsville Township, Rice County, Minnesota. PID# 09.35.4.51.004. Property address is: 8365 Hennepin Way, Morristown, MN 55052. The property is Zoned GDS, General Development Shoreland.

Motion by Garrett Johnson, seconded by Ken Engen, to approve the Variance request with the following conditions and findings for Ian Juskiv, on behalf of landowner Josh Ihlenfeld. The property is located in Section 35 of Shieldsville Township.

RESULT: Approved, AYES: Charlie Peters, Garrett Johnson, Ken Engen, NAYS: None

CONDITIONS OF APPROVAL – Juskiv (Ihlenfeld)

1. The variance is to allow for an at grade patio, near the garage, resulting in a parcel with a 28% impervious surface lot coverage, subject to compliance with all other Ordinance regulations.
2. Applicants submitted site plan shall be followed.
3. A 700-sqft unmown natural vegetative buffer area shall be created and maintained on the parcel. Buffer area is to include at least 50% of the lake frontage and extending at least 10-ft landward.
4. Variance shall be considered void if permits are not obtained and construction commenced within one year of the variance approval.
5. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

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

CP - So none of the proposed patios are existing at the moment?

TM - Correct, the one down by the lake is currently sand, and it will become an impervious surface. The other one is an extension. I believe it was off of one of the ones here in the site plan.

The BOA asked the applicant, Ian Juskiv (IJ), to come forward to add comments or answer questions regarding the request.

IJ - Essentially, what the project entails, that back area near the house, we will be expanding the patio where the fire pit is and connecting over to the garage door on the backside of the house. He plans to store his mower and that sort of stuff in there and an ATV. Right now it is just coming out straight into grass, so a lot of the soil is going to be eroding down the hill side into the lake, so we are trying to prevent that as much as possible by adding that impervious surface with the patio there and just connecting that whole area to make it one and more of a functional and usable space. And then, for the patio down by the water, a lot of that sand has been washed out in the last couple of months with the recent rains. So wanting to get something that is more steady and able to stay and not erode into the water is what the goal is with the project and clean it up a bit to make it more of a usable space for him and not have the sand just wash away making us need to bring more sand in year after year. Just want to make it a more usable space for the future. A question I had on one of the conditions. I am not sure if this is the right time to ask, but there is one about having a vegetative buffer along the shore. I am just looking for a little more clarification on what that would entail. I know this doesn't sound like it's the time to get the answer, but I just wanted to put that out there. That is my only question for now. I appreciate the time.

CP - Actually, this is the time to ask that question. Maybe you can explain that better TM.

TM - That is fairly standard when we have variance requests, especially for impervious surface to have a vegetative buffer along the lake as a requirement. Basically, it's an area that isn't mowed regularly, it is

left to grow. Some people will seed it with native vegetation, others just let it go to that over time. It's designed as an offset when we are increasing the impervious surface, to have an area that is hopefully a buffer, both visually and from a water runoff standpoint for the lake.

IJ - Okay, that answers my question.

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

Acting Chair Peters closed the public testimony portion of the item to the public.

Discussion:

CP - It actually looks like a good plan. This year I know the SWCD has had a lot of calls regarding lake shore erosion because of impervious surface. It is only 6%, but we are still adding impervious surface.

KE - Right on the lake shore.

GJ - This one is a little more difficult than some of the other ones, it's not existing. I know one of the requirements is the plight of the landowner, and it is a little tough to reach that one.

CP - Yeah, I agree with you. They mow down to the lake right now. I can see maybe right by the garage door that there is quite a sizable patio up there right now. It's not in front of the garage door. The one down by the lake, it's right by the lake and going to cause direct runoff into the lake in my opinion.

GJ - TM I know that in the packet here the numbers are slightly over right now.

TM - Yes, those are based on the applicants' calculations. But yes, it does appear to be just slightly over, 25.7% is what they had. And they are proposing 30.2%, which in the conditions is rounded to 31%.

GJ - Is it possible that we can talk to the applicant about whether there is a number in between, so he can add on to that patio by the garage and get those areas they wanted extended but I am not 100% sure about going all the way to 31% impervious, especially down by the lake shore.

CP - I think the one by the garage we could allow and maybe the one by the lake shore and still have them do the 700 sq-ft vegetative buffer down by the lake shore for further rainfall events and erosion. That would be my ideal situation with this variance.

GJ - Maybe the applicant can come back up and we can ask him about the patio.

CP asked the applicant to come back up to the speaker stand.

CP - We have had a lot of concerns around all these lakes this spring with erosion, and the lake shore basically sluffing off into the lakes. I know Soil and Water and the County have had a lot of calls. And our main concern is allowing more impervious surface around the lakes. Looking at the two patios, what would be the homeowners priority? If we were to leave the lake shore one alone around the dock. Do you have any idea if the homeowner would rather have that one or the garage one?

IJ - I know from speaking with him that the homeowner would prefer to have the one by the garage, if he had to choose between the two. Just because he is going to be moving stuff in and out of that garage door a lot more than he is going to be using the one down by the lake, so he'd prefer to have that one more than the one by the water.

GJ - I just kind of, off what you were talking about as well, obviously getting that patio up along the garage door, with a lot of traffic there is probably not a lot of grass and stuff holding that sediment there anyway, so I guess I am okay with the patio up there. But I just don't know about going all the way to 31%, so maybe finding somewhere between the two patios. Whether that's 28%, if that should be enough to get the patio by the garage plus the 0.7% that it is already over. Do you think that would work staff?

CP - Looks like the burn pit is up by the garage at the moment, so if you added on there you can just add more chairs up there.

JE - 28% is what we are getting in our calculations.

TM - Looks like 28% with some slight rewording of the first condition as well.

CP - Okay, I would go for that one up by the top.

KE - Yes.

GJ - I make a motion to approve with the update to the first condition at 28% impervious surface coverage and the other 4 conditions unchanged.

KE - I second.

TM - I just want to make sure you are okay with the rewording of the first condition: "the variance is to allow for an at grade patio near the garage, resulting in a parcel with a 28% impervious surface lot coverage" subject to the rest unchanged.

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, just the one patio by the garage in the rear*
- *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 GJ with the conditions as stated above and with the following additions by staff:

TM: Just a little to add on why you modified the variance. What I have is that the lake shore patio was more than the minimum amount needed to utilize the site, pointing out it is very close to the lake and shore impact zone. Those were reasons I was hearing to modify the approval here.

CP - Exactly, thank you.

Motion made, seconded, and approved unanimously.

3. **Variance/Martin - Section 13 & 24, Webster Township**

Clifford Martin, on behalf of landowner Harold Martin has requested the following variance:

- A 50-ft variance from the 100-ft Road Right of Way setback to allow for a compost building to be 50-ft from the Road Right of Way of Hazelwood Ave.

The property is described as: Part of the SW1/4 of the SE1/4, Section 13 and Part of the NW1/4 of the NE1/4, Section 24, Webster Township, Rice County, Minnesota. PID#s 02.13.4.50.001 & 02.24.1.25.001. Property address is: 6001 Hazelwood Ave, Northfield, MN 55057. The property is Zoned A, Agricultural.

Motion by Ken Engen, seconded by Garrett Johnson, to approve the Variance request with the following conditions and findings for Clifford Martin, on behalf of landowner Harold Martin. The property is located in Section 13 & 24 of Webster Township.

RESULT: Approved, AYES: Charlie Peters, Garrett Johnson, Ken Engen, NAYS: None

CONDITIONS OF APPROVAL – Martin

1. The variance is to allow for 700-sqft or less sized enclosed compost structure to be 50-ft from the County Road 46 Road Right of Way, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. Site is to be shown to be free of unlicensed or inoperable vehicles and solid waste prior to issuance of any structure permits.
4. A septic system compliance inspection shall be completed prior to issuance of any building permits. If the system is found to not be in compliance, a compliant system must be in place by not later than September 1, 2025.
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).

KE - So the site will actually be hidden behind the trees or back in there?

TM - As much as possible, I believe. There will certainly be some tree removal needed at the site.

CP - When you went to the first picture, does the driveway go to the home as well?

TM - No, it doesn't. That is accessed off of the other roadway. If we go back to the close aerial, this site is coming off of Hazelwood Ave, the house on site is coming off of 62nd, I believe.

CP - So all the structures off of Hazelwood Ave are part of this compost?

TM - The applicant will have to explain what is what, they are permitted as Ag structures currently. I am not sure how much is planned to be used with the compost operation on site later.

The BOA asked the applicant, Cliff Martin (CM), to come forward to add comments or answer questions regarding the request.

CM - I think the bulk of this is really in the next meeting for the actual permit at the site. But as far as this variance goes, on this image (*close aerial*) you can see Arnie and Jim Malecha's really long pole barn just to the right of the triangle there. This site proposal is a little bit down and left. We are looking for this variance, if we had to do the 100ft setback from both sides of the property line, we would have to put our little compost building right in the middle of the top of the hill there, and it would make our lives a lot easier to put it 50ft to the west. We would still have, I think, 25-30ft of established tree cover at least, and most of the trees up there, in that spot in particular, are sumac and a little bit of pine. So we wouldn't have to take out a bunch of nice tall trees, which is good. And we will probably plant some nice taller trees even though there are already a lot of sumac and things like that there. As far as the variance goes, it is just trying to make the work flow of the site function a lot easier for us by moving it 50ft west.

CP - So this is basically, where you are looking at, would be all new structure right in that area, new driveway, new structure?

CM - Somebody asked about the other structures on site. We have a free-range chicken farm too. Technically unrelated, we already have a lot of equipment but it is two separate operations. But that is what some of the other buildings just a little south of there are.

GJ - I was reading in the packet earlier, can you explain the work flow for what you are proposing on the property, as to why you wanted it to be closer to the road there?

CM - The simple version is that is at the top of a slope and that is like the flat part of the slope. There is an established trail there that has been cleared for years and that is what we'd like to pour more gravel on. So the nature of the site that you will see (*site plan pulled up*), this is also in the IUP. You can't tell the road visual in here necessarily, but the flow of being able to drive vehicles around the existing loop road would make it a lot easier for us to be able to dump the initial waste in the gray structure on the west side and then pile all the other stuff in the center. And when we have mapped out if we have to have the building in the center, we would have to spread the other piles of materials around it. That makes the space we would have to pour a bunch of gravel on for a pad and move vehicles around more cumbersome and this way we move the building a little bit further from the Malecha's place and a little bit further from their house. So it's sticking it closer to the road as opposed to having it right near the farm field. I know it doesn't sound substantial and when we map it out it makes enough of a difference for us to apply for a variance to run the site easily as opposed to having to drive around and bring the front end loader over here. That kind of thing, little but yet in the long run substantial for us.

CP - Are you aware of the 5 conditions with the variance?

CM - Yes.

TM - I just had something real quick, if we pull up the site plan here. It really just had to do with property line with the neighbor there. Have you guys had discussions with them about the stuff that is there?

CM - Yeah, that is all theirs. But because we only did a property line survey recently, they can leave it for now. It is fine for now. For a long time, we all thought it was a lot further west.

TM - One of the conditions requires that that will be addressed.

CM - Yes, they are more than willing to. We just haven't made them do it yet.

TM - I just wanted to make sure that that was understood.

CM - Yep, that's great, thank you.

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

Acting Chair Peters closed the public testimony portion of the item to the public.

Discussion:

GJ - It makes sense to me to use the existing driveway and trails.

KE - And it is a flatter area looking at the site plan with the topography lines.

GJ - I don't think we are impeding on anyone with getting closer to the 35.

KE - No, I don't think so.

CP - And obviously the neighbors, the Maelcha's don't have any issues with it. I don't have an issue with it.

KE - I 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*
- *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 KE with the conditions as stated above and with the following additions by staff:

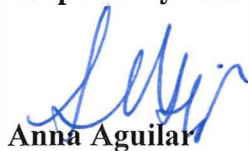
TM: Again, part of your discussion had to do with parcel shape. Certainly, that tall narrow parcel limits options on where to put things on site. And the applicant needs to access the various structures and be able to get around them on the site. That limits options also.

Motion made, seconded, and approved unanimously.

III. Adjournment

Hearing no other items before the BOA, a motion was made by GJ, second by KE, to adjourn the meeting at 6:39 pm. Motion carried 3-0.

Respectfully Submitted



Anna Aguilar
Administrative Coordinator

Board of Adjustment Acting Chair



Charlie Peters