

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY BOARD OF ADJUSTMENT
Commissioner's Room / Government Services Building
Thursday, April 3, 2025 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: Julia Hogan, Matt Purfeerst, Garrett Johnson, Kenneth Engen, Jim Cihak.

Staff present were: Zoning Administrator Trent McCorkell, Senior Planner Jeremy Edwards, Administrative Coordinator Anna Aguilar, Office Support Specialist MacKenzie Klett.

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

B. Motion by Matt Purfeerst, seconded by Ken Engen, reading of the Notice

RESULT: Approved, AYES: Julia Hogan, Garrett Johnson, Matt Purfeerst, Ken Engen, Jim Cihak,
NAYS: None

C. Motion by Garrett Johnson, seconded by Jim Cihak, approval of the updated agenda

RESULT: Approved, AYES: Julia Hogan, Garrett Johnson, Matt Purfeerst, Ken Engen, Jim Cihak,
NAYS: None

D. Motion by Ken Engen, seconded by Garrett Johnson, to approve the minutes of March 6, 2025

RESULT: Approved, AYES: Julia Hogan, Garrett Johnson, Matt Purfeerst, Ken Engen, Jim Cihak,
NAYS: None

II. Old Business

1. Gerhart/Variance - Section 16, Wells Township

Lisa Gerhart has applied for the following variance:

- A 35-ft variance from the 75-ft Lake setback to allow for a new home to be located 40-ft from Roberds Lake.

The property is described as: Part of Government Lot 5 in the SW1/4, Section 16, Wells Township, Rice County, Minnesota. PID# 10.16.3.50.007. Property address is: 17817 180th St W, Faribault, MN 55021. 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 Lisa Gerhart. The property is located in Section 16 of Wells Township.

RESULT: Approved, AYES: Julia Hogan, Garrett Johnson, Matt Purfeerst, Ken Engen, Jim Cihak,
NAYS: None

CONDITIONS OF APPROVAL – Gerhart

1. The variance is to allow for a home with attached garage to be located 40-ft from Roberds Lake, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. In the area between the home and the lake, at least three trees of a species native to Rice County shall be planted and maintained. Two additional trees shall be planted on the lot within the shore impact area. These trees shall have an initial planted height of 3-4ft.
4. Variance shall be considered void if building 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).

The BOA asked the applicant, Douglas Gerhart (DG), to come forward to add comments or answer questions regarding the request.

DG - We are trying to get the variance to put the home back there.

JH - Are you aware of the 5 conditions associated with this?

DG - No.

Staff put the conditions on the screen

DG - Yes, no problem.

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:

GJ - It's a small lot.

JH - Seems like they are moving it further away from the lake than the previous plan. They are trying to bring it more into compliance.

GJ - Working with other setbacks from the other property lines, so they are at least fitting it in where it works best on the property.

JH - You would have to have a tiny cabin to make it work with the lake setback. I don't even know if you could make that work with the 75ft lake setback.

MP - And 40ft away from the road is very close to the road too. It's about the only spot you could put it. I 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:

- *The variance request in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan? **Yes***
- *The proposed use is an allowed use in the zoning district in which the property is located? **Yes***
- *The proposed sewage treatment system is or can be made compliant with the Rice County Sewage and Wastewater Treatment Ordinance? **Yes***
- *The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance? **Yes***
- *The plight of the landowner is due to circumstances unique to the property not created by the landowner? **Yes, limitations due to small lot***
- *The variance, if granted, will not alter the essential character of the locality? **Yes***
- *The applicant has established that there are practical difficulties in complying with the Zoning Ordinance, not constituting economic considerations alone? **Yes***

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

TM: Pointing out it is a fairly similar situation to other nearby properties as it relates to lot size and cabin locations. And with the tree planting requirement, it should provide some screening from the lake

shore.

Motion made, seconded, and approved unanimously.

2. **Ellingson/Variance - Section 36, Shieldsville Township**

Larry Ellingson, on behalf of landowner Larry R & Denise M Ellingson Trusts, has applied for the following variances:

- A 784-sqft from the 1200-sqft size limitation to allow for a 1984-sqft proposed garage.
- A 6-ft variance from the 14-ft peak height limitation to allow for a garage with a 20-ft peak height.

The property is described as: Lot 1, Block 1, Hendrickson Estates 2nd Addition in the S 1/2 of Section 36 Shieldsville Township, Rice County, Minnesota. PID# 09 .36.3 .77.001. Property address: 7581 209th St W, Morristown, MN 55052. The property is Zoned GDS, General Development Shoreland.

Motion by Garrett Johnson, seconded by Jim Cihak, to deny the Variance request with the following findings for Larry Ellingson, on behalf of landowner Larry R & Denise M Ellingson Trusts. The property is located in Section 36 of Shieldsville Township.

RESULT: Approved, AYES: Julia Hogan, Garrett Johnson, Matt Purfeerst, Ken Engen, Jim Cihak, NAYS: None

FINDINGS OF FACT – Ellingson

- The plight of the landowner is not due to circumstances unique to the property, they are created by the landowner. The property is plenty large and has everything needed to meet the requirements of the Zoning Ordinance.
- The applicant was unable to establish that there are practical difficulties in complying with the Zoning Ordinance.
- This is not the minimum variance necessary to afford relief, there are other options to decrease the size and peak height of the proposed detached garage.
- The applicant is proposing a detached garage that goes above and beyond the size and height limitations set by the Zoning Ordinance for accessory structures on a riparian lot.
- No previous variances have been granted for accessory structures of this size and peak height on cabin/home riparian lots in this area.
- Building would have little or no screening to the lake.
- The applicant could be in compliance with the Zoning Ordinance by attaching the proposed structure to the house.

Hearing Minutes:

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

JH - Have there been any variances approved for detached garages in this area with this large of a request?

TM - I am not aware of exact details for variances in the area.

JH - Are there any, to your knowledge, large sheds on riparian lots in this area?

TM - None that come to mind right away. There are some non-riparian ones. We actually had variances on the property just to the right of this for two sheds. That was a pretty big lot that has some ag buildings on it. Otherwise, I am not aware of what is out there.

The BOA asked the applicant, Larry Ellingson (LE), to come forward to add comments or answer questions regarding the request.

LE - I am requesting a little bit larger building and taller height. What I am trying to achieve is a garage

that would match the house. *Applicant showed board photo of proposed plan.* I am just trying to match what the existing is and build a little bit larger garage.

JH - I know it said on beacon that your house was built in 2017. Is that correct?

LE - Yes.

JH - Were you aware when building on this lot that there were limitations on accessory structures for shoreland lots?

LE - I didn't build the house, I just bought it a little over 2 years ago.

JH - Okay, were you aware when you bought the house that there were limitations for accessory structures on shoreland lots?

LE - Not at that time.

JH - Are you aware of the 5 conditions associated with this variance?

LE - Yes, looks good.

TM - The site I mentioned earlier is actually a riparian lot, it is back off the lake quite a bit. It is 23 acres, but it is technically a riparian lot. It is also under joint ownership with the neighboring property to this.

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 have an issue with this because there is no hardship on this property for such a large shed. Even a non-riparian lot only has a max height allowance of 16ft and this is a 20ft request. I have an issue with this because it's a want, not a hardship that is brought forth because of an issue with the lot.

GJ - Staff, I can't remember exactly what we talked about in our special meeting. For riparian lots, were we thinking about 16ft or maybe 18ft?

JE - I believe you are referring to the special meeting regarding ordinance changes for the future. I believe the discussion revolved around changes for the non-riparian lots, not for riparian lots. That was the gist of that conversation.

JC - I have question. What is the current peak height on the existing house and garage?

TM - The applicant can maybe address that, but on a home or any attached structures there is a 35ft peak allowance. There does appear to be a small shed in that location right now, that looks like it has about a 10ft-12ft peak height.

JH - But for accessory structures the maximum peak height they are allowed is 14ft.

JC - And the existing one isn't anywhere near the current house and garage is what I am talking about.

Staff pulled up photo of house

GJ - We can't just let everything go.

JH - We have a zoning code with regulations in shoreland districts for a reason. I guess that's why I have a hard time approving such a large shed and height request.

MP - From my seat, the height doesn't bother me too much on this particular parcel because right across the road is a slew. There are not going to be many houses built that it would inhibit their view. But the size is big for the lot, it is going to look big.

JH - I mean then you are kind of setting a precedence if we approve this. With a lot of other homes on these lots, if they see that one gets approved, they are going to come forward asking for similar things just like that too. And then we are going to have a long line of shoreland lots with very large accessory structures, which, technically, our code does not allow for.

GJ - Can we have the applicant come back up so we can hear why he needs to go so tall with the building?

JH called applicant back to the stand for additional questions

GJ - I was reading through a lot of stuff earlier and it sounds like this is mainly for collector cars.

LE - That is what it is for.

GJ - I am wondering why you need such tall building? What kind of clearance for the door are you

trying to get?

LE - All I did was duplicate my house. My house has 10ft sidewalls in the garage and the peak right above my big garage door is close to 19ft I believe. I am just trying to match what is there. It's not a huge machine shed. I want it to look good. This is my retirement home. My cars are in another storage building and I want to get them up here by my house. And I am meeting all other setbacks you have, I mean these are the only two, the additional 6 feet and the extra square footage.

Applicant left speaker stand

JH - It's almost 2,000sqft, almost 70% larger than what is allowed.

GJ - Could we try to shorten it? What are you thinking?

JH - It is just very large for what is allowed on a riparian lot, so I have a hard time approving it as is because of its height and size. It is not our job to figure out a better plan for them.

GJ - I would like to see if he can downsize it. Are we able to table it and have amendments made to it?

JH - If we table it again, we run into the 120-day issue. There is a timeframe on how long you can push an item.

MP - We could ask him to come up and see if he would shorten it. I mean that'd be the only other option, if that's our decision that it's not going to be approved as is. We could ask him if he wants to make it smaller, he would have to come up here and give us his answer. I am not sure that is even a possibility.

GJ - What other options are there?

MP - It is big, but I do agree with him. It would look nice for it to be uniform. It would look good.

JH - I get that, but I have a hard time with variances. The main part of that is because there is a hardship from the land. Not because there is a hardship that is brought forward from the applicant. And really this lot does not have a hard time meeting the requirements of 1200sqft and 14ft peak height. So, I have a hard time approving something so large and so tall, when the land doesn't make that an issue.

KE - When you go through the findings of fact you actually come up with a few "no's" automatically.

Finding #5 - The plight of the landowner is due to the property, you can't say yes to that. And as for finding #6, it will alter the character of the locality.

JH - I understand the want for a larger one, it's just that I have a hard time approving something so big on this lot.

GJ - Staff, are there any options for having them come back with changes or a different plan for downsizing?

JH - They'd most likely have to withdraw and comeback forward and get re-noticed.

TM - Or waive their timeframe requirements.

JH - So they'd have to withdraw or waive the 120 days. And then redo everything and come back.

JH invited applicant back to the speaker stand

LE - The existing house to the west of my house is way taller than my house and the proposed building.

JH - I know, but we are looking at accessory structures and they have a different requirement than the principal structure. The principal structure, your house, and the neighbor's house is allowed to have a 35ft maximum peak height. Accessory structures, or detached accessory structures have a different size and height. So that is what we are looking at here today, the size and height of what you are requesting.

LE - I understand what you are telling me, I just don't understand when it's the same height as my house. Just because your zoning says it should only be 14ft, I don't understand. 14ft over, my house is like 19ft, so it's hardly a difference. I just don't understand why, except for that you have it written in your zoning that it can only be 14ft.

JH - Yeah, and that is what the variance request is asking for, a deviation from the zoning code. That's what the standards are for.

LE - Right.

JH - Yes.

LE - But if it was a house, I would be just fine then, right?

JH - Houses do have different requirements than accessory structures, correct.

TM - One option that might be available to the applicant would be attaching it to the house.

LE - That's probably what is going to end up being if I don't get my variance.

TM - If it's an attached building than it could be matching that height. So that may be one thing you want to consider.

LE - So then it will end up being that tall anyway, it's just that it will be hooked to my house.

JH - That is the zoning requirement, so if you choose to attach it to your house that would be fine, the height would be fine. But this is a separate structure, so we look at it from a different point of view than principal structures. So that's why this variance request is here.

MP - Would there be an upside to hooking it to the house? Would you want to attach it to your house?

LE - Well the reason I didn't hook it to my house is that I have all my utilities on the east side of the garage. I have the gas line, electric line, the Metro Net internet line. It's all these utilities, plus my central air conditioner is on that side of the garage. It just seemed easier to move it over to the 14ft setback and then literally build the same structure. That was the main reason I didn't attach it.

JH - Thank you.

Applicant left the speaker stand

GJ - I know it is redundant, but I guess I would just feel better if he attached it. One of the biggest things we get for variances is "well my neighbor got one".

JH - It would be setting a precedence by allowing it.

GJ - I understand that not everyone agrees with all the codes but we didn't make them.

JC - They are there for a good reason. I can understand the desire and want to have this. But to me, the size increase is over and above, plus the peak height seems excessive for where it's going to be located.

GJ - I think you could look at it as a loop hole to attach it to your house, but if that's what is allowed in the code then that works.

KE - I would agree with all of that. Like you said, it is a loop hole to get around it, but then he can make what he wants.

GJ - And the code allows it. I motion to deny both variances.

JC - I 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:

- *The variance request in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan? **Yes***
- *The proposed use is an allowed use in the zoning district in which the property is located? **Yes***
- *The proposed sewage treatment system is or can be made compliant with the Rice County Sewage and Wastewater Treatment Ordinance? **Yes***
- *The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance? **Yes***
- *The plight of the landowner is due to circumstances unique to the property not created by the landowner? **No, the property is plenty large and has everything needed to meet the requirements in the zoning code***
- *The variance, if granted, will not alter the essential character of the locality? **Yes***
- *The applicant has established that there are practical difficulties in complying with the Zoning Ordinance, not constituting economic considerations alone? **No***

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

TM: From your discussion, some of the points you brought up - It appears to be an excessive request for the location. The location has very high visibility to the lakeshore. The applicant does have options to do an attached structure instead of the detached structure. And just from looking from the air photo, none of the other nearby riparian cabins or home properties have sheds that are very big. So, it would definitely look different than what is out there.

Motion made, seconded, and approved unanimously.

III. New Business

1. Gillen/Variance - Section 16, Walcott Township

Aaron Gillen has applied for the following variance:

- A 30-ft variance from the 70-ft rear property line setback requirement to allow for a home to be located 40-ft from the rear property line.

The property is described as: Part of Government Lot 10 in the NE1/4, Section 16, Walcott Township, Rice County, Minnesota. PID# 15.16.1.50.002. 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 Aaron Gillen. The property is located in Section 16 of Walcott Township.

RESULT: Approved, AYES: Julia Hogan, Garrett Johnson, Matt Purfeerst, Ken Engen, Jim Cihak, NAYS: None

CONDITIONS OF APPROVAL – Gillen

1. The variance is to allow for a home to be located 40-ft from the east property line, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. 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 - How much longer of a process would it have been to revise the Waiver of Plat? I am guessing they want to start construction here this spring.

TM - Yes, they do want to start this spring. Timing-wise, some of the things are out of our realm because they would need to get a survey done and re-identify septic locations. Otherwise, about 8 weeks or so for our process once that gets going.

The BOA asked the applicant, Aaron Gillen (AG), to come forward to add comments or answer questions regarding the request.

AG - I am asking for a variance to move 40ft closer to the east property line which right now requires a 70ft setback. Part of it has to do with time, and I already went through the process of creating the transfer of development right. And at that time, I did that back in 2022, I was limited to a 2.5-acre parcel. That somewhat limited me on the location for the walk out based on the topography. That driveway was originally supposed to go up to the garage, but I am looking to move 40ft to the east to use that slope as the walk out. Versus a lot of unneeded excavation. Right now, if we build it where it is supposed to be located, we would be looking at a 7-10ft build up on the left side of the garage. And it would have to be sloped out all the way to the curve on the driveway. I did talk with TM about the option to change the property size or a temporary variance until I have time to get the property lines changed, if that's an option. But I am trying to keep our schedule of breaking ground in May.

JH - Do you own that surrounding land?

AG - Yes, I do. If I remember right, when we created this parcel, the driveway needed a 50ft right of way and this was 75ft to keep that driveway there. And then I have to keep that 75ft based off of the guidelines for dividing that parcel.

JH - Are you aware of the 3 conditions?

AG - I am.

MP - Is your goal to combine these in the future when you get the house built?

AG - I guess I didn't know you could combine it into one lot. I didn't think you could because it is in a conservation easement.

MP - Oh yeah, that's right.

TM - I just wanted to check, you mentioned a 40ft variance. It is written as a 30ft variance to be 40ft

away from the property line, is that right?

AG - Yes.

TM - That is what I wanted to make sure of.

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 get they are on a schedule.

GJ - I do understand the topography and how the property can change the best place to put the house. And maybe it is something you could do another WOP after the house is built.

JH - I don't know if you can adjust.

TM - There would be options to adjust that if they wanted to. It is fairly complicated with the rule changes, both lot width and size. And it would be undoing the conservation easement to do a different one to replace the original.

GJ - If we grant the variance there wouldn't be a reason to go back and redo it, especially being surrounded by the conservation easement.

JH - I think the Conservation Easement surrounding this property does help this variance request in an aspect, because you know it will not be built on. Even down the line, if the property owner was to sell, it wouldn't be able to be built on.

GJ - The conservation easement goes with it.

MP - I am all for it. He is using the topography of the land to build the house better with less fill and excavation. He owns the surrounding land which is in a conservation easement. I think we should approve the variance and let him stay on track with the house.

KE - I agree.

MP - I 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:

- *The variance request in harmony with the general purpose and intent of the Zoning Ordinance and consistent with the Comprehensive Plan? **Yes***
- *The proposed use is an allowed use in the zoning district in which the property is located? **Yes***
- *The proposed sewage treatment system is or can be made compliant with the Rice County Sewage and Wastewater Treatment Ordinance? **Yes***
- *The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance? **Yes***
- *The plight of the landowner is due to circumstances unique to the property not created by the landowner? **Yes***
- *The variance, if granted, will not alter the essential character of the locality? **Yes***
- *The applicant has established that there are practical difficulties in complying with the Zoning Ordinance, not constituting economic considerations alone? **Yes***

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

TM: The proposed setback is still twice what a side property line setback would be, so it is still larger than the side one is. You mentioned the topography and that the neighboring parcel has a conservation easement on it. So, it is kind of impossible to make alterations on that property from what it is now.

Motion made, seconded, and approved unanimously.

IV. Adjournment

Hearing no other items before the BOA, a motion was made by KE, second by GJ, to adjourn the meeting at 6:42 pm. Motion carried 5-0.

Respectfully Submitted


MacKenzie Klett
Office Support Specialist

Board of Adjustment



Julia Hogan, Chair