

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY BOARD OF ADJUSTMENT
Commissioner's Room / Government Services Building
Thursday, August 7, 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, Garrett Johnson, Kenneth Engen, Jim Cihak

Members absent were: Matt Purfeerst

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 Garrett Johnson, seconded by Ken Engen, reading of the notice

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

C. Motion by Ken Engen, seconded by Jim Cihak, approval of the agenda

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

D. Motion by Garrett Johnson, seconded by Jim Cihak, to approve the minutes of July 10, 2025

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

II. New Business

1. Variance/Smisek - Section 35, Shieldsville Township

Roger Smisek has requested the following variances:

- A 5-ft variance from the 20-ft Road Right of Way setback to allow for a garage to be located 15-ft from a private roadway.
- A 10-ft variance from the 30-ft bluff setback to allow for a garage to be located 20-ft from a bluff.

The property is described as: Lot 3 of Heines Cedar Lakeview subdivision and Parts of Government Lots 006 and 007 in the NE1/4, Section 35, Shieldsville Township, Rice County, Minnesota. PID# 09.35.1.26.021. Property address is: 20243 Cedar Lake Path, Morristown, MN 55052. The property is Zoned GDS, General Development Shoreland.

Motion by Garrett Johnson, seconded by Jim Cihak, to approve the Variance request with the following conditions and findings for Roger Smisek. The property is located in Section 35 of Shieldsville Township.

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

CONDITIONS OF APPROVAL – Smisek

1. The variance is to allow for a 780-sqft garage with up to a 14-ft peak height, located 20-ft from a bluff and 15-ft from the private road edge, subject to compliance with all other ordinance regulations.
2. The application plans submitted shall be followed.
3. Existing onsite trees shall be maintained to the maximum extent possible.
4. A septic system compliance inspection shall be completed prior to issuance of a building permit for the garage, if the onsite system is found to be not in compliance, a compliant system shall be shown to be in place within one year of the variance approval.
5. Variance shall be void if a building permit for the proposed garage 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 - There is not a house on the adjacent parcel to the north, correct?

TM - I believe it's a combined parcel, so there is one, but it's a larger, combined lot.

JH - Did Staff receive any concerns or comments from neighboring properties?

TM - I do not believe we received any comments for this item.

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

RS - We are looking to move a garage on to the property. You saw the pictures and TM described it very well. I had put some brush there and that is roughly where the garage will be positioned.

JH - Are you aware of the 6 conditions?

RS - Yes.

GJ - Will the garage be used for personal storage?

RS - Yes storage.

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 - I think the lot does give him challenges with the bluff being so close to the road. And between both setbacks it leaves about 10ft, I think you can fit a vehicle in a 10ft wide garage, 10ft deep I guess.

JH - Are they under the 25% impervious surface limit with the garage?

TM - Yes, I believe they are.

JH - It's a smaller lot, that is kind of the thing with some of these lake lots. They are somewhat restricting on placement of structures.

KE - And with the bluff on the back.

GJ - Yeah, things can be tight, especially when you are on a bluff that just meets the requirements to be a bluff. I motion to approve with the 6 conditions.

JC - 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, a portion of the property is classified as bluff, not leaving much room between the bluff and the road***
- *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 GJ with the conditions as stated above and with the following additions by staff:

TM: I would like to point out that it is not an overly large garage being proposed. He is balancing out between the two competing setbacks. As mentioned, there is quite a limited area between the bluff and the roadway on this site. And currently the property doesn't have any garage or shed.

Motion made, seconded, and approved unanimously.

2. Variance/Mulert - Section 24, Morristown Township

Christopher Mulert has requested the following variance:

- A 37-ft variance from the 70-ft Road Right of Way (ROW) setback requirement to allow for a replacement home to be located 33-ft from a ROW.

The property is described as: Part of the NE1/4 of the NE1/4, Section 24, Morristown Township, Rice County, Minnesota. PID# 13.24.1.00.003. Property address is: 24085 Fosston Ave, Warsaw, MN 55087. The property is Zoned A, Agricultural.

Motion by Garrett Johnson, seconded by Jim Cihak, to approve the Variance request with the following conditions and findings for Christopher Mulert. The property is located in Section 24 of Morristown Township.

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

CONDITIONS OF APPROVAL – Mulert

1. The variance is to allow for a replacement home to be located 33-ft from the Road Right of Way of Fosston Ave, subject to compliance with all other Ordinance regulations.
2. Applicant submitted site plan/building plans shall be followed.
3. Variance shall be void if permit(s) are 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).

JH - So the proposed replacement house cannot be placed where the existing one is?

TM - They are transitioning between the two, so they need to have a spot where the current house is not to build the new house, that's my understanding from the applicant.

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

CM - Our variance request is just that we want to get a little closer to the road with a new home construction. As TM stated there was a previous home in the location we chose, that had burnt down before we acquired the property. We planned on building when we bought the property, so we put our mobile home there as a temporary spot. Now we want to build our home. It's a more desirable location. There is a concrete pad where the current home is now, so it would be difficult to get that moved.

JH - Once the house is built, you plan on taking that mobile home off the site?

CM - Yes, that is correct.

JH - Are you aware of the 4 conditions?

CM - 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:

GJ - I do think just by looking at some of the pictures it seems like the road right of way does come way into the property.

JH - I do think this property does have a few unique circumstances with the aspect that the road does dead end at this property and topography on site as well. It gives limitations to placement.

GJ - There have been other instances in the past where there was a building before and we have them put the new building in the existing footprint.

JH - Otherwise it looks like they have meet all other required setbacks such as the rear and side property lines.

GJ - I motion to approve with the 4 conditions.

JC - 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, there is a road right of way that dead ends into the property, along with the topography of the building site location***
- *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 GJ with the conditions as stated above and with the following additions by staff:

TM: The road does dead end at this property currently, but the placement of the proposed home would not prevent the road from going though, should it ever need to. There was a previous home in that location. And the replacement home is limited because of the existing home on site.

Motion made, seconded, and approved unanimously.

3. **Variance/Hortop -Section 22, Wells Township**

Charles Driessen, on behalf of landowners John and Susan Hortop, has requested the following variances:

- A 10% variance from the 25% lot impervious surface limitation to allow for an addition onto a home resulting in a lot with a 35% impervious surface coverage
- A 49-ft variance from the 75-ft lake setback to allow for an addition onto a home located 26-ft from Roberds Lake.

The property is described as: Lot 30 in Manley Park Subdivision Section 22, Wells Township, Rice County, Minnesota. PID# 10.22.2.76.031. Property address is: 3749 Chappuis Trail, Faribault, MN 55021. The property is Zoned GDS, General Development Shoreland.

Motion by Ken Engen, seconded by Garrett Johnson, to approve the Variance request with the following conditions and findings for Charles Driessen, on behalf of landowners John and Susan Hortop. The property is located in Section 22 of Wells Township.

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

CONDITIONS OF APPROVAL – Hortop (Driessen)

1. The variance is to allow for a home addition on the west side of the existing home located 26-ft from Roberds Lake and resulting in a lot impervious surface percentage of 35%, subject to compliance with all other ordinance regulations.
2. The site plans submitted shall be followed.
3. Lot areas proposed to be converted to pervious surfaces shall be converted prior to occupancy of the addition and must remain as pervious surfaces.
4. At least 50% of the lakeshore frontage to a 10-ft landward extent shall be established and maintained as an un-mowed native vegetative buffer.
5. Variance shall be void if a building permit for the proposed addition 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 - Would you say that surrounding properties are similar to this property in regards to impervious surface coverage being in the mid 30%?

TM - This lot is smaller, it probably has a similar amount of coverage in square footage, but it's on a smaller lot and a little more narrow. There have been several variances on this stretch of lakeshore. It's not unusual that we run into both lake setback and impervious surfaces issues here.

The BOA asked the applicant, Charles Driessen (CD), to come forward to add comments or answer questions regarding the request.

CD - We are asking for variances for impervious surface and the setback from the lake. The existing cabin that started this was placed there and has never been moved and that is why we are so close to the lake. We are trying to add an addition to the house so that they have more than 1 bedroom for family and so they can just have more space. It's a small cabin.

JH - And you guys plan on making that area around the shed non-impervious?

CD - We are taking out some impervious. If we take out that gravel area and add the addition, it's like a juggling match with impervious, but it's still over.

GJ - Have you thought over any other things you could remove to get closer to the impervious surface limit?

CD - We had a surveyor come out and check over everything we could do and the only other things we could remove would be buildings or some of the pavement. The planters all have fiber in them, so the water goes through those, and I think he has some of them counted in there. But it's hard to say exactly how he got that number. Otherwise there is really not much you can do, it's just a small lot unfortunately.

JH - Are you aware of the 6 conditions associated with this variance?

CD - 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 - JE, can you please pull up a close aerial image. They are taking away some of that impervious towards the street.

GJ - You can see that it's a wedged lot you could say, that just barely fits.

JH - TM, would the addition be meeting all side setbacks?

TM - It would meet the side setbacks.

JH - The addition would be meeting the side setbacks. It's not getting any closer to the lake than the existing cabin. It is unfortunately a small lot.

KE - They are actually bringing down the impervious surface coverage from where it is now.

GJ - Staff, I am assuming there wasn't a permit to be at 37% impervious surface in the first place?

TM - I have not reviewed the previous permitting on the site.

JH - A lot of these lake lots have been so modified over 50-60 years that it's hard to know when what was done.

GJ - Each owner adds something and then eventually you get this.

JH - It would be a different story if this lot was compared to adjacent lots, it wouldn't be as much of an issue.

GJ - I do think there is a little bit of a difference with what we are looking at here. I know that on past impervious surface variances we have gone the other way on them.

JH - I do appreciate that they are taking some impervious away to make this project work and decrease it to become more in compliance with the code compared to what it was. It's 2% so it's not a lot.

GJ - It's the right direction.

KE - I motion to approve this request.

GJ - I second with the 6 conditions.

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, it is a small lot and they are reducing impervious***
- *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 KE with the conditions as stated above and with the following additions by staff:

TM: Pointing out that the lot is an undersized lot, but it is a parcel of record so it's an older lot that has been grandfathered in. Even though they are adding the addition they are reducing the impervious surface level compared to what is existing. They are not getting closer to the lake. The addition is further away from the lake than the closest point of the cabin currently, and there are very similar setbacks located on the neighboring property to the west.

Motion made, seconded, and approved unanimously.

4. **Variance/Daugs - Section 35, Webster Township**

James Daugs has requested the following variances:

- A 1120-sqft variance from the 1200-sqft size limitation to allow for a 2320-sqft building.
- A 5-ft variance from the 16-ft peak height limitation to allow for a building with a 21-ft peak height

The property is described as: Part of the NE1/4 of the NW1/4, Section 35, Webster Township, Rice County, Minnesota. PID# 02.35.2.00.001. Property address is: 2674 80th St W, Northfield, MN 55057. The property is Zoned RDS, Recreational Development Shoreland.

Motion by Jim Cihak, seconded by Garrett Johnson, to approve the Variance request with the following conditions and findings for James Daus. The property is located in Section 35 of Webster Township.

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

CONDITIONS OF APPROVAL – Daus

1. The variance is to allow for a 2,320-sqft building with a 21-ft peak height, subject to compliance with all other Ordinance regulations.
2. Approved site plan shall be followed.
3. A septic system compliance inspection shall be completed prior to issuance of a building permit for the shed, if the onsite system is found to be not in compliance, a compliant system shall be shown to be in place within one year of the variance approval.
4. Variance shall be void if a permit for the proposed shed is not obtained within one year of the variance approval.
5. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

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

The BOA asked the applicant, James Daus (JD), to come forward to add comments or answer questions regarding the request.

JD - We are trying to put up a pole barn for storage for hay, tractors, implements and so on.

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

JD - 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:

GJ - It seems like an easy one. We run into these every once in awhile with shoreland that comes way out.

JH - Looking at the aerial image, you can tell they are not going to be bothering any neighboring views from any surrounding properties.

GJ - Especially with the existing barn on the property that is probably as large or bigger than this.

JC - It's been there a long time. This proposed shed is how many feet from the shoreline? I think I read 1,900?

JH - Again there are those properties that are technically zoned Shoreland but are very far away from the shoreline.

JC - I motion to approve item 4 subject to 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:

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

TM: The site is an existing farmstead that has been there for quite some time. The proposed size and height are needed for agricultural use on the property. It's a long distance and well screened to the lakeshore. And the existing onsite barn is likely larger and taller than the proposed building.

Motion made, seconded, and approved unanimously.

5. **Variance/Willingers - Section 23, Webster Township**

Andrea Rand, on behalf of landowners Willingers Development Corp and Willing Partners Inc, has requested the following variance:

- A 23% variance from the requirement that at least 90% of a cluster development of 3 or more lots be located in a quarter-quarter section with a Crop Productivity Index (CPI) of 72 or less. This is to allow for a 6-lot cluster to be created with 67% of the lot area in quarter-quarter sections with a CPI of 72 or less.

The property is described as: Part of Section 23, Webster Township, Rice County, Minnesota. PID#s 02.23.2.51.029 - .031 and 02.23.2.75.001. Property address is: 6797 Canby Trail, Northfield, MN 55021. The property is Zoned A, Agricultural.

Motion by Garrett Johnson, seconded by Ken Engen, to approve the Variance request with the following conditions and findings for Andrea Rand, on behalf of landowners Willingers Development Corp and Willing Partners Inc. The property is located in Section 23 of Webster Township.

RESULT: Approved, AYES: Julia Hogan, Garrett Johnson, Ken Engen, NAYS: Jim Cihak

CONDITIONS OF APPROVAL – Willingers

1. The Variance is to allow for 33% of a six-lot Transfer Development Right (TDR) cluster development to be located within a ¼ ¼ section with a Crop Productivity Index (CPI) greater than 72, subject to compliance with all other Ordinance regulations.
2. All proposed residential driveways shall take access from 69th Court West within the plat.
3. The submitted preliminary plat shall be closely followed.
4. A septic system compliance inspection shall be completed for the clubhouse septic system on Outlot A of the preliminary plat, prior to application for a final plat. If the system is found to be not in compliance, a compliant system shall be installed by August 1, 2026.
5. Subject to preliminary and final plat approval, recording of the plat and Outlot F conservation easement shall occur within 1-year of variance approval or this variance shall be void.
6. Failure to comply with the terms of this variance may result in termination of the Variance.

Hearing Minutes:

Senior Planner Jeremy Edwards (JE) presented the request to the Board of Adjustment (BOA).

GJ - In the packet they submitted, there is an overview of the layout that has the orange and yellow. I

assume the orange is the part of that quarter-quarter that is over 72 CPI?

JE - Yes, that is correct.

GJ - So it kind of follows that road.

JE - Yes, TM please pull that up in the application packet.

JH - I did see in the packet that soil and water had a comment. Will that be a condition of approval?

JE - I believe we have that covered in the conditions for the Preliminary plat, not for the variance, because that area is outside of the high CPI area.

The BOA asked the applicant, Amanda Thomas (AT), to come forward to add comments or answer questions regarding the request.

AT - This graphic probably depicts it the best. The orange area is where you can't have more than 90% of your entire development. So, with this development only being 6 lots, even one parcel on that property would push us over that. We did look back historically at some of the data from aerial view, it doesn't look like it has been cultivated in the last 40+ years. It is highly wooded and has steep slopes on the golf course side, so we don't believe it would ever be cultivated in that specific part of the quarter-quarter section.

JH - Are you aware of the 5 conditions?

AT - Yes.

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

Jeff Docken - *Chester Ave* - Just one question, is any of the cornfield in this?

JC - I don't believe so.

JD - None of the field itself. So, I don't know what the issue is.

JC - That specific cornfield is special to me. I have farmed it for many years.

JD - That point being made, I don't see why I would object to it.

Heather Malecha - *Benton Ave* - Refer to "public comment 1" in the agenda packet under this item.

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

Discussion:

JH - I have a question for Staff, JE you had written that there was another one that was previously approved for a housing development, correct?

JE - In 2007-2008, under a previous Planned Unit Development (PUD) there was a PUD approved that called for both development along the west side of the golf course and along the south side of the golf course. The first phase was intended to be the west side, then the south side would be the second phase. That did not pan out, recession challenges stopped the development at the time. In 2011, they tried again, but still faced challenging conditions. The area has been pegged for potential development for 15+ years at this point. It just hasn't occurred to date.

JH - Do you know if that second phase, the one from back in 2007-2008 is similar to what's being proposed tonight? About 6 lots, or more?

JE - In that PUD, the plan called for 13 lots on the south side.

JH - Okay, so 13 lots compared to 6.

GJ - For someone who lives out there, they might not want the change there. And I can understand that, but I do also think that as we look at the Comprehensive Plan, the reason we went with these clusters and incentives to do clusters was for the preservation of agricultural land and land in general. That's kind of why we incentivized building homes in clusters and keeping them together with little bit smaller lots. Instead of having 10-acre building lots popping up across the entire county and then every quarter is split up into small chunks. So, I do think that has an effect as well.

JH - I do understand living in an area like this for so long and not having it be developed, and then having a small cluster come in, it changes that landscape a bit. But, historically, around golf courses you do see housing developments or houses that pop up. So, it's not uncommon to see developments occur around a golf course. Especially a smaller cluster like this, 6 homes compared to what was proposed back in 2007-2008. That seems like it would've been a large development compared to what's being proposed right now. I do see it as a smaller cluster compared to what it could have been previously.

GJ - I do feel like at some point it will be surrounded by homes. I think by having a decently sized cluster that's not too big, but still able to fit 6 more homes, actually aligns with the Comprehensive Plan of putting homes together instead of spreading them out.

JC - TM is there anything in place where adjoining landowners would have needed to be notified of this change?

TM - The CPI change was done countywide so that wouldn't have had individual notices. Notices of the hearings for the variance and plat, yes, those are sent out to neighboring landowners, so they should've received that portion. Again, I just want to remind you that right now the item in front of you is the request just for having more than the limited percentage in an area with a higher CPI. And one thing I want to point out is that the CPI that is used for this is a weighted average across the full quarter-quarter section. So the land area that is part of this subject site is, actually most of it, does have a low CPI rating, but it is above the threshold when you create it as a weighted average in the quarter-quarter section with the neighboring farmland.

GJ - As far as the CPI goes, I think it's pretty easy.

JH - This is a variance request, we are not actually looking at the preliminary plat. We will talk about that more during the Planning Commission meeting. I think we need to focus on what's in front of us, which is the CPI aspect of this request.

JC - I guess I see this, focusing on the CPI number, are we going to set a precedence going forward?

JH - I don't think so, prior to CPI we had something else. What was it called Staff?

TM - Prior to the Crop Productivity Index, the current standard we use, the previous limitation was on CER, Crop Equivalence Rating. The change was a year or two ago. The previous rating, CER, we didn't limit the percentage of development so this is a new limitation that came in at that time as well. You did have another plat in front of you with a variance for this exact issue, earlier this year. So, it isn't the first one but there are always concerns of a precedence. And if at some point, enough of these come forward that are needing variances, that's usually when the Board looks at making changes to rules.

KE - I believe that one TM was talking about is a solar field that was going in and the CPI was higher.

JH - No, it was a development.

TM - It was a development on the northern edge of the county.

GJ - I am not too concerned about setting a precedence here, because that's the reason we have variances. It's to take a look at each individual case. We set a blanket on it of 90% and if somebody believe that theirs is unique to that, they are more than welcome to bring in a variance request. I think this one fits that, it's not encroaching on any high-productivity farmland or where those lots would be anyway. Its more or less across the weighted average of the quarter-quarter.

JH - I agree.

GJ - I motion to approve with the 6 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:

- *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 property is split between lower and higher productivity areas. The average is weighed out to be above 72 CPI***
- *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 GJ with the conditions as stated above and with the following additions by staff:

TM: Most of the building rights for this proposed project are coming from within the property itself. The area currently isn't being cultivated, the high CPI is the weighted average for the whole quarter-quarter section. There is a separate platting process that this is required to go through for this plat development, so you are addressing just the CPI rating in this request. And I did want to point out the slopes in the area. In that quarter-quarter section there is the farm field area that is fairly flat and as you get to the edge there starts to be some slopes. It would probably be difficult to farm much of this area anyway.

Motion made, seconded, and approved.

III. Adjournment

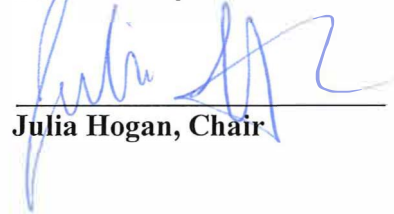
Hearing no other items before the BOA, a motion was made by GJ, second by KE, to adjourn the meeting at 6:58 pm. Motion carried 4-0.

Respectfully Submitted



MacKenzie Klett
Office Support Specialist

Board of Adjustment



Julia Hogan, Chair